

The Algerian National Reconciliation Referendum of 2005

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At the beginning of 2005 there was an air of optimism in Algeria and in western Ministries of Foreign Affairs for the reforms being made by the Algerian Government. One of these projects has been taking shape during this year, the Charter for Peace and National Reconciliation. It was put to a referendum on 29th September and is intended to leave behind one of the most serious civil conflicts since the end of the Cold War.

At First, Caution and Scepticism

From the beginning of the year there was much speculation about the national reconciliation project that was going to be proposed by the Presidency. The caution in not releasing its details was on a par with the rejection to the idea of a general amnesty, a possible essence of the project. However, amongst people not directly affected, indifference predominated to this new legal move which was not greatly different to the first one, the 1999 Law of Civil Harmony.

At the same time, the government presented the results of the missing persons' investigation commission, the Ksentini Commission. The commission issued a report which recognised a total of 6,146 missing people. However, these disappearances are not considered to be deliberate acts by the State, but extortion by some individuals taking

unauthorised action that was not the responsibility of the State.

An Improved Security and Financial Situation

On the other hand, the economic and institutional reforms to improve governance are continuing and the currency reserves quickly increased (from \$40 billions in January to 60 billions at the end of this year). These reserves meant that President Boutefflika could announce a quinquennial plan to re-launch the economy, directed at modernising agriculture, infrastructures and the economic fabric.

The security situation had improved on two fronts. At the beginning of the year the dismantling of one of the Islamist terrorist groups, the Armed Islamic Group (GIA), and the partial break up of the Salafist Group for Preaching and Combat (GSPC) was announced. At the same time as the violence decreased, sectors of the Arouch movement – a protest movement created as a result of the death of a young person from Kabylie in a local police station in April 2001 – reached a new agreement with the government.

Acceleration

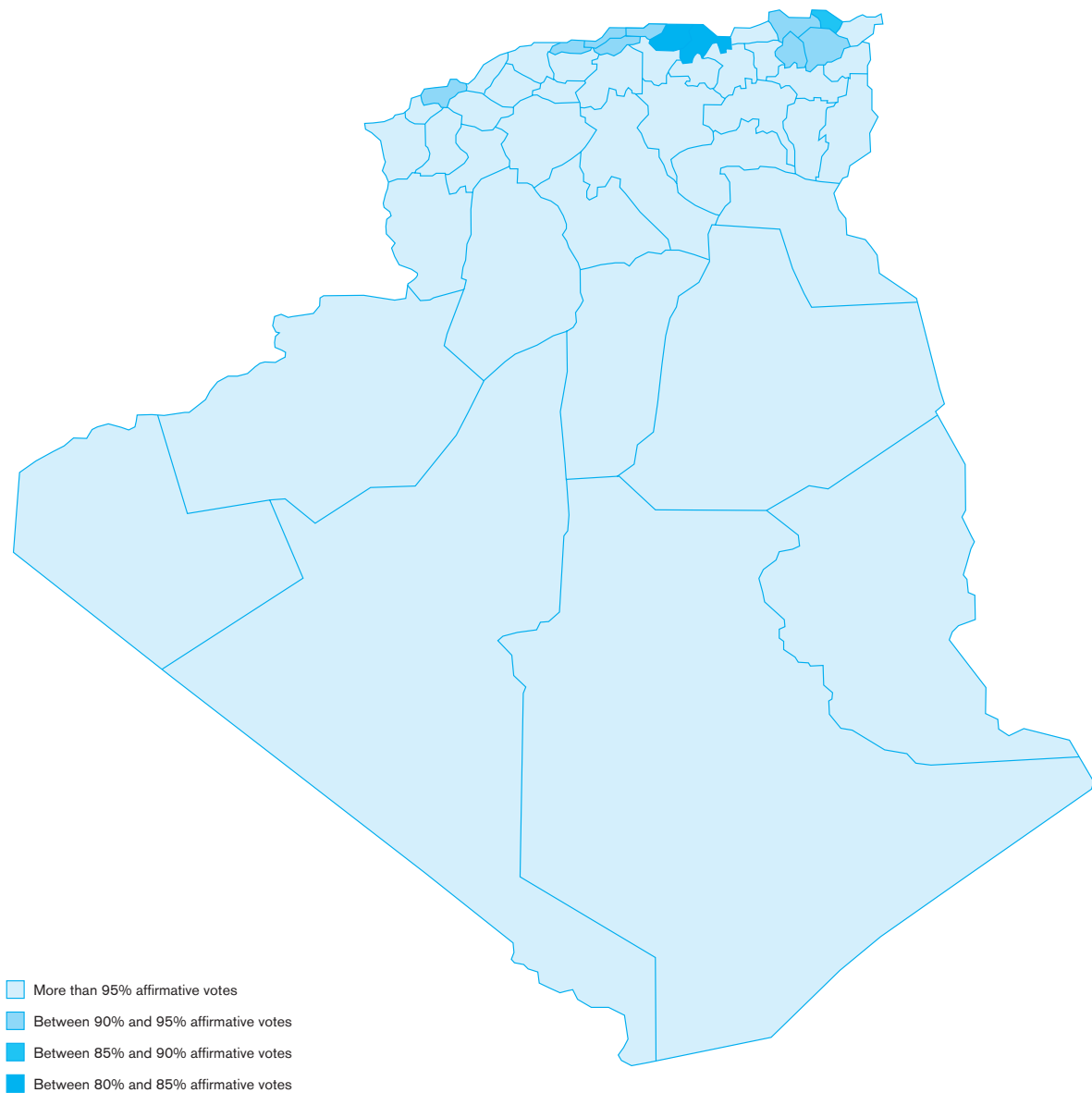
With respect to the referendum, the process quickly got under way in the summer. The national reconciliation plan was presented and in the same presidential decree on 14th August, which was published the following day in the Official Bulletin, the President summoned a national referendum to decide on the subject. The time given for re-

