France

Paving the way for arbitrary Justice

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Description:

Report of an international mission of inquiry in France on the application of anti-terrorist laws in France, with particular reference to the issue of provisional detention and the exercise of defence rights.
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Since the beginning of the 1990s, the French criminal courts have witnessed a series of major trials involving allegations of terrorism. Several have involved abnormally large numbers of defendants. Indeed, the most recent, the "Chalabi network" trial (le Procès Chalabi) in which the judges' verdicts are expected on January 22nd 1999, boasts a total of 138 defendants, of whom some 27 are in custody.

During the same period, lawyers and others have expressed serious concerns, both about the inherent character of the "anti-terrorist" laws invoked, and about the manner in which they have been applied. Criticism has been directed in particular at the law creating the offence of "participation in an association of malefactors... with a view to the commission of one or more acts of terrorism" (participation à une association de malfaiteurs en relation avec une entreprise terroriste). This is the statute which has been at the centre of all recent mass trials.

As for the application of the legislation, it is the provisions of the Code of Penal Procedure governing the investigation, prosecution and trial of alleged terrorist offences which have attracted most attention. In addition, criticisms have been voiced of those who actually put the laws and the code into practice, whether as police officers, investigating magistrates or judges in the pertinent courts of trial, review and appeal.

The major concern of those critical of the present system is that it does not allow suspects, defendants and the lawyers who represent them the full range of rights to which they are entitled. Given the pre-eminent role that France has played for over 200 years in the struggle for human rights throughout the world; given, too, that the present controversy reached its climax, in the shape of the "Procès Chalabi", in 1998, the year marking the 50th anniversary of the International Declaration of Human Rights; the French Human Rights
League (Ligue française des droits de l'Homme et du citoyen) thought it appropriate to ask the FIDH to commission an independent enquiry into the antiterrorist laws and their application, with reference to the issues of human rights generally and the right to a fair trial in particular.