

TABLE OF CONTENTS

| | |
|--|----|
| 1. Introduction | 1 |
| 2. The State of Emergency | 2 |
| 3. Administrative Detention | 3 |
| 4. Torture and Ill-treatment | 5 |
| 5. Diminished Trial Safeguards | 8 |
| 6. Civilian Deaths and Lack of Investigation | 10 |
| 7. Death Penalty | 11 |
| 8. Responses within Algeria to the Human Rights Situation | 12 |
| 8.1 - Government Responses | |
| 8.2 - Observatoire national des droits de l'homme (ONDH) | |
| 8.3 - Ligue algérienne des droits de l'homme (LADH) | |
| 8.4 - Ligue algérienne de la défense des droits de l'homme (LADDH) | |

8.5 - The Algerian Press

RECOMMENDATIONS and CONCLUSIONS 14

- 1 - Torture
- 2 - Use of Lethal Force
- 3 - Administrative Detention
- 4 - Trial Procedures
- 5 - Death Penalty

ALGERIA

Deteriorating human rights under the state of emergency

1. Introduction

This report describes violations of human rights during the state of emergency proclaimed for 12 months on 9 February 1992. Amnesty International delegates who visited Algeria in December 1992 raised these violations, in particular the increasing number of torture reports, with members of the Algerian Government and a member of the Haut comité d'état (HCE), Higher State Committee. Amnesty International is concerned that the violations of international standards described in this report are becoming increasingly institutionalised and fears that unless immediate action is taken respect for human rights in Algeria may decline further.

Twice in the past two years demonstrations and political unrest by sections of the Algerian population have led to the declaration of an emergency accompanied by special executive powers. On 4 June 1991 a four-month state of siege was declared after a general strike called by the Front islamique du salut (FIS), Islamic Salvation Front, had been followed by mass demonstrations. In July 1991 over 1,000 people were placed in administrative detention without charge or trial for up to two months in camps in the Sahara. Violations of human rights which were reported during the state of siege included arbitrary arrests, ill-treatment during and after arrest and deaths caused by the use of live ammunition against civilians in circumstances where there was no apparent threat to the lives of members of the security forces.

The state of siege was withdrawn on 29 September 1991, one week before its expiry date. On 26 December 1991 the first round of general elections, postponed from June 1991, was held and the FIS, which gained a majority of votes, seemed virtually certain to win the second round and to form the next government. The ensuing political crisis led to the resignation of President Benjedid and the appointment of a five-member HCE to run the country, led by President Mohamed Boudiaf. The second round of the elections, due to be held on 16 January 1992, was cancelled. Protest demonstrations, some of which turned into riots, were followed by mass arrests, mostly of members or alleged sympathizers of the FIS.

On 9 February 1992 a 12-month state of emergency was proclaimed. During this period nearly 600 people have been killed, shot by members of the security forces or by members of armed opposition groups. More than 270 members of the security forces and up to 20 civilians have been killed as a result of armed attacks by opposition Islamist groups. About 300 people were killed over the same period by the security forces. Many of them were armed opponents of the government killed in clashes, but they included numerous civilians shot in crossfire during demonstrations or when breaking a curfew.

Armed attacks by members of Islamist opposition groups greatly increased after March 1992 when the FIS was banned. Although some of the deaths of members of the security services have occurred in the course of armed conflict or attacks on patrols or law enforcement officers, others have taken place while these officers have been off duty, standing outside their homes, or out driving with their families. Civilians said to have been killed by members of Islamist opposition groups include Abderrahmane Belazhar, (a university administrator and communist militant shot in Cité Daksi in Constantine on 6 June 1992) and 10 people killed by a bomb in Algiers airport on 26 August.

Many Islamist opposition groups, such as *Hizbullah*, the Party of God, *al-Takfir wa'l-Hijra*, Repentance and Emigration, or the "Afghans", former Algerian volunteers who had fought with the Afghani *mujahidin*, guerrillas, participate in acts of violence independently or in alliance with supporters of the FIS. The leadership of the FIS have made a number of statements justifying the recourse to violence. There has been no condemnation of the deaths of civilians

although official FIS communiques appear to have denied involvement in the airport massacre.

Amnesty International, on a matter of principle, condemns the torture and killing of prisoners and the deliberate and arbitrary killing of civilians and others - for instance those who may be *hors de combat* - by armed political opposition groups. However, such provocations by opposition groups should in no way be taken as justification for human rights violations.

Under the emergency regulations more than 9,000 people were held in administrative detention without charge or trial in camps in southern Algeria. Most have since been released, but about 1,000 are still detained.

Over the past few months respect for human rights has declined. Detainees arrested under emergency laws have been illegally held in incommunicado detention for up to two months. Torture, which was virtually eradicated in Algeria between 1989 and 1991, is regularly reported from detention centres in and around Algiers. Special courts have been set up with retroactive powers to try all those awaiting trial under an accelerated and secret procedure lacking many of the safeguards enshrined in the Algerian Constitution and Criminal Procedure Code. In January 1993 the first executions since 1989 were carried out.

In 1989 Algeria ratified or acceded to several important human rights treaties including the International Covenant on Civil and Political Rights (ICCPR) and its first Optional Protocol; the International Covenant on Economic, Social and Cultural Rights; and the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture). In doing so it solemnly undertook to respect and ensure to all individuals within its territory the rights recognized in the ICCPR and to take effective legislative, administrative and other measures to prevent torture. Nevertheless, as documented below, Algeria has violated important rights guaranteed by these treaties and other international standards, among them rights which may never be suspended under any circumstances, including a state of emergency. The Human Rights Committee, a body of experts established

under the ICCPR to monitor implementation of that treaty, in September 1992 drew Algeria's attention to "the fact that the Covenant does not permit derogation from certain rights even in times of emergency and that, therefore, any excesses relating to, *inter alia*, the right to life, torture and the right to freedom of conscience and expression are violations of the Covenant which should not be allowed to continue."

