



Algeria:

Torture remains a common practice

**Report submitted to the Committee against Torture
in the context of the review of the periodic report for Algeria**

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4 April 2008

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1. INTRODUCTION

Algeria submitted to the Committee against Torture both its third and fourth periodic reports in a single document in January 2006. In accordance with its commitments, it should have provided its third report in 2000 and its fourth in 2004. The Committee in its concluding observations in 1996, raised points which over 10 years later are still relevant. For example, the duration of police custody up to 12 days has not been limited. But most importantly, the practice of torture has not disappeared, despite all official statements and those responsible for torture have not been punished.

It is true that Algeria has ratified the Convention against Torture, which was published in the Algerian Official Gazette on February 26, 1997, as well as other conventions relating to human rights. It also adopted in November 2004 a new definition of torture and provided penalties for those who use torture. However, it should be noted that Algeria has not made a declaration under Article 22 of the Convention and the Optional Protocol has not been ratified. Just as the Convention for the Protection of all Persons from Enforced Disappearance has still not been ratified by Algeria.

The shortcomings in the area of prevention and punishment of torture are not only at the level of legislation, but mostly in compliance with the legislation and its enforcement. Given the subjugation of civilian power to the military, judicial organs do not fulfil their function, especially against institutions under the secret service, the Department of Intelligence and Security (Département du renseignement et de la sécurité - DRS). This body, which actually lies at the heart of the repressive apparatus, is never mentioned in the report of the Algerian authorities.

Under the pretext of the victory of a party presented by the government as undemocratic (Front Islamique du Salut, (Islamic Salvation Front) (FIS)), the first free and transparent parliamentary elections held in Algeria since independence were halted and the de facto army command took the reins of the country on January 11, 1992. The President of the Republic was forced to resign, Parliament was dissolved and the constitution suspended. On February 9, 1992, a state of emergency was introduced and it is still in force after sixteen years. A decree widely defining terrorism acts was enacted in September 1992. Although it has been repealed, its main punitive provisions have been incorporated into the Algerian penal code, including the duration of police custody extended to 12 days, the doubling of penalties for acts classified as terrorist, and lowering the age of criminal majority to 16 years.

For nearly three years, the country has not experienced constitutional institutions. It was only in 1996 with the new Constitution, that a semblance of institutions was again put in place. These, however, are closely controlled by the military command, particularly by the leadership of the Secret Service, the DRS, through a procedure known as "empowerment", in which this Service entirely controls the Algerian political, economic and social life. Any promotion or appointment to a post of responsibility for the Administration or the State must have the endorsement of the DRS.

This service may also oppose any candidate for whatever elective office even though the formal decision of rejection is taken by the Ministry of Interior.

Thus, many citizens from different political parties, whether from the opposition or even the "Governmental Coalition" composed of the three parties that support President Bouteflika (FLN, RND, HMS) have been denied the right to present their candidacy at the last parliamentary or local elections.

Similarly, all citizens who had been elected in the municipal elections of 1990 or the 1991 legislative elections on the lists of the Islamic Salvation Front (FIS), or simply suspected of having been lobbied or being sympathetic to the party saw their applications systematically rejected – even if they had been submitted by other approved parties- on the basis of their prior membership of FIS, thus depriving them permanently from participation in the country's political life.

Under the guise of combating terrorism, serious violations of human rights have been committed by the security forces and militias set up by the army since 1994. Thousands of people have been administratively detained in internment camps south of the country, for some of them for nearly 4 years (officially these camps were closed in late 1995), tens of thousands of people were arbitrarily arrested and detained, the practice of torture was of a systematic and widespread nature, and tens of thousands of people were summarily executed or have been victims of enforced disappearances.

It is necessary to discuss this recent past because the repressive and judicial structures put in place following the introduction of the state of emergency to combat the opposition, whether peaceful or armed, are still in place, and, although several heads of state and many governments have held office since 1992, the DRS remains at the head of the country and maintains this control to the present day and the principal leaders of this service are still in place.

With the presidency of Abdelaziz Bouteflika since April 1999, the authorities claim to have entered a new phase: the civil concord and peace and national reconciliation. In reality, members of armed groups who surrendered, have, to the extent that they have collaborated with the authorities, benefited from the partial or total extinction of prosecution regardless of their acts and members of security forces have received for their part a total amnesty, since no complaint against them is legally admissible. Although it was ultimately forced to recognize the magnitude of the phenomenon of enforced disappearances, the Algerian State alleges it has settled the matter by compensation. Finally, any criticism of the State within or outside the country is liable to a criminal conviction.

Although the number of victims has decreased significantly in recent years, arbitrary arrests, incommunicado detention and torture continue to be widely practised as part of what the authorities justify in the fight against terrorism.

2. A LEGISLATION THAT DESTROYS CIVIL LIBERTIES

2.1. THE STATE OF EMERGENCY

According to the Algerian Constitution, a state of emergency can be declared only for a specified period and can be extended only after approval by Parliament. Introduced on 9 February 1992, it was renewed a year later for an indefinite period. The Algerian authorities claim that its establishment "does not affect the continuation of the democratic process, and the exercise of fundamental rights and freedoms continues to be guaranteed".¹ But, Prof. Issad, a well-known lawyer in Algeria, who was mandated by the President to head an inquiry into the events in Kabylia in 2001, found that the arrangements put in place under the military authorities gave the military authorities exorbitant powers and is a creep from a state of emergency to a state of siege.

¹ Third periodic report to the Human Rights Committee of the United Nations on September 22, 2006. The final conclusions of the Committee were published on 1 November 2007.

The Human Rights Committee noted in its remarks on 1 November 2007 that the state of emergency "proclaimed in Algeria in 1992 has remained in force since then, as evidenced, for instance, by the continued delegation of the functions of the police to the Intelligence and Security Department". A whole panoply of decrees was passed in 1992-1993, which increased the importance of the prerogatives of the army and lead to restrictions of civil and political rights, including those guaranteed by the ICCPR.

Very concretely, the government decided in June 2001 "to suspend until further notice the organisation of marches in Algiers." This prohibition is maintained to this day, and any violation of this provision falls under the anti-terrorism legislation (Art.87 bis.al.3 Penal Code).

2.2. SOME ELEMENTS OF THE LEGAL ARSENAL OF REPRESSION

Many provisions of the decree of September 30, 1992 on the fight against subversion and terrorism have been incorporated into the Criminal Code in 1995. The legal arsenal currently in place in Algeria comprises, among other things:

- (a) A definition given by the Algerian penal code of acts characterized as subversive or terrorist groups such as the one borrowed from that decree in articles 87 and 87 of the Penal Code, which allows an extremely broad interpretation and considerably restricts individual rights and fundamental freedoms.
- (b) A provision under which a person suspected of a connection with a terrorist act can be held for 12 days in solitary confinement, without contact with his family or a lawyer or a doctor.
- (c) The penalties for acts described as terrorist were doubled by comparison with the original penal code.
- (d) The age of criminal responsibility was lowered to 16 years which represents a clear divergence from international standards.
- (e) The right to silence is not recognized. Confession obtained under torture is not formally banned for use in the courts as evidence.

2.3. THE ORDER FOR IMPLEMENTATION OF THE CHARTER FOR PEACE AND NATIONAL RECONCILIATION

Under the pretext of wanting to overcome the "national tragedy" of the 1990s, the so-called "reconciliation measures" were prescribed. However, the Ordinance enacted in February 2006, violates the fundamental principles that the Algerian state is committed to:

- (a) The members of armed groups who surrendered to authorities are exempted from prosecution or benefit of a decrease in penalty (chapter 2) if they did not commit massacres, bombings or rapes. In this case, those already convicted may receive a pardon. But the implementation of these measures is not transparent and often discriminatory.
- (b) Members or security officials who have committed serious violations of human rights, which amount to crimes against humanity, can not be prosecuted (art. 45). All complaints shall be declared inadmissible. This measure which promotes impunity and is tantamount to an amnesty is contrary to the fundamental right to an effective remedy established by the international texts.

(c) And finally, any statement, written or interpreted as another act that could harm the image of Algeria carries a sentence of three to five years' imprisonment (Article 46). This provision constitutes a violation of the right to freedom of expression.

The Human Rights Committee noted in its concluding observations on 1 November 2007, a number of points: He expressed his fear that "Ordinance No. 06-01 enacting the Charter for Peace and National Reconciliation, which prohibits any prosecution of members of the defence or security force, seems thus to promote impunity and infringe the right to an effective remedy (Covenant, arts. 2, 6, 7 and 14)."

Curiously, the Algerian authorities do not appear to acknowledge the contradiction between their adherence to international conventions of human rights and their recent legislation. As President of the Algerian delegation M. Al-Djazairi says, in discussions around the periodic report, that an agent of the state who may have violated the law may be prosecuted while the text of the ordinance clearly lays down that "no prosecution may be instituted" and that "any denunciation or complaint should be declared inadmissible by the competent judicial authority."

The Human Rights Committee also noted "with concern that article 46 prescribes a penalty of imprisonment and a fine for anyone who attacks the institutions of the State party, impugns the honour of its officials or tarnishes the image of the State party abroad (Covenant, arts. 2 and 19; Optional Protocol, arts. 1 and 2)".

3. THE INSTITUTIONALIZATION OF TORTURE AND INHUMAN TREATMENT

It should be recalled that between 1989 and 1991, torture had virtually disappeared in Algeria. Its systematic and massive use in the revolts of October 1988 could not be kept secret and gave rise to the general disapproval of a public opinion even more shocked that the victims were mostly young, often minors.

Torture was again reintroduced during the repression of strikes generally triggered by the FIS in June 1991 and it was then used systematically and massively from 1992 and never abandoned since. This has even been acknowledged by some Algerian officials. Mr Farouk Ksentini, chairman of National Consultative Commission for the Promotion and Protection of Human Rights (CNPPDH), admitted in 2002 that "that Algeria is definitely a country where there torture is practised. Where there is no law."² It should be remembered that this body was set up by the President of the Republic in 2001 as a successor to the National Observatory of Human Rights (ONDH), to which Committee against Torture referred in its conclusions in 1996.

