

ALGERIA

Follow-up - State Reporting

i) Action by Treaty Bodies

CAT, A/63/44 (2008)

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CHAPTER IV. FOLLOW-UP ON CONCLUSIONS AND RECOMMENDATIONS ON STATES PARTIES REPORTS

46. In this chapter, the Committee updates its findings and activities that follow-up on the conclusions and recommendations adopted under article 19 of the Convention, in accordance with the recommendations of its Rapporteur on Follow-Up to Country conclusions. The Rapporteur's activities, responses by States parties, and the Rapporteur's views on recurring concerns encountered through this procedure are presented below, and updated to through May 2008, following the Committee's fortieth session.

47. In chapter IV of its annual report for 2005-2006 (A/61/44), the Committee described the framework that it had developed to provide for follow-up subsequent to the adoption of the conclusions and recommendations on States parties reports submitted under article 19 of the Convention. It also presented information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2008.

48. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow-up to conclusions and recommendations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. As in the past, Ms. Gaer presented a progress report to the Committee in May 2008 on the results of the procedure.

49. The Rapporteur has emphasized that the follow-up procedure aims "to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment", as articulated in the preamble to the Convention. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific actions designed to enhance each State party's ability to implement the measures necessary and appropriate to prevent acts of torture and cruel treatment, and thereby assists States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention.

50. In its follow-up procedure, the Committee has identified a number of these recommendations as requiring additional information specifically for this procedure. Such follow-up recommendations are identified because they are serious, protective, and are considered able to be accomplished within one year. The States parties are asked to provide within one year information on the measures taken to give effect to its follow-up recommendations which are specifically noted in a paragraph near the end of the conclusions and

recommendations on the review of the States parties' reports under article 19.

51. Since the procedure was established at the thirtieth session in May 2003, through the end of the fortieth session in May 2008, the Committee has reviewed 67 States for which it has identified follow-up recommendations. Of the 53 States parties that were due to have submitted their follow-up reports to the Committee by 16 May 2008, 33 had completed this requirement (Albania, Argentina, Austria, Azerbaijan, Bahrain, Bosnia and Herzegovina, Canada, Chile, Czech Republic, Colombia, Croatia, Ecuador, Finland, France, Georgia, Germany, Greece, Guatemala, Hungary, Republic of Korea, Latvia, Lithuania, Monaco, Morocco, Nepal, New Zealand, Qatar, Russian Federation, Sri Lanka, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America and Yemen). As of 16 May, 20 States had not yet supplied follow-up information that had fallen due (Bulgaria, Burundi, Cambodia, Cameroon, Democratic Republic of the Congo, Denmark, Guyana, Italy, Japan, Luxembourg, Mexico, Moldova, the Netherlands, Peru, Poland, South Africa, Tajikistan, Togo, Uganda and Ukraine). In March 2008, the Rapporteur sent a reminder requesting the outstanding information to each of the States whose follow-up information was due in November 2007, but had not yet been submitted, and who had not previously been sent a reminder.

52. The Rapporteur noted that 14 follow-up reports had fallen due since the previous annual report.³ However, only 2 (Hungary and the Russian Federation) of these 14 States had submitted the follow-up information in a timely manner. Despite this, she expressed the view that the follow-up procedure had been remarkably successful in eliciting valuable additional information from States on protective measures taken during the immediate follow-up to the review of the periodic reports. While comparatively few States had replied precisely on time, 25 of the 33 respondents had submitted the information on time or within a matter of one to four months following the due date. Reminders seemed to help elicit many of these responses. The Rapporteur also expressed appreciation to non-governmental organizations, many of whom had also encouraged States parties to submit follow-up information in a timely way.

53. Through this procedure, the Committee seeks to advance the Convention's requirement that "each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture ..." (art. 2, para. 1) and the undertaking "to prevent ... other acts of cruel, inhuman and degrading treatment or punishment ..." (art. 16).

