

# Enforced disappearances in Algeria: A crime against humanity

1990-2000



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Collective of  
Families of the  
Disappeared in  
Algeria

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To the mothers and parents of the disappeared who have been fighting for truth and justice for more than twenty years in the memory of the missing and all the victims of the 1990s in Algeria

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## Acronyms

APN – National People’s Assembly

ANP – Algerian People’s National Army

AIS – Islamic Salvation Army

BMPJ – Mobile Brigades of the Judicial Police

CCLAS – Centre for the Conduct and Coordination of Anti-Subversive Action

DRS – Department of Intelligence and Security

CCPR – Human Rights Committee

CFDA – Collective of Families of the Disappeared in Algeria

CFT – Algerian Land Forces Command

CJA – Justice Commission for Algeria

CNCPDPH – National Consultative Commission for the Promotion and Protection of Human Rights

ICC – International Criminal Court

CPMI – Main Military Investigation Centre

CTRI – Territorial Centre of Research and Investigation

DCE – Directorate of Counter-Espionage

DCSA – Central Directorate for Army Security

DGSN – Directorate General of National Security

FIS – Islamic Salvation Front

FIDH – International Federation for Human Rights

GIA – Armed Islamic Group

WGIED – Working Group on Enforced or Involuntary Disappearances

NHRI – National Institution of Human Rights

ONDH – National Observatory on Democracy and Human Rights  
PCO – Post of Operational Command

ICCPR – International Covenant on Civil and Political Rights

MS – Military Security

TPP – Permanent Peoples’ Tribunal

## Executive summary

According to international law on human rights and international criminal law, the practice of enforced disappearance is qualified as a crime against humanity when it appears it occurred as part of a widespread or systematic attack directed against a civilian population with the political goal of launching such an attack<sup>1</sup>.

During the civil war of the 1990s in Algeria, thousands of enforced disappearances were perpetrated in the name of fighting against terrorism and subversion led by the State security forces – military, general intelligence, DRS, police, gendarmerie, paramilitary militia, armed guards, etc. In 2015, the anniversary year of the adoption of the Charter for Peace and National Reconciliation<sup>2</sup>, the Algerian authorities have declared that they consider the missing persons' files to be definitively closed. With the application of the Charter's implementing provisions<sup>3</sup>, they have claimed to have dealt with the “dramatic missing persons' files”.

These texts are amnesty legislation for both members of armed Islamist groups, perpetrators of atrocious crimes<sup>4</sup>, and members of the State security forces, perpetrators of mass and systematic violence directed against the civilian population in the 1990s. The provisions of ordinance no. 06-01 implementing the Charter have made impossible, even now at the time of this report, the filing of any complaint against a State official presumed to be the author of an enforced disappearance or any other violation of human rights<sup>5</sup>. In return, the families of the missing have been able to be compensated. This compensation was subject to the provision of a death certificate of the missing person(s) arrested by State security force officials, right in front the person's family members.

The Algerian authorities have never conducted independent or effective investigations into the fate of the missing or alleged authors of the enforced disappearances. No official list of the missing has ever been made public and the confusion around the number of disappearances and the perpetrators' profession have been deliberately maintained

As such, according to the Charter and its implementing provisions, the disappearances have never been qualified as being enforced. As the authorities consider disappearances at the hands of State officials as isolated cases of “excessive acts”, they deny the involvement of institutions in this phenomenon<sup>6</sup>.

According to the President of CNCPPDH – National Human Rights Institute (NHRI) in Algeria considered non-independent by the NHRI's UN accreditation system<sup>7</sup> – these testimonies are non-existent. Determining the fate of the missing and identifying the perpetrators of the disappearances would be impossible. However, for nearly twenty years, the CFDA and SOS Disappeared have drawn up a list of 5,000 names of missing people and have collected several thousand detailed testimonies (4,635) on the circumstances surrounding the enforced disappearances and their perpetrators<sup>8</sup>.

The report “Enforced disappearances in Algeria: a crime against humanity” shows, on the basis of testimonies from families of the missing, that the circumstances in which the enforced disappearances were perpetrated contain criteria leading to the qualification of a crime against humanity as listed in Article 7 of the Rome Statute of the International Criminal Court.

## Enforced disappearances at the hands of State officials

The missing, declared by families at CFDA and SOS Disappeared, were arrested by State security force officials. The many witness accounts of the arrests have identified the security force branches to which the officials belonged. The specialised anti-terrorism units within the army, police and gendarmerie cooperated with them, along with the ordinary units from the different State security force branches, under the coordination of different structures dependent on the DRS and ANP. The missing persons were arrested by these units, regularly acting as “combined forces”. The testimonies of former fellow detainees of the disappeared have likewise confirmed these latter being detained secretly in multiple detention locations within the head offices of security forces, which covered the country. The agents, however, have denied to the families that the missing people were detained and have systematically concealed the fate suffered by these latter.

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1-Article 7 of the Rome Statute and Article 5 of the International Convention for the Protection of All Persons against Enforced Disappearance

2-Presidential decree no. 05-278 of 14 August 2005 on the summoning of the electorate to the referendum of Thursday 29 September 2005 on national reconciliation, JORA no. 55 from 15 August 2005.

3-Ordinance no. 06-01 of 27 February 2006, implementing the Charter for Peace and National Reconciliation; presidential decree no. 06-93 of 28 February 2006 relating to the compensation of victims of the national tragedy; presidential decree no. 06-94 of 28 February 2006 relating to State assistance to impoverished families affected by the involvement of one of their relatives in terrorism; presidential decree no. 06-95 of 28 February 2006 relating to the declaration provided for by Article 13 of the ordinance implementing the Charter.

4-In addition to assassinations, targeted as well as collective attacks, massacres and rapes, members of armed Islamist groups have also contributed to many thousands of disappearances. Somoud, an association for victims of terrorism, has estimated the number of people kidnapped by armed Islamist groups to be 10,000, half of whom have never been found. The National Organization of Families and Beneficiaries of Victims of Terrorism (ONVTAD) has also estimated the number of missing at the hands of armed Islamist groups to be at 4,200: Human Rights Watch “Time for reckoning: enforced disappearances in Algeria”, February 2006: <https://www.hrw.org/report/2003/02/26/time-reckoning/en-forced-disappearances-algeria>

5-Article 45 of ordinance no. 06-01 from 27 February 2006 relating to the implementation of the Charter for Peace and National Reconciliation

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6-In 2009, the CNCPPDH annual report claimed that the “disappearances are not attributed to the institutions. These are isolated acts committed by State officials. No reliable archive or testimonies exist. This is a bitter but very real conclusion”, p.19

7-The International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (CIC) has not renewed its type A accreditation previously granted to the Algerian NHRI. In 2009, the CIC estimated that the CNCPPDH did not respect the criteria of independence required by the Paris Principles to be granted a type A accreditation. Source: A/HRC/13/45

8-Between 2006 and 2010, in-depth interviews were conducted by SOS Disappeared with families of the missing from 26 provinces and 112 communes.

### The civil population, target of enforced disappearances

The target of enforced disappearances was the civil population trapped between armed Islamist groups and the State security forces. The missing persons were not, as we are led to believe by the official dialogue directed at public attention and international bodies who protect human rights, armed terrorists. They were arrested at their homes, in public spaces, at their workplace, at random as they went about their daily business. They lived with their family and the large majority had careers.

In reality, the Algerian security forces led, in parallel with their fight against armed terrorism, a full-scale war against large and mass subversion<sup>9</sup> against the civil population to eradicate any form of opposition, including pacifist opposition. Although arbitrariness reigned, the repression was structured around stigmatising criteria – age, area of residence, political opinion, profession, family and friends – on which the authorities based the population groups more favourable to the Islamists. These sectors of the population, viewed by the security forces as susceptible to maintaining relations with the Islamic movement and/or having information on the armed groups' activities, were therefore especially targeted for enforced disappearance.

### The widespread and systematic practice of enforced disappearance

Across the country, only the five large provinces in South Algeria were not affected by this practice. In the north, 12 provinces count more than 100 enforced disappearances. The province of Algiers alone accounts for 1,229.

Looking back, enforced disappearances occurred throughout the decade of 1990 to 2000. A high peak of enforced disappearances can be seen in 1994 and 1995. From March

1994, the date on which the Minister of the Interior at the time, Redha Malek, announced that "fear [should] switch sides"<sup>10</sup>, and up until the presidential elections in November 1995, the CFDA identifies 2,940 enforced disappearances – making up more than half of the files which have been put together – across the whole of the country. This means an average of 154 people per month and 5 people a day who disappeared following their arrest over the course of this 19-month period.

In all countries, from one testimony to another, the process leading to an enforced disappearance is the same. The enforced disappearances were connected at the heart of a cycle of repression towards the civil population which consisted of a never-ending chain reaction of mass arbitrary arrests, incommunicado detentions, tortures and disappearances. The missing persons were transferred from detention centre to detention

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<sup>9</sup>-Unlike classic and regular wars against an external enemy, war against subversion or anti-subversion aims to neutralise, in a preventative manner among others, an internal enemy dispersed throughout the population. As such, the population susceptible to sympathising with the rhetoric of the "insurgents" and supporting them is a key issue of this type of conflict. The population becomes a target of State repression which lingers in the civil society through other methods, such as military operations against armed fighters.

<sup>10</sup>-The Minister of the Interior at the time had made this statement during a speech made at the funeral of playwright Abdelkader Aloulou in Oran: [http://www.algeria-watch.org/mrv/mrvre/e/escadrons\\_morts.htm](http://www.algeria-watch.org/mrv/mrvre/e/escadrons_morts.htm)

centre where, according to information received, some were executed or died from torture. In fact, torture was carried out on a large scale in secret detention centres. Denunciations made under torture led to other arrests, secret detentions and disappearances.

### Recommendations of the CFDA

Many observers have already considered that enforced disappearances in Algeria, along with other acts of violence such as torture and extrajudiciary executions, were widespread and systematic. The Permanent Peoples' Tribunal has notably estimated that enforced disappearances, such as those perpetrated in Algeria during the 1990s, represent repeated and systematic violations of human rights which are a crime against humanity as defined by Article 7 of the Rome Statute.<sup>11</sup> The classification of crime against humanity leads to consequences provided for by the applicable law. These consequences are: - imprescriptibility; - prohibition of amnesties; - recognition of the right of victims to full and complete compensation.

Through this report, the CFDA has the desire to point out the components they have which tend to show that enforced disappearance in Algeria is a crime against humanity and that, consequently, the perpetrators of enforced disappearance should not benefit from any kind of amnesty, or mercy if they prevent the justice from determining the culpability or innocence of the alleged authors, of shedding light on the truth and granting full and complete compensation to the victims.

The CFDA suggests a certain number of measures to promote fair and adequate handling of the issue of enforced disappearance. These measures affect:

- the need of the State to lead in-depth and credible investigations into enforced disappearances;
- the need to look for, prosecute and punish perpetrators of enforced disappearances;
- the need to fully and adequately compensate the damages to victims of enforced disappearances and their loved ones;
- the guarantee of non-repetition.

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<sup>11</sup>-Permanent Peoples' Tribunal "Texte de la sentence prononcée par le Tribunal permanent des peuples" [Text of the sentence imposed by the Tribunal], October 2004, p. 45. Visited on 02/02/2016 at: <http://www.algerie-tpp.org/tpp/pdf/sentence.pdf>

# Introduction

## Introduction

In 2007, Algeria signed the International Convention for the Protection of All Persons Against Enforced Disappearance<sup>12</sup> (the Convention) implemented in 2010. At the time of this report, although they have not yet ratified it, Algeria must not commit acts contrary to the objectives and aims of the Convention<sup>13</sup>. This text is the first universally and legally restricting international treaty which expresses the right to not disappear, therefore establishing enforced disappearance as a violation of human rights<sup>14</sup>.

**The Convention moreover confirms that the widespread and systematic practice of enforced disappearance constitutes a crime against humanity [Article 5].**

In Algeria, thousands of enforced disappearances have been perpetrated during an internal bloody conflict in which various armed Islamist groups opposed the Algerian regime in the 1990s. The people have paid a large price with violence. The conflict named colloquially as the “black decade”, “red decade” or even “decade of terrorism” has been categorised as a civil war by many observers and even as a war waged against civilians.

### 1 – What is enforced disappearance?

According to the Convention, enforced disappearance is “*the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorisation, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law*” [Article 2].

12-International Convention for the Protection of All Persons Against Enforced Disappearance was adopted on 20 December 2006 by the General Assembly of the United Nations and entered into force on 23 December 2010 after being ratified by 20 States. To read the Convention in its entirety see <http://www2.ohchr.org/french/law/disappearance-convention.htm>

13-Pursuant to Article 18 of the Vienna Convention on the Law of Treaties

14-Before the Convention entered into force, there are had been no mandatory universal instrument which considered enforced disappearance itself as a violation of human rights. It was considered as an accumulation of human rights violations enacted by different instruments such as the International Covenant on Civil and Political Rights and Convention against Torture. Enforced disappearance was recognised as a violation of the following human rights: The right to recognise a person's legal personality; - The right to the security of the person; - The right to not be subjected to torture and other cruel, inhumane or degrading punishment or treatment; - The right to life, when the missing person is killed; - The right to legal personality; The right to a fair trial and legal guarantees; - The right to effective aid, including the right to restitution and compensation.

15-This categorisation of the term “war” is meant in the non-judicial sense of the armed fighting between social and/or political groups in light of imposing by force a firm commitment to the opposition, whereas the term

“civil” indicates the non-international aspect of this war between an established government and a rebel movement which disputes the former's power of the State. Source: Mouloud BOUMGHAR, “Concorde civile et réconciliation nationale sous le sceau de l'impunité : le traitement par le droit algérien des violations graves des droits de l'Homme commises durant la guerre civile des années 1990” [Civil concord and national reconciliation masked by impunity: the treatment of serious violations of human rights by Algerian law committed during the civil war of the 1990s], *International Review of Comparative Law (R.I.D.C.)*, 2-2015, p. 350. Mouloud Boumghar refers to here to the entries “Guerre” [war] and “Guerre civile” [civil war] in the *Dictionnaire de droit international public* [Dictionary of international public law] edited by J. SALMON, Bruylant/AUF, 2001, p. 537-538.

As such, there are many major and simultaneous factors of which the crime of enforced disappearance are composed:

- the deprivation of freedom of the abducted person
- the direct or indirect implication of State officials in the deprivation of freedom
- the denial, the refusal to communicate information on the missing person, on their location and the recognition of their detention
- it objectively results from the act of removing the missing person from the protection of the law

It is derived from the definition given by the Convention that enforced disappearance, involuntary disappearance at the hands of the State, is a State crime.

This act should therefore be distinguished from situations where a person disappears of their own accord. In the climate of 1990s Algeria, individuals disappeared after voluntarily going underground. **Enforced disappearance, however, is an involuntary disappearance.**

Not all involuntary disappearances are enforced disappearances as defined by international human rights, as these state that the deprivation of freedom must be done by State officials or persons who support or acquiesce to the State. As such, thousands of victims of terrorism, missing in Algeria following their abduction by armed Islamist groups acting on their own, are not victims of enforced disappearance in line with the Convention. **Enforced disappearance is a State crime.**

### 1990 – 2000: thousands of enforced disappearances in Algeria

In the name of fighting against terrorism and subversion, the State security forces made thousands of people in Algeria disappear between 1990 and 2000. These cases were isolated up until 1992 when enforced disappearances became more and more frequent from 1993. In 1994, they were widespread. Between March 1994 and September 1995, more than a hundred people arrested by State officials disappeared every month. After the presidential elections organised in November 1995, the number enforced disappearances began to fall in 1996. They became less and less frequent from 1997.

According to the files put together by the CFDA and SOS Disappeared based on the families' declarations and testimonies, the missing in Algeria were arrested at their homes, at their workplace, in public spaces and by officials in different branches of the State security forces: police, army, gendarmerie, general intelligence, armed guards, paramilitary militia. **Following the arrest of their loved ones, the families found themselves faced with the denial of their detention by the authorities as well as the concealment of their fate.**

<sup>9</sup>With the support of lawyers, the families notified the authorities of the disappearances and began legal proceedings. Since 1998, in the face of the refusal to investigate, the movement of the families of the disappeared, encouraged by the CFDA, was created and the families organised themselves to find their loved ones under the slogan: “*you took them alive, we want them back alive*”. Today, faced with policies implemented to close missing persons’ files in impunity, the families are demanding Truth and Justice.

**Despite an official recognition of the existence of enforced disappearances, the Algerian authorities have always fuelled the ambiguity on the number of disappearances, on their origin and their perpetrators.**

In 2005, Mr Ksentini, President of the ad hoc mechanism<sup>16</sup> at the heart of the National Consultative Commission for the Promotion and Protection of Human Rights (CNCPPDH)<sup>17</sup> had announced in a report that was never published and, according to him, never issued to the President of the Republic, that 6,146 disappearances at the hands of the State officials had been identified. Paradoxically, at the same time, Mr Ksentini confirmed it was “very difficult, impossible even, to identify the perpetrators of the excessive acts because [according to him] no reliable archive or testimonies exist”<sup>18</sup>. The 2013 annual report by the CNCPPDH noted this time that the institution had identified 7,200 missing people between 1992 and 1998<sup>19</sup>. The Algerian human rights organisations and associations of families of the disappeared also estimate the number of missing to be even more – between 10,000 and 20,000 – as not all families are willing or able to declare their loved ones as missing

According to the statistical review of the implementing ordinance enacting the Charter of Peace and National Reconciliation established in 2008 by the Ministry of the Interior<sup>20</sup>, the official number of people alleged to be missing was 8,02321. However, despite the Algerian government since admitting that “the generic concept of the disappeared” has been proven, they refer to the different specific cases whereby the disappearances in Algeria are allegedly either voluntary or at the hands of the armed Islamist groups.

16-Mechanism for a temporary mission (18 months) in 2004 and 2005 to manage missing persons’ files at the heart of the National Consultative Commission for the Promotion and Protection of Human Rights (CNCPPDH).

17-Advisory body answering to the President of the Republic

18-Souhaila Hammadi, “Il n’est pas possible d’identifier les auteurs des disparitions” [It’s not possible to identify the perpetrators of the disappearances], Liberté, 13 April 2005 online on [http://www.algeria-watch.org/fr/mrv/mrvdisp/ksentini\\_deplacements.htm](http://www.algeria-watch.org/fr/mrv/mrvdisp/ksentini_deplacements.htm) visited on 22/07/2015

19-CNCPPDH, 2013 annual report, p. 22 and 23

20-Ordinance no. 06-01 from 27 February 2006 implementing the Charter for Peace and National Reconciliation, JORA no. 11 from 28 February 2006

21-Report by the CNCPPDH for 2008, p. 50. Available on the following link: [http://www.cncppdh-algerie.org/plp\\_VF/images/pdf/Rapport\\_2008.pdf](http://www.cncppdh-algerie.org/plp_VF/images/pdf/Rapport_2008.pdf)

22-According to the “Background memorandum of the Algerian Government on the inadmissibility of communications submitted to the Human Rights Committee in connection with the implementation of the Charter for Peace and National Reconciliation” 17 February 2009, p. 7 and 8: the general concept of the disappeared can be due to different possibilities: - Either the person is reported missing by their loved ones when they went into hiding of their own volition; - Either the person reported as missing had been arrested but then released thus giving them the opportunity to go into hiding; - Either the person was abducted by members of armed Islamist groups who were mistakenly incorporated into members of the State security forces; - Either the person’s family are looking for decided to abandon their loved ones or leave the country following personal or familial problems; - Either the person reported as missing was a wanted terrorist and has been killed and buried in the rural maquis following the religious conflict between rival groups in the maquis; - Either the persons sought after, having disappeared, live on national territory or abroad under a fake identity thanks “to an incredible network of falsified documents”

Therefore, no disappearance at the hands of State officials has ever been documented. At the time of this report, no official list of the missing has ever been made public. No in-depth or effective investigation has ever been conducted on the fate of the missing<sup>23</sup>. Incidentally, no missing person, living or dead, has ever been located following investigations conducted by the administrative, police or judiciary authorities. Even more so, no State official who was suspected of being guilty of enforced disappearances has ever been brought to justice.

No effort has ever been made either to exhume the bodies of 3,000 unmarked graves in the El Alia cemetery<sup>24</sup> in Algiers and other cities in the country, as well as the bodies of many mass graves known to the public and authorities<sup>25</sup>:

### The organisation of impunity

The Charter for Peace and National Reconciliation was adopted by referendum on 29 September 2005<sup>26</sup>. Its adoption was followed by the enactment, in 2006, of four implementing provisions<sup>27</sup> whose main one, ordinance 06-01 implementing the Charter, contains Chapter 4 entitled “emergency policy measure for the management of the missing persons’ files”.

These provisions translate in legal terms to policy or national reconciliation presented to the Algerian people as the alternative unique to the consolidation of peace after more than 10 years of conflict<sup>28</sup>. The campaign for adopting the Charter was led by one single voice in the government. All opinions to the contrary, be they from associations of families of the disappeared, associations of victims of terrorism or even certain political parties, were silenced and forbidden from official media. Members of the associations were strongly threatened of disappearing just like their loved ones. Under these conditions, to the question “Do you agree with the project of the Charter for Peace and National Reconciliation which has been put forward?”, 97% of Algerians, according to official sources, replied yes.

The Charter and its implementing provisions convey the official version of the regime’s history, depicting it as victorious of the 1990s’ conflict.<sup>9</sup>

23-For the Algerian authorities’ failure to conduct investigations on the fate of the disappeared as obliged, see Mouloud BOUMGHAR, “Concorde civile et réconciliation nationale sous le sceau de l’impunité : le traitement par le droit algérien des violations graves des droits de l’Homme commises durant la guerre civile des années 1990” [Civil concord and national reconciliation masked by impunity: the treatment of serious violations of human rights by Algerian law committed during the civil war of the 1990s], International Review of Comparative Law (R.I.D.C.) 2-2015, p. 400-403.

24-B. Djilali “Impossible d’identifier les agents qui ont commis des dépassements” [Impossible to identify the officials who have committed excessive acts], Le Quotidien d’Oran, 13 April 2005, online on: [http://www.algeria-watch.org/fr/mrv/mrvdisp/ksentini\\_deplacements.htm](http://www.algeria-watch.org/fr/mrv/mrvdisp/ksentini_deplacements.htm), visited on 14 August 2015

25-F. SOFIANE, “Découverte de 10 charniers des années 1990 : on n’exclut pas la présence des disparus parmi les victimes” [Discovery of 10 mass graves from the 1990s: the presence of missing persons among them has not been ruled out], Le Jeune Indépendant, 19 January 2015, visited on 14 August 2015, online on: <http://www.jeune-independant.net/Decouverte-de-dix-charniers-des.html>

26-The text of the Charter was published on the Official Journal before the referendum. Presidential decree no. 05-278 of 14 August 2005 on the summoning of the electorate to the referendum of Thursday 29 September 2005 on national reconciliation, JORA no. 55 from 15 August 2005

27-This relates to ordinance no. 06-01 of 27 February 2006, implementing the Charter for Peace and National Reconciliation, presidential decree no. 06-93 of 28 February 2006 relating to the compensation of victims of the national tragedy, presidential decree no. 06-94 of 28 February 2006 relating to State assistance to impoverished families affected by the involvement of one of their relatives in terrorism, presidential decree no. 06-95 of 28 February 2006 relating to the declaration provided for by Article 13 of the ordinance implementing the Charter.

28-Presidential decree no. 05-278 of 14 August 2005 on the summoning of the electorate to the referendum of Thursday 29 September 2005 on national reconciliation, JORA no. 55 from 15 August 2005, § 23

This conflict, categorised as the civil war by many observers, was appointed a national tragedy. The sole thing responsible for the national tragedy is “*the barbaric terrorism which has plunged the Algerian population into mourning for a decade*” whereas Algeria has survived “thanks to the patriotism and sacrifices of the People’s National Army, security forces and all patriots who knew [...] to organise the resistance of the nation faced with this inhumane criminal aggression”.

The number and gravity of the crimes committed by the State officials are minimised. The tens of thousands of acts of torture and civil extrajudiciary executions are not provided for in the provision of the national reconciliation. Thanks to the rallying of the families of the disappeared, the Charter nonetheless recognises the existence of “dramatic missing persons’ files”<sup>29</sup>. Chapter 4 of ordinance no. 06-01 implementing the Charter maintains its aim to address issue appropriately.

**However, at no moment have the disappearances at the heart of the texts been classified as enforced. The Charter rejects all allegations aiming to endorse the responsibility of a de-liberate phenomenon of disappearance by the State.** The text even claims that “*in numerous cases, these disappearances are a consequence of the criminal activity of blood-thirsty terrorists who have usurped the right to life or death of all people*”.

**The legislative provision of the policy of national reconciliation is, in reality, an amnesty legislation** for both members of the armed Islamist groups having surrendered their weapons and the State officials who are the alleged perpetrators of the enforced disappearance. In the name of Article 45 of ordinance no. 06-01, all complaints filed against State officials, belonging to any component, must be declared inadmissible by the competent judicial authorities.

**In return for the impunity of the perpetrators of the enforced disappearances, a financial compensation is granted to families of the missing compelled to establish a death certificate of their loved one to claim it**<sup>30</sup>. In 2015, the Algerian authorities have, for many years now, claimed that the large majority of families of the disappeared have been compensated and that consequently, the missing persons’ files managed as part of the implementation of the Charter for the Peace and National Reconciliation are closed.

The aim of the maintained confusion on the number of disappearances, on their origin and their perpetrators, the obstruction of the truth on the fate of the missing and legal impunity granted to the State officials, is to protect the State officials, perpetrators of the enforced disappearances, and their sponsors from facing their responsibility for their crime against humanity.

29-Presidential decree no. 05-278 of 14 August 2005 on the summoning of the electorate to the referendum of Thursday 29 September 2005 on national reconciliation, JORA no. 55 from 15 August, p. 5

30-For the subordination of the compensation to the establishment of a death certificate as an inhumane treatment, see Mouloud BOUMGHAR, “Concorde civile et réconciliation nationale sous le sceau de l’impunité : le traitement par le droit algérien des violations graves des droits de l’Homme commises durant la guerre civile des années 1990” [Civil concord and national reconciliation masked by impunity: the treatment of serious violations of human rights by Algerian law committed during the civil war of the 1990s], *International Review of Comparative Law (R.I.D.C.)* in RIDC.2-2015, p. 403-405

Whereas the government speaks of the “generic concept of the disappeared” to deny the existence of the missing at the hands of State officials, the President of the CNCPPDH estimates that enforced disappearances in Algeria are isolated cases of certain State officials who committed “*excessive acts*”. Although they state that there is a great similarity between the 7,200 submitted cases, the President of the CNCPPDH contests that the enforced disappearances were planned<sup>31</sup>. He has repeated in the media on many occasions that “The State is responsible but not guilty”<sup>32</sup> of the disappearances, the responsibility lying solely in their inability to protect citizens from the acts of violence perpetrated by State officials, acting not on order but independently and of their own accord.

## II – Enforced disappearances in Algeria: a crime against humanity

Alongside torture, enforced disappearance is an act of extrajudiciary violence and slavery, some of the most serious violations of international human rights. These particularly cruel crimes are susceptible to be classified, in both international human rights and international criminal law, as a crime against humanity.

The Convention for the Protection of All Persons Against Enforced Disappearance in fact considers that “*the widespread or systematic practice of enforced disappearance constitutes a crime against humanity as defined in applicable international law and shall attract the consequences provided for under such applicable international law*” [Article 5]. The Rome Statute of the International Criminal Court (ICC)<sup>33</sup>, whose Article 7 gives the most refined definition of the concept of crime against humanity on a global scale, also lists enforced disappearance as among the acts of crime against humanity when committed “as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack”.

The circumstances in which the criminal acts were committed and the intention of the perpetrators play a role in determining the classification of a simple criminal act as a crime against humanity. The special feature of a crime against humanity resides, according to Article 7 of the Rome Statute, in the fulfilling of three cumulative conditions which form its core:

- The circumstances of the crime: a widespread or systematic attack
- The target of the crime: directed against any civil population
- The intention of the perpetrator: pursuant to or in furtherance of a State or organisational policy to commit such an attack

31-G. Hamrouche, “L’amnistic est la meilleure des solutions pour tourner la page” [Amnesty is the best solution to turn a new leaf], *La Tribune*, 9 March 2005, available at: [http://www.algeria-watch.org/fr/article/pol/amnistic/ksentini\\_tourner\\_page.htm](http://www.algeria-watch.org/fr/article/pol/amnistic/ksentini_tourner_page.htm)

32-Le quotidien d’Oran, “L’Etat est responsable mais pas coupable” [The State is responsible but not guilty], 29 July 2004: [http://www.algeria-watch.org/fr/mrv/mrvdisp/5200\\_disp\\_ksentini.htm](http://www.algeria-watch.org/fr/mrv/mrvdisp/5200_disp_ksentini.htm)

33-International Criminal Court is governed by the Rome Statute, an international treaty adopted by 120 States on 17 July 1998 and entered into force on 1 July 2002 after being ratified by 60 States. The Rome Statute can be accessed at: [http://utreaty.un.org/cod/icc/statute/french/rome\\_statute\(f\).pdf](http://utreaty.un.org/cod/icc/statute/french/rome_statute(f).pdf)

**The culmination of these different characteristics of the crime against humanity leads to the establishment of the perpetrator's intent to attack, in a pre-meditated way, a civil population he viewed as a target group or community<sup>34</sup>.**

Observers and experts have estimated that, on different occasions, the circumstances in which massive violations of human rights have been perpetrated in Algeria have the characteristics of a crime against humanity

The Permanent Peoples' Tribunal<sup>35</sup> has not hesitated to label the assassinations, use of torture, enforced disappearances, arbitrary or secret detention and unfair trials of the 1990s in Algeria as "*State violence*". According to the PPT, this violence may not be justified in the name of collective security in the face of violence originating from armed groups aligning themselves with Islam. The PPT has, however, estimated that enforced disappearances, such as those perpetrated in Algeria during the 1990s, represent repeated and systematic violations of human rights which are a crime against humanity as defined by Article 7 of the Rome Statute.<sup>36</sup>

In 2007, during the United Nations Human Rights Committee's consideration of Algeria and its obligations to the International Covenant on Civil and Political Rights, the British expert Sir Nigel Rodley has revealed during debates with the Algeria delegation that thousands of abductions and deaths as well as massacres do not happen by chance or by accident. It is estimated that this is in reference to "crimes against humanity" for which it is difficult to imagine that they would not be the consequence of systematic practice<sup>37</sup>.

Although Algeria is neither a State Party to the Convention nor to the Rome Statute, it must respect all of the principles applicable to all States listed in the Declaration for the Protection of All Persons Against Enforced Disappearance<sup>38, 11</sup>

34-The civil population, target of crime against humanity, is a non-combatant population identified as a "scapegoat [group] in the minds of the perpetrators of the infractions which establishes them as a target community [...] Such real or supposed characteristics are misrepresented by the criminals with the intention of disqualifying members of the group and find a foundation for the violence used against them. The identification of the group is therefore theological. As such, it is not a neutral or external fact, independent of perpetrated barbaric actions [...]” See Mario BETTATI, “crimes contre l’humanité” [crimes against humanity], Encyclopædia Universalis [online], visited on 10 June 2013. URL: <http://www.universalis-edu.com/encyclopedie/crimes-contre-l-humanite/>

35-The Permanent Peoples' Tribunal (PPT) is an opinion tribunal independent from the States. It is a deliberative assembly in which legal personalities denounce, in legal form, actions which they consider reprehensible, especially in international law. The tribunal gives out sentences holding value which are passed onto the authorities. These sentences are based on real legislation, namely on the Universal Declaration of the Rights of Peoples (adopted in Algiers in 1976) and on all international legal instruments applicable to the States. The PPT was heard by the Justice Commission for Algeria, supported by many Algerian and international NGOs and was held from 5 – 8 November 2004 in Paris. The Algerian State, invited to exercise its right of defence during the sessions, did not deign to respond: [http://www.algerie-tpp.org/algerie\\_tpp.htm](http://www.algerie-tpp.org/algerie_tpp.htm)

36-Permanent Peoples' Tribunal "Texte de la sentence prononcée par le Tribunal permanent des peuples" [Text of the sentence imposed by the Tribunal], October

2004, p. 45. Visited on 02/02/2016 at: <http://www.algerie-tpp.org/tpp/pdf/sentence.pdf>

37- "Pas d'impunité pour les coupables de crimes contre l'humanité : les conclusions du comité des droits de l'homme de l'ONU" [No Impunity For Those Who Are Guilty of Crimes Against Humanity: Conclusions of the UN's Human Rights Committee], Algeria Watch, 8 November 2007 - [http://www.algeria-watch.org/fr/aw/observations\\_CCPR\\_2007.htm](http://www.algeria-watch.org/fr/aw/observations_CCPR_2007.htm)

38-On 18 December 1992, the General Meeting, in its resolution 47/133, adopted, as part of the entirety of the principles applicable to all States, the Declaration on the Protection of All Persons from Enforced Disappearance. The Declaration can be accessed here: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N93/091/19/IMG/N9309119.pdf?OpenElement>

The Working Group on Enforced or Involuntary Disappearances (WGEID)<sup>39</sup>, whose main task is to monitor the State's respect of the obligations imposed on them by the Declaration, adopted in 2009 a General Resolution on Enforced Disappearances as a crime against humanity<sup>40</sup>. In this resolution, the WGEID affirms that in the event of an allegation of enforced disappearance which may constitute a crime against humanity, these allegations will be assessed in light of the provisions in Article 7§1 of the Rome Statute before sending them before the relevant international, regional or national authorities<sup>41</sup>.