Five years later, in 2007, this same Mr. Ksentini denies any practice of torture in Algeria. The Human Rights Committee had, in his latest comments, condemned the existence of secret detention centres where suspects were tortured. The chairman of the CNPPDH then accused the Committee of Human Rights of "tarnishing the reputation of Algeria." He even claimed that the Committee "had in the past taken up the cause of terrorism against Algeria."³

Besides torture itself which consists of intentional infliction of physical or mental suffering in order to extract an information, a confession or to intimidate or punish the victim, there are other violations of fundamental rights and persecution that should be seen as forms of torture. Thus, prolonged incommunicado detention and forced disappearance, a practice widespread in

² El Watan, 28 February 2002.

³ Le Quotidien d'Oran, 4 November 2007.

Algeria during the 1990s and still not entirely banished, are undoubtedly major forms of torture, both for the victims and for their families.

The miscarriage of justice suffered by the victims of the many crimes committed during the past 17 years, the fact of hiding the truth and not upholding justice, incommunicado detention subsequently masked as house arrest, pre-trial detention without trial for many years should also be considered to constitute inhuman treatment.

3.1. THE PERSISTENCE OF TORTURE

All of the security services in Algeria have practiced torture. A detailed report published by the association Algeria-Watch, has identified 96 centres practicing torture, among which are police stations, gendarmerie brigades and centres of DRS. There, detainees have suffered systematic torture and many victims died (we must consider that many disappeared persons have in fact died from torture). However, it seems that in recent years, people suspected of terrorist activities were mostly "handled" by the DRS and interrogated on their premises.

3.1.1. CURRENT METHODS OF TORTURE

The methods of torture most commonly used today have not changed since the 1990s: the technique of "chiffon" which involves placing a rag in the mouth and introducing a large amount of dirty water often mixed with urine or detergents to induce a feeling of suffocation and drowning, is still widely used.

Beatings and flogging, especially on the soles of the feet and sensitive parts of the body such as genitals, as well as prolonged hanging from the ceiling, deprivation of sleep and food were also reported by a number of recent victims.

The use of electric shocks is still used in the detention centres of the DRS and victims also report a widespread practice of sexual abuse including sodomisation. Threats of rape and indecent assaults on female family members are also almost routine.

The purpose of torture is to push the victim to recognize its membership in a terrorist group and into denouncing other people. To escape the torture, the victims are giving confessions that their torturers require of them, and these are subsequently included in the records of preliminary investigation that are systematically taken into account by the trial courts.

3.1.2. A PERMANENT PRACTICE

Torture has not stopped after the enactment of laws on the "Civil Concord" in 1999 and that of "National Reconciliation" in 2006.

The majority of those questioned have been the subject of criminal proceedings in connection with terrorism, and reportedly been tortured while under custody and numerous testimonies have been collected in recent years.⁴

Nassima Fodail, residing in Algiers, was arrested in October 1999 by police who were looking for her husband. She was detained in an unknown location for 10 days and tortured: burning

⁴ See also "Survey on torture in Algeria", in Arabic, 2003, Hoggar Institute, Geneva 2003.

with cigarette butts, beatings, use of the 'chiffon' technique. She filed a complaint against her torturers, the complaint remained unanswered.

Redouane Dahmani, schoolboy of 15 years residing in Dellys (wilaya of Boumerdes) was arrested on 20 June 2000 by the police and brutally tortured for 8 days at the police station in Dellys: stripped of his clothes, he was beaten and whipped with an electric cable. He suffered electric shocks at his toes and genitals as well as torture with "the chiffon". His face was burned with cigarette butts. Presented on 28 June 2000 before a magistrate in the presence of police officers whom had performed the torture, he did not dare to complain.

Mokrane Saâdoun, a student aged 30 and an activist for human rights, was arrested in Tizi Ouzou by agents of DRS on 7 June 2000. He was suspected of collecting information on violations of human rights in Kabylia. He was detained for six days in the barracks of Tizi Ouzou, where he was subjected to the test of chiffon and electric shocks. He was imprisoned in Tizi Ouzou.

Said Zaoui, 70, a former member of the FIS, residing in Dellys (wilaya of Boumerdes), was arrested on 7 February 2001, at the same time with about twenty other citizens, following a raid carried out in retaliation for a bomb explosion at a passing patrol of security services. He was detained in an unidentified barracks and disappeared for several months. These inmates reported that he had been tortured with the chiffon, electric shocks and suffered beatings.

Abdelkrim Khider, 34 and **Brahim Ladada**, age 30, friends and neighbours, residing in Dellys (Boumerdés) were arrested in the afternoon of 23 March 2002 at their home by armed civilians accompanied by the local police. They were transferred to the barracks of Châteauneuf (Algiers), where they were held in custody beyond the statutory limit of 12 days and were tortured by agents of DRS. They were presented before a magistrate and charged with belonging to an "armed terrorist group" "and apology for the actions of this group. In reality, A. Khider and B. Ladada had provided information in May 2000 to researchers from the Secretariat of Amnesty International during a visit to the region and were in contact with Mr. Rachid Mesli, an Algerian lawyer and human rights defender in Switzerland, to who they transmitted information about cases of the disappeared in their region.

Tahar Fassouli, thirties, merchant, residing in Surcouf (Ain Taya), a village located about thirty miles east of Algiers was arrested around April 10, 2002 by agents of DRS in civilian clothes. He was probably taken to Ben Aknoun center where he was held incommunicado and tortured for a week before being released. He was accused of having telephone conversations with the Algerian lawyer Rachid Mesli.

Kamel Driki, aged 22 years, residing in the Shatt (wilaya of El Tarf), arrested by gendarmes during the protest demonstrations which occurred in this city on 14 January 2003. He was tortured on the premises of the gendarmerie. He was forced to strip naked and tied to a metal table, with his fists and feet handcuffed. He was forced to drink urine until he fainted. The torturers repeatedly said to him, "Nobody can rebel against us, even God!" After 2 days he was released but was threatened he would be killed the next time.

Abdelkader Addi, residing in the town of Ayn Benkhelil, दौरا of Mcherrah was questioned on 17 July 2004 when summoned by the gendarmerie brigade in the city of Naâma. He was immediately arrested without being notified of any charges. He was locked in a cell, and at nightfall, three policemen threw themselves on him and he was stripped, handcuffed and beaten. He was then subjected to torture by electricity through electrodes placed on the lobes, until he lost consciousness. At around 11pm, he was released.

Amar Saker, a farmer of 33 years, residing in Tamalous (Wilaya of Skikda) was kidnapped on 19 February 2005 near his home by three officers of the DRS and was forced to get into a car

and taken to a DRS barracks in Skikda . Arriving at the destination, he was stripped, beaten and his hands handcuffed behind his back and locked naked in a cell. The next day, he was flown to Algiers and taken to the Antar barracks. Accused of terrorist activities, which he denied, he was beaten, hung from the ceiling, hanging by his hands handcuffed. Finally, after five days of beatings and torture using electricity and in the light of his wounds which caused him to for his life, he finally signed a record interrogation containing a false confession. He was forced to sign a statement attesting to have been well treated. The magistrate before whom he was brought did not take into account his complaint of torture despite the obvious marks and opened a criminal investigation against him for terrorist activities.

Kamal Akkache, 36 years old, residing in El Mouradia, married with 3 children, an employee of the municipal market in the neighbourhood was kidnapped on 11 September 2007 to at 2pm at the Hamid Didouche place in El Mouradia (Algiers) by civilians came who came in an unmarked vehicle. People trying to intervene have learned that they were elements of DRS. His father went to the police the day after to the 15th arrondissement to report his disappearance. Four days later, six men presenting themselves as agents of DRS, raided the home. They told the father not to worry and that his son was with them for investigation but without specifying the place of detention. They took with them a computer, a video camera, books and a CD. The father gave them medication because his son is epileptic. So far, Kamal has not reappeared and the worst is feared because of his epilepsy and the fact that his medication was not available to him during the first days of his detention.

H'mida Allalou was arrested in 2003 and was detained for four months in solitary confinement in a DRS barracks in Hydra (Algiers) He was brutally tortured and his teeth were broken. He was imprisoned in Serkadji prison and due to a hunger strike he began he was transferred to the prison of El-Harrach and placed in a cell in solitary confinement in the area of those sentenced to death. He was repeatedly visited by officers of the DRS who had inflicted torture. They demanded that he testify against an activist for human rights for involvement in a case of terrorism, stating that he was the head of a network of illegal arms trafficking.

Mahmoud Selia was arrested on 4 June 2007 at 8 pm in its premises in Hai Al Badr, Kouba, Algiers by eight agents of DGSN (police) in civilian clothes who arrived in two vehicles. He was handcuffed and taken to the Bab Ezzouar, where he received blows from fists and feet. Enclosed in a bathroom, he had to lie down on a bench, with his hands handcuffed behind his back, and he was subjected to electric shocks and the chiffon. The session lasted between 20 and 25 minutes. Officers interrogated him about people he did not know. On June 9, he was transferred to Antar DRS centre. He suffered daily torture, beatings with bats, or the chiffon. The torturers threatened to rape his mother. On 19 June, he signed a confession that he could not read and 20 June, it was presented to the public prosecutor of the court of El Harrach under threat: "Here, even Bouteflika could not save you..."

3.1.3. DEATHS OF DETAINEES UNDER TORTURE

Many people presented by the press as members of armed groups arrested during military operations were never brought before the courts and it is feared that they are dead as a result of torture. However, it is difficult to obtain information on such cases. Organisations defending human rights, however, have identified at least one recent case of death under torture.

Mounir Hammouche, born on 15 December 1980 and residing in Ain Taghrout, (Wilaya of Bordj Bou Arreridj) was kidnapped for the first time on 20 December 2006 at 20 hours at the exit of the mosque by several men in civilian clothes and armed circulating on board a grey Peugeot 406 vehicle, registered in Algiers. He was sequestered in a barracks of the DRS and released the next day. He was accused of "not

going to prayer in the mosque closest to his home" and also due to "the fact that he wore a beard and Islamic dress code."

Two days later, on 23 December 2006, the same men circulating in the same vehicle stop M. Hammouche upon leaving the mosque after evening prayers. Four other men were abducted at the same time, Zaïbat Antar, Messahel Fares, and Laggoune Walid Rezazga Mounir. They were all driven to CTRI (Territorial Centre for Research and Investigations - DRS) of Constantine, where they were subjected to torture and ill-treatment.

On 29 December evening, the security services informed the family of Mounir Hammouche that he "has died in police custody." They claim that he "probably committed suicide and that an autopsy had been performed anyway" and "they can bury the body." The family gets the body in the same evening.

