



International covenant
on civil and
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HUMAN RIGHTS COMMITTEE
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HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Concluding observations of the Human Rights Committee

Algeria

1. The Committee considered the second periodic report of Algeria (CCPR/C/101/Add.1) at its 1681st, 1682nd, 1683rd and 1684th meetings, held on 20 and 21 July 1998 (CCPR/C/SR.1681-1684), and adopted the following concluding observations at its 1696th meeting (CCPR/C/SR.1696), held on 29 July 1998.

A. Introduction

2. The Committee commends the State party for addressing some of the issues raised in the Committee's concluding observations (CCPR/C/79/Add.1) following the examination of Algeria's initial report (CCPR/C/62/Add.1) in 1992. It notes that Algeria's second periodic report was submitted with a delay of more than two years. While acknowledging that the report and subsequent submissions provided information as to the laws and regulations adopted by the Algerian Government to implement the provisions of the Covenant, the Committee observes that it does not provide sufficient specific data on the prevailing human rights crisis. The Committee regrets that many of its questions were not fully answered by the delegation and welcomes Algeria's undertaking to submit additional written information in response to questions raised by Committee members during two days of dialogue, which was characterized by a sense of solidarity by the Committee with the suffering of the Algerian people.

B. Factors and difficulties affecting the implementation of the Covenant

3. Widespread and indiscriminate attacks against the civilian population, involving the loss of innumerable human lives, and a general climate of violence heighten the responsibilities of the State party to re-establish and maintain the conditions necessary for the enjoyment and protection of fundamental rights and freedoms in Algeria.

C. Positive factors

4. The Committee welcomes the establishment of the National Observatory for Human Rights, and the Médiateur de la République (Ombudsman of the Republic), with competence to receive complaints from individuals about human rights violations.

5. The Committee commends the establishment of the National Committee for the Preservation and the Promotion of Women, and the increased participation of women in public life.

D. Principal subjects of concern and recommendations

6. The Committee is appalled at the widespread massacre of men, women and children in a great number of villages and towns. The Committee is also seriously concerned that women have been the victims of not only killings, but also of abduction, rape and severe violence. The Committee is also concerned at the lack of timely or preventive measures of protection to the victims from police or military officials in the vicinity and at the persistent allegations of collusion of members of the security forces in terrorist attacks.

The Committee urges the State party to adopt effective measures:

- (a) to prevent those attacks and, if they nevertheless occur, to come promptly to the defence of the population;
- (b) to ensure that proper investigations are conducted by an independent body to determine who the offenders are and to bring them to justice; and
- (c) in all cases of massacres to conduct an independent enquiry into the conduct of the security forces, from the lowest to the highest levels, and where appropriate, to subject them to penal and disciplinary sanctions.

7. The Committee is further concerned at the less than satisfactory responses from the delegation, with regard to innumerable reports of arbitrary or extrajudicial executions of individuals, some while in custody, others under suspicion of being associated in one way or another with terrorist groups.

The State party should urgently ensure that:

- (a) independent mechanisms be set up to investigate all violations of the right to life and security of the person;

- (b) the offenders be brought to justice;
- (c) access be given as soon as possible to the International Committee of the Red Cross and other independent observers.

8. The Committee is concerned about the meagre information provided by the Government, both in its report and its oral presentation and in its responses to questions raised by the Committee, regarding the organization of "legitimate defence groups", their official recognition, competence, supervision and training. Serious questions arise as to the legitimacy of the transfer of such power by the State to private groups, especially in view of the power which the State itself confers on them and the very real risk to human life and security entailed by the exercise of that power, coupled with the risks of unsanctioned abuse.

The Committee recommends that the Government urgently take measures to maintain within its police and defence forces the responsibility of maintaining law and order and the protection of the life and security of the population and, in the meantime, to ensure that these defence groups are brought under the strict and effective control of responsible State organs, and that they are promptly brought to justice in the case of abuse.

9. Notwithstanding the denial by the Algerian delegation that torture is not practised by certain authorities, the Committee is deeply concerned over persistent allegations of systematic torture. The Committee deplores the apparent routine acceptance by trial court judges of confessions extracted under duress, even when there is medical evidence of torture, and calls on the State party to take all necessary measures to redress this situation.

The Committee urges the State party to ensure:

- (a) a credible system for monitoring treatment of all detainees so as to ensure that they are not subject to torture or to cruel, inhuman or degrading treatment;
- (b) that all specific allegations be investigated by an impartial body and that the results of such investigations be published;
- (c) that officials involved in torture be prosecuted and, if convicted, severely punished.

10. Given the unsatisfactory responses of the delegation and the number of complaints from family members, the Committee is gravely concerned at the number of disappearances and at the failure of the State to respond adequately, or indeed at all, to such serious violations. Disappearances may involve the right to life consecrated under article 6 of the Covenant, and where the disappeared individuals are still alive and are kept incommunicado, disappearances may involve the right guaranteed under article 16 of the Covenant which provides that every individual shall have the right to recognition everywhere as a person before the law. In this situation these

individuals are also deprived of their capacity to exercise all the other rights, without any recourse, recognized under the Covenant. Furthermore, disappearances violate article 7 with regard to the relatives of the disappeared.

The Committee urges the State party to adopt measures (a) to establish a central register to record all reported cases of disappearances and day-to-day action taken to retrace the disappeared; and (b) to assist the families concerned to retrace the disappeared.

The Committee further requests the State party, in its next periodic report, to give an account of the number of cases reported, the investigations conducted and the results achieved.

