



**International covenant
on civil and
political rights**

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HUMAN RIGHTS COMMITTEE

**EXAMINATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT**

Third periodic report

PEOPLE'S DEMOCRATIC REPUBLIC OF ALGERIA*

[22 September 2006]

* For the initial report submitted by Algeria see document CCPR/C/62/Add.1; for its consideration by the Committee see CCPR/C/SR.1125, 1128 and 1129; CCPR/C/79/Add.1 and the *Official Records of the General Assembly, Forty-seventh Session, Supplement No. 40 (A/47/40)*, paras. 264-299.

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Introduction

1. Algeria ratified the Covenant on Civil and Political Rights on 12 December 1989. On 5 April 1991, it submitted its initial report (CCPR/C/62/Add.1) to the Human Rights Committee, which considered it at its forty-seventh session, during its 1125th, 1128th and 1129th meetings held on 25 and 27 March 1992 (CCPR/C/SR.1125, 1128 and 1129).
2. The Committee examined the second periodic report of Algeria (CCPR/C/101/Add.1) at its 1681st to 1684th meetings held on 20 and 21 July 1998, and adopted its concluding observations at its 1696th meeting on 29 July 1998.
3. During the presentation of the second report, the Algerian delegation gave an account of the programme of reforms launched after the adoption of the new Constitution of 23 February 1989 for the setting up of new institutions based on political pluralism, separation of powers, independence of the judiciary and freedom of expression.
4. The Algerian delegation also underlined that, at the international level, the Algerian authorities were committed to a gradual process of accession to the various international human rights instruments, as a result of which Algeria is now a signatory to all the main conventions.
5. The members of the Committee formulated a number of observations and comments, to which the Government will respond in this report, providing the necessary clarifications on the changes that have occurred in the interim.
6. In accordance with the guidelines for drafting State party reports, this consolidated report contains the third and fourth periodic reports submitted as one document, and comprises two parts:
 - (a) Part One, entitled “General information and response to the Committee’s concerns and recommendations”, provides information on the country’s general political structure and describes the context in which human rights are promoted and protected. It also contains the Algerian Government’s replies to the observations and comments made by members of the Committee during the presentation of the second periodic report in July 1998;
 - (b) Part Two contains information concerning the substantive provisions of the Covenant vis-à-vis the changes that have taken place.
7. The Algerian Government wishes to make it clear that the slight delay in the submission of this combined periodic report is by no means due to a deliberate desire to shirk its international obligations, but rather reflects its concern to submit a qualitative report, showing the progress made since the submission of the previous reports, in particular the progress made in all areas relating to the provisions of the Covenant.

Part One

GENERAL INFORMATION AND RESPONSE TO THE COMMITTEE'S CONCERNS AND RECOMMENDATIONS

I. GENERAL INFORMATION

8. The efforts of the Algerian Government to promote and protect human rights date back to independence in 1962. Successive Algerian constitutions have enshrined the universal principles of human rights while taking into account Algerian society's need for modernization and development.

9. However, it was only following the introduction of a multiparty system in 1989 that Algeria began to speed up the process of accession to the international human rights instruments. Today, it is a country that has made significant progress in the area of democratic freedoms, and has complied with its reporting obligations under the various international treaties it has signed.

Table 1

Land and people

Surface area	2,380,000 km ²
Population	32,300,000 (as at December 2004), of whom 50.5 per cent are men and 49.5 per cent are women
Per capita income	US\$ 3,100 (as at March 2006)
External debt	US\$ 15,500,000,000 (as at February 2006)
Unemployment rate	15.3 per cent (2005)
Economic growth rate	5.1 per cent (2005)
Inflation	1.6 per cent (as at March 2006)
Official language	Arabic
National languages	Arabic, Amazigh
Religion	Islam
Life expectancy	71.5 years (men: 70.03 years; women: 72.8 years)
Infant mortality rate (2002)	51.1 per thousand live births (boys: 36.1 per thousand; girls: 33.3 per thousand)
Maternal mortality rate	106.1 per 100,000 live births (2001)
School enrolment rate	98 per cent

A. General political structure

10. Algeria faced many challenges upon gaining independence, related, inter alia, to the establishment of institutions and structures for a State emerging from a period of colonization, national reconstruction in all its aspects, the return of refugees, and social and psychological care for the families of victims of the war of national liberation. The efforts deployed gradually led, in the space of a few years, to the provision of compulsory schooling for all children, free primary health care for the population, and the implementation of a policy of full employment.

11. Up until 1988, the overall situation in Algeria was characterized by a proactive policy of State control of politics and the economy and a State monopoly on foreign trade. Thereafter, Algeria decided to make a qualitative change by turning resolutely towards the democratization of politics and liberalization of the economy.

12. As was the case elsewhere, the process of change was not without problems. The building of a modern, democratic State with a transparent public administration was hampered by internal obstacles linked to the single-party culture and economic and social constraints.

13. Subsequent political reforms gradually led to the establishment of institutions on the basis of universal suffrage. The adoption by referendum of the Constitution of February 1989, which was revised on 28 November 1996, further strengthened freedoms, political pluralism, the separation of powers and the independence of the judiciary.

14. The presidential, legislative and local elections held in Algeria since the adoption of the new Constitution have helped to consolidate and strengthen democracy and the rule of law and to make elected institutions more representative.

15. In addition, successive government programmes have confirmed the country's irreversible progress towards a market economy, while safeguarding the social benefits acquired by workers in regular negotiations with employers and the support measures introduced for disadvantaged sectors of society.

16. The democratization of State activities in Algeria today is based on several laws, in addition to the Constitution:

(a) The Political Parties Act, which was adopted in 1989 and amended in 1997, enabled more than 60 political groupings to emerge on the political scene. Subsequent realignments brought the number of parties down to its current figure of 28;

(b) The Associations Act, promulgated in 1988 and amended in 1990, stipulates that associations may be established by a simple declaration of the founders, either at the *wilaya* (prefecture) or, for national associations, at the Ministry of the Interior. The Act led to a boom in the number of associations, of which there are nearly 78,000 active in Algeria today. By way of example, between 2002 and 2004, 3,810 associations were registered. Some, such as associations for the protection and promotion of women's rights, claim recognition as associations of public interest;

(c) The Information Act, which was adopted in 1990, paved the way for an independent or partisan press in addition to the traditional public service press. More detailed information on the diversity of the media is contained elsewhere in this report.

17. The President of the Republic holds the country's highest office, subject to the limits set by the Constitution, and appoints the head of Government, who then defines his programme and submits it to the National People's Assembly and the Council of the Nation (the Senate) for approval. The President's mandate is renewable only once.

18. The many presidential, legislative and municipal elections held since the submission of the previous report have helped to consolidate the process of multiparty democracy launched several years ago.
19. Local and legislative elections were held in 2002 and presidential elections on 8 April 2004. They further consolidated this process and were a milestone in progress towards political stability in Algeria.
20. The Government is implementing a national plan to consolidate respect for the human rights guaranteed under the Constitution. This plan, which provides a framework for national policy in this area, reaffirms the Government's determination to consolidate the individual and collective freedoms and obligations of citizens, including freedom of expression in general and freedom of the press in particular. It also aims at gradually implementing plans to reform the functions and organization of the State and to complete the reform of the justice and education systems.
21. Legislative power is exercised by parliament, which consists of two houses: the National People's Assembly and the Council of the Nation (the Senate). Parliament monitors action by the Government and enacts laws. The National People's Assembly has 380 deputies, representing different political opinions, following the May 2002 elections.
22. The Council of the Nation, established in December 1997, has 144 seats. Two thirds of its members are elected by a college of members of the communal and departmental people's assemblies and the remaining third - i.e. 48 members - are appointed by the President of the Republic.
23. The independence of the judiciary is provided for in article 138 of the Constitution, which states that: "The judiciary is independent. It exercises its power within the framework of the law."

B. General legal framework for the promotion and protection of human rights

1. Human rights mechanisms

24. In addition to these constitutional provisions, and following its accession to all the international and regional human rights instruments, Algeria now has most of its promotion, early-warning and monitoring mechanisms in the area of human rights in place. These cover both individual, civil and political rights and collective, economic, social and cultural rights, and are divided into four main categories of interrelated mechanisms.

(a) Political mechanisms

25. The political mechanisms centre around the legislative body, namely parliament, which, with its two houses - the National People's Assembly and the Council of the Nation - is both the institutional embodiment of the democratic component of the Algerian State and a fitting forum for the free, pluralistic expression of citizens' concerns.

26. Human rights questions are a major topic of parliamentary debates and are dealt with by standing committees established to that end by both houses.

27. Political parties are also considered by law to be a component of the machinery for promoting human rights. The Political Parties Act of 8 July 1989, amended in March 1997, requires party statutes and programmes explicitly to include among their objectives the safeguarding of individual rights and fundamental freedoms. Article 3 of the Act stipulates: "In all their activities, political parties are required to abide by the following principles and objectives: respect for individual and collective freedoms and for human rights; commitment to democracy and respect for national values; observance of a multiparty system; and respect for the democratic and republican nature of the State." The provincial (*wilaya*) people's assemblies and the municipal people's assemblies also help to promote human rights. In contact with citizens, the assemblies must ensure that things run smoothly at the local level and must respond to citizens' concerns.

(b) Judicial mechanisms

28. Current legislation relating to the organization of the justice system and the judicial machinery in place are intended to guarantee citizens' rights and to provide the justice system with decision-making autonomy. To that end, the court system in Algeria consists of:

- (a) The *daira* (sub-prefecture) courts;
- (b) The *wilaya* (departmental) courts; and
- (c) The Supreme Court (at the national level).

29. Article 152 of the Constitution also provides for a Council of State, composed of 44 members, which is intended to serve as the body regulating the activity of the administrative courts. It was established on 17 June 1998.

30. It should be noted that as part of its programme to strengthen the rule of law, Algeria has already undertaken an extensive reform of the justice system, with the aim of:

- (a) Strengthening the independence and credibility of the justice system by ensuring its accessibility, the prompt handling of disputes and enforcement of its decisions;
- (b) Bringing national legislation into line with Algeria's international obligations;
- (c) Improving the training of judges;
- (d) Increasing the material resources of the judicial and prison systems; and
- (e) Making prison conditions more humane for prisoners.

(c) Freedom of the press

31. The rights to information and freedom of the press, which are enshrined in the Constitution, are considered by the law as an essential tool for monitoring and protecting individual and collective rights. The remarkable development of the press in Algeria has given a real boost to the protection of human rights.

32. In addition to public service television, radio and the press agency, there are currently 43 daily newspapers, 60 weekly newspapers, 17 monthly and 6 fortnightly periodicals. Their number and diversity mean that all political opinions and schools of thought in Algerian society are reflected in the media.

33. Total circulation averages 1.8 million copies a day, for daily newspapers, and 1.4 million a week for weekly newspapers. The number of readers is estimated at over 9 million per week.

34. Contrary to certain media reports, no Algerian journalist has been convicted for a crime of opinion. The only cases on record have involved trials for defamation or dissemination of false information. The non-publication of certain national newspapers is generally due to commercial disputes with their printers or to bankruptcy.

35. As the international organizations themselves have acknowledged, the Algerian press is one of the freest in the developing world. The International Federation of Journalists is accredited in Algeria, and its North Africa office is situated in Algiers.

36. Since the completion of the institutional process by which Algeria acquired all the legal instruments needed for the democratic functioning of a State based on the rule of law, no legal proceedings have been taken against any newspaper, despite the fact that there would have been ample justification for judicial action to seek reparation from certain newspapers for "repeated defamation and insults". It should be noted, in this context, that the restrictions imposed at one time on the processing of security information have been lifted.

37. Foreign journalists regularly receive accreditation in Algeria. Accreditation is granted under a special procedure in order to process applications more flexibly and rapidly. According to statistics on accreditation applications, more than 4,100 journalists from over 100 countries and working for various media outlets stayed in Algeria between 1999 and June 2004, including on average 100 permanent press correspondents.

(d) Civil society and trade union machinery

38. The movement of civil society associations has grown considerably since 1988. At the national level, there are currently nearly 78,108 associations, including 947 national associations, active in various fields. The Algerian Constitution gives prominence to freedom of association for the defence of human rights. Article 32 guarantees the individual and collective defence of these rights, and article 41 defines the area of application: freedom of expression, association and assembly.

39. Freedom of association naturally includes the political field, but is also used to protect certain specific rights, such as the rights of women, children, the sick, the disabled, consumers and public service users. The authorities encourage the work of associations by granting them various subsidies and facilities.

40. Most associations now have statutes, established bases and activities that enable them to join networks of international associations. Associations working for women's rights and education or combating illiteracy are especially active. On account of their good work, some have consultative status with the United Nations Economic and Social Council.

41. Trade union freedom is established in the Constitution and regulated by the Act of 21 December 1991. Dozens of independent trade unions representing various occupational groups are recognized and play an essential role in industrial relations.

(e) Other mechanisms for the protection and promotion of human rights

42. The process of promoting and protecting human rights has been strengthened through the establishment of a national institution called the National Advisory Commission for the Promotion and Protection of Human Rights, established on 9 October 2001. It has 45 members, including 13 women, appointed on the basis of social and institutional pluralism.

43. The Commission was established under Presidential Decree No. 01-71 of 25 March 2001, replacing the National Human Rights Observatory, as "an independent institution under the President of the Republic, which shall safeguard the Constitution, the fundamental rights of citizens and public freedoms". It is thus a human rights advisory body with monitoring, early-warning and evaluation functions. The Commission is responsible for investigating any violations of human rights reported or brought to its notice, and for taking appropriate action. Part of its mission is also "to conduct awareness-raising, information and public relations activities in favour of human rights, to promote research, education and teaching in that area and to advise on possible enhancements to domestic legislation". It produces an annual report on the human rights situation, for submission to the President of the Republic.

2. International treaties and the domestic legal order

44. Algeria's international commitments prevail over domestic law. In a decision dated 20 August 1989, the Constitutional Council reaffirmed the constitutional principle according to which duly ratified international treaties prevail over domestic law: "... after ratification and upon publication, any convention is incorporated into domestic law and, pursuant to article 132 of the Constitution, acquires a higher status than the law, thereby permitting any Algerian citizen to invoke it in the courts".

45. Consequently, individuals may avail themselves of the protective mechanisms established by the Human Rights Committee and the Committee against Torture once domestic remedies have been exhausted.

46. The Algerian authorities, the National Advisory Commission for the Promotion and Protection of Human Rights, associations and the media make much of the possibility of seeking remedies under international mechanisms. In practice, Algerian citizens and their lawyers seem satisfied with the many domestic remedies available.

3. Cooperation with international human rights mechanisms

47. Algeria has acceded to and ratified all the international human rights treaties and regularly complies with its obligations under them by submitting periodic reports to the treaty-monitoring bodies.

48. At the same time, Algeria enjoys close and regular cooperation with the special rapporteurs and working groups of the Commission on Human Rights. Despite the questionable approach of some of these mechanisms, which tend to use unreliable and partisan sources, Algeria has always responded promptly to their communications.

49. Another feature of Algeria's action in the area of human rights has been its opening up to non-governmental human rights organizations: representatives of various non-governmental organizations visited Algeria many times between 2000 and 2005.

