



**Convention on the  
Rights of the Child**

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**COMMITTEE ON THE RIGHTS OF THE CHILD**

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 44 OF THE CONVENTION**

**Second periodic reports of States parties due in 2000**

**ALGERIA\***

[16 December 2003]

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\* For the initial report submitted by the Government of Algeria, see document CRC/C/28/Add.4; for its consideration by the Committee, see documents CRC/C/SR.387-389; for the Committee's concluding observations, see document CRC/C/15/Add.76.

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## Introduction

1. Algeria ratified the Convention on the Rights of the Child on 19 December 1992. It submitted its initial report on the implementation of the provisions of the Convention (CRC/C/28/Add.4) to the Committee on the Rights of the Child at its fifteenth session; the report was considered on 29 and 30 May 1997.
2. At the time of consideration of the initial report, the Algerian delegation outlined the programme of political and economic reforms that had been launched pursuant to the Constitution of 23 February 1989 with the aim of establishing new institutions based on political pluralism, the separation of powers, the independence of the judiciary, freedom of expression and a free market economy. The delegation also stated that, in the international context, the Algerian authorities were keen to expedite Algeria's accession to a number of international human rights instruments.
3. Since the submission of the initial report, the Algerian authorities have pursued efforts to consolidate a State subject to the rule of law, pluralist democracy and the promotion and protection of human rights, notwithstanding the shadow of criminal terrorist violence. Thus, new institutions have been established pursuant to a constitutional revision of 28 November 1996, existing mechanisms to promote human rights have been strengthened, and certain aspects of economic, social and cultural legislation have been updated to reflect new realities. Justice, education and State bodies are undergoing thorough reforms, entrusted to national commissions made up of professionals and independent figures. The recommendations of these commissions have sustained the action taken by the authorities. Finally, there has been a remarkable flourishing of civil society, which has received more and more encouragement.
4. This periodic report comprises two parts, in conformity with the Committee's guidelines. Part One, entitled "General information", outlines Algeria's general political structure, presents the framework in which human rights are promoted and protected, and contains Algeria's replies to the recommendations made by the Committee in its concluding observations (CRC/C/15/Add.76) pursuant to its consideration of the initial report. Part Two contains information on the substantive provisions of the Convention, focusing on new developments.

## PART ONE - GENERAL INFORMATION

5. Since regaining independence in 1962, Algeria has endeavoured to establish a State based on participation by the broad mass of the population and respect for human rights and fundamental freedoms. Independent Algeria's successive constitutions have embodied universal human rights principles. It was the move towards a multiparty system in 1989, however, that led Algeria to speed up the process of accession to international human rights instruments, and since that time it has been submitting reports pursuant to those international undertakings.

**A. Land and people**

## 6. Information on Algeria and its population:

Surface area:	2,380,000 square kilometres;
Population:	31,040,000 (1 January 2002), of which 15,334,946 are women; the population is three times what it was at independence;
Per capita income:	US\$ 1,630 (2001);
External debt:	US\$ 22.571 billion (2001);
Unemployment rate:	28.9 per cent;
Official language:	Arabic;
National languages:	Arabic, Amazigh (Berber);
Religion:	Islam;
Life expectancy:	71.5 years (men: 70.03 years, women: 72.8 years);
Infant mortality rate (2000):	Boys: 54.2 per 1,000; girls: 47.8 per 1,000; Overall: 51.1 per 1,000;
Maternal mortality rate:	117 per 100,000 births;
Total fertility rate:	2.54 (2000);
Children aged under 5:	32 per cent (2000);
Young people aged 15-24:	23 per cent;
Adults aged 25-59:	38 per cent;
Older persons aged 60 and over:	7 per cent;
Rural population:	12,943,686 (41.7 per cent);
Urban population:	18,096,326 (58 per cent).

## B. Political structure

7. Algeria faced a number of challenges on independence: return of refugees, social and psychological care for the beneficiaries of victims of the war of national liberation, national reconstruction in all its aspects and establishment of government structures. The institutions that were needed to enable a young nation to meet such challenges had to be designed and established and their effectiveness tested. This reconstruction effort ushered in compulsory schooling for all, free health care and a policy of full employment.

8. From 1988 onwards, there was a growing determination in Algeria to consolidate the rule of law and introduce a transition on two levels (political democratization and economic liberalization). As everywhere else, this transition did not take place without difficulty. The building of a modern democratically functioning State with a transparent administration was hampered by domestic obstacles linked to a single-party culture and economic and social constraints.

9. The political reforms undertaken by the authorities since then, following a lengthy process of dialogue with all political parties that respect the Constitution and laws of the Republic, have resulted in institutions elected on the basis of universal suffrage. The adoption by referendum of a revised Constitution on 28 November 1996 further strengthened freedoms, political pluralism, the separation of powers and the independence of the judiciary.

10. In addition to the Constitution, the democratization of public life in Algeria today is based on three laws:

(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. A subsequent adjustment 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. There are nearly 50,000 associations active in Algeria today; 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 public service press.

11. The first multiparty elections for the office of President of the Republic were held on 16 November 1995. They were followed by presidential elections on 15 April 1999, in advance of their scheduled date. The President's mandate is renewable only once. He 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 for approval by the National People's Assembly.