On 7 February 1993 the *Haut comité d'état*, Higher State Committee, renewed the state of emergency indefinitely. In the light of the serious violations of human rights which have occurred during the past year, Amnesty International fears that unless the concerns detailed in this paper are addressed, the indefinite renewal of the state of emergency may lead to a further deterioration of the human rights situation in Algeria.

2. The State of Emergency

Article 86 of the 1989 Algerian Constitution allows the President of the Republic, after meeting the *Haut Conseil de Sécurité*, Higher Security Council, and in consultation with the Head of Government and the President of the *Conseil constitutionnel*, Constitutional Council, "in cases of urgent necessity" to decree a state of siege or state of emergency for a set period and to take all necessary measures to restore the situation.

On 9 February 1992 a 12-month state of emergency was declared under Presidential Decree No. 92-44 "considering the grave and persistent attacks on public order recorded in several parts of the national territory" and the "threats to the stability of institutions and grave and repeated attacks against the security of citizens and civil peace". The Minister of the Interior and Local Collectivities was empowered nationally and the *walís* (provincial governors) were empowered locally to see that public order is preserved: to place in a "security centre any adult whose activity is considered to endanger public order,

public security or the proper functioning of public services"; to forbid residence or put under house arrest persons harmful to public order and carry out exceptional searches by day or night; to ban meetings and demonstrations likely to disturb the peace; to suspend or dissolve local assemblies. The decree also provided that all those charged with crimes or serious felonies could be tried by military courts.

On 21 June 1992 President Boudiaf was assassinated in Annaba by a member of the security services. The HCE elected Ali Kafi to succeed him as President. An independent commission of inquiry was set up to look into the assassination. After issuing a preliminary report in which it cast doubt on the theory of a lone gunman, the commission issued a final report, only a part of which was made public. It stated that although various branches of the security service had been guilty of "glaring negligence" and a number of questions remained unanswered, insufficient evidence had been found to show that Lieutenant Lembarek Boumaarif, the security guard with Islamist sympathies who carried out the crime, had acted in collusion with others.

3. Administrative Detention

Since June 1991 thousands of Algerians have been arrested and held for long periods without charge or trial. During the 1991 state of siege, more than 1,000 people, mostly members or suspected members of the FIS, were held in administrative detention without charge or trial for up to two months in internment camps (*centres de sûreté*, security centres) at Ould Fayet, Blida, Oran, Ain M'lila and Ouargla. During the 1992-1993 state of emergency more than 9,000 have been detained in camps in the Sahara between 800 and 3,000 kilometres from Algiers.

Scores have stated that they were not informed at any point during their detention of the reasons for their arrest or of any charges against them. Some ex-detainees have reported that they were arrested simply while reading

communiqués of the FIS on the walls of mosques or while participating in peaceful gatherings or demonstrations. Others were arrested at home, often in the middle of the night and were taken away barefoot and in their pyjamas. The safeguards for detainees contained in the Algerian *Code de Procédure Pénale* (CPP), Criminal Procedure Code, and the Constitution, were laid aside. Many of those arrested were held incommunicado in police and gendarmerie stations for several days during which they were unable to contact their families and lawyers, and their families were not informed of their whereabouts. Despite assurances given to Amnesty International's delegates in March by the Ministry of the Interior and by the *wali* of one province that families of detainees were being immediately informed of their relatives' whereabouts, families were not informed and hundreds of families in Algiers, for example, were still unable to obtain information on their relatives for several weeks after arrest. An Amnesty International delegate, using the special telephone number provided to the public by the Algerian authorities, tried for several days in March to make contact with the official responsible for providing information to the families of those in internment camps but was unable to obtain any response. The organization continued to receive reports that families were unable to obtain information on the whereabouts of their relatives arrested several weeks before¹.

After arrest detainees were taken to screening centres, where some of them were released and others were prosecuted for offences such as disturbing public order. The majority, however, were sent to internment camps without any charges being brought against them. Amnesty International is concerned that nearly 12 months after arrest detainees are still being screened for possible charges against them, strongly suggesting that they were arbitrarily arrested.

¹ In the case of one detainee, Hocine Fouad, arrested on 7 March, an Amnesty International delegate spoke to the competent officials in the Ministry of the Interior on 18 March and was told that he was not in the camps and that therefore his case did not fall within the competence of the Ministry of the Interior. The organization sent a fax on 23 March and received a reply on 15 April saying that he was in El Menaa camp.

The great majority of those interned appear not to have committed any indictable offence and to have been interned simply because, as suspected members or leaders of the FIS, it was feared they might provoke disorder. Although after February 1992 public statements of the FIS appeared to support violence against the Algerian Government and the party was subsequently proscribed, when the state of emergency came into force in February 1992 the FIS was still recognized as a legal party. Amnesty International is concerned that many of those held in administrative detention were prisoners of conscience, detained for their peaceful support for the FIS without having used or advocated violence.

Internment camps were initially placed at Ouargla, Reggane, In Saleh, Bordj Oumar Driss and El Homr. A number of camps were closed during 1992 while other camps were opened in El Menaa, Ain M'Guel (near Tamanrasset), Oued Namous, Tsabit and Tiberghamine. In January 1993 detainees were being held in Ain M'Guel, Oued Namous and Ouargla. The Algerian authorities have frequently stated that detainees in internment camps are living in similar or better conditions as regards rations and medical facilities than the soldiers guarding them. Nevertheless, letters and statements smuggled out by detainees report a high incidence of disease among those detained, including diarrhoea, skin infections, and conjunctivitis, said by the detainees to be attributable to the heat and overcrowded conditions of the camps. At the end of March one 62-year-old detainee in Reggane was reported by the Ministry of the Interior to have been shot dead while attempting to attack a watch tower. Amnesty International wrote to the Ministry expressing concern over reports suggesting that the man in question (said to have had an artificial leg) had been sitting within the camp when he was shot. The organization is not aware of any independent and impartial investigation of this killing and its request for information about any investigation carried out has not been answered.