50. It must also be emphasized that since its struggle for independence, Algeria has developed a good relationship with the International Committee of the Red Cross (ICRC). A signatory to the Geneva Conventions of 12 August 1949 under the provisional Government, Algeria was one of the foremost proponents of the Additional Protocols thereto of 1977, which it ratified in 1989.

51. At present, relations between Algeria and ICRC are excellent. ICRC delegates pay regular visits to prisons and detention facilities throughout the country. Such cooperation is deemed exemplary by both parties, the diplomatic community and experienced observers.

C. Information, publicity and human rights education

52. Algeria's ratification of international human rights instruments was extensively publicized in the national media when they were submitted for consideration and adoption by the National Assembly. All the instruments thus ratified were published in the *Official Gazette*.

53. In addition to the symposia and seminars regularly organized on this topic, the annual celebration of Human Rights Day, on 10 December, is an occasion for publicizing the various international human rights instruments to which Algeria has acceded and the measures adopted by the authorities to improve the human rights situation. Similarly, 8 March and 1 June offer regular opportunities to reaffirm the importance and role of women and children in society.

54. In the field of human rights education, it should be noted that in universities, a module entitled "civil liberties", which used to be taught in law faculties, has been reintroduced with an updated syllabus that takes account of international developments and recent accessions. Some universities, such as Oran, Tizi Ouzou and Annaba, have already created specific modules. Human rights are taught to students at the Judicial Training School, the Police Training School and the National Prison Administration Training School as well as in gendarmerie training schools.

55. A UNESCO Chair in the teaching of human rights was established at the University of Oran in December 1995. It provides an educational framework within which to organize and promote an integrated system of human rights research, teaching, information and documentation.

56. The dissemination of the concepts and principles of international humanitarian law in schools is one of the issues gradually being addressed. A draft agreement was concluded on this subject in May 2004 between the Ministry of Education and the ICRC office in Algiers. Subsequently, a training workshop for teachers was held in June 2004, followed by one in July 2006 for higher-education teachers.

D. Human rights and the fight against terrorism

57. Since 1991, Algeria has had to confront terrorism in an atmosphere of indifference and suspicion. Efforts to combat this scourge, requiring the implementation of special measures, have always been deployed within the framework of the law and respect for human dignity.

58. In order to deal with this exceptional situation, in February 1992 the Algerian authorities decided to declare - as they are entitled to do under the Constitution - a state of emergency. Although the state of emergency did impose some restrictions on the exercise of civil rights and liberties, it did not relieve the State of its obligations to guarantee the right to exercise the fundamental civil liberties provided for in the existing domestic constitutional order and in the international agreements ratified by Algeria.

59. The exceptional measures taken during the state of emergency were all accompanied by guarantees for the protection of human rights. No restrictions were placed on the rights and freedoms enshrined in articles 6, 7, 8, 11, 15, 16 and 18 of the International Covenant on Civil and Political Rights.

60. Similarly, action to preserve public order and protect individuals and property threatened by terrorism has always been carried out in accordance with the law and with due regard for Algeria's commitments under various international instruments. The purpose of such action is to strengthen the rule of law and re-establish the conditions that legitimized the country's institutions through a return to the genuinely free, multiparty and democratic universal suffrage seen in Algeria's elections in 1999, 2002 and 2004.

61. With a view to facilitating the restoration of civil peace, Algeria introduced clemency measures to give terrorists the opportunity to repent, through the adoption of legislation on clemency (Ordinance No. 95-12 of 25 February 1995) which provided for a series of measures ranging from exemption from prosecution to substantial reductions in penalties.

62. This piece of legislation was backed up by the President's decision to strengthen the process of establishing civil harmony by holding, on 16 September 1999, a referendum on his overall approach to achieving peace and civil harmony, which was approved by 96.19 per cent of voters.

63. The resulting legislation repeals the provisions of Ordinance No. 95-12 of 25 February 1995 on clemency measures. It gives persons involved in terrorist or subversive activities who express their intention to desist from them the opportunity, where appropriate, to benefit from measures ranging from exemption from prosecution to probation and reduced penalties. In this respect, the judiciary has been accorded a key role, since all the probation commissions to be established in each *wilaya* will be presided over by professional judges.
64. These provisions are not applicable to persons who have committed or participated in offences involving loss of human life, mass killings, bombings in public places or places frequented by the public, or rape.
65. The application of the relevant provisions of this legislation has enabled thousands of people whose terrorist activities did not extend to murder or similar crimes to be reintegrated into society. The implementation of this legislation by no means signifies that the Government has called a halt to its fight against terrorism, which it is committed to pursuing relentlessly.
66. Algeria subsequently embarked on a new course of action intended to consolidate peace and achieve national reconciliation.
67. To deal once and for all with the consequences of the crisis in the country, in a referendum held on 29 September 2005, the Algerian people voted overwhelmingly in favour of the Charter for Peace and National Reconciliation, the draft version of which had been tabled by the President on 14 August 2005.
68. Through this Charter, the Algerian people expressed their gratitude to those responsible for protecting the country and their approval of measures to consolidate peace and national reconciliation and their support for the policy for handling the tragic problem of disappearances.
69. The Charter reflects the Algerian people's determination to build a future of peace and stability and its conviction that steps should be taken to uphold the dignity of all victims of the national tragedy and their beneficiaries and to provide for their social needs, as part of a joint effort of national solidarity.
70. It may be recalled that since 11 September 2001 the whole world has come to realize that terrorism is a transnational phenomenon that can undermine social harmony and national stability, and that it must be fought on all fronts through international cooperation, which is the only way to eradicate it.
71. Algeria has for a long time called for a united front against terrorism, and is fully committed to this approach. It has acceded to the international and regional treaties and agreements to combat terrorism, acts on its commitments and does all it can to support any initiatives in this area.
72. Algeria is absolutely convinced that issues as sensitive and topical as the promotion of human rights would benefit from being viewed as part of efforts to strengthen a genuine and mutually beneficial dialogue based on trust among all the institutions concerned by such problems.

II. REPLIES AND COMMENTS OF THE ALGERIAN GOVERNMENT CONCERNING THE RECOMMENDATIONS AND OBSERVATIONS OF THE HUMAN RIGHTS COMMITTEE IN CONNECTION WITH THE CONSIDERATION OF THE SECOND PERIODIC REPORT OF ALGERIA (See A/53/40, vol. I)

Subjects of concern to the Committee

1. Delay in submission of the second periodic report (A/53/40, para. 350)

73. The Algerian delegation discussed this matter with the Chairperson of the Committee. The head of the delegation reminded the Chairperson of the session, on 21 July 1998, of the talks held and draft agreement formalized and made public at the press conference held in October 1997. Thus, this comment does not reflect the true state of affairs and detracts from the relationship of trust cultivated by both parties in recent years.

2. Massacres and the repeated use of the adjective “widespread” (A/53/40, paras. 351 and 354)

74. The use of this terminology is excessive and, above all, inappropriate. The massacres referred to are part of the scorched earth policy of terrorist groups on the decline, whose main aim was to punish civilian populations who refused their diktats and destructive plans.

75. Limited to specific times and places, these killings only served to show, as if that were necessary, that terrorism, by attacking isolated and defenceless civilian populations, was primarily bent on publicizing its crimes and - through the degree of barbarity inflicted - capturing the attention of the media and international observers, including, inter alia, human rights bodies.

76. The Committee members who expressed their views on these massacres identified the perpetrators and condemned these violations of the right to life, responsibility for which has been claimed by the perpetrators themselves.

77. In the preliminary conclusions of 21 July 1998, the Committee chairperson stressed that the Committee did not underestimate the extent or the intensity of terrorism. It is disturbing to note that in the final conclusions such references to the identification of the perpetrators of these massacres no longer appear, and - more seriously - that the issue is left open, thus paving the way for malicious interpretations.

3. Allegations of collusion of members of the security forces (A/53/40, para. 354)

78. The Committee was informed of the phases that terrorist crime has undergone, and of its failure to achieve its aim of destabilizing the institutions of the Republic. The declining status of criminal groups has prompted them to attack the entire civilian population in an indiscriminate manner: car bombs, bomb attacks in public places and massacres in rural areas.

79. The allegations made in the guise of partisan witness accounts are impossible to check and are contradicted by survivors and by the international press visiting the places in question.

80. On the basis of genuine information, the Committee was informed that:

(a) Each time that security forces were alerted of an incident in accordance with usual practice, they travelled to the relevant area;

(b) Attacks by terrorist groups were usually carried out at night, in isolated places, and often with knives, making it difficult for the security forces - alerted late - to intervene immediately;

(c) Contrary to information reported by the media and NGOs (Bentalha, Raïs and Beni-Messous massacres) the barracks were not located close to the places where the massacres occurred, but quite far away;

(d) At the start of the attack, and when escaping, the terrorist groups planted explosive devices to stave off any intervention or chase mounted by the security forces;

(e) Several false alerts have been simulated by terrorists, sometimes in complicity with others, to set up ambushes for security forces;

(f) The intervention of security forces considerably limited the extent of the massacres.

81. The Algerian and international press, together with different observers - foreigners who were able to visit the places in question - noted that the allegations were a propaganda tool for terrorist crime, denied every day by the population.

4. Conduct of independent inquiries and setting up of independent mechanisms to shed light on the massacres (A/53/40, para. 354)

82. It should be pointed out that these constitutional missions are the responsibility of the Algerian judicial authorities. The Committee was informed that the parliament alone, in accordance with its rules of procedure, is empowered to appoint a commission of inquiry. The members of this pluralist parliament - consisting of 10 political groups and an independent coalition - rejected this approach as it would have cast doubt upon the identity of the perpetrators and lent credence to the claims made by certain NGOs, often based on anonymous witness accounts that are impossible to verify.

5. Legitimate defence groups (A/53/40, para. 356)

83. The Committee was informed that legitimate defence groups were created pursuant to the law on the defence of the people, adopted by the National People's Assembly in 1987, and based on articles 39 and 40 of the Criminal Code.

84. The purpose of these groups is not to combat terrorism, competence for which falls exclusively to the constituted authorities of the State; their role is essentially a preventive one of protecting infrastructure such as schools, water towers and health clinics in totally isolated locations.

85. The Algerian delegation informed the Committee that these groups had been set up when the extent of terrorism had become such that the whole of Algerian society and the country's entire economic, social and cultural infrastructure had become potential terrorist targets. This mobilization of additional forces was furthermore aimed at assisting law-enforcement forces in a territory with a surface area of 2,380,000 km².

86. The Committee was also informed that the groups were accountable to, and supervised by, the authorities alone, within the legal framework of articles 9, 10, 11 and 12 of the executive decree of January 1997.

87. Furthermore, a presentation was made to the Committee on the operational aspects of legitimate defence groups and the very close relations established with the law-enforcement authorities. It was confirmed to the Committee that legitimate defence groups, acting under the supervision and management of the constituted authorities, had been set up with the sole aim of preventing acts of terrorism and subversion, and that the security forces were only allowed to enter a person's home if fugitives were hiding there, or in order to render assistance if requested.

88. The Committee was informed that any decision to disband the legitimate defence groups would be taken by the authority vested with the power to establish such groups, once the reasons for their establishment had completely disappeared.

89. In view of the scale, and the emergence of different forms, of terrorist crime - in particular collective killings and massacres of isolated and defenceless citizens - and in order to meet the pressing demands of citizens, the authorities laid down, in decree No. 97/04 of 4 January 1997, the conditions in which the right to legitimate defence can be exercised in an organized framework. The promulgation of this text can be considered as an exceptional measure arising from the state of emergency, and designed to enable citizens to protect themselves from the criminal actions of armed terrorist groups.

90. This exceptional measure, while compensating for the lack of local security services in isolated mountain or rural areas, is part of the existing general legal framework for law enforcement and the protection of people and property.

91. It will be recalled that, in 1993, the authorities decided to recover firearms held by citizens, in order to prevent citizens from being intimidated into handing the firearms over to terrorist groups. As a result, these citizens were left with no means of defending themselves and thus became vulnerable targets of terrorist actions.

92. Faced with the extent of terrorist crime in isolated areas or areas with no local policing structures, citizens took the initiative of asking the authorities to help them organize self-defence groups.

93. Legitimate defence groups consist of citizen volunteers placed under the responsibility and supervision of the law-enforcement and public-safety authorities. Their mandate is to prevent, or respond to, terrorist acts targeting them, their families, or members of their community living in hamlets or similar localities or in remote or isolated villages.

94. These legitimate defence groups were set up with permission of the governor (*wali*) and their activities are controlled by the head of the *daira*. They are therefore not affiliated or closely linked to political parties and to different branches of the army, security forces, or local officials, as stated by the Committee.

95. Within this framework, all persons applying for membership are vetted, and their good character is checked, before a firearms licence is issued. Members of legitimate defence groups are not remunerated.

96. In accordance with the aforementioned Decree No. 97/04 of 4 January 1997, the disbanding of legitimate defence groups is decided by the territorially competent *wali*, once the reasons that prompted their establishment no longer exist, or where national police units have been established in isolated zones.

97. In conclusion, attention is drawn to the following:

(a) The public authorities took into consideration the need to place the action of legitimate defence groups in a legal and public framework that specifies, through a decree published in the *Official Gazette*, the scope and limits of actions to protect persons and property carried out by “self-defence” or “patriotic” groups;

(b) The activities of legitimate defence groups are not comparable to police functions, which include proactive intervention and neutralization in the framework of the fight against crime;

(c) The establishment of legitimate defence groups is based on a legal mechanism introduced by the state of emergency, and is subject to strict rules on authorization by the *wali* as the administrative officer vested with State authority (cf. 1990 *Wilaya* Code). Furthermore, the conditions for the establishment, organization, scope, methods of work, and supervision of legitimate defence groups are laid down in a joint order issued by the Ministry of Defence and the Ministry of the Interior and Local Government. The fact that legitimate defence groups derive their legitimacy from articles 39 and 40 of the Criminal Code means that the action of these groups is only justified, in the eyes of the law, by the legitimate need to defend oneself or others in proportion to the gravity of an attack. In any event, it is the judicial authority that must ensure, where appropriate, that the action of legitimate defence meets the criteria defined in law.

6. Alleged human rights violations (A/53/40, paras. 357 and 358)

98. Committee members were informed that, in accordance with the mandates of the working groups and the thematic Special Rapporteurs, requiring governments to cooperate with the special procedures established by the Commission on Human Rights, the Algerian Government had provided these mechanisms with the information, answers and other data requested. All these mechanisms had welcomed this ongoing cooperation.

99. In reply to the allegations made by the Committee during its consideration of the report, the delegation indicated that these cases were known to the Algerian authorities and that the corresponding replies had been submitted to the Committee secretariat for consultation.

100. Lastly, with regard to new cases, the delegation declared that they could be examined in accordance with the inter partes procedure, during which claimants would be required to substantiate their claims.

7. Incorporation of certain legal provisions relating to subversion and terrorism in the normal penal laws (A/53/40, para. 359)

101. The Algerian delegation informed Committee members that:

(a) Although police custody is always for a period of 48 hours, in exceptional cases, with the agreement of the judicial authorities, it can be extended for up to 12 days for reasons relating to the requirements of the inquiry, the size of the country, the complexity of networks and their international ramifications;

(b) Minors involved in cases of terrorism are treated in exactly the same way as minors prosecuted in cases of ordinary criminal law.