12. Legislative power is exercised by Parliament, which consists of two chambers: the National People's Assembly and the Council of the Nation (Senate). It monitors action by the Government and enacts laws. Following the legislative elections of 15 May 2002, the National People's Assembly now has 389 deputies, of whom 24 are women, representing 9 political parties, with 30 independents. The previous Assembly, the result of the 5 June 1997 elections, had 380 deputies, with 10 political parties and 11 independents. 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 municipal and departmental people's assemblies and the remaining third - i.e. 48 members - are appointed by the President of the Republic.

13. The independence of the judiciary is provided for in article 138 of the Constitution.

### **C. General framework for the protection of human rights**

#### **1. Human rights mechanisms**

14. Most of Algeria's early warning and monitoring machinery in the area of human rights is now in place. It covers both individual (civil and political) and collective (economic, social and cultural) rights. It is divided into four main categories of interrelated mechanisms.

##### **(a) Political mechanisms**

15. The political mechanisms centre around Parliament, which, with its two chambers - 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. Human rights questions are a major topic of parliamentary discussions and are dealt with by standing commissions established to that end by both chambers.

16. Political parties are considered by law to be a component of human rights mechanisms. 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;

Respect for the democratic and republican nature of the State."



**(b) Judicial mechanisms**

17. The Algerian State has set up judicial machinery to guarantee citizens' rights and provide the justice system with decision-making autonomy. To that end, the judiciary in Algeria is composed as follows:

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

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

19. Lastly, Parliament has adopted a law establishing a jurisdiction court, which is responsible for settling conflicts of jurisdiction between the Supreme Court and the Council of State, in accordance with article 152 of the Constitution.

**(c) Freedom of the press**

20. The right to information and the freedom of the press are regarded by the law as part of the essential machinery for the monitoring and protection of the rights of the individual. The remarkable development of the press in Algeria has made it a real lever in collective protection of the rights of the individual. There are at the present time 32 daily papers (compared with 25 at the time of the preceding report); 6 of these papers are in the official public sector (8 at the time of the preceding report), while 26 belong to the private sector and partisan interests (17 at the time of the preceding report). They have an average circulation of 1.5 million copies a day. There are 43 weekly papers, with an average total circulation of 1.4 million copies. Lastly, there are another 20 fortnightly or monthly periodicals, with a total circulation of 300,000 copies. Readership is estimated at 9 million per week.

21. Contrary to certain media reports, no Algerian journalist has been convicted of 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, as is the case in other countries.

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

23. 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 for "repeated defamation and insults" on the part of certain newspapers. It should be noted in this context that the restrictions imposed at one time on the processing of security information have been lifted.

24. Foreign journalists regularly receive accreditation in Algeria. Accreditation is granted under a specific mechanism in order to process applications more flexibly and rapidly. A sign of Algeria's accessibility to foreign journalists is the fact that 1,200 of them visited the country in 1997, 626 in 1998, 839 in 1999, 706 in 2000, 654 in 2001 and 593 in the period up to 30 September 2002.

25. Negative and, on occasion, tendentious articles by some of these journalists have not prevented their authors from making repeated visits to the country.

**(d) Civil society and trade union machinery**

26. Civil society associations have spread considerably since 1988. At the national level, there are currently about 50,000 associations active in various fields. The Algerian Constitution gives prominence to freedom of association for the protection of human rights. Article 32 guarantees the individual and collective protection of these rights and article 41 defines their scope: freedom of expression, association and assembly. Freedom of association naturally includes the political field, but is also used to protect certain specific rights, 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.

27. Most associations now have statutes, conferences and activities enabling them to join networks of international associations. Associations working for women's rights and education or combating illiteracy have been especially active.

28. Trade union freedom is established in the Constitution and regulated by the Act of 21 December 1991. More detailed information can be found in part two (in the section on article 8).

**2. Other mechanisms for the protection and promotion of human rights**

29. On 9 October 2001, the President officially inaugurated the National Advisory Commission for the Promotion and Protection of Human Rights, which has 45 members, including 13 women. Members are selected and appointed on the basis of social and institutional pluralism.

30. The Commission was established under Presidential Decree No. 01-71 of 25 March 2001, as "an independent institution under the President of the Republic, which shall safeguard the Constitution, the fundamental rights of citizens and public freedoms".

31. The Commission is also a human rights advisory body with monitoring, early warning and evaluation functions.

32. The Commission is responsible for investigating any violations of human rights that may be 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 improvements to domestic legislation. The Commission produces an annual report on the state of human rights, for submission to the President of the Republic.

33. This new institution replaces the National Human Rights Observatory, which was dissolved under the same presidential decree that established the Commission.

34. In order to bring the new body into line with the Paris Principles, Decree No. 01-71 of 25 March 2001 was amended by Decree No. 02-297 of 23 September 2002.

### **3. International treaties and the domestic legal order**

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

36. 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 (courts, National Advisory Commission).

### **D. Information and publicity**

37. 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.

38. In addition to the symposiums 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 is a party. Similarly, 8 March and 1 June offer regular opportunities to reaffirm the importance and role of women and children in society.

39. In universities, a module entitled "Public freedoms", which used to be taught in the law faculties, has been reintroduced with an updated syllabus which takes account of international developments and recent accessions. Some universities, such as those at Oran, Tizi Ouzou and Annaba, have already created specific modules. Human rights are taught to students at the National Judicial Training Institute, the Police Training School and the National Prison Administration Training School.

