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Algeria: Amnesty law risks legalizing impunity for crimes against humanity

Algerian President Abdelaziz Bouteflika's proposal of a general amnesty for human rights abuses committed in the country's brutal internal conflict may permanently deprive victims or their families of their right to truth, justice and reparation, a group of international human rights organizations warned today.

The organizations include Amnesty International, Human Rights Watch, the International Center for Transitional Justice, the International Commission of Jurists and the International Federation for Human Rights.

President Abdelaziz Bouteflika is proposing an amnesty law as a step towards "national reconciliation". He has recently declared that he envisages a referendum on the law "as soon as the necessary conditions are satisfied".

So far, little is known about the terms of the proposed amnesty. No draft law has been made public, but official statements indicate that the law will grant exemption from prosecution to any member of an armed group, state-armed militia or the security forces for crimes committed in the course of the conflict, including serious human rights abuses.

This proposal comes after years of failure by the Algerian authorities to investigate the human rights abuses committed during the internal conflict that began in 1992. This failure is all the more serious in light of the severity and magnitude of these abuses, some of which amount to crimes against humanity.

In recent public statements, President Abdelaziz Bouteflika has said that 200,000 people have been killed during the conflict. Tens of thousands are civilian men, women, and children who were killed in violent attacks. Thousands have been tortured in detention. Thousands more have "disappeared" after arrest by the security forces or have been abducted by armed groups and summarily executed by them.

In the overwhelming majority of cases, the authorities have not taken action to clarify the circumstances of the crimes and bring the suspected perpetrators to justice, despite the tireless efforts of victims and their families to search for the truth and provide information to the judicial authorities in cases where complaints have been filed.

The ICJ is an international non-governmental organisation comprising sixty of the world's most eminent jurists and has a worldwide network of national sections and affiliated organisations

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In this context, a general amnesty would leave the legacy of the past unresolved and might permanently undermine future prospects for full human rights protection. It would prevent the truth about the crimes of the past from ever emerging in Algerian courts, and thus impede any chances of ensuring that justice and accountability become part of a transition to peace.

The amnesty would also sanction the lack of investigations into thousands of “disappearances”. At the end of March, a state-appointed commission on “disappearances”, commonly referred to as the ad hoc mechanism, submitted a report and recommendations to President Abdelaziz Bouteflika. This report has not been made public. According to media reports, it stated that 6,146 people had “disappeared” at the hands of security forces between 1992 and 1998, based on complaints made by relatives, and its key recommendation was to pay compensation to the families. So far, no details have emerged regarding how compensation would be allocated in practice, and what financial and other resources would be made available by the state.

The official acknowledgement that thousands of “disappearances” were committed by state agents is a significant development. However, the commission did not have a mandate to clarify the fate and whereabouts of those who “disappeared”, or to identify those responsible. Without providing any evidentiary basis, the head of the commission, Farouk Ksentini, has stated in media interviews that the “disappearances” were isolated acts of individual state agents, thereby attempting to exonerate their commanders from any criminal responsibility and absolve the state from its duty to investigate and hold those responsible to account. Farouk Ksentini has also stressed that state agents should benefit from the forthcoming amnesty measure.

Organizations of families of the “disappeared” have read these announcements as the final denial of truth and justice. The families have spared no effort to trace their relatives, sometimes for more than a decade, during which time they have faced continuous uncertainty over whether they are dead or alive. Their complaints in Algerian courts have been stalled or closed because the judicial authorities have been unable or unwilling to conduct genuine investigations. So far, to the knowledge of the signatory organizations, no single family of a “disappeared” person has been presented with verifiable information about the fate or whereabouts of their relative.

The signatory organizations recognize that the legacy of Algeria’s past should be dealt with in ways determined by Algerians themselves, in a national discussion where freedom of expression, assembly and association, and the right to information, are fully respected. However, the fundamental principles of truth, justice and reparation cannot be compromised. The signatory organizations oppose amnesties, pardons and similar measures that prevent the emergence of the truth, a final judicial determination of guilt or innocence, and full reparations to victims and their families.

Concerning the prospect of a referendum on the amnesty law, the signatories remind the Algerian government that it cannot evade its international obligations by adopting national legislation which runs contrary to them, regardless of whether this is done by parliament or by referendum. Respect for and protection of fundamental human rights cannot be subject to a majority vote.

Amnesties, pardons and similar national measures that lead to impunity for crimes against humanity and other serious human rights abuses, such as torture, extrajudicial executions and “disappearances”, contravene fundamental principles of international law. Authorities

such as the UN Secretary General, authoritative UN and regional bodies, and international tribunals have stated that there should be no amnesties or similar measures that afford impunity for serious human rights abuses.

The signatory organizations reiterate their call on the Algerian government to uphold the right of all victims of serious human rights abuses to truth, justice and reparation. The organizations believe that such guarantees are essential to any process of reconciliation. They are also essential, among other measures, to give solid foundations to the future protection of human rights.

Background

President Bouteflika first publicly evoked the prospect of a general amnesty in November 2004. The proposal follows earlier measures taken with the stated intention of bringing about national reconciliation. In 1999, the so-called Civil Harmony law granted clemency to members of armed groups who renounced violence. Those who had not killed, raped or placed bombs in public places were to be granted exemption from prosecution, while those who had committed such crimes would receive reduced sentences.

Little information is available about the application of this law and about judicial proceedings against armed group members found to have committed serious human rights abuses. Reports by local activists, victims and their families indicate that judicial investigations were generally not carried out and that thousands of armed group members have been de facto exempted from prosecution, without any assessment of whether or not they had committed grave human rights abuses.

A presidential decree in January 2000 granted amnesty to hundreds of members of certain armed groups which had declared cease-fires in 1997, regardless of whether or not they had committed human rights abuses.

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