The family is convinced that Mounir Hammouche died as a result of torture he suffered at the barracks of DRS (CTRI) in Constantine during his custody. The family noted that it bears many traces of torture, including a wound in the head, as well as bruises on the hands and feet.⁵

So far, the family have not had access to the autopsy report despite written requests dated February 07, 2007 to prosecutor Ras El Oued and the Prosecutor General of Bordj Bou Arreridj and, despite complaints, no investigation into the causes of the death of Mr. Hammouche have been initiated by the authorities.

3.1.4 TORTURE AS COLLECTIVE PUNISHMENT

In a systematic manner, when protest movements, which are increasing in the country, occur, the security services have arbitrarily arrested demonstrators, sometimes by the dozens. They are kept in detention and tortured before being released or brought before the courts. We note here two of the most characteristic examples.

3.1.4.1. THE EVENTS OF KABYLIE (2001-2002)

Kabylia has been shaken over many months by uprisings. These were triggered by the death on April 18, 2001 of a student within a gendarmerie brigade of Beni Douala in Tizi-Ouzou. On 22 April 2001 the commander of the national gendarmerie released a press release in which he stated that the victim had been arrested "in response to an assault followed by theft." On the same day, three college students were arrested in the town of Amizour (Béjaïa) by the head of the gendarmerie brigade. These events occurred while Kabylia was preparing to celebrate the 21st anniversary of the "Berber Spring". Riots erupted in different places in Kabylia and quickly spread to other eastern and western parts of the country.

Riot gendarmerie squads and special troops intervened in force. More than 100 people were killed (sometimes targeted by snipers), and dozens were arrested and tortured.

"The protesters were removed by police and taken to their brigades. Command of the Tizi Ouzou Gendarmerie declared on May 2, 2001 that they have not arrested a single demonstrator while the testimonies of intimidation, torture and other ill-treatment

⁵ The other four men arrested are presented to prosecutor of the court of Bordj Bou Arreridj, which requires the opening of a judicial investigation for "glorifying terrorism". Art. 87a 4. Ordonnance No. 95-11 of Feb. 25, 1995: "Anyone who is apologetic, promotes or supports, by whatever means, of the acts referred to this section, shall be punished by a sentence time of five to ten years and a fine of 100000 to 500000 DA.

were increasing. Many young men reported having been forced to strip naked and threatened of rape with weapons. Boussaad Messad tells of having participated in the April 28 events at Mekla. "I saw a policeman aiming at me. A bullet hit my leg and I fell down. I was evacuated to a clinic where I received first aid. As the injury was complicated, I had to be taken to hospital in Tizi-Ouzou. Arriving at the town hall, gendarmes stopped the car. One of them pulled me out and dragged me on the floor. They stripped my clothes off and beat me with batons and the butts of their rifles. One of them tried to strangle me but I was able to free myself. They insulted me while one of them urinated on me. When another took out his gun to shoot me, I feigned death. His colleague said: 'Leave this dog, he's dead ". Other victims tell they had spent hours in the Brigade, threatened with rape while they were beaten. Their beards were cut and heads shaved.

When this massive repression of the gendarmerie was denounced by the public and the press began to report that its members would be dismissed, the latter undertook to hide or destroy evidence of their crimes. They demanded the doctors to hand them the bullets extracted from injuries, put pressure on the medical staff in order to make false findings and intimidated patients and their visitors even by making use of tear gas in hospitals, and so on. It seems that the various state institutions were directed to curb investigations. When those concerned or their relatives were summoned by investigating judges, they were required to bring proof of the allegations to be made against the gendarmes. Very few families received the autopsy report of their deceased family member, and when they had access to the report, the cause of death was tersely identified as: 'died of a non-natural death ".⁶

The Member of the European Parliament, H el ene Flautre, who visited Algeria at the same time as these events occurred, reports the testimony of a victim, Mohamed Hassani, 26, of Matkas who on April 28, 2001 did not participate in the demonstration. Yet at 15h30, he met members of the "special forces" of the Gendarmerie on the way between the shop where he works and his home. They ordered him to undress on the street and forced him to do so by tearing his clothes with their bayonets. Humiliated, he was beaten and forced to drink sewage water. He managed to escape, however, under gendarmes' fire. Press reports were that "at least five young people, including a child aged 15, were stripped, bound with wire and brutally tortured in front of and inside the headquarters of the Daira of Amizour." ⁷

The President of the Republic mandated in the beginning in May 2001 Me Mohand Issad to form an Inquiry Commission to shed full light on the events that have unfolded in the context of the riots. It should be noted that the protest movement is still very active and that at the time to file his preliminary report⁸ in late July 2001, the bullets continue to kill and injure and beatings of protesters remain frequent.⁹

The Inquiry Commission submits to the President its final report in late December 2001. It refutes the version of the security forces who claim to have used force in self-defence. Having not been able to complete its mission because of the intimidation faced by the victims and potential witnesses, the commission noted a number of problems at the level of legislation particularly that relating to the state of emergency which gives the military authority

⁶ Salima Mellah and Nasreddine Yacine, "Ein Gendarm spuckte auf den Toten", Frankfurt Rundschau, July 5, 2001. The association Algeria-Watch published a list of those killed and a chronology of these events.

⁷ Testimony on the events of Kabylia / The tortured of Amizour, El Watan, 11 and 12 June 2001

⁸ [Http://www.algeria-watch.org/farticle/revolte/issad_rapport.htm](http://www.algeria-watch.org/farticle/revolte/issad_rapport.htm)

⁹ Events in Algeria (April-August 2001), <http://www.algeria-watch.org/farticle/revolte/chronologie.htm>. Non-exhaustive list of victims of riots in Algeria (April-June 2001), http://www.algeria-watch.org/farticle/revolte/liste_morts.htm

exorbitant power not granted by the Law. The commission considers, however, that it had identified in its preliminary report responsibilities but regrets the deadlock in the political situation that does not allow to find a lasting solution to a conflict which has not yet been resolved to date.

Because of persistent protests of the inhabitants of the region, the Gendarmes were eventually withdrawn in large numbers from Kabylia. It seems that some of them have been dismissed, others formally charged. But, because of the opacity in the functioning of the competent military jurisdiction in this case, and the lack of publicity for hearings before such courts, we do not know to this day what penalties were imposed.

The authorities had assured that the members of the security forces responsible for abuses would be brought to justice. But in the end, only two procedures were initiated and made public, especially against the policeman accused of killing the young Guermah, case which had triggered the movement of protests and riots. He was sentenced by a military court to two years in prison for "involuntary manslaughter".

One year after the outbreak of rebellion, a presidential decree provides for compensation for the victims but it seems that many people have not benefited from it. It should also be noted that the government has not taken into consideration the recommendations of the commission of inquiry chaired by Prof. Issad.

3.1.4.2. THE EVENTS OF T'KOUT (2004)

On 14 May 2004, riots erupted in the town of T'kout (Wilaya of Batna in eastern Algeria) to demand the truth about the death of Argabi Chouaïb, aged 19, who was killed the day before by a communal guard in the nearby village of Taghit. His friend, Ali Remili, had also been abducted and detained in the barracks of the local militia.

The response from the Algerian authorities was rapid and brutal: the special troops of the army and gendarmerie were dispatched on May 17 to T'kout, where they were unleashed against the population. As a first step, they targeted the youth, with insults, beating and dragging on the ground to be taken to the headquarters of the gendarmerie. Then, the city was sealed off by checkpoints: no one could enter or leave. And finally, in a third step, these forces conducted a manhunt, brutally entering into private homes, abusing women and children and forcibly taking the young, often minors, some of whom are members of the Movement of Aures citizens, suspected of having taken part in riots.

According to some sources, about 150 people were arrested, while others, on the run, continued to be searched for. To force them to surrender, their family members were taken hostage or threatened.

Taken onto the premises of the Gendarmerie of T'kout, the young people arrested were subjected to physical and mental torture and beaten with a truncheon; they were stripped and lined up along the wall to be sodomized. Many have suffered fractures. Some were forced to pray naked. They have suffered hate speech, insults and humiliation - including threats against their mothers and their sisters. They were then forced to sign minutes of imaginary hearings.¹⁰ Testimonies were published by the press:

"Many of us were taken from their homes. It grew dark, the city still roared out of anger, dislike and the noise of the boots of the gendarmes who chased the demonstrators. A manhunt was performed in and out of the houses. It is inside our houses that the

¹⁰ Report of Algeria-Watch, June 5, 2004, http://www.algeria-watch.org/fr/aw/aw_tkout.htm

gendarmes took us. They took me along with approximately ten other people. They led us to their premises (in the buildings of the gendarmerie). They gave me slaps and beat me, you know... They took the entire group and aligned us after having stripped us from our clothes. They asked us to lean forwards... You understand what I mean; I do not need to explain what occurred then." Another continues: "The majority were sodomized, here is the truth. Many have enormous difficulty to recover. But the torture did not stop there. The young people arrived progressively. The gendarmes stripped them and obliged to kneel. "On your knees, make the prayer", they were told. Once on the ground, they would strike them with ferocity using their bludgeon. They had a speech of hatred towards us. They insulted and humiliated us, the sentence which was generally repeated was: "You hate the regime so here you go." This was then followed by terrible blows to all the body. Some had their members crushed. The gendarmes saw well that the arm of the one among us was completely limp, but they were beat him until they broke his bone completely. This unfortunate one screamed in pain. He spent the night there and then was released the following day. He also explained, " You know, the thing which has been the worst, it is these threats by the police that they were preparing to go and rape our mothers and sisters. "There are no more men in the city now, they said. You will see what we will do to your women." We do not know the truth about the outcome of these threats, women are afraid to speak out. "¹¹

Given the magnitude of the general condemnation, the government claimed to have carried out an investigation which contradicts all these testimonies and the police issued a statement to refute the allegations. But many other stories have come to journalists and human rights activists which undoubtedly establish the facts.