The classification of crime against humanity leads to the consequences provided for by the applicable law. These consequences are: - imprescriptibility; - prohibition of amnesties; - recognition of the right of victims to full and complete compensation.

Ten years after the application of the Charter for Peace and National Reconciliation's implementing provisions, the only line dedicated to the issue of the disappeared in the 2014 annual report of the CNCPPDH is "*the President of the National Commission considers the case to be closed and the families of the disappeared have been classed as victims of the national tragedy and have been compensated*"<sup>42</sup>. Faced with the clear lack of political willingness, tens of thousands of families of the missing in Algeria have never gained their rightful Truth, Justice or full and complete compensation, more than twenty years after the disappearance of their loved ones.

Through this report, the CFDA wishes to point out the components they have which show that enforced disappearance in Algeria is a crime against humanity and that, consequently, the perpetrators of enforced disappearance should not benefit from any kind of amnesty, or mercy if they prevent the justice from determining the culpability or innocence of the alleged authors, of shedding light on the truth or granting full and complete compensation.

According to information which CFDA has at its disposal, enforced disappearances in Algeria perpetrated by members of the State security forces (Section I) have targeted a civil population considered as subversive in the eyes of the officials (Section II) as part of a widespread or systematic attack against them (Section III). However, since the mid-1990s, the Algerian authorities' responses to the issue of enforced disappearance have shown continuous impunity (Section IV).

39-The Working Group on Enforced or Involuntary Disappearances is a group of independent experts created in 1980 by the UN Commission on Human Rights (Resolution 20 (XXX V) of 29 February 1980) to study issues relating to enforced disappearances. The WGEID is expected to facilitate communication between governments and families of the missing with the aim of resolving the cases of enforced disappearances. The WGEID is also tasked with monitoring the State's respect of the obligations imposed on them by the Declaration.

40-In the General Resolution on Enforced Disappearances as a crime against humanity (A/HRC/13/31 (para.39)), the WGEID claimed that Article 4 of the Declaration's preamble stating "the systematic practice of enforced disappearances is by its very nature a crime against humanity" does not comply with the international law in force and that enforced disappearances can henceforth only be classified as a crime against humanity in certain circumstances as listed in Article 7§1 of the Rome Statute (see above) which represents, for the group of experts, the customary international law on the subject and which should therefore be used to interpret and apply the provisions of the Declaration.

41-General Resolution on Enforced Disappearances as a crime against humanity § 15. For more information, see the interview with Olivier De Frouville, independent expert and member of the WGEID, on the Algeria Watch website "la pratique des disparitions forcées constitue-t-elle un crime contre l'humanité ?" [Is the practice of enforced disappearance a crime against humanity?], 22 May 2009, [http://www.algeria-watch.org/fr/aw/itv\\_de\\_frouville.htm](http://www.algeria-watch.org/fr/aw/itv_de_frouville.htm)

42-CNCPPDH, 2014 annual report, <http://www.cncppdh-algerie.org/images/PDF/Rapport-2014-FR.pdf>

## Aims and methodology

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The Collective of Families of the Disappeared in Algeria (CFDA) is an association of families of people who have disappeared at the hands of State officials in the 1990s in Algeria. Its head office is based in Paris. The association fights against impunity and for the establishment of truth. Working in close cooperation with SOS Disappeared based in Algiers, Oran and Constantine, CFDA has been working for more than twenty years on documenting enforced disappearances in the country as well as preserving and handing down the memory of the missing.

To this day, CFDA and SOS Disappeared have put together 4,635 individual files on the disappeared based on their families' declarations and testimonies. Between 2006 and 2010, SOS Disappeared carried out nearly 1,000 individual in-depth interviews in the homes of the families of the disappeared in 26 provinces and 112 communes. This information collected and archived by the CFDA and SOS Disappeared is the basis for this report. The missing persons' files contain information relating to:

- the missing person's marital status
- the circumstances surrounding the arrest and disappearance
- the allegedly responsible State security force officials
- the detention locations where the missing person is meant to have been taken and transferred
- the steps taken by the families as part of their search and their eventual responses from the authorities

In Algeria, according to the official version of history, the enforced disappearances were never planned by any wilful policy. In 2009, the CNCPPDH annual report claimed that the *"disappearances are not attributed to the institutions. These are isolated acts committed by State officials. No reliable archive or testimonies exist. This is a bitter but very real conclusion"*<sup>43</sup>.

However, the qualitative study of the information gathered by CFDA and SOS Disappeared not only show that the many reliable testimonies exist but on the whole, the situations and procedures used are strikingly similar. From one end of the country to the other, the stories are very alike regarding the circumstances around the enforced disappearance, identity of the allegedly responsible State security force officials and the responses received by the families with regards to the searches undertaken to locate their loved one.

The report *"Enforced disappearances in Algeria: a crime against humanity?"* presents the factors at CFDA's and SOS Disappeared's disposal which tend to show that enforced disappearance in Algeria were a widespread and systematic practice perpetrated by State officials against the civil population

Faced with the authorities' desire to close the missing persons' files without truth and in complete impunity, the CFDA opens here a debate on the legal classification of crimes committed by State officials during the 1990s. Our organisation reminds us that sustainable peace and reconciliation cannot be guaranteed by the establishment of truth on a case-by-case basis on the fate of all victims and the establishment of the criminal accountability of the perpetrators of the crimes.

43-CNCPPDH "Rapport annuel 2009 : état des droits de l'Homme en Algérie" [2009 annual report: the state of human rights in Algeria], p. 18. Visited on 02/02/2016 at: [http://www.cncppdh-algerie.org/php\\_VF/images/pdf/RAPPORT-09.pdf](http://www.cncppdh-algerie.org/php_VF/images/pdf/RAPPORT-09.pdf)

## The Algerian Civil War

## La The Algerian Civil War

The Algerian Civil War was ten years of the Algerian regime and People's National Army versus a variety of armed Islamist groups including the Armed Islamic Group (GIA) and Islamic Salvation Army (AIS – the armed wing of the Islamic Salvation Front (FIS)). The people, rapidly becoming a key factor in the fight for power and forced to choose one of the two sides, were suspected by the conflicting parties of supporting the other side. For years, they were subjected to the terrorism from the armed Islamist groups and repression from the State on a daily basis. According to sources<sup>44</sup>, tens and even hundreds of thousands of civilians lost their lives in targeted attacks, bomb attacks, assassinations, massacres, extrajudiciary violence or from torture. Among these victims, we also count many thousands of women raped as well as those who were secretly detained and tortured but who have survived. Ultimately, tens of thousands of individuals disappeared after being abducted by armed Islamist groups or after being arrested by State security force officials.

The beginning of the Algerian Civil War can be traced to the early 1980s. Rapid demographic growth, high unemployment rates, housing deficit, shortage of drinking water, democratic deficit and lack of public freedoms, these all caused a deep sense of unease in the society. All throughout the 1980s, movements of mass protests by workers and students flourished in cities across the country – Tizi Ouzou, Béjaia (1980), Saïda, Oran, Mahdia (1982), Laghouat (1985), Constantine, Sétif (1986), Collo (1988) – and were heavily repressed.

Between 4 and 10 October 1988, echoing the workers strikes and student protest movements in the region of Algiers, young people under 20 protested their discontentment with the widespread economic and social unease growing since the oil crisis of 1986. From the evening of 4 October, there were hundreds of arrests. The following day, State buildings and symbols of the regime were vandalised to cries of “Chadli assassin” or “Retire the FLN to a museum”. On 6 October, the state of siege was decreed and the army was deployed in Algiers. Clashes between rioters and law enforcement continued for five days in many large towns across the country.

Hundreds of victims of the repression of October 1988 are as follows:

169 deaths according to the official report by the national police force on 12 October<sup>45</sup>, at least 500, the majority by bullet, according to the evaluation of the emergency services at the hospitals in the capital<sup>46</sup>. In addition, hundreds of people were arrested arbitrarily and tortured. The Algerian civil society has therefore denounced numerous violations of human rights which happened during the events of October 1988<sup>48</sup>.

44- According to Ali Haroun there were no more than 80,000 deaths whereas Bouteflika often spoke of 150,000 or 200,000 deaths: <http://www.algerie-focus.com/blog/2012/12/ali-haroun-il-ny-avait-pas-plus-de-80-000-morts-durant-la-decennie-noire-en-algerie/>

45- “Khaled Nezzar : Nous ne savions pas” [Khaled Nezzar: We did not know], interview conducted by Sid Ahmed Semiane in “Octobre: Ils parlent” [October: They talk], Algiers, 1998. Visited on 14/08/2015 at: <http://www.algeria-watch.org/farticle/88/nezzar.htm>

46- “Du 5 octobre 1988 et du Comité contre la Torture, interview octobre 2001” [From 5 October 1988 and Committee against Torture, interview October 2001], Textes d'Anouar Benmalek sur Octobre 1988 [Texts by Anouar Benmalek on October 1988], p. 40. Visited on 14/08/2015 at: <http://anouarbenmalek.free.fr/octobre88/AnouarBenMalekTextesSurLaTorture.pdf>

The events of October 1988 led to the decision of President Chadli to modify the Constitution by referendum to authorise, after more than 25 years of a single-party system, the multiparty system and establish freedoms of assembly, demonstration and association. On 3 November 1988, the referendum for modifying the Constitution was approved (at 92.7% with a turnout of 83.08%). At the end of 1989, sixty new political parties had been created.

In June 1990, the municipal elections, the first pluralist ballot of independent Algeria, were won by the Islamic Salvation Front (FIS), an Islamic and populist party whose declared aim was to abolish the Constitution and establish an Islamic State<sup>49</sup>. One year after the municipal elections, while the legislative elections announced for 27 June 1991 were being prepared, the FIS leaders, calling for changes to the electoral law and organisation of the upcoming presidential elections, called for an indefinite general strike. The strike began on 25 May 1991.

On 5 June 1991, in the context of great political and social tension, President Chadli announced the resignation of the Hamrouche government and the postponement of the legislative elections. On this same day, the state of siege<sup>50</sup>, which transfers powers relating to public order and police from the civilian authorities to the military authorities, was once again decreed for a four month period across the whole country.

The state of siege was lifted on 29 September 1991 after 3 months and 3 weeks. The FIS won the first round of the legislative elections which were finally held on 26 December 1991<sup>51</sup>. President Chadli resigned on 11 January 1992,

47-On 18 October 1988, the Minister for Justice, Mohamed Cherif Kherroubi declared that “743 people have been brought before the courts” and that “the army has thus far not strictly detained anyone” in El Moudjahid, 18 October 1988.

48-From 11 October, the Federation for Human Rights and a lawyers' collective took action to ensure that the detainees' rights to defence, brought before special courts under an emergency procedure defined as obvious offence, were being respected and to demand the immediate release of detainees “arrested for their political opinions or their union or cultural activism”. See Abed Charef, “Octobre 1988, un chahut de gamins ?” [October 1988: a lads' uproar?], Algiers: Editions Laphomic, 1990, p. 129-162; From 17 October, the National Committee against Torture was created on the initiative of a group of professors at the University of Science and Technology Houari Boumedienne (USTHB) in Bab Ezzouar. The Committee has led different actions in denouncing the established practice of torture, which they believe has been in place since gaining independence. They have especially conducted the important task of collecting the published testimonies from survivors of the torture from the 1988 riots. National Committee against Torture, *Le Cahier noir d'Octobre* [The Black Book of October], Editions ENAG, Algiers, 1988

49-After gaining control of 853 communes out of 1,540 and 32 province assemblies out of 48, the FIS became the first opposition party to the regime.

50-Presidential decree no. 91-196 of 5 June 1991 proclaiming the state of siege, JORA no. 29 from 12 June 1991

51-The first round of the legislative elections, which were initially meant to take place on 27 June 1991, were eventually held on 26 December 1991. With a rate of abstention of 41%, the FIS won the first round with 47.27% of votes cast and obtained 188 of the 232 assigned seats. The second round was scheduled for 16 January 1992.

pushed out by the army high command<sup>52</sup>. This same army high command made sure to have the impossibility of pursuing the electoral process “on record”<sup>53</sup>. The second round of legislative elections never took place.

The political power was now officially vacant, with President Chadli having dissolved the national assembly before resigning<sup>54</sup>. The military command established a collegial body, the High Council of State (HCE), tasked with exercising “all powers entrusted by the current Constitution to the President of the Republic”<sup>55</sup> and named President Mohamed Boudiaf as the head. The HCE would finally gain presidential and legislative powers until January 1994<sup>56</sup>.

The state of emergency was announced<sup>57</sup> in February 1992 for a duration of 12 months across the whole country. It was renewed in 1993<sup>58</sup> without this decision being discussed or validated by the parliaments convening in the chambers, in violation of the 1989 Constitution. It would only be lifted in February 2011<sup>59</sup>.

52-A number of observers estimate that President Chadli, who was close to cooperating with the FIS, was forced to resign by the military command who strongly rejected this option. Madjid Benchikh, a distinguished professor of international law and former president of Amnesty International for Algeria, speaks of a coup d'état against the Constitution. “[...] There is a coup d'état when a political or military institution or force seizes decisive political powers which do not belong to them under the term of the Constitution. According to the terms of the 1989 Constitution which were applicable at the time, [...] only the Constitutional Council could cancel the elections without civilian or military pressure [...]” When Chadli announced on the television that he was handing in his resignation because, as he essentially said, “some decisions have been made which I cannot approve”, I immediately understood and wrote in the *El Watan* newspaper that this was a coup d'état because, according to the terms of the Constitution, no military authority has the right to make such decisions and impose them on the President of the Republic”. See Makhedji Madjid, “Madjid Benchikh : L'armée est intervenue pour garder le pouvoir” [Madjid Benchikh: The army intervened to remain in power] *Le Matin.dz* [online], 2012, [visited on 16/06/2015], available at: <http://www.lematindz.net/news/6957-madjid-benchikh-larmee-est-intervenu-pour-garder-le-mpris-sur-le-pouvoir.html>

53-On 12 January, the High Security Council (HCS), a purely advisory body, is according to the Constitution tasked with “[providing] the President of the Republic with opinions on all issues relating to national security” [Article 162 of the Algerian Constitution of 23 February 1989] noted the impossibility of pursuing the legislative process. The High Security Council is usually chaired by the President of the Republic and consists of: the President of the National People's Assembly, absent; the head of government, Sid Ahmed Ghazali; the Minister of National Defence, Khaled Nezzar; the Minister of Foreign Affairs, Lakhdar Brahimi; the Minister of the Interior, Larbi Belkheir; the Minister of Justice, Hamdani Benkhlil; Minister of Economy and army chief of staff, Abdelmalek Guenaizia. Established “in permanent session to ensure order”, the High Security Council found itself deprived of three of its members when it decided to halt the electoral process: the President of the Republic, resigned; the President of the National Assembly, dissolved; the Minister of Economy, whose office was ensured by the head of the government. Out of the six members present, three were major generals.

54-The resignation of the President of the Republic coinciding with the dissolution of the National People's Assembly (APN) did not actually allow the Constitutional Council to apply Article 84 (§ 4, 5, 6) of the Constitution which provides for the event of the death or resignation of the head of State. The National People's Assembly assumed office in the interim for 45 days and organised the presidential elections. The dissolution of the APN having never been made public at all, Fawzi Rouzeik suggests that the “organisers or the transition” had taken the time to backdate the dissolution of the APN in the hopes of postponing the election, all the while presenting the illusion of respecting the constitutional provisions. See Fawzi Rouzeik, *La démocratie confiscuée* [The confiscated democracy], in: *Revue du monde musulman et de la Méditerranée* [Magazine of the Muslim and Mediterranean world], no. 65, 1992, p. 29-60, p. 46

55-Declaration of 14 January 1992 establishing a High Council of State, JORA no. 3 from 15 January 1992.

56-In fact, since 14 April 1992, the HCE “considering the mission assigned to the HCE would not be accomplished without resorting to pressing legislative measures” can be attributed to, up to the re-establishment of the normal functioning of the institutions and constitutional order, the ability to take the legislative measures by decree of a legislative nature. See Deliberation no. 92-02/HCE relating to legislative decrees, JORA no. 28 from 15 April 1992, p. 660

57- Presidential decree no. 92-44 of 9 February 1992 introducing the state of emergency, JORA no. 10 from 9 February 1992.

58- Legislative decree of 6 February 1993 extending the duration of the state of emergency, JORA no. 8 from 7 February 1993

59- Ordinance no. 11-01 of 23 February 2011 on the lifting of the state of emergency, JORA no. 12 from 23 February 2011

The successive emergency legislations adopted in 1991 and 1992 (the state of siege and then state of emergency) impart unprecedented amounts of power to the military authorities, outside of all control. They provide for, among other things, the possibility for both military and civilian authorities to place in security centres, without charge or trial, “all persons of age whose behaviour is susceptible to dangerously compromise public order and public security as well the effective operation of the public services”<sup>60</sup>. Between 10,000 and 20,000 people were sent to security centres in the south of the country between 1991 and 1995<sup>61</sup>.

In March 1992, FIS, dissolved by court judgement<sup>62</sup>, became an illegal party. The repression pushed a certain number of leaders and militants of the FIS into hiding. Although the FIS did not call for armed fighting before mid-1993, armed groups (MIA, GIA) began to form and commit attacks and assassinations, especially in working-class areas. Little by little, insecurity won and violence became widespread. The Civil War began.

In June 1992, the President of the HCE, Mohamed Boudiaf, was assassinated in Annaba. On 26 August 1992, a bomb went off at Algiers airport. This was the first time the public was struck by an indiscriminate attack of this kind.

The army high command firmly decided to “eradicate” Islamism. Ali Kafi, Mohamed Boudiaf's successor as the head of the HCE, announced in September 1992 a legislative decree relating to the fight against terrorism and subversion<sup>63</sup> which defines both extensively and vaguely the infractions likely to be classed as acts of terrorism or subversion. At the same time, the State security apparatus reorganised itself. At the behest of General Zezzar and under the leadership of General Mohamed Lamari, the Centre for the Conduct and Coordination of Anti-Subversive Action (CCLAS) reunited the specialised army units responsible for leading the anti-terrorist fight.

From 1993, a bitter struggle broke out between members of the armed Islamist group and members of the State security forces. No part of society was spared from the violence. According to the principles of counter-insurgency war, the civil population, already a victim to terrorism, was considered by the State security forces as the breeding grounds for armed Islamist groups. They were suspected of supporting them. The State security force officials engaged in the fight against terrorism and subversion led a systematic repression, especially in working-class areas and remote and/or poor areas affected by terrorism, with the aim of eradicating both armed and unarmed Islamism

60- Presidential decree no. 91-196 of 5 June 1991 proclaiming the state of siege, JORA no. 29 from 12 June

1991 [Article 4] accompanied by Executive decree no. 91-201 setting the limits and conditions for being placed in a security centre, JORA no. 31 from 26 June 1991; and Presidential decree no. 92-44 of 9 February 1992 introducing the state of emergency, JORA no. 10 from 9 February 1992 [Article 5].

61- Taghzout Lamia “Camps du sud : les internés n'ont pas oublié” [Southern camps: the detainees have not forgotten], *El Watan*, 3 October 2009, online at [http://www.algeria-watch.org/fr/mrv/mrvrepr/camps\\_du\\_sud.htm](http://www.algeria-watch.org/fr/mrv/mrvrepr/camps_du_sud.htm), visited on 29/07/15

62- The FIS was dissolved on 4 March 1992 by the administrative chamber of the Algiers tribunal. This decision came at the request of the Minister of the Interior who accused them in a complaint filed on 9 February 1992, the day the state of emergency was introduced, of “[pursuing] through subversive means objectives which placed the institutions of the State in peril”. By applying the decree on the state of emergency, the communal and provincial people's assemblies with a FIS majority were dissolved on 11 April 1992 and replaced by the Executive Community Delegations (DEC).

63- Legislative decree no. 92-03 relating to the fight against terrorism and subversion, JORA no. 70 from 1 October 1992

## Section I.

**The State officials as  
perpetrators of the enforced  
disappearances**

## Section I. The State officials as perpetrators of the enforced disappearances

To minimise the State's responsibility in perpetrating the disappearances in Algeria, the Algerian authorities cultivate ambiguity in the origins of the enforced disappearances and the profession of their perpetrators.

The CNCPPDH, institution responsible for the missing persons' files on a national level, has declared on many occasions that in the absence of archives and testimonies, it would be impossible to identify the perpetrators of enforced disappearances<sup>64</sup>. At the same time, the Algerian government having since admitted that "the generic concept of the disappeared" has been proven, they refer to the different specific cases whereby the disappearances in Algeria would be either voluntary or at the hands of the armed Islamist groups<sup>65</sup>. Therefore, no disappearance at the hands of State officials has ever been documented.

However, the 4,635 cases of enforced disappearance recorded by CFDA based on the declarations and testimonies made by families of the missing do not leave any doubt regarding the profession of the authors of the enforced disappearances. The missing were arrested by officials in different branches of the State security forces and by members of paramilitary groups established by the State as part of the fight against terrorism and subversion (I).

Many former detainees, survivors from the secret detention and torture, were alongside missing persons in the State security's detention centres. Nonetheless, the families who, from the very beginning, have tirelessly tried to locate their arrested loved ones, have never been able to obtain precise information from the security forces or the administration or the justice on the location of their detention or the fate of the disappeared (II).

### I – The State officials as authors of the arrest of the disappeared

Since the FIS' victory in the municipal elections of June 1990, the measure for fighting terrorism and subversion was implemented through a small group of ANP generals, sometimes called the "eradicators".

Under the coordination of the Department of Intelligence and Security (DRS) and ANP, the anti-terrorist fight has involved different branches of the State security forces – the army, gendarmerie, police – as well as members of the paramilitary militia established from 1994.

On 4 September 1990, the Department of Intelligence and Security (DRS) was created on the initiative of General Khaled Nezzat, who was Minister of Defence<sup>66</sup>, and of General Larbi Belkheir, who was head of President Chadli's cabinet.

The DRS had just replaced the Military Security (MS)<sup>67</sup>, the regime's political police dependent on the presidency of the Republic under Boumédiène. Placed under the responsibility of the Ministry of Defence in 1990, the DRS became the army's secret service. From its creation up until September 2015, the DRS was managed by the General Major Mohamed Médienne known as "Toufik". The DRS' number 2 was General Smail Lamari, known as "Smaïn", from 1992 until 2004.

From 1992, the fight against terrorism and subversion was overseen by the DRS alongside the ANP's chief of staff. *"From 1992, the SM, currently DRS, was the turning hub for the State repression. They regularly managed all of the security forces in complete isolation from the services. [...] they used the anti-guerrilla strategy as a template to afford all acts of violence including the creation of death squads. The DRS services, in their place, was the backbone of the organisation of impunity for the whole of this decade"*<sup>68</sup>.

Specialised in intelligence, the DRS did not have forces of intervention, apart from around 300 men in the Special Intervention Group (SIG)<sup>69</sup>. From 1992, specialised anti-terrorism units have been created in the country within the ANP, then the gendarmerie and police.

The mobile, specialised units and local, ordinary units from the different branches of the State security forces cooperated under the coordination of many structures linked to two main branches of the DRS<sup>70</sup> – the Directorate of Counter-Espionage

64-Souhila Hammadi, "Il n'est pas possible d'identifier les auteurs des disparitions" [It's not possible to identify the perpetrators of the disappearances], Liberté, 13 April 2005 online on [http://www.algeria-watch.org/fr/mrv/mrvdisp/kscntini\\_deplacements.htm](http://www.algeria-watch.org/fr/mrv/mrvdisp/kscntini_deplacements.htm) visited on 22/07/2015

65-According to the "Background memorandum of the Algerian Government on the inadmissibility of communications submitted to the Human Rights Committee in connection with the implementation of the Charter for Peace and National Reconciliation" 17 February 2009, p. 7 and 8; the general concept of the disappeared can be due to different possibilities: - Either the person is reported missing by their loved ones when they went into hiding of their own volition; - Either the person reported as missing had been arrested by then released thus giving them the opportunity to go into hiding; - Either the person was abducted by members of armed Islamist groups who were mistakenly incorporated into members of the State security forces; - Either the person the family are looking for decided to abandon their loved ones or leave the country following personal or familial problems; - Either the person reported as missing was a wanted terrorist and has been killed and buried in the rural maquis following the religious conflict between rival groups in the maquis; - Either the persons sought after, having disappeared, live on national territory or abroad under a fake identity thanks "to an incredible network of falsified documents"

66-General Nezzar remained in his post until 11 July 1993, the date on which Liamine Zeroul replaced him. General Nezzar and General Zeroul were respectively the 3rd and 4th Ministers for the Defence of the People's Democratic Republic of Algeria. Before them, this position was held by the Presidents of the Republic in power.

67-In everyday language, the DRS is today once again called SM

68-Justice Commission for Algeria "L'organisation de l'impunité" [The organisation of impunity], file no. 18, Permanent Peoples' Tribunal, May 2004, p. 7: [http://www.algerie-tpp.org/tpp/pdf/dossier\\_18\\_impunite.pdf](http://www.algerie-tpp.org/tpp/pdf/dossier_18_impunite.pdf)

69-The SIG "ninjas", dressed in black uniform, played an important role in the "anti-terrorist fight". Their response teams were established from 1992 at various sensitive points around Algérois. The SIG men were present in all the police stations, in all the barracks of a certain importance. From 1994, the SIG was reinforced by integrating the specially trained paratroopers. Source: Justice Commission for Algeria, "les centres de torture et d'exécution" [Centres of torture and execution], file no. 6, Permanent Peoples' Tribunal, 2004, p. 5

(DCE) and the Central Directorate for Army Security (DCSA) and ANP71 (for more information on the structures for coordination, see Appendix 1):

- the Post of Operational Command (PCO) linked to the DCE
- the CCLAS organically linked to the ANP's chief of staff
- the Territorial Centre of Research and Investigation (CTRI), the feelers of the DCE in each military region
- the Main Military Investigation Centre (CPMI) dependent on the DCSA

According to the files put together by the CFDA, between a quarter and a half of the missing identified were arrested during mass arrests conducted by agents from specialised anti-terrorism units working as “combined forces” (A). Officials in ordinary units from branches of the security forces – military police officers, soldiers and police officers – employed to fight terrorism and subversion, also participated in the arrest and detention of thousands of the disappeared (B). Members of paramilitary groups established by the State from 1994 also played a significant role in the perpetration of many hundreds of enforced disappearances (C).

### A – The specialised anti-terrorism units working as “combined forces”

Active from 1992, the specialised anti-terrorism and subversion units – from the army (the para-commandos of the CCLAS) and gendarmerie (Rapid Intervention Group – RIG) and the police (Mobile Brigades of the Judicial Police – BMPJ) – working in cooperation with each other within the different structures for coordination implemented by the DRS and ANP. Their mission was to fight against home-grown terrorism and to dismantle the support networks of the armed Islamist groups in the public.

These special units had a large territorial jurisdiction. Being mobile, they were deployed across the whole country, from rural to urban areas. They especially intervened in the areas most affected by terrorism, notably in working-class areas in large towns, poor and unsanitary urban suburbs and rural areas neighbouring maquis (mountainous guerrilla strongholds).

Throughout various operations of mass arrests, otherwise known as raids or sweeps, agents from specialised anti-terrorism units worked as “combined forces”, meaning in cooperation with each other and with the support of local, ordinary army or gendarmerie units.

70-The three main branches of the DRS are: - the Directorate of Counter-Espionage (DCE) managed by General Smaïn Lamari, DRS' no. 2; - the Central Directorate for Army Security (DCSA) managed by General Kamel Abderrahmane until 1996; - the Directorate of Documentation and External Security (DDSE), also known by the name of Communication and Dissemination Centre which depended directly on the head of DRS, General Mohamed Mediene, known as Toufik. Sources: Justice Commission for Algeria, “l'organisation des forces de la répression” [The organisation of the forces of repression], 2004: [http://www.algerie-tpp.org/tpp/pdf/dossier\\_16\\_forces\\_repression.pdf](http://www.algerie-tpp.org/tpp/pdf/dossier_16_forces_repression.pdf)

71-For the organisation of the State security apparatus and competences of each of the structures of coordination in the fight against terrorism and subversion, see: Justice Commission for Algeria, l'organisation des forces de la répression” [The organisation of the forces of repression], 2004: [http://www.algerie-tpp.org/tpp/pdf/dossier\\_16\\_forces\\_repression.pdf](http://www.algerie-tpp.org/tpp/pdf/dossier_16_forces_repression.pdf) and Justice Commission for Algeria, “les centres de torture et d'exécution” [Centres of torture and execution], 2004: [http://www.algerie-tpp.org/tpp/pdf/dossier\\_6\\_centres.pdf](http://www.algerie-tpp.org/tpp/pdf/dossier_6_centres.pdf)

### 1 – The para-commando regiments of the People's National Army

Since 1991, the ANP created a specialised division in the commando combat and assault by air, which was the 17th paratrooper division (17th PD) with around 9,000 men<sup>72</sup> which groups 5 infantry units and other regiments and battalions. The agents of the para-commando units were trained in the Officers' training school of the special troops (EATS) in Biskra. The level of training there is very extensive in the field of individual and collective combat.

In 1992 and 1993, the entire 17th PD was deployed in the first military region (Algérois and Mitidja) to track armed terrorists. Their units were the backbone of the CCLAS. The agents in the para-commando units were recognisable from their uniforms and weapons (green outfits, dark green masked faces, heavy weaponry) and the fact that they did not come from the region in which they were active.

In the areas and communes reputed to be the strongholds of the armed Islamist groups of greater Algiers – such as Bab El Oued, La Casbah, Bab Ezzouar, Baraki, Eucalyptus etc. – or of Mitidja - such as Meftah – tens of families of the disappeared testify the involvement of para-commandos of special troops in the arrest and detention of civilians, including their loved ones. In Baraki, around twenty kilometres from Algiers, many missing people were arrested by the military “in para-commando outfits”.

#### Mohamed Grioua,19, Djamel Chihoub, 19, Mourad Kimouche, 22, Baraki, Algiers province

On this day [16 March 1996], from 5.30 am until 2 pm, the “combined forces” (police, gendarmerie, army) surrounded the large district of “El Merdja” (situated in Baraki, in the eastern suburbs of Algiers) by uniformed men and official vehicles, and conducted a large sweep operation during which around ten people were arrested. At 8 am, soldiers from the Algerian People's National Army dressed in paratrooper uniform arrived at the door of the Grioua family home. They entered and proceeded to do a complete search of the house without a warrant. Having not found anything, the soldiers arrested Mohamed Grioua, in front of his family, and informed his parents that their son was being arrested as part of an investigation. Mrs Grioua, Mohamed's mother, insisted on following the soldiers who were taking her son, and followed them towards

72-Eric Denece, Bulletin de documentation no. 5 “Forces spéciales et groupes d'intervention antiterroriste algérien” [Documentation Newsletter no. 5 “Algerian special forces and anti-terrorist intervention groups”] from 18/01/2013, online at <http://www.cf2r.org/fr/bulletin-de-documentation/forces-speciales-et-groupes-intervention-antiterroristes-algeriens.php>, visited on 21/07/2015

the neighbours' house, where the Chihoub family lived. She witnessed the soldiers arrest Djamel Chihoub, who was also taken away with Mrs Grioua's son. The soldiers then went to the home of the B. family and arrested their son, F.B. (who was released shortly afterwards). Finally, the soldiers (and their three prisoners) entered the home of the Kimouche family and again arrested the son of the family, Mourad Kimouche. The soldiers handcuffed the prisoners two by two and at 11 am, took them in their military van towards the Ibn Taymia secondary school ("CEM"), situated at the entrance of the Baraki district and which had been requisitioned as an operations troop centre.

Testimonies collected by SOS Disappeared from families of the missing

The ANP para-commando regiments were set up in temporary missions in the communes. In Meftah, situated along with Larbaa, Blida and Sidi Mousa in the "Triangle of Death", families of the missing noted that soldiers who had arrested their loved ones were not the usual soldiers in Meftah. According to girls who had married soldiers from Biskra deployed in Meftah and had moved there to live with them, a few of those missing from Meftah who had been arrested in 1994 had been transferred to this city

## 2 – Mobile Brigades of the Judicial Police

Since 1993, the judicial police has been provided with specialised anti-terrorist units, the Mobile Brigades of the Judicial Police (BMPJ), officially linked with the provincial judicial police services under management of the Central Directorate for Army Security (DGSN). The BMPJ agents had a large territorial jurisdiction and therefore acted outside of the commune in which they were based. As such, the BMPJ agents from Bourouba, for instance, whose head office was the La Montagne police station, were renowned for their heavy-handed interventions in all of the El Harrachdaïra and beyond. The La Montagne police station was known by the public to be a secret detention centre where many missing persons from the areas of greater Algiers were detained and tortured.

It was Mohamed Tigha, former head of regional police service in Blida, who started the first BMPJ with the consent of Smaïn Lamari, head of the DCE and DRS's number 2. The men of these specialised units, "*volunteer police officers who had accepted to join this new dream team*" who rode a 4x4 Nissan and were dressed in navy blue outfits and balaclavas: "navy blue outfits and black balaclavas to avoid the volunteers from suffering retaliation against their families. The weaponry is more basic and classic. Russian Kalachnikovs, calibre 7.62 mm, and night-vision goggles. [...]"<sup>73</sup>.

The BMPJ agents were nicknamed "ninjas" by the public due to their outfits and their balaclavas. They made the arrests of the missing at their homes, the majority of which were at night during the curfew hours. Among the missing in CFDA's files, several hundred were arrested by these "ninjas".