54. The Rapporteur expressed appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all the items designated by the Committee for follow-up (normally between three and six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Each letter responds specifically and in detail to the information presented by the State party. Where further information has been needed, she has written to the concerned State party with specific requests for further clarification. With regard to States that have not supplied the follow-up information at all, she requests the outstanding information.

55. At its thirty-eighth session in May 2007, the Committee decided to make public the Rapporteur's letters to the States parties. These would be placed on the web page of the Committee. The Committee further decided to assign a United Nations document symbol

number to all States parties' replies to the follow-up and also place them on its website (<http://www2.ohchr.org/english/bodies/cat/sessions.htm>).

56. Since the recommendations to each State party are crafted to reflect the specific situation in that country, the follow-up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues that have not been addressed but which are deemed essential to the Committee's ongoing work, in order to be effective in taking preventive and protective measures to eliminate torture and ill-treatment.

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58. The chart below details, as of 16 May 2008, the end of the Committee's fortieth session, the state of the replies with respect to follow-up.

3/ *Official Records of the General Assembly, Sixty-second Session, Supplement No. 44 (A/62/44)*.

**Follow-up procedure to conclusions and recommendations
from May 2003 to May 2008**

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Fortieth session (May 2008)

State party	Information due in	Information received	Action taken
Algeria	May 2009	-	
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IV. FOLLOW UP ON CONCLUDING OBSERVATIONS ON STATES PARTIES REPORTS

53. In this chapter, the Committee updates its findings and activities that follow-up to concluding observations adopted under article 19 of the Convention, in accordance with the recommendations of its Rapporteur on follow-up to concluding observations. The Rapporteur's activities, responses by States parties, and the Rapporteur's views on recurring concerns encountered through this procedure are presented below, and updated through 15 May 2009, following the Committee's forty-second session.

54. In chapter IV of its annual report for 2005-2006 (A/61/44), the Committee described the framework that it had developed to provide for follow-up subsequent to the adoption of the concluding observations on States parties reports submitted under article 19 of the Convention. It also presented information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2009.

55. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow up to concluding observations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. As in the past, Ms. Gaer presented a progress report to the Committee in May 2009 on the results of the procedure.

56. The Rapporteur has emphasized that the follow up procedure aims "to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment", as articulated in the preamble to the Convention. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific actions designed to enhance each State party's ability to implement the measures necessary and appropriate to prevent acts of torture and ill-treatment, and thereby assists States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention.

57. In its follow-up procedure, the Committee has identified a number of these recommendations as requiring additional information specifically for this procedure. Such follow-up recommendations are identified because they are serious, protective, and are considered able to be accomplished within one year. The States parties are asked to provide within one year information on the measures taken to give effect to its follow-up recommendations which are specifically noted in a paragraph near the end of the conclusions and recommendations on the review of the States parties' reports under article 19.

58. Since the procedure was established at the thirtieth session in May 2003, through the end of the forty-second session in May 2009, the Committee has reviewed 81 States for which it has identified follow up recommendations. Of the 67 States parties that were due to have submitted their follow up reports to the Committee by 15 May 2009, 44 had completed this requirement. As of 15 May 2009, 23 States had not yet supplied follow up information that had fallen due. The

Rapporteur sends reminders requesting the outstanding information to each of the States whose follow up information was due, but had not yet been submitted, and who had not previously been sent a reminder. The status of the follow-up to concluding observations may be found in the web pages of the Committee (<http://www2.ohchr.org/english/bodies/cat/sessions.htm>).

59. The Rapporteur noted that 14 follow up reports had fallen due since the previous annual report. However, only 4 (Algeria, Estonia, Portugal and Uzbekistan) of these 14 States had submitted the follow up information in a timely manner. Despite this, she expressed the view that the follow up procedure had been remarkably successful in eliciting valuable additional information from States on protective measures taken during the immediate follow up to the review of the periodic reports. One State party (Montenegro) had already submitted information which was due only in November 2009. While comparatively few States had replied precisely on time, 34 of the 44 respondents had submitted the information on time or within a matter of one to four months following the due date. Reminders seemed to help elicit many of these responses. The Rapporteur also expressed appreciation to non governmental organizations, many of whom had also encouraged States parties to submit follow up information in a timely way.