40. A UNESCO chair in the teaching of human rights has been established at the University of Oran. Inaugurated in December 1995, it provides an educational framework within which to organize and promote an integrated system of human rights research, training, information and documentation. Preparations are under way to establish a master's degree specifically in the field of human rights. Regular workshops on human rights and humanitarian law are organized and their proceedings have been published. The National Human Rights Observatory popularizes the human rights principles embodied in domestic legislation and the international

instruments to which Algeria is a party by, among other things, publishing journals and organizing and sponsoring seminars, exhibitions and workshops in cooperation with civil society associations.

41. Since the beginning of the decade, Algeria has been in a period of transition at two levels: to a multiparty democracy and to a market economy. It is a complex transition, made more difficult in particular by the state of the Algerian economy and the unfavourable international economic situation. These economic problems have provided fertile ground for dissent, which some forces have attempted to use in order to oppose the process of change within the country, in part by resorting to terrorist acts.

42. In order to deal with this situation, the Algerian authorities decided to declare a state of emergency in February 1992. Although the state of emergency did impose some restrictions on the exercise of public rights and freedoms, it did not relieve the State of its obligation to guarantee the right to exercise the fundamental civil rights provided for in the existing domestic constitutional order and in the international agreements ratified by Algeria. 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 the undertakings deriving from 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 1995, 1996, 1997, 1999 and 2002.

**E. Replies of the Algerian Government to the Committee's recommendations during its consideration of the initial report**

**Recommendation No. 13**

43. Sectoral committees have been established with responsibility for children's welfare. In 1987 the Committee against Water-borne Diseases was established, which brings together the Ministry of Health, the Ministry of the Interior, local communities, and the commercial and agricultural sectors.

44. This model is reproduced at the level of the commune, where physicians attached to municipalities act as commune health officers.

45. The following committees have also been established:

The School Health Committee, founded in 1993, bringing together representatives from the Ministry of National Education and the Ministry of Health;

The Committee against Zoonoses, bringing together the Ministry of the Interior, the Ministry of Health and the Ministry of Agriculture;

The Committee against Drugs and Drug Addiction, established in 1996 and bringing together the Ministry of Justice, the Ministry of the Interior and the Ministry of Health;

The AIDS Committee, established in 1989 and comprising representatives from the Ministry of Health, the Ministry of Justice, the Ministry of the Interior and the Ministry of Communication and Culture.

**Subject of concern No. 14 and recommendation No. 31**

46. Information on the Convention and instruction in the principles contained therein is incorporated into the school curriculum, specifically the civic education syllabus.

47. In addition, starting in 1999, the Ministry of National Education decided to introduce a component on the rights of the child into in-service training courses for teachers.

48. Judicial personnel will receive training in the rights of the child as part of the reform of the National Judicial Training Institute.

49. The theoretical training received by trainee law officers, originally lasting just five months, has been increased to two and a half years with effect from the academic year 2000/01.

**Subject of concern No. 16 and recommendation No. 33**

50. In the school system, pupils are members of all councils that concern them, through their delegated representatives and representatives of parents' associations.

51. As to the contradiction noted between articles 117 and 124 of the Family Code, which state that children with discernment shall be consulted in matters that concern them, and article 43 of the Civil Code, which does not recognize discernment for children under 16, it should be borne in mind that articles 117 and 124 refer to the issue of legal fostering arrangements, and thus of the right of a foster child to express his will through consent or refusal to be voluntarily cared for by parents other than his own, when the latter are known, and to choose whether or not to return to live with his parents when either requests the reinstatement of their guardianship over the child. Fostering is a special case.

52. However, the child's capacity to exercise his civil rights must be viewed in the context of the interest of the child.

53. The acts of a person who has reached the age of discernment without being of age, pursuant to article 43 of the Civil Code, are valid if they benefit that person and null and void if they prejudice that person. Such acts require the authorization either of the legal guardian or of the testamentary guardian if there is any uncertainty regarding benefit or prejudice. Any dispute is referred to the courts.

54. As to the specific mechanisms to record and address any complaints from children concerning violations of their rights under the law and the Convention (subject of concern No. 16), it should be pointed out that, as a result of the reforms currently under way and those in the pipeline, a number of associations are emerging that work together with the authorities to protect children's rights in cases of violations.

55. These associations have the power to initiate a range of protection measures including suing for damages in criminal proceedings before the relevant courts, in cases involving any violation of the rights of the child.

56. A child may also take legal action against any person who commits an act of violence against him by lodging a complaint with the police, the gendarmerie, or directly with the public prosecutor, or alternatively he may file suit for damages in criminal proceedings with the senior investigating judge at the place where the offence was committed.

57. The child's parents or guardians must be present at all stages of the procedure. If the child has no guardian, the public prosecutor acts in this capacity.

#### **Subject of concern No. 17**

58. Regarding children born out of wedlock, and specifically the matter of discriminatory attitudes towards girls among some groups within the population, it should be remembered that these children are considered wards of the State, which accordingly takes full responsibility for them.

59. Care facilities constantly endeavour to provide these children with all available means to ensure that their minimum moral and material needs are met, thus enabling them to integrate into society without too many problems and to embark on adult life without complexes.

60. To flesh out these objectives, Algerian lawmakers have established a form of fostering arrangement (*kafalah*), which is a voluntary commitment to take responsibility for the maintenance, upbringing and protection of a child just as a father or mother would do for their own children.

61. Thus, as part of fostering arrangements drawn up in an official deed before a judge or notary, the foster child shall enjoy the same social, family and school benefits as a legitimate child. Children born out of wedlock may also be fostered under the *kafalah* system pursuant to an arrangement whereby the foster parent (*kafil*) confers his patronymic on the foster child (*mekfoul*), thus ensuring that their names coincide.