<sup>73</sup>-Interview by SOS Disappeared with the family of the missing Mustapha Boucedraïa arrested on 25 April 1994 during a raid operated by armed soldiers in paratrooper uniforms and who arrived in a military van and a jeep

<sup>74</sup>-Abdelkader Tigha, "Contre-espionnage algérien, notre guerre contre les islamistes" [Algerian counter-espionage: our war against Islamists], éditions Nouveau Monde p. 55-56.

## Hakim Cherguit, 27, mechanic, Kouba, Algiers province

Hakim Cherguit was arrested on 31 December 1993, at around 1 am, at his home in Kouba. A few uniformed police officers from the anti-terrorist brigade, their faces concealed behind a balaclava revealing only the eyes, arrived in official vehicles and surrounded the house of the Cherguit family. The ninjas were accompanied by military officers in official outfits who remained outside.

Some officers rang the doorbell whereas others scaled the house walls to enter their yard. Mrs Cherguit got up and asked who was there. The men announced themselves as police officers and that they were looking for Hakim, one of their sons.

More than twenty officers rushed into the house. Hakim, awoken by the racket made by the officers, got up and started to get dressed. The officers stormed into his room and hit and handcuffed him without a single explanation.

The officers then covered Hakim's face with his jumper before dragging him outside and forcing him into the boot of one of the vehicles, a white Nissan. When his mother wanted to know why and where they were taking Hakim, they replied that it was just to question him and they would soon release him. Mrs Cherguit never saw her son again.

Testimony collected by SOS Disappeared from the mother of the missing

The mobile, specialised anti-terrorism units cooperated with the local, ordinary units of the security forces – police, soldiers, military officers – from the intervention zone. These ordinary units, deployed in the fight against terrorism at the scale of their territory under its jurisdiction were also involved in the enforced disappearances of many thousands of missing persons

## B – The State security forces' ordinary units

In their area of jurisdiction – provinces, daïras, communes – the ordinary units of the judicial police, army and gendarmerie monitored and controlled the public. **These units were involved, either alone or in cooperation with the specialised anti-terrorism units, in arresting and detaining thousands of the missing.**

The citizens of the districts knew the police officers from the nearby police stations who were sometimes known for the cruelty and terror which they spread in the surrounding area. As such, the witnesses were able to identify multiple times from which police station the offending police officers of these arrests and detention of the missing originated. They even usually knew their names. The same officers' and police stations' names appeared over and over again in the testimonies.

Different branches of the security forces coexisted in the same geographical area. It is nonetheless shocking to note that, in testimonies from families of the missing in this same region, certain perpetrators and detention locations would regularly come up and were cited more often than others.

In reality, the security force branches leading the operations varied depending on whether the area was rural or urban. As such, outside of the mass operations led by the anti-terrorist units, the missing were most often arrested by uniformed or plain-clothes police in underprivileged cities and suburban areas. The military police and soldiers, assisted since 1994 by the paramilitary militia, also led arrest operations in rural suburban areas of big towns and in the remote countryside.

**The citizens knew the security force officials present in their provinces. The witnesses of arrests and detention of the missing have been able to easily identify the security force branches to which the perpetrators of the arrests and the base of their deployment belonged. In a significant number of cases, the witnesses are even able to name these perpetrators.**

### 1 – The judicial police

According to the testimonies collected by SOS Disappeared and CFDA, the judicial police (DGSN), including all of the BMPJ units put together, was involved in the arrest of 1,306 missing persons.

The police's ordinary units had limited territorial jurisdiction. The agents of branches of the judicial police (urban security) had jurisdiction over the commune. The agents of sections of the judicial police (daïra security) had jurisdiction over the daïra. The province's head of security was in charge of the command, coordination and control of activities by the Daira security, urban security, the BMPJ and police.

Each commune had several police stations which accommodated the headquarters of different judicial police units. The police stations were named after the location where they were set up and by the number of the arrondissement (borough) to which they belonged. As such, the police station at the "three clocks" square in Bab El Oued was also called the police station of the 5th arrondissement and the station in Oued Koriche was the police station of the 1st arrondissement, for instance. The police station at La Vigerie or Old Kouba in Kouba was the police station of the 17th arrondissement, the Hussein Dey police station was of the 14th arrondissement etc.

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### The arrests by the judicial police of the Hussein Dey daïra and Kouba commune

Kouba is one of four communes of Hussein Dey (Algiers province). The judicial police was involved in the arrest of more than half of the missing from the Hussein Dey daïra (64 out of 116). 82 of these missing persons are from Kouba. 37 of these were arrested by BMPJ officials but also urban security agents from Kouba or even daïra security agents from Hussein Dey.

Many superintendents have been at the head of the security in the Hussein Dey daïra whose head office was set up at the police station of the

14th arrondissement (Hussein Dey commune). One of these, named Abd El Malek, arrested Abderrahmane Bentaha in Kouba on 25 March 1995. Abderrahmene's brother-in-law, R. B., witness to the arrest, was a police officer of the Bab Ezzouar police station who recognised the superintendent Abd El Malek.

The police officers of the police station of the 14th arrondissement were known by the citizens of the Hussein Dey, Kouba and surrounding communes. Working in civilian clothing, they were involved in the arrest of a number of missing persons.

### In Hussein Dey

On 16 May 1993, the young Farid Mechani was arrested in Hussein Dey on his way home after going for a run. He was stopped in the street near his home by six plain-clothes officers who arrived at full throttle in two vehicles, a Peugeot 205 and a J5 Peugeot van. These police officers identified themselves as security agents from the Hussein Dey daïra working on the order of the chief superintendent R. G. and superintendent D. F. Without presenting an arrest warrant, they violently boarded Farid Mechani into the van in front of his mother and neighbours. (Testimony collected by SOS Disappeared from the family of the missing)

### In Kouba

**Mourad Belfegoune**, 24, was arrested on 26 October 1996 in Kouba. Mourad was with his father in front of the kiosk where the two of them worked when four armed, plain-clothes security police officers from Hussein Dey arrived in two vehicles, a grey Renault 21 and a white Peugeot 205. The officials quickly handcuffed Mourad and boarded him into one of their cars all the while insulting him. These agents were well-known to the people in the district. (Testimony collected by SOS Disappeared from the family of the missing)

## 2 – The military police

The gendarmerie is a security forces branch of the territorial army within the ANP. It depends on the Ministry of Defence. The officer posts at the gendarmerie tripled to 80,000 men between 1992 and 1995. Just like the police, the gendarmerie was also provided with specialised anti-terrorist units, the Rapid Intervention Group (RIG). In Algérois, the RIG 1 (situated in Cheraga) and RIG 2 (situated in Reghaïa), worked at night in armoured vehicles and conducted many arrests and extrajudiciary executions<sup>75</sup>.

**The military officers are cited as authors of the arrest of the disappeared in 630 of CFDA's files, mainly in rural areas, on the outskirts of cities and in the countryside.** The armed military officers were dressed in green uniforms and had armoured Landrover cars and tanks. They often, like in the Khemis El Khechna commune (Boumerdes province) where the CFDA counted 20 missing persons, cooperated with soldiers.

In the Tipaza province, however, the military officers had large autonomy. The CFDA has identified 369 missing in this province. 195 of which, so more than half, were arrested by military police officers. 161 missing persons were living in four neighbouring communes: Attatba, Chaiba, Kolea and Fouka. These four rural market towns are located along the national road 69 over a distance of only 20 km. In the 1990s, they were in the control of the military police who were involved in the disappearance of 126 persons out of the 161. The arbitrary actions of the military police officers of the communes in the Tipaza province brought terror to the citizens who knew them well.

As such, in Attatba where CFDA identified 44 missing, all had been arrested by the Attatba military police, accompanied by armed guards and patriots. According to testimonies, there were around 20 military officers in the Attatba brigade. The head of the brigade, Berached, and a certain "Chaoui", real name Mohamed Seirech, sowed terror throughout the city. Chaoui is described by the families of the missing as a real, local tyrant, cruel, aggressive, a torturer and swift in summarily executing his victims. He was involved in the arrest of a number of missing persons.

## 3 – The soldiers

In the 1990s, the soldiers were omnipresent, be it in a city or a village, especially on manned roadblocks on the roads in the communes and their surrounding areas. Residential areas, schools and former industrial sites had been requisitioned to install temporary barracks. The soldiers were frequently deployed during sweeps operated by other security force branches (military officers and BMPJ) to block districts using their vans and tanks. Nonetheless, the soldiers also conducted arrests in rural areas and on the outskirts of cities.

## Arrests by military police officers from the Chaiba commune in the Tipaza province

The CFDA has identified 43 missing persons in Chaïba. The military officers were involved in the arrest of 29 of these. The travel conditions were especially difficult. The prisoners were standing up, attached to the ceiling by their hand. R.A. was detained for six months in the Aïn Salah camp. (Testimony collected by SOS Disappeared from the family of the missing)

For many years, the Chaïba gendarmerie was situated in the locality of Berbessa (secondary urban area to Chaïba). In 1995, a gendarmerie brigade was opened in Chaïba. The military officers benefited from complete impunity, which was especially abused by the heads of the brigade, Salah Mezghiche and another named Bouziane, assisted by the armed guards and, from 1995, patriots. The military police officers had certain families in their sights since 1992 and the latter were harassed for many years. The Chikhi family for instance with their nine brothers saw Lakhdar Chikhi, Zoubir Chikhi and Mokhtar Chikhi disappear after their arrests between April and June 1995. In 1992, one of the brothers, A., took part in FIS protests which had begun a hunger strike in Martyrs Square after the cancellation of the elections was announced. He was also tortured by the chief of the gendarmerie brigade, Salah. He has marks from the wires on his arms. Salah had then told the father of the family "I will have your sons one by one". (Testimony collected by SOS Disappeared from the family of the missing)

From 1992, the military officers proceeded to arrest numerous FIS activists in Berbessa and Chaïba who were tortured for many hours in the jails of the gendarmerie brigades before being sent to the administrative detention camps in Sahara. FIS protests which had begun a hunger strike in Martyrs Square after the cancellation of the elections was announced. He was also tortured by the chief of the gendarmerie brigade, Salah. He has marks from the wires on his arms. Salah had then told the father of the family "I will have your sons one by one". (Testimony collected by SOS Disappeared from the family of the missing)

R.A., brother of a missing person from Chaïba, had been a member of FIS since 1990. He was arrested in May 1992 with many other activists. For a month, no one knew where he was being detained. He was in prison for a week at the head of the Berbessa gendarmerie brigade where he was engaged in blackmail and extortion towards the tortured four times by Salah and his men (torture using rags, beatings with pipes) who wanted to extract the names of FIS members. Ten detainees were squeezed into the same cell. All were members of FIS, all had been tortured. The Chaïba military officers and armed guards engaged in blackmail and extortion towards the citizens. The families of the missing say that, when well-off families in Chaïba were being extorted by the terrorists, the reply from the chief of brigade, Salah, would be for more money from the families under the threat of killing them. The military officers and armed guards also recurrently engaged in requisitioning the citizens' cars. Those who appeared to resist were executed or disappeared. As such, the chief of brigade, Salah, had taken the habit of requisitioning the car belonging to Mokhtar Chikhi, a Fiat 131. When he returned it, the engine was wrecked. On 22 June 1995, it had been a month since Mokhtar Chikhi's car was at the different internment camps in southern Algeria. gendarmerie. He went to collect it with a tractor. He was arrested and disappeared soon afterwards.

R.A. was then taken to a secret detention centre in Tipaza, situated underneath barracks. 500 detainees were stationed in a large cave. After 25 days, R.A. was transferred to the military prison in Blida for a week. From Blida, the detainees were taken to the military airport of Boufarik. They were then divided into five aeroplanes to the different internment camps in southern Algeria. gendarmerie. He went to collect it with a tractor. He was arrested and disappeared soon afterwards.

**Among the CFDA's files, 619 missing persons have been arrested by soldiers from ordinary troops and special troops from the territorial army within the ANP. The soldiers**

<sup>75</sup>Justice Commission for Algeria, "l'organisation des forces de la répression" [The organisation of the forces of repression], file no. 16, Permanent Peoples' Tribunal, 2004, p. 26: [http://www.algerie-tp.org/tp/pdf/dossier\\_16\\_forces\\_repression.pdf](http://www.algerie-tp.org/tp/pdf/dossier_16_forces_repression.pdf)

were identified by witnesses thanks to their vehicles (vans and tanks) and their green military uniforms. The para-commandos of the troops specialised in anti-terrorism, the “paratroopers”, also wore green balaclavas. In some communes, the soldiers were well-known by the citizens. An example is Gué de Constantine, where the Algerian Land Forces Command (CFT) of the ANP’s chief of staff was set up in Aïn Naâdja (in the locality of Gué de Constantine). In this poor suburb situated around twenty kilometres from the Alger Centre, the soldiers were involved in at least 29 cases of enforced disappearances out of the 56 identified by CFDA. In 1994 and 1995, the missing of Gué de Constantine were largely arrested by military police or plain-clothes police. From the end of 1995, soldiers made their presence felt in the commune. Throughout 1996, arrests and disappearances multiplied. 31 disappeared were identified by CFDA for 1996.

Captains Boubekeur Tahraoui and Abdesslam Gendouz from the Aïn Naadja military sector systematically led the operations. According to some families of the missing, captain Tarhaoui was known by the citizens of Aïn Naâdja and was even appreciated and respected by them because he acted on their behalf when there was a dispute with the police. He would visit people, greet them and catch up with how they were.

For the sister of a missing person arrested during a sweep by soldiers under the orders of Captain Abdesslma Guendouz, this latter was “*known for being dedicated to doing many mass sweeps, during which many people disappeared, in the Gué de Constantine (including Aïn Naâdja and Semmar) and Baraki communes. He would set up roadblocks on a daily basis and was known by the locals. Whereas the others were masked, he often had his face visible. He got a promotion in the 2000s and is likely now a “major” in the South. He is said to have swapped his glasses for contact lenses*” (Testimony collected by SOS Disappeared from a sister of the missing)

In a number of rural areas, the soldiers were the main security forces present and have been identified by families of the missing as the main perpetrators of the arrest of the disappeared.

This is the case in the Blida province which spreads out into the Mitidja plains at the foot of the Atlas Mountains and housed a number of terrorists from the maquis in the 1990s. Even today, the military presence in the region is still high. The headquarters for the first military region (Algiers, Mitidja, Kabylie) was established in Blida. The civilian and military prisons in Blida mostly received people arrested in the region and Algiers and Tipaza provinces. Many of the detainees were then transferred to other prisons in the country or Southern camps via the Boufarik military airport.

### Blida province

CFDA has identified 264 missing persons from the Blida province, which places it in 5th place out of the Algerian provinces where CFDA has identified the most missing – after Algiers, Oran, Constantine and Tipaza. The soldiers were involved in the disappearances of 113 of these.

In this province, the State considerably reinforced the army’s presence in the 1990s by establishing new barracks in each commune. The soldiers who tracked the terrorists in the mountains also attacked the public in the villages and communes of Mitidja with the aim of terrorising and cutting the supposed links with the armed groups. At the time, this region was nicknamed the Triangle of Death.

At the heart of the fight in which the armed terrorists and State security forces indulged, the public suffered from the violence and terror. In the poor villages, they lived off the earth, without newspapers and without televisions. The families could not send their children to school for fear of them suffering repercussions from the terrorists who had complete control of some of the districts. All lights were switched off from 10 pm. According to testimonies from

families of the missing, the bodies of those who were executed were on display to the public. In addition to the assassinations, attacks and massacres credited by the terrorists, the public lived with the bombings of the maquis in the neighbouring mountains by combat helicopters as well as bloody clashes in town. They were also subjected to mass sweeps and arrests, extrajudiciary executions signed by soldiers and patriots as well as tortures and enforced disappearances at the hands of the security forces.

The sweeps, preceding numerous people disappearing, were mainly conducted by the army accompanied by the military police, armed guards and patriots.

### 4 – The paramilitary militia

Members of the paramilitary militia – armed guards and patriots – were involved in the arrest of 305 missing persons identified by CFDA. These two formations of civil militia, organised and armed by the State, were created from 1994 as surge forces, mainly in the remote countryside and rural areas. Each village was encouraged to arm themselves to defend against terrorism. The involvement of the civil society in the fight against terrorism was suggested by General Mohamed Touati in 1993. The idea of creating civilian armed militia to defend villages against armed Islamist groups was officially launched under the government of Redha Malek (August 1993-April 1994) by the then Minister of the Interior, Colonel Selim Saâd in a speech made in Blida on 23 March 1994<sup>76</sup>. This is how the armed guards, who were immediately made official, were created followed by vigilante groups, which were only legalised under the name Self-Defence Group (GLD) in 1997, at least two years after their actual establishment.

**The paramilitary militia benefitted from great autonomy all the while closely cooperating with the security forces, especially with the military police and soldiers.** They conducted checks on the citizens in the street, arrests and intense interrogations. The detainees arrested by the paramilitary militia were often transferred to military police or soldiers.

<sup>76</sup>Mohamed Smaïn “Relizane dans la tourmente – Silence ! on tue” [Relizane in turmoil – Silence! We’re killing], éditions Bouchène, 2004, p. 7

They also collaborated with the military police or soldiers in sweeps which they would lead.

In the Relizane province, the CFDA counts 231 missing persons. The militia of Relizane were involved in 64 of these.

**The partisan militia from the 1st body, Relizane province**

Self-defence groups in the Relizane province had around 450 members at the start of 1994. The most virulent members of these groups (around 60 people) were regrouped in special militia which attacked unarmed civilians and spread terror throughout the general public. These militia were divided into groups based in six communes but were active across 32 communes making up the province of Relizane. [...]

In practice, the Relizane militia had power over life and death over the entirety of the population. Between 1994 and 1997, they arbitrarily raped and tortured as well as conducted summary executions and abductions followed by enforced disappearances.

[...]

**Enforced disappearances**

[...] The majority of the disappeared were taken from their homes in front of their families. Among these missing were children of 14 years and elderly persons over 70 [...]. The discovery in 1998 of mass graves in Relizane suggests that victims from this region of enforced disappearances had been executed and placed into these communal pits. [...]

The State's implementation of armed civilian militia from 1994, and more intensively from 1995, sparked a movement of privatising the war where political and personal revenge played a large role. Native to the commune over which they presided, the armed guards and patriots knew the citizens and were likewise known by them.

**Systematic torture**

Together with the military security forces and military police, members of the militia used systematic torture on everyone they arrested with the aim of extorting information on "terrorist groups" before making them disappear. Significant marks of torture, especially severe burns, were evident on all victims who were found dead. Many victims had been disfigured in order to make it much more difficult to identify them.

Extract from a press release by FIDH  
 "Deux tortionnaires algériens mis en examen en France"  
 [Two Algerian torturers indicted by French justice: a hope for the victims in the fight against impunity in Algeria],  
 2004.

Groups of paramilitary militia consisted of former veterans in the war for freedom, of those in charge of political parties in favour of the authorities, of parents of victims of armed Islamist groups, as well as delinquents, habitual offenders, former maquisards who benefitted from a first amnesty as part of the Clemency Law (rahma) in 1995.

In many communes, the militiamen were described by families of the missing as thugs driven by personal interests and vengeance, who extorted people, requisitioned vehicles and abused their weapons to get what they wanted (women, land, cars etc.). All those who refused to join the self-defence groups or had personal conflicts with their members were accused of terrorism and denounced to the security forces.

**Enforced disappearances intensified after the establishment of the patriots.**

In Aïn Naadja (locality of Gué de Constantine), the patriots were established at the end of 1995, beginning of 1996. The patriots' head office was at the APC in Gué de Constantine. Those arrested by the patriots were taken there before the soldiers came to transfer them to the barracks at the Staff Committee in Aïn Naâdja or DRS in Ben Aknoun.

Ali Benidir was among those who disappeared after being arrested by a group of patriots who knew him well. He had refused to join their ranks.

**Ali Benidir, 30, civil servant, Gué de Constantine, Algiers province**

On 29 August 1996, Ali Benidi, was arrested by 5 patriots from the district of Aïn Naadja: Lahcene Aliche, Mohamed Mayouf, Mustapha Koumina, Nacer Meslem, Makhlof Barkat and Samir Dandani, their boss. These patriots were known throughout the neighbourhood. They confiscated private vehicles to organise abductions or extortion and went from house to house demanding money in exchange for supposed protection. Everyone who refused to speak to them became enemies in their eyes, an Islamist, so automatically a terrorist. On several occasions, Ali had been solicited to take weapons and work with the patriots. He categorically refused. Two months before his disappearance, he had received repeated threats from the patriots who wanted to make him regret his stubbornness. On 29 August 1996, at around 2.30 pm, Ali Benidir went to Aïn Naâdja to pick up a prescription and buy medication from his then pregnant wife's doctor. On his way back,

a beige-coloured Peugeot J5 van with tinted windows stopped beside him. Two patriots, Lahcene Aliche and Mohamed Mayouf, got out. They jumped Ali Benidir, punching him and violently dragging him into their van. A.R. and B.H., two neighbours of the Benidir family, witnessed this scene. The van was already full of persons arrested that day.

The persons arrested were driven to the Aïn Naadja town hall car park where the patriots' headquarters and shacks were located. Soldiers from the Aïn Naadja barracks then came to collect those arrests, including Ali Benidir, to drive them to the Aïn Naadja military barracks. The detainees are said to have been interrogated there for more than 48 hours before being transferred to a secret detention centre belonging to the DRS. Ali Benidir's family have since lost all trace of him and have not heard from him.

Testimony collected by SOS Disappeared the family of the missing

In certain rural areas, some militiamen were renowned for being true torturers. In Chaïba in the Tipaza province, for example, the armed guards Mechaheb Boubkeur and Amar Seraï, who worked closely with the military police and especially the chief of brigade, Salah Mezghiche, were involved in many enforced disappearances.

From 1993, the armed guards of Chaïba worked for the military police. They set to work in an unrestrained manner, exploiting the terror of the citizens to further their advancement or realise their personal interests. The head of the armed guards, Mechaheb Boubkeur, was attributed the reputation of an executioner. According to families of the missing, he had the habit of taking people he arrested to his agricultural property where he tortured and disposed of them. The agricultural labourers who worked on his property state they heard horrific yelling. Another armed guard from the locality of Berbessa, Amar Seraï, high on power, also committed various acts of violence. He was involved in many disappearances for personal reasons. In fact, he, along with eight other farmers, exploited State agricultural land. In 1995, he decided to unilaterally break this contract by selling the plot to a "billionaire" from Blida. Several farmers did not agree with Seraï. One of whom, Abdelhafid Mahmoudi, disappeared in June 1995. Khelif El Hadj met with the same fate in November 1995.

Testimonies collected by SOS Disappeared from families of the missing from Chaïba

## II – The denial of the detention of the missing and the concealment of their fate

During the 1990s, Algeria, and especially its 1st military region (Algiers– Mitikdja), were divided into four head offices of the State security forces. In addition to the existing ones, new police stations were created. Both temporary military barracks and paramilitary militia headquarters were set up everywhere. All official head offices – police stations, gendarmerie brigades, military barracks and even some paramilitary militia head offices – had cells measuring a few metres squared, sometimes underground, where the detainees were cramped together. Moreover, the DRS barracks also had numerous secret detention cells and torture rooms.

As part of the fight against terrorism and subversion, the arrests were followed by secret detention. Those who have most denied having conducted arrests or detaining arrested persons have been the agents. In a certain number of cases, without fully denying the detention, security force officials did everything in their power to conceal the fate of the missing. Agents at the La Montagne police station in Bourouba and the Bab El Oued and Oued Koriche stations, among others, have admitted to detaining missing persons shortly after their arrests. The families, however, have never been able to visit them. They could only pass along a basket of food or a few personal effects for several weeks before being told that the missing person had been released or transferred, with no additional information. Often, the families of the missing also obtained a visit permit from the relevant prosecutor to see their loved one imprisoned in a civil prison. However, the families who went to these prisons were systematically met with the same responses, such as the detainee having the same surname as the missing person but with a different first name.

### Abderrezak Triki, 24, security official, Meftah, Blida province

Every day, the mother of missing person Abderrezak Triki, arrested in Meftah, would go to the police station where he was listed as "released". She then learnt that her son was in the barracks in Meftah. When she contacted the prosecutor of the Larbaâ tribunal, she received a visit permit to the civil prison in Blida in August 1994. She went to this prison with her basket but the agents consulted the detainee register and insisted that the name Triki was not on it. His mother continued her search and she obtained another visit permit for the military prison in Blida. There, she was told that the person detained in this prison was not called Abderrezak Triki but rather Abderrezak Mohamed. Sometime later, a young man, released from the military prison, confirmed to the Triki family that Abderrezak had been held there, that his head had been shaved and that he had been among 200 other detainees transferred elsewhere by the soldiers one year after his arrest.

Testimony collected by SOS Disappeared from the family of the missing

On the rare occasion, families have obtained written documents from the judicial authorities stating that their missing were arrested by State officials. Despite this, none of their rights have been enforced. Salah Saker was arrested by the police at his home in Constantine on 29 May 1994. Following a complaint, his wife received a copy of the official report recognising that the judicial police had indeed arrested Salah Saker and had transferred him to the CTRI (branch of the DRS) of the 5th military region on 13 July 1994. In 1998, however, in a response from the ONDH to a letter written by his wife, it is stated that “according to the information received by the security forces”, Saker was abducted by an unidentified armed group.

The testimonies recount different types of situations which the families of the disappeared primarily faced during their search for their loved ones:

- denial of the arrest and detention
- attempts to have believe that the missing person had been abducted by terrorists
- attempts to have believe that the missing person left to go to the maquis
- judgement by default and condemnation to death of the disappeared

The denial of the arrest and detention of the missing person

In the majority of cases, even if they recognised the officials or the vehicles at the scene of the arrest, the families were faced with the complete denial of the arrest and detention of the missing.

Hamid Boughouaou, 32, contractor, Birkhadem, Algiers province Hamid Boughouaou was arrested at his workplace, Mohamed Belkacem Street in El Mouradia in Algiers. Several plain-clothes officers identified themselves to Hamid and his brothers as police officers from the El Madania police station in Algiers. They asked Hamid to come with them for questioning. The officers were polite, showed no cause for alarm, nothing suggested that Hamid would never return from the police station. Hamid then followed them slightly confidently. He took his own car, a Volkswagen Golf registration 16 188 12339, and followed the officers. When, two days after Hamid’s arrest, his mother went to the police station to request information on her son, she saw his car in the courtyard. When she mentioned this, she was chased away by the officials who even released dogs on her. The following day, she returned to the police station and the car was no longer there.

Testimony collected by SOS Disappeared from the family of the missing

Many families state that they have been given death threats if they dared to come back looking for their loved ones.

#### **Rachid Bakhtiar, labourer, single, 28, Meftah, Blida province**

Rachid Bakhtiar was arrested in the early afternoon of 16 April 1996 by a patriot called Youcef Dibouh dressed as a soldier in front of the Amrouche café in Meftah. A neighbour and a few friends, who were with Rachid at the time, witnessed the scene and went to notify his mother. The armed guards’ head office was at the police station and witnesses stated that this is where Rachid was taken. His mother immediately went there but was insulted and chased away: “who told you he was here”; “Leave or I’ll empty my gun into you”.

Testimony collected by SOS Disappeared from the family of the missing

#### **The attempts to have believe that the missing person had been abducted by terrorists**

The authorities often attempted to have believe that the missing person had been abducted by terrorists. The young Samir Maghoune had just finished his military service when he was arrested at his home by police officer “Rougier” from the La Montagne police station in Bourouba and other officials who surrounded the house. In the following days, the family went to the police station where they were told that the missing person had been abducted by terrorists. The argument was that the terrorists frequently abducted young men in the military service. The family contacted a more accommodating police officer who later told them that the missing person was held at the Bourouba police station for 17 months. He was then transferred in secret.

#### **Attempts to have believe that the missing person left to go to the maquis**

Other times, the authorities had the families believe that the missing person, on their release, had gone to the maquis.

#### **Mehdi Laras, 21, unemployed, Bab El Oued, Algiers province**

Missing person Medhi Laras was arrested at his home at 4 am on the night of 12 to 13 March 1995 by police officers from police officers from the police station of the 5th (Bab El Oued) and police station of the 1st arrondissement (Oued Koriche). Medhi’s family were, for a while, able to pass a basket to him at the police station of the 1st arrondissement, without ever seeing him. One day, the police officers told the family that Medhi had been released and that if he had not gone home, it would be because he had gone to the maquis. However, according to testimonies from fellow detainees who were later released, Medhi was detained at the police station from 15 March 1996 until 16 May 1996, when he was transferred, at 4 am, with three others by masked soldiers towards an unknown destination.

Testimony collected by SOS Disappeared from the family of the missing



CCLAS para-commando soldiers



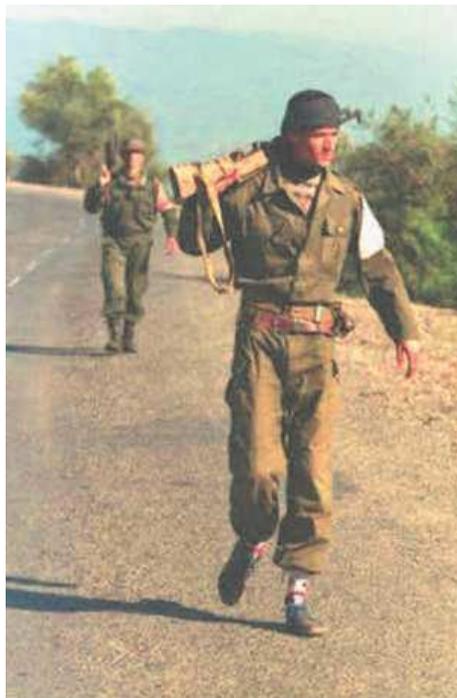
BMPJ officials, called "ninjas" by the public



ANP soldiers



Military police



Patriots



Armed guards

This is how many missing persons continue, and sometimes even still at the time of this report, to be considered as wanted by the authorities even though they were detained in secret in the State's jails. In many testimonies, the families indicated that some time after the arrest of the disappeared, the same officials came to search the family home and demanded to see the missing person they had themselves arrested a while before.

#### The judgement and condemnation by default of the disappeared

Some missing people, considered to be in hiding, have been judged and condemned by default to a life prison sentence or a death penalty. However, the testimonies of former fellow detainees prove one again that they were being detained at the time of the judgement.

#### **Nourredine Hadj Hamdi, 31, retail trader, Médéa, Médéa province**

Nourredine Hadj Hamdi, whose wife was expecting, reported to the central police station in Médéa on 7 April 1996 after receiving a summons. He went with his brother who waited outside. Nourredine never came back out of the police station. When members of his family went with the family record book to attempt to free him just to accompany his wife, who had gone into labour, to the hospital, the police replied that Nourredine had been questioned and would be released if he had done nothing wrong. After giving birth, Nourredine's wife went to the police station to get an update on her husband. The police told her that he was lucky that he had not been arrested outside otherwise they would have cut him up into little pieces. Nourredine had been a member of the FIS. He was scared but said he would not be fleeing to the maquis and would not kill anyone. He refused to run away. The day he went to the police station, Nourredine knew that he would not come back.

One month after Nourredine's arrest, one of his loved ones was also arrested. He was detained at the same location as Nourredine, he saw him and heard him be tortured. Nourredine, his loved one and other people were tried in the same case for act of terrorism. Nourredine, in detention, was not present for the trial. He was condemned by default to death while his loved one was sentenced to one year in prison. This latter asked during the trial why Nourredine was being tried by default when he was being held with him by the security forces.

Testimony collected by SOS Disappeared from the family of the missing

## Section II. The target of enforced disappearances: the civil population

## Section II. The target of enforced disappearances: the civil population

For there to be a crime against humanity, the Rome Statute requires criminal acts, here enforced disappearances, to have been committed as part of an attack against the civil population. An attack directed against any civil population is defined in Article 7 as being “*the multiple commission of acts referred to in paragraph 1 against any civilian population [...] pursuant to or in furtherance of a State or organisational policy to commit such attack*”<sup>77</sup>.

The serious violations of human rights committed by the State in the 1990s, especially enforced disappearances, have always been justified in official reports by the necessity to fight against terrorism. As such, the Algerian authorities have never ceased to deny the missing their civilian status by grouping them with armed terrorists. This is why the President of the CNCPDPH, in the latter’s 2012 annual report, called for the authorities to “*remove the missing persons’ status of terrorist*”<sup>78</sup>.

In reality, the cross-sectional study of the missing persons’ files tend to confirm that the Algerian security forces did not just lead a simple anti-terrorist fight directed against armed components reigning throughout the country, but also led a real anti-subversion war<sup>79</sup> aimed at the civil population.

The missing persons declared by families to the CFDA were unarmed civilians, arbitrarily arrested at random as they went about their daily business, at their home, in their districts, at their workplaces, near mosques, at markets or even at any number of roadblocks interspersed along the roads. Some were arrested at the police station or at the gendarmerie where they were summoned. The disappeared led ordinary lives and lived with their families. Many were married with children. The majority had professional careers. Many missing were even arrested at their workplace. All socioprofessional categories were represented among the missing.

Young men from poor working-class areas were nevertheless the prime target of enforced disappearances (I). Victims of enforced disappearances, considered as subversive or potentially subversive by the State security forces, were all arrested in the name of fighting against terrorism and subversion (II).

77-Rome Statute, article 7§2 line a)

78-CNCPDPH 2012 annual report, p. 14 – In the 2013 annual report, when the situation had not budged an inch, the President of the CNCPDPH estimated that, this time, the missing persons’ files were closed.