102. The only difference is that minors aged 16 years and over who are involved in cases of terrorism must henceforth be tried by a criminal court, in accordance with article 249 of the Code of Criminal Procedure. Minors brought before a criminal court, however, continue to benefit from all protection measures relating to juvenile delinquency, and from the defence of minority, under which 18-year-old minors can never be sentenced to death or life imprisonment (Criminal Code, art. 50).

103. The involvement of minors alongside adults in a large number of terrorism cases has led lawmakers to grant jurisdiction to the criminal courts to judge them together. This avoids splitting up adults and minors, which would be prejudicial to the interests of justice.

8. Allegations of the existence of places of detention “outside the law” (secret detention or detention in allegedly secret places) (A/53/40, para. 360)

104. These vague, approximate accounts by individuals have not enabled these places to be identified. The Ministry of Justice, where these allegations were registered, carried out prompt internal investigations to ascertain the facts, which showed the allegations to be unfounded.

105. Any detention outside the aforementioned legal framework constitutes arbitrary detention, which is severely punished by the Criminal Code.

106. Furthermore, unrestricted communication between the accused and his or her lawyer from the moment of detention, as recommended by the Committee in paragraph 360, subparagraphs (b) and (c), of the report is provided for by the Code of Criminal Procedure.

107. There are no exceptions to this unrestricted communication, and even gagging orders, provided for by article 102 of the Code of Criminal Procedure, which the investigating judge may impose in the interests of the investigation, for a period of up to 10 days, can in no event be applied to the lawyer.

108. Article 80 of the legislation governing the legal profession guarantees the inviolability of the lawyer's office. Article 91 of the same law establishes absolute protection of the lawyer-client privilege, including with regard to their relationship, correspondence and files.

109. The violation of any provision on respect for due process results in the nullity of proceedings, and communication of all elements of the legal file to the lawyer, from the outset of the proceedings, is mandatory.

110. It can be seen, therefore, not only that the legislation in force provides for unrestricted communication between the lawyer and the accused, whether in detention or released on bail, but also that its violation would result in the nullity of proceedings. It is strictly forbidden to use the content of an exchange of information between a lawyer and a client and this cannot be done in court in order to surprise the accused or present evidence against him.

9. Conclusions regarding the status of women (A/53/40, para. 361)

111. The Algerian delegation indicated that the general status of Algerian women since 1962 is inextricably bound up with the country's political, economic, cultural and social developments.

112. The equality of citizens is first and foremost guaranteed by the Constitution, article 29 of which states that: "All citizens are equal before the law. No discrimination shall prevail by reason of birth, race, sex, opinion or any other personal or social condition or circumstance." In its article 31, the Constitution also states that: "The aim of institutions is to ensure the equal rights and duties of all citizens, both men and women, by removing the obstacles to the fulfilment of human beings and to the effective participation of all in political, economic, social and cultural life."

113. The Civil Code, the Penal Code, the Code of Criminal Procedure, the Electoral Code and the various special codes (commerce, information, health, customs, etc.) are based on the principle of the equality of citizens. The Constitutional Council has not found any of their provisions to be contrary to the spirit or the letter of the Convention on the Elimination of All Forms of Discrimination against Women.

114. Provisions have been added to legislation and regulations to promote equality of treatment among all citizens, without distinction as to sex. Equality is also guaranteed by law in the areas of access to work, remuneration and promotion. These measures have resulted in appreciable advances by women in many areas of activity.

115. Furthermore, partly in response to requests from women's associations and trade unions, sexual harassment has been criminalized under the new Penal Code, to enable victims to use their right to bring proceedings against the perpetrators of such acts and to seek redress for the injury inflicted.

116. Article 41 bis of the Penal Code, which criminalizes sexual harassment, reads as follows: "Anyone who abuses the authority conferred on him by his function or profession, by ordering, threatening, coercing or putting pressure on, another person with a view to obtaining sexual

favours shall be deemed to have committed the offence of sexual harassment, which shall be punishable by a term of from two (2) months to one (1) year in prison and a fine of from DA 50,000 to DA 100,000. In the event of a repeat offence, the penalty shall be doubled.”

117. As part of the general process of accession to international human rights instruments, particularly those aimed at strengthening women’s rights, on 22 January 1996, Algeria ratified, with reservations, the Convention on the Elimination of All Forms of Discrimination against Women (Decree No. 96-51), submitting its initial report on the implementation of this Convention in January 1999. The second periodic report was submitted to the Committee on the Elimination of Discrimination against Women on 13 January 2005.

118. Algeria also ratified, on 8 March 2004, the Convention on the Political Rights of Women, adopted by the General Assembly of the United Nations by its resolution 640 (VII). The instrument of ratification was deposited with the Secretary-General of the United Nations on 4 August 2004. Similarly, the Protocol to the African Charter on Human and Peoples’ Rights, which our country signed in 2003, is expected to be ratified shortly.

119. Algeria has also ratified the relevant International Labour Office (ILO) conventions, including the 1951 Convention concerning Equal Remuneration for Men and Women Workers for Work of Equal Value (Convention No. 100), ratified on 19 October 1962, and the 1958 Convention concerning Discrimination in Respect of Employment and Occupation, to which Algeria acceded on 22 May 1969.

120. When submitting Algeria’s initial report, the Algerian delegation stressed that treaty law authorizes the formulation of reservations, and that the reservations at that time conflicted with a number of provisions of Algerian positive law, particularly in the areas of personal law and transmission of nationality, which are based on a strict interpretation of Muslim law.

121. It should be pointed out that, at the meeting of the Cabinet of Ministers held on 8 March 2004, the President of the Republic affirmed, inter alia, that Algeria had elected to strengthen the existing legal framework and to take the positive actions required to free women from the restrictions placed upon them by society and grant them full and effective enjoyment of the rights guaranteed by the Constitution. In this context, he instructed the Government to take the necessary measures to bring domestic legislation into line with developments in international law relating to the protection of women’s rights, to proceed with ratification of the instruments affecting their legal status and to re-examine the relevance of the reservations which Algeria had entered during ratification of the Convention on the Elimination of All Forms of Discrimination against Women.

122. The Algerian Government proceeded with revision of the Family Code (*Code de la famille*) and the Code of Algerian Nationality (*Code de la nationalité algérienne*), by an ordinance dated 27 February 2005 that was submitted to parliament for approval; this renders certain reservations irrelevant.

123. The Family Code had not been revised since its promulgation by Act No. 84-11 of 9 June 1984. The many social changes that had taken place in Algerian society, combined

with the need to bring domestic legislation into line with the international conventions ratified by Algeria, in particular the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child, made it natural that the Code should be revised.

124. For that reason, in October 2003, the President of the Republic instructed the Minister of Justice (*garde des sceaux*) to proceed with the revision of the Family Code. The commission set up for this purpose on 26 October 2003 found that Algerian families had evolved from being patriarchal families, in which the husband was head of household, to families based on the mutual support of family members. Accordingly, it proposed urgent amendments, in line with the Constitution, which establishes the equality of all citizens, and with Islamic law, which combats injustice, also advocates equality, and can adapt to various transformations of society by opening the gate of *ijtihad* (exegesis of Islamic law).

125. The main amendments (Ordinance No. 05-02 of 27 February 2005, amending and supplementing Act No. 84-11 of 9 June 1984 establishing the Family Code) were intended to remove certain provisions that discriminate against women, particularly in relation to a single age for marriage, marriage by mutual consent and women's freedom of choice concerning the presence of a guardian when she marries, thereby establishing equality between the spouses and affording better protection for children in the event of divorce. The amendments which the Government proposed were discussed by politicians, the media and society.

126. The essential issue of guaranteeing the protection of minors in the event of conflict or break-up of a marriage was resolved in a provision stating that, in the event of divorce, the right to housing is guaranteed to minors, who must remain in the marital home until this obligation - which falls to the father - is met. One other difficulty was overcome: that of awarding guardianship as of right to mothers, who are granted custody in the event of a divorce. It was necessary to resolve these genuine problems in order to shield children from blackmail or irresponsibility on the part of the parents.

127. Matrimonial guardianship for adult women and proxy marriages have been abolished. It is stated clearly that marriage is a consensual contract. The consent of both future spouses is a precondition for the validity of the contract, and the marriageable age is set at 19 years - the voting age - for both men and women. The presence of the *wali* in no way affects the legal personality of adult women.

128. Adult women are released from matrimonial guardianship, which henceforth applies solely to minors, both male and female. Guardianship of minors is regulated by the universal principles enshrined in the Civil Code. In the context of marriage, guardianship is exercised under supervision of a judge, with the stipulation that the matrimonial guardian may not force a minor to marry, nor object to marriage of a minor which a judge has authorized on grounds of necessity or in the interests of a consenting minor.

129. Polygamy is insignificant in scale and the conditions surrounding the practice make it virtually impossible.

130. The changes that have occurred in the areas of repudiation and *khul'* (separation initiated by the wife) have reduced the issue to a matter of semantics rather than substance. Divorce is pronounced by a judge, whether at the request of the man or the woman. In the event of abuse, it is pronounced in return for compensation paid to the injured party. The fact that for the woman this compensation is termed *khul'* does not make very much difference: the main thing is that forced cohabitation for women has been abolished, and that, like men, they can now request a divorce on the grounds of incompatibility, in return for compensation. A woman can obtain this compensation once the wrong has been proved, even when she is the one who requested the divorce.

10. Implications of procedures for nomination, promotion and dismissal of judges for the independence of the judiciary (A/53/40, para. 362)

131. The Algerian Constitution of 28 November 1996 introduced major political, institutional and socio-economic reforms. Several of its articles concern the judiciary and establish its independence. The Constitution asserts that the judiciary is independent, and that it protects society and freedoms. It guarantees that everyone's fundamental rights are protected.

132. Article 147 of the Constitution provides that the "judges obey only the law", and article 148 protects them against any form of pressure, intervention or manoeuvre that could prejudice their work or respect for their decisions. Judges answer to the High Council of the Judiciary according to the procedures prescribed by the law and for the manner in which they discharge their functions.

133. The independence of the judiciary is established by the guarantees laid down in the laws on the performance of their duties. The main guarantees relate to irremovability, conflicts of interest, responsibility and the right to organize, which are established in the interests of both judges and persons standing trial.

134. The rules on conflicts of interest are designed to safeguard the impartiality of judges. They therefore stipulate that a judge cannot hold elected office, be a member of a political party, engage in any profit-making activity, whether public or private, or own an enterprise, even through an intermediary which could hamper the normal course of his work and jeopardize the independence of the judiciary.

135. In order to guarantee the independence of the judiciary, two constitutional laws were promulgated in 2004, one concerning the status of judges and the other the organization, jurisdiction and functioning of the High Council of the Judiciary. It is thus established that the statutes of the judiciary determine judges' rights and obligations and their career path and aim at protecting them from all forms of pressure by giving them greater stability and establishing a remuneration and pensions scheme in line with the demands of the job and the rules and benefits established for performance of high State functions.

136. The judiciary comprises:

- (a) Judges and prosecutors of the Supreme Court and the law courts;
- (b) Judges and law officers of the Conseil d'Etat and administrative courts;

(c) Judges working for central government, at the Ministry of Justice, the secretariat of the High Council of the Judiciary, the administrative departments of the Supreme Court and the Conseil d'Etat, and at training and research establishments run by the Ministry of Justice.

137. Judges are recruited through a competitive examination. They must complete a three-year training course at the Legal Service Training College and are appointed by presidential decree, following deliberations by the High Council of the Judiciary.

138. In order to guarantee the independence of the judiciary, domestic legislation includes a number of articles that protect judges during the performance of their functions and establish their independence. Articles 144 and 148 of the Criminal Code deal with offences and acts of violence against judges. The law on the organization, jurisdiction and functions of the High Council of the Judiciary gives tangible form to the principle of the independence of judges as embodied in the Constitution. This constitutional body is the only one competent to decide on the appointment, transfer, career development and discipline of judges. The High Council of the Judiciary has all the human and material resources necessary to function with absolute autonomy. The requisite funds for its work are included in the State budget.

139. Under this new constitutional law, the majority of the members of the High Council of the Judiciary are judges elected by their peers. The President of the Republic also appoints individuals from national bodies, although none come from the Ministry of Justice.

11. Recommendations on the use of the national language (A/53/40, para. 363)

140. The Algerian delegation, recalling the different periods of Algerian history, stressed that, for thousands of years, the territory constituting modern Algeria has been a melting pot for peoples of diverse origins. The traces which the country's first inhabitants left (the rock paintings at Tassili date back to the second millennium before Christ) show that, even back then, they were of different types, including in terms of their skin colour.

141. From the seventh century onwards, Christian, Jewish and Muslim populations began to coexist in Algeria, the Muslims predominating in terms of demography and their monopoly on political power. It is important to note that, from the historical perspective, there is no doubt that the coexistence of the three religions was facilitated by Islam, which recognizes the validity of the previous religious messages and protects their adherents. The Muslim religion also stresses the unique character of the origin of the human species, condemning racial, tribal, ethnic or linguistic differentiation and only accepting competition between peoples only when it promotes the merit of individual works. The contribution of Islamic culture was decisive in unifying these populations and rejecting racial discrimination.

142. By contrast, the colonial system introduced discrimination by granting French citizenship to the indigenous Jewish community (Crémieux decree of 24 October 1870) and then the indigenous Christian community (Act of 26 June 1888) and by classifying the population according to pseudo-ethnic criteria: Arabs, Moors, Kabyles, Kouroughlis, Mozabites, Chaouis and Touaregs (Code of Indigenous Status, 1881). This system of segregation, which was based

on a total misconception of the process of settlement in Algeria, was abolished by the Act of 31 December 1962, together with all legal provisions from the colonial period that jeopardized national unity. Once freedom had been recovered, and out of respect for the principle of non-discrimination, for which several generations of Algerians had fought during the colonial period, the public authorities decided henceforth to exclude questions on linguistic, religious or racial criteria from censuses.

143. As members of the Committee are aware, the Algerian Government is taking affirmative action to support measures to promote the Amazigh language, including through the:

(a) Establishment of the Office of the High Commissioner on Amazigh Status, attached to the office of the President of the Republic;

(b) Establishment of two Amazigh language institutes at the universities of Tiz-Ouzou and Béjaia;

(c) Launching of daily television news broadcasts in the Amazigh language;

(d) Teaching of the Amazigh language as part of the school curriculum in several regions of the country.

144. Without excluding other languages, the law on the generalization of the national language, adopted by the National People's Assembly on 16 January 1996, aims to give Arabic its rightful place in society and to promote its use. In 1992, implementation of the Law was deferred by a legislative decree in order to allow the different institutions, establishments and communities to train staff and to procure and adapt teaching materials. Based on article 3 of the Constitution:

(a) That law has been in force for more than a decade. It is binding on all State institutions, particularly in the preparation, registration and issuance of official documentation such as court documents, civil registration certificates, travel and residence papers, trading permits and all documents issued by central government and its branches;

(b) The law requires that specific measures be implemented in the education and information sectors. It should be noted that, for more than 40 years, people educated in Algerian schools have encountered few problems entering the job market;

(c) The law authorizes bilingual transcription of medical documents, publicity material and labelling on commercial products, subject to administrative approval.