62. Clearly, however, in the long term only a change of outlook will eliminate discriminatory behaviour towards this category of children, legal codification being insufficient.

#### **Subject of concern No. 20**

63. Contrary to what is stated in the Committee's observation, anyone who commits the crime of rape faces between 5 and 10 years in prison. Anyone who rapes a minor aged under 16 faces between 10 and 20 years in prison.

64. There are no circumstances in which the rapist of a minor can escape criminal prosecution if he is prepared to marry his victim.

65. Judicial police officers (the police and gendarmerie) receive complaints and reports of offences and proceed to conduct preliminary inquiries.

66. Judicial police officers must write reports of their operations and immediately inform the public prosecutor of all crimes or offences that come to their attention.
67. Having completed their work, judicial police officers must immediately dispatch their report (the original version and a duly certified copy) along with any relevant paperwork and any items they have confiscated.
68. The public prosecutor initiates criminal proceedings against the rapist.
69. The only factors that can terminate criminal proceedings are sentencing, the death of the accused, time-barring, amnesty, or repeal of the criminal law or a final court decision. Proceedings can also be terminated by the withdrawal of a complaint that is a precondition for prosecution, as, for example, adultery or rape between relatives, collateral relatives or relatives by marriage up to and including the fourth degree, prosecution being possible only upon receipt of a complaint by the injured spouse, in the case of adultery, or the victim, in the case of rape. Thus a pardon or the withdrawal of the complaint puts an end to proceedings.
70. Under the criminal law, rape is classed as a crime. A rapist has absolutely no legal means or any other means of absolving himself of his crime by offering to marry his victim. Under no circumstances does this type of transaction avert a public prosecution. Criminal legislation contains no special provisions on this matter.
71. Thus, as soon as the public prosecutor is apprised, either directly or through the judicial police, that the crime of rape has been committed, or as soon as a suit for damages in criminal proceedings is filed with the investigating judge, a criminal case is opened against the rapist with a view to his prosecution and conviction by a court of law.
72. The withdrawal of the complaint, or the granting of a pardon in the course of proceedings, regardless of the reason, only applies to actions for criminal indemnification. Compensation for material, physical or moral injury to the rape victim has no bearing whatsoever on the criminal prosecution, which is the exclusive preserve of the Department of Public Prosecution, the sole representative of the public interest.
73. Regarding the Committee's reference to article 7 of the Family Code, marriageable age is considered to be 21 years in the case of men and 18 years in the case of women. However, the judge may waive the age requirement if special circumstances apply or in case of necessity.
74. However, the judge's ruling has no bearing whatsoever on the public prosecutor's decision to institute proceedings against the rapist, who thus cannot use the ruling as a delaying tactic to escape prosecution.

**Subject of concern No. 21 and recommendation No. 35**

75. As stated in the initial report, corporal punishment in schools is strictly prohibited. Circulars are regularly sent to educational establishments to remind them of this ban and administrative sanctions are taken against those who disregard it. The Ministry of National Education has suggested to the Ministry of Justice that, when revising the Civil and Criminal Codes, criminal penalties should be envisaged for this type of situation.

**Subject of concern No. 22 and recommendation No. 38**

76. The Algerian Government has taken the following steps with regard to refugee children:

The Ministry of Health is responsible for health care for Saharan children. Action plans are being put into effect in the fields of vaccination, tuberculosis control, diarrhoeal diseases, hygiene, sanitation and health education;

The Ministry of National Education is responsible for the education of Saharan children. The following statistics were recorded in the school year 1998/99:

2,987 children in school;

78 education support personnel;

40 educational establishments, including 24 primary schools and 16 lycées.

77. These measures supplement the training of teachers and supervisors at the National Teacher Training Institute and the Training Centre for Educational Administrators. The State is entirely responsible for refugee children.

**Subject of concern No. 23**

78. Measures have been taken to enrol nomadic children in boarding schools at the primary education level. They follow the same curriculum as other children from all backgrounds in schools across the country. And like all other children, they enjoy free preventive and curative health care.

**Subjects of concern No. 24 and 25**

79. Please refer to the section of the report on the substantive provisions of the Convention, under articles 32, 37, 39 and 40.

**Subject of concern No. 26**

80. Cases of subversion and terrorism are dealt with by the ordinary courts.

81. These cases are investigated and tried according to the same rules of procedure as other criminal offences. However, Algerian legislation includes certain special provisions in this area, specifically the competence of the criminal courts to try minors from the age of 16.

82. Article 447 of the Code of Criminal Procedure states that minors under the age of 18 must be tried by a juvenile court. However, owing to the sheer number of terrorism and subversion cases in which minors are involved alongside adults, article 249 of the Code of Criminal Procedure has extended the jurisdiction of the criminal courts to minors aged 16 and over. This avoids splitting up the adults and minors involved in the same proceedings, which would be prejudicial to the interests of justice.



83. However, while henceforth subject to the jurisdiction of the criminal courts, minors aged 16 and over continue to benefit from the defence of minority stipulated by article 50 of the Criminal Code and hence receive a substantially reduced sentence should they be convicted.

84. Under the provisions of article 50 of the Criminal Code, if it is decided that a minor between the ages of 13 and 18 should be subject to criminal punishment, the following sentencing options are available:

If the minor is tried for an offence for which the penalty is death or life imprisonment, the sentence shall be between 10 and 20 years' imprisonment;

If the minor is tried for an offence for which the penalty is a term of imprisonment, the sentence shall be one half of the term of imprisonment that the minor would have served had he been an adult.