79-The doctrine of war against subversion, used by the French army in the Algerian war and then by military dictatorships in South America in the 1970s, is based on the idea of national security being threatened internally by insurgent forces hidden at the heart of the civil population. Anti-subversion war aims to neutralise, in a preventative manner among others, an internal enemy dispersed throughout the population. This population becomes the target of State repression which seeps into the civilian domain by other illegal and secret methods such as torture and enforced disappearances, military operations against armed combatants. Enforced disappearances are a primary instrument in anti-subversion war. They present the advantage of “discretely” getting rid of a certain number of generally unarmed opponents, of gathering information under torture and of reigning terror at the heart of the population, all the while concealing the nature and extent of the repression in the eyes of national or international opinion.

## I – The profile of the disappeared: the male youth of the working-class areas

No age range was safe from enforced disappearance. The youngest missing person was 14 at the time of his disappearance, the eldest was 82. Among CFDA’s 4,635 files, a hundred of the victims of enforced disappearances were minors. Enforced disappearances also affected women: CFDA has identified around fifteen missing women. Although they had been arrested and subjected to the same physical or psychological tortures in detention, women were less targeted by enforced disappearance than the men. Among the missing women is Daouia Benaziza, who was 68 at the time of her arrest which was followed by her disappearance.

### Daouia Benazia, 68, Constantine, Constantine province

Daouia Benaziza was arrested on 2 June 1996 at around 10 pm by military security officials in Constantine. The agents, the majority of whom were masked and armed, entered the building where Daouia Benaziza lived, looking for her son, A.B., who also lived at this address. Not finding any trace of A.B., the security agents were preparing to take the elderly woman when one of her sons, S.B., entered the apartment and tried to dissuade them, citing her advanced age and poor health. The agents replied that they would only be keeping her for two hours for questioning and then she could return home. The day following her arrest, one of her sons went to the Constantine police station, where the police officers insisted that they did not arrest Mrs Benaziza.

Testimony collected by SOS Disappeared from the family of the missing

Nonetheless, the male youth, aged between 20 and 35 (around 60% of missing persons, 25% of whom were young adults aged 25 to 30) were definitely the primary targets of enforced disappearances. At the time of the 1988 October Riots, more than half of the Algerian population was under 20 and 72% were under 30<sup>80</sup>. This youth proved in 1988 that they were capable of going out into the streets. They paid an expensive price in 1988 (500 deaths<sup>81</sup>) and again in the 1990s. Their protesting powers were not forgotten. These quickly became a factor in the fight against the power wielded by the armed Islamist groups and the regime.

80-Kamel Rarrbe, “L’Algérie et sa jeunesse, manifestation sociales et désarroi culturel” [Algeria and its youth, social protests and cultural disarray], Harmattan, 1995, p. 10

81-“Du 5 octobre 1988 et du Comité contre la Torture, interview octobre 2001” [From 5 October 1988 and Committee against Torture, interview October 2001], in Textes d’Anouar Benmalek sur Octobre 1988 [Texts by Anouar Benmalek on October 1988], p. 40, visited on 14/08/2015 at: <http://anouarbenmalek.free.fr/octobre88/AnouarBenMalekTextesSurLaTorture.pdf>

The missing persons found themselves caught in the net of a large and widespread repression which greatly affected the youth the most, especially those from poor and working class areas where there had been many votes for FIS and were considered “Islamist strongholds”. The inhabitants of these areas were, in the eyes of the senior Government officials and security forces, supporters of the armed groups.

In fact, according to a study by J. Fontaine, the most underprivileged districts of Algiers, especially those on the outskirts of south-east Algiers had the most votes for FIS in 1990 and 1991, nearing 70%.<sup>82</sup> Not to mention, the CFDA has noticed that the communes most affected by enforced disappearances are all situated in the centre of Algiers or in the south-eastern outskirts. These are the Bab El Oued, Casbah and Alger Centre communes as well as the Bachdjerrah, Bourouba, Kouba and Eucalyptus communes.

Following the cancellation of the legislative elections in 1992 and imprisonment of FIS members, armed Islamist groups progressively developed in these communes. Testimonies by families of the missing and their friends and neighbours give a clear view of what the public, and especially the missing, were subjected to.

#### **Bachdjerrah and Bourouba, the civil population trapped between terrorism and State repression**

The CFDA has identified a total of 136 missing persons in Bachdjerrah (70) and Bourouba (66). These two adjacent communes are located around ten kilometres south-east of Algiers. They are administratively two distinct communes but the public refer to them as being one and the same. There is only a road separating the two.

Great insecurity reigned in Bourouba and Bachdjerrah. Not a day went by that there were no terrorist attacks or assassinations, extrajudiciary executions or clashes between members of the armed groups and State officials. This could take hours and shots were fired from all sides. As a result, the streets were covered in blood and the citizens themselves took it upon themselves to clean it up using hoses.

The security forces, especially the soldiers, were heavily present. The communes were divided into four by many roadblocks by police officers, military police and soldiers. The population was therefore very often monitored and arrested.

In the evening, during the curfew hours, the security forces would take action in the dozens, even hundreds. The specialised anti-terrorism services, including masked men dressed in black, acted alongside soldiers. Military vans and armoured vehicles surrounded the districts whilst agents invaded and searched houses and conducted arrests. This generally occurred at night between 1 am and 3 am. Many people disappeared under these circumstances.

The same stories can be heard in all of the working-class communes and areas. Terrorism and death were the order of the day. The public found themselves literally trapped between the attacks, assassinations, pressure, extortion and threats from the terrorists and the constant surveillance and repression from the State security forces.

Although the State was obliged to protect its citizens from the terrorists’ violence, the former believed that the public supported the armed groups and/or had information on them. More than one family considers their relatives being a victim of terrorism and a victim of State officials.

#### **Ali Maariche, 33 ans, employé, El Harrach, wilaya d’Alger**

*Ali Maariche a été arrêté le 1er avril 1995 sur la route entre El Harrach et Bab Ezzouar alors qu’il se rendait chez son frère pour l’aider à faire de la peinture. Il était accompagné d’un voisin M.A., qui a été libéré un mois plus tard. Malgré les recherches, la famille n’a jamais pu localiser Ali par la suite ni même obtenir des nouvelles de son sort. [...] L’un des frères d’Ali, Zakaria, était commerçant et possédait un magasin de vaisselle. Il a été arrêté, peu de temps après Ali, avec d’autres personnes, au cours d’un ratissage effectué par la police d’El Harrach. Peu après avoir été libéré, il a été abattu par des terroristes qui le soupçonnaient de les avoir dénoncés. La mère n’a pas vu le corps de son fils, les terroristes l’auraient enterré eux même.»*

Testimony collected by SOS Disappeared from the family of the missing

**As such, any person suspected of cooperating with the State received death threats from the terrorists.** One mother of a disappeared explained that, a few months before the arrest of her son, Kheireddine, a young man from the area was arrested by police and then released. He was known for having worked with the authorities as an informer. She stressed that, in order to do this, he had to not be afraid of anything as, at the time, working with the police meant being threatened by terrorists.

Conversely, any person suspected of having links with the Islamist movement became a target of violent State repression. In the testimonies of a good many number of families of the missing, the State’s security force officials are believed to have also acted as terrorists with regards to the public:

82-Jacques Fontaine, “Quartiers défavorisés et vote islamiste à Alger” [Underprivileged districts and the Islamist vote in Algiers]. In: Revue du monde musulman et de la Méditerranée [Magazine of the Muslim and Mediterranean world], N°65, 1992, p. 141-164.

It was a troublesome area and there were often interventions from the authorities, searches, extortion and arrests. The police officers acted like criminals. Insults, beatings, summary executions were commonplace. At the time, when people saw a Nissan arrive (the official car used by the police's anti-terrorism units), their blood would run cold. When people were arrested, the superintendent would demand payment for the family to see their loved one. And if a terrorist was shot dead, the family also had to pay to see the body.

Interview by SOS Disappeared with a family of a missing person, Meftah, Blida province

The district was very troubled. When the terrorists invaded it, the citizens were obliged to "help" them under threats. As soon as they left, soldiers would then invade the district. The citizens were subjected to pressure and terror from both sides.

Interview by SOS Disappeared with a family of a missing person, Chebli, Blida province

Throughout the 1990s, the young people were insulted and threatened by the State security forces, beaten up, arrested, held for several days, sometimes weeks or months, in secret detention and tortured before being released. This repeating scenario is classed as psychological torture by many parents of the missing who reckon its aim was to send the youth running away to the maquis where they would perish. The extrajudiciary executions were frequent in some districts. Those underage often paid the price. The Mehalli family's testimony, whose father Mohamed Mehalli, aged 62, disappeared in 1998 after being arrested and tortured in the Châteaufort barracks, perfectly illustrates the pressures and acts of violence subjected to the youth throughout the 1990s (Appendix 2).

**The CFDA estimates the number of young missing persons having been subjected to being arrested, detained, tortured and released at least once before disappearing following another arrest to be in the hundreds, even thousands.**

Huge operations as part of the fight against terrorism were frequently conducted, be they military operations in the maquis or military/police operations in the towns and cities. During the "clashes", neighbours talked about shots being fired and security forces executing members of the armed group using Kalachnikovs or rocket launchers. In the majority of cases, the armed terrorists were shot dead and their families, who were informed of this, were able to identify the body.

In parallel with the fight against terrorism, the Algerian public was repressed using various techniques: surveillance and intimidation in the street, violent interventions in their homes both night and day, mass arrests and arbitrary detention, beatings and torture, extrajudiciary executions, enforced disappearances. Virtually indiscriminate repercussions struck a district's inhabitants following an assassination, an attack or a clash.

Although arbitrariness reigned, anyone arrested during this time was done so as part of the fight against subversion and terrorism under the pretext of being suspected of maintaining relations with armed Islamist groups.

## II – The reason for the disappearances: a population regarded as subversive by the authorities

**According to the case law of international tribunals which have judged crimes against humanity, the civil population is a non-combatant population, subject to the protection of international humanitarian law:** the "civilian population" comprises [...] all persons who are civilians as opposed to members of the armed forces and other legitimate combatants<sup>83</sup>. These can also include members of armed forces on leave, resistance fighters, former combatants who have surrendered their weapons, even people who took part in the hostilities. The civil aspect of the targeted population is assessed globally and the important factor is that the targeted population is essentially made up of civilians.<sup>84</sup>

Aside from being simply civilians, the population targeted as part of a crime against humanity is a population specifically identified as a group by the perpetrators of these acts<sup>85</sup>. In fact, whereas Article 8 of the Rome Statute relating to the war crimes speaks of the civil population, Article 7 speaks of a civil population. As such, **although the classification of a crime against humanity does not require the definite intention to discriminate<sup>86</sup>, the civil population victim to acts of violence can be seen as having been targeted with specific intent "pursuant to or in furtherance of a policy". The population is identified as a "scapegoat [group] in the minds of the perpetrators of the infractions which establishes them as a target community [...]. Such real or supposed characteristics are misrepresented by the criminals with the intention of disqualifying members of the group and find a foundation for the violence used against them [...]"<sup>87</sup>**

**The disappeared were arrested in the name of the fight against subversion and terrorism. Regardless of the true reasons for their arrest – suspicions of links to or membership with the Islamist movement, denunciation under torture, personal vengeance, troublesome opposition for the regime etc. –, the missing persons have all been arrested and detained under the pretext of them being either subversive or potentially subversive members suspected of supporting or rallying the Islamist movement and of having information on the armed groups.**

Innumerable reasons could be invoked for accusing whoever of subversion and/or terrorism. On the one hand, the system of State repression rested largely on the denunciation which fed the cycle of arrests and enforced disappearances. The presumption of innocence did not exist. All persons who were denounced, very often under torture, were labelled "terrorist" and their name was added to the list of suspects. On the other hand, refusing to become an informer for State officials or to join the patriots' ranks meant, in the eyes of the security forces, supporting the armed Islamist groups. Having their vehicle stolen by members of an armed group or being forced with threats to accommodate or join armed groups was also a reason for becoming a target of State repression for complicity with armed groups.

83-ICTY, The Prosecutor v. Dagojub Kunarac, Radomir Kovac and Zoran Vukovic IT-96-23 & IT-96-23/1, Trial Chamber II, Judgement 22 February 2001 (§425)

84-Mireille Delmas-Marty and others, Le crime contre l'humanité [Crime against humanity], Que sais-je ? [What do I know?] PUF, 2009, p. 31

85-ICTY, Case No. IT-94-2-R61, The Prosecutor v. Dragan Nikolic, 20 October 1995, p. 15.

86-As is the case in classifying crimes of genocide for example "destroying, wholly or in part, a racial, national, ethnic or religious group, in its current form". In crimes against humanity, however, the reasons can be of any kind: political, religious, ethnic, racial or for any other reason

87-Op.cit. Mario BETTATI, "crimes contre l'humanité" [crimes against humanity]

The repression was also structured around stigmatising criteria on which the authorities based which population groups were favourable to the Islamists and/or were susceptible to having information on the armed groups' activities. All over the country, the policy of the fight against terrorism and subversion especially targeted categories of population, by age, area of residence, political opinions, profession, family and friends etc susceptible to maintaining links with the Islamist movement.

**CFDA has noted three main categories of reasons for which the missing were targeted by the security forces as part of the fight against terrorism and subversion:**

- political opinion
- profession
- friends and family

#### A – Political opinion

Since 1991, under a state of siege, then more intensively from the establishment of the state of emergency in February 1992 and dissolution of the FIS in March 1992, the leaders, elected, militants and sympathisers of the Islamist party were arrested and sent by the tens of thousands to administrative detention camps, so-called "Southern camps", in the south of the country<sup>88</sup>. All persons suspected of sympathising with the FIS could be arrested and held in the camps, without charge or trial, even if they were not doing anything that endangered public order. This state of affairs made Amnesty International be concerned that "many of those held in administrative detention were prisoners of conscience, detained for their peaceful support for the FIS without having used or advocated violence"<sup>89</sup>. From 1991 until 1995, when the camps were closed, some 10,000 to 20,000 people

– 18,000 according to CNCPPDH<sup>90</sup> – were detained for periods ranging from two months to several years in inhumane and degrading conditions. The detainees were held in the Southern camps for several months, sometimes years, until the definitive closure of the camps in 1996 (Appendix 3).

Suddenly freed with no notification of the offence, the Southern camp detainees were deprived of their passports. Placed under legal supervision, they had to report to the police station of their district to confirm their presence for many years. They were closely monitored and arrested regularly for routine checks. Many missing people had spent time in the Southern camps before disappearing following a subsequent arrest many years later.

On top of being monitored, some were even persecuted. Many testimonies report that having a beard was a reason for being arrested arbitrarily in the street, near mosques or at the security forces' roadblocks. During torture sessions, the detained were subjected to having their beards ripped out with tweezers or being burnt by a blowtorch.

88-11 security centres, also known as Southern camps, were opened in 1992, all located in the South of the country: Reg-gane, Menna, In Salah, Ouargla, In M'guel, El Homr, Bordj Oamr Driss in February 1992, Timimoun, Bechar, Adrar in April 1992: CCPR/C/101.Add.1, p. 19, point 62

89-Amnesty International "Algérie, dégradation des droits de l'Homme sous l'état d'urgence" [Algeria, deteriorating human rights under the state of emergency], MDE 28/004/1993/F, March 1993, p. 4

90-Taghzout Lamia "Camps du sud : les internés n'ont pas oublié" [Southern camps: the detainees have not forgotten], El Watan, 3 October 2009, online at [http://www.algeria-watch.org/fr/mrv/mrvrepr/camps\\_du\\_sud.htm](http://www.algeria-watch.org/fr/mrv/mrvrepr/camps_du_sud.htm), visited on 29/07/15

The FIS sympathisers were generally systematically suspected of being terrorists, of having links with terrorists or even of being future terrorists. In some communes, the majority of the disappeared were FIS sympathisers. In retaliation of an attack or an assassination, the security forces targeted them first.

In Ras El Oued (Bordj Bou Arreridj), 15 missing persons were arrested in the night of 22 to 23 July 1994 in retaliation of the assassination of a shepherd, a former mujahid of the war for liberation, who had relatives in high places. They were all FIS sympathisers.

Ras El Oued, situated in the highlands of the Bordj Bou Arreridj province, was such a calm and peaceful city that it earned the nickname "Switzerland". According to inhabitants, there had never been any incidents before then. There were no maquis nearby. On Thursday 22 July 1994, a shepherd, a former mujahid, was killed in his field at 10 am. That same evening, military security officials and "ninja" police officers who were driving around in Toyota 4x4 vehicles, accompanied by military police, took action. They were all masked. Around fifty public service vehicles were also mobilised for the operation. The officials had a list of 90 names. Due to lack of time, only 15 people out of the 90 were arrested, all were FIS sympathisers. Former mujahideen acted as informers.

Testimonies collected by SOS Disappeared from families of the missing

**In reality, there are many people who would let us believe that the security forces wanted to eliminate all those opposing the regime, regardless of if they were armed or pacifists, under the pretext of fighting terrorism.** As such, many former elected FIS members of the APC in communes and provinces or their surrounding areas were also targets of enforced disappearances.

**Mohamed Rosli, 32, Head of the Institute of Social Sciences at the University of Blida, Blida province**

Mohamed Rosli had been elected as part of the FIS party in the first round of the 1991 legislative elections. No one has seen him since his arrest at his university office on 30 October

1993 by plain-clothes members of the security forces. Around two years after his questioning, his family received a letter from him via one of his fellow detainees who had just been released. Mohamed Rosli complained in this letter of having been tortured. All efforts on behalf of his family to obtain more information about him have been in vain. Mohamed's brother, who is a former police officer, tried to find out where he was being held, but found nothing. This latter, a young married man, fled Algeria with his wife because he felt very threatened by both the armed groups due to his career and by colleagues in the security forces due to his familial link with a former elected member of the FIS.

Testimony collected by SOS Disappeared from the family of the missing

**B – The professions of the missing**

All socioprofessional categories were represented among the missing: students, workers, retail traders, craftsmen, farmers, health professionals, teachers, liberals. Some even had a high social and financial status. For example, civil servants, engineers, university professors were among the missing. Soldiers (both summoned and senior) and former or current police officers were also included.

The CFDA also notes that a number of the disappeared were arrested and detained for reasons linked to their professional career. In fact, certain trades were monitored and targeted by the State security forces as part of the fight against terrorism and subversion as a result of the aid they could provide the armed groups.

We have chosen to examine, as an example, a few of the categories of professions which were especially or surprisingly represented among the missing. These include retail traders and craft traders, health professionals and professionals in National Defence.

**The retail traders**

One of the most represented professions among the disappeared is the retail trader. Retail traders were solicited by armed Islamist groups who were hoping to make them join by will or by force. As such, the majority of the missing who practised the trading profession were arrested under the pretext of them having joined the armed Islamist groups.

**Mohamed Boukedjmar, retail trader, single, 20, Meflah, Blida province**

Mohamed Boukedjmar was arrested in April 1996 in the family-owned grocery store in Meflah by armed uniformed police officers and armed guards. They ordered Mohamed to come out by shouting "Boukedjmar, out!" All the neighbours witnessed the scene. Mohamed closed the shop and left the keys with a neighbour who went into the city centre to alert Mohamed's father. This arrest was after an attack in the first week of April 1996 perpetrated by terrorists against the soldiers at the barracks located next to Meflah hospital. Sometime after Mohamed's arrest, the police returned to the family's home to question the father. They beat him until he fainted, demanding to know the whereabouts of the supposed stock he had prepared for the terrorists. The officials then stole the car claiming it had been used in the attack and took it to the impound. The family was able to collect it two months later. The father was hospitalised following this visit.

Testimony collected by SOS Disappeared from the family of the missing

**The health professionals**

The CFDA counts health professionals among the missing on whom they have files: doctors, surgeons, nurses, pharmacists etc. Health professionals were suspected of treating terrorists or providing them with medical material and medications. Five missing persons from the Médéa province were health professionals.

**Mustapha Benkara, 40, surgeon, Médéa, Médéa province**

Mustapha Benkara, a married father, was arrested on 31 March 1994 by soldiers at Médéa hospital where he worked as the head surgeon. When this man's family enquired at the Médéa police station, they received contradictory information. In the two years which followed Mustapha Benkara's arrest, rumours spread that he had died in detention. His family never saw him again. Mustapha Benkara had already been arrested at the beginning of 1993. He had been suspected of having been forced by an armed group to treat one of their injured members and not having informed the authorities of this. The military police had released him after a few hours after having searched his house.

Testimony collected by SOS Disappeared from the family of the missing

### The professionals of National Defence

Professions such as in the National Defence (soldiers – both summoned and senior – military police and police officers) are also, surprisingly, represented among the missing.

At the heart of this professional category, persons suspected of sympathising with FIS and those susceptible of providing the armed groups with information on the security forces disappeared. Consistent information indicate that purges within the security forces, especially the army, were organised from 1992 and that the military command had decided to get rid of all the ANP officers with an Islamist profile<sup>91</sup>. According to Habib Souaidia, the purges targeted all those who did not agree with the coup d'état “arrests and physical eliminations were carried out at an infernal rate. [...] In the barracks of the 1st military region, we could no longer say what we thought for fear of seeing these words twisted and taken to the men at the DCSA or even to the merciless CPMI officers commanded by the Colonel Athman Tartag, otherwise known as Bachir, and to the CMI in Blida commanded by the Colonel Djebbar”<sup>92</sup>.

The young deferred conscripts from national service or those who were on leave were also monitored and targeted by the security forces. The story of the disappearance of Djamel Saadoun, deferred conscript of the national service disappeared during a sudden military service concerning around 2,000 deferred conscripts, explains this situation more accurately. Djamel Saadoun was able to write several letters to his family allowing them to follow his process through detention for a while (Appendix 4).

The military police or police officers who resigned also became a target of enforced disappearances. Abdelhalim Abbane disappeared on 23 February 1997 after having resigned from the gendarmerie following the assassination of his brother, a member of FIS.

#### Abdelhalim Abbane, 34, retail trader, Algiers

Abdelhalim Abbane, father of two, was arrested on 23 February 1997 at 10 pm with his wife at their home in the Messonier district in central Algiers by the DRS. A friend who was at their home was also taken into custody. Two other acquaintances were arrested that same day, one of whom was killed. Abdelhalim's wife was released after 3 days of detention in the DRS' barracks in Ben Aknoun.

Abdelhalim was a military police officer. He worked in the gendarmerie located near to the Serkadji prison. He resigned in 1995, after the assassination of his brother Farid, an active member of the dissolved FIS, by military police and DRS agents. The brother had friends in high places in the Islamist party's structure but was not involved in any terrorist activity. To validate his resignation,

91-Mohammed Samraoui, “Chronique des années de sang” [Chronicles of the years of blood], p. 151

92-Habib Souaidia “la sale guerre” [The Dirty War], edition La Découverte, p. 74

Abdelhalim had to obtain signatures from six commandants. They had told him to not “follow in his brother's footsteps”, meaning, to not get involved in any terrorist activity.

After resigning, Abdelhalim worked in his mother's general food store. Resigning members of the military police were often troubled by State security forces who were concerned that they would join the maquis with their secrets.

Testimony collected by SOS Disappeared from the family of the missing

### C – Families of wanted persons or persons suspected of having joined the armed groups

Families whose relative had been wanted by State security forces were particular targets of enforced disappearances. A significant number of missing persons were arrested because one or more of their relatives had run away or had joined the maquis and were wanted by the security forces. In these situations, the security forces did not hesitate to arrest the parents or brothers and sisters of the wanted person and keep them in detention like barter chips or to make them talk. This reason for enforced disappearance in Algeria can be found in all the provinces and is extremely widespread. One such example is that the CFDA has found that the common denominator among the 125 missing from the Blida province, whose families were interviewed by SOS Disappeared in 2007, is the existence of one relative from nearly each family who left to go to the maquis.

#### Smail Hadjal, 22, Douera, Algiers province

Smail Hadjal was arrested on 12 December 1994 at his family home by military police and both uniformed masked police officers (the ninjas) and plain-clothes police officers, all of whom were armed. The area was surrounded – they were many – and there were vans and cars parked outside.

Around ten agents entered the house and searched each room, plundering everything. They stole jewellery, many objects, even the younger brother's bicycle. They hit the mother who attempted to stop them and they shot her. Her leg had to be amputated.

The street where the Hadjel family lived was nicknamed the “terrorists' street” as the majority of the inhabitants had voted for FIS. The police officers had come to arrest the older brother, Rabah, suspected of belonging to an armed group. They were looking for weapons in the house. Rabah was not there. The young Smail was the only man present in the house, aside from his sisters and mother. This was the reason for his arrest.

When Rabah returned home, he found it vandalised and he was informed of what had happened. He ran away and his family never heard from him again. For the three months following Smaïl's arrest, the same officers returned to the house many times looking for Rabah. Each time the family asked, they denied having arrested Smaïl.

In March 1995, the family learnt that Rabah was shot dead in Souidiana (Zeralda) by the military police in this commune. According to the authorities, Rabah died armed with a weapon. The family then went to the Souidania gendarmerie with a letter from the Prosecutor of Koléa and the military police issued them with Rabah's death certificate. No one was able to see his body which had already been buried at the Rahmania cemetery. After Rabah's death, the family was never troubled again. They never found out what happened to Smaïl.

Testimony collected by SOS Disappeared from the family of the missing

Whereas the Hadjel family was no longer troubled after Rabah's death, many families, whose relative fled to the maquis, suffered real harassment from the State security forces. **These families were regarded, sometimes even at the time of this report, as accomplices to the armed groups, just like the wanted person. These families' youth were regularly arrested.** They were terrorised by this idea as they knew the hell that awaited them in detention. Furthermore, they risked becoming a target of armed groups on their release who could suspect them of having given information or have even become informers for the security forces. In the end, they would decide to run away to escape the harassment. As they were regarded as terrorists, they then became wanted people.

The homes of families having a loved one in the maquis became the target of regular violent searches, both night and day, by masked and armed officers who broke everything, stole valuable objects or photos, insulted the residents and threatened them with death threats. This harassment, whose objective was to terrorise the family, sometimes appeared to be more hate- or revenge-fuelled than professional operations aiming to neutralise armed components. Many families report the officials' hatred who threatened to kill them or wanted their children to run away to the maquis to be shot dead. In Bachdjerrah, Officer Saad told the Mehalli family, who were harassed over many years, "I have sworn to clean the district, to destroy all families related to a terrorist".

Families were decimated in this way and are among the many missing but were also victims of extrajudiciary executions.

**The Bouaroura family** was made up of twelve children, nine of whom were boys. At the time of the events, three of the boys were under 15 and were still being schooled. The six others, aged 16 to 22, were unemployed. **Within this family, one of the sons, accused of being a member of an armed group, fled the police and was never seen again. The father and another son were detained in secret, tortured, tried and sentenced to several years in prison. Two other sons disappeared after being arrested by the police.**

**A fifth was killed by the police. Today, this family's mother, who lost several children and was terrorised by the security forces, suffers from very severe post-traumatic stress disorder (Appendix 5).**

### Section III.

**The widespread and systematic nature  
of enforced disappearance**

### Section III. The widespread and systematic nature of enforced disappearance

According to the Convention and Rome Statute, enforced disappearances constitute a crime against humanity when they are widespread or systematic or even if they were committed as part of a widespread or systematic attack. Isolated or incidental acts are therefore excluded from the notion of a crime against humanity. It is more than the act itself but rather the circumstances surrounding the act committed which allow it to be classed as a crime against humanity.

The adjective widespread refers to the mass nature of the criminal acts, to the fact that they were committed **on a large scale**. The widespread nature results in the existence of a large number of victims as well as an organisation implicating a large number of perpetrators. The adjective systematic refers to the notion of planning. The systematicness, or **the repetition or similarity of the criminal acts**, is an indicator of the implementation of a methodical plan. As such, the demonstration of the widespread or systematic nature enables the establishment of multiple inhumane acts, here enforced disappearances, to be committed, planned and organised and, as intended by the perpetrator, to be an “attack” towards the civil population (“pursuant to or in furtherance of a policy to commit such attack”). The widespread or systematic nature is in a matter of speaking the manifestation of the intention behind the crime against humanity: “*The crime expresses intent, translated as a calculation, it reveals a political, ideological or dogmatic premeditation*”.<sup>93</sup>

The Algerian authorities deny the existence of a deliberate policy to make people disappear. They claim that those responsible for the enforced disappearances certain officials who had “acted in a state of distress or excitement regarding the acuteness of the fights they led and which pushed them to act unlawfully and commit excessive acts”<sup>94</sup>. According to the official report, enforced disappearances “are [therefore] not undertaken by institutions”<sup>95</sup> but rather simple excessive acts for which the State “is responsible but not guilty”<sup>96</sup>; the responsibility lying in the sole fact of their inability to protect citizens from the acts of violence perpetrated by some officials acting independently and of their own accord. **The cross-sectional study of the missing persons’ files, as well as the in-depth interviews conducted between 2006 and 2010 by SOS Disappeared with families of the missing from 26 provinces and 112 communes, however, tend to show both the widespread (I) and systematic (II) nature of the enforced disappearances in Algeria between 1993 and 1998.**

93-Mario Betatti “crimes contre l’humanité” [crimes against humanity], Encyclopædia Universalis [online], visited on 22 July 2015. URL: <http://www.universalis.fr/encyclopedie/crimes-contre-l-humanite/>

94-Ghada Hamrouche, “L’amnistie est la meilleure des solutions pour tourner la page” [Amnesty is the best solution to turn the page], La Tribune, 9 March 2015, online at: [http://www.algeria-watch.org/fr/article/pol/amnistie/ksentini\\_tourner\\_page.htm](http://www.algeria-watch.org/fr/article/pol/amnistie/ksentini_tourner_page.htm), visited on 22/07/2015

95-“Enforced disappearances are not undertaken by institutions. These are isolated acts committed by State officials. No reliable archive or testimonies exist. This is a bitter but very real conclusion.” CNCPPDH 2009 annual report, p. 18 can be accessed at [http://www.cncppdh-algerie.org/php\\_VF/images/pdf/RAPPORT-09.pdf](http://www.cncppdh-algerie.org/php_VF/images/pdf/RAPPORT-09.pdf)

96-Le Quotidien d’Oran, “L’Etat est responsable mais pas coupable” [The State is responsible but not guilty], 29 July 2004: [http://www.algeria-watch.org/fr/mrv/mrvdisp/5200\\_disp\\_ksentini.htm](http://www.algeria-watch.org/fr/mrv/mrvdisp/5200_disp_ksentini.htm)

#### I – Frequent mass disappearances: the widespread nature of enforced disappearance

The widespread nature refers to the mass nature of the criminal acts which had been committed on a large scale<sup>97</sup>.

Thanks to families notifying the association, CFDA has put together 4,635 individual missing persons’ files who were arrested by State officials between 1990 and 2000. The official figures themselves allude to 7,200 enforced disappearances which occurred between 1992 and 1998<sup>98</sup> according to CNCPPDH and 8,023 missing persons declared by families to the authorities as part of the application of the Charter for Peace and National Reconciliation. It is possible, however, that not all families were willing or able to declare their loved one(s) missing and some observers estimate that there could be between 10,000 and 20,000 people missing at the hands of the State officials.

The figures speak for themselves. Time-wise, the 4,635 enforced disappearances declared to CFDA by families occurred throughout the decade of 1990 to 2000 (A). Between 1994 and 1997, the period during which enforced disappearances were more intensively practised, their frequent and mass nature can be seen more clearly. Area-wise, enforced disappearances were perpetrated throughout the country, except for in five large provinces in the south. Even so, they were especially concentrated in the Algiers region and the country’s northern coast (B).

#### A – Enforced disappearances at the time

The CFDA has identified three time periods during which the intensity of enforced disappearances varied depending on the social and political events as well as the evolution of means made available to the State security apparatus as part of the fight against subversion and terrorism.

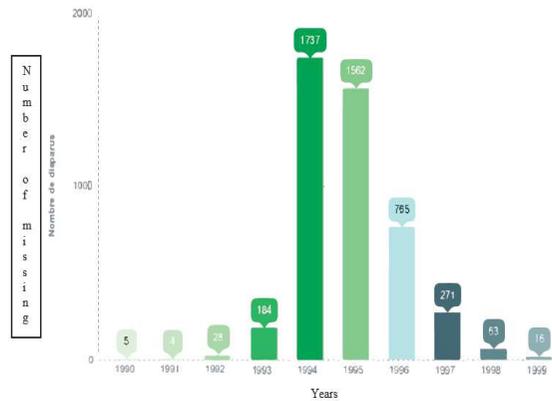
97-The ICC, referencing previous case law, specifies the nature of the attack committed on a large scale.

“It should be massive, frequent, carried out collectively with considerable seriousness and directed against a multiplicity of victims. The attack covers a wide geographic spread or a restricted geographic spread but is directed against a multiplicity of civilians. Within this framework, the crimes must not be isolated acts”; Also see ICTY, The Prosecutor v. Kunarac et al., Case No. IT-96-23 and IT-

96-23/1-A, Judgement, 12 June 2002, para. 96; ICTY, The Prosecutor v. Kordic and Cerkez, Case No. IT-95-14/2-A, Judgement, 17 December 2004, para. 94; ICTY, The Prosecutor v. Blagojevic and Jokic, Case No. IT-02-60 T, Judgement, 17 January 2005, para. 545 and 546.

98-CNCPPDH, 2013 annual report, p. 23 Visited on 17/12/2015 at: [http://www.cncppdh-algerie.org/php\\_VF/images/pdf/Rapport2013FR.pdf](http://www.cncppdh-algerie.org/php_VF/images/pdf/Rapport2013FR.pdf)

## Number of missing per year



## 1– 1990–1993: the implementation of repression and signs of enforced disappearances

**The CFDA has identified 221 enforced disappearances perpetrated between 1990 and 1993.**

Between 1990 and 1992, CFDA has identified fewer than twenty missing persons a year.

In September 1992, the adoption of the legal decree against terrorism and subversion was immediately followed by the deployment across the country, especially in the Algiers region, of the first specialised anti-terrorism army units united under the CCLAS.

