

## **Human Rights in Algeria Since the Halt of the Electoral Process**

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## Introduction

The declaration on February 9 of a 12-month state of emergency culminated a month of mounting human rights abuses in Algeria since the ruling authorities cancelled the second round of parliamentary elections. During that month, security forces rounded up hundreds of members of the Islamic Salvation Front (le Front Islamique du Salut, or FIS), and opened fire on demonstrators in cities around the country, killing more than 50 persons as of February 9.

Neither the authorities nor the FIS have revealed the number of persons arrested. However, those seized include most of the top officials of the FIS as well as *imams* (preachers), mid-level officials, and several party members who were elected to local government posts in 1990 or to parliament during the first round of elections on December 26. Many have been arrested on charges that violate their right to free expression and association. These include violations of decrees that forbid gatherings near mosques or using mosques for political purposes, and offenses related to criticizing the regime or disseminating FIS communiqués urging disobedience to the regime.

Middle East Watch deplores the de facto coup of January 11, which was staged to prevent the FIS from consolidating its strong showing in the first round of elections. Middle East Watch also condemns the massive crackdown which has ensued, including the indiscriminate roundups of suspected FIS members and the arrests of 12 journalists. We urge the present regime to act to lift the state of emergency and allow the democratic process in Algeria to resume without delay. We urge the release of FIS leaders Abdelkader Hachani and Rabah Kebir, arrested in late January for acts of peaceful expression, as well as all those who have been arrested for offenses involving nonviolent speech or association.

While condemning the coup, Middle East Watch and the Women's Rights Project of Human Rights Watch are nevertheless highly critical of positions taken publicly by FIS leaders that are hostile toward democracy and equal rights for women. We also deplore the acts of intimidation and sometimes violence carried out in recent years by Islamists -- whose links to the FIS are not always apparent -- against persons, often women, who do not conform to their notions of propriety.

The troubling positions of the FIS do not, however, justify the annulment of elections that the party was likely to win. Such a blatant violation of the Algerian people's right to political participation could have been justified only by persuasive evidence that a FIS parliamentary victory would have posed a clear, imminent and substantial threat to fundamental human rights. The current regime has failed to make such a case, while at the same time itself engaging in massive human rights abuses. (The policy of Middle East Watch toward interruptions of the democratic process is outlined on pages 16 and 17.)

Middle East Watch also condemns the escalation of violence against policemen by suspected Islamist activists. At least nine members of the security forces have been reported killed in ambushes and knife attacks since the coup d'état. One police officer was killed and two wounded during an armed attack on a surveillance post outside Algiers early on January 19. On February 8, two police officers were reportedly knifed to death while attempting to carry out an arrest in Bordj Menaïel, east of Algiers. Two days later, suspected Islamists with automatic weapons killed six police officers in an ambush in the Casbah of Algiers.

### **Prelude to the Cancellation of Elections**

On December 26, the FIS won 189 of the 231 seats that were decided in the first round of elections for Algeria's 430-seat parliament. It was the first multiparty election for that body in Algeria's 30-year history as an independent nation.

The vote was to have been held on June 26, 1991, but a massive strike by the FIS in May to protest gerrymandering of districts led to clashes with security forces, the imposition of a state of siege and postponement of the vote.

A total of 49 parties took part in relatively unfettered campaigning during the weeks preceding the elections, holding rallies, distributing party literature, and debating their programs. The FIS participated despite the detention since June of its leader, Abbasi Madani, and his deputy, Ali Belhadj, on charges of inciting and organizing an armed insurrection against the state.

According to the official results, 59 percent of Algeria's 13.2 million male and female registered voters cast ballots. The FIS won 47.54 percent of the vote and 189 seats, the National Liberation Front, which monopolized power in Algeria since independence, won 23.52 percent of the vote and 15 seats, and the secularist Socialist Forces Front won

7.45 percent of the vote and 25 seats. The other 46 parties that fielded candidates were eliminated. Of the more than 5,700 candidates about 58 were women. Only one, Fatima Kartout of the Socialist Forces Front, won enough votes to qualify for the second round.<sup>1</sup>

Although some irregularities were reported, including ballot-tampering and the intimidation of voters by FIS supporters at some polling stations, evidence has not been produced to indicate that such acts took place on a large scale.

The margin of victory for the FIS virtually assured the party of capturing a majority in the second round of elections. With its candidates leading in about 140 of the 199 districts that remained to be decided, the FIS stood a good chance of winning the 98 additional seats required to attain a two-thirds majority, the amount needed to ratify constitutional amendments. The constitution, however, gives the president wide powers, including sole authority to introduce and promulgate constitutional amendments, and responsibility for foreign, defense and law-and-order policy.

The election results created panic within sectors of the government and the public that feared that a FIS victory would prove disastrous to the country. Some advocated a halt to the electoral process, claiming, among other justifications, that a FIS victory would endanger the future of democracy and human rights in Algeria. Such fears were based on statements made by FIS leaders, acts of intolerance and violence carried out by Islamists against those accused of "improper" behavior, and the policies pursued by FIS-controlled municipal governments. These concerns about the FIS are discussed later in this report.