60. Through this procedure, the Committee seeks to advance the Convention's requirement that "each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture ..." (art. 2, para. 1) and the undertaking "to prevent ... other acts of cruel, inhuman and degrading treatment or punishment ..." (art. 16).

61. The Rapporteur expressed appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all the items designated by the Committee for follow up (normally between three and six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Each letter responds specifically and in detail to the information presented by the State party. Where further information has been needed, she has written to the concerned State party with specific requests for further clarification. With regard to States that have not supplied the follow up information at all, she requests the outstanding information.

62. At its thirty eighth session in May 2007, the Committee decided to make public the Rapporteur's letters to the States parties. These would be placed on the web page of the Committee. The Committee further decided to assign a United Nations document symbol number to all States parties' replies to the follow up and also place them on its website (<http://www2.ohchr.org/english/bodies/cat/sessions.htm>).

63. Since the recommendations to each State party are crafted to reflect the specific situation in that country, the follow up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues that have not been addressed but which are deemed essential to the Committee's ongoing work, in order to be effective in taking preventive and protective measures to eliminate torture and ill treatment.

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65. The chart below details, as of 15 May 2009, the end of the Committee's forty-second session, the state of the replies with respect to follow up.

Follow-up procedure to conclusions and recommendations from May 2003 to May 2009

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Fortieth session (May 2008)

State party	Information due in	Information received	Action taken
Algeria	May 2009	29 May 2008 CAT/C/DZA/CO/3/Add.1	Response under review
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Chapter IV. Follow-up to concluding observations on States parties' reports

65. In this chapter, the Committee updates its findings and activities that constitute follow-up to concluding observations adopted under article 19 of the Convention, in accordance with the procedure established on follow-up to concluding observations. The follow-up responses by States parties, and the activities of the Rapporteur for follow-up to concluding observations under article 19 of the Convention, including the Rapporteur's views on the results of this procedure, are presented below. This information is updated through 14 May 2010, the end of the Committee's forty-fourth session.

66. In chapter IV of its annual report for 2005-2006 (A/61/44), the Committee described the framework that it had developed to provide for follow-up subsequent to the adoption of the concluding observations on States parties reports submitted under article 19 of the Convention. In that report and each year thereafter, the Committee has presented information on its experience in receiving information on follow-up measures taken by States parties since the initiation of the procedure in May 2003.

67. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow-up to concluding observations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. In November 2009 and May 2010, the Rapporteur presented a progress report to the Committee on the results of the procedure.

68. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific measures to prevent acts of torture and ill-treatment. Thereby, the Committee assists States parties in identifying effective legislative, judicial, administrative and other measures to bring their laws and practice into full compliance with the obligations set forth in the Convention.

69. In its follow-up procedure, the Committee has identified a number of these recommendations as requiring additional information within one year. Such follow-up recommendations are identified because they are serious, protective and are considered able to be accomplished within one year. The States parties are asked to provide information within one year on the measures taken to give effect to the follow-up recommendations. In the concluding observations on each State party report, the recommendations requiring follow-up within one year are specifically identified in a paragraph at the end of the concluding observations.

70. Since the procedure was established at the thirtieth session in May 2003, through the end of the forty-fourth session in May 2010, the Committee has reviewed 95 reports from States parties for which it has identified follow-up recommendations. It must be noted that periodic reports of Chile, Latvia, Lithuania and New Zealand have been examined twice by the Committee since the establishment of the follow-up procedure. Of the 81 States parties that were due to have submitted their follow-up reports to the Committee by 14 May 2010, 57 had completed this

requirement. As of 14 May 2010, 24 States had not yet supplied follow-up information that had fallen due: Republic of Moldova, Cambodia, Cameroon, Bulgaria, Uganda, Democratic Republic of the Congo, Peru, Togo, Burundi, South Africa, Tajikistan, Luxembourg, Benin, Costa Rica, Indonesia, Zambia, Lithuania (to the 2009 concluding observations), Chad, Chile, Honduras, Israel, New Zealand, Nicaragua and the Philippines.

