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PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS, INCLUDING THE RIGHT TO DEVELOPMENT

**Written statement* submitted by the Cairo Institute for Human Rights Studies
(CIHRS), a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is
circulated in accordance with Economic and Social Council resolution 1996/31.

[25 August 2008]

* This written statement is issued, unedited, in the language(s) received from the
submitting non-governmental organization(s).

16 years of Algeria's failure to bring to an end to Enforced Disappearances

Introduction

1. Algerian's human rights record can be easily distinguished by the phenomenon of enforced disappearance. This has undermined the rule of law in the North African State and made its political and economic situation unstable. This is mainly due to the failure of the Algerian State to find a just solution for the problem of disappearances and due to the increasing influence of Para-military Islamic groups that have been trying to force their political acceptance through armed activities, including the abduction of civilians. Algerian authorities and Para-military groups have been kidnapping and secretly executing civilians, since 1992, with complete impunity.

2. The exact numbers of missing persons remains disputed, but the government has acknowledged a figure of just over 6000 disappeared, most of whom are presumed dead. Some of these were kidnapped and then killed by Islamic groups, but others are reported to have been unlawfully detained and killed by state security services.

3. In 2005, a controversial amnesty law was approved in a referendum, it gave, among other things, financial compensation to families of disappeared, but also effectively ended all police investigations into the crimes of enforced disappearances¹. The law was criticized by several national and international human rights groups as it has given 'legal' impunity for a violation pre-defined as a crime against humanity. This was made clear in the Human Rights Committee's final observation on Algeria in November 2007 that firmly criticized article 46 of the Charter of Peace and National Reconciliation and asked the Algerian Government for its abrogation².

4. The 19 and 20 August 2008 terrorist attacks where at least 62 people were killed and 76 injured; proves that the reconciliation process initiated through the laws mentioned above failed to bring a just end to the 16 years of conflict. CIHRS notes that the absence of a transparent and just legal procedure is one of the main factors for the reprise of these attacks. In this concern CIHRS profoundly believes that the solution is to reinforce the rule of law and the respect of basic human rights principles. Thus in order to bring peace and justice back to Algeria the establishment of a strong and efficient transitional justice process is required.

5. There are a number of issues are still to be dealt with in this concern, most notably the enforced disappearance of the civilian population and the impunity that the perpetrators of human rights violations in Algeria still enjoy.

Enforced disappearance in Algeria

6. Starting from 1992, civilians in Algeria were caught between Islamic terrorist groups vying for power with the State authority trying to maintain its grip on power by the use of violence and oppression. While the authorities believe that a portion of the population

¹ See *supra*

² CCPR/C/DZA/CO/3/CRP.1

backs the armed Islamic groups regardless of motive this section of society should be eliminated. Para-military groups believe that the escalation of violence is the sole source of power by which they can eradicate those whom they identify as pro-government. Both parties to the conflict believe that missing persons could be a tool to affect and influence the other parties' position.

7. Most of the missing persons are young male between the age of 20 and 25 that were arrested from their domicile or workplace. They are often reported as arrested by military officers, policemen, agents of the anti-terrorism brigade, agents of the Department of Information and Security and/or by the "Patriots" militiamen. Others are frequently arrested in crowds. Some of these arrests are believed to be conducted for the only purpose of extracting information about other family members who are believed to belong to one of the Islamist groups.

8. Crimes perpetrated by the security apparatus were concealed at times and distorted at others. Talking of the fate of missing persons is still stigmatized as advocating for terrorism and terrorists by the government and the official media.

9. In this effect, Algeria has consistently failed to cooperate with the UN working group on enforced and involuntary disappearances that has been seeking permission since 2000 from authorities to visit Algeria. Despite that fact, the Algerian government told the Human Rights Committee that in 2007 they had selected 6,233 cases for compensation and had categorized some 17,000 cases as "killed terrorists", but provided no details of the disappeared to who these applied.

10. On 20 September 2003 the Algerian President Bouteflika initiated the state commission on disappearances a new ad hoc mechanism to address cases of disappeared persons and report it directly to the president. In May 2004 the commission concluded by confirming 6,146 cases of missing persons that were all attributed to state agents. But added that these were all individual cases of misuse of power and that the government should not bear any responsibilities for it. This report was never made public.

11. In February 2006 a charter for peace and national reconciliation was adopted. Under this, relatives can seek compensation if they obtain a death certificate from the authorities for the person who disappeared.

12. Human rights organizations have indicated an approximate figure of 20.000 persons whose whereabouts are still unknown. There is a general feeling that the continuous failure by the state to implement strong safeguards against the recurrence of disappearances is raising the specter that they could be reintroduced as a common practice if authorities once again deemed them useful.

Impunity and accountability for enforced disappearance

13. Impunity is a distinctive characteristic in Algeria that is also closely linked to the phenomenon of enforced disappearance. Security apparatuses accused of torture, unlawful executions and enforced disappearances are legally immune from any future prosecution for the crimes that they have committed. This impunity has also been extended to some of the Islamic Para-military groups, including members of the Islamic Salvation Army, the

Islamic League for Preaching and Jihad and others, that were granted a general amnesty by the President of the Republic both in 1999³ and 2006⁴.

14. The general amnesty was not well received in Algeria by many of the victim's family who pointed out the failure of the Algerian State to bring law, order and justice into effect. The Charter of Peace and National Reconciliation adopted in 2005 outlined a framework for exemptions from prosecution or clemency for current and former armed group members. The Charter further states that security forces and state-armed militias acted in the interest of the country, hence denying that both have been responsible for crimes against humanity.

15. CIHRS strongly believe that these two sets of amnesty described above have denied victims of human rights abuses by both the State and other armed groups their right to an effective remedy and expresses its profound concern at the text of the abovementioned charter, most notably article 46 that states:

"Anyone who, by speech, writing, or any other act, uses or exploits the wounds of the National Tragedy to harm the institutions of the Democratic and Popular Republic of Algeria, to weaken the state, or to undermine the good reputation of its agents who honorably served it, or to tarnish the image of Algeria internationally, shall be punished by three to five years in prison and a fine of 250,000 to 500,000 dinars."

16. Moreover, financial remedies are also ineffective, although they are granted by the charter. As an act certifying that the person is missing and the death certificate must be presented to the authorities by the families filing a claim for compensation. Until now many families have declared that they would not seek a death certificate, fearing that this would close the door to proper investigations into the fate of their loved ones and prevent them from obtaining the truth.

Recommendations

The Algerian authorities must:

- Repeal legal provisions introduced in Law 06-01 of February 2006 which prevent courts from investigating complaints against the security forces and which criminalizes free expression and debate about the conduct of the security forces;
- Ensure the establishment of an independent transitional justice process and open full, independent and impartial investigations into all cases of enforced disappearance, secret detention and torture which are brought to their attention and bring to justice those responsible for such human rights violations;
- Ensure the payment of financially compensations to all victims' families;

³ Also known as the Civil Harmony Law No. 99-08 that entered into force on 13 July 1999. It stipulates that members of armed groups who surrendered to the authorities within six months from the date the legislation was passed.

⁴ Law no 06-01 of the 27 February 2006

- Follow the 2007 Recommendations of the Human Rights Committee.

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