In 1993, the armed groups multiplied and grew increasingly prevalent. Throughout that year, intellectuals, journalists, writers, academics, trade unionists etc as well as many anonymous people, both men and women, who worked for State institutions or who refused to yield to the Islamist diktats, were killed by members of different armed groups. Attacks regularly took place all over the country. Many members of the security forces – police officers, military police officers, soldiers – lost their lives. The military power firmly decided to “eradicate Islamism”. In April 1993, during a meeting with the land forces command in Algiers which brought together senior officers involved in the war, General Mohamed Lamari, head of the CCLAS, is meant to have said the following: “[...] *The Islamists want to go to paradise. So let’s take them there and quickly, I don’t want any prisoners, I just want corpses!*”<sup>99</sup>.

99-Habib Souaidia “Il faut en finir avec l’omerta sur la sale guerre en Algérie” [We must put an end to the silence on Algeria’s dirty war] visited on 30/01/2016 at: [http://www.algeria-watch.org/farticle/sale\\_guerre/souaidia\\_fin\\_omerta.htm](http://www.algeria-watch.org/farticle/sale_guerre/souaidia_fin_omerta.htm)

The fight against terrorism and subversion was strategised. The first sweeps, involving the army’s anti-terrorism units (CCLAS), were organised in the ghettos in the Algiers suburbs from 1993. The number of enforced disappearances began to rise with 209 missing persons identified in 1993.

The public became a factor in the fight in which both the armed Islamist groups and the State security forces were engaged. Trapped in between, they were, for the duration of the conflict, suspected on both sides of supporting the opposing side.

## 2 – 1994–1996: “terror must switch sides”, the peak of enforced disappearances

**The CFDA has identified 4,064 enforced disappearances perpetrated between 1994 and 1996.**

The fight against terrorism and subversion at the time involved different branches of the State security forces under the coordination of various structures managed by the DRS. In addition to the special army forces implemented in

1992 within the CCLAS, anti-terrorism units were created from 1993 and were progressively reinforced within the police and military police. In 1994 and 1995, the paramilitary militia – armed guards and patriots – were established in rural areas.

It is against this background that the CFDA notes, from March 1994, a high peak in the number of enforced disappearances which had become frequent and massive. In March 1994, the head of government, Redha Malek, declared during the funeral service of playwright Abdelkader Alloula in Oran “*Fear must switch sides*”.

From March 1994 up until the presidential election campaign of November 1995, the CFDA has identified 2,940 enforced disappearances – making up more than half of the files which have been put together – across the whole of Algeria. **This means an average of 154 people per month and 5 people a day who disappeared following their arrest over the course of this 19-month period.**

From 1994, the security camps in the south, where all persons suspected of supporting the FIS were sent without charge or trial, were closed down one by one. The special tribunals, set up by the legislative decree combating terrorism and subversion, were abolished. For lawyer Mohamed Tahri, who put together more than 600 missing persons’ files, the phenomenon of disappearances was set off when “the justice could no longer respond to the political will of getting rid of people without any proof”<sup>100</sup>. In the same way, the file

“*Torture, a systematic practice*” presented by the CJA to the Permanent Peoples’ Tribunal established that “during the period from January 1992 to spring 1994, thousands of arrested and tortured people were often taken to court where they were released, for lack of charges”<sup>101</sup>.

100-Episode of “Le vrai Journal”, 1998, French TV channel Canal Plus, at 4:02 minutes, accessible at: <http://www.memorial-algerie.org/?q=fr/node/4579>

101-Justice Committee for Algeria, “La torture, une pratique systématique” [Torture, a systematic practice], October 2003, p. 5. Visited on 30/01/2016 at: [http://www.algerie-tpp.org/tpp/pdf/dossier\\_1\\_torture.pdf](http://www.algerie-tpp.org/tpp/pdf/dossier_1_torture.pdf)

Although the disappearances became less intense after the end of 1995, the phenomenon remained widespread. There were, after all, a further 765 people who disappeared throughout 1996.

### 3 – 1997–1999: Against a backdrop of massacres, enforced disappearances decreased

*The CFDA has identified 350 enforced disappearances perpetrated between 1997 and 1999.*

From 1997, the disappearances became less and less frequent. The CFDA has identified 271 missing persons in 1997, which is half of all those identified as having disappeared in November 1994 (290). From 1998, and then after the referendum on the Civil Concord in 1999, enforced disappearances continued to become more rare although they still took place up until 2000, even 2001.

Nevertheless, during this period, Algeria experienced extreme violence with the perpetration of many massacres in the rural areas in the Algiers region, some of which led to up to 400 deaths in just one night.

*“Panicked and traumatised residents could no longer live anything like a normal life: children were not going to school, families gathered at relative’s places, changed homes everyday and wondered what the army was doing, as the latter still stationed 100,000 soldiers in the region, by far the most populated of the country and smaller than a French department”<sup>102</sup>.*

The perpetrators of the massacres have never been identified and arresting them was never in question.

After the Haouch Boughelaf massacre, at the entrance of Bougara, in the night of 21 April 1997 (120 deaths), the one in the Rais district in Sidi Moussa, 25 km from Algiers, on 29 August 1997 (no official number of deaths) and of Sidi Youssef in Beni Messous on 5 September 1997 (between 70 and 150 deaths according to sources), it was the Bentalha district in Baraki in the Algiers suburbs which was attacked in the night of 22 to 23 September 1997:

*“Residents of the district were prepared for them as they had spent weeks of keeping guard and begging the army to provide them with weapons and install a military post in the centre of the district, all in vain. Officially 85 citizens were killed, whereas survivors and hospital sources believe there were rather 400 deaths and 120 injured. [...] the soldiers, armed guards and military officers were posted very close by, where they could not have not heard or seen that an attack was underway just a few hundred metres away. What’s more, the soldiers came to the borders of the district with six armoured cars, but they did not enter and even prevented people from escaping as well as emergency services from entering. [...]”<sup>103</sup>*

102-Justice Commission for Algeria “Les massacres en Algérie : 1992-2004” [The Massacres in Algeria, 1992-2004], May 2004, p. 21. Visited on 30/01/2016 at [http://www.algerie-tpp.org/tpp/pdf/dossier\\_2\\_massacres.pdf](http://www.algerie-tpp.org/tpp/pdf/dossier_2_massacres.pdf)

103-Algeria Watch, “Contribution dans le cadre de l’examen périodique universel : les massacres 1993-2006” [Contribution to the universal periodical exam: massacres 1993-2006], November 2007. Visited on 31/01/2007 at: [http://www.algeria-watch.org/fr/aw/cpu\\_massacres.htm](http://www.algeria-watch.org/fr/aw/cpu_massacres.htm)

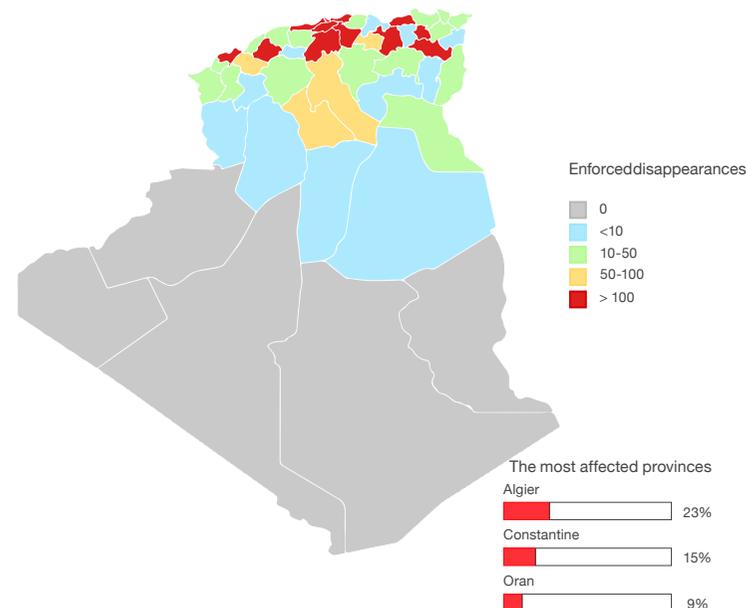
## B – Enforced disappearances across the country

Enforced disappearances were spread across the whole of Algeria, from north to south, east to west. Out of the country’s 48 provinces, only five were not affected by enforced disappearances. These provinces (Adrar, Illizi, Bechar, Tamanrasset, Tindouf) are all situated in the south of Algeria where the conflict was not as strong as in the north. Largely consisting of desert, these provinces are both the most vast and the least populated in the country.

The practice of enforced disappearances had varying degrees of intensity depending on the geographical area:

- 0 enforced disappearances: 5 provinces
- 1 – 10 enforced disappearances: 11 provinces
- 10 – 50 enforced disappearances: 16 provinces
- 50 – 100 enforced disappearances: 4 provinces
- > 100 enforced disappearances: 12 provinces

### Enforced disappearances by province



Three provinces, those of Algiers, Constantine and Oran, have the most number of enforced disappearances. They belong to the most populated provinces as well as the most vast.

Ten out of twelve provinces where the most enforced disappearances occurred are found in the north (centre and west) where the conflict was the most intense. The Algiers, Blida, Tipaza and Médéa provinces (north, centre), all four of whom border each other, have a total of

2,048 disappearances, which is nearly half of all disappearances identified by CFDA.

The provinces the most affected by the disappearances were the most densely populated but were also often those: - where FIS won the 1991 elections; - in which curfew hours were established between 1992 and 1996; - which belonged to the most involved and powerful military areas in the fight against terrorism and subversion: Algiers, Constantine, Oran.

The in-depth interviews conducted by SOS Disappeared with families of the missing of 26 provinces and 112 communes between 2006 and 2010 have enabled us to gain insight into the phenomenon of large-scale enforced disappearances across the communal territories. This analysis has allowed us to note that in addition to the, densely populated, large cities and their surroundings being affected frequently and regularly by disappearances, the rural and agricultural areas were not spared.

As such, the densely populated communes in the Algiers urban area were all also regularly affected by enforced disappearances, especially frequently between 1994 and 1997: Alger-Centre (36 missing persons), Bab El Oued (44), Belouizdad (41), Bouzareah (30), Eucalyptus (54), Kouba (86), El Harrach (59), Bachdjerrah (70), Bourouba (66), Baraki (53), Bab Ezzouar (31) are all included, together with Gué de Constantine (56), the 23 communes the most affected by enforced disappearances in Algeria (more than 30 missing). These 12 communes of the Algiers suburban area are all located in the central and south-eastern parts of Algiers, which have a total of 655 missing persons.

The timeline of the enforced disappearances of Gué de Constantine (Appendix 6), the suburban area of south-eastern Algiers, shows the rate of enforced disappearances in the communes of the Algiers suburban areas (see Figure 1 below).

Due to the number of inhabitants and their isolation, certain agricultural areas were intensively affected by enforced disappearances. The rural and agricultural provinces of Tipaza and Blida are respectively in 4th and 5th place of the provinces where the CFDA have identified the most missing. The study of the circumstances surrounding enforced disappearances in the rural areas of the Blida province show the intensity with which the population of smaller geographical areas were affected in different parts of the country (see Figure 2 below).

**Figure 1 – Gué de Constantine: the rates of enforced disappearances in the Algiers urban suburbs**

The CFDA has identified 56 missing persons in Gué de Constantine. In-depth interviews were conducted by SOS Disappeared with 41 families of the missing in this commune.

Gué de Constantine, working-class suburb with 82,000 inhabitants, located at around 20 km south-east from Alger-Centre, has been deeply hit from the very first events of the black decade. Many individuals, who were known by everyone, left to go join the Islamist maquis, a fact which everyone also knew. According to certain families of the missing, the terrorists wandered the city, including during the day, always in groups, up until 1996-1997. The security forces, who knew exactly where these terrorists could be found, still chose to attack the public.

Some families of the missing recount their daily lives of these years: “The Aïn Malha ghetto, just like the Mustapha Megnouche ghetto, were very troubled areas between 1993 and 1997. The terrorists made the law, were everywhere, helped themselves to food and materials, they were very visible. The inhabitants were caught in the cross-fire, threatened by the terrorists on the one hand, accused of being accomplices of the law enforcement on the other. Sweeps were very frequent in this area”.

“Terror reigned in the Hayet ghetto at this time, there were regular assassinations. Sweeps were often organised by soldiers and/or masked police officers.”

The 56 missing persons from Gué de Constantine identified by CFDA were arrested over a period of three years and five months between 11 January 1994 and 15 May 1997. However, 42 of the Gué de Constantine’s missing were arrested in 1996, 31 of whom were in the space of four months between August and November 1996. The timeline of enforced disappearances in Gué de Constantine between August and November 1996 perfectly show the rate of this crime (Appendix 6).

**Figure 2 – The population of the agricultural villages of the Blida province greatly affected by enforced disappearances**

In Blida, the province in 5th place where CFDA has identified the most missing, CFDA has identified 261 missing persons spread across 18 communes. In 2007, SOS Disappeared conducted 72 in-depth interviews with families of the missing from nine communes located within a 50 km radius, along and around national route 29 which links Blida and Meftah at the foot of the Chrea mountain.

The following communes can be found at the foot of the maquis, along national route 29: - Ouled Yaich (14 missing); - Soumaa (18); - Bouinane (14); - Bougara (22); - Larbaa (22); Meftah (24). At around ten kilometres north of the national route, further away from the maquis but closer to the Islamist strongholds of the Algiers suburbs, are farming villages Chebli (21) and Boufarik (25).

It is shocking to note that 163 of these 261 missing people from the Blida province lived in these nine communes. Between 1994 and 1996, this 50 km radius had between 2 and 11 enforced disappearances a month<sup>104</sup>.

A reflection of the population of many other rural communes, those communes in the area lived in violence and terror, at the heart of the fight in which the armed terrorists and State security forces indulged. In addition to the assassinations, attacks and massacres credited by the terrorists, the public lived with the bombings of the maquis in the neighbouring mountains by army combat helicopters as well as bloody clashes in town. They were also subjected to mass sweeps and arrests, extrajudiciary executions signed by soldiers and patriots as well as

<sup>104</sup>-Up until 1993, enforced disappearances were isolated (4 in 1992, 7 in 1993). They intensified from 1994 up until 1996. 162 missing, out of the 173 discussed here, were arrested between 1994 and 1996.

tortures and enforced disappearances at the hands of the security forces.

The population lived off the earth, without newspapers, without televisions, without telephones. All lights were switched off from 10 pm. In the early morning, the bodies of those executed were displayed to the public. The families could not send their children to school for fear of them suffering repercussions from the terrorists who had complete control of some of the districts.

In fact, certain poor suburbs (the “hais” and “douars”) of these communes were at the complete mercy of the armed Islamist groups from dawn till dusk. The citizens who had the misfortune of living there were very quickly equated with terrorists, even more so when they refused, from 1995, to join the self-defence groups (patriots). The patriots of the region added greatly to the climate of insecurity as they burglarised. Aside from the fact that they denounced to soldiers all those with whom they had a personal disagreement, they sometimes arrested citizens without the soldiers’ presence. They were responsible for numerous summary executions whereby the bodies of the victims were thrown into wells.

These districts, where law enforcement only intervened as part of sweep operations, were the most severely affected by the disappearances. Among these are the Bendali Ali ghetto in Larbaa, the Amroussa douar in Bouinane, the Laabaziz ghetto in Bougara and the Massouma douar in Chebli. According to testimonies from families of the missing, the security forces conducted sweeps every fortnight.

The large number of enforced disappearances committed across the country throughout the 1990s confirm that enforced disappearances were a widespread practice, further reinforced by the fact that they were perpetrated in both urban and remote rural areas. The files put together by CFDA based on the declarations made by families of the missing and former detainees, however, show its systematic nature and therefore that enforced disappearances were planned.

## II – The recurrence of procedures used: the systematic nature of enforced disappearance

All the while denying that enforced disappearances were planned, Farouk Ksentini, president of the ad hoc mechanism within CNCPPDH105, even stated himself, at the end of his mandate, a large similarity between the cases106. However, according to the case law of international tribunals, the systematic nature of the crimes could be a result of the repeated or continuous commission of inhumane acts in line with an always identical procedure and over a short period of time. The systematic nature, however, is considered to reveal a certain degree of organisation and covers a preconceived plan or policy107.

Families of the missing witnessed the arrests. Despite attempts to conceal the fate met by the missing, the families have learnt, thanks to the testimonies from former fellow detainees, of the inhumane and degrading treatment and torture subjected to the disappeared. Information on the detention locations of the missing were also passed onto the families. **From one testimony to another, the process leading to enforced disappearances in Algeria is the same.**

In all likelihood, enforced disappearances were connected at the heart of a cycle of repression towards the civil population. This cycle of repression consisted of a never-ending chain reaction of mass arbitrary arrests (A). The missing, detained in secret, were then more often transferred from detention centre to detention centre (B) where, according to what has been said, some were executed or died from torture. In fact, torture was carried out on a large scale in secret detention centres (C). Denunciations made under torture led to other arrests, detention secrets and disappearances (D).

### A – Frequent and mass arbitrary arrests

As part of the fight against subversion and terrorism, arrests were frequent and massive. Hundreds of people were arrested every day by State security force officials. In an interview with La Tribune in 2005, Farouk Ksentini, President of the CNCPPDH, estimated the

number of individuals arrested was at 300,000: “over these particular years, the security forces conducted the arrest of nearly 300,000 people for the logistical or forced support of terrorism”108.

105-Tasked in 2003 with identifying cases of allegations of enforced disappearances and with informing families of the missing with the result of the searches conducted

106-Ghada Hamrouche, “L’amnistie est la meilleure des solutions pour tourner la page” [Amnesty is the best solution to turn a new leaf], La Tribune, 9 March 2005. Visited on 31/01/2016 at: [http://www.algeria-watch.org/fr/article/pol/amnistie/ksentini\\_tourner\\_page.htm](http://www.algeria-watch.org/fr/article/pol/amnistie/ksentini_tourner_page.htm)

107-ICTY, “Tadic Affair”, judgement of 14 December 1999 (§653). The ICTY’s judgement of 7 May 1997, the Tadic affair, defines the concept [...] and confirms that the systematic nature covers “a preconceived plan or policy. The implementation of this plan or policy could result in the repeated or continuous commission of inhumane acts”. The systematic nature “[...] reveals a certain degree of organisation. The rallying of the public in different areas of the town and then the transfer to detention centres, the interrogations, violence, murders, committed in line with an always identical procedure and over a short period of time established the massive or systematic nature of the attack”

108-G. Hamrouche, “L’amnistie est la meilleure des solutions pour tourner la page” [Amnesty is the best solution to turn a new leaf], interview with Farouk Ksentini in La Tribune, 9 March 2005, online at [http://www.algeria-watch.org/fr/article/pol/amnistie/ksentini\\_tourner\\_page.htm](http://www.algeria-watch.org/fr/article/pol/amnistie/ksentini_tourner_page.htm), visited on 31/07/2015

These were arbitrary arrests. A number of families of the missing have attempted to find out the reasons for which their loved one was arrested. In most cases, no reason was given. When this was the case, the officials would only reveal that the missing person had been arrested as part of an investigation or for questioning, assuring them that they would be released very soon.

The arrests were either individual or collective. The procedure for the arrests was planned according to the location and time of day of the arrest:

#### Arrests in the public spaces and at workplaces

In public spaces or at the workplace, the missing were generally arrested during the day, alone or with one or two friends, by armed plain-clothes officials, identified as belonging to the police or DRS, patrolling in groups of two or three. The arrests were sudden and quick, taking place in sight and sound of everyone and appeared, according to testimonies, as if it were more of an abduction than an arrest.

The officials would stop level with the missing person to arrest them and would then force them to get into the vehicle, sometimes with a jumper over their head to not be able to see where they were being taken. It was even sometimes the case that the missing person was placed into the boot of the vehicle. In Kouba between 19 February and 12 March 1995, many missing persons were arrested in this way in the middle of the street. This procedure method is very similar in each case.

#### Series of arrests of the missing on the street – Kouba 19 February 1995 – 12 March 1995

Mohamed Hamani was arrested on 19 February 1995 at around 6 pm. He was 28 years old and worked in his family's butcher's located in Moreteau Street, a few doors down from his home. His family waited for him for dinner but he never came. Neighbours, witnesses to the arrest, reported that two armed plain-clothes police officers stopped in front of the butcher's in a grey 505. They were accompanied by a masked informer. They called out Mohamed Hamani by his childhood name "Shouitina", meaning "little devil" in Arabic dialect. They quickly and forcefully put him into the car. Other people were said to have been arrested at the same time. (Testimony collected by SOS Disappeared from the family of the missing) The young Abdelkrim Ayad was arrested in similar circumstances a few weeks later, on 9 March 1995, in front of his house whilst he was loading a van, in the same Moreteau Street. Plain-clothes police officers, on board two vehicles, a Fiat Kroma and a G5 van with tinted

windows, were circling the area. They stopped level with the Ayad brothers and asked to see "Krimo", Abdelkrim Ayad's nickname, who then introduced himself to them. The police officers immediately took him with them. (Testimony collected by SOS Disappeared from the family of the missing)

On 11 March 1995, Amar Matouk and Tahar Cherifi, were also arrested in that street in front of the Cherifi family home in Kouba by two armed, plain-clothes officials who were each driving an unmarked car. "The officials slowed down to the level of the two friends and hit them with their weapons, forcing them to each get into a vehicle".

Testimony collected by SOS Disappeared from the family of the missing Amar Matouk.

The following day, on 12 March 1995, it was Abdennour Saïdi's turn to be arrested near the Ben Omar park in Kouba.

Abdennour Saïdi was arrested in the street at 7.30 am whilst on his way to work. En route, he saw his teacher friend in front of the school, Abdelaziz Benazzouz. He walked towards him to say hello when a white R4 van stopped level with him. Two armed and uniformed police officers got out, came charging at him and hit him with the butt of their weapon. One grabbed him under his arms, the other by his legs, and they put him into the back of the van. A neighbour of the Saïdi family watched it all from her window. She then immediately went to warn the family and tell them that Abdennour had just been arrested.

During their search, Abdennour's father found the white R4 van the following day parked in the parking lot of the security head office of the Hussein Dey daïra. Witnesses had noted down the registration plate, making the van easily recognisable.

Testimony collected by SOS Disappeared from the family of the missing.

Many of the missing were also arrested during the raids operated in the street, at the bus stops, on steps or even outside of mosques. Tens of people were also brutally arrested arbitrarily. Some were executed extrajudicially. Wearing a qamis and a beard could be the simple reason for these arbitrary arrests.

#### Arrests at home: sweeps

Thousands of missing were arrested at their homes, the majority of which were at night during the curfew hours. The arrests at home were generally operated as part of sweeps. These operations of mass arrests, during which many tens of people could be arrested, were frequent and regular throughout all of Algeria.

In Shaoula, for example, a mother of a missing person explained that the sweeps took place every three weeks and lasted at least four hours. In Gué de Constantine, for the whole of 1996, the inhabitants had gotten used to being searched, "living as normally as possible" according to a sister of a missing person.

Always brutal, sometimes violent and even bloody, those involved in the arrests as part of the sweeps were tens of agents in specialised anti-terrorism forces in collaboration with combined forces (police, military police and soldiers).

Soldiers circled the area using a van and tank by installing blockages at key points in such a way that no one could enter or leave without showing their ID. Agents in specialised anti-terrorism units, armed to the teeth, often masked, invaded homes by the dozen, even jumping garden walls where necessary. Once entered into the home, it was “like a plague of grasshoppers” according to one of the missings’ loved ones. They continued to search, turning the place upside down, threatening the residents with their weapons, insulting them and manhandling them. The men were lined up against the wall or faced-down on the ground so they could show their identity. It was often the case that officials proceeded to steal money, jewellery, materials and even vehicles. They eventually left with one or more men of the family. Some testimonies state how the arrested detainees were piled into military vans throughout the sweeps which then drove off once the sweep was over.

These sweep operations were systematic after an assassination, an attack or a clash with members of an armed group. A family of the missing from Bab El Oued explained to SOS Disappeared that after an attack, the citizens knew that in the night, they would hear the engines of around twenty vehicles surrounding the area and that the apartments would be searched:

“It was pure terror. The police officers summarily executed people in the street. Many missing persons were arrested during a sweep following an attack”. In Meftah, another family of the missing also explained that “at the time, sweeps and raids were common. They took place after each attack or each clash. They were perpetrated by soldiers but sometimes the police and patriots would join them”.

In a number of communes, including El Kennar Nouchfi and El Emir Abdelkader (Jijel province), nearly all missing persons were arrested during the sweeps in the space of a few nights (Appendix 7).

In the context of massive and frequent global arrests where hundreds of thousands of people were arrested in the 1990s, thousands of fellow detainees, who were later released, had shared cells with the missing at the time of their stay in detention. The families learnt that the missing had been detained in secret in the head offices of different State security forces.

### B – Secret detention: from detention centre to detention centre

The hundreds of thousands of arrests, made in the 1990s as part of the fight against terrorism and subversion, were very often followed by secret detention. Practically every testimony from a family of a missing person recounts an arrest followed by a short or long detention in secret, sometimes multiple times, one or more people in the missing person’s close or wide circle – families, friends, colleagues, neighbours, acquaintances etc.

Deprived of all contact with the outside world and at the mercy of the security forces, former secret detainees were considered missing by their loved ones. Some were released after a few days, a few weeks or long months without ever being brought to court. Others were there for either being freed or placed under detention warrant and transferred to the State’s official prisons whilst awaiting trial. Many detainees therefore spent many years in provisional detention before being sentenced or acquitted.

The searches led by families of the missing therefore began in the police stations, gendarmerie brigades, military barracks nearest to the home town. They spread to tribunals, hospitals and even morgues. The families of the missing subsequently crossed the country, from detention centre to detention centre, based on information that they received. One of them reckoned “that

the parents of the missing are toys for others who, every day, told them that they knew where their son was being held. The parents then ran in all directions, exploring all leads and holding onto the smallest clue that could lead them to their child”.

Despite tireless searches, these families have never been able to find those who they witnessed be arrested. The security forces as well as the administrative and judicial authorities have always thrown them off leads to prevent the truth behind the fate of these missing from being revealed.

Nevertheless, through testimonies of those released from secret detention and sometimes the declarations from some State officials, the families have learnt that the missing were detained in police stations, gendarmerie brigades, military barracks and DRS barracks, where they were subjected to inhumane and degrading treatment and torture.

The existence of the secret detention centres at this time in Algeria was common knowledge. In its annual report of 1996, the National Observatory for Human Rights has conceded to the existence of these centres in these words: “In any event, the National Observatory for Human Rights has reason to believe effort has been made to close detention locations which exist outside the control legally stipulated by law”<sup>109</sup>.

The testimonies of families of the missing and former fellow detainees regarding the location of the missing persons’ detention remain vague as only the security force agents and detainees were allowed to enter. The families looking for their missing were driven away from them under threat. The detainees themselves were generally blindfolded, had their heads covered or were held down inside the vehicle. Even those who were abruptly released were thrown into the boot of a vehicle and released blindfolded on the outskirts of a forest or a motorway.

For this reason, testimonies of families of the missing are limited regarding the names of the detention centres and their geographical location, the identity of certain commandants and officials who were assigned there as well as the description of a cell, a hallway and the treatment that were practised. It is nonetheless shocking to note that the same detention centres are named in many testimonies in each region. These centres, reputed for their officials’ cruelty and the inhumane treatment subjected to the detainees, were located at the heart of and around the towns and cities.

109- National Observatory of Human Rights, “Rapport annuel 1996” [Annual Report of 1996], visited on 30/01/2016 at: <http://www.algeria-watch.org/mrv/mrvdisp/ondhrap.htm>

A few of these are the following:

- the DRS barracks which housed the command centres were often named as the detention location of missing persons: Châteauneuf barracks in Algiers, Hydra barracks in Algiers, Ben Aknoun barracks in Algiers, in the Algiers suburbs, “Antar” barracks also in Ben Aknoun, Territorial Centre of Research and Investigation (CTRI) in Blida known as the “Haouch Nou” barracks, central Magenta in Oran, central Belle Vue in Constantine
- head offices of the anti-terrorist brigades of the judicial police (BMPJ), such as the central police station in Algiers, Cavaignac, El Madania (Salombier), La Montagne, Hussein Dey, Bab El Oued etc.
- some main gendarmeries: Eucalyptus, Shaoula
- some military barracks – Château Rouge barracks in Eucalyptus, military sector of Ain Naadja in Gué de Constantine, in Jijel, in Médéa etc.

More rarely, the detainees have been seen in State official prisons such as civilian and military prisons in Blida.

Subsequently, testimonies of former State security force agents came forward to clarify details on the knowledge of these locations. The CJA file on the torture and execution centres<sup>110</sup> lists a non-exhaustive list of 96 detention centres. The CJA has however revealed the plans of some centres which had received missing persons – the CPMI in Ben Aknou, the CTRI in Blida and the gendarmerie in Birkhadem – reconstructed thanks to the testimonies of former detainees<sup>111</sup>.

#### The transfer of the missing

The testimonies very often reveal that the missing were transferred multiple times (generally between once and three times) over the course of their detention. This transfer of the missing reveals both a hierarchical organisation within the different branches of the security forces and a cooperation between these different branches in depriving freedom and concealing the fate of the missing.

#### Riad Boucherf, 21, shoemaker, Kouba, Algiers province

Riad Boucherf was arrested on 25 July 1995 at 11 am accompanied by two of his neighbours, F.B. and K.B., by five plain-clothes police officers from the police station of the 17th (Kouba). According to F.B.’s account, the key witness of Riad’s detention, both of them were handcuffed and thrown into a vehicle whilst K.B. was pushed into

another car. Once at the police station, they were immediately subjected to torture. That very evening, they were transferred to the police station in central Algiers where police officers, masked and completely drunk, woke them up in the middle of the night to subject them to more sessions of torture.

On the 2nd night of detention, F.B. and Riad were transferred to the police station of La Montagne in Bourouba, this time without K.B. Their hands tied together by an iron wire, they were tied to a tree in the police station yard until the following morning. They were then taken to the central police station where they were separated and tortured.

On the 6th day of their detention, S.B., Riad and four other young men, whom they did not know, were driven into a forest, near the Ben Aknoun zoological park. Their executioners simulated an execution by holding a gun to Riad’s head. They told him that it was his last chance, but Riad cried that he was innocent. F.B. thought he was going to die. After this terrifying pretence, the police officers ordered Riad and F.B. to stand up. The 4 other men remained where they were. Once back at the central police station, Riad and Farid were separated. Farid never saw his friend again.

Before F.B.’s release, the police attempted to convince him that Riad had run away by jumping out of the car which was bringing him back from the forest. F.B., who found himself in the same vehicle as his friend, knew very well that it was impossible to escape. Riad had his hands tied, the car was locked shut. Years later, Riad’s mother learnt that her son died from torture after 13 days in detention.

Testimony collected by SOS Disappeared from the mother of the missing based on extracts from the declaration written by F.B.

Various testimonies indicate the detainees were sorted quickly after their arrest. The detained were firstly taken into cells at the local security force head offices, whose officials had made the arrest

– gendarmerie brigade, police station, military barracks. It was here that, whilst the families attempted to obtain information on the detainees, the latter were being subjected to interrogations, which could be called inhumane or degrading treatment.

Some of the detainees were released immediately or presented to the prosecution. Others were secretly transferred to the specialised anti-terrorist services. It was generally at this stage that the detainees were subjected to torture within the police stations, military barracks and DRS barracks.

In different testimonies of families of the missing from rural areas, where soldiers fought against terrorism, the detainees arrested during the same sweep were brought together in a detention location having been divided into two groups. One group was brought before the justice whilst members of the group transferred to the soldiers disappeared.

<sup>110</sup>-Justice Commission for Algeria “Les centres de torture et d’exécutions” [Centres of torture and execution], October 2013, p. 8. Visited on 30/01/2016 at: [http://www.algerie-tpp.org/tpp/pdf/dossier\\_6\\_centres.pdf](http://www.algerie-tpp.org/tpp/pdf/dossier_6_centres.pdf)  
<sup>111</sup>-Justice Commission for Algeria “Les centres de torture et d’exécutions” [Centres of torture and execution], October 2013, p. 23-26. Visited on 30/01/2016 at: [http://www.algerie-tpp.org/tpp/pdf/dossier\\_6\\_centres.pdf](http://www.algerie-tpp.org/tpp/pdf/dossier_6_centres.pdf)

As such, in Meftah in the Blida province, in April 1996, around ten people were arrested following an attack in which many soldiers died in front of the town's hospital. For many weeks, agents from the Meftah police station and soldiers conducted around twenty arrests. The detainees were first taken to the Meftah police station. Some were immediately released after a few days. Others, transferred to the Larbaa police station, were brought to justice. Many attest to having been tortured. Four disappeared: Nadir Ouhabi, Mohamed Boutadjine, Mohamed Boukedjmar and Rachid Bakhtiar. The missing had supposedly been transferred to the military barracks in Meftah, near the hospital where the attack had taken place. A detainee released from the barracks notified the families that Nadir Ouhabi and Mohamed Boukedjmar had both succumbed to the torture after less than a month after their arrest.

#### The final transfer "to an unknown destination"

A number of the missing had been transferred in the middle of the night with other detainees "by the military security" and/or "to an unknown destination". After this final transfer, the families of the missing were only able to obtain vague information regarding the fate of their loved one, from unreliable sources, which could never be verified.

#### Mutapha Terranti, 26, accountant, Oued Koriche, Algiers province

Mustapha Terranti was arrested in the night of 14 April 1994 by the BMPJ officials of the police station of the 5th arrondissement, supported by the soldiers during a sweep following the assassination of a police officer in the district.