President Chadli Benjedid resisted pressure to cancel the elections. He declared his commitment to the democratic process and his readiness to work alongside a FIS-dominated parliament. However, the pressure continued to grow. Complaints of voting irregularities in 145 districts, most of them won by the FIS, were submitted to the government-appointed Constitutional Council, and rumors of an impending intervention by the army began to mount.

On January 11, before the Constitutional Council could rule on the election fraud charges, President Benjedid announced his immediate resignation and the army took up

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<sup>1</sup> She is profiled in *le Quotidien d'Algérie* of January 12, 1992.

positions in the capital. Since the coup, the Constitutional Council has been silent on the question of election fraud, and the allegations remain unproven.

Benjedid's letter of resignation alluded to what leaders of the new regime would soon confirm directly: that the purpose of the coup was to block the victory of the FIS. His letter stated in part, "We are living through a pluralistic democratic process that is characterized by numerous excesses and tendencies clashing with one another. Thus, the measures taken and the routes that must be taken to solve our problems have now reached a point beyond which it is no longer possible to proceed without gravely harming national cohesion, the preservation of public order, and national unity."<sup>2</sup>

On January 12, the High Security Council, a presidential advisory body, announced it was "taking charge temporarily of all matters that could affect public order and state security." The Council is dominated by the military, most notably by Minister of Defense Gen. Khaled Nezzar. The other members are Prime Minister Sid Ahmed Ghazali, Minister of Interior Gen. Larbi Belkheir, Foreign Affairs Minister Lakhdar Brahimi, Minister of Justice Hamdani Benkhelil, President of the Constitutional Council Abdelmalek Benhabyles, and Army Chief-of-Staff Gen. Abdelmalek Guenaizia.

The Council's first act was to cancel the second round of legislative elections, citing "the impossibility of continuing the electoral process." The Council announced no plans for a presidential election.

The cancellation of elections was denounced on January 13 by the leaders of the two main opposition parties: Abdelkader Hachani of the FIS, and Hocine Ait Ahmed of the Socialist Forces Front. The same day, the Algerian League for the Defense of Human Rights, the country's oldest independent human rights organization, denounced the "brutal and unjustified interruption of the democratic process" as tantamount to "a military coup."

On January 14, the Council announced the creation of a new body, the High State Council (HSC), which would assume presidential powers until no later than December 1993, when the term of Benjedid would have expired. Seeking legitimacy for the coup, the regime recruited Mohamed Boudiaf, a hero of the Algerian war of independence who had been living in exile since the 1960s, to head the HSC, which included only one military official, Gen. Nezzar, rather than the three in the High Security Council. The

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<sup>2</sup> *Le Quotidien d'Algérie*, January 12, 1992.

other members were Ali Kafi, head of an organization of veterans of the independence war, Tejini Khaddam, rector of the Paris mosque, and Human Rights Minister Ali Haroun.<sup>3</sup>

While some officials denied that the coup was directed at stopping the FIS,<sup>4</sup> Haroun minced no words in portraying it as an anti-FIS move, carried out to save democracy and human rights. On January 15, he told France's Antenne-2 Television network,

As human rights minister, I believe that when an exceptional situation in a nation's life occurs, at that point it is a question of defending the whole of this nation, because what threatened us after 15 January was an Islamic state, as is seen in certain countries that I do not want to name here. I say that I defend human rights by doing what is necessary so that my country will not undergo the situation that is being experienced in certain countries in the Middle East and East Africa.<sup>5</sup>

Further comments by Haroun were broadcast by Antenne-2 the following day:

The FIS, which has at least shown some honesty and frankness in this area, said that it is not democratic, that it is against democracy, that it does not want democracy. It has said that when it takes power there will be no more elections; there will be the Shura, the religious men who meet together and decide on your behalf. The FIS says there will be no democracy. It says there will be no elections. It says it would use the elections to gain power. Afterwards there would be no more elections.

As a minister of human rights, my question is: Who is there to defend the notion of human rights? Am I going to allow a situation where, in a month or two, people will no longer have any rights? I cannot do that. There are currently men in Algeria who are assuming their responsibilities. There is a great part of the population that feels

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<sup>3</sup> Haroun was named deputy minister of human rights in June 1991. In October the post was raised to full ministerial level.

Foreign Minister Lakhdar Brahimi told *al-Hayat* daily on January 20, 1992, "You asked whether that was done to confront the FIS. No. It was done in a bid to prevent developments which the country unanimously considered dangerous." The resignation of Benjedid "was the beginning of the attempt...to alter the democratic course in order to safeguard constitutional and legal practices, if possible." As reported in Foreign Broadcast Information Service, *Near East and South Asia Daily Report*, January 24, 1992 [hereinafter FBIS].