71. The Rapporteur sends reminders requesting the outstanding information to each of the States for which follow-up information is due, but not yet submitted. The status of the follow-up to concluding observations may be found in the web pages of the Committee at each of the respective sessions. As of 2010, the Committee has established a separate web page for follow-up (<http://www2.ohchr.org/english/bodies/cat/follow-procedure.htm>).

72. Of the 24 States parties that did not submit any information under the follow-up procedure as of 14 May 2010, non-respondents came from all world regions. While about one-third had reported for the first time, two-thirds were reporting for a second, third or even fourth time.

73. The Rapporteur expresses appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all the items designated by the Committee for follow-up (normally between three and six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Each letter responds specifically and in detail to the information presented by the State party. Where further information has been needed, she has written to the concerned State party with specific requests for further clarification. With regard to States that have not supplied the follow-up information at all, she requests the outstanding information.

74. At its thirty-eighth session in May 2007, the Committee decided to make public the Rapporteur's letters to the States parties which are posted on the web page of the Committee. The Committee further decided to assign a United Nations document symbol number to all States parties' replies to the follow-up and also place them on its website.

75. Since the recommendations to each State party are crafted to reflect the specific situation in that country, the follow-up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues that have not been addressed but which are deemed essential to the Committee's ongoing work, in order to be effective in taking preventive and protective measures to eliminate torture and ill-treatment.

76. Among the Rapporteur's activities in the past year, have been the following: attending the inter-committee meetings in Geneva where follow-up procedures were discussed with members from other treaty bodies, and it was decided to establish a working group on follow-up; addressing the Committee on the Elimination of Discrimination against Women at its August 2009 meeting in New York concerning aspects of the follow-up procedure; assessing responses

from States parties and preparing follow-up letters to countries as warranted and updating the information collected from the follow-up procedure.

77. Additionally, the Rapporteur initiated a study of the Committee's follow-up procedure, beginning with an examination of the number and nature of topics identified by the Committee in its requests to States parties for follow-up information. She reported to the Committee on some preliminary findings, in November 2009 and later in May 2010, and specifically presented charts showing that the number of topics designated for follow-up has substantially increased since the thirty-fifth session. Of the 87 countries examined as of the forty-third session (November 2009), one to three paragraphs were designated for follow-up for 14 States parties, four or five such topics were designated for 38 States parties, and six or more paragraphs were designated for 35 States parties. The Rapporteur drew this trend to the attention of the members of the Committee and it was agreed in May 2010 that, whenever possible, efforts would henceforth be made to limit the number of follow-up items to a maximum of five paragraphs.

78. The Rapporteur also found that certain topics were more commonly raised as a part of the follow up procedure than others. Specifically, for all State parties reviewed since the follow-up procedure began, the following topics were most frequently designated:

Ensure prompt, impartial and effective investigation(s)	76 per cent
Prosecute and sanction persons responsible for abuses	61 per cent
Guarantee legal safeguards	57 per cent
Enable right to complain and have cases examined	43 per cent
Conduct training, awareness-raising	43 per cent
Ensure interrogation techniques in line with the Convention	39 per cent
Provide redress and rehabilitation	38 per cent
End gender-based violence, ensure protection of women	34 per cent
Ensure monitoring of detention facilities/visit by independent body	32 per cent
Carry out data collection on torture and ill-treatment	30 per cent
Improve condition of detention, including overcrowding	28 per cent

79. In the correspondence with States parties, the Rapporteur has noted recurring concerns which are not fully addressed in the follow-up replies and her concerns (illustrative, not comprehensive) have been included in prior annual reports. To summarize them, she finds there is considerable value in having more precise information being provided, e.g. lists of prisoners, details on deaths in detention and forensic investigations.