145. This law, which is gradually being enforced, also provides for the establishment of both a national enforcement body to monitor and implement the law, and an academy, organized and operating according to an established set of regulations.

146. It is worth recalling that the preamble of the Constitution describes Islam and Arab and Amazigh identity as fundamental components of Algerian identity. Article 1 of the Constitution states that "Algeria is a people's democratic republic. It is one and indivisible". Articles 2 and 3

provide that Islam is the religion of the State and that Arabic is the official national language. The Constitutional amendment of 8 April 2002 established the Amazigh language as a national language (art. 3 bis).

**12. Freedom of association, which the Committee deems to be restricted
(A/53/40, para. 365)**

147. There are no violations of the Covenant with regard to freedom of association. None of the international human rights treaties encourages the creation of political parties on the basis of religion, language, race, gender, region or profession. On the contrary, international treaties, including articles 5, 19, 22 and 26 of the Covenant, require States to combat all forms of discrimination.

**13. Dissemination of information on the human rights instruments ratified by Algeria
(A/53/40, para. 366)**

148. These instruments were extensively publicized in the national media when they were submitted for consideration and adoption by the National Assembly. All the instruments thus ratified were published in the *Official Gazette*.

Part two

**FUNDAMENTAL PROVISIONS OF THE INTERNATIONAL COVENANT
ON CIVIL AND POLITICAL RIGHTS**

Article 1: The right of peoples to self-determination

149. Having been subjected to colonization and having struggled for national liberation, independent Algeria has naturally chosen to support liberation movements and those fighting to regain their independence. This support has been a constant principle in the country's different constitutions. The present Constitution specifically states that "Algeria associates itself with all peoples fighting for their political and economic liberation, for the right to self-determination and against any racial discrimination" (art. 27).

150. Algerian diplomacy always strives to "reinforce international co-operation and develop friendly relations between States on the basis of equality, mutual interest and non-interference in internal affairs" (art. 28). The Constitution specifically states that the country's leaders shall "refrain from resorting to war in order to violate the legitimate sovereignty or liberty of other peoples" (art. 26).

151. The effect of these elements of the revised Constitution of 28 November 1996 is to make the principle of solidarity referred to in article 27 a debt owed to the "colonial peoples and territories" covered by General Assembly resolution 1514 (XV) of 14 December 1960. In that context, Algeria has continued to support peoples who are struggling for their national liberation, especially the peoples of Palestine and Western Sahara. At the same time, at the international level, the Algerian Government has pursued its active and voluntarist policy of supporting measures aimed at combating all forms of political, racial and religious discrimination.

Article 2: Non-discrimination and implementation of the provisions of the Covenant

152. Article 67 of the Algerian Constitution stipulates that any foreigner who is legally in Algerian territory enjoys the protection of the law in respect of his or her person and property. Regarding extradition, article 68 stipulates that “No one can be extradited unless by virtue of, and pursuant to, the extradition law” and article 69 that “no political refugee who has been officially granted asylum may ever be returned or extradited”.

153. Residence of foreigners in Algeria is regulated by Ordinance No. 66-211 of 21 July 1966, concerning the situation of foreigners in Algeria, and the legislation and regulations supplementing and amending it.

154. At the international level, Algeria ratified the International Convention on the Elimination of All Forms of Racial Discrimination in 1966 and has since submitted periodic reports to the Committee established under that Convention. The thirteenth and fourteenth periodic reports, as contained in a single document, were submitted in 1999 and considered by the Committee in March 2001.

155. When it introduced its second periodic report under the Covenant, the Algerian delegation emphasized that discriminatory practices were alien to Algerian society, which is profoundly hostile to all forms of racial, religious and cultural segregation. Since independence, Algerian lawmakers have ensured that any defamation of one or more members of an ethnic or philosophical grouping or a specific religion is a criminal offence.

156. Likewise, any allegations that damages the honour or good name of an individual or an entity shall be deemed defamation under Algerian criminal law, and shall be punished pursuant to articles 296 and 298 of the Criminal Code, which stipulate:

Article 296: “Any allegation or charge likely to be prejudicial to the honour or reputation of the person or entity at which it is levelled constitutes defamation. The publication or reproduction of that allegation or charge is an offence, even if this is done in a way that leaves room for doubt or is directed at a person or entity not expressly named, but identifiable by the terms used in the offending speech, cries, threats, written or printed text, sign or notice.”

Article 298: “Any defamation of an individual shall be punishable by imprisonment for between five days and six months and/or a fine of between 150 and 1,500 Algerian dinars.”

157. “Any defamation of one or more members of an ethnic or philosophical grouping or a specific religion, designed to stir up hatred between citizens or residents, shall be punishable by imprisonment for between one month and one year and a fine of between 300 and 3,000 Algerian dinars” (art. 298).

158. Likewise, any offensive remark or expression of contempt or invective that does not contain a specific allegation constitutes an insult for which the penalty is prescribed in articles 197 and 198 bis of the Criminal Code.

159. Article 297 states that: “Any offensive remark or expression of contempt or invective which does not contain a specific allegation constitutes an insult.”

160. Moreover, article 298 bis of Act No. 82-04 of 13 February 1982 stipulates that “Any insult levelled against a person or persons because they are members of a specific ethnic group or adhere to a particular philosophy or religion shall be punishable by imprisonment for between five days and six months and/or a fine of between 150 and 1,500 Algerian dinars.”

161. Under Act No. 01-09 of 26 July 2001, the above-mentioned articles 298 and 298 bis were amended to increase the fines for defamation or insults.

162. Under the new article 298, “any defamation of an individual shall be punishable by imprisonment for between five days and six months and/or a fine of between 5,000 and 50,000 Algerian dinars.

163. “Any defamation of one or more members of an ethnic or philosophical grouping or a specific religion, designed to stir up hatred between citizens or residents, shall be punishable by imprisonment for between one month and one year and/or a fine of between 10,000 and 100,000 Algerian dinars.”

164. The new article 298 bis states that “any insult levelled at one or more members of an ethnic or philosophical grouping or a specific religion shall be punishable by imprisonment for between five days and six months and/or a fine of between 5,000 and 50,000 Algerian dinars”.

Article 3: Equal rights of men and women

165. The principle of equality between the sexes is established in Algerian legislation by virtue of articles 29, 31, 33, 34, 36 and 51 of the Constitution. In particular, article 29 of the Constitution provides that all citizens are equal before the law and proscribes all forms of discrimination on the grounds of birth, race, sex, opinion or any other personal or social status or circumstances. Equality between men and women is also recognized in labour legislation on earnings, which specifies that women must receive the same pay as men for equal work.

166. Within the context of its comprehensive effort to accede to international human rights instruments, particularly those aimed at strengthening women’s rights, on 8 March 2004, Algeria ratified the Convention on the Political Rights of Women, adopted by General Assembly resolution 640 (VII). The instrument of ratification was deposited with the Secretary-General of the United Nations on 4 August 2004.

167. Women’s participation in decision-making is guaranteed by the Constitution and in law. While women’s participation may still seem limited relative to men’s, notable progress is continually being made with regard to their participation in decision-making and access to high-ranking government posts.

168. In 2004 and 2006, there were four women in the Government, two female ambassadors, one female permanent secretary, four female chefs de cabinet, one female regional governor (*wali*), appointed in 1999, two specially-appointed female *walis*, one female deputy *wali*, three female secretary-generals of departments (*wilayas*), four female departmental inspector-generals and seven female *däira* chiefs.

169. Out of a total 3,042 judges, 1,056, or 34.72, per cent are women. It is noteworthy that the president of the Conseil d'Etat is a woman, there are three female chief justices, 29 female presiding judges, out of a total of 193, and 83 female investigating judges out of a total of 331.

170. Six sections of the 15 division chiefs at the Supreme Court are women, and all six division chiefs at the Conseil d'Etat are women.

171. At the Ministry of Justice, out of a total of 146 executive posts, 22 are occupied by women. Of the 13,737 civil servants working across all departments, 6,024 are women, and of the 10,210 persons employed in the registry, 4,917 are women, meaning that 48.16 per cent of the staff are women.

172. The Vice-Governor of the Bank of Algeria is also a woman, and she is also a member of the Currency and Credit Council (*Conseil de la Monnaie et du Crédit*), the country's top financial institution. The heads of the faculties of sciences and nature, the faculties of arts, and the University of Science and Technology are all women.

173. It is also worth mentioning the very encouraging measures taken by the authorities to ensure that more women enter professions which, until recently, were considered the preserve of men. Increasing numbers of women are entering the army, the gendarmerie, and the section of the national police that develops outreach work and listening services in police stations for women in difficulties. Every police station in a *däïra* has least one woman on hand to assist and advise women; the aim is to make police stations less forbidding and encourage people to feel at their ease when they come to a police station to recount their problems. There are now more female law-enforcement officers at airports, ports and in the courts. Some women have reached the rank of city police officer and superintendent. One woman, who is a chief of superintendent, holds a senior position as director of studies.

174. It should be noted that the recruitment of women legal officers and establishment of community policing services have facilitated the process of caring for women victims of ill-treatment, because these women are now listened to, advised and assisted until the perpetrators are brought before the competent courts.

175. The progress made in establishing the principle of equality of the sexes is also evident from the incentives provided with regard to recruitment and pay. During the years 2002, 2003 and 2004, recruitment of police women was as follows:

Table 2

Recruitment of women to the police

	2002	2003	2004
Law-enforcement officers	500		205
Inspectors		150	75
Officers	50		34

176. Beside police women, female staff with comparable duties play an important role in the institution. They number 2,957, a figure that is set to rise, particularly in specialist services. In 2004, the Directorate General of National Security employed 6,423 women, 3,466 of whom were police women with different ranks and 2,957 were other staff.

177. At the Directorate General of Civil Defence, women's performance of tasks traditionally regarded as a man's job has seen women joining and being promoted within the administrative and operational departments of the Directorate.

178. Therefore, in spite of the specificities of this institution, measures have been taken since 1992 to overcome the psychological obstacles and barriers to recruiting women, particularly in intervention units.

179. Implementation of the regulations on the civil protection service, particularly Executive Decree No. 91-274 of 10 August 1992, has facilitated women's integration into several professions. The health-care sector has been the major beneficiary of women's recruitment. Although circumscribed to begin with recruitment and employment of female doctors has grown exponentially over the years, even in spite of the poor working conditions.

180. There are currently 101 female doctors working as civil protection officers, assigned according to the needs of the 48 *wilayas*. They are subject to the same disciplinary and operational rules as their male counterparts.

181. In addition, women began joining the civil protection ranks in 1996, when the first engineer officers graduated. Women were given posts of responsibility in the institution's chain of command which, it should be recalled, follows strict rules of discipline in line with the demands of a strongly hierarchical organization. The number of positions of responsibility or leadership assigned to female staff is testimony to the role that women now play in the Algerian civil protection system.

182. The deputy directors, respectively for social action and major risks, are, firstly, a female doctor with the rank of captain, and, secondly, a female university graduate with an engineering degree. Promotion of female staff has given women access to more senior positions: 8 women are currently occupying senior posts; 158 are officers; and 14 are non-commissioned officers.

183. There is no legislative or regulatory provision that restricts women's participation in the country's political life. The Constitution and Ordinance No. 97-07 of 6 March 1997, introducing the law on organization of elections, guarantee women the right to vote and to be elected. The Ordinance establishes the criteria for eligibility to vote, making no distinction between men and women. The figures below show women's participation in the 2002 local elections. It is noteworthy that out of a total electorate of 18,094,555, some 8,349,770 voters i.e. 46.14 per cent were women.

Table 3
Female candidates in different elections
(2002 elections)

	Number of female candidates	Total number of candidates	Percentage (%)
National People's Assembly	695	10 052	0.06
<i>Wilaya</i> people's assemblies	2 697	32 627	0.08
Communal people's assemblies	3 705	119 636	0.03

Table 4
Number of female members of Parliament

	Number of women	Total number of representatives
APN	23	389
Council of the Nation	3 (appointed under the Tiers Presidential Group)	144

Table 5
Number of female local politicians

	Number of women	Total number of representatives
<i>Wilaya</i> people's assemblies	115	1 960
Communal people's assemblies	149 (including one communal people's assembly chairperson)	13 464

184. The figures on women's participation in local and legislative elections are found hereunder.

Table 6
Women's participation in local and legislative elections

	1997		2002	
	Candidates	Elected	Candidates	Elected
Communal people's assemblies	1 281	75	379	147
<i>Wilaya</i> people's assemblies	905	62	2 684	113
National People's Assembly	322	11	694	27
Council of the Nation	-	-	-	3

185. It is worth emphasizing that a woman, the chairperson of the Workers' Party, stood as a candidate in the presidential elections of 8 April 2004.

Education and career choice

186. There are currently two branches of secondary education, one general and technological and the other technical. While more girls than boys follow the general curriculum, fewer girls enter the technical branch. It should be noted, however, that the number of students in technical education is a small proportion of the total secondary school population, representing some 13 per cent.

187. This lack of enthusiasm among parents and students alike for the technical stream is essentially due to the lack of value that Algerian society continues to place in technical subjects. People prefer the classical subjects of general education, which offer a broader range of openings and more opportunities than technical subjects, which are more specialized and therefore offer more limited prospects.

188. As stated in the report, all streams are open to all students without any discrimination, depending on the choices that they make and their abilities.

189. Under the current career guidance system, on the basis of their results, the most able students are steered towards the general education curriculum. This normally prepares students for the general education baccalaureate, which opens the door to academic university studies, usually of some duration. Other, usually less gifted, students are guided towards the technical secondary scheme to prepare them for the technician's baccalaureate, which leads on to shorter technical or advanced technical courses.

190. Since girls generally do better than boys at school, they often tend to opt for the general and technological streams and for academic university studies.

191. It should be noted, however, that while the number of girls in general education is relatively high compared to the number of boys, girls account for a third of all students in technical education, which is a significant proportion. This is not only the case in Algeria; the global trend is for fewer girls than boys to choose technical studies.

192. The education system reforms that came into effect in September 2005 provide for the reorganization of secondary education. In that framework, a new segment for vocational technical education was developed. In the medium term, this segment is expected to account for 30 per cent of all secondary school students and will therefore draw in higher numbers of girls.

Statistics on teachers

193. The number of female teachers is growing steadily. There are almost equal numbers of male and female teachers at the different levels of education, except for higher education, where further efforts are required. It should, however, be noted that a third of teachers in higher education are women, which is not inconsiderable.

Table 7**Female and male teaching staff at the different levels of education**

Level of education	Number of women	Total number of teachers	Percentage (%)
Primary	84 598	170 031	49.75
Medium	56 683	107 898	52.53
Secondary	59 177	27 925	47.19
Higher	7 309	22 650	32.60

Literacy programme evaluation

194. The literacy programme for women and girls (1990-2001) was launched in the context of International Literacy Year, which was declared by the United Nations Educational, Scientific and Cultural Organization (UNESCO) during the international conference held in Thailand in September 1990, and the beginning of the United Nations Literacy Decade.

195. The project officially took off in 1991, targeting women and girls of child-bearing age (18-39-year-olds). Its main objective was the economic, social and cultural advancement and empowerment of 30,000 women.