The expense and length of time required to travel to the camps made it virtually impossible for many families to visit their relatives in internment

camps. Families have also complained that when they received the visit authorization from the *wilaya*, this was only valid for four or five days, which did not give sufficient time to organize the journey. While some officials stated to Amnesty International that the internment camps were located in the south of the country for reasons of space and security, others have implied that the distant location of the camps was a form of punishment for the detainees. Those arrested in the region of Adrar were not sent to the nearby internment camp in Reggane but were sent to Ouargla, nearly 1,000km away.

The appeal procedure for administrative detainees does not safeguard their right of defence, including being informed of the reason for their detention and being present or represented by a lawyer at the hearing. In accordance with Executive Decree 92-75 of 20 February 1992 six regional appeal committees - each consisting of six members including two representatives from the Ministry of the Interior, one from the Ministry of Defence, and three "independent personalities" - were set up to consider appeal requests. The appeal, which was final, is decided solely on the basis of the detainee's file, without either the detainee or his lawyer being present or having access to the file.

On 8 August 1992 the HCE announced that the internment camps would be "progressively closed" and "those elements proven to have violated public order...dealt with according to the provisions of the law". Although over 8,000 detainees have been released as of February 1993 about 1,000 were believed to be still administratively detained. Algerian Government ministers told Amnesty International officials that some of those released had subsequently committed offences involving armed attacks or sabotage. Amnesty International has continued to call for the release or prompt and fair trial of all those administratively detained.

4. Torture and Ill-Treatment

Nearly one year after the declaration of the state of emergency in February 1992, torture has become widespread in detention centres in the region of Algiers and elsewhere. Such practices violate

Article 33 of the Algerian Constitution of 1989 which declares:

"The State guarantees the inviolability of the human person.

Every form of physical or moral violence is proscribed."

They also violate Algeria's solemn international treaty obligations. Article 7 of the ICCPR states:

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

Article 4 of the same treaty provides that this right may not be derogated from under any circumstances, even in a "time of public emergency which threatens the life of the nation". In addition, Article 2 of the Convention against Torture states that

"No exceptional circumstances whatsoever, whether a state of war or threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture."

During the first months of the present state of emergency, Amnesty International received reports of widespread ill-treatment of detainees both at the time of arrest and during incommunicado detention in police and gendarmerie stations. Some detainees stated that they were beaten on arrest by uniformed members of the security forces, who were sometimes accompanied by hooded armed individuals in plain clothes. Detainees also alleged that they were beaten while held incommunicado in police and gendarmerie stations for up to three days without food and without access to their families and lawyer. A number of reports of torture, often in illegally prolonged incommunicado detention, were received during the first half of 1992, but since October 1992 such reports have increased dramatically.

Amnesty International has received testimonies from tens of victims of torture and ill-treatment during 1992, and interviewed families, lawyers and doctors. Methods of torture described include beatings, frequently with sticks,

wires, belts or broom-handles on all parts of the body; burning with cigarettes; pulling out nails; insertion of bottles and other objects into the anus; the "chiffon" (cloth, "nashshaf") whereby the victim is tied to a bench and half-suffocated by a cloth soaked in dirty water and chemicals; and electric shocks. Torture is used to obtain information, to extract confessions, or simply to punish detainees suspected of having killed or wounded members of the security services. Torture testimonies were received from over 20 centres, mostly from the Algiers region, but including other parts of the country in towns such as Blida, Mila, Medea and elsewhere. In the Algiers region detainees have said they were tortured in prisons such as Serkadji and El Harrach; police stations such as the Commissariat Central, Bab El Oued, Kouba, and Cavaignac; the anti-terrorist brigade at Chateauneuf; the military security centres of Ben Aknoun and Bouzareah; gendarmeries such as Bir Mourad Raiss.

The following are examples of some of the testimonies of those who have been tortured. Victims alleging torture are frequently unwilling to give their names for fear of further arrest or heavier sentences; some names have therefore been omitted.

A 28-year-old epileptic arrested on 9 February at 2.30am stated:

"I was woken up by police with machine guns and taken away in my pyjamas without shoes with my two brothers to the Police Station in Bab El Oued. My brothers were taken to the cells, but I was kept and interrogated. They asked me questions about my job and about a phone call to someone called Kamel; I said I only knew one Kamel, with no phone.

Then they started hitting and kicking me. Then, as I insisted I didn't know whom they meant, they put me on a bench with my hands handcuffed behind my back, they covered my face with a cloth, two sat on my legs, one held my nose closed and another poured a bucket of water into my mouth. After half an hour I fainted. I saw one man suspended by his handcuffs who afterward had bleeding wrists. Then I was put in a room with 17 others and was released the next day. The following

Friday I was arrested at 10.30pm and handed over to the gendarmerie. I was held for 14 days; one gendarme spat on me the first day, but otherwise they behaved properly..."

A detainee in Blida Military Prison testifies:

"I was arrested on 28 February by military personnel and a few civilians, most of them hooded. I was taken to Bouzareah where I spent the night... Next day, 29 February 1992, I was called by a guard to a room away from the cell wing, where there was a large bald man with spectacles, wearing blue jeans and a leather jacket ...and two others, a small one and one of middling height. The bald one asked me about a lot of people but I only knew one... Then he began to kick me hard and even used an electric leather truncheon with three metal knobs as a stick, and pulled out my beard with his hands. Then he asked for the metal bedstead ...he lay me on the bedstead and the small one raised my hands high and handcuffed them and put some clips on them and said "I'll give you some earrings, son of a ****". Then he set off the electrical apparatus several times, ignoring my shouts and kicks as my legs were free. The bald one beat me, especially my stomach, with his electric truncheon - when I said that I had a cardiac prosthesis he said he'd recharge it for me. I had bitten my tongue and the blood was flowing... Many times I nearly lost consciousness as the electric shocks got stronger..."