flection and debate was brief and the citizens were called to vote on 29th September.

The Campaign

The official campaign in favour of the yes vote was straight forward and used the slogan "From concord to national reconciliation. For Algeria". It basically transmitted the idea that there was not any alternative to the Charter (see Laurence Thieux, "La carta para la reconciliación nacional en Argelia". 5-10-2005 www.iecah.org). However, the social and political forces that opposed the text were not able to adequately communicate the arguments for a "no" vote. One of the few exceptions was the piece signed by a list of personalities that appeared in the Algerian press. Meanwhile, the President managed to organise successive meetings in 10 of the country's most populated provinces.

The low key nature of the debate during the short campaign also favoured the President and the government successfully used the controversial French law for the historical memory to generate national sentiments and gain affection. In February, the approval in France of a controversial law on repatriation, which evoked the "positive aspects of colonisation" and its doctrine, provoked great indignation in Algeria, as well as in other French ex-colonies and overseas territories. The Algerian authorities repeatedly demanded the withdrawal of the text as a prior condition to the signing of the French-Algerian Treaty of Friendship. It was expected to be approved during 2005 and will now be delayed until at least 2006.



Source: Ministry of the Interior, www.referendum-reconciliation.dz/français/resultfr.htm

Is it Really an Amnesty?

An amnesty consists of partly or completely pardoning a punishment or not persecuting a crime, normally political, to the benefit of a sector of the population after a change of circumstances, such as the end of a war or a change of regime. However, in Algeria's case we find that there are amnesties for other crimes alongside the political ones, or even other crimes apart from political ones. Also there has not been a particular change of circumstances, but rather a reduction in the level of

violence. Finally, the Algerian Charter neither calls itself an amnesty nor mentions the word, although legally it contains provisions for political and penal crime amnesties. Why? It is partly because it is a term that provokes rejection and partly because the law is looking for a way of exonerating the security forces of their collective and individual responsibilities. This exoneration is outside of the habitual framework of an amnesty.