Twenty-one young people were presented to the court of Arris on May 24, 2004. Numerous attempts by lawyers to raise the subject of torture suffered by the victims were blocked by the judge, which confined the hearing to elements of the investigation file prepared by the gendarmes. The defendants were eventually sentenced to prison terms ranging from 3 to 12 months in prison. Hanoune Salah, a lawyer, describes the climate prevailing in the city of T'kout:

"Sunday, the eve of the trial of the prisoners of Arris, saw the outbreak of a general strike in solidarity with the prisoners, and significant reinforcements arrived in the city to accentuate the climate of terror and to deter people from taking part in the planned action." He reported that during the trial, the judge refused that torture be discussed publicly: "When I have raised the question of whether they had been tortured in the premises of the gendarmerie, they all immediately responded yes, but the judge intervened and asked them not to respond. There was no question for him to talk about the abuse at the gendarmerie brigade of T'kout."¹²

The Defense Ministry has filed a complaint for defamation against one of the newspapers that covered this event. At trial on appeal, November 23, 2004, victims did not hesitate to bring back the abuses committed by the gendarmes of the brigade T'kout.

"Yesterday, the family Izza, whose son Salim, convener of the citizen movement of this town, is being sought, came a second time to say what he had experienced. Stoically, the father and mother told of what they have endured. 'When they came at night and they tried to break my door, I asked them if they had a permit. I make here no mention of the insults and bad language that they have made to my wife and two daughters. They were

¹¹ Le Matin, May 26, 2004.

¹² Le Matin, June 1, 2004.

looking for Salim, as they have not found him they took his younger brother 'says the old Izza, who spent 40 days in preventive detention, and who, at the request of the judge, talks about his arrest and the beating he received. " ¹³

The son says he was sodomized and shows the judge the aftermath of torture. None of the detainees have been examined by a doctor and therefore criminal files do not mention the torture and abuse of prisoners.

No complaint filed by the victims has been recorded by the prosecution and there was no official recognition of abuse and therefore no sanction had been decided nor applied nor any compensation paid to victims.

3.1.4.3. THE EVENTS OF THE PRISON OF EL-HARRACH (2008)

On 18 February 2008, prison guards of El Harrach (Algiers) made the prisoners leave room 1. They wanted to actually deprive them of their common prayer space in the room to install bunk beds for the new inmates. When the prisoners refused to return to the hall in protest, the guards have attached them, handcuffed them, stripped them and beaten them with iron bars and sticks. The same scenario took place with the prisoners of the hall 2. The prison warden attended these beatings. Altogether 80 prisoners have suffered such repression, and many suffered from various fractures.

The lawyers were banned from visiting their clients for 2 days. At the end of the solitary confinement of the detainees, they could see the traces of beatings and other abuses on the bodies of their clients. Some prisoners were locked up with new prisoners in individual cells of 5 square meters, without cover, and were banned from family visits until March 19, 2008. The Algerian press, which has hardly reported these yet known facts, only mentioned the transfer of 64 prisoners to other prisons far from Algiers.

3.2. OTHER FORMS OF TORTURE AND INHUMAN TREATMENT

3.2.1. INCOMMUNICADO DETENTION

3.2.1.1. THE EXISTENCE OF SECRET DETENTION CENTRES

The Human Rights Committee of the United Nations has stated in its latest findings, its concern about the existence of secret detention centres where people are deprived of their liberty and do not enjoy the protection of the law. These declarations have provoked the wrath of the Algerian authorities who argue that there are no such centres in the country. The testimonies of people who have suffered detention of varying length, however, can be counted by the hundreds. And many members of the security forces confirm these testimonies.

During the 1990's, those arrested could be held in the gendarmerie, police, barracks of the communal guard or groups of self-defence, as well as in the premises of DRS. They disappear for a while or forever. Organisations defending human rights have identified 96 "centres of torture, detention and liquidation."¹⁴ If all these services are responsible for arbitrary arrest and detention, it is primarily the DRS and its local branches that are the more deeply involved. These officials have the authority to go to all other centres and extract who they want in order

¹³Le Soir d'Algérie, November 24, 2004.

¹⁴ Algeria: The Killing Machine, Report prepared by Algeria Watch and Salah-Eddine Sidhoum, October 2003, http://www.algeria-watch.org/fr/mrv/mrvtort/machine_mort/machine_mort.htm

to interrogate suspects themselves. That is why the whereabouts of detainees who are removed or handed over to the service cannot be traced.

Very often the person arrested does not know where he or she is detained. Carried in an unmarked car by escorted plainclothes agents, they are prevented from identifying places, for example because they are blindfolded. Relatives and counsel do not know where they are located. In the best case, the family is able to obtain information of their presence in a particular centre, but without being able to make sure of this officially or to initiate any steps. And when they are transferred, their whereabouts are lost forever.

The centres controlled by the DRS can be regarded as secret centres, not subjected to any control by civilian authorities. They are not listed as places of custody or detention. Prosecutors of the Republic do not have access to them and do not have the power to inspect them. DRS Officers in their role as judicial police officers would also never mention in the minutes of their preliminary investigations the address for the centres where they keep people in custody. These centres, the existence of which is no doubt for lawyers and Algerian human rights activists, are therefore totally unlawful.

3.2.1.2. THE SUBTERFUGE OF "HOUSE ARREST"

In order to give a legal character to detentions for long periods, victims are officially "assigned to house arrest" without any indication of where they are deprived of their liberty when in fact they are held in a barracks of the DRS without any contact with the outside world. They do not know how long this state will last. Several organisations defending human rights have followed the cases of people who have been arbitrarily arrested and disappeared for several months or even several years. Once brought before civilian courts and placed under a warrant of detention, it is often difficult to know the treatment they have experienced due to the terror they have suffered for a very long time and the pressures that they may continue to endure even inside the prisons.

Thus, **Mohamed Fatmia** was arrested on June 6, 2007 at the site on which he works in Ain El Kerma in Algiers and disappeared until November 18, 2007, when he was presented to the magistrate's court in Sidi M 'Hamed in Algiers. He has since been detained in El Harrach prison. He was allegedly detained by the DRS in the Antar centre where he was tortured during the first 12 days of his detention. His real date of arrest was mentioned in the criminal case and a document which states that he was assigned to "house arrest" after his legal custody was established by the Ministry of the Interior, while in fact he was kept in secret detention in the same DRS premises where he spent his legal period of custody.

The measure of house arrest is required by Article 5 of the decree of February 9, 1992 regarding the state of emergency and which allows, among other things, the Minister of Interior "to prohibit from residence or assign to house arrest all adults whose actions prove detrimental to public order or to the proper functioning of public services."

This legislation has been applied only in the context of mass detentions of FIS elected officials and activists in the security centres, south of the country from 1992 to 1995 and in special cases since then (including the house arrest from 1997 to 2003 of Mr. Abassi Madani, president of the FIS); however, it serves today to subsequently justify long periods of incommunicado detention in DRS centres.

This measure is never notified to the detained person, who is isolated from the outside world, having no access to a lawyer and therefore has no way to challenge the legality of his detention. It is only during his presentation before a civil court that his lawyer discovers in the file a document attesting this "house arrest".

Among the suspects being subjected to such measures include persons extradited or forcibly returned by third countries. Suspected of terrorist activities, they are detained for prolonged periods and tortured.

Salaheddine Bennia, a veteran in Bosnia and Afghanistan, was forcibly extradited from the Netherlands in June 2003. He was detained by the DRS in Antar barracks for nineteen months without contact with the outside world. He was officially "under house arrest". He reported that he was tortured during the first months of his incarceration. He was finally indicted in January 2005, of "belonging to a terrorist group operating abroad" and "apology for acts of terrorism" and placed in custody. He was released on March 3, 2006 and benefited from the termination of public action in the context of measures of "national reconciliation".

3.2.2. ENFORCED DISAPPEARANCE

Enforced disappearance is undoubtedly another form of torture both for the victim and for his family.

3.2.2.1. PRESENTATION OF THE PROBLEM

The Algerian security services, at all levels, officials from the DRS, military, gendarmerie, police, paramilitary forces have engaged for almost a decade in a massive and systematic practice of arbitrary arrests followed by disappearance of civilians that has made 7,000 victims according to the most modest estimates, and up to 20,000 according to some sources. This is a common practice coordinated at the national level, conducted according to a modus operandi and identifiable characteristics. Nearly one thousand cases were submitted to the Working Group on Enforced Disappearance of the UN by our organisation:¹⁵ None of these cases have so far been clarified by the Algerian authorities.

Enforced disappearances have not completely ceased with the arrival of President Bouteflika in 1999. They are much less frequent, but cases continue to be registered. Many return after a few months of detention, but some do not reappear. Kamal Akkache was kidnapped Sept. 11, 2007 at 14 hours in Algiers by civilians who were described as agents of the DRS and has not been seen since.

3.2.2.2. TREATMENT BY THE STATE ON THE QUESTION OF ENFORCED DISAPPEARANCE

After several years of systematic denial, the Algerian State has been forced to acknowledge the existence of this phenomenon, officially attributing 6146 cases to its agents. This however is attributed to the responsibility of individual blunders. The authorities refuse to investigate these crimes, to prosecute and punish the perpetrators using the slogan "the State is responsible, but not guilty."

It is difficult, on the question of state responsibility, not to mention the explosion in the number of extrajudicial executions and forced disappearances following the statement, in March 1994, by the head of the Algerian government M. Redha Malek, that "fear should be felt by the other side."

¹⁵ [Http://fr.alkarama.org/index.php?option=com_content&task=view&id=200&Itemid=37](http://fr.alkarama.org/index.php?option=com_content&task=view&id=200&Itemid=37)

The issue of enforced disappearance is officially treated today by the National Consultative Commission for the Promotion and Protection of Human Rights (CNPPDH) and its Chairman Farouk Ksentini. He was appointed in September 2003 to head an "ad hoc mechanism" on the issue of missing persons. Upon embarking on his mission, he explained about the contradictory figures of the disappeared,

"The correct figure is 7200 persons forcibly disappeared by state institutions. This is the figure provided by the National Gendarmerie, which summarizes all figures collected throughout the national territory (...).¹⁶" He also mentioned that more than 4200 cases of disappearances were filed by the families of the missing to the National Consultative Commission for the Promotion and Protection of Human Rights (CNPPDH).

In March 2005, when he filed his final report to the President of the Republic, he announced a figure lower than the previous official figure. At this time he mentioned 6146 cases of "disappearances" because of acts of "State agents". And a few months later, during a radio broadcast of August 29, 2005, he rejects what he calls "allegations" of certain organisations of families of the disappeared that "agents of the State would be implicated in cases of disappearances", "inviting these families to provide concrete evidence attesting to the veracity of these allegations." Certainly, the state has a liability in respect of the missing, but we must make allowances as there are false disappeared".¹⁷

And soon after, he asserts that "at least 3000 persons are persons who have joined the rebel movement and who later died or people who are hiding abroad."¹⁸ He also announced on June 23, 2006 on national radio that "183 people missing have been found alive and have been struck off the list." He will not, however, meet the request of our organisation and that of the Algerian League for the Defence of Human Rights (LADDH) to publish a list of persons who have allegedly reappeared.