The "chiffon" method is described in a number of recent testimonies from Bab El Oued Police Station and elsewhere. Nadir Hammoudi, a former FIS activist, was arrested at his home at 1.30am on

9 October wearing his pyjamas and a vest and was held incommunicado until 7 November, that is 17 days beyond the legal limit. He reported that he was tortured in Bab El Oued Police Station and in an unknown centre where he was taken, hooded. He stated:

"On my arrival at the police station, I was undressed. My pyjama trousers and jacket were used to tie my feet onto a wooden bench, my hands handcuffed under the same bench, and my vest was used as a cloth.

Then the "chiffon" torture began: I was forced to swallow water and saniton [a chemical cleaning product]. While two "investigators" sat on my feet, a third blocked my nose, a fourth poured water into my mouth and a fifth forced me to open my mouth by pushing sideways on my jaws. I shouted, cried and begged. I couldn't breathe. Whenever I turned my head round to get some air, my torturers poured water into my ear. My stomach swelled up with water to twice its normal size. The "investigators" punched it to make me vomit. I went through various sessions of the "chiffon" with "breaks" between them. During the "breaks" I would be beaten up. An inspector burnt my back with a lighted cigarette. This torture lasted for two hours. Finally they told me to put my soaking clothes back on and took me down into a cell flooded with dirty water."

Sid Ali Belhouari, a teacher, was also tortured by the "chiffon" method. He was arrested on 8 October, at the school where he taught, and was held incommunicado until 2 November 1992, having spent 25 days in incommunicado detention. During this period he was held at Kouba Police Station, and at Bab El Oued Police Station and in an unknown place. In Bab El Oued Police Station he was beaten and suffered the torture of the "chiffon". He also states that his interrogators threatened to bring his mother, wife and sister to the police station to make him talk. Later he was taken to the unknown place where

"they led me into a passage and forced me to kneel against a wall. When I told them that I could not stand this position because of the blockage I had in my knees and a double fracture in my ankles they laughed and left me. I stayed in that position for several hours and felt ill. When I regained consciousness, I was lying on the ground and someone was shaking me and throwing water on me as I'd fainted, stifled in the bag which was still covering my head...They took me up, handcuffed and tightly blindfolded, then they took me to an office with a very damp

floor... they greeted me with insults, punches and slaps, and they would ask me the same questions all day long, changing the interrogators and I told them lies as I just wanted to escape the "chiffon" and the electric shocks. They'd leave me some days and then come back. Then I passed two days worse than the "chiffon" and electric shocks. I saw a man, indescribably disfigured, then we heard the screams of women, we didn't want to believe what we were hearing...We asked what it was and he said "They brought in my mother, my sister and my sister-in-law as they are looking for my brother"...Everyone began to weep...Then the screams of the woman became louder and we heard her say "I'm the same age as your mother". He answered her "You my mother? I'd have killed you!".

Most of those whose testimonies have been received remain in prison; but some have been examined by doctors or lawyers who confirm their story. Sid Ali Belhouari had a nervous crisis on the fifth day in in Bab El Oued Police Station, and was taken to the Services des Urgences Medico-Chirurgicales at the Maillot Hospital to be treated; he was returned to the detention centre after having been given an injection of calcibronat (a sedative). A prisoner in El Harrach Prison, arrested in March, stated that he was severely beaten, especially around the testicles, and had a broom handle inserted into his anus. A doctor who examined him in June states that he was suffering from "injury to the rectal sphincter, a unilateral testicular atrophy ... and urinary troubles which required an Xray investigation of his urinary tract".

The increasingly widespread torture described above has developed in an atmosphere where safeguards for detainees in *garde à vue* detention (the period during which a detainee is held solely in the hands of the police without access to family or lawyers) which are written into the Algerian Constitution and the CPP, have been neglected since the introduction of the state of emergency.

Families of those arrested are usually not informed of a relative's arrest. Unless someone is arrested from home the family may only know if friends tell them or security forces come to search the house. Prompt access to a lawyer after arrest is an important safeguard for detainees contained in international

standards. But under the Algerian CPP lawyers may not file pleas on behalf of clients held in *garde à vue* detention until they have appeared before the *juge d'instruction* (investigating judge).

Medical examinations immediately after *garde à vue* detention are a right enshrined in Article 45 of the the 1989 Algerian Constitution and laid down by CPP 51. Law 90-24 of 18 August 1990 widened the detainee's right to an independent medical examination which could be requested by the family or lawyer as well as the detainee, immediately after *garde à vue* detention (limited to 48 hours with a maximum of four days for normal cases and eight days for cases involving state security). Today requests for independent medical examinations are usually refused. Even when lawyers have described their clients' torture allegations and stated that marks of torture are clearly visible, their requests for medical examinations are frequently denied. Detainees are asked to sign *procès verbaux* (police statements) certifying that they have been examined by a doctor, even though they have not. Other *procès verbaux* of detainees who have alleged torture state that the detainee has refused his right to medical examination. Some detainees have said that they did not report torture to the *juge d'instruction* because of the presence, or close proximity, of police officers, often those who have participated in their torture.

Law 92-03 of 1 October 1992 extended the period of *garde à vue* detention from a maximum of eight days to 12 days for those detained under suspicion of "terrorist or subversive" offences. Amnesty International expressed concern that the period of 12 days exceeds limits laid down by international standards and might, in some cases, also be long enough to allow physical traces of torture to disappear. During the months after the introduction of Legislative Decree 92-03 Amnesty International received increasing reports that even this limit of 12 days, permissible under the law, was being illegally prolonged. During the same period reports of the torture of suspected supporters of the FIS reached a level indicating that torture was widespread and perhaps, in a number of Algiers detention centres, systematic.