Everyone arrested on that day were taken to the police station of the 5th arrondissement. Many people disappeared. A cousin of the family died under torture.

Mustapha remained in detention for 15 days in the police station of the 5th arrondissement. His mother-in-law brought him food and clothes without being allowed to see him. On the 16th day, the police officers informed her that Mustapha had been transferred again to the Bouzareah gendarmerie. Again, Mustapha's mother-in-law was able to bring him food and clothes without seeing him. On 16 May 1994, a military police officer told her that Mustapha had been transferred by the military security to an unknown location.

Testimony collected by SOS Disappeared from the family of the missing

Different testimonies confirm that anti-terrorist brigades of the judicial police and gendarmerie worked closely with the DRS. Some even confirm that the police, theoretically under management of the Ministry of the

*Interior, responded to the orders of the DRS as part of the fight against terrorism*<sup>112</sup>. The police officers passed detainees that they arrested to DRS officials.

*"[...] It was part of our duty to take care of criminal affairs and it was within this framework that we arrested suspects. Military security officials would regularly come at night to find them, pretending that these persons had been involved in terrorist affairs. [...] When members of the SM found suspects, they did not show their transfer papers and when we requested them, would show us their DRS cards on which the names were fake. [...] The head of security told me that he could not do anything against the soldiers, that they had all the power and that he could do nothing but follow orders"*<sup>113</sup>

The CJA file hypothesises that "the liquidation" of detainees was controlled by the DRS. "The country was divided into four (especially in the Algiers area) by military barracks, gendarmerie brigades, police posts or armed guards posts through which arrested persons were "routed" who were systematically tortured there before being "dealt with" by DRS officials on-site, or were transferred to one of their centres"<sup>114</sup>. The torture would have been practised by assigned DRS members or en route to the police stations, gendarmerie brigades or military barracks. The torture was also carried out in the DRS barracks which had torture rooms.

#### C – Torture on a large scale

All throughout the 1990s, torture was practised on a large scale. Family of missing person Meftah, arrested once and tortured by blowtorch, told SOS Disappeared that at the time, people were being arrested every day and when they were released, they would talk of the tortures carried out in the places of detention.

There are hundreds of testimonies, which is not at all proportional to the number of victims, recounting atrocious tortures subjected to former detainees in the 1990s<sup>115</sup>. The most commonly used methods of torture were physical tortures – such as beatings, having beards or nails ripped out, use of rags (drowning sensation), use of electricity (also called electroshock torture), burns using cigarettes or a blowtorch, suspension by a limb – but also psychological torture such as deprivation of sleep or simulations of executions.

The testimonies of former members of the security forces (police officers and soldiers) also describe the inhumane methods used in the name of the fight against terrorism<sup>116</sup>. Dalila, a former police woman in general enquiries assigned to the Cavaignac police station in Algiers in 1992-1993 tells her story<sup>117</sup>. She claims to have seen at least 1,000 men be tortured within a few months, at a rate of twelve people a day between 10 am and 11 pm.

112-Justice Commission for Algeria, "L'organisation des forces de répression" [The organisation of the forces of repression], September 2015, p. 29. Visited on

31/01/2016 at: [http://www.algerie-tpp.org/tpp/pdf/dossier\\_16\\_forces\\_repression.pdf](http://www.algerie-tpp.org/tpp/pdf/dossier_16_forces_repression.pdf)

113-Kamel B. "A propos du terrorisme : témoignage d'un officier de police" [Regarding terrorism: the testimony of a police officer]. Visited on 01/02/2015 at: <http://www.algeria-watch.org/farticle/aw/awterkamel.htm>

114-Justice Commission for Algeria "Les centres de tortures et d'exécutions" [Centres of torture and executions], October 2003, p. 8. Visited on 30/01/2016 at: [http://www.algerie-tpp.org/tpp/pdf/dossier\\_6\\_centres.pdf](http://www.algerie-tpp.org/tpp/pdf/dossier_6_centres.pdf)

115-Mahmoud Khieili "La torture en Algérie 1991-2001" [Torture in Algeria 1991-2001], October 2001. Visited on 01/02/2016 at: [http://www.algeria-watch.org/mrv/mrvrtort/torture\\_khelli.htm](http://www.algeria-watch.org/mrv/mrvrtort/torture_khelli.htm)

116-Algeria Watch "Revue de presse internationale, 1994-2002 : les témoignages d'officiers et policiers algériens dissidents" [International press release, 1994-2002: the testimonies of dissenting Algerian officials and police officers]. Visited on 01/02/2016 at: [http://www.algeria-watch.org/pdf/pdf\\_fr/compilation\\_temoignages.pdf](http://www.algeria-watch.org/pdf/pdf_fr/compilation_temoignages.pdf)

117-Robert FISK "Massacres in Algeria, strong evidence for military security responsibility" in The Independent, 30 October 1997

“Some of the prisoners had beards, others not. They were all poor. The orders to torture came directly from the top. I think they were given by telephone. But the word torture was never used. They called it “nakdoulou Eslah” – “special treatment”. We could hear cries and screaming. The prisoners claimed “I swear to God, I haven’t done anything. We are all the same, we’re Muslims like you”. They shouted and cried a lot”<sup>118</sup>

Dalila can remember two men who did not survive being tormented on the ladder. Even though their lifeless bodies were still hanging from the ladder, the torturer ordered: “Take them to the hospital and say they died in a clash”<sup>119</sup>. They did the same with those they had executed. They transported them after 11 pm, during the curfew hours.

A number of disappeared had already been arrested in the past and also told their families the conditions in detention and the tortures they suffered. As such, a year before his disappearance, Salim Gherzoul, a civil servant in the Kouba town hall, missing since 19 September 1995, had been detained in secret for the first time for three months at the Algiers central police station.

#### Salim Gherzoul, 38, civil servant, Kouba, Algiers province

On 10 October 1994, five masked officials entered the home of the Gherzoul family in Bouba to arrest Salim Gherzoul and two of his brothers. One of the brothers was put into an unmarked car with a balaclava over his head, the two others were thrown into the boot of a second unmarked vehicle. Before taking them to the police station of the 17th arrondissement (Old Kouba), the cars passed through the Garidi ghetto to arrest another person. At the police station, the two brothers were separated from Salim, who was hit with the butt of a weapon before being taken to a torture room where he was subjected to eletroshock torture for an hour. He left the room soaking wet, supported under each arm by an official. According to his brothers, Salim “was whistling like a train”. The two brothers were released at 8 am the following morning, without Salim.

The family never heard from Salim for three months until 3 January 1995. On this date, Salim was eventually

released, with other detainees, without even having been tried. According to his testimony, Salim spent those three months being held at the Algiers central police station. He was released the day when a superintendent is said to have asked who these detainees were and exclaimed

“It’s not a hotel for terrorists here, get rid of these!” At the time of his release, Salim was sickly, very dirty and in shock. He confirmed having been a victim to multiple execution simulations during his detention. He was arrested again on 19 September 1995 by plain-clothes officers who were waiting for him at his workplace in his office at Kouba hospital. His family has not heard from him since.

Testimony collected by SOS Disappeared from the family of the missing

CFDA also has detailed testimonies from loved ones of the missing who have survived the torture. These loved ones, in addition to living each day with the anxiety and sadness due to the disappearance of a family member, suffer from psychological and physical damage from the torture they endured (Appendices 6 and 2).

Finally, many testimonies from former detainees recount the torture suffered by the missing in detention. These fellow detainees – family members, friends, neighbours, colleagues – saw the missing in a deplorable state, with swollen faces and tied to radiators in the hallways. Sometimes they even heard them being tortured, other times they were brought face to face with them in questioning.

#### Mohamed El Heit, 19, student – Nassera Lezreg, 33, unemployed – Youcef Nouah, 36, employed; El Harrach, Algiers province

Mohamed El Heit, student, 19, was arrested on 12 October 1994 in the middle of the night at his home in El Harrach by police officers from the La Montagne police station in Bourouba as well as soldiers. It was a large sweep operation. Many people were arrested in El Harrach that night including Mohamed’s sister and sister-in-law. All three were taken to the La Montagne police station in Bourouba. Mohamed’s sister was held for 11 days. She was not tortured but was questioned at length. After a week, she was confronted with Mohamed in the interrogation room. Two elderly persons, a woman whose husband was in prison, Mohamed who was brought out from the torture room, and his sister were reunited in the same office. Mohamed was in a very bad shape. He then said to his sister that the officials took him out at night to denounce people and point out houses. He supposedly denounced missing persons Nassera Lezreg and Nouah Youcef in the weeks that followed.

**Seddik Kebbabi, 32, teacher, Biskra province**

The evening of Seddik Kebbabi's arrest on 5 June 1995, one of his friends, Abdellah Benabdellah, retail trader, was also arrested at his workplace by officials who stole everything in the shop and confiscated his vehicle. Three days later, one of Abdellah Benabdellah's loved ones was arrested by the same armed plain-clothes officials. His family did not hear from him over the following 45 days after which time he reappeared in Biskra prison. A year and a half later, he was tried, accused of being a member of an armed group and sentenced to 3 years in prison. During his trial, he notified the judge of having heard Abdellah Benabdellah and Seddik Kebbabi being tortured during his detention in the DRS barracks. The judge did not consider these reports, retorting that he did not have any proof to support his accusations. Seddik Kebbabi and Abdellah Benabdellah are still currently considered as missing.

Testimonies collected by SOS Disappeared from families of the missing

During the torture sessions, the questions usually asked were related to the supposed terrorist activities of the detainees and the activities of those in their circle. The goal of the executioners was to force detainees to admit that they knew a particular individual who was involved in such an activity, such an assassination or even that they belonged to an armed group, even being its leader. The presumption of innocence did not exist. If the answer did not suit their questioning, the torment doubled.

"It was then that the third torture session started during which I had to admit to all the accusations, each one as fake as the next. It was the only way to stop my torment. My torturers knew that I would say anything. And they knew very well why I did. But seeking the truth was the least of their concern". (Silem Abdelkader, SM barracks in Bouzaréah, February 1992)<sup>120</sup>

Under torture, the detainees could say anything, accuse themselves or implicate their families, colleagues, neighbours of terrorist activities. At the end, the detainees were forced to sign official reports, which they had not even read, detailing their so-called declarations.

"at the end of the torment, they demanded I admit that my brother had killed a police officer in Maquaria on 7 June 1994. They gave me a list of names of inhabitants that I did not know and asked me to implicate them in the attack. Incriminate innocent people in assassinations! They created a scenario of all the evidence incriminating my brother and other citizens and they wanted me to "admit" the facts. The torture became increasingly worse. I could no longer stand it. I ended up cracking and telling them anything" (Bouaouicha Mustapha, Algiers central police station, June 1994.)<sup>121</sup>

120-Salah-Eddine Sidhoum "La torture antichambre de la mort" [Torture in Algeria, an antechamber to death] Confluences Méditerranée, 2004/4, n°51, p. 23-38. Visited on 01/02/2016 at file:///C:/Users/Fanette/Downloads/COME\_051\_0023.pdf  
121-Ibid

The components in our possession imply that the main goal of the torture was to obtain, at all costs, information from the detainees on their activities and those of their families, their neighbours or their work colleagues to feed and justify the State repression as part of the fight against terrorism. Warrant officer Abdelkader Tigha, assigned to the CTRI in Blida during the 1990s, was nevertheless questioned by the CTRI on the quality of the information obtained via torture practised on a large scale at this time<sup>122</sup>.

Once they had made their denunciations, the detainees could be executed

**Ali Oudoud, 26, school custodian, Meftah, Blida province**

Ali Oudoud was arrested on 5 June 1994 at 6 pm at a police roadblock at a bus stop in Meftah with his friend Omar Khaoudji as they got off the bus, listening to music on a cassette radio. Many witnessed the scene and informed their families.

The two men were taken to the Larbaâ police station. Under torture, that same evening, Omar Khaoudji denounced his brother, Dahmane Khaoudji, who was in the maquis and was wanted by the authorities. The following morning, at 6 am, the police and soldiers surrounded a Haouch in Larbaâ where the group was hiding. All members of the group were shot dead.

Less than 3 days after Ali's and Omar's arrests, Omar Khaoudji's family learnt that the latter was in the Sidi Moussa hospital morgue, most likely dead from torture or shot dead once he had denounced his brother. They saw the body. The body of another person arrested at this time, Makram Mimoune, was also in the same morgue. Ali Oudoud's family never heard from their son again.

Testimony collected by SOS Disappeared from the family of the missing

The disappearances were often connected to series of arrests which targeted several victims in a short period of time (one day, one week, one month). The number of victims of disappearances during the same series of arrests could vary between two or three and around twenty. By cross-checking the stories, we can understand that the arrests were fuelled by denunciations and especially by those made under torture, a key component in the cycle of State repression against the civilian population.

122-Abdelkader Tigha, "Contre-espionnage algérien, notre guerre contre les islamistes" [Algerian counter-espionage: our war against Islamists], éditions Nouveau Monde, p. 115

### D – Denunciation : a key component in the cycle of State repression

The arrests of the missing, both individual and collective, were rarely isolated from preceding and subsequent cases of arrests and disappearances within a commune, district, family or workplace. One or some of the arrests systematically led to subsequent new arrests and disappearances.

#### Laïd Chatal, plasterer, 29 – Mohamed Mogdad, 27, student; Bab El Oued, Algiers

Laïd Chatal was arrested in the street in Bab El Oued, on 15 March 1997, by police officers and soldiers deployed in all the district and positioned on the roofs of the buildings. Laïd was taken into a police van, in the back of which he was beaten and visibly tortured. The officials were then taken to the home of the Chatal family with Laïd who was wet, barefoot and had bruises from being hit. They then searched the home.

Amar Chatal, one of the brothers in the family, was a former police officer who was active among the armed groups. He was wanted and the Chatal family had already been searched multiple times. Laïd, however, had never been involved in law enforcement.

Two days after Laïd's arrest, on 17 May, one of his friends, Mohamed Mogdad, disappeared after being arrested in the street by military security officials. Another young man from the district, Y.H., was then arrested on 24 May by the military security.

In September 1997, Y.H. was released on the motorway at Chevaley (Algiers). He informed Mogdad's and Chatal's families that he had been detained with their children and brought a jumper and a pullover to their apartment. He said that he was the only one to be released. He knows that he was in military barracks but not where. The day after Y.H.'s release, Amar Chatal was shot dead in the street by a police officer.

Testimony collected by SOS Disappeared from families of the missing

Whether the arrests took place at home, in the street or in the workplace, the officials often had the first name of the missing person, sometimes even their last name. The existence of the list of names and presence of masked informers at the location of the arrests is evidence of many missing having been denounced.

Families of the missing sometimes mention the existence of such a list of names. These lists were normally made based on declarations made by patriots who did not hesitate to accuse all those with whom they had a disagreement such as those who refused to join their ranks of terrorism or being accomplices with armed groups.

In Attatba, a commune of the Tipaza province, 36 disappearances out of the 44 identified by CFDA were committed in 1995, 19 of which were in the month of May. On 21 May, two military police, who were eating on a terrace near the exit of Attatba, were killed by terrorists. Not long before, the military police officer Chaoui had announced that at the slightest incident, he would arrest 100 people. So in retaliation, the house searches multiplied and the public was subjected to many days of threats from military police unsystematically helped by armed guards or patriots. Between 40 and 70 people were thus arrested between 24 and 27 May 1995, at least 19 of whom disappeared. The individuals were arrested at random whilst going about their daily business, the majority of arrests happening in the street and in the middle of the day. Nevertheless, the arrests were not that random as the fact that the military police would choose one person rather than others from a group of onlookers, for example, was visible. In all likelihood, a list of names had been drawn up by the military police officer, Chaoui<sup>123</sup>.

**In many situations, everything points to the fact that the names of the missing were given under torture by individuals who had been previously arrested. All persons whose name had been uttered under torture was considered a “terrorist”. Many families of the missing have received confirmation that the name of their loved one was given under torture.**

#### Smaïl Takheroub, 20, retail trader, Kouba, Algiers province

Missing person Smaïl Takheroub was arrested on 2 February 1998 in Kouba by three plain-clothes officers in the general grocery shop where he worked with his two brothers. The officers asked Smaïl to follow them and they shot a bullet into the air to scare him. They boarded Smaïl into their vehicle and left. Sometime before, two neighbours from the area, S.H. and S.A.B., had been arrested and tortured. Both had been released but S.A.B. died after his release as a result of the torture to which he had been subjected. In a letter addressed to the mother of the missing, they revealed to have given Smaïl's name under torture.

Testimony collected by SOS Disappeared from the family of the missing

During the sweeps of homes, the State security force officials were systematically accompanied by a masked “informer”, their hands tied with iron wires, visibly tortured and weak. The informer was ordered to point out homes and people to arrest. The families of the missing sometimes recognised the identity of the masked informer, often a young man from the area arrested a short while beforehand.

<sup>123</sup>-Information collected by SOS Disappeared from families of the missing from the Attatba commune

The informers could then be released or be reported as missing. Families of the missing also confirm having seen their loved one themselves be taken around their area by security force officials in order to point out residential areas and people to arrest.

**Hakim Cherguit, 27, mechanic – Yascine Drissi, 24, unemployed; Kouba, Algiers province**

Hakim Cherguit arrested on 31 December 1993, at around 1 am, at his home in Kouba by BAT agents (anti-terrorism brigades), was taken at around 4 am to a neighbour called Yacine Drissi. Yacine's mother had great difficulty in recognising Hakim, his face was so swollen from the beatings he had endured. The police officers went away, taking away with them two men who were reported as missing from that day.

**Brahim et Nourredine Bettayeb, 24 and 25, unemployed, La Casbah, Algiers**

The two brothers, Brahim and Nourredine Bettayeb, were arrested on 14 August 1995 at their parents' home in La Casbah by officers who cried out "Police, open up". It was 5 am and the whole family was sleeping. Their young 16 year-old brother came between them, so the officers took all three to the Oued Koriche police station of the 1st arrondissement. On the 2nd or 3rd day after their arrest, some neighbours confirmed that Nourredine and Brahim had been driven around the district by police officers. They were led around by their wrists, tied together with wire iron and had visible traces of torture. The two brothers were forced to point out some citizens. On the 3rd day, the young brother detained at the police station never saw Nourredine and Brahim again. He was released on the 4th day. When the father reported to the police station to find out about his two other sons, he was threatened: "Go away or I'll shoot you".

**Hocine Mihoubi, 21, military service, Bachdjerrah, Algiers province**

A few days after Hocine Mihoubi's arrest, in the night of 22 November 1994, masked soldiers took him back to the family home. He had been tortured and had his hands tied together with wire iron. One of the soldiers told the mother "Take a good look at him because it'll be the last time you see him".

Testimonies collected by SOS Disappeared from families of the missing

## Section IV.

# The Algerian authorities' response to the missing persons' files: continuous impunity

## Section IV – The Algerian authorities' response to the missing persons' files: continuous impunity

After having denied the existence of enforced disappearance in their country for a long time, the Algerian authorities have been forced to admit this under national and international pressure. Despite this admission, there has not been any political willingness stated to treat the missing persons' files in a satisfactory way.

The report of one of the rare missions that the FIDH was able to lead in Algeria in 1997 highlights well the opaqueness maintained by the Algerian officials on the issue of the missing: “[...] The violations have firstly been denied before, faced with the difficulty of keeping it up during further discussion, admitting the existing of “excessive acts”, the term constantly used with a clear diminishing connotation [...]. Confronted with concrete cases, interrogated on precise figures (disappearances, arbitrary arrests, summary executions, tortures etc.), the government officials completely refuse to respond and generally redirect us towards the ONDH, implying they have the requested pieces of information. The general impression given from such interviews is one of a clear desire of concealment”<sup>124</sup>.

**The laws and institutional mechanisms adopted since 1998, claiming to address the issue of the missing, have only been attempts to deny the enforced nature of the disappearances, to bury the truth behind the fate of the missing and to guarantee the impunity of the supposed perpetrators at all levels.**

The adoption of the Charter for Peace and National Reconciliation and the implementation in 2006 of its implementing provisions are the result of a long process to close the missing persons' files in the attempt to deny the right to Truth and Justice.

### I – From the denial of enforced disappearance to the organisation of impunity

#### A – 1994-2003 The denial of the State officials' involvement in the disappearances

Between 1994 and 1996, the National Observatory for Human Rights (ONDH)<sup>125</sup>, presided at the time by Kamel Rezzag Bara<sup>126</sup>, received cases of disappearances by the thousands by families for consideration<sup>127</sup>. The hearings were conducted according to the “structure of receipt, registration, documentation and follow-up of the citizens' grievances”.

In 1997, the ONDH recorded 706 new cases of disappearances<sup>128</sup>. The institution transferred these cases to the security forces using the procedure of “so-called locating the possible place of detention”. The ONDH has received responses from different security forces regarding 514 missing persons. The majority of these responses denied the State officials' involvement in the relevant disappearances<sup>129</sup>:

“- 366 cases were not the subject of any questioning from the security forces  
- 62 cases relate to persons wanted by the security forces  
- 23 cases relate to incarcerated persons  
- 23 cases relate to persons arrested by the security forces but who were then either released or granted temporary release (5 cases noted)  
- 12 cases have been regarded by the security forces as being deceased and 3 classed as missing  
- 16 cases were ultimately removed by unidentified groups  
- 9 cases have been presented by the security forces as relating to family problems (abandoning the family, runaway etc.)”

The research effort into the disappeared led by the ONDH between 1994 and 1998 was restricted to the registration of the cases of disappearances declared by the families and the transfer of correspondence between the latter and the security forces.

The ONDH was then satisfied with the terse replies from the security forces to minimise their responsibility and conclude that “missing person” is classified as one of the following four specific cases<sup>130</sup>:

“- either the person sought by their loved ones went into hiding of their own accord  
- either the missing person was abducted by the armed groups which, because they have not been identified, are mistakenly assimilated as being part of the security forces  
- either the person declared as missing has effectively been the subject of an arrest by the security forces who held them in detention beyond the length of custody defined by the law  
- either the person sought by their family took the initiative to abandon their loved ones, as a consequence of problems or family disputes”.

Denouncing the refusal to conduct effect investigations, families of the missing, witnesses of the arrest of their loved ones by State officials, have continued their search for the Truth. They are especially directed towards the United Nations' international bodies who protect human rights.

124-FIDH “La levée du voile : l'Algérie de l'extrajudiciaire et de la manipulation” [Lifting the veil: the extrajudiciary and manipulation in Algeria], 1997, p. 8. Visited on 02/02/2016 at: [https://www.fidh.org/IMG/pdf/dz\\_femmes1997L.pdf](https://www.fidh.org/IMG/pdf/dz_femmes1997L.pdf)

125-The ONDH was created in 1992 by the presidential decree no. 92-77 of 22 February 1992 relating to the creation of the National Observatory for Human Rights. In 2001, it was replaced by the National Consultative Commission for the Promotion and Protection of Human Rights (CNCPPDH), created by the presidential decree no. 01-71 of 25 March 2001 relating to the creation of the National Consultative Commission for the Promotion and Protection of Human Rights.

126-Currently the Presidential Advisor on human rights and the fight against terrorism  
127-988 cases of enforced disappearances in 1996, 567 in 1995, in 373 in 1994. ONDH, Annual report, 1996, available at: <http://www.algeria-watch.org/mrv/mrvdisp/ondhrap.htm>

128-ONDH, Annual report, 1997, available at: <http://www.algeria-watch.org/mrv/mrvrap/ondh1997.htm>

129-Ibid

130-Ibid

In 1998, the Human Rights Committee took the issue of the missing in Algeria seriously. In their general observations expression at the end of the periodical exam regarding Algeria and the International Covenant on Civil and Political Rights (ICCPR), they expressed they are “[...] 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”<sup>131</sup>.

The Committee therefore recommended Algeria immediately “adopt measures to:

(a) establish a central register to record all reported cases of disappearances and day-to-day action taken to retrace the disappeared;

and (b) assist the families concerned to retrace the disappeared. The Committee further requests the State party, in its next periodic report, to give an account of the number of cases reported, the investigations conducted and the results achieved”<sup>132</sup>.

Following these observations, a first official measure to address the missing persons’ files and identify the victims in a central document was announced in Algeria. In September 1998, reception offices were established in 48 provinces. However, in some regions, according to testimonies from families, the offices declared by the minister were only an address with a closed curtain. Under management of the Ministry of the Interior, these offices were responsible for identifying the families’ declarations and complaints alleging the disappearances. At the same time, a committee created within the Ministry of the Justice was responsible for identifying complaints addressed to the courts and follow up on them<sup>133</sup>.

These measures have not led to any tangible result. Since January 1999, the Minister of the Interior, in an interview with the El Watan daily newspaper, conveyed the idea that the missing were terrorists either killed or wanted by the security forces: “*apparently the majority of cases to which we have responded are persons who took up arms. We have never hidden that there were excessive acts committed. [...] the majority of people who have supposedly disappeared fell victim to operations with the security forces. We continue to think that a number of them are still in the maquis. And such is the situations with the so-called missing persons*”<sup>134</sup>.

On 31 March 2001, after three years of inactivity, the reception offices, according to a declaration made by Yazid Zerhouni, the then Minister of the Interior, had

identified, to the National Assembly, 4,884 cases of disappearances across the whole country<sup>135</sup>. Despite the recommendations of the Human Rights Committee on this matter, the list of the missing was never made public.

In practice, none of these bodies have suggested that in-depth and impartial inquests on the fate of the missing have taken place in this time period, be it at the administrative or judicial level. The Ministry of the Interior’s office receptions are, just like the ONDH previously, satisfied with asking the security forces for information on the missing persons. The responses transferred to the families would mention, with no further detail, that the searches made were to no avail or that the missing person had been searched by the security forces. Some of the responses transferred by the Ministry of the Interior even contradicted those sent by the ONDH a few years beforehand<sup>136</sup>.

The complaints filed before the tribunals have never been any more successful. Although the families are able to provide detailed accounts of the arrests, names of the officials responsible and that the witnesses of the arrest or detention sometimes agree to be interviewed, all of the complaints remain pending or have been dismissed. Not a single missing person, alive or dead, has been located. No law enforcement officer has ever been questioned by the court about a single disappearance.

**B – 2003-2005 – The ad hoc mechanism for dealing with the missing persons: “The State is responsible but not guilty”**

In 2003, the President of the Republic, Abdelaziz Bouteflika, announced the creation of the ad hoc mechanism backed by the new CNCPPDH<sup>137</sup>, which succeeded the ONDH. Temporarily in charge of the 18-month mission, this mechanism’s mandate was to deal with the issue of the missing persons<sup>138</sup>. During a public speech presenting this ad hoc mechanism, President Bouteflika admitted the very little rigour with which the issue of the missing had been dealt with until then:

*“[...] it must be noted that the different public mechanisms which have been implemented successfully since 1995 to put the State’s actions back into place and to allow the files to be dealt with based on the declarations made by the affected families have reached the limits of their efficiency. They have, however, had the advantage of defining the dimensions of this issue. It must be said, though, that managing the files has, to this day, suffered, on the one hand, from the absence of a centre of coordination and drive whose*

131-Human Rights Committee, Concluding observations, Algeria, 18 August 1998, CCPR/C/79/Add.95, § 10  
132-Ibid, § 10

133-A. Bouteflika, “Allocution du président de la République” – Installation du mécanisme ad hoc de prise en charge de la question des disparus [Speech by the President of the Republic – Introduction of the ad hoc mechanism to deal with the issue of the missing], Algiers, 20 September 2003, available at: <http://www.usip.org/files/file/resources/collections/commissions/Algeria-BouteflikaSpeech.pdf>

134-“La solution du gouvernement au problème des “disparus” ? Une déclaration de mort” [The government’s solution to the problem of the “missing”? A declaration of death], Algeria Watch, 21 January 1999, available at: <http://www.algeria-watch.org/fartice/aw/awdisp1.htm>

135-Y. Zerhouni, “Réponse du ministre de l’intérieur et des collectivités territoriales à l’interpellation d’un groupe de députés sur la question des personnes disparues” [Response to the Ministry of the Interior and local authorities to the questioning of a group of deputies on the issue of missing persons], Algeria Watch, 10 May 2001, available at: [http://www.algeria-watch.org/mrv/mrvdisp/zerhouni\\_100501.htm](http://www.algeria-watch.org/mrv/mrvdisp/zerhouni_100501.htm)

136-Human Rights Watch, Time for reckoning: enforced disappearances and abductions in Algeria, vol. 15, no. 2, February 2003, p. 41, available at: <http://www.hrw.org/sites/default/files/reports/algeria0203.pdf>

137-In 2001, the CNCPPDH replaced the ONDH. It was created by presidential decree no. 01-71 of 25 March 2001 relating to the creation of the National Consultative Commission for the Promotion and Protection of Human Rights (CNCPPDH). This decree can be viewed at: <http://www.joradp.dz/HFR/Index.htm>

138-Presidential decree no. 03-299 of 11 September 2003 completing the presidential decree no. 01-71 of 25 March 2001 relating to the creation of the National Consultative Commission for the Promotion and Protection of Human Rights (CNCPPDH), available at: <http://www.joradp.dz/HFR/Index.htm>

aim was to research various solutions and, on the other hand, from a lack of communication with families of the missing”<sup>139</sup>.

In the same speech, the President of the Republic clarified that the ad hoc mechanism was not a commission for an inquest but it was, above all, “a centre of management and an interface between the public authorities and the affected families”. The mandate of the ad hoc commission was therefore limited to “the identification of the alleged cases of disappearance” and “the informing of families of the persons declared missing as the result of searches undertaken and their information regarding the procedures to follow in the resolution of the juridical and patrimonial issues resulting from the different cases”. “Lastly, the mandate stipulates the preparation, in collaboration with the public authorities, of measures of aid and for the benefit of the legal successors of the missing persons”.

Farouk Ksentini, President of the CNCPPDH, was named president of the ad hoc mechanism. Despite the growing number of missing persons declared every year, Farouk Ksentini insisted, halfway through his mandate, on suggesting that the disappearances were isolated cases by State officials and that “the institutions [were] not involved”<sup>140</sup>.

In the summer of 2004, 10 months after its creation, the ad hoc mechanism undertook a national campaign summoning families of the missing. The families from all provinces had to meet, at their own expense, at the CNCPPDH head office in Algiers to fill out a questionnaire entitled a “census form”. The questions asked in this form were essentially connected to the information regarding the identity of the missing person and circumstances surrounding the disappearance. At the end of the questionnaire, the families of the missing were offered a compensation procedure in the following terms: “Would you accept compensation which could be offered to you by the State? (Yes/No)”<sup>141</sup>.

On 9 March 2005, three weeks before the ad hoc mechanism’s mandate ended, Farouk Ksentini revealed in an interview with the daily newspaper La Tribune<sup>142</sup> that the commission had, in the end, identified 6,146 cases of missing persons from “concrete, circumstantial and accurate files”. He then admitted that the ad hoc mechanism had not enabled the establishment of the truth for each case regarding the fate of the missing, owing to the fact that “the persons implicated defended themselves as they all claim that their roles ended with the arrests. The services implicated confirm having released the arrested persons after their questioning and the families confirm that they never came home. It must also be noted that we are not an official institution and we have no judicial power”.

139-A. Bouteflika, “Allocution du président de la République” – Installation du mécanisme ad hoc de prise en charge de la question des disparus [Speech by the President of the Republic – Introduction of the ad hoc mechanism to deal with the issue of the missing], Algiers, 20 September 2003, available at: <http://www.usip.org/files/file/resources/collections/commissions/Algeria-BouteflikaSpeech.pdf>

140-Le Quotidien d’Oran, “L’Etat est responsable mais pas coupable” [The State is responsible but not guilty], 29 July 2004: [http://www.algeria-watch.org/fr/mrv/mrvdisp/5200\\_disp\\_ksentini.htm](http://www.algeria-watch.org/fr/mrv/mrvdisp/5200_disp_ksentini.htm)

141-CFDA “Le projet d’amnistie générale en Algérie” [The general amnesty project in Algeria], press release. Visited on 02/01/2016 at: [http://www.algerie-disparus.org/index.php?option=com\\_content&view=article&id=39:le-projet-damnistie-generale-en-algerie&catid=38:campagnes&Itemid=158](http://www.algerie-disparus.org/index.php?option=com_content&view=article&id=39:le-projet-damnistie-generale-en-algerie&catid=38:campagnes&Itemid=158)

142-G. Hamrouche, “L’amnistie est la meilleure des solutions pour tourner la page” [Amnesty is the best solution to turn a new leaf], La Tribune, 9 March 2005, available at: [http://www.algeria-watch.org/fr/article/pol/amnistie/ksentini\\_tourn-cr\\_page.htm](http://www.algeria-watch.org/fr/article/pol/amnistie/ksentini_tourn-cr_page.htm)

The ad hoc mechanism’s mandate expired on 31 March 2005, the date on which Farouk Ksentini was meant to pass his report and conclusions to the President of the Republic. Once again, neither the list of missing identified by the ad hoc mechanism nor the final report were made public.

Only the statements made by Farouk Ksentini to the press give an insight into the contents of the report. Even though the investigations did not go beyond requesting the implicated security forces for an explication and although he mentioned “a large similarity between the cases”, Farouk assured that the disappearances were not “[...] a deliberate policy but [acts] accountable to certain State officials who acted in a state of distress of excitement regarding the acuteness of the fights they led and which pushed them to act unlawfully and commit excessive acts”<sup>143</sup>.

The president of the National Human Rights Institution even dared attempt to put the importance of several thousands of enforced disappearances into perspective by comparing figures: “Over these particular years, the security forces conducted the arrest of nearly 300,000 people for the logistical or forced support of terrorism. These people have been brought to justice. [...] Of these 300,000 cases, only 6,146 have not been brought to justice. [...] Only a minority of cases are the exception to this rule. This remains minimal when compared to the 300,000 cases brought to justice for assisting terrorists”<sup>144</sup>.