He explains on multiple occasions that the list of 6146 people was actually based on information from the families. However, it should be remembered that Me Ksentini had affirmed himself that the gendarmerie evaluated the number of disappeared to 7.200. And if the "ad hoc mechanism" did not have a mandate to carry out independent investigations, it had however the ability, as "an interface between the authorities and the families concerned", to carry out "on the one hand, the identification of the cases of allegations of disappearance, on the basis of the whole information already collected and, on the other hand, from those actions which it will have to carry out or request that they be undertaken by the proper authorities, and of all research necessary to locate the people declared disappeared"¹⁹. These searches ought to have been carried out in particular with the various security forces. This means that it is on this basis that the number of 6146 missing persons had already been formally established. To claim a few months later that half of these people are "fake" totally discredits both the "ad hoc" mechanism and the CNPPDH.

The associations of families of missing persons and defenders of human rights have in vain tried to have access the official lists, including that of the "false missing". It is all of these manoeuvres, prevarications, false promises and false information which, apart from the fact of not knowing the fate of their missing family member, that exacerbate the suffering of the

¹⁶ La Tribune, September 22, 2003.

¹⁷ La Tribune August 30, 2005.

¹⁸ Le Quotidien d'Oran, December 8, 2005.

¹⁹ La Tribune, September 21, 2003.

families which can be equated with torture. Their right to the truth is thus systematically flouted.

3.2.2.3. RECOGNITION AND DENIAL

As part of the legal order established by the so-called national reconciliation enacted in February 2006, the Algerian State aims at putting an end to the issue of accountability of perpetrators of crimes, including forced disappearances, by establishing their legal amnesty (Art . 45 of the Order). The families of the victims in turn are encouraged to seek compensation, and, to qualify, must enter humiliating administrative and judicial attestations certifying that their relative died in the ranks of terrorist groups.

In practice, this means that after establishing the "ad hoc mechanism" a wave of summons was sent to families of the disappeared to ask them if they would accept compensation. The national reconciliation ordinance, however, forced the families to go to the competent court to establish a declaratory judgement of death for their missing parent (Order No. 06-01, section 31). However, during this process, they are forced to sign a statement certifying that their parent was a terrorist. Only on the basis of these false statements can they become eligible for compensation. From this we can better understand how the initial number of recognised disappearances by the authorities has been halved.

The management of the files of the disappeared through the use of compensation has had a significant impact. Scores of families are in extremely precarious financial situations, often because of the disappearance of their only financial support, and cannot do without compensations for their survival. We must consider the situation as an additional torture for the families, who in addition to suffering the denial of justice, have themselves been forced to present their relatives as "terrorists".

4. THE CENTRAL ROLE OF DRS IN THE VIOLATION OF FUNDAMENTAL RIGHTS

In the 1990's all of the security forces have been involved in the "fight against terrorism". They carried out mass arrests, searches, summary executions and kidnappings. Those arrested were detained in their premises and tortured. Police stations, military barracks, gendarmerie or militia cantonments, served as places of detention, torture and extrajudicial killings.

In recent years, a certain centralisation seems to have occurred, not in the fight against terrorism but on the grounds of military operations which always involve the same cited actors but at the level of the "treatment" of the arrested suspects.

Indeed, it is noted currently more and more, that, even when the suspects are apprehended by another service (police force, gendarmerie or GLD), they are then generally handed over to the DRS. Whereas in the 1990s very few instructions were carried out by this service, it seems today that the majority of the cases related to terrorism are centralised at its level.

4.1. THE DRS IS RESPONSIBLE FOR THE FIGHT AGAINST TERRORISM

Especially since September 11, 2001 the role of the DRS in the treatment of suspected terrorist activity has significantly increased. The organisation of the service and its composition has not changed since the early 1990's. Although it is only, from an administrative point of view, a department within the Ministry of National Defence, in fact it enjoys complete autonomy and does not have to report to the Minister of National Defence who is also the President of the Republic.

The methods used by the DRS do not fall within the rule of law. It is not inappropriate to note that the Algerian authorities never mention the existence of this department. The report submitted to the CAT is no exception to this rule. When you know the real role played by the political police, the very fact that they are not mentioned speaks volumes about the subordination of civilian authorities.

4.1.1. ORGANISATION OF THE DRS

The DRS is made up of 3 directorates: the Directorate of Counter-Intelligence (DCE), the Central Directorate of Security of the Army (CDSA) and the Directorate of Documentation and external security (DDED). The DCE's mission is, contrary to its title, to oversee society.

The local DCE branches in the six military regions are the territorial Centres of research and investigation (CTRI). In the 1990s, thousands of people have gone through these centres of torture and disappearance. The most formidable are those of Blida, Oran and Constantine. Abdelkader Tigha, a former military officer assigned to the CTRI Blida estimates that about 4000 people "disappeared" in this single centre. In 2001, he reported that:

"At the end of 1996, he received from his superiors, a request for an investigation into the disappearance in 1993 of two university professors, Mr. Boularas and Mr. Rosli. This request landed in the Services following a communication from the Human Rights committee in Geneva (the request covered other cases as well). He discovered that the two professors were arrested at their work, held at the premises of the Judiciary Police where they had been "exploited" (i.e. tortured), charged of having links with the GIA, executed, and their corpses were burned so there was no trace left."²⁰

Nationally, the DCE controls the CPO (Centre Principal des Opérations or Main Centre for Operations), called "Antar". It is located in Ben-Aknoun, in the suburbs of Algiers, under the right bank of the Birmourad Raïs highway, near the zoo. Many people arrested by the various departments are transferred to the centre where they disappear for a shorter or longer period. The testimonies collected in recent years suggest that it has become the most important centre of torture and secret detention in the country.

This does not mean that suspects are no longer held in other places. Several men arrested in the night of 26 to April 27, 2007 because their names had been cited under torture by a certain Oulmane Hafid, who had been arrested two days earlier, reported having been imprisoned for a week at the headquarters of the local DRS located opposite the Jijel paramedical school, where they were severely tortured before being released. When prolonged detention is decided, they are usually transferred to a centre in the capital, particularly the "Antar" centre.

4.1.2. PREROGATIVES AND LEGAL PRACTICES OF THE DRS

According to Article 15 para. 7 of the Code of Criminal Procedure, officers and non-commissioned officers of the military security appointed by joint order of the Ministers of Defence and Justice qualify as judicial police officers. According to Amnesty International, "no decree concerning officers of the DRS has ever been published in the Official Gazette since the inception of the service in 1990."²¹

²⁰ Algeria: Revelations of a deserter from the SM, North-South Export - No. 427 - September 21, 2001, reproduced in: http://www.algeria-watch.org/farticle/transfuges_generaux/tigha_deserteur.htm

²¹ Amnesty International, Unlimited powers: Torture by the Military Security in Algeria on July 10, 2006.

Thus, since the ordinance of February 25, 1995 which replaced a series of anti-terrorist provisions of the decree of September 1992, these judicial police officers have jurisdiction throughout the national territory without necessarily operating under the supervision of the Prosecutor General. The Prosecutor General must only be "kept informed". These provisions allow flexibility to DRS officials. They have the authority to initiate investigations of police to arrest suspects and to hold them in custody for questioning. But in practice, DRS officers act beyond these already expanded powers.

Arrests are often carried out by persons in civilian clothes with unmarked vehicles. Such a mode of operation means the abductions and arrests are often denied and attributed to terrorist groups. The agents of the DRS never provide any warrant and do not give any reason justifying the arrests. The home of the suspect is also searched without a warrant and he will not know the charges against him only after having been tortured and making a confession.

The duration of police of custody can reach 12 days in cases related to terrorism. Its extension beyond 24 hours must be performed under the authority of the prosecutor. The Algerian authorities acknowledge in their report that the period of 12 days is decided only in exceptional circumstances and with the permission of the prosecutor (see paragraph 75, b). But in reality, many suspects are held incommunicado beyond the control of this or any other civil judicial authority.

Finally records of the preliminary investigation prepared by the DRS officials never mention the place of custody.

4.2. THE SYSTEMATIC VIOLATION OF THE RIGHTS OF DEFENDANTS

4.2.1. TOTAL ABSENCE OF CONTACT WITH THE OUTSIDE WORLD

During the period of custody, defendants are not allowed to come into contact with their families, and this violates both the Algerian legislation (see Section 116 of the report submitted to CAT) and universal principles. The Code of Criminal Procedure stipulates in its article 51 bis1 (Law No. 01/08 of 26 June 2001) that "all means must be made available to the person under police custody in order to enable it to communicate immediately with his family and receive visits. » In practice, this provision is never applied to any of the services authorised by law to make police custody (police, gendarmerie) and, *a fortiori*, by the DRS.

Algerian legislation **does not permit the advice of an attorney** during the period of custody; one of the consequences is that the first appearance of the accused before a magistrate is often done without the presence of a lawyer because the family has no way of knowing when and in which court the accused will be presented for the first time in order to be assisted by a lawyer.

That same article 51 bis1 includes the obligation, at the expiry of the custody, for an automatic **medical examination**, by a freely chosen doctor, if the accused or his family or his lawyer requests it. In practice, neither the family nor counsel may exercise this option because they are unaware of the place of detention and the date of expiry of the custody of the accused.

In practice the accused signs a statement, without reading it and while signing the minutes of the hearing, in which he claims to not require a medical examination.

Generally, even when the consequences of torture are visible, the investigating judge does not order an examination. Algerian lawyers confirm that in almost all cases where traces of torture suffered by the defendant are clearly visible, the judge merely refers to the statement signed by the accused that he was not required to undergo a medical examination and refuses to address this issue with the lawyers.

Even in the rare cases where the defendants were actually subjected to a semblance of medical examination, abuse or other effects of torture are not mentioned.