The torture which is now widespread had been almost eliminated in Algeria between 1989 and 1991. After the torture of hundreds of people, following violent protests against economic hardship, unemployment and corruption which had led to mass arrests in October 1988, the Algerian President, *Chedli Benjedid*, publicly condemned the torture of people detained during the riots and undertook to punish those responsible. The general revulsion within Algerian society at the evidence of widespread torture through the testimonies of its victims in 1988, gathered and exposed by Algerian human rights associations and committees against torture, seems to have played a major role in eradicating the practice of torture and in seeing that the safeguards mentioned above were introduced against it. However, those responsible for ordering or carrying out torture in 1988 were never brought to justice and benefited from a Presidential amnesty in 1990. Such impunity may have encouraged the security forces once again to resume the practice of torture.

5. Diminished Trial Safeguards

Since the introduction of the 1992 state of emergency over 12,000 people have been arrested in Algeria. Over 9,000 people were sent to internment camps; up to 1,000 were arrested and later prosecuted before civil or military courts and sentenced, mostly to up to five years' imprisonment for offences such as carrying firearms or up to two years' imprisonment for offences such as possessing illegal publications. Up to 3,000 other people, arrested over the same period, some of them arrested for possession of arms, involvement in armed attacks or sabotage, have remained remanded in custody (*détention préventive*). Under the Algerian CPP remand in custody is limited to a maximum of one year for crimes carrying a five or more year sentence (Article 125).

Trials before military courts in Algeria lacked some of the safeguards which are maintained under civil justice. The two main leaders of the FIS, Abbas Medani and Ali Belhadj, who were arrested in June 1991, were convicted in July 1992 by a military court. They were sentenced to 12 years' imprisonment for offences against state security, undermining the national economy and distributing subversive literature. They were acquitted of charges including kidnapping and torturing members of the security forces. The trial, which was closed to international observers and the media, appears to have fallen short of international standards for fair trial. Defence lawyers complained of breaches of procedure during the preliminary investigation and in the trial itself. The trial proceedings were boycotted by the defendants and their lawyers in protest.

During December 1992 and January 1993, defence lawyers withdrew from a number of other trials before military courts in protest against alleged breaches in procedure.

On 1 October 1992 a new Legislative Decree (92-03) "relating to the struggle against subversion and terrorism" was promulgated, providing for accelerated and secret justice for those accused of "terrorist" offences. Under Article 42, the law is retroactive inasmuch as any case under instruction or awaiting judgment can be transferred to the Special Courts at the request of the prosecutor's office and so be able to suffer increased penalties which did not apply at the time of the offence. Article 1 of this law broadens the definition of "terrorist or subversive acts" to include offences liable to threaten state security, territorial integrity and the normal functioning of institutions by acts such as endangering life, property, hindering freedom of movement, impeding public authorities, offending against republican symbols, impeding the functioning of public institutions and hindering free worship and public liberties. Under the new law sentences for all such offences are doubled and the death penalty applies to crimes previously punishable by life imprisonment. The age of criminal responsibility is lowered to 16. Three Special Courts were set up to try "terrorist" offences. They are composed of one president and four assessors,

who should remain anonymous, with the threat of a two to five-year sentence being imposed on anyone who discloses their names or gives any information which may lead to their identification. The court can try cases *in camera*. The final judgment must be given within five months of the end of the *garde à vue* period, prolonged to 12 days under the law. There is no right of appeal but convictions may be reviewed by "cassation" by the Supreme Court (cassation rules only on procedures, and does not reexamine the facts of the case). If this appeal is successful the case may be retried by another Special Court.

Amnesty International has expressed its concern at the introduction of Legislative Decree (92-03), including the law's broad definition of "terrorist", which might lead to the imprisonment of prisoners of conscience; the extension of the maximum period of *garde à vue* detention; the lack of right of appeal; the reduction of safeguards for the defence, and the increased scope for the death penalty. The retroactive nature of the law violates the prohibition in Article 15(1) of the ICCPR of retroactive criminal punishment; a guarantee which may not be suspended under any circumstances, including a state of emergency. Article 15(1) states:

"No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the offence was committed..."

It also breaches the Algerian *Code pénal*, Penal Code, Article 2 of which states that:

"Penal law is not retroactive unless it is less rigorous".

In December 1992 the new courts were said to have been constituted and in January 1993 several hundred cases were transferred to the new procedure.

While the new law has provided for secret justice, some of those whose cases may be transferred to the new courts have already faced public exposure, apparently without their knowledge, on television. On at least three occasions between July and September 1992 those arrested for murder have been shown

on television confessing their offences. This happened, for instance, to Lieutenant Boumaarif, who admitted murdering President Boudiaf; Hocine Abderrahim, who confessed to having participated in the bombing of Algiers airport; members of a group said to have carried out a number of killings in Constantine, and others. Hocine Abderrahim later alleged that his televised confession had been made after torture. Such televising of confessions undermines the presumption of innocence guaranteed by the Algerian Constitution (Article 42) which states:

"Everyone is presumed innocent until his guilt has been established by a regularly-constituted court with all guarantees required by law".

According to Article 14(2) of the ICCPR:

"Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to the law."

6. Civilian Deaths and Lack of Investigations

Since the introduction of the state of emergency more than 270 members of the security forces and up to 20 civilians have been killed by armed underground opposition groups, operating in towns and in remote rural areas of Algeria. During the same period up to 300 government opponents and others were killed by members of the security forces. Many of these deaths appear to have occurred in the context of armed clashes. The UN Code of Conduct for Law Enforcement Officials (Code of Conduct) allows the use of firearms when:

"a suspected offender offers armed resistance or otherwise jeopardizes the lives of others and less extreme measures are not sufficient to restrain or apprehend the suspected offender".

