



**International covenant
on civil and
political rights**

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HUMAN RIGHTS COMMITTEE
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**LIST OF ISSUES TO BE TAKEN UP IN CONNECTION WITH
THE CONSIDERATION OF THE THIRD PERIODIC REPORT
OF ALGERIA**

**Constitutional and legal framework for implementation
of the Covenant (art. 2)**

1. In the light of the decision of 20 August 1989 of the Constitutional Council and article 132 of the Algerian Constitution, have any decisions in the national courts invoked the provisions of the Covenant, including cases on national laws or governmental decisions alleged to be inconsistent with the Covenant? Which courts have the power to consider the Covenant in the review of national law (report, para. 44)?
2. Please provide more information on the National Advisory Commission for the Promotion and Protection of Human Rights (report, paras. 42-43). Are its annual reports publicly available (report, para. 43)? Please also indicate the substance, time frame and outcome of the National Plan to consolidate respect for the human rights guaranteed under the Constitution (report, para. 20).
3. How many people have benefited from a pardon or amnesty under the Ordinance enacting the Charter for Peace and National Reconciliation (report, para. 67)? Please confirm that article 45 of the Ordinance does not apply to acts committed after its adoption. What criteria are used to determine a person's eligibility for amnesty or pardon under sections 2 and 4 of the Ordinance? Are members of "legitimate defence groups" considered to be eligible (report, paras. 83-97)? Is amnesty extended to armed-group members implicated in collective massacres, rapes and the use of explosives in public places, and if so, how is this compatible with the Covenant (arts. 10 and 16 of the Ordinance)?

4. What measures are being taken by the State party with regard to the follow-up to the Views of the Committee on the individual communications submitted under the Optional Protocol? What measures has the Government taken to protect the rights of complainants under the Optional Protocol? How will articles 45 and 46 of the Ordinance enacting the Charter affect the right of individual communication under the Optional Protocol?

**Non-discrimination and equal rights of men and women
(arts. 2 (1), 3 and 26)**

5. Is the State party taking steps to enhance participation by women in political life and to promote their appointment to official positions, especially decision-making positions (report, paras. 167-185)? How many women are employed in the public and private sectors, and at what levels of responsibility as compared to the number of men employed in similar posts?

6. What measures are taken to protect women from violence, including domestic violence? Is marital rape a criminal offence? Please provide statistics on the number of cases of violence against women over the last five years where the perpetrator was brought to justice, punished, and the victim compensated.

7. Some provisions of the Family Code appear to discriminate against women, despite recent legislative amendments. Please explain the following:

(a) The bride is still required to formally bring a *wali* (male guardian) to her wedding (arts. 9-11 of the Family Code; report, para. 127);

(b) Muslim women may not marry non-Muslim men (art. 30 of the Family Code);

(c) Women may lose custody of their children if they remarry after a divorce;

(d) A woman must, in some circumstances, pay an indemnity called *khol'â* in order to separate from her husband against his consent, while men are not required to pay such *khol'â* to separate from their wives (art. 54 of the Family Code; report, para. 130);

(e) Since the State party affirms that “polygamy is insignificant in scale and the conditions surrounding the practice make it virtually impossible”, does the State party intend to ban it outright?

Derogations (art. 4)

8. Given that, according to the State party, the state of emergency has not relieved the State of its obligations to guarantee the exercise of the fundamental liberties provided for in the domestic constitutional order and in international agreements, including the Covenant, does the State party intend to end the state of emergency (report, paras. 58-60 and 227-256)?

9. Please provide detailed information on the definition of terrorist acts as given in law, and describe briefly the current provisions adopted by the authorities to forestall or reduce the threat of terrorist activities (report, paras. 57-72).

**Right to life, prohibition of torture and cruel, inhuman or degrading treatment,
and treatment of prisoners (arts. 6, 7 and 10)**

10. What offences are punishable by the death penalty? Please indicate the number of prisoners whose death sentences have not yet been commuted, and for what crimes, and the number of death sentences handed down in absentia. In view of the fact that no execution has taken place since 1993 (report, para. 268), does the State party envisage ratifying the second Optional Protocol to the Covenant? Has the bill on the abolition of the death penalty been presented to Parliament (report, para. 271)?

11. Please indicate the number of complaints of summary execution, torture and ill-treatment lodged against State officials, notably members of the Intelligence and Security Department (DRS), and information on any investigations, prosecutions, punishments and compensation arising from those complaints (report, paras. 272-276 and 287-294). Do detainees have access to medical examinations to help detect torture and ill-treatment?