196. The choice of the *wilayas* involved in this project was made in two stages. During the first stage, the following four *wilayas* were selected: Adrar, Medea, Mostagnem and Ain Defla. During the second, the following 10 *wilayas* were selected: Adrar, Batna, Bejaia, Bechar, Tamanrasset, Tlemcen, Oran, Tindouf, Tipaza and Gjardaia.

197. In the first stage, the project had only 30 classrooms at its disposal. This figure increased steadily, reaching 333 by the end of 1991. In the second stage, this initiative made possible the opening of 200 classrooms in 10 *wilayas* with high rates of illiteracy.

198. The most significant result of the project which is worth highlighting is the fall in the illiteracy rate from 43 per cent of the population (according to the 1987 general census) to 31.9 per cent (according to the 1998 general census).

199. In light of these results, the National Literacy Centre changed its name, becoming known from 20 May 1995 onwards as the National Office for Literacy and Adult Education. It was awarded a prize and a diploma by the International Reading Association, through UNESCO, in September 1995 in Beijing.

200. The implementation of this project has also resulted in the preparation of a set of tools and aids for education at all three levels, the production of a film by the IQRAA ("Read") Association on eradicating illiteracy, and the coaching of a large number of trainers at the national level.

201. In the context of the evaluation of the project, UNICEF commissioned the National Centre for Study and Analysis of Population and Development to conduct a project assessment, the results and recommendations of which would be used as tools for improving the implementation strategy.

Combating stereotypes

202. Since September 2003, the Algerian Government has been engaged in reform of the education system. The purpose of this reform is to establish modern, republican schools providing quality education to children and training tomorrow's citizens.

203. This is a deep and radical reform involving upgrading of staff qualifications, a complete overhaul of curricula and textbooks, restructuring of the education system, new ways of working for institutions and new roles for the different actors in the system, ranging from school heads to teachers, pupils and parents.

204. New elements have been incorporated into the curricula, including human rights education, population studies, health education, global citizenship education and environment studies. In short, this constitutes true education in citizenship.

205. The principles taught relate to the universal values of peace, tolerance, mutual respect, mutual assistance, and solidarity, which are found not only in citizenship education, but also in the teachings of Islam and other disciplines, in the context of the cross-cutting programmes and complementary disciplines. The religious principles taught are therefore in line with the above-mentioned values and are part and parcel of the values of our religion.

206. Although, in the past, school books contained images that made reference to discriminatory stereotypes, that is no longer the case today. All school books have undergone a thorough, systematic and rigorous evaluation, and their distribution in schools is subject to the approval of a committee of experts in this field. Since the rule of law is general and abstract, it seemed only natural for this guiding principle to be meaningfully enshrined in Algerian legislation, following the example of all other legislation.

207. It was even more evident that, in regulating the life of society, domestic laws on different relations in society should reflect the egalitarian spirit of the law and ensure that civil and criminal cases are dealt with by the courts in an equitable manner devoid of any form of discrimination.

208. With regard to criminal legislation, Algeria has always proclaimed its commitment to respect for rights and personal freedoms and the principle of the legality of punishments, and has always drawn on universal human rights principles when establishing regulations on the treatment of persons subject to the jurisdiction of a court, free from any form of discrimination or distinction on the grounds of sex or opinion.

209. It would therefore be erroneous to say that there is any disparity and/or particular difference in the treatment of women, as compared with men, in the Algerian criminal justice system.

210. In fact, texts like the Criminal Code, the Code of Criminal Procedure and other special texts do not refer to women per se, since criminal law, which is binding law, refers to everyone in general, impersonal and abstract terms.

211. Nevertheless, the Algerian legislature is aware of the situation of Algerian women in society in general and the family in particular and has taken measures to strengthen women's rights and provide wives with the same guarantees as husbands, protecting them from reprisals by the ex-husbands following a court divorce.

212. Thus, with regard to divorce, the judgement declaring the dissolution of the marriage is delivered at first and last instance by the court of first instance, and is not subject to appeal, as it was in the past, except in respect of alimony and/or civil damages or compensation and interest. Article 57 of Act 84-11 of 9 June 1984, as amended by Act 05-09 of 4 May 2005 on the Family Code, provides that "divorce judgements shall not be subject to appeal, except in respect of their material aspects".

213. The reasons for declaring divorce judgements delivered at first instance to be not subject to appeal lie in the fact that a divorced woman is not considered to be divorced and cannot remarry until the divorce judgement has become final and all remedies have been exhausted.

214. In the past, the majority of divorced women could not rebuild their lives by marrying again, for the simple reason that the ex-husband, whose hand was strengthened by the remedies provided and guaranteed by law, and by the fact that he could still take another wife, would use the appeals process as a delaying tactic, with the sole undeclared and dishonest aim of holding his ex-wife to ransom and further jeopardizing her social position, knowing full well that the law allowed him to remarry up to three times before the divorce judgement became final, and four times thereafter, while the wife must wait for the divorce judgement to become *res judicata*.

215. Furthermore, in the same context, a married and/or divorced woman whose husband had abandoned the family home or failed to pay alimony, was obliged to file a complaint with the public prosecutor, who was at liberty to decide whether a criminal prosecution should be brought and thus whether the complaint should be taken up or dismissed.

216. In prosecutions brought by the public prosecutor, the complaint was transmitted to the police in order for the parties to be heard. This procedure for formalizing the complaint took several months, sometimes over a year or more, if the husband was living abroad, notwithstanding the lengthy periods of time taken up by subsequent proceedings.

217. In order to end this unfair situation for women, the Algerian legislature adopted Act No. 90-24 of 18 August 1990, enabling the civil party, i.e. one of the spouses, to take proceedings against the spouse brought before the criminal courts for abandoning the family home and failing to hand over a child to the person entitled to custody, in accordance with the conditions laid down in article 337 bis of the Code of Criminal Procedure.

218. Such provisions are considered innovative as far as criminal law is concerned, and constitute a marked qualitative improvement to the Algerian criminal justice system, since the public prosecutor, who traditionally initiated criminal proceedings and decided on the follow-up to complaints pursuant to the above-mentioned article 337 bis, is now only responsible for deciding on the amount of the security to be paid by the civil party and has no right to review or decide on the admissibility of the complaint, since such cases are brought directly before the criminal courts.

219. Article 337 bis of the Code of Criminal Procedure (Act No. 90-24 of 18 August 1990) states: “The civil party may take direct proceedings against an accused person in the following cases: abandonment of the family; failure to hand over a child to the person entitled to custody; violation of domestic privacy; defamation; and issuing a bad cheque. In other cases, direct proceedings must be authorized by the prosecution service. A civil party instituting court proceedings, pursuant to the preceding paragraphs, must first provide the registrar with a deposit, the amount of which shall be set by the public prosecutor. In the writ of summons, the civil party shall make a choice of jurisdiction in the judicial district of the court, unless the civil party is domiciled there. This is all provided that the summons is not declared inadmissible.”

220. With regard to the integration of women into the criminal justice system other than as judges or police officers, it should be emphasized that, as citizens, women, like men, are called as jurors in the criminal courts. In this regard, article 261 of the Code of Criminal Procedure provides that “the jury service can only be performed by persons of either sex, of Algerian nationality and at least 30 years of age, who are literate, enjoy civic, civil and family rights, and are free from any form of legal incapacity or incompatibility as set forth in articles 262 and 263”.

221. The cases of legal incapacity listed in article 262 of the Code concern persons with a criminal record.

222. The cases of legal incapacity listed in article 263 concern members of the Government and other civil servants whose duties are incompatible with those of a juror.

223. In the same context, women also participate in the criminal justice system through young offenders’ courts. Since each court has a section for minors, article 450 of the Code of Criminal Procedure provides: “The minors’ section comprises a presiding juvenile judge and two non-presiding judges.”

224. Titular and alternate non-presiding judges are appointed for a three-year period by order of the Minister of Justice. They are chosen from among persons of both sexes, who are over 30 years old, hold Algerian nationality and are nominated on the basis of their interest in children’s issues and their competence.

225. Before commencing their duties, titular and alternate non-presiding judges take an oath before the court, pledging to perform their duties well and faithfully and to keep their deliberations strictly confidential.

226. Titular and alternate non-presiding judges are selected from a list drawn up by a commission that sits in each court and the composition and functions of which are established by a decree.

Article 4: State of emergency

1. Brief recap of the conditions for declaring a state of emergency

227. Bearing in mind the very serious situation of insurrection and subversion that has beset the country since 1991, exceptional measures were taken, as a matter of absolute necessity,

including the declaration of a state of emergency in February 1992, pursuant to article 86 of the Constitution of 23 February 1989 and article 4 of the International Covenant on Civil and Political Rights.

228. Presidential Decree No. 92/44 of 9 February 1992, declaring a state of emergency, was intended, *inter alia*, “to restore public order” and “ensure better security for persons and property” (art. 2), and it authorized the Government to take any statutory measure within its competence to achieve that aim (art. 3).

229. In accordance with the procedures set forth in article 4, paragraph 3, of the Covenant, the Algerian Government notified the Secretary-General of the United Nations in a statement of the proclamation of 13 February 1992. No restrictions or derogations were imposed with regard to the enjoyment of the rights referred to in paragraph 2 of the said article. The proclamation stipulates that “the establishment of the state of emergency, which is essentially intended to restore public order, to safeguard persons and property, and to ensure the proper functioning of public institutions and services, does not interrupt the democratic process, while the exercise of fundamental rights and freedoms continues to be guaranteed”. Overall, Algeria used all the resources of constitutional law that had been established, without creating any jurisprudence of exception.

230. At the practical level, the public authorities ensured strict respect for the principle of proportionality between the seriousness of the crisis and the measures taken to address it. The purpose of the measures taken was to overcome the threats described in article 87 of the 1989 Constitution and article 91 of the revised Constitution of 1996 (a serious attack against the country’s institutions through a public appeal for disobedience of the security forces launched by the leaders of a political party, the expressed desire to disband the police force and replace it with “vice squads”, armed attacks upon the police and the military, sabotage of State institutions and destruction of public property).

231. All constitutional systems, whatever their philosophical or political foundations, allow for the adoption of exceptional measures in emergency situations. International law provides for this possibility, as shown in article 4 of the Covenant.

232. The circumstances are set out in article 67 of the Constitution, as follows: an imminent threat to the country’s institutions, an attack upon national independence and a threat to territorial integrity.

233. Apart from the fact that the situation was such that it met the legal conditions for the adoption of exceptional measures, it should be stressed, in this case, that the major principles enshrined in domestic and international law were upheld, *i.e.* the principles of legality, notification, non-retroactivity of laws, non-discrimination, proportionality and the inviolability of fundamental rights.

2. General developments in the situation since 1995

234. Since 1995, actions taken in the framework of the state of emergency have made it possible progressively to strengthen and adapt the mechanisms for combating terrorism and to implement a series of measures to abandon or relax some of the arrangements put in place in the context of the state of emergency.

235. These measures resulted in the closure of police centres, the lifting of the curfew in all affected *wilayas*, on 16 February 1996, the repeal of legislation on special courts, pursuant to a decree of 25 February 1995, the restoration of ordinary law following the promulgation of a clemency (*rahma*) law designed for the social reintegration of all those who manifest the desire to renounce armed violence, and making searches and police custody subject to ordinary law.

236. It seems clear that the measures taken in the context of the state of emergency, particularly those considered the most coercive measures, such as police centres, curfews, searches and police custody, and restrictions on press freedom, were progressively removed thanks to the changes made possible by the restoration of public order and security.

237. With regard to measures that are still in force, it must be said that all the measures imposed because of the emergency situation and out of necessity have now been lifted. The state of emergency, as a legal arrangement, no longer raises any concerns about restrictions on the exercise of personal and collective freedoms, these being matters for the legislation and regulations on each specific aspect, whether it be public meetings and demonstrations, the activities of political parties or the existence of associations, to name but a few.

238. The establishment of the state of emergency has not infringed associative or political freedoms. On the contrary, associations and registered political parties continue to carry out their activities, holding meetings and participating in different elections as normal.

239. In this regard, Act No. 90-31, concerning social associations, built more flexibility into the constitutional procedures for forming an association by creating a simple declaratory system. This system has facilitated the emergence of a vast movement of associations, which counted only for 167 national associations between 1962 and 1989.

240. It also swiftly led to a sharp rise in the number of national and local associations. By 31 December 2002, a total of 66,231 associations had been registered, and by 31 December 2003, the number of registered associations had risen to 73,245, meaning that 7,014 new associations were established in 2003.

241. In comparison, the number of associations, which stood at no more than 30,000 on 31 December 1992, increased to 48,201 in 1997 and to 52,026 in 1998. These figures illustrate, should illustration be necessary, that the exercise of freedom of association has not been subject to any restrictions and that, on the contrary, it has always received State encouragement and support.

242. The right to freedom of assembly, as enshrined in the Constitution, is exercised in conformity with Act No. 89-28 of 31 December 1989, as amended and supplemented by Act No. 91-19 of 2 December 1991. In this regard, it should be mentioned that, in the *wilaya* of Algiers alone, over 300 declarations were registered in 2004.

243. It should also be emphasized that, during the ballots of 2002 and 2004, a considerable number of registered public meetings were held during the electoral campaigns. As far as public meetings are concerned, there are no restrictions other than those laid down by law for the maintenance of public order.

244. Furthermore, the state of emergency has not impeded the activities of political groups; over 14,000 public meetings have been scheduled, organized and held by political parties since the state of emergency, to which should be added the growth in civil society activities.

3. Resumption of the electoral process

245. The entire electoral process (presidential elections, parliamentary elections, local elections and elections to the Council of the Nation) was conducted in accordance with the Constitution and successive laws, in 1995, 1996, 1997, 1999, 2002 and 2004, in a climate of absolute normality and, in some instances (the presidential elections and parliamentary elections), under international scrutiny.

246. Continuing with the electoral process which began in 1997, Algeria held three major electoral consultations in 2002 and 2004 (legislative, local and presidential elections), facilitating the consolidation of pluralist democracy and to encouraging elected representatives from different political parties to participate in the management of public affairs, whether at the level of the People's National Assembly or the local people's assemblies (communes and *wilayas*).

247. These three electoral consultations stand out for a number of important reasons, including:

(a) The flawless neutrality and impartiality of the administration at all stages: preparation, organization and conduct of the electoral process and the counting of votes. Both the letter and the spirit of the law were respected;

(b) The specific political context: since legally registered political parties and pressure groups had tried everything, including the use of violence, sometimes in conjunction with attacks upon the physical integrity of persons and against property and public order, to sabotage the electoral process in certain regions of the country;

(c) Wide participation by all political representatives in Algeria;

(d) The establishment of an independent election monitoring committee for the parliamentary elections of 30 May 2002, the local elections held on 10 October 2002, and the presidential elections on 8 April 2004:

(i) Elections were held on 30 May 2002 to vote for the members of the People's National Assembly (389 seats). Of the 943 ballot lists submitted, 814 were submitted by a total of 23 political parties and 129 were from independents, and of the 10,052 candidates, 9,538 were men and 694 were women;

- (ii) A total of 8,059 ballot lists were submitted for the local elections on 10 October 2002: 7,570 by political parties, 488 by independents and 1 by a coalition of several political parties. The total number of candidates was 119,636, of whom 115,960 were men and 3,654 were women;
- (iii) There were six candidates for the presidential elections held on 8 April 2004, one of whom was a woman. These elections were a major event in the political life of the country. The dynamism of the electoral campaign, as well as the number of public meetings held by all of the candidates, demonstrate that the state of emergency did nothing to hamper the strengthening of the democratic process.