In addition to those killed in armed clashes, unarmed civilians not involved in violent activities and innocent bystanders have also been killed by members of the security forces in the context of demonstrations against the Algerian

Government, and in the course of raids to arrest suspected government opponents in hiding. An unknown number of civilians have also been killed while failing to stop at police road blocks and for breaking curfews imposed during the state of emergency.

Amnesty International condemns all deliberate and arbitrary killings by opposition groups. Such killings include summary executions and analogous killings, assassinations and other wilful killings of civilians and of others who are or have been rendered defenceless. At the same time, the organization has consistently raised its concern at the use of lethal force by law enforcement officers where the victims were unarmed and posed no threat to the lives of members of the security forces. The commentary to Article 3 of the Code of Conduct goes on to say that:

"In every instance when a firearm is discharged, a report should be made promptly to the competent authorities."

To date there have been no public inquiries into any deaths caused by law enforcement officers. Amnesty International was told that internal inquiries were held in cases of death by shooting during the 1991 state of siege, but received no further information on the progress or result of such investigations. Moreover, of more than 25 cases of death or wounding of innocent bystanders reported to Amnesty International, none, according to witnesses or victims, appears to have been the subject of an official inquiry.

With the escalating violence and the increasing nervousness of the security forces, deaths of unarmed people who pose no threat to the lives of members of the security forces have occurred and are in danger of increasing. Some have been shot by mistake or by stray bullets. One man died in a suburb of Algiers on 1 November 1992 while sitting outside his house watching a demonstration by market sellers complaining about the distribution of stalls. As the demonstration grew more violent, and demonstrators set fire to market stalls, the man, who was bearded, was shot dead while apparently gesturing to his children to return to the house. In another case reported in the Algerian press, security forces attacking a house apparently occupied by armed opponents

in Boumaati, one of the suburbs of Algiers, on the night of 14-15 December killed, allegedly with a "stray bullet", a 54-year-old woman in a neighbouring house. Compensation is said to have been given for such deaths, but no official inquiry is known to have been made.

The government's failure to conduct independent and impartial investigations whenever lethal force is used may lead to further avoidable deaths and could ultimately encourage extrajudicial executions. Amnesty International recommends that the Algerian authorities conduct investigations in accordance with the standards in the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions and the reviews required by the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

7. Death Penalty

Between March 1992 and January 1993, 48 people were sentenced to death and two of them were executed. These were the first executions to be carried out since 1989. Article 8 of Legislative Decree 92-03 of 1 October 1992, which doubles penalties for all "subversive and terrorist acts", makes it possible to sentence people to death under the special courts for offences which previously carried penalties of life imprisonment. In January hundreds of detainees were transferred to the special courts, many of whom were said to be now facing capital charges under the new law.

Amnesty International does not condone acts of violence and recognizes the right of governments to bring to justice those responsible for such acts. However, the organization opposes the death penalty in all cases as the ultimate form of cruel, inhuman and degrading punishment and a violation of the right to life, as proclaimed in the Universal Declaration of Human Rights and other human rights instruments.

Noureddine Rahmoune and Ahmed Fodhil were executed in January 1993. They had been sentenced to death for murder by a military court in May 1992 in connection with an attack on the navy headquarters in Algiers which caused the death of 10 men. The Court of Cassation upheld the sentence in October and the President refused a pardon.

Nineteen supporters of armed Islamist opposition groups were sentenced to death between March and May 1992 after being found guilty of homicide during politically-motivated armed attacks. In December 1992 and January 1993, death sentences were passed on a number of detainees who were not charged with homicide. On 31 December a French national, a Muslim convert, Roger-Didier Guyon, who had been arrested in June 1991 with a large number of arms concealed in his vehicle, was sentenced to death for charges including "plotting to cause massacres and devastation". In January 20 people were sentenced to death, 16 *in absentia*, after a trial of 79 members of the armed forces and civilians before the military court of Béchar. They had been accused of offences including plotting against the state, forming an armed band and distributing leaflets. The trial was held *in camera* and defence lawyers withdrew after five days to protest at the fact that the rights of defence were not being respected. They were replaced by five military court-appointed lawyers.

Abderrazak Benchenouf, who had been remanded in custody for 36 months, two years beyond the maximum period allowed under Algerian law, was sentenced to death in December 1992 for attacking state security and possessing chemicals allegedly intended to poison water.

8. Responses within Algeria to the Human Rights Situation

8.1 Government Responses

The Algerian Government responded to concerns about the human rights situation under the state of siege by setting up a Ministry of State for Human

Rights (later a full ministry) in June 1991. The Minister for Human rights, Ali Haroun, visited detainees in internment camps during August 1991. During the state of siege Amnesty International raised the organization's concern at the high incidence of deaths as a result of shootings by the security forces. This was also one of the topics discussed during a visit made by the Minister to Amnesty International's International Secretariat in September 1991. In response to continuing concerns raised by Amnesty International regarding the existing Algerian army guidelines on the use of force by law enforcement officials, the Minister, who, in January 1992 had become a member of the HCE, assured Amnesty International in February 1992 that copies of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials had been passed on to the authorities responsible for administering the state of emergency.

In March 1992, soon after internment camps were set up, the Algerian Government allowed visits to the camps by delegates of the *Ligue algérienne des droits de l'homme* (LADH), Algerian League for Human Rights, Amnesty International, and the International Committee of the Red Cross (ICRC). However, in June 1992 the ICRC's authorization to visit prisons, internment camps and other detention centres in Algeria was withdrawn and as of January 1993 authorization had still not been renewed.

On 28 February, in an interview given to the French newspaper *V.S.D.*, President Mohamed Boudiaf admitted that military excesses might have happened, but he would investigate them, and stated that: "There will be no torture".