Thus, **Mohammed Belkheir** whose case has been presented above, reports that at the end of his police custody, a doctor has examined and prepared a medical certificate, without mention of the physical abuse he had told him about and which he witnessed. After his visit to the magistrate, still under the threat of reprisals if he contradicted the minutes of the DRS, and his transfer to the Serkadji prison (Algiers), he showed obvious traces of torture to the prison doctor who made a medical certificate jointly signed by the prison director. A copy of this medical certificate was sent to the investigating magistrate in the 5th chamber of the court of Algiers, who was forced to re-appoint a doctor to establish a report. He was then examined only on 2 April, i.e. 8 days after the end of his police custody.²²

4.2.2. THE PRELIMINARY INVESTIGATION AND PRESENTATION BEFORE THE COURT OF INQUIRY

The officers and non commissioned officers of the DRS, empowered by law to carry out preliminary investigations are in practice beyond control. Indeed, in their judicial police powers, they are, in theory, subject only to military prosecutors and are not bound to civilian prosecutors.

In principle, officers and non commissioned officers of the DRS are in theory subordinates of the military Prosecutor's Office. However this Office is subordinate to another department within the Ministry of National Defence (Directorate for Human Resources and Military Justice) and has in practice no control over the activities or secret detention centres of DRS.

Often during police custody, defendants are forced to sign the minutes of hearing that they are not allowed to read. These may contain confessions obtained under torture or even fabricated statements. DRS Officers threaten defendants to maintain these statements before the magistrate. As the defendants are accompanied in court by their torturers, they do not always dare to deny the minutes of hearing for fear of being sent again in the centres of torture.

Saddek Boubakeur, born in 1969, was arrested on September 3, 2002 by agents of DRS in Oran. Moved to Algiers, he was detained in the barracks of Ben Aknoun. He was brutally tortured and suffered a detached retina. The minutes of questioning indicated he may have been a head of an armed group in the region of Oran and maintaining contacts abroad. He may also have confessed to having planned the assassination of political figures and foreigners. Saddek asserts that these charges were added on the record without his knowledge. DRS Officers who accompanied him to his first appearance in court on September 17, 2002 threatened to bring him back to the torture centre if he retracted his statements.

Belkheir Mohammed, born in 1964 and residing in Lakhdaria, who sympathizes with the FFS²³ and claims to have denounced torture and named a member of the DRS for his involvement in cases of disappearance, was arrested at his home on the night of 16 to 17 March 2003 by agents of DRS without a warrant. Taken to an unidentified place in Ben Aknoun (Algiers), he was tortured for several days with electricity and by the

²²[Http://www.algeria-watch.org/fr/mrv/observatoire/torture_belkheir.htm](http://www.algeria-watch.org/fr/mrv/observatoire/torture_belkheir.htm)

²³ FFS: Socialist Forces Front, an opposition party.

method of *chiffon*. He was forced to sign a package of typewritten sheets of which he could not read the contents.²⁴

It is difficult for organisations defending human rights to gather testimony from people who have been tortured because of the pressure they experience. Those who have not yet been tried fear sanctions or reprisals especially as they continue to be available to their torturers in the same prison or in connection with transfers from one prison to the next. They also fear that they will be subjected to a heavy sentence by filing criminal complaints for torture because, as a result of their presentation to the judge of instruction, they perceive the judiciary to be as a mere dependency for the Security services.

Within the framework of international cooperation in the fight against terrorism, Algerians travelling to Algeria of their own volition or extradited by third countries were arrested upon their arrival, or after a few months, and held incommunicado for long periods during which they were also tortured.

Mohamed Harizi, born in 1974, had visited Bosnia and Herzegovina in 1992 and training camps in Pakistan, before fighting alongside the Taliban in Afghanistan. He returned of his own free will in Algeria in August 2002 and was not harassed. It was only until December 15, 2002 that he was arrested and held incommunicado for more than 2 years in the Antar centre of the DRS, without charge or trial. He suffered severe torture, including electric shocks and the *chiffon*. Before being presented in court, he was forced to sign a declaration stating that he had been treated well.

Mohammed Sebbar resided in Bosnia, a country in which he had acquired citizenship. In 1999, under American pressure, the Bosnian authorities demanded that many people of Arab origin leave the country. Having received assurances from the Algerian authorities, he decided in June 2002 to visit Algeria, with his wife and three children. For 6 months, he led a normal life. On Dec. 27, 2002, he was arrested by agents of the DRS and driven to an unidentified torture centre where he was disappeared for 9 months. He suffered torture for several months and under threat of rape of his wife, he eventually agreed to sign whatever they asked for. Moved to the barracks of Hydra, where he remained locked up for nearly 2 months, he was forced to sign on September 27, 2003 a document where he claimed to have been treated well and that nothing had been seized at his home. Then they made him sign, again under duress, a verbatim record of interrogation, full of confessions extracted under torture.²⁵

4.2.3. TAKING ACCOUNT OF CONFESSIONS BY THE TRIAL COURT

In cases described as "terrorist", the preliminary investigation proceedings are exclusively based on the minutes of interrogation containing confession obtained under torture. There is almost never any evidence that other investigations have been initiated. This does not seem to embarrass judges who then pronounce sentences on that basis alone whereas the Code of Criminal Procedure stipulates in Article 215 that the "Minutes and reports noting the crimes hold worth only as simple information".

²⁴ Testimony on torture: "Neither Bouteflika nor thy God can save you from our hands," Mohamed Belkheir residing in Lakhdaria, in March 2003, Observatory of Human Rights in Algeria (ODHA), Algeria-Watch, May 13, 2003, http://www.algeria-watch.org/fr/mrv/observatoire/torture_belkheir.htm

²⁵ Testimony on torture: "I kill you and you will join the list of the disappeared ", Mohamed Sebbar, 2003 Observatory of Human Rights in Algeria (ODHA), Algeria-Watch, November 2003, http://www.algeria-watch.org/en/mrv/observatory/torture_sebbar.htm

Moreover, the code stipulates in Article 213 that "confessions, like any evidence, are left to the discretion of the judge".

As the judge often does not take into account statements by the accused that he was tortured, the confession is not questioned.

The suspect is not informed of his right to a lawyer. He is presented most of the time alone during his first appearance before the judge. Caught in the grip of threatening DRS agents who accompany him, he makes no mention of torture, and, often, some judges also put pressure on the accused for him to maintain his confession.

4.3. THE LACK OF JUDICIAL CONTROL ON THE ACTIVITIES OF THE DRS

4.3.1. THE PROSECUTOR GENERAL IS NOT INFORMED ABOUT THE ACTIVITIES OF THE DRS

The Code of Criminal Procedure stipulates in Article 12 that the judicial police are headed by the prosecutor. This means that the prosecutor must be informed of any arrest, and he must oversee the legal proceedings.

But, in fact, the prosecutor is never informed of the actions of agents of DRS, so during the arrests made by the DRS, the families of prisoners who inquire with the Prosecutor competent for the territorial jurisdiction relating to the place of arrest, had never obtained information on the reasons thereof or on the whereabouts of their loved ones or even on the reality of the arrest.

The only implicit confirmation that families can get about the authors of the arrest is in the conduct of official authorities, for example, the fact that the prosecutor fails to order a criminal investigation for kidnapping when such arrests are reported to him.

Moreover, the detention centres of the DRS are not listed as places of detention where is carried out custody but as military barracks. They are not inspected by the prosecutor as no legal provision allows him to perform such checks.

Al.3 Article 52 of the Criminal Procedure Code actually mentions, concerning the special custody register submitted for review by the prosecutor, "any local police or gendarmerie likely to receive a person in custody " excluding de facto control of the public prosecutor on the premises of DRS.

4.3.2. NO COMPLAINT FOR TORTURE GOES FORTH

When people who have suffered torture complain to the prosecutor or the judge, the latter do not take into account statements or in some cases, ask for names of offenders that the victim obviously cannot provide them. In the case of Mohammed Sebbar that we presented above, the latter reported that at the time of his arrival at Abane Ramdane court (Algiers),

"I informed the prosecutor that I would lodge a complaint against my torturers. He looked at me and asked me if I knew their names. I replied that I did not know their real names, but they were using pseudonyms and that the one who brought me to court was one of them. He said this was not relevant to him and that and I should see the judge.

When I was presented to the magistrate, I informed him of my intention to file a complaint against my torturers. He said in turn that he was not concerned and that his

was not his role to enquire, but at the end of the hearing he would send me to the prosecutor!!! He did not inform me that I had the right to be assisted by a lawyer. I then remembered the words of the officer who said to me that the magistrates to whom he was going to take me were theirs, that I was always at their mercy and that I could be brought back at any moment to the DRS centre. And how it was useless for me to claim my rights and that only obedience to their orders was the healthiest solution! ".²⁶

The Algerian authorities claim in the report submitted to the CAT that "if a person is suspected of having committed acts of torture which could be qualified as crimes, the prosecutor requires the examining magistrate to open a file." They also mentioned that "cases of overruns" had been punished. The Committee against Torture and the Human Rights Committee were informed in 1996 and 1998 of these sanctioned "cases of overruns", as well as the panel mandated by the UN Secretary General to conduct an information visit to Algeria in 1998. The two lists²⁷ handed to the panel and enumerating overruns committed by members of the security services. The first one mentioned about thirty policemen, over fifty communal guards and members of groups of self-defence and only 3 military. In the latter case, as well as those in the second list, none has committed serious violations of human rights. These were mostly crimes or offences under the law. The periodic Algerian report referred to information provided to NGOs that visited Algeria in 2000. Again, this information recorded 348 cases of "overruns by agents of law enforcement agencies from 1993 to February 2000," but did not specify, with the exception of 15 cases of "arbitrary detention and torture" if these were also common crimes or serious harm to human rights in the context of the fight against terrorism.

The Algerian authorities did not indicate the names of persons prosecuted and argued that such information was public.

If though the Algerian press did mention some rare sanctions for overruns committed by the security services, it should be noted that they seem insignificant given the magnitude of the violations on the one hand and on the other hand they do not concern agents or officers of DRS but most of the time members of the self-defence groups, agents of public order or junior national servicemen doing their military service.

While it is true that the legislature has introduced sanctions in 2004 for people who have exercised or ordered torture (art. 263 bis), given the lack of control by the civilian authority over the actions of agents of DRS, one should not expect that any investigations of torture be conducted, even as a result of complaints.