248. At the national level, participation in terms of candidatures has developed both qualitatively and quantitatively when compared with the 1997 elections. Out of the 10,052 candidates for the parliamentary elections, 4,155, or nearly 50 per cent, had completed higher education, 388 of them at the post-graduate level.

249. With regard to the elections for the *wilaya* people's assemblies, 523 ballot lists were submitted: 424 by 24 political parties, 27 by independents, and 5 by a coalition of several political parties. This made a total of 32,627 candidates, of whom 29,975 were men and 2,652 were women.

250. It should be borne in mind that the presidential elections of 8 April 2004 were conducted in the presence of international observers: a representative of the United Nations, delegations consisting of 5 observers from the Organization for Security and Co-operation in Europe, 7 observers from the European Parliament, 64 observers from the League of Arab States, and 24 observers from the African Union, together with one observer who was a member of the United States Congress.

251. The teams of international observers observed the voting and sorting processes across the whole country, visiting both urban and rural centres. They also visited the operations centres of the *wilayas*, the Ministry of the Interior and local government authorities. All the international observer teams commented positively on the handling and transparency of the election process.

252. In preparation for those elections, Ordinance No. 97-07, concerning the law on the organization of elections, was amended to consolidate electoral democracy and transparency. The new provisions entailed:

(a) The abolition of special polling stations: in previous elections, members of the people's national army, the national security directorate, the civil protection department, the national customs office, the prison service and the communal guard exercised their right to vote in their barracks, i.e. in their place of work;

(b) Presentation of a copy of the communal electoral list: duly authorized representatives of political parties participating in the elections and independent candidates can consult the communal electoral list and obtain a copy;

(c) Provision of duplicate copies of reports: duplicate copies of the different reports are handed over to the candidate or his duly authorized representative, together with a duplicate copy of the report on the sorting process, prepared and signed by members of the election committee, on the same day, i.e. before leaving the polling station. The same applies to the other reports on communal counting of the votes and the centralization of results;

(d) A new set-up for the *wilaya* electoral committee: the committee used to consist of three judges, including the chairman, all appointed by the Minister of Justice. What is new is that the committee now comprises a chairman, at the rank of adviser, who is appointed by the Minister of Justice, and a deputy chairman and two assistants appointed by the voters in the *wilaya*;

(e) The provision of lists of members of polling centres and stations: in addition to posting the lists of members and alternate members of polling centres and stations in the seats of the *wilayas* and communes concerned, these lists are now also handed over simultaneously to the representatives of the political parties taking part in the elections and to independent candidates;

(f) Replacement of observers in case of absence: the candidate must submit a list of persons authorized to represent him to the polling centres and stations of the electoral district, i.e. the commune, in the case of elections for communal people's assemblies, the *wilaya*, in the case of elections for the legislature and the *wilaya* people's assemblies, and to the national authorities, in the case of presidential elections, no later than eight days before the election date.

253. Under the new law, the candidate may submit a supplementary list, subject to the same conditions for substitution and the same time limits, in the event of the absence of observers at the polling station or centre.

254. All the above information shows that the establishment of the state of emergency has not hampered the exercise of public freedoms in any way; on the contrary, it has helped lay the foundations for a real, nascent and effective democracy which respects the Constitution, the laws of the Republic and Algeria's international obligations.

255. Maintenance of the state of emergency is motivated only by the desire to improve coordination between the security services with a view to eliminating the remaining pockets of insecurity in the grip of terrorist groups which are still bent on violence and attacking human life, as well as individual and public property.

256. The state of emergency will only be lifted when the Algerian authorities decide that the circumstances which led to its establishment have completely disappeared.

Article 5: Restrictions upon, or derogation from, human rights

257. An explanation of the circumstances that prompted recourse to the constitutional provisions on declaring a state of emergency and the extent to which these measures are in conformity with Algeria's international commitments is provided above in the section on article 4 of the Covenant.

258. However, the Algerian Government wishes to emphasize that the Ordinance of 27 February 2006 and the four presidential decrees issued pursuant to the Charter for Peace and National Reconciliation codify the procedures for dealing with circumstances that arose from a decade of terrorist crime from a legal, humane and social standpoint.

259. In the first place, these legal texts are based on the Algerian Constitution, and would have been struck down by the Constitutional Council if they had deviated from it in any way. In fact, the Constitution, which has a chapter on “Rights and Liberties” and another on “The Judicial Power”, cannot properly be invoked to challenge these rights, which it endows with constitutional status, nor can it be construed as a source of conflict between the branches of State that are clearly identified in the Constitution.

260. The Ordinance and the implementing decrees ensure full respect for the rights of citizens and of each and every individual subject to the jurisdiction of a court, in accordance with the International Covenant on Civil and Political Rights.

261. Indeed, an examination of the Ordinance and its implementing legislation shows them to be consistent with international standards.

- With regard to freedom of expression, article 19, paragraph 3, of the Covenant states that the exercise of the rights provided for in paragraph 2 carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided for by the law and are necessary for respect of the rights or reputations of others, or for the protection of national security or public order, or of public health or morals.

262. The Ordinance of 27 February 2006 in no way impairs the enjoyment of this right, which is enshrined in article 41 of the Algerian Constitution, although the International Covenant on Civil and Political Rights does provide that the right may be subject to restrictions (see paragraph 261).

- Any citizen who enjoys civil rights is entitled to freedom of association as established in the law of 6 March 1997 on the organization of political associations.

263. The restrictions set out in the Ordinance are not new; they are found in article 42 of the Constitution, as well as articles 3, 5 and 7 of the organizing law. They apply to persons who exploit religion for criminal purposes, or who advocate the use of violence against the nation or institutions of the State.

264. No legal system in the world would countenance the involvement of persons who engage in such acts in political activities. For example, article 5, paragraph 1, of the International Covenant on Civil and Political Rights provides: “Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.” Article 22, paragraph 2, of the Covenant, which deals with the subject of freedom of association, states: “No restrictions may be placed on the exercise of this right other than those which are prescribed

by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.” Article 20 makes it clear that “any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law”. The claim that the Ordinance of 27 February 2006 limits political or political party activities is therefore unfounded and has no basis in law.

- The right to justice and the right to appeal are given legal recognition in article 14, paragraphs 1 and 5, of the Covenant; however, these rights of persons on trial must be exercised in accordance with the relevant domestic procedures.

265. The provision in article 45, chapter 6, of the Ordinance of 27 February 2006, limiting the admissibility of accusations or complaints made by an individual or group against any part whatever of the defence and security forces of the Republic, was approved by the people in the referendum held on 28 September 2005 on the Charter for Peace and National Reconciliation. It therefore represents a specific amendment, introduced by the referendum, to the general rules on the initiation of legal proceedings.

266. The purpose of this provision is to ensure that this right afforded to Algerian men and women, an electorate of 18 million people, is not violated or undermined by any third party. The Algerian people who, as indicated in article 141 of the Constitution, are the source of legitimacy on whose behalf justice is done, exercised their right to declare any legal proceedings on this matter to be inadmissible.

267. The texts implementing the Charter for Peace and National Reconciliation are also in conformity with international law on the status of victims and beneficiaries, and maintain the established principle that compensation should be made available in cases of “disappearance”.

Article 6: Death penalty

268. The Algerian Government confirms that no death penalty has been carried out since September 1993. While it is true that a significant number of death sentences have been passed in the absence of the accused, in Algerian law, a sentence passed in absentia is not regarded as definitive.

269. Furthermore, since Algeria became independent, no children under 18 years of age have been sentenced to death, and no women have been executed. In recent years, hundreds of people given a final death sentence have had their sentence commuted to life imprisonment.

270. In line with this moratorium, there has been a trend in law towards the abolition of the death penalty. This is apparent from the successive revisions of the Criminal Code since 2001, repealing the death penalty for over 10 offences, and from the special laws enacted in the context of justice reform (laws on money-laundering and terrorist financing, illegal drug trafficking, and corruption and counterfeiting), none of which prescribe the death penalty.

271. The executive is currently conducting a sentencing review that may result in the submission of a bill to parliament, on the abolition of the death penalty for a number of offences.

Article 7: Torture and cruel, inhuman or degrading treatment or punishment

272. Act No. 14-15 of 10 November 2004, amending the Criminal Code, redefined the offence of torture. The new offence, which draws on the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, defines the constituent elements of the offence more clearly, and makes a clear-cut distinction between torture and other violations of the individual freedoms and physical integrity of the person. The new provisions which define and prohibit torture read as follows:

- Article 263 bis: “Torture is defined as any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for any purpose whatsoever.”
- Article 263 ter: “Anyone who uses, incites or orders the torture of another person shall be liable to a penalty of between 5 and 10 years’ imprisonment and a fine of between DA 100,000 and DA 500,000.”

273. Torture shall be punishable with a prison sentence of 10 years and a fine of between DA 150,000 and DA 800,000 when it precedes, accompanies or follows any crime other than murder.

274. Furthermore, article 263 quarter states, “Any public servant who uses, incites or orders the use of torture for the purpose of obtaining information or a confession, or for any other reason, shall be liable to a penalty of between 10 and 20 years’ imprisonment and a fine of between DA 150,000 and DA 800,000.”

275. The sentence shall be life imprisonment for certain crimes when the torture precedes, accompanies or follows any crime other than murder.

276. Lastly, “any public servant who condones or fails to report the acts referred to in article 263 bis of this law shall be liable to a penalty of between 5 and 10 years’ imprisonment and a fine of between DA 100,000 and DA 500,000”.

Article 8: Slavery, human trafficking and servitude

277. Slavery, human trafficking and servitude are practices that are not known to Algerian society, which cultivates relationships based on respect and equality both among individuals, and between individuals and the State, in accordance with the principles set out in articles 8 and 9 of the Constitution. Article 8 states: “The people establish institutions to suppress exploitation of man by man”, and article 9 provides that “institutions must refrain from establishing relationships based on exploitation and dependence”.

278. Algeria is also a party to the international conventions prohibiting and combating such practices, namely the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others and the International Convention on the Elimination of All Forms of Racial Discrimination.

Article 9: Liberty and security of person

279. Although detention in police custody is limited by law to the time necessary for the police inquiry, it nonetheless constitutes deprivation of liberty in the same way as pretrial detention ordered by an investigating judge, or detention of an individual during the investigation of a case of *flagrante delicto*.

280. For these reasons, Algerian legislation has been amended to strengthen protection of individual liberties and the role of the public prosecutor in supervising the activities of the criminal investigation service, especially the use of police custody.

281. The old version of article 51 of the Code of Criminal Procedure, introduced by Act No. 90-24 of 18 August 1990, required criminal investigation officers to notify the public prosecutor any time a decision was taken to place one or more persons in police custody.

282. To avoid this requirement being reduced to a mere formality, where the requirement to immediately inform the public prosecutor was met by a hypothetical telephone call, which might be “dispensed with” if there was a fault on the telephone line, article 51 was amended by Act No. 01-08 of 26 June 2001 to require criminal investigation officers to submit a report to the public prosecutor, giving grounds for the detention.

283. In its previous form, article 51 of the Code of Criminal Procedure also provided that where there was sufficient reliable and consistent evidence against a person to justify pressing charges, the criminal investigation officer had 48 hours to bring the person in custody before the public prosecutor.

284. Experience showed that many criminal investigation officers systematically placed individuals in custody, pursuant to these provisions, without taking any account of factors mitigating in favour of their release. To put a stop to this excessive use of police custody, Act No. 01-08 of 26 June 2001, amending article 51 of the Code of Criminal Procedure, introduced new measures requiring criminal investigation officers to release a person where there was no evidence to implicate him or her in a crime or attempted crime. Officers were also required to hold a person only for the time necessary to record a deposition, failing which the officer would be liable to legal proceedings for arbitrary detention.

285. Article 51 of the Code of Criminal Procedure (Act No. 90-24 of 18 August 1990) states: “If, for the purposes of the inquiry, the criminal investigation officer is obliged to hold one or more of the individuals referred to in article 50, he shall immediately notify the public prosecutor, and the duration of police custody shall not exceed 48 hours. Without prejudice to the confidentiality of the inquiry, the officer shall allow the person in custody to make immediate and direct contact with his or her family, and to receive visits. Where there is sufficient reliable and consistent evidence to justify pressing charges, the officer must bring the person before the public prosecutor, and may not detain the person for more than 48 hours. All the time limits laid down in this article shall be doubled in cases involving attacks upon State security. When the time limit for police custody expires, a medical examination of the person in custody must be carried out, if the said person requests it directly or through his counsel or family. The examination shall be performed by a doctor of his choosing, and the person shall be informed of this right.”

286. “A criminal investigation officer who breaches any of the provisions on time limits for police custody contained in the preceding paragraphs shall be liable to the penalties prescribed for arbitrary detention.”

Article 10: Humane conditions of detention

287. Given the information outlined above concerning the notion that police custody is a measure of deprivation of liberty in the same way as pretrial detention, it should be stressed that Act No. 01-08 of 26 June 2001 introduced new regulations on the treatment of persons in police custody. In particular, the principle of human dignity, with everything that it implies from a humane point of view, was written into the Code of Criminal Procedure.

288. Two paragraphs were added to article 52 of the Code of Criminal Procedure, stating explicitly that persons in police custody must be held in conditions consistent with human dignity, at a facility designated for that purpose, and subject to inspection by the public prosecutor at any time.

289. Article 52 of the Code of Criminal Procedure, as amended and supplemented by Act No. 01-08 of 26 June 2001, provides: “The criminal investigation officer shall record, in the deposition of anyone being held in police custody, the duration of interviews and rest breaks between interviews, together with the date and time when the detainee was either released or brought before the appropriate member of the legal service. These details shall either be counter-signed, in the margin, by the person concerned or indicate the detainee’s refusal to sign. The reasons why the individual was held in custody shall also be recorded. This same information shall be entered in a specific register, to be numbered and initialled by the public prosecutor, which shall be kept for this purpose at any police or gendarmerie station in which persons may be held in custody.”

290. “Persons in police custody must be held in conditions consistent with human dignity and at a facility designated for that purpose. The facilities may be inspected at any time by the public prosecutor in that district.”

291. “If he or she deems it necessary, the public prosecutor may appoint a doctor, on his or her own initiative, or at the request of a family member or counsel for the person in custody. The doctor shall be entitled to examine the detained person at any time during the time limits set out in article 51.”

292. Following the introduction of these legislative measures, the promotion of decent treatment in the prison service was pursued through the programme for reform and modernization of the justice system.

293. The overall objectives of the five-year justice reform programme for 2003-2007 include promoting and enhancing the process of rehabilitation, improving conditions in detention, and modernizing prison management. This is in line with government strategy, which aims, inter alia, at reintegrating former prisoners into society.

294. The creation of the Directorate-General for Prison Administration and Rehabilitation, which was established during the last decade by Executive Decree No. 98-2002 of 20 June 1998,

reflects the Government's determination to lay the groundwork for the effective and sustained reintegration of former prisoners into society, and thus to prevent reoffending and tackle its underlying causes.

**Article 12 and article 13: Liberty of movement and residence,
and rights of aliens**

295. Article 13 of Ordinance No. 66-211 of 21 July 1966, on the situation of aliens in Algeria, states that aliens have the right "to reside and travel freely within Algerian territory".

296. The requirements to be met by aliens seeking leave to remain or to settle in the country are set out in Decree No. 66-212, implementing Ordinance No. 66-21 of 21 July 1966, as amended and supplemented by Presidential Decree No. 03-251 of 19 July 2003 concerning, inter alia, the issuance of residence permits.

297. Algerian law also permits aliens to undertake paid employment in Algeria, providing that they first obtain a work permit. Decree No. 66-212 implementing Ordinance No. 66-211 of 21 July 1966 on the situation of aliens in Algeria was amended and supplemented by article 18 of Decree No. 71-204 of 5 August 1971, which stipulates that "a work permit must be obtained prior to commencing paid employment in Algeria".

298. Aliens in an irregular situation are removed from Algeria. Most of those affected are persons who entered the country with neither a travel document nor a valid visa. Refugees or stateless persons, who are protected under the Algerian Constitution, are not subject to removal.

Article 14: Right to justice

299. Since the right to justice is guaranteed by the Constitution, Algerian legislation prohibits any attempt to impair or undermine this right, which would be regarded as a denial of justice. The relevant offence is abuse of authority vis-à-vis a private individual and is punishable under article 136 of the Criminal Code, which states: "Any judge or administrator who, on any pretext whatever, refuses to render justice to parties, after being required to do so, and who perseveres in such refusal, after having received a warning or order from his superiors, may be liable to prosecution and a fine of between DA 750 and DA 3,000, together with disqualification from holding public office for between 5 and 20 years."

Article 15: Non-retroactivity of penal legislation

300. The principle of non-retroactivity is enshrined in article 46 of the Algerian Constitution. Article 2 of the Criminal Code states: "Criminal law shall not have retrospective effect, save where it prescribes a lighter penalty." The principle of non-retroactivity is given a distinct interpretation in civil law, which is narrower than that found in criminal law. Article 2 of the Algerian Civil Code states: "Legislation provides only for the future; it does not have retroactive effect. A law cannot be repealed except by a subsequent law providing for its abrogation. However, abrogation may also be implicit, where a new law contains a provision that is incompatible with one in an earlier law, or regulates a matter governed by that law."

Article 17: Protection against arbitrary or illegal interference

301. Since protection against arbitrary or illegal interference is a constitutional right guaranteed by law, the Algerian legislature prohibits any such interference, which is held to be an abuse of power against private individuals and an action *ultra vires* on the part of the administrative and judicial authorities. The relevant offence would be misconduct in a public office.

302. Article 135 of the Criminal Code provides that any administrative or judicial official or any commander or member of the security forces who unlawfully enters the home of any citizen shall be liable to a custodial sentence, without prejudice to any penalty prescribed in articles 7 and 9, concerning torture and personal liberty, for an arbitrary attack on the personal liberty or the civic rights of one or more citizens.

303. The perpetrator bears personal civil liability for interfering with personal liberty or civic rights, as well does the State, unless it files an action against the perpetrator. Algerian law establishes the following offences:

- Article 135 of the Criminal Code (Act No. 82.04 of 13 February 1982) states: “Any administrative or judicial official, any police officer or any commander or member of the security forces who, acting in that capacity, enters a citizen’s home against the citizen’s wishes, except as provided for and subject to the formalities prescribed by law, shall be liable to a term of imprisonment of between two months and one year, and a fine of between DA 500 and DA 3,000, without prejudice to the application of article 107.”
- Article 107 of the Criminal Code provides that “a public servant who has ordered or committed an arbitrary act or an act infringing either the personal liberty or the civic rights of one or more citizens shall be liable to a penalty of between 5 and 10 years’ imprisonment”.
- Article 108 of the Criminal Code states that “the crimes enumerated in article 107 involve the personal civil liability of the perpetrators as well as the State, unless the latter files an action against the said perpetrator”.

304. In the same context, article 137 of the Criminal Code states that any public servant, agent of the State, or employee or servant of the post office who opens, misappropriates or destroys letters or telegrams entrusted to the postal service shall be liable to a custodial sentence. Article 137 of the Criminal Code states: “Any public servant, agent of the State or employee or servant of the post office who opens, misappropriates or destroys letters entrusted to the postal service or who facilitates the opening, misappropriation or destruction of such items shall be liable to a term of between three months’ and five years’ imprisonment and a fine of between DA 500 and DA 1,000. The same applies to any servant or employee of the telegraph service who misappropriates or destroys a telegram, or discloses its contents. The offender shall in addition be barred from any public office or employment for between 5 and 10 years.”

305. To prevent any abuse of authority and arbitrary interference relating to property, article 137 bis was inserted in the Criminal Code, making it an offence for any public servant or officer to confiscate real estate or personal property, except as provided for by the law.

Article 137 bis of the Criminal Code (Act No. 01.09 of 26 July 2001) states: “Any public servant or officer who confiscates real estate or personal property, except as provided for by law, is liable to a term of between one and five years’ imprisonment, and a fine of between DA 10,000 and DA 100,000. The perpetrator bears civil liability, as does the State, with the onus being on the State to file an action against the perpetrator.”

306. Arbitrary or illegal interference is considered to be an act *ultra vires* on the part of the administrative and judicial authorities and, in legal terms, would constitute misconduct in a public office. Algerian criminal law and related provisions include measures to prevent any such interference, whether by the legislative, the executive or the judicial branches of State.

307. These provisions help to reinforce the separation of powers and thus to consolidate the independence of the judiciary. Article 116 of the Criminal Code (Act No. 82.04 of 13 February 1982) states: “The following shall be considered guilty of misconduct in a public office and shall be liable to a term of between 5 and 10 years’ imprisonment:

(1) Any judge or criminal investigation officer who interferes with the work of the legislature, whether by issuing decisions containing legislative provisions, by preventing or suspending the enforcement of one or several laws, or by deliberating on whether or not laws are to be promulgated or enforced;

(2) Judges and criminal investigation officers who exceed their authority by involving themselves in matters that are the purview of the administrative authorities, and issuing rulings on administrative matters which prohibit the enforcement of administrative orders or who, having ordered or authorized proceedings against administrative officers acting in their official capacity, persist in enforcing their judgements or orders after they have been overturned.”

308. Article 117 of the Criminal Code (Act No. 82.04 of 13 February 1982) states that “any *wali*, head of a *daïra*, president of a people’s communal assembly or other official who appropriates the function of the legislature, as stated in article 116, paragraph 1, or who issues a general decrees or any other measure purporting to be an order or judgement of a court or tribunal, shall be liable to a term of between 5 and 10 years’ imprisonment.

309. Similarly, article 118 of the Criminal Code (Act No. 82.04 of 13 February 1982) provides that “any administrative officer who appropriates the functions of the judiciary by purporting to pass judgement on rights and interests which are the subject of legal proceedings, and who, despite the opposition of one or both parties to a case, pre-empts the decision of a higher authority, shall be liable to a fine of between DA 500 and a maximum of DA 3,000”.

Article 18: Freedom of thought, conscience and religion

310. The Constitution explicitly guarantees the inviolability of freedom of thought, conscience and religion in article 37, which states: “Freedom of belief and opinion is inviolable.” In particular, the law does not discriminate on grounds of belief or opinion.

311. Article 29 of the Constitution states: “All citizens are equal before the law. There shall be no discrimination by reason of birth, race, sex, opinion or any other personal or social status or circumstance.”

312. Ordinance No. 06-03 of 28 February 2006, concerning the conditions and rules governing the practice of faiths other than Islam, was promulgated in order to reaffirm that freedom of religious practice is guaranteed. Article 2 expressly provides that “the Algerian State guarantees freedom of religious practice consistent with respect for the Constitution, the present Ordinance, the laws and regulations currently in force, public order, and the fundamental freedoms of third parties. The State also guarantees tolerance and respect between the different religions”.

Article 19: Freedom of expression, opinion and information

1. General introduction to the legal framework and the media sector in Algeria

313. The adoption of Act No. 90-07 of 3 April 1990, concerning information, a year after the promulgation of the 1989 Constitution, injected new life into the media, in particular the print media. The 1990 Act made it easier to start up a newspaper, thanks to a declaratory procedure that has reduced the requirements for issuing new publications to a minimum, introducing a conscience clause for journalists in the event of a change in editorial policy or closure of a publication, and opening up the broadcast media to private production companies.

314. This Act therefore freed up publishing; article 14 of the Act states that “publication of any periodical is free from regulation”. The only requirement is a simple declaration made before the relevant court a month in advance of the first issue. As a result, freedom of expression is thriving, a fact borne out in particular by the high newspaper circulation figures and the wide range of publications on offer. In terms of content, the Algerian press presents an exceptional diversity of both tone and style.

315. It is worth recalling that, prior to the introduction of this Act, the Algerian press was entirely State-owned, comprising six daily newspapers and the same number of weeklies. The media sector has been completely transformed, offering dozens of new publications to the reader.

316. Four years after the Act was promulgated, there were 27 daily newspapers and 59 weekly newspapers in circulation. The reader could choose from an astonishing array of publications, representing a broad spectrum of opinion.

317. In 1995, there were 22 daily newspapers and 51 weeklies. The sector then contracted slightly, because the market could not absorb all the new publications, some of which failed to develop a readership. By 1997, despite the closure of several publications, there were 19 dailies and 38 weeklies on the Algerian market. Today, the total number of titles stands at over 130, including 43 national or local daily newspapers.

318. It is in the area of freedom of expression that greater openness to the full spectrum of partisan, political and sectoral opinion has left its most visible mark. All national television and radio channels have scheduled new programmes to allow greater diversity of expression. Television and radio have also been the main platforms for the transmission of public messages

from political parties and civil society associations. Since 1994, airtime for political broadcasts during the electoral campaign season has been allocated through a system in which lots are drawn by designated, independent bodies in which political parties are represented.

319. Debates of national importance in the People's National Assembly and the Council of the Nation (Senate) are broadcast live so that citizens can keep up with political developments.

320. Despite the various constraints, the Algerian media enjoys genuine freedom of expression, as defended and guaranteed by the Constitution and the legislative and regulatory framework. Algeria is also a country where access to foreign programmes is free and no restrictions or conditions are imposed on the installation of satellite dishes. About 10 million Algerians currently follow these programmes. This development has certainly raised awareness very quickly of the fact that the world has changed and is now being driven by ideas that have gained global currency, because they are part and parcel of globalization of communications and freedom.

321. The fact that journalists and publishers have their own professional associations and organizations also testifies to the Government's readiness to defend the material and moral rights of the profession.

322. The lessons learned from the experience of the print media will assist in developing a high-quality press, which complies with existing regulations and universally recognized professional ethics. To further the work of the Algerian media, there are plans to establish a journalists' training and development centre, together with professional development programmes for businesses. In addition, printing presses will be installed in Ouargla and Bechar to improve distribution of the press in southern Algeria.

323. The sector will focus all training on improving business performance and developing human resources. The ultimate aim is to create an environment that can respond to the requirements of globalization and continuing developments in information and communication technology. The restructuring of broadcast production and transmission will result in the launch of two new thematic channels, as well as a general channel in Amazigh.

2. Different forms of State support for the media

324. State support takes the form of direct aid (the fund for assistance and promotion of the print and broadcast media); support for printing costs; settlement of debts owed by the Enterprises nationales des Messageries de Presse (ENAMEP) (the national press distribution company); the donation of premises to the Maison de la Presse (Press House); exemption from taxation and other levies; and other material resources. This assistance, worth an estimated DA 2,500 million, was distributed as follows:

(a) Direct support (DA 503 million), with DA 297 million being spent to pay two-and-a-half-years' worth of salaries for all journalists and others in comparable professions who were in employment on the date of promulgation of the government circular of 19 March 1990; DA 119 million being used as subsidies for media outlets that had run into difficulties; and DA 87 million going to support the establishment of broadcasting cooperatives;

(b) Support for printing costs (DA 1,234 million), in the form of direct subsidies for printing houses to the tune of DA 306 million, and restructuring grants, worth DA 928 million, for printing houses, over the period 1994-1996;

(c) Settlement of the debts of ENAMEP (DA 380 million): a decision was taken in July 1995 to pay all the company's debts to printing houses, amounting to DA 380.5 million as at 31 July 1995, of which DA 204.5 million was owed by ENAMEP Central, DA 84.4 million by ENAMEP East and DA 91.6 million by ENAMEP West;

(d) Other assistance (DA 306 million) was provided by making public property available to private publishers in larger towns already equipped with a rotary press (Algiers, Oran and Constantine) and remote communication technology (the press fax from Algiers to Constantine and Oran). Four sites were developed for this purpose, two in Algiers, one in Constantine and one in Oran. The real estate belongs to the Maison de la Presse, the public institution that manages and maintains this infrastructure.

325. In addition to this assistance, a tax exemption was granted initially for three years, and then extended for a further year, bringing the total to four years; VAT was set at 7 per cent; further facilities were made available by the Algerian investment promotion agency (APSI); and 700 journalists were provided with accommodation for their own security, at a cost to the State of over DA 600 million.

326. Public funding has also been given to support the printing of periodicals; the daily print-run of all printing houses taken together is estimated at 2.5 million copies, of which 1.7 million copies are of the 48 daily newspapers.

327. To support a print-run of this size, 30,000-40,000 tons of newsprint, 300,000 offset printing plates and 250 tons of ink were imported. Newsprint is imported by a subsidiary called ALPAP, which is partnered by public printing companies and banking and insurance institutions.

3. Broadcast media

328. The most recent development in radio and television since the 1990 Act has been the introduction of specifications requiring public service broadcasters to ensure media pluralism with regard to information, programming and output, and to guarantee right of access for different points of view. The main change in the national broadcasting scene has been the launch of local radio stations by ENRS, the national radio company.

(a) Internationalization of radio and television broadcasting. Since August 1994, national, and network television channels and the three radio stations (radio 1, radio 2 and radio 3) have been broadcasting by satellite to Europe and the north of the Maghreb. In 1995, two specialized radio stations were added, El-Bahdja and the cultural station. The national television company, ENTV, revised the programme listings for the satellite television station in September 1995 and again in 1999, broadcasting specific programmes for Europe (Canal Algérie) and the Middle East (Algérie 3).

(b) Creation of local radio stations. In October 1994, an inter-ministerial panel approved a plan for the creation of 12 new local radio stations to add to the existing 10. There are currently 30 local radio stations in operation.

(c) Increasing the proportion of home-grown programmes in the television listings. The broadcasting sector has stimulated production, for example, by supporting the establishment of production cooperatives and broadcasting services. Ninety-two cooperatives have received subsidies for start-up costs.

(d) Integration of areas with poor reception and improved national coverage: under normal operating conditions, a coverage by radio and television broadcast networks is estimated at 96 per cent of the population.

329. Regional units make a significant contribution to national television programming, helping to increase daily output from 17 to 24 hours. National production accounts for between 60 and 70 per cent of total airtime.

4. The foreign press and cooperation with United Nations mechanisms

330. Foreign journalists have always taken a keen interest in covering both national and international events in Algeria, which has always helped them with their work.