When a communique by the *Ligue algérienne de la défense des droits de l'homme* (LADDH), Algerian League for the Defence of Human Rights, raised reports of widespread torture in November 1992, the Algerian Ministry of the Interior denied that any reports of torture had been received. Following the successful prosecution of police officers who had beaten up a husband and wife for parking their car near the *Maj al-Sha'b*, National Assembly, Mohamed Tolba, the Minister of State for Public Security, gave telephone numbers which people

could ring if they wished to make a complaint about torture or ill-treatment. However, the father of one torture victim stated that, although he had seen the Minister in person during his son's illegally prolonged *garde à vue* detention, no action was taken to investigate his allegations of torture.

Delegates from Amnesty International visited Algeria in August 1991, and in March and December 1992. In May 1992 Amnesty International sent the Algerian Government a memorandum detailing a number of the organization's concerns during the state of siege and the state of emergency, and making specific recommendations aimed at safeguarding and improving the human rights situation in Algeria. The organizations made a number of its recommendations public. No answer was received from the Algerian Government. Over the last six months Amnesty International has expressed concerns at the institution of special courts and the increasing use of torture in prolonged *incommunicado* detention. In December 1992 Amnesty International delegates discussed the organization's serious concern over reports of widespread torture with Ali Haroun, member of the HCE, the Minister for Foreign Affairs and the Minister of State for Public Security. They urged the Algerian Government to take strong action to eradicate torture and to state publicly that torture is unacceptable and that any member of the security forces found guilty of using such practice would be punished. The organization fears that unless such action is taken the use of torture will become routine.

8.2 Observatoire national des droits de l'homme (ONDH)

The Human Rights Ministry was replaced in February 1992 by a National Human Rights Monitoring Body, *Observatoire national des droits de l'homme*, ONDH, which was set up as "an organ to monitor and evaluate respect for human rights". The ONDH was formally constituted in April as a body of 26 members, appointed by government bodies and non-governmental organizations. The former general-secretary of the LADH, Kamel Rezzag-Bara, was elected as its president.

In a communique issued on 16 May the ONDH defined four principal themes for its work over the next year. They included the monitoring of human rights during the state of emergency, the lack of essential medicines, the rights of the child and the freedom of expression and the press. The statement stressed that even under a state of emergency citizens have the right to dignity, security and health and should be protected from arbitrary measures and torture. They called for the release of all those detained in internment camps who were sick and of all others against whom no charges were filed.

The President of the ONDH informed Amnesty International delegates visiting Algeria in December 1992 that the ONDH was following up individual complaints of human rights violations. The ONDH had sent delegations to visit a number of the internment camps and placed appeals before the relevant committees on behalf of detainees in the camps whose families had contacted them. It had also received complaints from families of civilians killed by members of the security forces and its policy was to ask for compensation for the families of all those killed without trying to judge whether the victim had been killed in circumstances where lethal force was justified.

After the LADDH communique on torture of November 1992 the President of the ONDH stated publicly that no allegation of torture had been received by the ONDH. Subsequently, in December 1992 he informed Amnesty International delegates that the ONDH had recently received five allegations of torture and was forwarding them to the competent authorities to investigate. In January 1993 a foreign journalist was given the same figure of five torture allegations received by the ONDH. In December 1992 Amnesty International delegates expressed concern to the ONDH at evidence of widespread torture. Amnesty International believes that in view of the evidence of prolonged *garde à vue* detention and torture, the ONDH has an important obligation to carry out its own independent investigation, in accordance with its mission, under Article 6 of Presidential Decree 92-77, "to take action whenever offences against human rights are recorded or brought to its attention".

8.3 Ligue algérienne des droits de l'homme (LADH)

The LADH was founded in April 1987 and played a leading part in the denunciation of torture in October 1988. During the state of emergency it issued a number of communiques calling for the measures imposing administrative detention to be lifted and for international standards such as the UN Convention against Torture and the Standard Minimum Rules for the Treatment of Prisoners to be enforced. In November the LADH also issued a communique "regretting that, notwithstanding the lessons of the recent past, certain excesses of varying gravity have allegedly been committed" and demanding that the law be strictly applied "without allowing any excesses, whatever their motivation".

8.4 Ligue algérienne de la défense des droits de l'homme (LADDH)

The LADDH was founded in June 1989. (A previous human rights league founded by the same human rights activists in 1985 had been immediately banned and its leaders arrested). Since February 1992 the LADDH has issued a number of communiques calling for the closing of internment camps and the release of all political prisoners. In November the LADDH issued a communique stating that it had evidence of widespread torture carried out by the security services and calling for a commission of inquiry "composed of neutral Algerian personalities to visit Serkadji Prison". In response to the Ministry of the Interior's denials the President of the LADDH, Me Abdennour Ali Yahya, stated that he had received over 100 torture testimonies.

8.5 The Algerian Press

At least 15 newspapers have been suspended or closed and more than 30 journalists have been arrested and detained since January 1992. They have subsequently been released or given suspended sentences of up to three months' imprisonment on charges such as publishing false or "premature" information. A number of newspapers have been permanently or temporarily suspended for offences such as these or for publishing articles which "defame the dignity of the

armed and security forces and infringe on national unity"; they included *al-Shurouq al-Arabi*, Arab Dawn, (whose director and a journalist were detained for a month before being acquitted in July of "discrediting the honour of the country"); *Le Matin*, Morning, (whose director, Mohamed Benchichou, was detained for 48 hours and subsequently given a three-month suspended sentence for giving false information); and *El Watan*, the Fatherland, (whose director, two editors and three journalists were held for seven days in January for publishing "premature" information).

The Algerian press has shown considerable freedom in publishing information about the human rights situation in Algeria including criticisms of the government. During 1992 newspapers published testimonies from former internees and the leading French-language daily, *El Watan*, the Fatherland, headlined the LADDH report of increasing torture on 4 November 1992.