80. As a result of numerous exchanges with States parties, the Rapporteur has observed that there is need for more vigorous fact-finding and monitoring in many States parties. In addition, there is often inadequate gathering and analysing of police and criminal justice statistics. When the Committee requests such information, States parties frequently do not provide it. The Rapporteur further considers that conducting prompt, thorough and impartial investigations into allegations of abuse is of great protective value. This is often best undertaken through unannounced inspections by independent bodies. The Committee has received documents, information and complaints about the absence of such monitoring bodies, the failure of such bodies to exercise independence in carrying out their work or to implement recommendations for

improvement.

81. The Rapporteur has also pointed to the importance of States parties providing clear-cut instructions on the absolute prohibition of torture as part of the training of law-enforcement and other relevant personnel. States parties need to provide information on the results of medical examinations and autopsies, and to document signs of torture, especially including sexual violence. States parties also need to instruct personnel on the need to secure and preserve evidence. The Rapporteur has found many lacunae in national statistics, including on penal and disciplinary action against law-enforcement personnel. Accurate record keeping, covering the registration of all procedural steps of detained persons, is essential and requires greater attention. All such measures contribute to safeguard the individual against torture or other forms of ill-treatment, as set forth in the Convention.

82. The chart below details, as of 14 May 2010, the end of the Committee's forty-fourth session, the replies with respect to follow-up. This chart also includes States parties' comments to concluding observations, if any.

Follow-up procedure to concluding observations from May 2003 to May 2010

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Fortieth session (May 2008)

State party	Information due in	Information received	Action taken
Algeria	May 2009	29 May 2008 CAT/C/DZA/CO/3/Add.1	Remind and request for further clarification
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Follow-up - State Reporting
ii) Action by State Party

CAT, CAT/C/DZA/CO/3/Add.1 (2008)

Comments by the Government of ALGERIA* on the conclusions and recommendations of the Committee against Torture

[20 May 2008]

1. The Algerian Government has examined the observations of the Committee against Torture published on 15 May 2008 following the consideration of Algeria's third periodic report on 2 and 5 May 2008.
2. In the Algerian Government's view, the observations set out in document CAT/C/DZA/CO/3 do not accurately reflect the content of the discussions held with the Algerian delegation.
3. As evidence of its commitment to the promotion of meaningful dialogue with the Committee against Torture, the Algerian Government wishes to point out that it provided the Committee with the relevant clarifications to questions raised by members of the Committee during the interactive discussions with the delegation, both in the written replies submitted prior to the session and during the two meetings at which the report was considered. It also expressed its readiness to transmit in writing any additional responses or information that might be requested by the Committee.
4. It therefore had every right to expect to see its stated positions reflected in the Committee's conclusions alongside the allegations that the Committee saw fit to make.
5. In this light, the Algerian Government would like to make the following comments and clarifications concerning the Committee's concluding observations.

I. CHARTER FOR PEACE AND NATIONAL RECONCILIATION

6. The Charter for Peace and National Reconciliation is a political document, and its purpose of restoring peace and security is in keeping with the purposes of the Charter of the United Nations. Consequently, it cannot be challenged by a legal body. The laws mentioned, namely, order No. 06-01 and the implementing decrees, are based on the Charter. They set out to provide a legal response to situations that were not covered by the domestic legal system. They were enacted after all the avenues and resources for dealing with the consequences of the national tragedy under existing Algerian legislation had been exhausted.
7. Neither order No. 06-01 nor the implementing legislation for the Charter for Peace and National Reconciliation favour impunity or amnesty, as the Committee's concluding observations seem to suggest (para. 11). They express the will of the Algerian people, in whom sovereignty is fully vested and on whose behalf justice is done, to overcome once and for all the serious crisis

that has affected Algeria for a decade.

8. The laws constitute a transitional justice mechanism that deals with a number of situations on the ground and, as is mentioned in the Charter, it is for the President of the Republic to take additional and complementary measures, whenever necessary, to consolidate this process.