#### **Subject of concern No. 27**

85. Please refer to the section of the report dealing with the provisions of articles 34 to 36 of the Convention.

#### **Recommendation No. 29**

86. The Government has launched a debate on texts relating to children. In this connection, it signed the African Charter on the Rights and Welfare of the Child in June 1999, and this instrument is among the bills that will be presented for ratification shortly. Domestically, a framework document on the protection and development of the child is in the course of preparation.

#### **Recommendation No. 30**

87. As part of the Government's efforts targeted at specific population groups, the authorities have established a number of institutional structures to ensure the welfare and protection of the family and children. These include:

The Solidarity Committee, whose task is to encourage interaction between public institutions and civil society and to stimulate and organize the mobilization and deployment of stakeholders responsible for children. It decides upon and implements initiatives in favour of families and children;

The Inter-Ministerial Committee for the Protection and Development of the Child, whose task it is to help to define the main strands of policy on children, propose instruments for their protection and to coordinate and evaluate intersectoral initiatives relating to children.

88. The World Health Organization (WHO), the United Nations Children's Fund (UNICEF) and non-governmental organizations (NGOs) are associated with the majority of the programmes and especially those having to do with mother and child health. Periodic rounds of meetings are held with these partners.

### **Recommendation No. 31**

89. A number of initiatives have been taken to ensure access to information on the rights of the child, notably:

The organization, during observance of International Children's Day and the Day of the African Child, of awareness-raising meetings on various themes such as "Children in search of citizenship" and "Efforts to combat all forms of discrimination against girl children";

The organization of outreach activities, presented by children, designed to promote wider knowledge of the principles contained in the Convention and the screening of a documentary made with the support of UNICEF;

The publication, in partnership with UNICEF, of a guide to the rights of the child, in a print run of 10,000 copies;

The publication and dissemination of a guide on the needs of children;

The publication and dissemination of a brochure containing statistics on childhood;

The organization of a competition to identify the best book on an educational theme.

### **Recommendation No. 32**

90. Several surveys are being conducted, focusing on statistics and indicators. Likewise, studies are being undertaken on areas of special concern such as educational wastage. Other surveys have been commissioned on child labour, wilful desertion of ascendants and descendants, changes in family structure and violence.

### **Recommendation No. 35**

91. A national abuse survey has been conducted to strengthen child protection mechanisms. A study on sexual exploitation will be undertaken in the near future.

### **Recommendation No. 37**

92. Educational solidarity arrangements have been instituted for nomadic children. These include improvements in school meals, supply of free school stationery and school transport for children in sparsely populated areas. In 2000 a collection was organized for children living in poverty black spots. The proceeds will be used to equip schools in these areas with heating and air-conditioning units.

**Recommendation No. 41**

93. The authorities have implemented a number of measures, for example:

The development and popularization of a national intersectoral programme to instil a culture of peace and to combat violence and evils in schools. This programme is being implemented in schools across the country;

The opening of psychological recovery centres for children and follow-up and social reintegration units.

**PART TWO - PROVISIONS OF THE CONVENTION****I. DEFINITION OF THE CHILD (art. 1)**

94. Algerian legislation conforms to the provisions of article 1 of the Convention, where the child is generically defined as a “human being below the age of 18 years”. The definition of the child in Algerian law can be inferred from various provisions:

(a) Article 40, paragraph 2, of the Civil Code (Ordinance No. 75-58 of 26 September 1975) fixes the age of civil majority at 19 years;

(b) Article 442 of the Code of Criminal Procedure (Ordinance No. 66-155 of 8 June 1966) lays down that “the age of criminal majority is 18 years”. Article 443 of the same Code stipulates that the age to be used in determining whether or not an offender is of age is the age on the date of the offence;

(c) As regards education, article 5 of the Ordinance of 16 April 1976 lays down that “education is compulsory for children aged between 6 and 16 years”;

(d) The texts governing vocational training guarantee “children over 15 years of age” whose school results are not good enough for them to progress to secondary education the opportunity of a minimum of two years’ free training to provide them with a skill;

(e) Ordinance No. 75-31 of 29 April 1975, relating to general labour conditions, stipulates that the minimum age for admission to employment is 16 years (art. 180). Article 182 prohibits the employment of young people under the age of 16 years except where an exemption is granted by the Minister of Labour and Social Welfare in the case of certain fixed-term temporary jobs;

(f) Ordinance No. 74-103 of 15 November 1974 establishing the National Service Code sets the call-up age at 19 (art. 1). Article 98 postpones call-up if the individual concerned is pursuing studies until the student has reached the age of 27 years;

(g) Act No. 84-11 of 9 June 1984 establishing the Family Code stipulates in article 7 that the marriageable age is 21 years for men and 18 years for women;

(h) Article 93, paragraph 2, of the Code of Criminal Procedure lays down that “minors under the age of 16” may be heard without having to swear an oath and that their testimony shall be used for information purposes only;

(i) Article 444 of Act No. 82-03 of 13 February 1982, amending the Code of Criminal Procedure, provides that, in the case of indictable offences, “a child aged under 18 years” may be subjected only to one or more of the protection or re-education measures listed below:

Restoration to his parents, his legal guardian or a trustworthy person;

Non-custodial supervision;

Placement in an authorized educational institution or establishment or a licensed vocational training establishment;

Placement in an authorized medical or medical-pedagogical establishment;

Placement in State care;

Placement in a boarding school suitable for juvenile delinquents of school age.