According to the conclusions drawn from the ad hoc mechanism, “the missing are citizens whose safety was not ensured by the State”. For Mr Ksentini, the State’s responsibility is civil and not penal. “The State is therefore responsible but not guilty, that’s the difference”. “The State is responsible for the unlawful acts of its officials, it is in the civil code, and therefore the State must provide material compensation for the prejudice caused to the families if these latter request it”<sup>145</sup>.

From these considerations arose the Charter for Peace and National Reconciliation project subjected to a referendum in September 2005.

#### C – 2005 – National reconciliation: the attempt to close the missing persons’ files in impunity

The Charter for Peace and National Reconciliation was adopted by referendum on 29 September 2005. The Charter was complemented by four implementing provisions which came into force in 2006 reinforcing impunity and organising the compensation procedure for families of the victims of disappearance<sup>146</sup>.

143-Ibid

144-Ibid

145-Ghada Hamrouche, “L’amnistie est la meilleure des solutions pour tourner la page” [Amnesty is the best solution to turn a new leaf], La Tribune, 9 March 2005. Visited on 01/02/2016 at: [http://www.algeria-watch.org/fr/article/pol/amnistie/ksentini\\_tourn\\_page.htm](http://www.algeria-watch.org/fr/article/pol/amnistie/ksentini_tourn_page.htm)

146-Ordinance no. 06-01 of 27 February 2006, implementing the Charter for Peace and National Reconciliation, containing a chapter entitled “emergency policy measure for the management of the missing persons’ files”; presidential decree no. 06-93 of 28 February 2006 relating to the compensation of victims of the national tragedy, presidential decree no. 06-94 of 28 February 2006 relating to State assistance to impoverished families affected by the involvement of one of their relatives in terrorism, presidential decree no. 06-95 of 28 February 2006 relating to the declaration provided for by Article 13 of the ordinance implementing the Charter.

These texts represent the logical completion of a process of impunity which began many years before with the enactment of the law on civil concord adopted by referendum on 16 September 1999<sup>147</sup>. This law already granted exemptions from and reduced punishment to “persons who are or have been implicated in acts of terrorism or subversion who express their desire to cease, in full consciousness, their criminal activity” [Articles 1 and 3]. In 2000, the benefit of the civil concord was extended to combatants of the Islamic Salvation Army (AIS) who, for the most part, benefited from a “pardon-cum-amnesty” by decree no. 2000-03 of 10 January 2000. The Charter’s implementing provisions once again grant the suppression of criminal proceedings of members of armed Islamist groups who have surrendered their weapons, at the exclusion “of persons who committed or were accomplices or instigators of collective massacres, rapes or use of explosives in public locations”<sup>148</sup>.

But this time, the provision goes one step further. It grants legal immunity to the State officials, belonging to any component, who are meant to have committed “wrongful acts” as part of action conducted to preserve the security of people and property, preserve the nation and safeguard the institutions<sup>149</sup>. According to these provisions, all complaints filed against State officials for enforced disappearance must be declared inadmissible by the competent judicial authorities.

Pursuant to the legislative framework of the Charter and its implementing texts, families of the missing, deprived of their rights to truth and justice, could be granted financial compensation in exchange for the provision of a death certificate for the missing. Since 2008, the Algerian authorities recognise the missing persons’ files as closed, with the majority of families having been compensated.

Interviewed by the press on this topic, the CNCPPDH President declared: “we must revert to the fact that the Charter for Peace and National Reconciliation forbids us from even discussing the missing. And therein lies the problem!”, “The Charter possesses the force of the law, we must reread it to understand that the issue of the missing has been disposed of. It is closed”<sup>150</sup>.

## II – The Charter for Peace and National Reconciliation: a violation of the families of the missing’s right to truth and right to full and complete compensation

The provision for national reconciliation prevents all criminal proceedings against those alleged responsible for enforced disappearance. It also blocks all inquests into the fate of the missing from being opened (A). The compensation offered to families of the disappeared in exchange for a death certificate deprives them of their right to full and complete compensation (B). These measures are strengthened by a general prohibition to use freedom of<sup>637</sup> expression to question the official version of History ratified by the Charter (C).

147-Law No. 99-08 of 13 July 1999 relating to restoring civil concord.

148-Article 10 of ordinance no. 06-01 implementing the Charter

149-Article 45 of ordinance no. 06-01 implementing the Charter

150-Ghania Oukazi, “Familles des disparus : un rassemblement dispersé par la police” [Families of the missing: a gathering dispersed by the police], *Le Quotidien d’Oran*, 12 August 2010.

## A – Legal immunity and refusal to conduct investigations: violation of the right to truth

According to the Human Rights Committee, the State Parties may not exonerate perpetrators of acts of enforced disappearances of their personal responsibility by adopting amnesty laws<sup>151</sup>. The State has “a duty to investigate thoroughly alleged violations of human rights, particularly enforced disappearances and violations of the right to life, and to criminally prosecute, try and punish those deemed responsible for such violations”<sup>152</sup>.

Article 45 of ordinance no. 06-01 manages the legal impunity of all State officials supposedly having been involved in an act of enforced disappearance. Article 45 states that: “no legal proceedings may be initiated against an individual or a collective entity belonging to any component whatsoever of the defence and security forces of the Republic, for actions conducted for the purpose of protecting persons and property, safeguarding the nation or preserving the institutions of the Democratic and Popular Republic of Algeria. The competent judicial authorities are to summarily dismiss all accusations or complaints”.

The legal immunity in Algeria existed before 2006 in that no complaint filed by the families of the missing had ever led to the opening of an effective inquest and to the bringing to justice of alleged perpetrators of disappearances. **Since the implementation of the Charter’s implementing provisions, the prosecutors systematically refuse to process complaints relating to an enforced disappearance, be they directed against a named State official, against X or even if they demand the opening of an inquest into the fate of the missing**<sup>153</sup>.

Mrs Boucheref, for example, has never abandoned her right to Truth and has never stopped taking steps to shed light on the fate of her son, and especially to locate his grave. On 25 May 2008, she was summoned by the Hussein Dey prosecutor and was received by the deputy public prosecutor. Despite the accurate testimony by a detainee indicating that her son, Ryad, had died in his cell in the Algiers central police station after being savagely tortured, the deputy public prosecutor forbade her from returning and from filing

151-Human Rights Committee, Findings, Communication No. 1588/2007, *Benaziza v Algeria*, 26 July 2010, para. 9.9; Human Rights Committee, General observation no. 20 regarding Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment), 10 March 1992, para. 15: “Amnesties are generally incompatible with the duty of States to investigate such acts”.

152-Human Rights Committee, Findings, Communication No. 612/1995, *José Vicente et al. v. Colombia*, 19 August 1997, para. 8.8

153-For the Algerian authorities’ failure to conduct investigations on the fate of the disappeared as obliged, see Mouloud Boumghar, “Concorde civile et réconciliation nationale sous le sceau de l’impunité : le traitement par le droit algérien des violations graves des droits de l’Homme commises durant la guerre civile des années 1990” [Civil concord and national reconciliation masked by impunity: the treatment of serious violations of human rights by Algerian law committed during the civil war of the 1990s], *International Review of Comparative Law (R.I.D.C.)*, 2-2015, p. 400-403.

complaints. He provided her with the official report of the statement which stipulated that “*the complainant’s request is no longer within the realm of the prosecutor’s jurisdiction, in that she has taken the procedures provided by the Charter for Peace and National Reconciliation*”<sup>154</sup>.

The prosecutors have also refused all requests to exhume the bodies to identify the victims. As such, in September 2011, the Yahiaoui family received an official report from the Bab El Oued police station informing them that their son, Toufik Yahiaoui, was dead and buried in the El Alia cemetery, in plot number 221, tomb number 60. The family immediately submitted an exhumation request to identify the body to the prosecutor in the El Harrach tribunal, but the latter refused to accept the complaint. The request was therefore filed with the Attorney General in the Algiers court. What’s more, a request for the exhumation of a body was filed at the Algiers court in 2012 by the Bendjael family regarding their son Mourad, missing since 1995, which was never followed up. The family was summoned multiple times and the prosecutor finally advised them to follow the compensation procedure. Another request was filed with the Attorney General and, according to the public prosecutor, the case is ongoing.

The families who had filed complaints have quite often received a decision of dismissal, never explicitly on the grounds of the application of Article 45. Instead of replying to the request, however, the prosecutor ordered the complainant to address the judge for family affairs to commence the compensation procedure provided in Articles 27 to 39 of ordinance no. 06-01 implementing the Charter.

According to ordinance no. 06-01, investigations into the fate of the missing were meant to have been conducted as part of the implementation of the compensation procedure. Article 27 of ordinance no. 06-01 of 27 February 2006 even stipulates in its first paragraph that “*the victim of a national tragedy is defined as any person reported missing in the context of a national tragedy*”. The second paragraph specifies that “*the status of victim of a national tragedy is a result of a certificate of disappearance established by the judicial police following an investigation to no avail*”.

In principle, the certificate of disappearance qualifies, in line with Article 30 of ordinance 06-01, for the drawing up of a death certificate when the missing person has “*no longer given sign of life and [their] body has not been found after investigation by all legal means which were inconclusive*” including researching testimonies and DNA samples.

However, in practice, the families are simply heard by the police services who then do not conduct a single effective investigation. Two to three weeks later, the former are sent a certificate of disappearance which mentions, without any more detail, that the result of the search was inconclusive and the person is declared as missing.

The official reports of the certificate of disappearance are standard documents. The families of the missing have often reported that the police services have refused to provide the certificate of disappearance on the grounds that the missing person is not present on their list<sup>155</sup>.

154-Communication No. 1196/2003, Fatma Zohra Boucherf v Algeria, 27 April 2006; Follow-up to the findings submitted by the author on 30 March 2006 and 11 September 2008

Many families of the missing have received a death certificate, normally provided as part of the procedure offering “assistance to impoverished families affected by the involvement of one of their relatives in terrorism”<sup>156</sup> instead of a certificate of disappearance. These families, out of ignorance or because they are illiterate, have thus collected a death certificate indicating that the missing person “died within an armed group during a violent clash”.

#### B – Financial compensation in return for the drawing up of a death certificate: violation of the right to full and complete compensation

According to line 8 of paragraph IV of the Charter: “*The missing persons are considered as victims of the national tragedy and the legal successors in interest may claim compensation*”. The provision set up by the Charter and its implementing provisions encourage families of the missing to commence the compensation procedure provided for in Articles 27 to 39 of ordinance no. 06-01 of 27 February 2006.

This certificate of disappearance opens the right to file for an application before the competent jurisdiction for the declaration of a death certificate by one of the heirs, any person who would benefit, or the public prosecutor [Art. 32 of the ordinance of 27 February 2006]. Only those in possession of a definitive death certificate can begin the compensation procedure laid down in Article 37 of the ordinance. The drawing up of a death certificate is a difficult step for families who have often been forced into material and financial poverty since the disappearance of their loved ones. In the final observations made in 2008 regarding Algeria’s compliance with the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the Committee against Torture considers making the compensation subject to the drawing up of a death certificate “*could constitute a form of inhuman or degrading treatment*”<sup>157</sup>.

#### This provision does not provide the families of the missing with an appropriate or adequate compensation<sup>158</sup>.

On the one hand, as part of the calculation and payment of this compensation, “*provisions planned by the current legislation are used for the benefit of deceased victims of terrorism*”<sup>159</sup>. The compensation also does not come from equity put together specially by the State to compensate the victims of enforced disappearance.

On the other hand, the amount and form of this compensation is not determined by the injuries suffered by the victim of disappearance and their family, but instead rather represents an assistance awarded in the name of national solidarity than a full and complete compensation. In fact, presidential decree no. 06-93 of 28 February 2006 relating to the compensation of victims of the national tragedy manages the modalities of the calculation and payment of the compensation

155-The police maintains to have a list of missing persons but they have never proven the existence of this list, which cannot be accessed anywhere.

156-Presidential decree no. 06-94 of 28 February 2006 relating to State assistance to impoverished families affected by the involvement of one of their relatives in terrorism

157-CAT/C/DZA/CO/3, § 13

158-For the subordination of the compensation to the establishment of a death certificate as inhumane treatment, see Mouloud BOUMGHAR, “Concorde civile et réconciliation nationale sous le sceau de l’impunité : le traitement par le droit algérien des violations graves des droits de l’Homme commises durant la guerre civile des années 1990” [Civil concord and national reconciliation masked by impunity: the treatment of serious violations of human rights by Algerian law committed during the civil war of the 1990s], *International Review of Comparative Law (R.I.D.C.)* in RIDC.2-2015, p. 403-405

based on the age and profession of the missing person<sup>160</sup>. The compensation is made through the reversion of the missing person's salaries and pensions or through social aid when the latter was unemployed or did not have a retirement fund. Decree no. 06-93 also specifies the categories of legal successors who can claim compensation<sup>161</sup>. We have noticed that male children of missing persons, if they are between 19 and 21 years of age and continue their education, cannot claim compensation unless they have a disability or a medical condition. This provision is particularly discriminatory.

**Moreover, the compensation is not a simple financial compensation dependent on the drawing up of a certificate of disappearance and then a death certificate for the missing person. They are not preceded by any impartial or effective investigation to uncover the true fate of the missing person.**

The authorities have conducted large campaigns for the families to accept the compensation. Police or military police officers regularly went to the homes of the families of the missing unannounced to force them to commence a compensation procedure, presenting it as being obligatory. In certain rural areas, the families were summoned collectively. Mrs Ousserir, mother of a missing person, states that the *daïra* forces in Blida arrived at her home and forced her to board a minibus to be taken to the fields in the commune. The authorities did the same to all families of the missing in the region.

Some families have received, from a court bailiff, a formal notice ordering them to present themselves to the province to commence the compensation procedure. The families were questioned on their reasons for refusing the compensation and encouraged to accept it: *"this compensation is a right granted by the President of the Republic and if you continue to refuse this money, it will be returned to the State's treasury and you will have lost it all"*.

In some cases, the public or judicial authorities have attempted to apply Article 32 of ordinance no. 06-02 which stipulates that *"the legal successors, all interested persons or the public prosecutor may request a death certificate be drawn up"*<sup>162</sup>. Families have therefore been cited to appear before the judge for family affairs following a request from the public prosecutor to draw up a death certificate for the missing person, even if the family was against this.

Mohamed Yekhlief disappeared on 10 January 1994 after being arrested by the security forces at his workplace in Boumerdès in front of witnesses. He was only 25 years old. Since then, his parents have searched for him and, to this end, have requested many times for a legal investigation to be opened, without success. Mohamed's parents have already refused to have a death certificate drawn up to receive compensation. Faced with this family's resistance, the public prosecutor of the Boumerdès tribunal, representing the public prosecutor, was heard by the judge for family affairs at the same tribunal in order to issue the death certificate for missing person Mohamed

159-Article 39 of ordinance no. 06-01 of 27 February 2006

160-Presidential decree no. 06-93 of 28 February 2006 relating to the compensation of victims of the national tragedy manages the modalities of the calculation and payment of the compensation based on the age and profession of the missing person: - Military and civilian personnel in the Ministry of the Defence; Civil servants or public officials; - Aged at least 50, with dependent children and in the private or public economic sector or unemployed; - Not in any of the categories above (pensioners with or without a retirement fund, person was minor at the time of the disappearance etc.).

161-These latter could be: "the spouse; the children of the deceased aged under 19, or maximum 21, if they are continuing their studies or if they are doing an apprenticeship as well as dependent children as per the current legislation and in the same conditions as the children of the deceased; the children, regardless of their age, who due to a disability or chronic illness are unable to pursue permanent gainful employment; the dependent female children of the deceased with no income at the time of the disappearance, regardless of their age; the parents of the deceased".

Yekhlief<sup>163</sup>. The family acted immediately and opposed this request. The judge therefore rejected this request in the first instance on the grounds that the family was against it. But the prosecutor filed an appeal against this decision and the Supreme Court issued the death certificate.

### C – Prohibition of all criticisms towards the authorities

Article 46 of ordinance no. 06-01 stipulates that: *"Anyone who, by speech, writing, or any other act, uses or exploits the wounds of the National Tragedy to harm the institutions of the Democratic and Popular Republic of Algeria, to weaken the state, or to undermine the good reputation of its agents who honourably served it, or to tarnish the image of Algeria internationally, shall be punished by three (3) to five (5) years in prison and a fine of 250,000 to 500,000 dinars."*

This article constitutes a direct threat to whomever wants to publicly denounce the violations of human rights or to start a debate on the issue. Not only does it directly threaten the victims and their families by dissuading them from filing complaints, even in cases of persistent violations of their rights, but it also threatens the reporters who are restricted by self-censorship.

Families of the missing, human rights defenders and all other citizens wanting to search for the Truth behind the fate of the missing are all also discouraged from organising themselves to fight against impunity and to discuss the issue of national reconciliation. As such, on 4 August 2010, weekly demonstrations held by families of the missing every Wednesday in front of the CNCPPDH head office in Algiers since August 1998 were prohibited. Law enforcement officers did not hesitate to use unjustifiable violence against mothers of the missing<sup>164</sup>.

Aside from the weekly gatherings, other demonstrations are organised regularly at certain commemorative occasions. However, **it is often the case that law enforcement use violence to prevent family members from assembling and suppressing these peaceful gatherings.**

162-Article 32 of ordinance no. 06-01 of 27 February 2006

163-This request is based on Articles 114 of the family code and 32 of ordinance no. 06-01 of 27 February 2006 which stipulate that the missing person's death certificate can be issued on request "by one of the heirs, all persons of interest or the public prosecutor".

164-CFDA press release, *Nous ne serons jamais fatigués, nous ne céderons pas, nous n'arrêterons pas : jusqu'à la mort, pour nos enfants [We shall never be tired, we shall never give up, we shall never stop: until we die, for our children]*, 4 August 2010, available on the CFDA website: [www.algerie-disparus.org](http://www.algerie-disparus.org)

# Conclusion and recommendations

## Conclusion and recommendations

The enforced disappearances in Algeria were perpetrated by officials of the State security forces in a generalised and systematic way against the civilian population. In parallel with the anti-terrorist fight against armed Islamist groups, the security forces largely and massively targeted the civilian population suspected of colluding with these groups and of having information regarding them. Tens of thousands of people were arrested arbitrarily, tortured and executed extrajudicially. Thousands of others disappeared following their arrest.

Marie-Monique Robin, comparing the “dirty war” of the Argentinean generals in the 1970s and the “dirty war” of the Algerian generals in the 1990s, talks of the logic of eradication<sup>165</sup>. Although the reasons are different – in the name of national security and anti-communism in Argentina; in the name of defending democracy and anti-integration in Algeria – the logic is the same. In 1975, General Videla declared “*If we must, in Argentina, all necessary persons will die to bring back the peace*”; in 1992, General Smaïl Lamari announced to his men “*I am ready and have decided to eliminate 3 million Algerians if we must to maintain the order that the Islamists are threatening*”<sup>166</sup>.

The policy for the fight against terrorism and subversion drawn up and coordinated by a group of generals within the DRS and ANP<sup>167</sup> was especially based on the principles of the war against subversion. This military doctrine is founded on the idea that the national security is threatened by an “internal enemy” hidden at the heart of the civilian population. Intelligence has a decisive role and all means are allowed to obtain it, the most common one being torture. The war against subversion is also a psychological war. Torture, violent arrests and enforced disappearances are all means of terror on the public in order to discourage them from joining or supporting the armed groups.

The circumstances in which the enforced disappearances – generalised and systematic directed against the civil population considered subservient – were committed in the 1990s in Algeria are classified as a crime against humanity according to Article 7 of the Rome Statute. They show an intention of making people disappear.

The subjective notion of humanity or inhumanity distinguishes the crime against others’

165-Marie-Monique Robin “Escadrons de la mort, école française” [Death squads, the French school], visited on 16/02/2015 at [http://www.algeria-watch.org/fr/article/div/livres/escadrons\\_mort\\_conclusion.htm](http://www.algeria-watch.org/fr/article/div/livres/escadrons_mort_conclusion.htm)

166-Ibid

167-According to the file “Algérie, la machine de mort” [Algeria, the death machine] established by organisation Algeria Watch and Salah Eddine Sidhoum in 2003, this small group of generals comprise of: Larbi Belkheir, Khaled Nezzar, Mohamed Lamari, Mohamed Médiène, Smaïl Lamari, Kamel Abderrahmane among others. According to file no. 6 “les centres de tortures et d’exécutions” [Centres of torture and execution] presented by the Justice Commission for Algeria to the Permanent Peoples’ Tribunal in 2003 “Only a few generals among the powers, ceaselessly since 1992 (essentially generals Larbi Belkheir, Mohamed Lamari, Mohamed Médiène, Smaïl Lamari, Kamel Abderrahmane, Brahim Fodhil Chérif), have an overview of illegal methods [...] used by different branches of the “death machine” which they used against the population”

humanity regarding the bringing into question a fundamental value recognised on the universal level, which is that of human dignity: “*given the fact that the victims of the Nazis were disregarded, humiliated, treated as sub-human which made the inhumanity a constitutional element of the crimes against humanity in the case law of international or national tribunals which was used to try them*”<sup>168</sup>. The inhumanity of the crime is related to, outside of the seriousness which makes it so – here, enforced disappearances – the context in which these acts were committed. By comparing the seriousness of the acts and the extent of the criminal activity, the crime against humanity affects the interests greater than those of the direct victim. It transcends the individual to become a crime against humanity. The humanity denied the victim of the crime is why it affects the entirety of the international community.

The prohibition of crime against humanity is a peremptory standard of general international law, meaning it is accepted and recognised by the international community of States in its entirety as a standard to which no derogation is permitted<sup>169</sup>. It entails, outside of the ratification of any convention, the following binding obligations towards all (erga omnes) which the States have towards the international community: - to not commit a crime against humanity; - to compensate and prevent, by respecting fundamental rights and fighting against impunity, the perpetration of such crimes within their territory.

The key issue which raises the question of the true nature of a crime constituting enforced disappearances in Algeria is one of the fight against impunity. Crime against humanity is not applicable to the statute of limitations<sup>170</sup> and its perpetrators cannot benefit from amnesties: “Impunity arises from a failure by States to meet their obligations to investigate violations; to take appropriate measures in respect of the perpetrators, particularly in the area of justice, by ensuring that those suspected of criminal responsibility are prosecuted, tried and duly punished; to provide victims with effective remedies and to ensure that they receive reparation for the injuries suffered; to ensure the inalienable right to know the truth about violations”<sup>171</sup>

The CFDA considers the Charter for Peace and National Reconciliation and its implementing provisions can be considered as a final regulation on the missing persons’ files in Algeria. This amnesty legislation prevents all criminal proceedings against the alleged perpetrators responsible for the enforced disappearances. It blocks the victims’ right to an effective recourse and deprives them of their right to the truth. It does not in any case guarantee the victims the right to full and complete compensation for the injuries suffered.

168-Mario Bettati “crimes contre l’humanité” [crimes against humanity], visited on 16/02/2016 at: <http://www.universalis.fr/encyclopedie/crimes-contre-l-humaneite/>

169-Article 53 of the Vienna Convention

170-Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, Article 1  
171-Set of principles for the promotion and protection of human rights through action to combat impunity, principle no. 18.

### Demand addressed by the CFDA and the UN Working Group on Enforced or Involuntary Disappearances

The Working Group on Enforced or Involuntary Disappearances (WGEID) adopted in 2009 a General Resolution on Enforced Disappearances as a crime against humanity<sup>172</sup>. In this resolution, the WGEID affirms that in the event of an allegation of enforced disappearance which may constitute a crime against humanity, these allegations will be assessed in light of the provisions in Article 7§1 of the Rome Statute before sending them before the relevant international, regional or national authorities.

CFDA urges the WGEID, whose aim is to monitor the States' respect of the obligations imposed on them by the Declaration for the Protection of All Persons Against Enforced Disappearance, to transfer a general allegation to the Algerian government regarding the issue of the classification of enforced disappearances in Algeria as a crime against humanity.

### Recommendations addressed by CFDA to the Algerian State: expectations of a fair and adequate treatment of the missing persons' files in Algeria

The CFDA reminds the Algerian State of its obligation to implement at national level the regulations and principles of general international law and international law of human rights relating to the respect of the fundamental rights of individuals and in the fight against impunity:

- the obligation to lead in-depth and credible investigations into enforced disappearances;
- the obligation to search for, prosecute and punish perpetrators of the enforced disappearances;
- the obligation to fully and adequately compensate the damages to victims of enforced disappearances and their loved ones. In addition to the financial compensation proportionate to the injuries suffered, the integral reparation includes victims' access to a useful and efficient recourse and respect for the right to truth, referring to knowing the fate of the missing. Furthermore, the measures of satisfaction such as the presentation of official excuses, the erection of monuments and commemorative plaques in the memory of the victims are a symbol of recognition of the injustice faced by the victims;
- the obligation to guarantee the non-repetition of crimes.

The Coalition of Associations of Victims of the Conflict of the 1990s is made up of associations of families of those who disappeared at the hands of the State officials – CFDA and SOS Disappeared<sup>64</sup>

– and associations of the victims of terrorism – Somoud and Djazaïrouna. These associations regrouped in 2006 to form a united front against the impunity of both members of armed Islamist groups and members of the State security forces, perpetrators of serious and mass crimes and violations of human rights in the 1990s. Since 2007, the Coalition has been organising many seminars on the issues of truth, justice and reparation.

In 2010, the Coalition draw up the Charter for Truth, Peace and Justice bill which would be a sustainable alternative to the Charter for Peace and National Reconciliation. The following recommendations regarding how the issue of enforced disappearances in Algeria is addressed are the result of this Alternative Charter for Truth, Peace and Justice (Appendix 9).

### Refusing impunity

1-The competent State authorities must proceed systematically with immediate, full and impartial investigations on each alleged case of disappearance in which the sponsor, instigator, perpetrator or accomplice was a State official or equivalent.

2-All criminal complaint against X or against a State official or equivalent relating to a case of extrajudiciary execution, torture, rape or enforced disappearance must be declared admissible and be subjected to an immediate, full and impartial investigation with the aim of identifying the perpetrator(s) and possible sponsors, instigators and accomplices and with the aim of allowing the relevant jurisdictions to pass a ruling on their individual criminal responsibility.

### Seeking the truth

3-All information collected for legal or other purposes relating to the fate of a missing person must immediately be subject to a full and impartial investigation with the aim of uncovering the fate of the victim and of placing them under the protection of the law if they are alive or locating and returning their remains to their family to provide them with a grave in the event of their death. The victim's family, and possibly the victim themselves if found alive, must be informed of the details and final result of the investigation;

4-The relevant State authorities must locate the mass and individual anonymous graves, identify the persons buried there including using DNA tests, and to return their remains to their families so they can provide them with a grave; the relevant State authorities must especially identify, by all legal means, the thousands of people buried under an X in the 1990s, clarify the circumstances in which these persons were buried in unmarked graves and return their remains to their family;

5-The identification of the persons buried in unmarked graves must particularly be made by searching the archives and collecting testimonies from the security forces, members of the armed Islamist groups who have surrendered their weapons, health professionals, the courts, cemetery staff employed over these years;

6-The relevant State authorities must also create a database to collect, on a voluntary basis, DNA identifiers of family members of the missing regardless of it being at the hands of an armed group or State officials or equivalent. This database could also be used to collect, on a voluntary basis, the DNA identifiers of family members of persons whose loved ones believe could be dead but who had not been buried with their families; this data would be systematically cross-referenced with DNA identifiers of unidentified persons whose bodies have been found;

### Reparation

7-The establishment of Truth and Justice is considered as an essential part of the reparation;

8-The State guarantees the most complete reparation possible for the injuries suffered, especially including financial compensation and a moral and psychological rehabilitation to the victims of the serious violations of human rights committed by the State officials or equivalent and, possibly, their beneficiaries;

### Non-repetition

9-The State announces its commitment to the principles of genuine separation of legislative, executive and judicial powers and implements everything to ensure its citizens access to an impartial and independent justice;

10-The State reiterates its commitment to effectively respect and guarantee the freedom of opinion, expression, association and assembly and peaceful gathering. The State respects and guarantees the freedom of opinion, expression, association and peaceful assembly of those who demand Truth and Justice, especially victims of terrorism and their families and the families of the victims of serious violations of human rights, especially enforced disappearances, committed by the State officials or other group;

11-The State protects victims of the terrorism and their families as well as families of victims of serious violations of human rights committed by State officials against all violations of their physical and moral integrity which they could suffer because of their claims linked to their fate or the fate of their loved ones.

12-Members of the armed Islamist groups having ceased their activity and perpetrators of serious violations of human rights are ineligible and may not be in any political or administrative office.

## Appendices

## Appendices

Appendix 1: The structures for coordination on the fight against the subversion and terrorism involved in enforced disappearances

The information revealed in this appendix has been taken by the files by the CJA presented to the Permanent Peoples' Tribunal in 2004<sup>173</sup>.

According to these files, the mobile, specialised units and local, ordinary units from the different branches of the State security forces cooperated under the coordination of many structures linked to two main branches of the DRS – the Directorate of Counter-Espionage (DCE) and the Central Directorate for Army Security (DCSA)<sup>174</sup> – and ANP<sup>175</sup>:

### The Post of Operational Command (PCO)

The PCO was created at the time the state of siege was introduced, in June 1991, under the name of the core operations command. At first, it was set up at the headquarters of the Algerian Land Forces Command in Aïn Naâdja<sup>176</sup>. In April 1992, the PCO headquarters were transferred to the police barracks in Châteauneuf in the suburbs of Western Algiers.

Officially linked to the Directorate General of National Security (Ministry of Interior), the PCO was actually placed under the command of Colonel Smail Lamari, head of the Directorate of Counter-Espionage (DCE) and no. 2 at the DRS.

The PCO's aim was to coordinate the DRS' actions with the police (DGSN) and the gendarmerie, to collect information and lead crackdown operations. The PCO therefore allowed the DCE to lead greater crackdown operations and to collect information, but also to train police and military police in arbitrary arrests and torture. The practice of torture became widespread in the police stations and the gendarmerie brigades from 1992.

The PCO was officially dissolved in 1998 when the UN panel visited but it is now based in a police centre.

173-CJA "l'organisation des forces de répression" [The organisation of the forces of repression], 2004 and "Les centres de tortures et d'exécution" [Centres of torture and execution], files no. 6 and 16 presented to the PPT in 2004. Can be accessed at: [http://www.algerie-tpp.org/tpp/presentation/dos-siers\\_presentes.htm](http://www.algerie-tpp.org/tpp/presentation/dos-siers_presentes.htm)

174-The three main branches of the DRS are: - the Directorate of Counter-Espionage (DCE) managed by General Smaïn Lamari, DRS' no. 2; - the Central Directorate for Army Security (DCSA) managed by General Kamel Abderrahmane until 1996; - the Directorate of Documentation and External Security (DDSE), also known by the name of Communication and Dissemination Centre which depended directly on the head of DRS, General Mohamed Mediène, known as Toufik. Sources: Justice Commission for Algeria, "l'organisation des forces de la répression" [The organisation of the forces of repression], file no. 16, Permanent Peoples' Tribunal, 2004: [http://www.algerie-tpp.org/tpp/pdf/dossier\\_16\\_forces\\_repression.pdf](http://www.algerie-tpp.org/tpp/pdf/dossier_16_forces_repression.pdf)

175-For the organisation of the State security apparatus and competences of each of the structures of coordination in the fight against terrorism and subversion, see: Justice Commission for Algeria, "l'organisation des forces de la répression" [The organisation of the forces of repression], file no. 16, Permanent Peoples' Tribunal, 2004: [http://www.algerie-tpp.org/tpp/pdf/dossier\\_16\\_forces\\_repression.pdf](http://www.algerie-tpp.org/tpp/pdf/dossier_16_forces_repression.pdf) and Justice Commission for Algeria, "les centres de torture et d'exécution" [Centres of torture and execution], file no. 6, Permanent Peoples' Tribunal, 2004: [http://www.algerie-tpp.org/tpp/pdf/dossier\\_6\\_centres.pdf](http://www.algerie-tpp.org/tpp/pdf/dossier_6_centres.pdf)

176-Mohammed SAMRAOUI, *Chronique des années de sang* [Chronicles of the years of blood], op.cit., p. 316.

In September 1992, a new centre for the coordination of the fight against subversion, this time organically linked to the ANP's Algerian Land Forces Command, was created. This was the Centre for the Conduct and Coordination of Anti-Subversive Action (CCLAS).

### The Centre for the Conduct and Coordination of Anti-Subversive Action (CCLAS)

In July 1992, General Mohamed Lamari was ordered by General Nezzar to implement a new structure for the fight against terrorism and subversion. The CCLAS was operational from September 1992. Organically dependent on the army, the CCLAS headquarters were set up at the ANP's Algerian Land Forces Command in Aïn Naâdja. General Mohamed Lamari was in charge of it until July 1993, when he was named ANP's Chief of Staff of the Algerian Land Forces Command. General Saïd Bey succeeded him as head of CCLAS until May 1994.

The CCLAS consisted of the ANP's special units and members of the GIS from the DRS to make a real specialised army body in the fight against subversion. At the time of its creation, the CCLAS had 4,635 men. Its troops grew progressively especially with the integration of few new special units in 1995. In parallel with members of the Rapid Intervention Group of the gendarmerie and the Central Directorate for Army Security also took part in CCLAS operations. This accounted for around 12,000 men.