9. The delegation pointed out that the freely expressed will of the Algerian people was immutable and non-negotiable. The Committee's assessments of this document which is as a benchmark for the Algerian nation, in no way diminish the nation's determination to seek the most practical, appropriate and effective way possible to resolve this rather complex and critical situation.

II. STATE OF EMERGENCY

10. The delegation informed the Committee that the state of emergency had been imposed to uphold the rule of law under exceptional circumstances. It highlighted the constitutional grounds for taking that measure for the protection of persons and property and stressed that the Secretary General of the United Nations had been informed of it at the time.

11. The delegation listed the measures taken under the state of emergency, which were subsequently repealed. The delegation recalled, among other things, the dissolution of the special courts, the closing of the prison camps and the lifting of the curfew. It pointed out that the only remaining measure in force was one whereby the Ministry of Internal Affairs could call out army units on a case-by-case basis, as necessary, for public order and security operations.

12. The delegation also provided information on the process of institutional normalization, citing: the number of elections, public meetings and demonstrations and national and international conferences; the reopening of foreign embassies that had been temporarily closed and the opening of new diplomatic missions; the return of airline companies and investment flows; the revised country risk assessments of Algeria by insurance and reinsurance companies; and many other activities.

13. The delegation emphasized, however, that the terrorist threat was still present, citing the twin attacks of 11 December 2007, which had targeted the Constitutional Council and the United Nations offices in Algeria, as perfect illustrations of the threat. It concluded that the state of emergency would be maintained pending an end to the situation that prevailed when it was declared.

III. "SECRET PLACES OF DETENTION"

14. The Algerian delegation categorically refuted the allegations with regard to alleged places of detention that reportedly lie outside the reach of the law. In all the time that they have been promoting subversion and attacking republican institutions, the people making such allegations have never been able to put forward any documentary evidence.

15. The Algerian Government wishes to reaffirm that it exercises its authority over all places

of detention under its jurisdiction and that it has been granting permission for visits by independent national and international institutions for more than eight years. It also wishes to clear up the confusion about the administrative custody centres established in February 1992 on the basis of an order of the Ministry of Internal Affairs and definitively closed in November 1996 and about the alleged secret detention centres mentioned in paragraph 6 of the Committee's concluding observations, which exist only in the imagination of the persons making the allegations.

IV. THE ISSUE OF DISAPPEARANCES

16. As was made clear during the discussion with the Committee, the Government wishes to emphasize that the issue of disappearances should be put in the proper context, namely as an outcome of terrorist crime.

17. The Government is anxious to address this painful issue, which is a consequence of the national tragedy, and recalls that the principle of compensation has been upheld and extended to all victims without distinction.

18. The Government informed the Committee that the publication of the report of the ad hoc commission on disappearances fell under the exclusive jurisdiction of the authority that had prepared it and that many of the recommendations contained in the report were incorporated into the implementing legislation for the Charter for Peace and National Reconciliation.

19. With regard to disclosure of the identity of missing persons, the Algerian delegation pointed out during the discussion that the decision was a private matter for each of the families concerned. The delegation stated that publishing the names of missing persons was tantamount to an additional penalty under Algerian law and would not contribute to the climate of peace, harmony and reconciliation chosen by the Algerian people to overcome the crisis.

V. TORTURE AND POLICE CUSTODY

20. The Algerian Government described the legislation in place on torture both in its report (CAT/C/DZA/3) and during the discussion with the Committee. It informed the Committee of the definition set forth in the Criminal Code, which is taken from article 2 of the Convention. The Government stated that torture was prohibited in all places and in all circumstances and that the perpetrators of ill-treatment faced criminal prosecution.

21. The Government outlined the constitutional norms on police custody, the strict procedures for extending the period of custody under the supervision of the judicial authorities and the penalties incurred by any State officials who do not comply with those norms.