<sup>5</sup> As reported in FBIS, January 17, 1992.

reassured. We are going to take the time to set up real institutions to lead this country toward real democracy -- not some pretext of using a democratic process that ends up killing democracy.<sup>6</sup>

### **The Crackdown on the Islamic Salvation Front (FIS)**

While denouncing the new regime as unconstitutional and urging civilians and soldiers not to recognize its authority, senior FIS officials urged calm and avoided calls for violence in their statements and communiqués. In a sermon at ash-Shafi' mosque in suburban Algiers on January 14, Hachani vowed that the "FIS will remain within the legal framework without renouncing its plan for an Islamic state." He called on Algerians to "keep calm," while urging them "to defend their choice and plans, and to reject all plots attempting to hijack their will and delay the process of change."<sup>7</sup>

The following day, Hachani insisted at a press conference that his party would "pursue the implementation of its program in a peaceful manner and reject the use of violence," adding that there was no question of abandoning "its plan to install an Islamic state."<sup>8</sup> The appeal for calm continued through the end of the month. Hachani told worshippers at the Friday prayer January 17: "I ask you for vigilance and to avoid all provocation."<sup>9</sup> Following Hachani's arrest, FIS foreign affairs spokesman Rabah Kebir called on the faithful on January 24 to "pray in calm, go out again in calm, and to give no one the opportunity to rejoice in the misfortune of a Muslim."<sup>10</sup>

While the leadership carefully avoided explicit calls for violence, there were clearly splits within the FIS about tactics. Scattered confrontations with security forces began two days after the cancellation of the elections, and escalated as it became apparent that the government's aim was to decapitate the leadership of the FIS and destroy the party as a political force.

On January 14, security forces carried out the first mass arrests of FIS members and supporters since the cancellation of elections. The Police announced the following day the arrest of 133 persons "in Afghan dress" -- the nickname for the loose-fitting white

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<sup>6</sup> *Ibid.*

<sup>7</sup> Agence France-Presse, January 15, 1992.

<sup>8</sup> *El-Watan*, January 16, 1992.

<sup>9</sup> Youssef M. Ibrahim, "Fundamentalists in Algeria Ask Followers to Stay Calm," *The New York Times*, January 18, 1992.

<sup>10</sup> Agence France-Presse, January 24, 1992.



tunics favored by FIS members -- near ash-Shafi' mosque outside Algiers for "acts of intimidation and ostentatious provocations."<sup>11</sup> Security forces set up checkpoints to turn back or detain men who, on the basis of their appearance, they suspected of heading toward the main FIS-controlled mosques. They stopped pedestrians, and removed passengers from automobiles and buses.

Many of those arrested were later released without charge. Algerian law allows the police to hold a person for investigative purposes for 48 hours; after that period, they can obtain one 48-hour extension from a state prosecutor. However, with Thursday and Friday considered holidays, persons arrested on Wednesday night do not have to be brought before a prosecutor until Sunday.

The regime also moved to challenge FIS control over the thousands of mosques that are not under state control. A published report that clearly expressed the official view stated, "It is contrary to the law and the wishes of the majority of the faithful that the 5,000 or so mosques that do not have accredited preachers have become veritable propaganda centers and official headquarters of the FIS."<sup>12</sup>

Several decrees were issued by national and local officials restricting activities at mosques. On January 22, the governor of Algiers banned all street gatherings, targeting the practice of worshippers filling the streets adjacent to mosques to hear sermons broadcast on loudspeakers.<sup>13</sup> On the same day, the regime announced a ban on all "political" activities in mosques. Police unplugged or removed the outdoor speakers from numerous mosques, and troops armed with tear gas and live ammunition ringed the surrounding streets to enforce the ban on gatherings.

Enforcement of the new decrees led to massive arrests of FIS clerics, members and sympathizers, as well as to an increase in clashes. In Algiers, Constantine, Oran, Batna

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<sup>11</sup> *El-Watan*, January 16, 1992.

<sup>12</sup> *El-Moudjahid*, January 22 and 23, 1992, cited in Marc Yared, "Algérie: Bataille contre les islamistes," *Jeune Afrique*, January 30, 1992. Some estimates have placed the number of mosques under FIS control as high as 8,000 out of a total of 10,000 in Algeria. Francis Ghilès, "Algeria Again at the Crossroads," *Middle East International*, January 24, 1992.

<sup>13</sup> The governor's decree stated:

areas around mosques and the roads and streets adjacent to them cannot under any circumstances be used as an extension of the mosques themselves. Any manifestation [demonstration] around mosques is absolutely prohibited, whatever the day or the hour. The use of public streets, sidewalks, roads, public squares, spaces, and slip roads is exclusively reserved for the traffic of pedestrians and vehicles. Any request to occupy public places should be submitted for the prior authorization of the governor. [Algiers Radio in French, as reported in FBIS, January 23, 1992.]

and other cities, security forces arrested pro-FIS imams after sermons that were deemed objectionable. A total of 42 FIS imams were arrested between January 17 and 25 and remanded in custody, according to the police.<sup>14</sup> Others went into hiding. The government appointed clerics to fill some of the empty pulpits. At as-Sunna mosque in the Bab al-Oued neighborhood of Algiers, one of the two preeminent FIS pulpits, the FIS imam went into hiding at the end of January and was replaced by a government-appointed preacher. The FIS imam, Abdelkader Moghni, had been elected to represent Bab al-Oued in the December elections. He was reportedly arrested on February 7.

