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REFERENCE: cc/jmn/fg/follow-up/CAT

20 November 2009

Your Excellency,

In my capacity as Rapporteur for Follow-up on Concluding Observations of the United Nations Committee against Torture, I refer to the examination of the third periodic report of Algeria (CAT/C/DZA/3) held at the Committee's 40<sup>th</sup> session from 28 April to 16 May 2008. At the end of this session, the Committee's Concluding Observations were transmitted to your Permanent Mission. In paragraph 26 of those concluding observations, the Committee asked, pursuant to its rules of procedures, that Algeria provide further information regarding areas of particular concern identified by the Committee in its follow-up procedure as contained in paragraphs 4, 6, 12, and 15.

The Committee's follow-up procedure focuses on issues that are serious, that can be accomplished by the State party in a one year period, and that are protective. As Rapporteur for Follow-up for the Committee, I would like to express appreciation upon receiving your Government's communications of 20 May 2008 (CAT/C/DZA/CO/3/Add.1) which provided further information on the Government's view on several of the issues identified in the Concluding Observations following the review of Algeria's third periodic report. As some information was provided, I am writing to you today to seek further clarification concerning the action it has taken to follow up on the necessary matters, based on your correspondence of 20 May 2008, so as to allow the Committee to carry out a complete analysis of the implementation of the Convention and of the follow-up recommendation in particular, in accordance with its usual procedure.

In paragraph 4 of the Concluding Observations, the Committee expressed concern regarding the vague definition of terrorism as set out in article 87 bis of the Criminal code, as well as the extension of the state of emergency in Algeria. Thank you for the information provided on both of these issues. To facilitate the Committee's review of Algeria's compliance with the Convention, we would be grateful to receive detailed information on cases that have been tried under article 87 bis of the Penal Code, including the overall number of cases, the alleged offense committed by the defendant, the verdict of the court, and the punishment meted out, if any.

The Committee notes with appreciation the information from the State party about the on-going process of institutional normalization under the state of emergency. We would be grateful for clarification on some questions with regard to the state of emergency—according to your response, the “only remaining measure in force was one whereby the Ministry of Internal Affairs could call out army units on a case-by-case basis, as necessary, for public order and security operations.”

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According to information before the Committee, there are other measures that remain in place as a result of the state of emergency, including the transfer of judicial police functions to officials of the Intelligence and Security Department; the ability of the Minister of Interior to make administrative decisions to place under house arrest individuals deemed "harmful" as well as to prohibit public demonstrations that may be deemed "likely to disturb public order"; and the ability of military courts to judge civilians suspected of terrorism. Would you kindly clarify whether these measures are, in fact, still in place as a result of the extended state of emergency, and if so, how frequently they have been or are implemented?

With regard to concerns over the existence of secret detention centres, the Committee regrets the State party's categorical denial of the existence of such facilities. According to information before the Committee, there have been many accounts from individuals who have been detained for days, weeks and sometimes months in unknown locations. This is also reflected in court documents which do not list places of detention for individuals who have been detained by the Intelligence and Security Department. The Committee therefore recalls its recommendation in paragraph 6 of the Concluding Observations and emphasises that paragraph 6 calls for "all places of detention, including those run by the Intelligence and Security Department," to be "immediately placed under the control of the civilian prison administration and the prosecutor's office. It should also ensure that the competent judicial authority takes the necessary steps to look into the allegations concerning the existence of secret detention centres run by the Department." Has the State party advocated, ordered, conducted or other ways made progress in this regard?

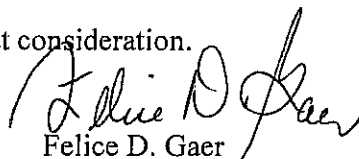
With regard to the Committee's recommendation in paragraph 12 regarding investigations into cases of enforced disappearances, we are astonished by your response in paragraph 16 of your most recent correspondence to the Committee which stated that "the issue of disappearances should be put in the proper context, namely as an outcome of terrorist crime." While the Committee is cognisant of the situation created by terrorism in Algeria, it emphasises – as stipulated in article 1 paragraph 2 of the International Convention for the Protection of All Persons from Enforced Disappearance - that no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for enforced disappearance. The Committee recalls its recommendation made in paragraph 12, and looks forward to receiving information on the measures taken by the Government of Algeria to investigate spontaneously without requiring individual complaints, the fate of missing persons, and to identify and prosecute and punish the perpetrators of acts of enforced disappearances.

Additionally, the Committee has urged in paragraph 12 of its concluding observations that the State party to immediately make public the report of the ad hoc National Commission on Missing Persons so that independent oversight bodies can assess the implementation of the recommendations contained therein. Regarding the Committee's request for a complete list of names of missing persons registered since the 1990s and the State party's expression of concern regarding privacy, the Committee notes that doing so would enable the families of missing persons to submit inquiries to competent authorities to determine whether their loved ones are alive or dead, as well as learn the circumstances of their death and take steps to hold individuals accountable. This could directly – and often has been seen to - contribute to the process of reconciliation and bring an end to the continuing traumatization and ill-treatment experienced by family members of disappeared persons who are unable to determine the fate of their loved ones. The Committee looks forward to learning more about the measures taken to fulfill these ends as part of the reply to the follow-up items.

The Committee is grateful for the information provided in your correspondence to us regarding the measures taken to combat violence against women. We look forward to receiving information on any measures taken to open investigations into the many allegations of rape (in the thousands) from the 1990s, and the outcomes of these investigations including how many perpetrators have been brought to justice and how many victims have been offered compensation.

Upon receipt of additional information, the Committee will be able to assess whether further information may be required. The Committee looks forward to pursuing the constructive dialogue it has started with the authorities of Algeria on the implementation of the Convention.

Please accept, Excellency, the assurances of my highest consideration.

A handwritten signature in black ink, appearing to read 'Felice D. Gaer', written in a cursive style.

Felice D. Gaer

Rapporteur for Follow-up on Concluding Observations  
Committee against Torture