4.3.3. A NOT INDEPENDENT JUDICIARY

The situation of the Algerian justice system deteriorated inexorably from 1992 and there is "true anarchy in the sector," according to the chairman of the Bar Association of Algiers, Abdelmadjid Selini who said recently that "pressures on the judiciary have reached such a degree that they now regard themselves as officials at the mercy of the authorities."²⁸

The former national chairman and former magistrate said that "the Algerian magistrate is a prisoner under pressure from the authorities and repeated interference from the Ministry of

²⁶ [Http://www.algeria-watch.org/fr/mrv/observatoire/torture_sebbar.htm](http://www.algeria-watch.org/fr/mrv/observatoire/torture_sebbar.htm)

²⁷ "Illustrative state of legal proceedings against the authors of overruns" and "List of 68 cases handled by military tribunals dealing with offences committed by some elements of the security forces on official duty".

²⁸ " „L'Expression“ and " Le soir d'Algérie" of March 30, 2008.

Justice which seriously undermines the credibility of the judiciary and makes any reform childish " and adds that "the magistrate has 'the choice of complying with the orders of the Ministry or risk being demoted or transferred".

He estimates, "that the sector was doing better during the 70's "and that "justice was more independent at the time of single party rule".

About instructing magistrates, Mr Selini says, "they will simply repeat the preliminary investigations of the security services" and states that "98% of the cases are referred to courts. There are few occasions when a dismissal is pronounced, which is far from normal."

4.3.3.1 THE CASE OF MATOUB LOUNES: MALIK MEDJNOUN, NINE YEARS PREVENTIVE DETENTION (1999-2008)

Thousands of people have been charged, tried and sentenced without real judicial investigations and or fair trials in conformity with the law which have established their responsibility. In fact, most of the political assassinations and massacres have not been yet elucidated. The most emblematic of these murders are the murders of Tahar Djaout (1993) and Said Mekbel (1994), both journalists, Abdelkader Hachani, number three of the FIS (1999), the monks of Tibhirine (1996), Abdelhak Benhammouda (1997), General Secretary of the national union and the popular singer Lounès Matoub (1998).

Malik Medjnoun is one of those arrested for complicity in the murder of Lounès Matoub. He has always denied being involved in this crime and, at the time, it is established that he was at the place of his work. Kidnapped near his home in Tizi-Ouzou on September 28, 1999 by agents of the DRS, he was held incommunicado at the Antar detention centre of DRS in Algiers. For more than eight months in detention, he was brutally tortured according to the techniques used by the security services (method of cloth, electricity etc.).

His parents had no news of him throughout this period. The father of the victim submitted a complaint to the Prosecutor General of Tizi-Ouzou for the crime of kidnapping but he refused to request the opening of an investigation.

Worse, Malik Medjnoun was presented a first time before the Prosecutor General several months after his disappearance, and he reported to him the conditions of his abduction, but Prosecutor General refused to present him before a magistrate and allowed DRS agents to bring him back again to secret detention, thereby rendering himself guilty of complicity in crimes of kidnapping followed by torture. This attitude of the Prosecutor General of Tizi-Ouzou has allowed the DRS to continue to torture and keep in incommunicado detention a person already declared missing for more than six months.

Urgent appeals were made to the Working Group of the United Nations on Enforced Disappearance April 2000, and then the Algerian authorities decided to bring Malik Medjnoun before the examining magistrate of Tizi-Ouzou on May 2, 2000. It is only at this time that for the first time he was confronted with the accusation of complicity in the assassination of Lounes Matoub.

Called upon by his father on June 11, 2004, the Human Rights Committee asked the Algerian authorities for clarification on the matter. The authorities informed the Committee on 28 December, 2004 "that the case would be submitted shortly to the criminal court of Tizi-Ouzou to be judged." Since that date, 14 criminal sessions have been held at the criminal court of Tizi-Ouzou without the case of Mr. Malik Medjnoun being tried.

The Committee issued its findings on August 9, 2006: It recommended the Government to immediately allow Malik Medjnoun to appear before a judge to answer the charges or to restore his freedom, and to conduct a thorough and diligent investigation on his detention and what he has been subjected to since his abduction on September 28, 1999 and to initiate criminal proceedings against those responsible for these violations. It also recalls that the Algerian state is also required to compensate adequately Malik Medjnoun for violations suffered and to take steps to ensure that in future similar violations can not happen again. The Algerian authorities have not taken account these findings, and as a protest against the refusal of the Algerian authorities to bring him before a judge, Malik Medjnoun began a hunger strike on Monday, February 25, 2008.

On February 26, 2008, the Prosecutor General of the Court of Tizi-Ouzou M. Lazizi Tayeb, went to the civil prison, accompanied by the president of the court (who is also the president of the criminal court) to ask him to stop his strike.

The judge sought to convince Malik Medjnoun that, since his case was "sensitive" neither he nor the President of the Court, had the authority to set the case to a hearing before the criminal court, but that it would nevertheless try to intervene with the "competent authorities".

However, it must be stressed that the Prosecutor General is by the law, the only "competent authority" to propose to the president of the criminal court to place a case on the schedule of a session of the criminal court. (Art. 255 of the Criminal Procedure Code Algeria).

The president of the court may also, under section 254 of the Code "decide whether to hold one or more additional sessions if the number or importance of business so requires".

4.3.3.2. ABDELHAKIM CHENOUI

Mr. Chenoui is also suspected of complicity in the murder of Lounès Matoub and is an ex-armed group member, repentant as part of the "civil concord". He was arrested by the police on September 19, 1999, in Tizi Ouzou after he surrendered. Detained in solitary confinement for six months at the Châteauneuf Centre, he was brutally tortured with the *chiffon* and with electricity. He reported having been sodomized with a broomstick and was suspended by the elbows. He was reportedly filmed confessing to murdering the singer. Since then, he has been imprisoned in Tizi Ouzou without being tried. He also was indicted on May 2, 2000 for murder and belonging to a terrorist organization.

In order to give substance to the thesis that Mr. Medjnoun and A. Chenoui committed this killing and as their three accomplices have been officially declared killed, subsequently, the DRS arrested Ahmed Cherbi and his son Hamid. The Cherbi family owns a piece of land located at the place where Lounès Matoub was killed. They have donated this to the foundation Lounès Matoub who has erected a memorial. Both had been summoned to testify that the two defendants had committed the murder.

4.3.3.3. AHMED CHERB

Cherb was 21 years old when he was abducted at his workplace in Tizi-Ouzou on February 27, 2002 at 11:30 by two individuals who put a black bag over his head and handcuffed him. He was taken to the military sector which was very close. He was stripped and locked in a cell, naked. Three hours later, he could get dressed and was taken to an office where a commander asked him to collaborate. There, he learns that it was about the case of the killing of Lounès Matoub. He refused to collaborate and was then detained for three days without food or water. He was then taken to CTRI Blida, where he would see several times Colonel M'henna Djebbar, head of the torture centre over the past decade. The torturers wanted him to admit in front of journalists that he had seen the murderers of the singer. They showed him pictures including Malik

Medjnoun and Abdelhakim Chenoui. He refused to make false statements to the press. He was brutally tortured: attached to a ladder which is then pushed so that he falls on each side of his body, his head is submerged in a basin of nauseating water and he is beaten with fists and feet. A woman doctor administered injections to him and gas was introduced into his cell. He started raving and hallucinating. And finally, it is in this altered state, that he obeyed the orders given to him. After more than 30 days, the time came for the recording of his statements. He was taken to a room in which there was a camera. A reporter introduced the subject and Ahmed Cherbi had to explain that, in fact, he was with his father on their land when they heard gunshots. When they looked back they were able to see five people including the two mentioned above. He is congratulated by his torturers and returned to his cell. Three or four days later, he recognized the voice of his father Cherbi Hamid. He finally met him and told him the story of his arrest on March 25, of torture and inhaling the hallucinogen smoke. His father also did the required testimony. Both signed the minutes of questioning and were transferred to court in Tizi-Ouzou. Before the examining magistrate Ahmed Cherbi retracts, but he is nevertheless charged with "non denunciation of the killing of Lounès Matoub". The judge advises him not to say he was tortured and to repeat what DRS agents demanded of him. He was trying to persuade him that he was young, that if he did agree to perform the requested perjury he would remain 10 years in prison. Ahmed Cherbi refuses, and was finally released on bail. During the trial, witnesses, curiously not related to the case of the killing of Lounès Matoub, attest that the father and son were not on their land on the day of the assassination. Ahmed Cherbi was then acquitted, but his father got three years in prison.

The Algerian authorities are doing everything to avoid a trial for the murder of Lounès Matoub. The official version cannot be maintained in court because too many elements would likely establish the innocence of the accused but more than that, too many questions could be raised at such a trial.

The widow of Lounès Matoub, Ms. Nadia Matoub, who was with him at the time of the murder and who was herself seriously injured, testifies to having gone to the court of Tizi-Ouzou in February 2008, accompanied by her lawyer, to be informed about the date of the trial. She was told 'the business is closed and no trial is planned for this year or the next years'. When she asked for the reason of this serious decision, they told her that the file was sensitive and that it did not depend on judicial authorities."²⁹

4.3.4. THE CASE OF AMMARI SAIFI ALIAS ABDERRAZAK EL PARA 2004-2008

Ammari Saifi aka "Abderrezak Al-Para" is presented as an important leader of the GSPC (Salafist Group for Preaching and Combat). He made his entry into the international public arena with kidnappings of European tourists in the Sahara in early 2003. With a ransom of more than 5 million Euros, he moves in the Sahel where he is captured by Chadian rebels engaged in Libya who in turn handed him to the Algerian authorities, officially on October 27, 2004. He has since then disappeared.

Although he is officially being held by the Algerian authorities, Ammari Saifi was however tried and condemned on June 25, 2005 in absentia by the criminal court of Algiers to a life sentence for "creation of an armed terrorist group"; Noting the absent of Saifi in the dock during the first hearing of April 24, 2005, the President of the criminal ordered the case to be postponed until June 13, 2005 to allow the Prosecutor General to bring him from the prison where he was supposedly being held. At the scheduled hearing, the Prosecutor General was unable to bring

²⁹Le Matin, 07 March 2008 http://www.algeria-watch.org/fr/article/just/matoub/proces_niet.htm

the accused or to confirm that he was held in an official prison. The case was again postponed for the same reasons until June 25. At this hearing, the Prosecutor General was still unable to present the accused in court and the presiding judge, continued to order his detention in absentia while he was "at large".³⁰

On March 18, 2007, the same criminal court in Algiers was to try him again in absentia. The official reason given this time was that "the legal proceedings in connection with the case began before he was handed over to the Algerian authorities, and he was therefore considered to be a fugitive"³¹

The fact that the Prosecutor General has been unable to bring Ammari Saifi from detention to make him appear at the hearing of a criminal record shows that he has no authority over the DRS, which continues to illegally detain him in a secret prison.