Almost daily, the police reported the arrest of FIS imams for delivering "inciting" or "insulting" sermons. On January 18, an imam in al-Maitar, near Boussaada, a city 150 miles southeast of Algiers, was arrested for "inciting citizens from the mosque to rebel against institutions of the state," according to the police.<sup>15</sup> In Dar al-Baidha on the outskirts of the capital, security forces arrested an imam on January 31 for delivering "virulent sermons and statements insulting and attacking institutions of the state and its senior officials."<sup>16</sup>

Resistance to the operations of the security forces intensified. The first fatal clash since the cancellation of elections occurred on January 29 in the capital, when security forces attempted to prevent what an official statement described as "a political meeting" in an-Nasr mosque. The Algérie Presse Service reported one death, while the FIS reported two. Far more serious violence broke out the following week in Batna, when security forces battled Islamists protesting the imprisonment of two imams convicted for "incitement to rebellion and using places of worship for political ends." Medical sources reported more than 20 killed and 100 wounded in Batna between February 4 and 7; official sources put the numbers at 13 killed and 66 wounded.<sup>17</sup>

## **FIS Leaders Arrested**

The regime has also moved systematically to round up the party leadership. The first to be seized was Abdelkader Hachani, who had been deputized last summer by imprisoned FIS leaders Madani and Belhadj to head the party. Hachani had been jailed most recently on September 27, after giving a sermon in as-Sunna mosque, on charges of

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<sup>14</sup> Agence France-Presse, February 3, 1992.

<sup>15</sup> Agence France-Presse, January 20, 1992.

<sup>16</sup> *Al-Hayat*, February 2, 1992 and *le Monde*, February 2-3, 1992

<sup>17</sup> José Garçon, "Le FIS déclare la guérilla au pouvoir," *Libération*, February 8-9, 1992; Georges Marion, "Les violences ont gagné de nombreuses villes d'Algérie," *le Monde*, February 9-10, 1992.

"attacking institutions" and "incitement to violence." He was released one month later after the charges were dropped.

On January 22, police arrested Hachani on the basis of a complaint from the Ministry of Defense that a communiqué appearing in that day's *al-Khabar* newspaper "called for rebellion in the army." The communiqué was signed by Hachani and dated January 18. Entitled "Call to the National Popular Army," it read, in part,

The FIS has not stopped trying doing whatever it could to save Algeria from sliding toward a confrontation between the people and the army....The army belongs to Algeria and Islam" [and is] the shock troops of God for defending Islam and a Muslim Algeria....The National Popular Army [ANP] has committed itself before God, the people, and the world to protect the Constitution and to permit no one to seek power outside the framework of a free and popular choice. It is inconceivable that it would submit to the wishes of a junta that defies the *Shari'a*, the choice of the people, and the Constitution.

The ANP faces a difficult test: should it side with the people, who give it men and equipment in time of peace and of war, or should it side with a clique of leaders whose livelihood is despotism and arrogance on earth, and who do not hesitate to send the homeland's defenders to murder the homeland's children?

The ANP has a historic responsibility to defend the unity of the country, its security and stability. It can accomplish this only by renouncing its allegiance to despots...and by the sincere defense of Islam, the cement of the nation; of the integrity of the territory of Algeria; and of the people's choice, which was expressed in the elections of 26 December.

[The FIS] salutes a Muslim army that resists taking part in a war among Muslims, the causes of which have been wholly fabricated by the ruling clique that treats people as minors, made itself their regent, and confiscated their right to self-determination.

[The FIS] salutes the vigilant army that refuses to let the plotters against the army, the people and Islam provoke a confrontation.

This communiqué appeared as an advertisement in *al-Khabar* and was then posted on walls in mosques and in public places around the country. The state-run Algérie Presse Service has reported many arrests of persons accused of posting the communiqué.

Hachani has been remanded in Serkadji civilian prison awaiting formal charges. According to Abdennour Ali Yahia, one of Hachani's lawyers, the FIS leader may also face charges in connection with sermons in which he allegedly called on soldiers to disobey orders from the regime.

Middle East Watch calls for the immediate release of Hachani, as well as those who were arrested for posting the communiqué, on the grounds that the writing and the dissemination of the communiqué are acts of nonviolent expression. While the communiqué bearing Hachani's signature may be regarded as an attempt to persuade soldiers to disobey their orders, its appearance in newspapers and in public places does not create a danger of lawlessness that is imminent. It does not amount to incitement and should be considered protected advocacy.