95. However, a minor aged over 13 may also be placed in a public correctional school or remedial educational institution. In all cases, the above measures must be ordered for a specified period, not extending beyond the date on which the minor attains civil majority. Article 446, paragraph 3, of the same Ordinance stipulates that, in the case of a petty offence, the court may either simply issue a caution or impose a fine as prescribed by law.

96. Children under the age of 13 merely receive a caution. Article 456 lays down that an offender under the age of 13 may not, even temporarily, be placed in a penitentiary establishment.

97. Similarly, an offender aged between 13 and 18 years may be placed in a penitentiary establishment only if a provisional measure to that effect seems indispensable or if it is impossible to make any other arrangement. In that case, the minor shall be kept in a special section or, failing this, in a special area. As far as possible, the minor shall be segregated from other prisoners at night.

98. Article 48 of Ordinance No. 66-156 of 8 June 1966 establishing the Criminal Code stipulates that minors under the age of 13 may be subject to protection or re-education measures only. Minors who commit petty offences are merely cautioned.

99. A minor aged between 13 and 18 years may be subject either to protection or re-education measures or to a reduced penalty. Two other ordinances, promulgated in 1972, strengthen and safeguard the rights of the child:

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

Ordinance No. 75-64 of 26 September 1975 setting up establishments and services for the protection of children and young persons lays down in article 1 that “in order to protect children and young persons, the Ministry of Youth and Sports is responsible for implementing all protection measures for minors under the age of 21 whose living conditions and behaviour could compromise their social integration”.

## **II. GENERAL PRINCIPLES**

### **A. Non-discrimination (art. 2)**

100. Since independence, Algeria’s successive constitutions have all embodied a set of principles that guarantee the protection and safeguarding of the citizen’s fundamental rights to economic, cultural and social fulfilment.

101. Algeria is a homogeneous nation with democratic laws that prohibit any form of discrimination based on religion, political views or social situation. There is no discrimination in law against disabled or abandoned children or children living in difficult circumstances, either before or after their birth.

102. On the contrary, these children are protected by special measures. Targeted programmes exist to help children with disabilities in the fields of schooling, education, preventive medicine, medical treatment and social integration. There are approximately 100 specialized institutions in Algeria provided with all the necessary human and material resources to accommodate these children.

103. Generally speaking, the rights of the child are protected first and foremost by the Constitution, and also by a number of other laws.

104. In the Constitution, children’s rights are protected by provisions safeguarding the rights of citizens in general.

105. The preamble of the Constitution states that it constitutes the highest authority and that “it is the Fundamental Law that guarantees individual and collective rights and freedoms”. It aims to ensure legal protection and to oversee the acts of the public authorities in a law-governed society devoted to the fulfilment of every aspect of the human personality.

106. Article 29 of the Constitution 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.”

107. Article 31 states that: “The aim of institutions is to ensure the equal rights and duties of all citizens, men and women, by removing the obstacles that hamper the fulfilment of human beings and impede the effective participation of all in the political, economic, social and cultural life.”

108. Article 34 guarantees the inviolability of the human person and proscribes any form of physical or psychological violence. This provision is complemented by article 35, which states that offences against rights and freedoms and physical or psychological violations of the integrity of the human being are punishable by law.

109. Childhood is specifically referred to in article 63, together with the family and youth, in the context of respect for the right to honour, privacy and protection.

110. In addition, Algeria has acceded to a number of international legal instruments that enshrine rights contributing to respect for the dignity and integrity of the human being.

111. To entrench these universal provisions in the domestic context, Algeria has taken care to prohibit and eliminate all forms of racial discrimination and is endeavouring to guarantee the equality of all persons before the law and ensure that the various rights can be exercised without distinction as to race, colour, language or sex:

Article 140 of the Constitution enshrines equality before the courts. Justice is based on the principles of legality and equality. It is accessible to all and manifested by respect for the law;

Protection of citizens’ rights and liberties and inviolability of the human being with respect to any form of physical violence;

The right to found a family and to marry upon reaching marriageable age. Article 4 of the Family Code stipulates that “marriage is a contract legally entered into between a man and a woman. The aims of marriage include the founding of a family based on affection, kindness and mutual help, providing moral protection for both spouses and preserving family ties”;

Article 30 of the Constitution and articles 6 and 7 of Ordinance No. 70-36 of 15 December 1970 establishing the Nationality Code ensure the right to nationality;

Freedom of movement within the national territory, the right to enter and leave the country and protection abroad are guaranteed by articles 24 and 44 of the Constitution;

Article 52 of the Constitution guarantees private property and the right to inherit;

Article 36 of the Constitution guarantees inviolability of conscience and opinion.

112. The Prison Reform and Rehabilitation Code states that: “The People’s Democratic Republic of Algeria has always proclaimed its commitment to respect for individual freedoms and the principle of the legality of punishments, the protection and application of which are the

responsibility of the judicial authorities, [...] and that, in determining the rules applicable to the treatment of detainees, the recommendations of the United Nations, in particular the resolutions adopted on 30 August 1955 at Geneva and approved on 31 July 1957 by the Economic and Social Council of the United Nations, are used as a basis.”

113. Article 196 of the General Rules on the operation of penitentiary establishments stipulates that “there shall be no discrimination on the grounds of race, language, religion, national origin, political opinions or social position”.

### **B. Interest of the child (art. 3)**

114. An unchanging principle of State policy is to put the interest of the child first and to protect children, as laid down by article 63 of the Constitution, which safeguards the family, youth and childhood. Likewise, article 58 of the Constitution protects the family, the basic unit in which the child develops.

115. Article 59 of the Constitution guarantees the living conditions of citizens above and below working age and citizens who will never be able to work.

116. Article 65 establishes the duty of parents to educate and provide for their children, a duty endorsed by the courts having jurisdiction in the matter.

117. In the sphere of welfare, programmes to satisfy basic needs have been put in place which aim to cater for population groups targeted by constitutional provisions (access to health care, education, transport and social and vocational integration).

118. Algeria attaches considerable importance to the role of parents in protecting the interest of the child, but does not neglect the State’s obligation to provide special benefits and specific rights for children.

119. These social benefits are grouped under three main headings: income for the poor, income for persons unable to exercise a gainful activity, and/or income for households without means of support. The benefits in question are:

The standard solidarity allowance, granted to elderly or disabled persons who are heads of household with no other means of support. At the end of 1999, an estimated 419,686 persons were in receipt of this allowance, in addition to 412,022 dependants;

Compensation for participation in community service work organized by communes.

120. On average, 126,025 people were engaged in such work every month at the end of 1999, when the financial cost of the scheme was estimated at 9,728 billion dinars. Since 1997 this form of assistance for the poor, which by extension protects the health and well-being of children, has been strengthened through a support programme financed by a World Bank loan.

121. Contributions to the social security system enable disadvantaged social groups (disabled persons) and beneficiaries of the social safety net to recover the cost of health care, especially medicines, through the sickness insurance scheme. Non-contributors to social insurance who are

both deprived and chronically ill benefit from free medicines. Persons with disabilities have access to free prosthetic appliances under an agreement between the National Social Insurance Fund and manufacturers.

122. Foster families receive a monthly allowance of 800 dinars for an able-bodied child and 1,100 dinars for a disabled child.

123. In addition, the principle enshrined in article 3 of the Convention is reflected in the chapter of the Code of Criminal Procedure containing rules on juvenile delinquency (art. 444 ff) and Ordinance No. 72-03 relating to the protection of children and young persons.

124. Both these texts specify that no measures shall be taken against minors until a personality study has been conducted and the possibility of changing the minor's behaviour has been explored. Juvenile judges and associate judges are selected on the strength of their interest in juvenile affairs. The procedure for attaining this objective is simple (the interest of the child).

125. In criminal cases, this principle is embodied in article 454, paragraph 2, of the Code of Criminal Procedure.

126. Certain provisions in the Information Act (No. 90-70) of 3 April 1990 relate specifically to children, namely:

Article 27, which permits any institution with a human rights or child protection mandate to sue for damages in criminal proceedings;

Article 37, which states that journalists may not invoke confidentiality of sources before a judicial authority when the information in question relates to children or young persons.

127. Articles 42 and 43 of the Civil Code state that "any person who does not possess discernment because of his young age or because of mental weakness or dementia shall not have capacity to exercise his civil rights". "A child who has not reached the age of 16 years is deemed not to possess discernment"; "a person who has reached the age of discernment without being of age, as well as a person who is of age but profligate or suffering from imbecility, shall have limited capacity to exercise civil rights in accordance with the provisions set out in law".

128. The interests of the child are also protected by the Family Code, article 82 of which stipulates that "the acts of persons under the age of discernment, because of their young age, shall be null and void".

129. Article 83 stipulates that the acts of a person who has reached the age of discernment without being of age, pursuant to article 43 of the Civil Code, are valid if they benefit that person and null and void if they prejudice that person. Such acts require the authorization either of the legal guardian or of the testamentary guardian if there is any uncertainty regarding benefit or prejudice. Any dispute is referred to the courts.

130. Article 88, concerning the administration of the assets of the child, sets out that "the guardian is required to administer the assets of his ward in the latter's best interest". He must seek the authorization of a judge for certain acts, such as: sale, division, mortgaging and transaction, sale of movable assets of special value, commitment of capital belonging to a minor



in the form of loans, borrowings or shareholdings, or renting of the real property of a minor for a period of more than three years or for a period extending beyond the minor's majority by one year.

131. Article 89 permits the judge to authorize sale, bearing in mind the needs and interests of the minor, provided that the sale is by public auction.

132. Article 93, concerning testamentary guardianship, stipulates that "the testamentary guardian must be of the Islamic faith, judicious, capable, upright and a good administrator" and that "if he does not fulfil the aforesaid conditions, the judge may dismiss him".

133. Article 96, paragraph 5, states that the guardian may also be dismissed at the request of an interested party, if it can be proved that his administration compromises the interests of the minor.

134. Article 98 states that "the testamentary guardian shall be liable for any damage to the assets of his ward resulting from his negligence".

135. The interests of the child are also protected against abuse by adults. To protect girls against early marriage, article 7 of the Family Code stipulates that the marriageable age shall be 18 years.

136. In the event of the separation of the parents, article 62 provides for a right of custody, involving the maintenance, education and upbringing of the child in the father's religion and the protection of the child's physical and mental health.

137. Articles 64 and 65 establish custody on the basis that the interests of the child are best served by the devolution of custody to the persons most suited to exercise it, the judge being empowered to evaluate the persons' aptitude.

138. Articles 66 to 68 set the conditions for the granting of custody and provide for the removal of custody in the interests of the child.

139. Article 69, which deals with travel, lays down that "if the person having custody wishes to elect domicile in a foreign country, the judge may confirm custody or remove custody, always taking into account the interests of the child".