The press has just announced that he must be tried again on March 24, 2008 by the criminal court of Biskra for an ambush allegedly commissioned in early 2003 that resulted in the death of more than 40 special military troops. As a military deserter, he should legally have been prosecuted before the military court, and not before a civil court.

4.3.5. DIPLOMATIC ASSURANCES

Thousands of opponents of the Algerian regime fled Algeria during the 1990s and sought refuge in Europe, the United States, Canada or in Arab countries. In the West, they often requested asylum. Very few of them obtained that right to asylum, and as their claims were rejected, many were extradited.

Some Western governments consider that since the enactment of laws on "civil concord" and "national reconciliation" opponents no longer have to worry about being arrested and tortured if extradited to Algeria. Or they believe some Algerians pose a threat to the security of their country and consider their deportation even after they have served a prison term in the host country.

In order to free themselves from any responsibility, these Western governments seek "diplomatic assurances" that transferred persons will not be tortured or mistreated, will receive a fair trial and will not be sentenced to death. However, the Algerian authorities easily label a political opponent or an activist for human rights as a terrorist. And as a result, persons suspected of terrorist activities, of any support or even to have information that may primarily be of interest to the DRS are likely to be arrested and tortured. The NGOs are aware of many such instances.

Often, suspected persons or of potential interest to DRS are not intimidated at first but placed under covert surveillance. They will then be arrested under any pretext, and are then likely to be subjected to torture and / or ill-treatment.

According to the Algerian press, the Algerian and British governments signed in June 2006 an agreement for extradition.³² These extraditions are nevertheless carried out on the basis of diplomatic assurances. "London has actually sent in late January 2007, four suspected terrorists who have chosen to abandon their appeal against extradition rather than drag out their custodial situations for many months. 'We gave to the British assurances and verbal' guarantees, as to the treatment of these individuals once they arrive in Algeria, according to an official source of Algeria. The daily newspaper El Khabar revealed the terms of assurances of

³⁰ Le Jeune Independent, El-Watan, Liberté, on June 26, 2005.

³¹"According to a judicial source quoted by " Le Jour d'Algerie, April 1, 2007.

³² Quotidien d'Oran, on June 10, 2006.

the Algerian Ministry of Justice guaranteeing 'proper treatment and the right to contact the relatives but only in the event of a regular investigation'³³. But what happens then when the investigation "is not regular"?

The Slovak authorities also appear to have chosen to resort to this kind of process with Algeria:

Mustapha Labsi is held in Bratislava since May 3, 2007. His application was rejected on September 24, 2007 and according to a November 30 court decision, he should be deported. He was tried in Algeria in absentia and sentenced to life imprisonment for activities linked to terrorism. The Slovak authorities have obtained diplomatic assurances that he would be re-tried in a fair trial and that, because of what he was indicted with, he would not be sentenced to death. In his case, the assurances seem not to even cover the guarantee that he will not undergo torture.

States which deport individuals on the basis of "diplomatic assurances" have no real means of monitoring their fate and to check whether the guarantees are respected, and more importantly, how long those guarantees will be respected.

These guarantees are made by the political authorities who do not themselves have any real power or any ability to control the decisions taken by the DRS in the management of the security issue.

5. THE ROLE OF OTHER SECURITY SERVICES

The security forces, all components included, remain involved in the "fight against terrorism". However, a certain division of roles seems to be happening today. In recent years, people suspected of terrorist activities or support for terrorism and who are arrested by services not attached to the DRS are generally subsequently transferred to the premises of DRS.

But as we noted above, many serious violations of human rights have been committed by other security forces; for example gendarmes in Kabylia or T'kout who have carried out systematic torture and extrajudicial executions demonstrate this. But police, military, communal guards and self-defence groups are equally involved in what is commonly called the "fight against terrorism".

The number of police has increased significantly in recent years. While in 1990, there was a policeman for 563 people, the number increased to 343 people in 1992 and 305 in 2007. The police directorate provides for a figure of one policeman for every 173 people for the beginning of 2009. The world average lies at about 400 people per policeman. This high concentration of police is actually even denser if we consider the geographical distribution of these numbers. The police are mainly present in the cities. For the capital city of Algiers, which has 2,563,428 residents, there are 20,000 policemen stationed, which corresponds to an average of one policeman to every 128 persons. But the head of the DGSN (General Directorate of National Security), Colonel Ali Tounsi announced a doubling of these numbers in the next two to three years³⁴ which would place Algiers as the first city in the world in terms of number of policemen per capita.

The number of police officers in cities leaves does not leave the countryside abandoned. Here, there are gendarmes, soldiers, communal guards and self-defence groups stationed.

³³ El Watan, 6 mars 2007.

³⁴ Interview with Ali Tounsi, Liberté, March 6, 2008.

The National statistical Office states that 35,000 policemen were posted in 1990. That number reached 100,000 in 2007 and should be increased to 120,000 in 2010.³⁵

The Army is comprised of about 134,000 troops with a contingent of 107,000 military reservists.

The body of the communal guard was created in 1993, comprising approximately 100,000 elements. This body has a legal basis and is subordinate to the mayor but in fact it is supervised by the Gendarmerie or the army in operational areas. Their members have a short two-month training in the gendarmerie. They wear uniforms, are equipped with light weapons and receive remuneration.

6. GROUPS OF SELF-DEFENCE

Groups of self-defence are more informal and have been created since 1994 and acted for nearly three years without any legal basis. It was only on January 4, 1997 that a decree was promulgated to resolve their creation, in fact to legalise their existence retroactively. Meanwhile, hundreds of militia groups have emerged, some of them, like that of Zidane Mekhfi which prevail in the region of Lakhdaria, resemble real small private armies of several thousand men.

Despite repeated announcements by the authorities of their victory over terrorism, which thus remains only as residual, despite the laws on "civil concord" and "national reconciliation", the self-defence groups continue to predominate. At the end of 2001, new militias were created and armed by the authorities in the regions of Chlef, Batna and Ain Defla.³⁶ The number of guards and communal self-defence groups in 2004 are estimated at a total of about 500,000 people in the entire territory of Algeria³⁷; it is reasonable to assess the current government militias to 400,000 elements, not counting the very many armed people on an individual basis by the authorities for whom it is very difficult to make an overall assessment.

The work of these self-defence groups is, as their title suggests, that of "responding, individually or in an organised framework, to any aggression, acts of terrorism or subversion or, in general, all acts of criminality or organised crime, against persons and property"³⁸ So, these bodies should be strictly defensive. The legislation goes even further since it stipulates that "the action of self-defence (...) be exercised within a framework organised under the responsibility and control of the authorities responsible for maintaining public order and the Security"³⁹. Their constitution must obey rules, the Wali (governor of the province) must issue them a permit after having received a favourable opinion from the security services. Their powers are very limited: they cannot act in a metropolitan area, cannot penetrate homes, and especially the members of GLD are not entitled to any compensation. The reality is totally different and the prerogatives, room for manoeuvre and the impunity enjoyed by their members depend largely on the personality of their leader and his relationship with the DRS.

³⁵ Le Quotidien d'Oran, 23 July 2006

³⁶ Information geopolitical Centre The security situation in Algeria, http://www.commission-refugies.fr/IMG/pdf/Algerie_-_la_situation_securitaire.pdf, April 7, 2004.

³⁷ Idem

³⁸ Executive Order No. 97-04 of January 4, 1997 laying down conditions for the exercise of self-defence in an organized framework.

³⁹ Idem

7. CONCLUSIONS AND RECOMMENDATIONS

The Algerian authorities cannot nowadays argue that "the State is responsible but not guilty" to justify what they called, euphemistically, "individual overruns" in an exceptional security situation and invoke « understanding » from the Committee as it did during the review of its last periodic report in 1996.

It is clear now that, despite a significant improvement in the security situation, the problem of torture in Algeria remains and that it is not just a matter of legal texts to be integrated into national legislation.

The structures installed in 1992 to "fight terrorism" are still in place and some of the principal persons responsible of what Sir Nigel Rodley, expert from the Human Rights Committee, described as "crimes against humanity for which it is difficult not to imagine that they are the consequence of a systematic practice", have either received promotion or retired, while the others are still at the head of the security services of the state and enjoy full immunity.

The absence of an independent judiciary, the lack of control of the intelligence services of the army by a civilian authority and the continuation of impunity, now legalised by the Charter for Peace and National Reconciliation, are key factors in the perpetuation of torture in Algeria.

To put an end to this degrading practice, the Committee should call upon the State party to:

1. Lift the state of emergency and remove all measures of administrative detention.
2. Repeal Ordinance No. 06/01 concerning the implementation of the charter of national reconciliation.
3. Take appropriate measures to ensure true independence of the judiciary.
4. Consider the ratification of the Optional Protocol to the Convention against Torture of 18 December 2002.
5. Put all places of detention, including those operated by the DRS, under the control of the civilian authorities and permit the International Committee of the Red Cross and an independent national institution to visit them without restrictions.
6. Reduce the period of police custody to 48 hours in all cases and ensure strict implementation of the provisions of the law and procedures relating to arrest and police custody and guarantee the right of persons in police custody to a prompt access to a lawyer.
7. Scrupulously apply the procedures for the registration of persons in police custody and immediately notify their families their place of detention, the possibility to visit them as well as to the right to choose a doctor for their medical examination at the end of the statutory period.
8. To carry out an automatic examination by a doctor chosen by the victim or his family when there are allegations of torture or ill-treatment.
9. Order an autopsy in all cases of deaths in police custody and immediately provide the autopsy report to the victim's family and enable them to seek the participation of a coroner of their choice.
10. Conduct investigations into all allegations of torture and make public their results with details of offences committed, the authors' names, dates, places and circumstances of

the incidents and the punishment to the authors and their supervisors and introduce a scheme to compensate victims.

11. To guarantee the right of victims of torture to file complaints without fear of reprisal or persecution of any kind, even if the results of the investigation does not prove their allegations, and to seek and obtain compensation if these allegations are confirmed.
12. Amend the relevant legislation to ensure that no statement obtained through torture will be used in judicial proceedings.