22. The Algerian Government clarified the provision on the use and supervision of police custody procedures under article 51 of the Code of Criminal Procedure. The Government recalled that by law the duration of police custody may not exceed 48 hours. The delegation stated that custody may be extended for a further 48 hours with the written authorization of the local State prosecutor.

23. As regards terrorist crimes and transnational organized crimes such as drug trafficking, counterfeiting, money-laundering and human trafficking, the maximum period of police custody is 12 days. This period is based on practical considerations that are related to the sheer size of the national territory, the complexity of the investigations and the nature of the networks involved, including their international dimensions.

VI. DEFINITION OF TERRORISM

24. In its replies to the requests for clarifications made by the Committee during the interactive discussion on 5 May 2008, the delegation recalled that like many countries Algeria was ill equipped to confront terrorist crime.

25. The delegation indicated that the definition of the crime of terrorism set out in article 87 bis of the Criminal Code must be applied in combination with another article that defines the act or acts committed in the context specified in the first-mentioned article. This contextualization allows the judge to assess the seriousness of the offences with which the accused has been charged and to take the appropriate legal measures.

26. At no time has this provision been used, as the Committee would have it, to restrict the enjoyment of civil rights under the Constitution or been interpreted by a judge as a way to institute proceedings.

27. Algeria recalls that it has been calling for an international conference on terrorism for more than a decade. Algeria regrets that to date the international community has not managed to reach consensus on a definition of terrorism that distinguishes between the legitimate right to struggle against foreign and colonial occupation and the crime of terrorism.

VII. CONFESSIONS MADE IN CUSTODY

28. In its periodic report and in reply to the question in paragraph 33 of the list of issues (CAT/C/DZA/Q/3), the Algerian Government pointed out that, in accordance with article 215 of the Code of Criminal Procedure, all statements and reports drawn up by the criminal investigation department concerning crimes or lesser offences merely serve as sources of information and do not constitute evidence under Algerian law.

29. Returning to this point during the interactive discussion on 5 May 2008, the Algerian delegation pointed out that any confession, even one made spontaneously to a police officer, may be retracted in the presence of the public prosecutor or investigating judge, who moreover wields extensive powers that make it possible to restart the investigation from the beginning.

30. Concerning the merits of the case, the delegation stated that the investigating judge may base his or her decision only on the evidence presented to him or her while hearing the arguments and counter-arguments. Even a confession made before a court does not constitute irrefutable evidence, as the evaluation of confessions is a matter for the courts under article 213 of the Code of Criminal Procedure.

VIII. PUNISHMENT OF MINORS AND YOUNG PERSONS IN DETENTION

31. The delegation informed the Committee, in its oral reply of 5 May 2008, that article 21 of the Educational Policy Act of 23 January 2008 increased the scope of the prohibition against corporal punishment in schools.

32. The delegation also stated that under article 206-1 of the Health Protection and Promotion Act of 16 February 1985 all health practitioners must report any cases of maltreatment of minors or persons deprived of their liberty which have come to their attention during the course of their work.

33. The strategy on violence against children was also explained in detail to the members of the Committee, a strategy that gives equal focus to the prevention of violence, the intervention of the relevant actors, the protection of children and the social rehabilitation of victims. The delegation informed the Committee that social workers were also required to report suspected cases of violence in schools or families. Lastly, the delegation said that the framework legislation on childhood made this reporting mandatory on pain of prosecution.

34. The Algerian delegation informed the Committee about how the prison system in Algeria was organized. It made clear that women and minors were detained in separate quarters from other categories of offenders. The delegation pointed out that when juveniles were involved in a criminal case, including a terrorism case, they retained their right to raise a defence based on their status as minors and in no case could a death penalty be handed down to them, much less carried out. Lastly, the delegation confirmed that the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) were observed in Algeria.

IX. VIOLENCE AGAINST WOMEN AND ACTS OF MOB VIOLENCE

35. The delegation informed the Committee of the measures taken by the Government to prevent these kinds of violence. The following advances are worth noting in particular: the development of a policy for the protection and care of victims; gender mainstreaming in all sectors; the removal of obstacles to the social and economic integration of women; and the establishment of facilities and mechanisms to assist women in difficulty.