There is a danger that, as a result of such arrests and suspensions, the ability of the Algerian press to raise concerns about the human rights situation in Algeria is becoming increasingly limited.

RECOMMENDATIONS AND CONCLUSIONS

Amnesty International is concerned at the deterioration of human rights in Algeria over the past 12 months. The organization is aware that more than 270 police and up to 20 civilians have been killed by armed opposition groups since January 1992. Amnesty International, on a matter of principle, condemns the torture and killing of prisoners and the deliberate and arbitrary killing of civilians by armed political opposition groups but the organization is concerned that such actions should not be invoked as a justification for human rights violations.

1. Torture

◆ Torture, which was virtually eradicated in Algeria, has now become widespread, and perhaps systematic, in many detention centres. Amnesty International urges the Algerian Government to immediately state publicly that torture or ill-treatment is unacceptable in all circumstances. The government should instruct all law enforcement and justice officials that torture and ill-treatment of any person in their custody will not be tolerated whatever the circumstances.

◆ Algerian law provides safeguards for those detained by authorizing justice officials to visit detention centres and prisons. This is a duty they have been failing to carry out. Amnesty International urges that sufficient staff and resources should be given to an existing body, or that a new independent body should be set up, with the obligation to make frequent and unannounced visits to all prisons and alleged places of detention, examining all records and ordering or carrying out medical inspections of all those detained. Access to prisons and detention centres should be given to an international humanitarian organization such as the International Committee of the Red Cross.

◆ The 12-day period of *garde à vue* detention permitted by Law 92-03 may allow sufficient time for torture scars to heal and violates Algeria's obligations under the ICCPR. But in recent months even this limit has been illegally exceeded. Amnesty International calls on the Algerian Government to reduce the period of *garde à vue* detention in accordance with the Human Rights Committee's recommendation that detainees should be brought "promptly" before a judge.

◆ Families are usually not informed immediately of the arrest and whereabouts of their detained relatives and a lawyer is not appointed until after the detainee has been presented before the prosecutor or investigating judge. Amnesty International urges the Algerian authorities to draw up clear and precise regulations to ensure detainees' prompt right of access to family, lawyers and doctors by

- instituting clearly defined rules whereby detainees' families are notified immediately upon arrest of their place of detention;

- ensuring that detainees are given immediately the opportunity to contact a lawyer and to be visited promptly after arrest by their lawyer and family;
- giving immediate medical examination upon detention, and regular medical attention thereafter.
- ◆ The relevant authorities are failing in their obligations under the Convention against Torture to "proceed to a prompt and impartial investigation, whenever there is reasonable ground to believe that an act of torture has been committed". Delay in investigating torture allegations may give time for scars to heal. Amnesty International urges the Algerian authorities to ensure that all allegations of torture are recorded and promptly investigated and that the detainee's lawyer or other representative has the right to participate or be kept informed of the progress of these investigations.
- ◆ Past impunity offered to those who have been known to have carried out torture or ill-treatment may have aided its revival. Amnesty International calls on the Algerian Government to take steps to bring to justice all those who have ordered or participated in torturing or ill-treating detainees.

2. Use of Lethal Force

- ◆ All law-enforcement personnel should comply with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Amnesty International condemns the deliberate and arbitrary killing of civilians and those *hors de combat* by armed opposition groups and calls on armed opposition groups not to carry out such abuses. But such killings should not be taken as a justification for the use of lethal force by law enforcement officials in circumstances which may lead to the killing of innocent bystanders or the deaths of people in circumstances where the lives of law enforcement officers are not threatened. The government's failure to conduct independent and impartial investigations whenever lethal force is used may lead to further

avoidable deaths and could ultimately encourage extrajudicial executions. Amnesty International urges that

- on all occasions when lethal force is used a full, independent and impartial investigation should be set up consistent with the Principles for the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, and its findings made public.

3. Administrative Detention

◆ About 1,000 people are still in internment camps without having appeared before any judge, without knowing the reasons, if any, for their detention and without having been able to argue the case for their release. Most have no lawyers and some may be prisoners of conscience who have never used nor advocated violence. Amnesty International urges the Algerian Government to

- ensure that all those administratively detained without charge or trial for political reasons are either given fair trial on recognizably criminal charges or released.

4. Trial procedures

◆ Amnesty International is concerned that safeguards for fair trial contained in the Algerian Constitution and Algerian law have become eroded, both by current practice and by the provisions of the "anti-terrorist law" (Legislative Decree 92-03). Both in special courts and military courts exceptional procedures may be applied which do not comply with normal standards of justice. Amnesty International urges the Algerian Government to ensure that

- trials take place under conditions which genuinely afford the full guarantees stipulated in Article 14 of the ICCPR;
- trials are held in public, except in exceptional cases in accordance with Article 14 of the ICCPR;
- statements alleged to have been made as a result of torture or ill-treatment are not used as evidence in court;

- defendants' confessions or police statements are never publicised before a trial, with or without their consent.
- ◆ Amnesty International is concerned that many of the provisions of Legislative Decree 92-03, including the retroactive nature of the law, the wide definition of "terrorist offences", the lowering of the age of criminal responsibility to 16, the increased scope for the death penalty and the lack of right of appeal, are contrary to fair trial standards in international treaties ratified by Algeria. It calls on Algeria to repeal or amend the law by bringing it into conformity with international fair trial standards.

5. Death Penalty

In January 1993 the first executions were carried out since 1989. In addition, since December 1992, defendants have been sentenced to death for offences other than homicide. In its general comment on Article 6 of the ICCPR, the Human Rights Committee stated that the death penalty should be "a quite exceptional measure". Amnesty International opposes the death penalty in all cases as a violation of the right to life and as the ultimate form of cruel, inhuman or degrading punishment. It urges the Algerian Government

- to commute all death sentences;
- while taking steps to eventually abolish the death penalty to progressively restrict the number of offences for which it may be imposed.