11. The Committee has noted that, while the Emergency Decree of 1992 relating to "subversion of terrorism" has been repealed, some of its provisions have been incorporated in the normal penal laws. Those provisions prescribe an increased number of offences for which the death penalty may be imposed; a lowering of the age to 16 for which a person may be liable to such a penalty; an extension from 2 to 12 days for which a suspect may be administratively detained incommunicado; and a definition of "terrorist" or "subversive" activities which lends itself to abuse.

The Committee recommends that the amendments to the Penal Law be brought into strict compliance with articles 6 and 9 of the Covenant.

12. The National Observatory for Human Rights has conceded in its annual report for 1996 that places of detention exist which are outside the control legally stipulated by law. This reinforces allegations from many sources on detention of people who are not registered and brought before the courts, as required both by Algerian law and article 9 of the Covenant.

The State party must ensure that:

- (a) nobody may be arrested or detained "outside the law";
- (b) that complaints about such arrest or detention be given immediate attention and that relatives, friends or lawyers of persons detained are able to receive an effective remedy, which includes reviewing the legality of the detention;
- (c) all persons arrested be kept at officially designated places of detention; their families be immediately informed; they have immediate access to a lawyer; and they are promptly charged and brought to trial;
- (d) their detention should not exceed the limit provided by law and that they have a right to medical examination on arrest and at the end of their detention.

13. With regard to the guarantee of equal treatment of women in the enjoyment of all the rights guaranteed to them, the Committee notes the statement made by the delegation that the interpretative declaration

concerning article 23, paragraph 4, of the Covenant made by Algeria on ratification of the Covenant would become obsolete with time. The Committee also notes that progress has been achieved by women in public life and civil society. Nevertheless, the Family Code still contains important areas of inequality which are not in conformity with articles 3, 16, 23 and 26 of the Covenant in respect of which Algeria has made no reservations. In this regard, the Committee notes that under the Family Code, a woman's consent to her first marriage is generally mediated by a male guardian, and that this guardian can deny the woman her choice of a husband. It notes also that the Family Code provides for the husband to be the head of the family and for the possibility of polygamous marriage, and that it precludes a woman from marrying a non-Muslim while the same restriction does not apply to a man.

The Committee therefore recommends that the State party should bring its legislation into conformity with all the rights to which women are entitled under articles 3, 16, 23 and 26 of the Covenant.

14. With regard to the judiciary, the Committee is concerned that the application of certain executive decrees of 1992 regulating nomination, promotion and dismissal of judges, compromises its independence. It is also concerned at the fact that judges enjoy immovability only after 10 years of work.

The Committee should like to receive additional information on the procedure for designating, electing and dismissing judges. The Committee recommends that appropriate measures be taken to ensure the full independence of the judiciary.

15. The Committee notes the statement of the delegation that the intention underlying the Arabic Language Decree which came into force on 5 July 1998 was to reinforce the status which that national language should possess. The Committee notes, however, that the compulsory, immediate and exclusive use of that language in all areas of public activity would have for effect to impede large sections of the population who use Berber or French in the enjoyment of the rights guaranteed under articles 19, 25, 26 and 27 of the Covenant.

The Committee recommends that the law should be urgently reviewed so as to remove the negative consequences that it produces.

16. The Committee welcomes the abolition of the State-controlled "reading committees" stationed at publishing establishments as well as the formal directives prohibiting the publication of unauthorized information relating to "security issues". The Committee, however, notes that in practice numerous restrictions still persist with regard to freedom of expression dealing with, for example, coverage of allegations and discussion of corruption and criticism of government officials and of material regarded as an expression of sympathy or encouragement of subversion, all of which gravely prejudice the right of the media to inform the public and the right of the public to receive information. The Committee is also deeply concerned at the threats against and assassinations of journalists, human rights defenders and lawyers.

The Committee recommends that current legislation should be reviewed so as to protect fully the right to freedom of thought and opinion and freedom of expression as guaranteed under articles 18 and 19 of the Covenant.

17. The Committee remains concerned that the State party's restriction under Law 97-09 on the right to form political parties, effectively prohibits political activists the right to associate with one another or to vote for representatives of their choice, in view of the wide range of proscribed categories (religious, linguistic, racial, gender related, regional, corporatist). Since taking effect, this law has been invoked to ban or prevent the legalization of more than 30 parties.

The Committee recommends that the conditions required by the Covenant with respect to restrictions on the right to freedom of association be met and that current legislation be amended so as to bring it into conformity with the requirements of the Covenant and the obligations entered into by Algeria upon its accession to it.

18. The Committee observes that, although Algeria became a party to the Optional Protocol in 1989, very few communications have been addressed to the Committee, in spite of the widespread human rights crisis and consequent violations which have occurred in the last decade. This situation indicates that the people in Algeria may not be aware of their right to address communications to the Committee.

The Committee recommends that urgent steps be taken by Algeria to make known to the public, the universities, the legal community and, particularly, to the non-governmental human rights organizations, the rights protected under the Covenant and the fact that individuals whose rights have been violated may submit communications to the Committee.

19. The Committee draws to the attention of the Government of Algeria the provisions of paragraph 6 (a) of the Guidelines Regarding the Form and Contents of Periodic Reports from State parties, and requests that its next periodic report, due in June 2000, should contain material which responds to all the present concluding observations. The Committee further requests that Algeria's second periodic report and these concluding observations be widely disseminated among the public at large in all parts of Algeria.