**Right to liberty and security and right to a fair trial
(arts. 9 and 14)**

12. Following the creation of the ad hoc National Commission on Disappearances, what practical measures have been taken to clarify and remedy unsolved cases of disappearances, including the circumstances and identities of the victims, the places and causes of their deaths and where victims might have been buried? What information has been provided to the families of the disappeared (for example, to the families of the people referred to in *A Biography of Disappearances Algeria 1992-*, Omar D, Autograph ABP)? Please indicate when the final report dated 31 March 2005 of the ad hoc Commission will be made public, and provide a copy to the Committee.

13. Please provide statistics on the number of families who must apply for and obtain a death certificate relating to a disappeared family member in order to be entitled to compensation under the Ordinance enacting the Charter and the Presidential decree of 28 February 2006. Please explain why families must obtain a death certificate in order to receive compensation when they do not know the fate of the disappeared. How does the State party ensure that compensation is proportional to the gravity of the violation and the harm suffered, in keeping with international standards? Does the Ordinance enacting the Charter, in particular, article 45, go against the State party's obligation to identify and prosecute those responsible and inflict penalties commensurate with their acts?

14. Though Algerian legislation forbids arbitrary detention and places of detention "outside the law", (report, paras. 104-110 and 279-286), there are reports that such places of detention still exist, and that people continue to be detained incommunicado. What steps have been taken by the State party to end the alleged practice of arbitrary detention, and to end the cases of detention incommunicado that have been reported? Is there a national register of people arrested and detained, including details of where they are held? If so, is it accessible to the relatives and lawyers of detained persons?

15. People suspected of breaching State security have been held in preventive detention without judicial supervision for up to 12 days (report, para. 101). At what stage must they be brought before a judge?

Freedom of movement (art. 12)

16. Please provide information on the current number and situation of persons internally displaced following the events of 1991.

Expulsion of aliens (art. 13)

17. What safeguards are in place to ensure that migrants have access to the courts to challenge their expulsion (report, paras. 295-298)?

Right to a fair trial (art. 14)

18. Does Algerian law prohibit the use of statements obtained through torture or ill-treatment as evidence in any proceedings? What protection is there against ill-treatment or physical violence in detention? Are families notified? At what stage can detainees have the services of a lawyer? Are they advised of their right to remain silent?

19. What steps have been taken to ensure that all persons deprived of their liberty have access to a lawyer as soon as they are apprehended by the police, including during police custody? How does Algerian law protect the right of all persons deprived of their liberty to be promptly informed of the charges against them?

Freedom of religion (art. 18)

20. Please explain why activities leading to conversion from Islam to another religion have become criminal offences, given the requirements of article 18 of the Covenant and the Human Rights Committee's general comment No. 22. Please provide information on the National Faith Commission created under the Ordinance.

Freedom of opinion and expression and freedom of assembly (arts. 19 and 21)

21. Please provide information on the number of journalists sentenced to fines and prison terms for publishing articles or expressing views which are deemed to be defamatory (report, para. 34). Journalists reportedly continue to be targeted, despite the pardon of 5 July 2006. Please comment and explain to whom the pardon applies.

22. Human rights defenders are reportedly harassed and intimidated, most recently for criticising the adoption of the Charter for Peace and Reconciliation (report, paras. 261-262). Please comment in the light of article 19 of the Covenant.

23. It is reported that government permits are required for public meetings and assemblies, (report, paras. 341-342) and that some peaceful assemblies have not been authorized or have been dispersed. Please explain why the Algiers prefecture did not allow a two-day conference on "Truth, Peace and Conciliation" to be held on 7 February 2007. Has the State party lifted the ban on demonstrations in Algiers, in force since 2001?

Freedom of association (art. 22)

24. Please provide examples of the suspension or dissolution of an association at the request of the public authorities or pursuant to a complaint by a third party, as provided by the Associations Act of 4 December 1990 (para. 344 of the report). Please also provide statistics on the number of requests for accreditation of an association, the time taken to obtain accreditation, the number of requests denied, the bodies involved in the decisions, and the grounds on which accreditation can be refused.

25. Has the State party used article 26 of the Ordinance enacting the Charter to limit political activities? What criteria are used to determine the application of article 26? What redress will be available to persons banned from political activities for life?

**Dissemination of information relating to the Covenant
and the Optional Protocol (art. 2)**

26. Please provide information on training given to State employees, in particular to teachers, judges, lawyers, police officers and employees of the Intelligence and Security Department (DRS), on the Covenant and the Optional Protocol. Please describe other measures taken to disseminate information on the Covenant and the Optional Protocol, and on the submission of reports and their consideration by the Human Rights Committee, in particular the Committee's concluding observations.

27. Please describe whether the State party has publicized the Covenant and the process of submission of the present report. Please describe any involvement by representatives of minority groups and civil society in the preparatory process.