36. The delegation informed the Committee that as part of efforts to support the national strategy on violence against women, a survey on the prevalence of such violence had been conducted in 2006 and had led to the establishment of an anti-violence commission and more robust enforcement mechanisms.

37. Sexual harassment is henceforth an offence (article 231 bis) and the principle of imposing stiffer penalties for the offence of raping a pregnant woman is upheld in the Criminal Code. Lastly, there is an ongoing debate over DNA testing to establish paternity.

38. With regard to acts of mob violence, in particular the incidents in Ouargla, the delegation provided members of the Committee with a full explanation of the background to the incidents and the procedures followed to identify, prosecute and punish the perpetrators of the acts.

39. The delegation indicated that it would have liked to have more information on the events that reportedly took place in Tébessa so that it could provide answers on the subject, and drew the Committee's attention to the Algerian Government's response to the report of Yakin Ertürk following her visit to Algeria in January 2007 and to its statement during the consideration of this item by the Human Rights Council at its seventh session in March 2008.

X. TRAINING OF LAW ENFORCEMENT OFFICERS

40. The representatives of the National Gendarmerie and the National Security Service on the delegation, informed the Committee at the meeting of 5 May 2008 about how the two institutions fulfil their obligations to training officers responsible for enforcing human rights laws.

41. The basic training of any official includes a module on civil liberties, in which human rights instruments are prominently featured.

42. Moreover, given that law enforcement officers have the status of criminal investigators, their training places great emphasis on respect for civil rights and the penalties that these officials face for violating the rules concerned.

43. Lastly, before the meeting to consider the report, the Government transmitted a series of human rights documents for law enforcement officers which had been produced in conjunction with the Office of the United Nations High Commissioner for Human Rights.

XI. NATIONAL ADVISORY COMMISSION FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

44. The Algerian delegation is astonished that the Committee has called into question the independence of the National Advisory Commission for the Promotion and Protection of Human Rights, citing the fact that its members were appointed by a presidential decree (para. 8). This practice is widespread throughout the world. However, in certain countries the national human rights institution granted accreditation status A under the system of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights reports directly to the Office of the Prime Minister rather than the Office of the President, who is the guarantor of the Constitution, fundamental individual rights and civil liberties.

45. The procedure of nomination by decree does not contradict the Paris Principles in that it is stated clearly in the second section of the text of the Paris Principles that the "composition of the national institution and the appointment of its members, whether by means of an election or otherwise, shall be established in accordance with a procedure which affords all necessary guarantees to ensure the pluralist representation of the social forces (of civilian society) involved in the promotion and protection of human rights".

46. In the present case, article 8 of presidential decree No. 01-07 of 25 March 2001 establishing the National Advisory Commission for the Promotion and Protection of Human Rights stipulates that the "composition of the Commission and the appointment of its members shall be based on the principle of social and institutional pluralism".

47. Furthermore, in paragraph 3 of the aforementioned section of the Paris Principles it is stated that: "In order to ensure a stable mandate for the members of the national institution, without which there can be no real independence, their appointment shall be effected by an official act which shall establish the specific duration of the mandate. This mandate may be renewable, provided that the pluralism of the institution's membership is ensured."

48. In the present case, the above-mentioned article 8 states that "members of the Commission are appointed by the President on the proposal of national human rights institutions and civil society organizations".

49. In making this clarification the Algerian Government affirms that it remains committed to the unflagging spirit of cooperation that it has always shown the Committee. It regrets, however, that the concluding observations of the Committee do not take into account the additional oral replies and clarifications that the delegation provided during the discussion that took place with the Committee at the meetings on 2 and 5 May 2008, and which sought to help the Committee to assess the accomplishments made in promoting and protecting human rights in general and preventing torture and other cruel, inhuman or degrading treatment in particular.