The CCLAS was a pillar of repression led against Islamists and the civilian population. The CCLAS did not have its own intelligence service. It was the DRS who held all security information and was in charge of the strategy. As a result, its chiefs never lost their de facto supremacy over the army. As such, the CCLAS soldiers and members of the DRS collaborated closely. Smaïn Lamari (DCE) and Kamel Abderrahmane (DCSA) were in constant contact with Mohamed Lamari (CFT of the ANP) and his senior officers.

On March 1993, the CCLAS's territorial organisation was restructured with the creation of six operational sectors each covering a territory at the heart of the 1st military region (Blida). Each operational anti-subversive centre (COLAS)<sup>177</sup> oversaw, on an operational level for its area of jurisdiction,

the police (security), the military police, territorial army units (soldiers) and later the militia (patriots). The head of the COLAS answered directly to the Algerian Land Forces Command in Aïn Naâdja.

The COLAS collaborated with the Territorial Centre of Research and Investigation (CTRI) in Blida, a branch of the DCE at the first military region level. The CTRI defined their targets and called on the nearest operational centre (COLAS) which sent their teams and ordered other units whether or not to intervene.

177-Operational sector of East Mitidja (SOME) – Operational sector of West Mitidja (SOMO) – Operational sector of Bouira (SOB) – Operational sector of the Hauts plateaux (SOHP) – Operational sector of Aïn Defla (SOAD) – Operational sector of Algiers (SOAL)

### The Territorial Centre of Research and Investigation (CTRI)

The CTRI are branches of the DCE in each of the six military regions. The head of the CTRI answers directly to the head of the DCE, Colonel Smail Lamari. The CTRI in Blida, Constantine and Oran were the most powerful.

According to the PPT file 16<sup>178</sup>, the CTRI played a decisive role in the organisation of the fight against subversion and in the arrests, torture and extrajudiciary executions of thousands of civilians from 1994 until 1998. The military region's anti-terrorist units obeyed them on an organisational level. They also placed collaborators in the administration, the public services and companies.

The CTRI's work relied upon by the regional services of the judicial police, the services of the gendarmerie and the Special Intervention Group (SIG) coordinated by the Post of Operational Command (PCO). According to the file "Algeria, the death machine"<sup>179</sup>, "in the first years of the repression, this centre [the CTRI in Blida] worked very closely with the PCO in Châteauneuf as the majority of the detainees who passed through the service responsible for the fight against terrorism were subsequently transferred to Blida"

Moreover, each CTRI had the regional services of the judicial police in their area of jurisdiction under their command. Former chief sergeant Abdelkader Tigha reports: "The police too – each territorial centre gave orders to the police in its area of competence – acquired experience and started to execute people. The morning after, they met the families who came to complain about the disappearance of their children. The killers themselves filed a report on the disappearances they reported"<sup>180</sup>. At the CTRI in Blida, the judicial police had the following at its CTRI premises: an 'exploitation' office (for questioning), a 'treatment' room (for torture) and jails<sup>181</sup>.

### The Main Military Investigation Centre (CPMI)

The CPMI was linked to the Central Directorate for Army Security (DCSA) of the DRS, the second directorate after the DCE. The CPMI, whose head office is located in Ben Aknoun (in the outskirts of Algiers) and was, between 1990 and 2001, led by Colonel Athmane Tartag otherwise known as "Bachir", current head of the DRS having been succeeded in September 2015 by General Mohamed Mediène otherwise known as Toufik. Since 1992, the CPMI has been in charge of secret operations to repress those suspected of supporting the FIS within the different branches of the army. In 1993, its efforts continued into the elimination of civilians. The CPMI in Ben Aknoun was also one of the main secret detention, torture and execution centres in the 1990s (see section III on the centres of detention). The Military Investigation Centres (CMI) branches of the CPMI in the six military regions were merged in March 1993 with the Research and Investigation Centres of the DCE to form the CTRI (see above).

178-CJA, "L'organisation des forces de répression" [The organisation of the forces of repression], September 2004, p. 20, visited on 02/02/2016 at: [http://www.algerie-tpp.org/tpp/pdf/dossier\\_16\\_forces\\_repression.pdf](http://www.algerie-tpp.org/tpp/pdf/dossier_16_forces_repression.pdf)

179-Algeria Watch, "Algérie, la machine de mort" [Algeria, the death machine], 2004. Visited on 02/02/2016 at: <http://www.algeria-watch.org/>

fr/mrv/mrvrtort/machine\_mort/machine\_mort\_rapport\_3.htm

180-CJA, "L'organisation des forces de répression" [The organisation of the forces of repression], September 2004, p. 30, accessed on 02/02/2016 at: [http://www.algerie-tpp.org/tpp/pdf/dossier\\_16\\_forces\\_repression.pdf](http://www.algerie-tpp.org/tpp/pdf/dossier_16_forces_repression.pdf)

181-Ibid

### Appendix 2: Testimony of the harassment and torture suffered by the family of the missing Mohamed Mehalli

Mohamed Mehalli's family consists of five girls and three boys. They lived in the Algiers suburbs, in the working-class district of Oued Ouchayah in Bachdjerrah, and, together with Cherif Mehalli's family, Mohamed's brother, shared a house they inherited from their parents. From 1993, Cherif Mehalli was sought after by the authorities after having fled his house<sup>182</sup>.

The security services went after Mohamed Mehalli's young sons who were beaten up, arrested arbitrarily and detained in secret, tortured and who were both solicited to becoming informers and encouraged to run away to the maquis.

The two older sons, Badrane and Abderrahmane Mehalli were arrested several times from 1993. Badrane eventually ran away in 1994.

Bedrane Mehalli, Mohamed Mehalli's eldest son, was arrested for the first time in 1993. He was detained for two days at the Leveilley police station in El Makkaria. He was ill-treated but it was during his second arrest, three months later, when he was savagely tortured at the Hussein Dey police station. With no food or water, he spent 4 days sitting in a chair with his hands handcuffed behind his back, subjected to beatings from the officials. When his father, Mohamed, was transferred to the police station, the police officers confirmed Bedrane had been detained: "We are keeping him hostage until Chérif turns himself in," said one officer.

Bedrane was eventually released but he was subsequently constantly arrested by the police who would take him away as soon as he crossed their path, detain him for many hours, hit him and question him on the terrorists of the region. The Leveilley police officers then asked him to collaborate with them; they wanted him to become their informer. Bedrane felt as if he had been taken hostage: if he denounced terrorists, he would be risking his life, and if he did not denounce them, he would also risk being killed by the security forces. Unable to cope with this harassment, Bedrane, one day in 1994, said to his family, "I'm leaving, don't look for me!". He was never seen again.

During this time, the area became what is referred to as a "troublesome area": mass arrests were being conducted, the young people were arrested and tortured to extort information from them regarding terrorist groups. Security force operations often resulted in extrajudiciary executions.

Atik Mehalli, son of Mohamed Mehalli and Bedrane's younger brother, was an apprentice at a training centre to become a construction electrician. On his way to school, he was always subject to police checks, in the bus or at a roadblock, the officers recognised him and would say "ah yes! Mehalli, it's you!" and would be beaten. One day in 1994, he accidentally fell from the deck and fractured his right

182-Cherif Mehalli worked as a court clerk at the Hussein Dey tribunal where he was highly esteemed. In 1992, members of the Islamic Salvation Front (FIS) approached him and showed him a "notice" with a death threat if he did not quit his job. At the time, FIS members forced civil servants to resign from their government positions. Frightened, Cherif requested sick leave which he renewed for three months. This is the reason for his arrest at the Mehalli's home in the middle of the night. He was violently tortured for eight days before being released. When police officers returned to arrest him two months later, he had used that time to run away. He then returned to collect his belongings and said to his family: "I've decided to leave, wish me death [...]"

"[...] in any case, you will no longer be harassed by the police."

hip. He was hospitalised on two occasions and despite two surgical procedures, he retained a limp.

On 15 July 1996, police officers led by an officer named Saad, sadly known in the area for his acts of violence and abuse, arrived. As usual, all the young people of the area ran away and sought refuge in their homes. Atik could not run as swiftly as the other adolescents. He ran, grasping his right hip and, according to neighbours who witnessed the scene, the police officers believed he was concealing a weapon. They riddled him with bullets. Atik died instantly at the age of 17.

The youngest of the family, Abderrahmane Mehalli, however, was arrested for the first time in 1993 at the age of 15. He was harassed up until 1997, arrested for several days and questioned on his Uncle Cherif and brother Badrane and then released. In 1997, he was eventually sentenced to five years in prison for belonging to a terrorist group. According to one of his sisters, who was also arrested and tortured in 1998, at the same time that her father disappeared, the police wanted to make Abderrahmane so crazy that he would leave for the maquis. She recalls the day where one of the police officers told her that he knew that Abderrahmane had done nothing wrong and they would arrest and then release him as many times as they wanted so that he would eventually run away from home, be prosecuted and one day be shot dead.

Mohamed Mehalli, the father of the family, was arrested for the last time on 29 June 1998. Having been arrested regularly beforehand, Mohamed had likewise been tortured at his home by the police. On 30 June 1998, his wife and two of his daughters were also arrested. They were brought to the Châteauneuf barracks where Mohamed was and where they were tortured. They were released after eight days, without Mohamed. They then subsequently learnt that Mohamed had allegedly succumbed to the torture and had been buried under “X Algerian” in the El Alia cemetery in Algiers. They have the number of the tomb but have never seen the missing person’s body.

On 29 June 1998, at around 7 am, my father drove his car towards Bachdjerrah to make some purchases. It was on this day that the military security took both him and another person at around 9.30 am. This is what we were told by those who informed us of my father’s arrest. On the same day, soldiers and men in civilian clothes in grey Nissan cars came to our home, at around 11 am. They broke down the door of the house in which we lived. They searched the house and didn’t find anything. One of the soldiers took a family photo album with him. They demanded to know where my father was and we told them that he was at the market in Bachdjerrah. That day, we waited for my father but he never came home. We were all alone in the house: my mother, my widowed sister with her 4 year old child and me.

The following day, on 30 June 1998 at 5 pm, five members of the military security took us by surprise by knocking at the door and telling my mother “you want to see the old man, come with us”. They had us climb into a white van. My sister left her 4 year old son behind in shock as he wanted to come with us but the military security wouldn’t let him. In the van, they ordered us to lower our heads and put blindfolds over our eyes to not see where we were going. Every now and again, I dared to lift my head discretely to see where they were taking us. I eventually noticed that it was to the Châteauneuf barracks, whose doorway was blue and entrance very vast when they opened it. They put each of us in a cell.

It was impossible to breathe in the cells as they smelled so bad. There was blood on the walls and only a tiny window which only the guard could open. It looked as if other people had passed through here before. The doors were made of iron, just like in a prison. It was impossible to run away. Before entering the cells, they ordered us to remove our hijab, headscarf and even rings and shoes.

After a quarter of an hour, we began to hear cries from people who were just next door to us. I was the first to be taken into a room. The guard forced me to blindfold my eyes and to walk straight ahead towards a room which was not far away, just next door. After removing the band from my eyes, I saw that there were benches and a cement table in the room. A soldier started to slap and hit me. He wanted me to cry out for my father to hear. The slaps continued until I fainted. At this moment, the soldier asked the guard to take me into the cell and to bring me back when I had woken up. When I had been returned to my cell, it was my mother’s and then my sister’s turn. They tortured my sister on the cement table in the middle of the room. They had her lay down on top and tied electric cables to her feet to give her electric shocks.

### Appendix 3: Testimony of Sid Ahmed Aber, held in the Southern camps

In the night of 9 February 1992, Sid Ahmed Aber, former General Secretary to the Bir El Djir town hall in Oran, was arrested at his home by plain-clothes members of the military security. He was taken to the Oran police station in an unmarked car. Some officials, armed with batons, iron bars and pipes, subjected him to an “aggressive” interrogation, trying to intimidate him into admitting belonging to armed groups. Sid Ahmed Aber denied this and assured them that, although a former FIS activist, he had renounced his membership to the political party in June 1991. Beaten and tortured for many hours, he eventually made false confessions and signed the written statement of his testimony without even understanding the contents.

I heard them torture my father and ask him where they could find his son and my brother, Bedrane, who had moved out of the house. They never found anything in our home, not weapons, not anything.

The following day, on 31 June, my sister saw me, my face was swollen from the beatings, I could no longer move my jaw. We spent eight days at Châteauneuf. They kept my father for all this time. He was the oldest person in the prison.”

Testimony collected by SOS Disappeared from the daughter of the missing

He was locked up for three days in a cell in the Oran police station before being transferred with a hundred other detainees to barracks around 20 km from Oran where they spent the night. They were then transported by military planes, usually used for transporting troops, to the security camp in Reggane, 2,000 km south of Algiers.

The camp was located in empty and sandy ground, enclosed with barbed wire. 3,317 prisoners were detained here. 217 tents of 8 m2 were intended to each accommodate around ten prisoners. The sanitary facilities were non-existent, diarrhoea and dysentery spread throughout the detainees who were forced to defecate under the mockeries of the soldiers. Throughout his detention, Sid Ahmed Aber assisted in the many cases of torture and extrajudiciary executions, especially those of Mr Merah and Mr Sidi Bellabes, an elderly man and a disabled man.

On 27 June 1992, after 5 months of detention in the Reggane camp, Sid Ahmed Aber was transferred by plane to the Oued Namous camp. The prisoners were confined in solid blocks in which a few cells of 20 to 30 m2 in which 30 to 40 prisoners were crammed. Sid Ahmed Aber was detained in block A. He spent 20 months in Oued Namous where living conditions, food and hygiene were very difficult. In October 1993, authorisations to visit granted by the chief of police to the families of the camp’s detainees were suspended.

However, on this date, Sid Ahmed Aber was secretly transferred to the camp otherwise known as Tamanrasset in the Ain M’Guel commune. He was transported with other detainees by military plane, bound hand and foot and handcuffed. He was in this camp for 22 months. The soldiers aimed their guns at the detainees, bursts of machine-gun fire, meant to intimidate them, could be heard often.

Sid Ahmed Aber was finally released on 23 November 1995 following the amnesty decreed by President Zeroual and the camp’s closure. It is believed that he had spent 3 years and 9 months in total in detention without any decision having been made whatsoever by a judicial authority. Once freed, Sid Ahmed Aber was placed, along with all detainees released from the camp, under judicial control, deprived from his civil rights and subjected to harassment by police officers from the Oran police station.

On 11 October 1997, Sid Ahmed Aber was arrested once again by members of the military security (DRS) in Oran. He remained detained in secret at the Magenta Centre (DRS barracks) in Oran, where he was subjected to great torture, up until March 1998. He has retained serious physical and emotional damage from these successive periods of detention.

(Testimony from the communication regarding Sid Ahmed Aber versus Algeria filed with the UN Human Rights Committee

#### Appendix 4: Testimony of the disappearance of Djamel Saadoun, 29, student and deferred conscript of the national service, El Biar, Algiers

Djamel Saadoun was a PhD student in general mechanics and assistant professor at the polytechnic university in El Harrach (Algiers). For his studies, he was granted a deferred military conscription. Furthermore, he had just received a positive reply to his request for funding and he had intended to move to France to continue his studies.

On 7 March 1996, Djamel Saadoun received a letter informing him to immediately contact the Bouzareah gendarmerie on whom he relied to perform his military service. That same day, at 5 pm, Bouzareah military police came to his home armed with an order for enlistment in his name and ordered him to follow them to join the ranks.

Djamel Saadoun was driven to the Bouzareah gendarmerie where he spent the night. He was then taken to the transport barracks, in the Blida province. During this detention, which lasted around a week, his cousin, who lived nearby, came to visit on several occasions. Djamel gave her the number under which he was registered with the military services: 87/161/06/576.

During this detention period, Djamel wrote three letters to his family: on 25 March, 9 April and 4 May 1996. These letters allow us to track in detail the events leading up to his disappearance.

In his first letter, Djamel informed his parents that on 14

### Appendix 5: Testimony of the harassment suffered by the Bouaroura family

March 1996, he was driven, with various other enlisted men, to the transport barracks of the Boufarik military airport where he board a military plane headed to Bechar. He is claimed to have spent 4 days there during which time he supposedly had a medical check. He was then meant to dress in the military uniform given to him. He was then transported by coach to Abadla, around 90 km south of Bechar. Djamel and his fellow detainees were housed for two days in chalets belonging to the Sahrawi people from the Front Polisario, whom had been offered asylum by Algeria. They were then taken to a centre where there were tents as far as the eye could see. (...)

In his second letter from 9 April 1996, Djamel insisted that he had no idea how long the training would last and that "things [were] very unclear [on this topic]". He passed on the coordinates for the barracks where he was stationed: B.P. 01A E.R.G FERR ADJ ABADLA 08220 BECHAR.

In his final letter from 4 May 1996, Djamel Saadoun noted that he still did not know when his training would end and that his period of assignment was set for the end of the May 1996.

In June 1996, Djamel's mother, Mrs Saadoun, received a call from one of her son's friends who was performing his military service at the same barracks in the same branch. He informed Mrs Saadoun that Djamel was no longer with them. He had learnt that the regiment's commanding officer, had requested that Djamel prepare to leave and he had not been seen since.

Djamel is said to not have been the only one to have been taken away. Vans awaiting them at the entrance to the barracks were completely full.

#### Testimony collected by CFDA from the family of the missing

##### Bouaroura family, Kouba, Algiers province

One night in the month of Ramadan, in February 1994, armed, masked police officers (ninjas), accompanied by plain-clothes officials, surrounded the house before sunrise. They had come to look for Hamid, one of the sons suspected of belonging to an armed group. The police officers broke everything as they rummaged through the house. As Hamid was currently out, they arrested the father, Rachid, and one of his brothers, Karim, aged 20. Both were brought to the Châteauneuf barracks where they were detained in secret and tortured. They eventually confessed having received armed individuals at the house, friends of Hamid. They were then taken before a tribunal which found them guilty of complicity with an armed group. Rachid and Karim were each sentenced to

3 years in prison to be served in Serkadji, Beroughaia, El Harrach and Mostaganem.

On Hamid's return, his mother begged him to turn himself into the police. Hamid became scared and ran away, never to be seen again. A police officer then told Hamid's mother on several occasions that he had killed Hamid himself.

From this moment on, the police did not stop coming to the house regularly, at all times of the day and night. They jumped over the wall of the house by climbing up an electric post and getting into the inside courtyard through the terrace. They threatened all the family members with their weapons, hitting them and humiliating them. Sometimes, they came during the day, parking their cars in front of the house and entering through the front door. It was always the same police officers who kept coming back. Even whilst wearing masks, the family members recognised their voices. They stole numerous valuable objects, jewellery, photos, money and even the father's souvenirs from his trip to Mecca.

When the police invaded the house in the middle of the night, they regularly embarked with Yacine, the youngest at age 15, in his night clothes. The other sons were incessantly summoned to the police station or arrested in the street and detained for a while before being released. This harassment lasted many years and only stopped when the father was released in March 1997.

In the night of 17 November 1994, during an operation by the same police officers at the home, Nourredine and Djamel Bouaroura, respectively 16 and 21, were arrested. Their mother, despite her searches, was never able to find out what happened to them.

Then on 27 March 1995, Mohamed Bouaroura, 19, was injured by a bullet shot by the police who had threatened to kill him if he did not turn himself to the police station. The officials took him in that condition. When his mother went to the Kouba hospital to see her son, the staff treating him informed her that the police who had brought Mohamed had then returned to take him away again. The mother then searched everywhere for her son. Although Mohamed's name was not listed on any register, the Bologhine morgue informed her that he was buried at the El Alia cemetery (Algiers). She never saw her son's body, however the Kouba town hall confirmed that Mohamed's death had been registered with the civil registrar.

At the end of 1995, officials wearing the same uniforms as those who had come in the night, but without balaclavas, came to deliver a summons to Mrs Bouaroura to come to the Kouba police station. She went with her daughter-in-law. She was placed in front of a wall full of photos for her to point out the

people she knew. She did not know anyone. She was threatened of being placed in detention if she did not talk. An official also told her that he did not know where her son, Hamid, was but that he would “bring him back in a coffin”. The mother was at the police station from 9 am until 4 pm.

The Bouaroura family explains that at the time, the area in which they lived was a “troubled area”, there were many clashes between terrorists and the security forces. Raids on citizens were also conducted on a regular basis.

Testimony collected by SOS Disappeared from the family of the missing

#### Appendix 6: The timeline of enforced disappearances in Gué de Constantine between August and November 1996

In Gué de Constantine, in the space of four months between August and November 1996, 31 persons disappeared following their arrest. The majority of the arrests took place during sweeps conducted at night by soldiers, led by Captains Gendouz and Tarhaoui, supported by the military police and patriots who identified the homes and people to arrest.

##### August 1996

The night of 3 August 1996, a first large sweep operation took place in various ghettos of Gué de Constantine and Aïn Naadja. Around a hundred people are said to have been arrested. Seven of whom, two brothers Abdelaziz et Mohamed Bousbaa, Amar Lalaoui, Amar Yaghoub, Sid Ali Khamellah and Sid Ali Cherfaoui were never released

At 2.30 am, masked soldiers, armed to the teeth, stormed the Bousbaa household. The area was surrounded by unregistered large vehicles and tanks. The home was searched room by room. Jewellery was stolen. After checking their family record book, the soldiers arrested the two brothers Mohamed and Abdelaziz Bousbaa and took them with them.

At 3 am, four armoured Nissan vehicles blocked the street where the Yaagoub family lived. Captains Gendouzi and Tarahoui were on location. A patriot, military police officer and three DRS plain-clothes agents forced Amar Yaagoub to leave his home, without his shoes and without his papers, under the pretext of needing ten minutes of his time. His family never saw him again. At around the same time, a dozen soldiers accompanied by three patriots climbed over the wall of the Lalaoui family’s home, the Yaagoub’s neighbours. They searched the room, breaking and stealing objects and money, before escorting Amar Lalaoui with them.

Testimonies collected by SOS Disappeared from families of the missing

That same night, the Khamellah family’s home was invaded. The house was searched and their money and jewellery was also stolen. Whilst escorting out Sid Ali Khamellah, the soldiers assured his mother that they would be questioning him before releasing him, but she never saw him again. A few buildings away, soldiers accompanied by two patriots entered the Cherfaoui family’s home by breaking down the door. Without giving a single explanation, the soldiers took Sid Ali Cherfaoui with them.

Eight days later, on 11 August 1996, a new sweep operation took place in the middle of the night in the Diar El Khedma ghetto. Toufik Bala, Bouzid Meziane and Sid Ali El Garoui, each arrested at their respective homes, all disappeared that night.

At the El Garoui family home, a dozen officials entered led by patriot Den-dani whilst soldiers waited downstairs. They demanded to see Sid Ali, who was immediately hit with the butt of a Kalachnikov. The home was searched thoroughly. The doors, beds and windows were smashed. Sid Ali El Garaoui was escorted away in pyjamas and barefoot.

Testimony collected by SOS Disappeared from the family of the missing

In the same ghetto, Smaïl Hamdi was arrested in the middle of the night by soldiers and military police on 21 August 1996. On 29 August 1996, it was Ali Benidir’s turn to be taken away by the patriots, which happened on the street near the pharmacy. He was then transferred to the Aïn Naadja barracks to be questioned by Captain Guendouz.

##### September 1996

A few days later, on 4 September 1996, the ghetto Sonelgaz was surrounded from 6 am until 12 noon by soldiers, including Captain Guendouz, as well as police officers and military soldiers, all accompanied by patriots. All the residents were ordered to exit their homes. Many people were handcuffed and escorted away. Youssef Didi and Lamouri Khobizi disappeared following their arrest. Four patriots in military uniform entered the Didi family home whilst the military police waited outside alongside two military vehicles. One of them, masked, pointed out Youssef Didi, who was sleeping in the living room, to Captain Guendouzi, saying “that’s him”. Youssef was taken away.

*Lamouri Khobizi was arrested at 7 am whilst on his way to work with his brother. A little while after parting ways with his brother, who left in a different direction, Lamouri was arrested at a military roadblock which surrounded the area because of a sweep. Also coming face to face with a roadblock, the brother decided to turn back. That was when he saw Lamouri, handcuffed in wire iron, further down from the house. He remained on his knees against a wall, alongside Youssef Didi, for two hours before they were both taken away.*

Testimonies collected by SOS Disappeared from families of the missing

In the second half of the month, from 15 till 28 September 1996, four more people disappeared: Zidane Bouchekima, arrested at his workplace by plain-clothes officials who demanded to see him and two of his colleagues; Mohamed Hireche arrested at his home in the middle of the afternoon by military police and patriots who escorted him away in a G9 vehicle which was later parked in front of the APC; Djillali Haider arrested by patriots in a cafe; Ramdane Roubi arrested at his home at 4 am by soldiers.

#### October 1996

At the beginning of October 1996, Tayeb Saï was arrested at his home and Brahim Rouabha was apprehended 15 days later in the street by patriots. Both disappeared shortly after their arrest. Sebti Rouabha, Brahim's brother, also disappeared a week later, on 22 October 1996. Whilst he was unloading one of the factory's vans, he was taken away, in front of his colleagues, in an unmarked vehicle by armed plain-clothes officials.

In the meantime, in the night of 19 October 1996, in the Casenave ghetto, two brothers Abdelaziz and Lakhdar Bachiri were arrested along with Mohamed Meslem during a sweep operation and all disappeared

#### Around forty soldiers surrounded the street. At around

11.30 pm, the two Bachiri brothers were arrested at their home in front of all the family. Mohamed Meslem, a young doctor, was accused by the patriots, with whom he had his differences, of treating terrorists. One of Mohamed's brothers had denounced to the gendarmerie the thefts which the patriots had committed during a search of their house. Having been arrested a few days before Mohamed, this brother was detained for seven months before being tried and acquitted. Mohamed, however, disappeared.

Testimonies collected by SOS Disappeared from the family of the missing

#### November 1996

In the night of 3 November 1996, soldiers, led by Commandant Tarhaoui, and patriots who were well-known by the family, stormed the Benmesrouk family home at 1 am. A dozen soldiers entered the house by force with great violence and did not hesitate to hit the mother. They rummaged throughout the whole house without finding anything, took the family record book and ordered everyone to gather in one place. They called out the family members one by one. Khaled, the one they were searching for in particular, was missing from their roll call as he was spending the night at his aunt's as the family-run cafe, which he ran, closed late. The soldiers therefore took the young 19 year-old brother to take them to Khaled. Once there, the brother was released and they escorted Khaled Benmesrouk away. Khaled disappeared soon afterwards.

In the nights of 7 and 8 November 1996 in the Casenave ghetto, 16 people were arrested during a sweep operation by soldiers, "ninja" police officers and patriots. Eight people disappeared: Saffiedine Bourezgue, Ahmed Goumri,

Mohamed Ferrahi, Abdelkader Bouazzara and his neighbour Djamel Boudjemaâ, Abdelkrim Kocheida and two cousins Mohamed et Djamel Kobbi. One of the detainees released the following day states that they were transported in a G5 van, lying flat on their stomachs, to Ben Aknoun. They were locked up in new cells. They were then forced to remove their clothes before being taken into a room, blindfolded, for questioning. They were asked if the terrorists came to their district, if they saw them, etc. The interrogation took four to eight hours in the morning. This person was released at around 3 pm in the Ben Aknoun park, whilst blindfolded.

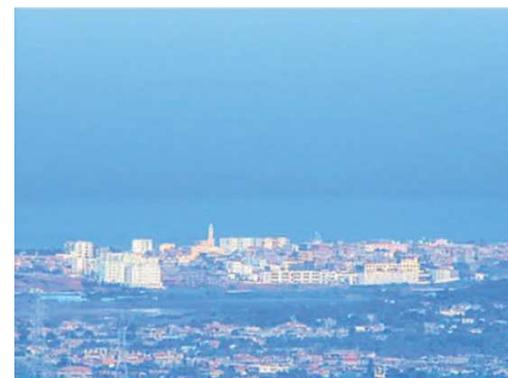
#### Appendix 7: The sweeps in El Kennar Nouchfi and El Emir Abdelkader – Jijel province

The coastal market town El Kenna Nouchfi, in the Jijel province, counts 59 missing persons. This ranks it the 9th Algerian commune where CFDA has identified the most missing persons. The disappearances practically all took place during three sweep operations led by the soldiers and military police: - 18 missing during the day of 8 April 1995; - 13 missing between 30 August and 4 September 1995; - 12 missing in the night of 20 to 21 August 1996.

The commune of El Emir Abdelkader, located at around 20 km away, has 35 missing persons. 18 of these were arrested over the course of two sweeps led in the nights of 19 to 20 and 22 to 23 August 1996.

In all probability, these are the same perpetrators as those who made the arrests and then the transfer of missing persons during the sweep operations in El Emir Abdelkader and El Kennar Nouchfi in the nights of 19 to 20, 20 to 21 and 22 to 23 August 1996.

#### The enforced disappearances in El Kennar Nouchfi



El Kennar Nouchfi, wilaya de Jijel



El Kennar Nouchfi, Jijel province

On 8 April 1995, following a clash between soldiers and an armed group in the neighbouring maquis to El Kennar Nouchfi, the soldiers and military police surrounded the commune, with the help of tanks, vans and armoured 4x4 Toyotas. From 7 am until late at night, they conducted a large sweep operation. The houses were searched, jewellery and valuable objects were stolen, furniture, windows and doors were smashed. Some families of the missing tell us of the presence of an informer who identified the addresses of the houses.

Around fifty people, either arrested at their homes or in the street, were then taken by the gendarmerie brigade before being transferred either to the military barracks in the Taher commune or the military sector in Jijel. The first persons arrested in the street early in the morning were transferred that same morning in 4x4 Toyotas. The other persons, who were many more, arrested in the night were sent in military vans at around 1 pm the following day. Mother of missing person Youcef Laaredj followed her son and waited for him outside the gendarmerie. She saw with her very own eyes the military police forcing him into a military van along with other detainees.

A few days later, around thirty people were said to be released whereas 18 are still missing today. Those who were released have confirmed that the missing were part of the convoys being transferred to the military sector in Jijel.

A few months later, between 30 August and 4 September 1995, 13 more missing persons were arrested at their homes (7), outside (3) – on the street, at a roadblock, in a cafe – or at their workplace (3). Eight of the missing from this series of arrests had family links with the missing from the raid of 8 April 1995.

The enforced disappearances in El Kennar Nouchfi during the month of August 1996



El Emir Abdelkader, Jijel province

In El Emir Abdelkader, the families of the missing report that, several days before the raids led by the soldiers and military soldiers on the nights of 19 to 20 and of 22 to 23 August 1996, a meeting had been organised by the APC. Lists of residents were drawn up at this meeting at the instruction of people forced to give names. On the night of 21 to 22 August, a raid was also conducted by soldiers in El Kennar Nouchfi. 30 people disappeared in this way in the space of three nights in these two communes.

In El Emir Abdelkader, those who were arrested were transported in a local bus commandeered for this operation. They were taken to the head office of the gendarmerie before being transferred to the barracks of the military sector in Jijel. According to the testimonies of former detainees who were subsequently released, the missing were then transferred to the military sector in Jijel to temporary military barracks built in the area of Bellara, a locality of the El Milia town, around 50 km from Jijel. A soldier posted to these barracks is also said to have confirmed that detainees were executed here. The residents of the surrounding area also heard gunfire at night. According to what has been said, the soldiers are meant to have prepared a trench in the middle of the barracks before lining up the detainees in front of it and firing at them with machine guns. The missing are said to have been buried with the help of a bulldozer.

The temporary military barracks in Bellara have since been destroyed. In 1998-1999, when the NGOs were alerted to the existence of a mass grave in the Bellara area and visited the site, this was moved with the help of local machinery.



Bellara industrial zone where the temporary military barracks were located and where the missing from El Emir Abdelkader and El Kennar Nouchfi are said to have been executed.

#### Appendix 8: Testimony of the torture suffered by Merouane Bendjaël, brother of a missing person

In May 1994, I was arrested at our home in Algiers Centre at 2 am. Eleven Nissan vehicles, belonging to specialised anti-terrorism units, surrounded the area. The officials claimed they were looking for my brother Mourad and began a search. Mourad had been arrested in the street in the Algiers city centre by plain-clothes officials four days earlier. After having questioned my family about me, the officials arrested me. They escorted me away with eleven other people from the district.

They drove me to the Châteauneuf barracks in Algiers. I was kicked and then taken to a room which had a sink and a bench anchored to the ground. I was again assaulted, this time with an iron bar. I then lie down on the bench and the executioners gave me electric shocks. Then came the torture with rags. Whilst I was lying on my back, wrists tied up, they inserted a mop soaked in liquid into my mouth until I was choking. I was then dragged to the sink where I was forced to drink litres of water before they jumped on my stomach with their knees. I threw up and the whole thing began again. Seven people beat me with anything they could get their hands on. I fell into a trance. I was subjected to 2 to 4 hours of torture a day for four days. They then threw me into a cell and I was no longer subjected to torture.

As soon as I arrived in Châteauneuf, a friend who had been arrested with me told me that my brother, Mourad, was tied to a radiator pipe in the hallway. He was in a very bad way.

Fifteen days after my arrest, they took me into an office. An officer called Messaoudi held a gun to my temple. Some officials came

into the room with my brother. He was unrecognisable. They ordered him to talk under the threat of killing me. The officer finally pulled the trigger, but the magazine was empty. The officials took my brother away and the officer said to me “you see, your brother is a fraud, he doesn’t care about you at all”.

I remained detained in secret for 35 days at Châteauneuf, most likely the time it would take for the traces of torture to fade away.

I was presented before the Abane Ramdane district court on 12 June 1994. I was then remanded in custody. I was sentenced to five years in prison. I was acquitted on appeal. We never saw my brother Mourad again.

Algiers, 10 September 2007

*Testimonies collected by SOS Disappeared from Merouane Bendjaël, brother of the missing*

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