The Charter has caused various legal objections to be raised. According to Algerian national law, before an amnes-

ty can be awarded the facts should be juridically qualified and then followed by a contradictory judicial process that at least dictates a symbolic sentence (see Daho Djerbal, "Le référendum du 29 septembre 2005 pour la paix et la réconciliation. Un double déni", 3 October 2005, English version at www.mafhoum.com/press9/253P1.htm). In conformance with international practice, international organisations (AI, HRW, etc.) maintain that the amnesty processes can not impede the disclosure of the truth or the responsibility of the State to undertake judicial investi-

gations in the cases of serious violations of human rights (L. Thieux, op. cit).

Contents of the Peace and National Reconciliation Charter

The Charter is divided into 5 parts, apart from the prologue, that are as follows: 1) recognition of the security forces and their work, clause guaranteeing and protecting these institutions (it is prohibited to cause damage to the republic's institutions or the honour of their agents), 2) peace consolidation measures, 3) national reconciliation measures, 4) measures regarding the missing persons and 5) measures to reinforce national cohesion.

The Reconciliation Charter is broader than the Law of Civil Harmony as it reduces the cases for exclusion from 4 to 3 and widens the amnesty and penal advantages provisions. Furthermore, as we have already mentioned, the Charter introduces sections on the security forces and socioeconomic, political and moral order measures, such as the call for individual pardon.

One of the issues not directly dealt with in the Reconciliation Charter is the disarmament of the local militia groups (Groupes de Légitime Défense, GLD) that operate all over the country and are a danger to lasting peace. They assume tasks that the State should not really delegate and have been justified because they carry out, amongst other things, self-defence missions in isolated areas. Their dismantling was announced as an element to reinforce the reconciliation, although it is still pending the development of the application texts.

The Results

The referendum's question was worded in the following way: "Are you for or against the Charter for Peace and National Reconciliation project that the government has proposed?" With a participation of 79.76%, the official percentage of voters in favour of the Peace and Reconciliation Project was 97.36%. The percentage of the vote against was only greater than 5% in five of the 49 electoral districts: Oran, Constantina, Annaba, Alger and the electoral district that is made up by the Algerian voters abroad and in two it exceeded 10%: Tizi Uzu and Beyaia (Small Kabilia). However, other unofficial information collected locally from the ballot boxes by various journalists, indicates a much smaller participation level and the use of tactics that were believed to have now been banned from the electoral colleges. One of the authorised Algerian correspondents observed in one of the capital's colleges that attendance at the ballot box was less than 25% and was forced to leave when a recount of the voting slips was needed (see Meriem Ouyahia, *Le Soir de l'Algérie*, 30 September – 1 October 2005, p. 4). What is certain is that there were not any international observers at the referendum, as there were for the 2004 presidential elections.

The Efficacy and Consequences of the Charter

It seems clear that the weariness of the population led to the real participation being low and a general "yes" to the end of the violence. This remains, ac-

ording to the approved Charter, in the willingness of the remaining resistance movements (basically the GSPC) to surrender, although this group had already announced its rejection of the project. It is likely, however, that there could be individual or partial desertions. It could also result in the definitive defeat of an armed group that is not only on the list of organisations linked to al-Qaeda, but has also threatened France with attacks, for which it will no doubt be subjected to particular questioning.

The negative side of the Charter is that although it provides for indemnifications and help for the victims, it closes the door to the clarification and judicial processing of the people responsible for the slaughters and disappearances, preventing the families having access to the information on the whereabouts of their loved ones.

It is too soon to judge the impact of the measure. The Charter will require application regulations, just as the 1999 Law of Civil Harmony did in its day. And it will surely establish requirement and validity periods for the penal advantages. In any case, it is useful to remember the thoughts of an Algerian anthropologist who urged caution. "Forgiveness, unlike an amnesty, can not be decreed. It is an individual act that implies recognition and the possibility of punishment. It requires strength of mind – not to forget, but to stop wishing to settle old scores – and it is this strength that determines whether the collective memories can facilitate or block the process" (see Abderrahmane Moussaoui, "Pertes et fracas. Une décennie algérienne meurtrière", *Naqd. Revue d'études et de critiques sociales*, Autumn/Winter 2003, no. 18, pages 133-150).