140. Act No. 90-24 of 18 August 1990, amending the Code of Penal Procedure, sets out, in article 337 bis, that the plaintiff may directly summon an accused person before the competent court in the event of wilful desertion of the family or failure to hand over a child to the person entitled to its custody. In other cases, a direct summons must be authorized by the Department of Public Prosecution.

### **C. Right to life, survival and development**

141. The right to life, the basis of all human rights, is enshrined in articles 33 and 34 of the Constitution, which provide that "the State guarantees the inviolability of the human person. Any form of physical or psychological violence is prohibited".

142. Offences against rights and freedoms and physical or psychological violence against the individual are punishable by law.

143. Title II of Ordinance No. 66-156 of 8 June 1966, which establishes the Criminal Code, deals with crimes and offences against the person (unlawful killing, murder, parricide and infanticide). Infanticide is considered in article 259 to be the unlawful killing or murder of a newborn child.

144. Article 261, paragraph 2, envisages a term of imprisonment of between 10 and 20 years for a mother acting as the principal or an accomplice to the murder or unlawful killing of her newborn child.

145. The right to life is also guaranteed to children at all stages in their development. Article 304 of the Criminal Code prohibits abortion; article 306 provides that, if the perpetrator of the offence under article 304 is a physician, midwife, surgeon, dentist, pharmacist, medical student, dental student, pharmacy student or employee, herbalist, bandage manufacturer, dealer in surgical instruments, male or female nurse, masseur or masseuse, and that person recommended, encouraged or performed the abortion, he or she shall be punished, as applicable, in accordance with the provisions of article 304 or those of article 305, which doubles the term of ordinary imprisonment and raises to the maximum the term of extended imprisonment provided for in article 304. Any persons found guilty shall be banned from carrying on professional activities and may, in addition, be forbidden from residing in certain areas.

146. The death penalty shall not be imposed on minors aged between 13 and 18. Article 50 of the Criminal Code states that: "If it is decided to impose a criminal punishment on a minor aged between 13 and 18, the following sentences shall be appropriate: if the minor is liable to the death penalty or life imprisonment, he shall be sentenced to 10 to 20 years' imprisonment."

147. Article 49 stipulates that "only protective or re-education measures may be applied to a minor aged under 13".

148. The death penalty is not imposed in Algeria on pregnant women or women nursing children aged under 24 months. Stay of enforcement of criminal sentences in the case of pregnant women or women nursing children is provided for in article 16 of the Prison Organization Code.

149. Articles 314 to 320 of the Criminal Code provide for punishment in cases of abandonment or neglect of children. Wilful desertion of family and child neglect are defined in article 330 as follows:

Where a father or mother "without just cause deserts the family residence for more than two months or evades all or part of the moral or material obligations connected with parental authority of legal guardianship". The two-month period may be interrupted only by return to the family home with the intention of resuming family life on a permanent basis;

Where a husband “without just cause voluntarily deserts his wife for more than two months, knowing her to be pregnant”. Proceedings are initiated at the instigation of the abandoned spouse, and the penalty set out in the Criminal Code is a term of imprisonment of between two months and one year and a fine of between 500 and 5,000 dinars;

Where a father and mother, regardless of whether parental authority has or has not been removed from them, seriously compromise, by ill-treatment or want of care, the health, security or morals of their children.

150. Failure to pay alimony is punished by article 331, which lays down a term of imprisonment of between six months and three years and a fine of between 500 and 5,000 dinars.

#### **D. Respect for the views of the child (arts. 12 and 13)**

151. Children’s freedom of conscience and freedom of opinion are guaranteed in general terms by the Constitution as rights that apply to all individuals (art. 35). Restrictions comparable to those found in other countries are, however, imposed by legislation to protect the best interests of the child, his security and moral and psychological equilibrium, as well as to maintain order, ensure respect for the law and protect morals.

### **III. CIVIL RIGHTS AND FREEDOMS**

#### **A. Name and nationality (art. 7)**

152. Article 30 of the Constitution lays down that “Algerian nationality is defined by law”, specifically Ordinance No. 70-86 of 15 December 1970 establishing the Algerian Nationality Code. Under articles 6 and 7 of that Code, the following are deemed to be Algerian:

A child born of an Algerian father;

A child born of an Algerian mother and an unknown father;

A child born of 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 coming of age.

153. Article 8 lays down 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”.

154. 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”.

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

156. 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.

157. As regards the naming of the child, article 61 of Ordinance No. 70-20 relating to civil status stipulates that: “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 shall be drawn up immediately. Article 63 states that, in addition to the date, time and place of birth and the sex of the child, the birth certificate must indicate the child’s given names.

158. The child automatically takes the father’s patronymic where the father is known. If no father or mother is in evidence, the person declaring the child shall choose its given names (art. 64).

159. Under article 66, any person who finds a newborn child must declare this to the registrar at the place where the child was found. In the case of newborn children whose parents are not known, the registrar shall choose given names for the child, with the last given name serving as patronymic (art. 64).

160. Decree No. 92-84 of 13 January 1992 supplemented Decree No. 17-157 of 3 June 1971 on name changes by including children without families. This law is designed to simplify the administrative formalities connected with a change of name, stimulate requests for adoption by families and apply the notion of jus soli to a child whose parents are unknown or whose mother is known and father unknown.

161. Mention should also be made of the fact that, since 1992, Algerian television has provided a contact service for children who are searching for their parents.

#### **B. