
RECOMMENDATIONS FOR RECONCILIATION AND AMNESTY IN ALGERIA

We, the undersigned,

Considering that the conflict tearing apart Algeria since the military coup of January 1992 has led to the death of more than 200 000 Algerians, the disappearance of at least ten thousand citizens, the arbitrary detention and torture of hundreds of thousands of people, and the internal displacement and exile of about two million men and women;

Recognising that the bloodshed continues despite the abating of the violence in the country;

Observing that political and civil liberties and the media are curtailed, contrary to the government's public discourse on openness;

Taking note that the improvement of the financial situation of the country, due to the rise in oil prices, has not benefited the Algerian economy which is plagued by corruption, depredation and structural problems;

Acknowledging that the social cost of the conflict is becoming unbearable as about half the population is in poverty, the health care of the country has sharply deteriorated, the educational system is disintegrating, the unemployment and shortages in housing have reached levels beyond redress, and social ills are proliferating;

Taking heed of the fact that the regime's previous attempts to "pacify" Algeria have only entrenched the conflict, and the credible peace proposals initiated by opposition parties and/or national figures were all rejected by le pouvoir;

Seeing that the regime is trying once again to "normalise" the situation with a general amnesty law proposal packaged in national reconciliation rhetoric;

Discerning that, contrary to genuine reconciliation processes, the reconciliation the regime is seeking to impose eschews the preliminary stages of ceasing hostilities and resolving the conflict, while it excludes the majorities of the contending parties and is circumscribed to a security dimension;

Considering that the sole instrument in the regime's reconciliation project is an apparently unconditional and unlimited general amnesty law which violates basic pre-requisites such as establishing the truth, preserving memory and respecting the minimum requirements of transitional justice;

Having regard to the fact that genuine reconciliation is not a demagogic slogan but a precisely defined stage in the peace process which obeys well-grounded principles established on the basis of conflict resolution experiences;

Pointing out that amnesty is only of the many tools of reconciliation, which include public official apology, truth commissions, trials, reparations, recovery of historical memory, reburials, education, etc.

Having regard to the necessity of not reducing amnesty to falsification, impunity, impenitence and amnesia, even in the exceptional circumstances of political transitions. Amnesty law must, under no circumstance, violate international law instruments ratified by Algeria;

Recommend what follows:

I. CONFLICT SETTLEMENT AND RESOLUTION

A) Holding a national conference bringing together all representative political forces in the country in order to debate the causes and consequences of the conflict and iron out together a plan for its resolution.

B) At the outset of the national conference, all parties to the conflict shall call, and work, for:

- 1) The cessation of violence in all its forms.
- 2) The disbanding of all military and police units involved in political repression.
- 3) The demilitarisation of society through the disarming and demobilisation of militias and armed opposition groups, and the seizure, destruction and prohibition of the spread and trafficking of arms within the civilian population.

C) The national conference shall endeavour to find a way of implementing the following three measures of appeasement:

- 1) Lifting immediately the state of emergency.
- 2) Releasing all political prisoners.
- 3) Securing political freedoms, civil liberties and media access to all national groups and individuals.

D) The national conference shall seek a consensus for guaranteeing the political and legal modalities involved in managing the transition towards the rule of law, while ensuring the continuity of the institutions.

E) The national conference shall have to iron out an agreement on the fundamental principles and the structures regulating civil-military relations, and in particular on:

1) The role of the army, and its respect of the constitution as well as the political, economic and social changes sanctioned by the exercise of popular sovereignty.

2) The principles, laws and mechanisms for the subordination of the army to the civilian government.

3) The laws demarcating the missions, powers and activity limits of military and civilian intelligence services, as well as the mechanisms for the checks and balances of their powers.

F) The national conference shall propose a reform of the justice system, which has been an accessory to serious human rights violations and corruption, in particular in the areas of independence of justice and judges, judicial governance, and transparency in applying laws.

II. RECONCILIATION

Reconciliation is a process that succeeds the resolution of the conflict. It can in no way be entrusted to the regime responsible for the conflict. It must be initiated by the transitional government and continued and consolidated by successive democratically elected governments.

Reconciliation involves making use of the following instruments:

A) Truth commission

1) Setting up a truth commission to establish the responsibilities in serious human rights violations and investigate major economic crimes, and to publish and broadcast its findings.

2) The mandate, financing, composition, resources, and procedures of the truth commission as well as the modalities for broadcasting its findings must respect international norms guaranteeing its freedom, independence, impartiality and truthfulness.

B) Trials

1) Trying and judging the most senior state officials responsible for the most serious crimes (massacres, disappearances, rapes and torture).

2) Guaranteeing to victims access to judicial bodies able to reveal the truth about the violations they suffered and compensate them for the losses and harms they suffered.

C) Reparation

1) Granting victims various forms of reparation: rehabilitation, compensation and restitution.

2) Restoring the dignity and honour of victims through solemn declarations acknowledging the harm done, and official pleas for forgiveness.

3) Initiating a national programme for the medical, psychological, social and legal assistance of the survivors of serious human rights violations.

4) Compensating the victims who sustained physical or moral harms and material damages as a result of human rights violations.

5) Re-establishing victims in the situation preceding the human rights violations: restoring their civil and legal rights, social status, citizenship, right of return to their original residencies, and restitution of their jobs and seized or depredated properties.

D) Amnesty

1) Amnesty must be granted by a legitimate authority and has to respect the above-mentioned A), B) and C) principles with regard to truth, justice and reparation.

2) Amnesty must be limited in its scope and exclude the most serious crimes according to international penal law.

3) Amnesty must be conditioned by confession and acknowledgment of the crime, and the explicit demand for forgiveness.

E) Recovery of historical memory

1) Setting up a policy of remembrance to pay homage to victims, and prevent – through passing on what happened in the war to young generations – the re-occurrence of the conflict.

2) Assembling and activating the human, material and legal means necessary for identifying the places where the disappeared are still detained, and returning their bodies to their families in case they are dead.

3) Drafting a law that recognises absence due to abduction and enforced disappearance as a legal category granting the rights of kin, inheritance and reparation to the family of the disappeared.

4) Establishing rules and procedures for exhumating, returning to families and re-burying – in accordance with Islamic rituals and respect for human dignity – the remains buried secretly and singly or in mass graves.

5) Drafting laws and setting up structures of medico-legal anthropology and forensic medicine to identify the remains of the disappeared.

6) Identifying and repairing graves labelled "X-Algérien", anonymous graves as well as those in the so-called "terrorist patches" in cemeteries.

7) Setting up a national centre for documenting the conflict.

8) Teaching in schools, colleges and universities the findings of the truth commission.

25 May 2005

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