On the same grounds, Middle East Watch calls for the release of another top official of the FIS, foreign affairs spokesman Rabah Kebir, who was arrested on January 28. Kebir was widely seen as the *de facto* leader of FIS after the arrest of Hachani, despite the naming of Othman Aissani as provisional leader. Kebir was arrested shortly after releasing an open letter to Mohamed Boudiaf, the head of the High State Council. The letter and a subsequent communiqué signed by Kebir accused the military of hiding behind Boudiaf to disguise its seizure of power. They likened the voiding of the election results to the French colonialists' rejection of Algerian independence, and condemned the government's announced plan to create a consultative council composed of Algerian personalities from various sectors.

Kebir was brought before a judge the following day and remanded in prison on charges of inciting rebellion against the authorities, according to Ali Yahia, a member of his defense team. Kebir and Hachani are currently in Serkadji civilian prison. They have not been brought to trial.

The police are now reportedly seeking another FIS official, Abderrazak Redjam, for having issued a communiqué urging foreign businessmen not to invest in Algeria because of the coup d'état. This, too, in Middle East Watch's view, constitutes protected advocacy.

## Twelve Journalists Arrested

After the riots of October 1988 shook the one-party rule of the National Liberation Front, the Algerian press developed quickly into one of the freest in the Arab world. Algerians suddenly received wide coverage of social ills, government corruption and divergent political views, despite the continued state monopoly over broadcasting and influence over much of the printed press.

That progress has been reversed by the arrests in January of 12 journalists, the confiscation of one newspaper, and, most recently, the imposition of state-of-emergency restrictions.

Middle East Watch protests the arrests of the twelve journalists. The actions for which they have been charged -- publishing articles attacking state institutions or printing the FIS communiqué urging disobedience within the army -- are acts of protected expression.

The crackdown on the Algerian press began on the evening of January 22, when police entered the editorial offices of *al-Khabar* (The News), an independent Arabic-language daily, and arrested eight journalists. The reason given by the police was *al-Khabar's* publication that day of the FIS communiqué calling on the National Popular Army to disobey the regime, and a "malicious" report which said that the Republican Guard had resigned.

Five of the eight journalists were released the following day. However, three senior staff members, Director Mohammed Sellami, Editor-in-Chief Zaidi Sekia, and Assistant Editor-in-Chief Abdelhakim Belbatti, were brought before a judge and released only on January 25 after being charged with offenses under the penal and information codes.

A young woman who witnessed the arrests in the newsroom told the Paris daily *Libération*, "When the police came they did not choose, they took with them everyone who happened to be in the editorial office at that moment. I avoided arrest because I fainted." One of the journalists released after being held one day recalled, "We had not even been aware of the publication of this ad [containing the communiqué]. It had been arranged by the advertising department, not the editorial department. We are not Islamists. We have journalists of all opinions. Our paper is moderate."<sup>18</sup>

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Gilles Millet, "Le pouvoir verrouille les mosquées," *Libération*, January 24, 1992.

Sellami, Zekia, and Belbatti have been charged with violations of article 96 of the Penal Code and articles 86 and 87 of the Information Code of 1990. These repressive articles give authorities broad authority to punish journalists. Article 96 of the Penal Code states, in part, that whoever distributes or disseminates for propagandistic purposes material "of a nature to harm the national interest will be punished by imprisonment of six months to five years and a fine of 3,600-36,000 dinars.<sup>19</sup> Articles 86 and 87 of the Information Code make clear why that code has been called the "Penal Code Part Two" by some journalists. Article 86 provides prison sentences for persons who publish or deliberately spread "erroneous or misleading information of a nature to harm the national order or national unity." Article 87 holds journalists responsible for unlawful acts that they may inspire. It deserves to be quoted at length:

The inciting by any media of information to crimes or misdemeanors against state order or national unity in cases that lead to consequences shall subject the director of the publication and the author of the offending article to penal sanctions as accomplices to the crimes and misdemeanors that are committed. If the provocation bears no actual consequences, the director and the author will be punished by imprisonment of one to five years and a fine of 10,000 to 100,000 dinars, or one of the two.

The trial of the *al-Khabar* journalists has not begun.

On January 23, the day after the raid on *al-Khabar*, security forces arrested two senior staff members of *al-Balagh* (The Message), a pro-Islamist Arabic weekly. The two, Editor-in-Chief Abdelaziz Laayoun and Director Mohamed Adnidni, were charged with "offenses against institutions" for publishing articles critical of the military and a cartoon captioned, "The army has betrayed Muslims and taken the side of the communists."

The two organs of the FIS were next. On January 25, police surrounded the offices of the Arabic-language *al-Mounqidh* (The Saviour) and seized copies of the latest issue. The police later said it was confiscated because it contained inflammatory articles against state institutions. Three days later, Salah Gouami, the director of the newspaper, was arrested, and the editor-in-chief, Abdelkader Aiassat, was being sought.

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At the official rate, there are approximately 22 dinars to the U.S. dollar. The dollar fetches about twice that amount on the black market.

On January 27 Fouad Delleci, editor-in-chief of the French-language FIS organ *al-Forqane* (The Qur'an), was arrested on charges of "attacking state institutions and inciting rebellion in the army." A warrant was also issued for *al-Forqane's* director.

Both *al-Mounqidh* and *al-Forqane* had been banned for three months during the state of siege last year, after authorities accused them of publishing articles "calling for civil disobedience and violence and incitement to commit crimes and offenses against the public order and state security." With the suspension of the FIS as a party under the state of emergency, *al-Mounqidh* and *al-Forqane* will presumably cease publication or go underground. Their journalists have not yet been brought to trial.

Foreign journalists have also come under pressure as the police have sought to keep the press away from disturbances. On January 31, police prevented photographers and television crews from filming clashes near as-Sunna mosque. On January 24, security forces prevented 12 journalists, including two Algerians, one Frenchman, five Spaniards, and four Turks, from interviewing FIS sympathizers near al-Kubba mosque in suburban Algiers. They were taken to a police station for questioning and, according to the Agence France-Presse, four of the Spaniards, all correspondents for Spanish dailies, were ordered to leave the country by the following day.

### **Excessive Force by the Security Forces**

As of February 9, over 50 Algerian civilians have died and hundreds have been injured since January 29 in clashes with security forces around the country. Many of these confrontations have occurred as Islamists have attempted to block the arrests or trials of preachers, and as security forces have attempted to disperse gatherings near mosques.

The troops include police, special anti-riot forces and soldiers. While lawyer Abdennour Ali Yahia, who heads the Algerian League for the Defense of Human Rights, credited the security forces last month with showing more restraint than in the riots of October 1988, when an estimated 500 civilians were killed, the casualty levels in February indicate that the troops are resorting to excessive force in confronting demonstrators who are unarmed or armed only with stones. Over 50 protesters have been killed by gunfire while not one member of the security forces has been reported killed in the clashes with protesters. This is *prima facie* evidence that the forces are using disproportionate force.

With the declaration of the state of emergency, and the recent spate of fatal attacks on police by armed assailants, Middle East Watch is concerned that troops will increase the

level of force they use against unarmed demonstrators. When the army was last called out to put down demonstrations during the state of siege of June 1991, scores of civilians were killed. The official tally was 55 deaths and 326 injured; the Algerian League for the Defense of Human Rights said over 300 had been killed.

## **Concerns about FIS Positions on Democracy and Women's Rights**

While condemning the coup d'état and the indiscriminate crackdown on the FIS that the current regime has carried out, Middle East Watch and the Women's Rights Project of Human Rights Watch are highly critical of some of the FIS' positions toward internationally recognized human rights. These positions, although they have been revealed more through policy statements than a record of governance, reveals an antipathy toward the right of women to equal treatment under the law, and ambivalence toward the right of people to participate democratically in the political process.

The FIS was founded in early 1989 and became in September of that year the first legalized Islamist opposition party in the Arab world. The party has made clear its intention to turn Algeria into an Islamic state<sup>20</sup> and apply Islamic law, the *Shari'a*. Its political program, however, has remained somewhat vague. Alongside statements by senior leaders that a FIS government would respect civil liberties and tolerate opposition voices, many statements by FIS officials cast doubt on their commitment to upholding the rights of all citizens.

The FIS can be judged also by its conduct at the local government level since 1990, and by its alleged complicity in acts of intimidation and aggression carried out by Islamists against citizens whose behavior they deem improper. At this point, Middle East Watch and the Women's Rights Project do not have sufficient data to judge the FIS in these areas.

FIS statements on the party's commitment to the democratic process have been inconsistent and ambiguous. A prominent party campaign slogan has been "No to the Charter,<sup>21</sup> no to the Constitution, yes to the Qur'an and to the Traditions [based on the Prophet Muhammad's sayings]."

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Speaking at as-Sunna mosque on January 3, Hachani said that the FIS "will not abandon its plan to build an Islamic state, and its success in the first round of parliamentary elections was a step in this direction, toward the restoration of the Caliphate." Agence France-Presse, January 3, 1992.

A reference to Algeria's national charter.



Acting head of the FIS Abdelkader Hachani told his followers on January 17:

We say to you [Algeria's new rulers], Our constitution is the Koran and the Traditions, but we will go down the path of your constitution, not because we believe in it, but because we would give you a pretext [to crack down if we disregarded it.]<sup>22</sup>

Two weeks earlier, Imam Abdelkader Moghni, a FIS leader and successful candidate in the parliamentary elections, told an audience at as-Sunna mosque:

Islam is light. Why do you fear it? It is in democracy that darkness lies. Those who refuse the light want to create injustice in society. The Islamic state is not a monster. It is tolerance. The Islamic state will make a pearl out of women, not the plaything she is now....Individual liberties will be respected in the general interest, but liberty must not be confused with permissiveness."

FIS's deputy chief, Ali Belhadj, has been more blunt about his impatience with multiparty democracy: "If the Berber activist expresses himself, the communist expresses himself, along with everyone else, then our country will become a battleground of diverse ideologies in contradiction with the hopes of our people."<sup>23</sup>

At the same time, FIS leaders have attempted repeatedly to reassure Algerians that the election that put the party in power would not be Algeria's last. Speaking to an Italian newspaper, Abdelkader Hachani presented a vision of a tolerant society:

[I]f an Islamic state were to be established in Algeria, all freedoms would be guaranteed. Ulterior motives have been unjustly ascribed to the FIS. It has been condemned even before it has come to power. The fact that there has been no repression in those places where we won municipal elections last year is disregarded. Other parties' officials have retained their posts. They include even women who do not wear the veil....Our line of conduct is aimed at education. We have a very clear program which we want to achieve through education and persuasion. Algerian

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David Hirst, "Algiers Militants Urge Care at the Gates of Victory," *The Guardian*, January 18, 1992.

Jacques de Barrin, "L'islam dans sa totalité," *le Monde*, January 15, 1992.

women are Muslims, yet they do not like to wear the veil, because they are victims of the government and the influence exerted by the European media, which instill a fear of the Islamic system in their hearts. But women enjoy all rights under Islam. If women worldwide were thoroughly acquainted with Islam and its values, they would reject any other system and embrace ours.

Asked whether the FIS would allow other parties to exist, Hachani replied:

No less than 60 parties have been active here in Algeria in recent years. But the elections have reduced these to three. The others can be said to have been disbanded. In any case, within the framework of our own values and our own civilization, several parties will be allowed to exist. Politics will be enriched by this.<sup>24</sup>

Thus, even when presenting the FIS at its most tolerant, Hachani's comments hardly embrace the right of women to choose their lifestyle or an unfettered right of all persons to form political parties and movements.

The record of the FIS in local government since June 1990, when its candidates were elected to govern more than half of Algeria's municipalities, provides little hard evidence that fundamental rights would be trampled upon should the party control the national parliament. Local governments have implemented such measures as closing bars, banning "decadent" music and the sale of alcohol, enforcing dress codes, restricting sports programs for girls, and segregating schools, beaches and other public places by gender.<sup>25</sup> They have met with uneven success in carrying out their agenda, due to the political dynamics in each district and impediments imposed by the national government. To Middle East Watch's knowledge, however, no gross violations of fundamental rights, such as the wholesale dismissal of women from government jobs, have taken place.

On the rights of women, the FIS attaches a high priority to segregating the sexes in schools and workplaces, and restricting women's sports. It intends to maintain if not toughen Algeria's family code, which imposes a unilateral duty on a wife "to obey her

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Interview published in *L'Unità* of January 20, just before his arrest. As reported in FBIS, January 28, 1992.

See Georges Marion, "'Ordre moral' islamique en Algérie," *le Monde*, July 17, 1990; Gilles Millet, "Relizane, un village à l'heure du FIS," *Libération*, July 2, 1990.

husband and to accord him his due as head of the family" (Art. 39), and discriminates against women in terms of the right to enter into and dissolve marriage, inheritance, and other matters.

The FIS has called home the "natural" place for women, and has blamed their presence in the workforce for exacerbating Algeria's unemployment problem. At present, an estimated 350,000<sup>26</sup> women work in salaried jobs in a country of 16 million people. To Middle East Watch's knowledge, the FIS has not presented a plan for removing them from the workforce.

The FIS's conception of the role of women has caused much anxiety in Algeria's women's movement. The party's success in the first round of elections prompted a call by the prominent Independent Association for the Triumph of Women's Rights on December 30 to stop the FIS in the second round, and a demonstration by several hundred women in Algiers on January 9. Many women's rights activists welcomed the cancellation of the second round of elections.

The FIS also has its women supporters. The heavy turnout of women voters in some districts on December 26, after a law that enabled men to vote by proxy for women relatives was invalidated, is credited with helping to strengthen the showing of the FIS. There have been women's demonstrations in support of the FIS since the cancellation of the elections.

In advocating the rights of women in a country such as Algeria, in which religiously-based customs are followed by a large segment of the population, Middle East Watch is guided by international human rights covenants that have gained wide acceptance and are binding on all governments. Prominent among these is the International Covenant of Civil and Political Rights, which Algeria has ratified. (Algeria is not a party to the Convention on the Elimination of all Forms of Discrimination against Women.) Article 23 of the Covenant requires States Parties to "take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution." Article 26 requires that "the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground," including gender.

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Agence France-Presse, December 21, 1991.

Thus, Middle East Watch opposes the Family Code of Algeria because it codifies clearly discriminatory practices. Middle East Watch also opposes any state-sponsored discrimination against women in hiring or employment.

Middle East Watch is also concerned by the numerous incidents that have been reported in recent years in which Islamists have attacked or intimidated women because they objected to their style of dress, their holding a particular job, living alone, or going out in public without male escorts. Women have been surrounded, threatened, cursed, spat upon, and even assaulted in these incidents, which, fortunately, appear to have declined over the past year.

The role of the FIS in these incidents is not clear. Middle East Watch does not have the data to know how often the perpetrators are members or sympathizers of the FIS, which is one among many Islamist groups in Algeria. To our knowledge, the FIS leadership has done little to denounce or discourage the assaults on women.

Middle East Watch also deplores the fact that the FIS has not renounced *boudoud* punishments for certain crimes. FIS leaders have said they favor making the *Shari'a* the law of the land, but have been evasive about whether this would include the amputation of the hands of thieves or the stoning of adulterers, punishments that in the view of Middle East Watch violate the prohibition of "cruel, inhuman or degrading treatment or punishment" in the International Covenant on Civil and Political Rights. Speaking to a French reporter, Abbasi el-Madani said,

Islamic justice cannot be implemented except in an Islamic state that is able to provide all of its citizens with a decent standard of living. Before amputating the hand of a thief, educate him first, give him proper housing, a job, and the means of living an honest life. First the state must be reformed: that's the objective of our movement.<sup>27</sup>

Even more disturbing than this evasive answer was an exhibition of political posters sponsored by FIS in Algiers in early January. Among the posters on display were ones that endorsed the application of Islamic *boudoud* laws of amputation of the hand for theft and stoning for adultery.<sup>28</sup>

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<sup>27</sup> Philippe Aziz, "Algérie: le pouvoir en péril," *le Point*, April 30, 1990.

<sup>28</sup> Agence France-Presse, January 7, 1992.

## **Condemning the Halt of the Electoral Process: A Statement of Middle East Watch's Principles**

In condemning the interruption of the electoral process in Algeria, Middle East Watch is guided by a set of principles employed by all of the divisions of Human Rights Watch in evaluating such interventions wherever they may occur.

Middle East Watch is aware that the regime that cancelled the electoral process in Algeria, and many of those who supported their move, justified the action by claiming that a government dominated by the FIS would trample democracy and human rights. As a human rights organization, Middle East Watch endorses one principle underlying this argument, namely that no government may be permitted to violate fundamental rights, even if that government is freely chosen by a majority of the population. This principle is enshrined in Article 5 of the International Covenant of Civil and Political Rights, which Algeria has ratified.

While the actions and pronouncements of the FIS to date give some grounds for such a concern, we nevertheless believe that the preponderance of evidence fails to justify so drastic an action as the cancellation of the elections and the crackdown that has ensued, with all its accompanying human rights abuses.

Below is a list of the seven principles employed by Human Rights Watch in assessing interruptions in the democratic process, and a summary of how they apply to the Algerian case.

1. The right of people to take part in self-government through free and fair elections is a fundamental human right, enshrined in the International Covenant of Civil and Political Rights. Because of the importance of that right, its abrogation can be justified only in exceptional circumstances that meet the criteria set forth in the following six principles.

*The December 26 elections were recognized by many observers as generally free and fair, both in the balloting itself and in the openness of the campaign process that preceded it. Complaints of fraud and irregularities were filed in early January, but the staging of the coup preempted any ruling on the complaints, and they remain unproven.*

2. The fundamental rights of citizens must be protected against infringement either by the election process itself or by the representatives of the people freely and fairly chosen by elections.

3. The electoral process may be suspended only in circumstances of a public emergency which threatens the life of the nation and the existence of which is officially proclaimed and then only to the extent strictly required by the exigencies of the situation.

4. Such circumstances would include an emergency that poses a clear, imminent and substantial threat to those fundamental rights of citizens that may never be suspended under international law.

5. In order to constitute such a threat, the violations of fundamental rights must be of great magnitude. Isolated cases, by themselves, do not constitute so clear and imminent a threat as to warrant the suspension of electoral rights.

*In the Algerian context, principles two through five require an effort to predict the consequences of a FIS majority in parliament. Without minimizing the possible dangers of a FIS victory to fundamental rights, the evidence of the danger remains largely speculative and therefore insufficient to justify such a blatant violation of the people's right to choose their representatives.*

Certainly, statements made by FIS leaders on restricting the rights of women and questioning the value of multiparty democracy give cause for concern. Nevertheless, allowing successful FIS candidates to be seated in parliament is not tantamount to the realization of their program; they would have had to contend with opposition from an executive branch that wields broad powers under the constitution, and powerful sectors of civil society.

6. The burden of demonstrating that there is an imminent threat to fundamental rights that warrants the suspension of electoral rights rests with those proposing suspension. In proclaiming an emergency, the evidence demonstrating that this is strictly required by the exigencies of the situation should be publicly disclosed.

*Government officials have repeated slogans that the FIS is anti-democratic and Iran-inspired but has not disclosed persuasive evidence to prove that its parliamentary victory posed an imminent threat to rights or to the life of the nation. Given the speculative nature of the government's allegations, its burden of proof is particularly high and has not been met.*

7. The suspension of rights in the face of an emergency that threatens the life of a nation may never be carried out by means that themselves violate those fundamental rights that may never be suspended.

*As this report documents, the suspension of the elections has led to the massive violation of human rights, including the indiscriminate arrests of members of the FIS, the use of lethal force against unarmed demonstrators, and violations of the right to free expression.*