331. Management of the foreign press used to be conducted in a legal vacuum. The promulgation of an executive decree in 2004 regulating accreditation certainly improved foreign press management and facilitated the work of foreign journalists wishing to visit Algeria, as well as resident correspondents.

332. There is therefore a genuine desire to increase transparency by opening the door to the international media so that they can come and witness at first hand the progress and achievements scored in Algeria in recent years. As a result of this greater openness, hundreds of special correspondents from the international media have come to Algeria to cover domestic events. In addition, there are also foreign correspondents based permanently in Algeria and working for over 50 foreign publications.

333. These resident correspondents are treated the same as domestic journalists and have the same rights and obligations. As of 2004, 89 permanent correspondents were based in Algeria, and by 7 December 2004, 508 foreign press organs had received accreditation.

334. With regard to cooperation with the United Nations mechanisms responsible for questions relating to freedom of opinion and expression, it is worth recalling the meeting that took place on 31 March 2004, on the fringes of the sixtieth session of the Commission on Human Rights, between the Algerian delegation and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, together with the standing invitation extended to the Special Rapporteur to visit Algeria.

Article 20: The prohibition of propaganda for war and the advocacy of hatred

335. With regard to the prohibition of propaganda for war, the Algerian legislature has made it an offence to recruit volunteers or mercenaries in Algeria on behalf of a foreign power.

336. Article 76 of the Criminal Code (Act No. 82-04 of 13 February 1982) provides that “anyone who, in time of peace, recruits volunteers or mercenaries in Algeria on behalf of a foreign power shall be liable to imprisonment for between 2 and 10 years, and a fine of between DA 10,000 and DA 100,000”.

337. The Criminal Code also outlaws and punishes recruitment of an Algerian citizen overseas by a terrorist association, group or organization of any kind or description, even if its criminal activities are not directed against Algeria.

338. Through these provisions, the Algerian legislature intends to take remedial action against any type of activity that is not only a criminal activity but could also jeopardize Algeria’s diplomatic relations with another country, exposing the citizens of both countries to mutual reprisals, stemming from incitement to hatred, a direct consequence of attacks upon the security and interests of the other country. Article 87 bis 6 of the Criminal Code (Ordinance No. 95-11 of 25 February 1995) states: “Any Algerian abroad who works for or joins a terrorist or subversive association, group or organization of any kind or description, even if its activities are not directed against Algeria, is liable to imprisonment for between 10 and 20 years and a fine of between DA 500,000 and DA 1,000,000. If the said activities are directed against Algerian interests, the sentence shall be life imprisonment.”

339. With regard to efforts to justify and make propaganda for the offences listed in article 76 and article 87 bis 6, Act No. 01-09 of 26 July 2001 added new provisions to article 87 bis 10 of the Criminal Code, which punishes and proscribes preaching or any other activity that is contrary to the noble purpose of a mosque, or likely to undermine social cohesion by inciting hatred. Article 87 bis 10 (Act No. 01-09 of 26 July 2001) states: “Anyone who preaches or attempts to preach in a mosque or any other public place devoted to prayer, without having been appointed, accredited or authorized to do so by the relevant public authority, is liable to imprisonment for between one (1) and three (3) years and a fine of between DA 10,000 and DA 100,000. Anyone who, through preaching or any other act, engages in an activity that is contrary to the noble purpose of a mosque or likely to undermine social cohesion, or who attempts to justify or make propaganda for the acts listed in this section, is liable to a prison sentence of between three (3) and five (5) years and a fine of between DA 50,000 and DA 200,000.”

340. In order to forestall and to counter propaganda for war and advocacy of hatred, Algerian law allows the Government, in time of peace as in time of war, to extend, by decree, the provisions on crimes and offences against national security to include attacks against Algeria’s allies or friends. Article 94 of the Criminal Code states: “The Government may, in time of peace as in time of war, extend, by decree, some or all of the provisions relating to crimes and offences against national security so as to include acts committed against Algeria’s allies or friends.”

Article 21: Right of peaceful assembly

341. The right of peaceful assembly is recognized under article 41 of the Constitution, which states: “Freedom of expression, association and assembly is guaranteed to the citizen.” The modalities for exercising these freedoms are set forth in Act No. 89-28 of 31 December 1989, concerning public meetings and demonstrations. The Act (arts. 2 to 20) shows that the exercise of this right is subject to a flexible procedure requiring notification of the authorities three days before a meeting and five days before a demonstration.

342. Act No. 91-19 of 2 December 1991 increased the period of advance notice to eight clear days for public meetings, which have since been subject to the approval of the *wali*. Any demonstration that goes ahead without permission or after being banned is regarded as a mob, which the Minister of the Interior or the territorially competent *wali* is authorized to disperse.

Article 22: Freedom of association

343. In Algeria, everyone has the right to freedom of association, which is guaranteed by article 41 of the Constitution. The modalities for the exercise of this freedom and for the creation and dissolution of associations are laid down in Act No. 90-31 of 4 December 1990, concerning associations.

344. Under articles 32 to 38 of the Act, an association may not be suspended or dissolved other than through judicial channels, at the request of the public authority or pursuant to a complaint from a third party.

345. After political parties, voluntary associations are one of the most dynamic actors in social, cultural, scientific and professional life. The accelerated registration procedures introduced by Act No. 90-31 of 4 December 1990, facilitating the creation of associations, have led to a marked increase in the number of associations.

346. By way of comparison, over the 12-year period from 1976 to 1988, only 98 national associations were registered, whereas 678 were created in a period of just over six years, between 1989 and 1996.

347. In the first six months of 2006, 947 national associations and 78,000 local associations were registered. Associations can be divided into several categories:

Professional	190
Sports	90
Culture and education	112
Health and medicine	127
Science and technology	39
Youth	45
Mutual insurance	34
Alumni	29
Friendship, exchange and cooperation	25
Solidarity, aid and charity	22
Persons with disabilities or behavioural difficulties	17

Women	23
Historical interest	19
Tourism and leisure	26
Foreign associations	18
Environment	32
Children and adolescents	12
Retired and older persons	8
Human rights	7
Religious	10
Veterans' families	9
Other	53

348. While the figures can provide us with information about the nature and focus of voluntary associations, qualitative data about the type of niche filled, are, for example, also important. Even some small associations, such as those linked to historic points of reference, the environment, consumer protection, and so on, carry a lot of weight and wield considerable influence in society.

349. The freedom to form trade unions has not only been reaffirmed in the Constitution but is also regulated in Act No. 90-14 of 2 June 1990, as amended and supplemented by Act No. 91-30 of 21 December 1991 and Ordinance No. 96-12 of 6 June 1996. The Act recognizes the right of wage earners in the private and public sectors to form trade union organizations that are independent and separate from political parties.

350. In addition to a vast array of independent trade unions, there are no fewer than 60 national labour organizations and 19 employers' organizations, 2 of them in the public sector and 17 in the private sector. However, public sector unions still occupy a dominant position, mainly in the following sectors:

Health	9 trade unions
Social Affairs	9 trade unions
Transport	7 trade unions
Education	6 trade unions
Training	6 trade unions

Article 23: Right to a family

351. The family enjoys the protection of the State and society (Constitution, art. 58). The Family Code, a fundamental instrument regulating family relations, defines the legal status of the basic unit of society which is the family, and reflects the level of social, economic and cultural development in Algerian society.

352. The Family Code was not amended after its promulgation under Act No. 84-11 of 9 June 1984. However, the many changes that took place in Algerian society, coupled with the need to bring domestic legislation into line with international conventions ratified by Algeria, in particular the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child, naturally called for its amendment.

353. The main amendments introduced by the Ordinance of 27 February 2006 related to:

- (a) The establishment of a minimum legal age for marriage, set at 19 years for men and women;
- (b) The stipulation that marriage requires mutual consent;
- (c) The right given to the future wife to have the marriage ceremony conducted by a *wali* of her choosing;
- (d) Greater flexibility in the law on guardianship;
- (e) New rules on child custody rights in cases of divorce.

354. Article 4 of the Family Code defines marriage as a contract concluded between a man and a woman in legal form. Among its purposes is to found a family based on affection, kindness and mutual help; to provide moral protection for the spouses and to preserve family ties by safeguarding the interests of the family, protecting the children and ensuring their healthy upbringing (Family Code, arts. 4 and 36). It is therefore natural that children should live with their parents, unless the best interests of the child dictate or justify separation. No child may be separated from the family or the parents except by a decision of a court.

355. Ordinance No. 72-03 of 10 February 1972, concerning the protection of children and young persons, provides (art. 1) that “minors aged under 21 years whose health, security, morals or education are at risk, or whose living conditions or behaviour could jeopardize their future, may be subject to protection and educational support measures”.

- Only a juvenile judge may impose a protection and support measure in respect of children covered by this law (arts. 2 and 3);
- Interim custody measures for the child may be taken by the juvenile judge (arts. 5 and 6). The judge may modify or defer these measures at any time, at the request of the minor, his parents or the public prosecutor;

- “Once the inquiry has been closed and the public prosecutor has received the file, the judge shall summon the minor and his parents or guardian, as well as any other person whose views are deemed relevant” (art. 9). “He shall make every effort to obtain the support of the minor’s family for the procedure adopted”;
- The juvenile judge shall issue his ruling in chambers;
- When a minor is placed, temporarily or permanently, with a third party or in one of the establishments indicated in article 11 of this Act, the parents, who have an obligation to provide for his needs, must contribute to his maintenance, unless there is proof of indigence” (art. 15).

356. In chapter 5 of the Constitution on citizens’ rights, there are a number of provisions relating to the family and society. In particular, article 65 states that “the law recognizes the duty of parents to educate and protect their children, as well as the duty of children to help and assist their parents”.

Article 24: Rights of the child

357. Generally speaking, the rights of the child are protected first and foremost by the Constitution, and also by a number of other laws. In article 63 of the Constitution, childhood is referred to specifically, together with the family and youth, as being a state in which respect for the right to honour, privacy and protection is guaranteed.

358. The preamble of the Constitution states that its aim is to ensure legal protection and to monitor the actions of the public authorities in a society ruled by the law and commitment to the self-development of the human person.

359. As regards the naming of children, article 61 of Ordinance No. 70-20, on civil status, stipulates: “Births shall be declared within five days to the registrar at the place of birth, failing which penalties shall apply.” Article 60 lists the persons required to make this declaration and specifies that the birth certificate must be drawn up immediately. Article 63 states that, in addition to the date, time and place of birth and sex of the child, the birth certificate must also indicate the child’s given names.

360. The child automatically takes the father’s patronymic where the father is known. In the absence of the father and mother, the person making the declaration shall choose the given names (art. 64). Under article 66, anyone who finds a newborn child must report the matter to the registrar at the place where the child was found. In the case of newborn children of unknown parentage, the registrar shall choose given names for the child, with the last given name serving as the patronymic (art. 64).

361. Decree No. 92-84 of 13 January 1992 supplemented Decree No. 17-157 of 3 June 1971, on changes of name, resolving the question of children without families. This law is designed to simplify the administrative formalities connected with a change of name, encourage families to adopt and apply the notion of *jus soli* to a child whose parents are unknown or whose mother is known and father unknown.

362. The right of the child to recognition of its legal personality, in all circumstances, is recognized and protected by the Constitution, specifically articles 31 to 33 and 35. The Civil Code contains a number of provisions recognizing legal personality. Article 25 states that “personality begins at the birth of a living child and ends at death”. Paragraph 2 of the same article adds: “The child enjoys civil rights from conception, provided that it is born alive.”

363. Births and deaths are recorded in the civil registers, and thereby constitute legally established facts. Where such proof is lacking or the information in the registers is imprecise, de facto recognition may be established by other means (Civil Code, art. 26).

364. The Criminal Code makes it a punishable offence to hinder the identification of an infant (art. 321). Anyone who moves, conceals or substitutes one child for another, or declares a child as that of a woman who has not given birth, is liable to imprisonment for between 5 and 10 years. If it cannot be proved that the child survived, the punishment is imprisonment for between two months and five years.

365. If the child is passed off as that of a woman who has not in fact given birth, after the child has been voluntarily surrendered or abandoned by its parents, the guilty person shall be liable to a term of between two months’ and five years’ imprisonment.

366. The right to nationality is enshrined in article 30 of the Constitution. Ordinance No. 70-36 of 15 December 1970 of the Algerian Nationality Code sets out the conditions for the acquisition and loss of citizenship.

367. Article 30 of the Constitution lays down that “Algerian nationality is defined by law”, in this case Ordinance No. 70-36 of 15 December 1970. Under articles 6 and 7 of that Code, the following are deemed to be Algerian:

- A child born to an Algerian father;
- A child born to an Algerian mother and an unknown father;
- A child born to an Algerian mother and a stateless father;
- A child born in Algeria to an Algerian mother and an alien father who was himself born in Algeria, unless the child rejects Algerian nationality within the year preceding his majority.

368. Article 8 of Ordinance No. 70-36 states that “a child who is of Algerian nationality by virtue of articles 6 and 7 is deemed to have been Algerian since birth, even if the conditions required by law for the attribution of Algerian nationality were established only after birth”.

369. Qualification as “an Algerian national” from birth, as well as the withdrawal or renunciation of such pursuant to the provisions of article 6, paragraph 3, and article 7, paragraphs 1 and 2, “has no effect on the validity of any deeds signed by the person concerned, or the rights acquired by third parties on the basis of the apparent nationality formerly held by the child”.

370. Article 17 provides that “minor children of persons who acquire Algerian nationality become Algerian at the same time as their parents”.

371. Furthermore, the unmarried minor children of an Algerian who has resettled in Algeria, when they actually reside with that person, shall automatically acquire or reacquire Algerian nationality.

372. The child automatically takes the father’s patronymic where the father is known. In the absence of the father and mother, the person making the declaration shall choose the child’s given names (art. 64).

373. Amendments introduced to the Nationality Code in February 2006 allow for the transmission of nationality to children born abroad to an Algerian mother and a foreign father.

**Article 25: Right to take part in the conduct of public affairs,
to vote and to be elected**

374. The right to take part in the conduct of public affairs and to vote and to be elected is guaranteed by articles 6, 7, 10 and 11 of the Constitution and by all the laws establishing the democratic and multiparty character of the Algerian political system. Article 50 of the Constitution provides that “any citizen who meets the legal conditions can vote and be elected”.

375. Access to State functions and employment is guaranteed by article 51 of the Constitution.

376. Organic law No. 97-07 of 6 March 1997 was amended in 2004 in order to consolidate the democratic process in the electoral domain, as mentioned in the section on article 4 of the Covenant (see also paragraphs 152 to 226 of this report).

Article 26: Equality before the law

377. Since independence, Algeria has repealed and revoked all discriminatory legislation and regulations inherited from the colonial period.

378. The principle that all citizens have equal rights and duties and equal access to legal protection is embodied in article 29 of the Constitution. As mentioned elsewhere in this report, citizens are equal before the law, regardless of their status and without any discrimination (see paragraphs 165 to 226 of this report).

Article 27: Rights of minorities

379. As indicated in the initial report, population censuses are not conducted on the basis of ethnic, religious or linguistic criteria. However, this policy does not stem from a reductionist vision of Algerian identity, which is recognized for the richness and diversity of its origins, traditions and distinctive features. In addition to its Arab and Islamic culture, Algeria also recognizes its Berber heritage and its kinship with Africa and the Mediterranean.
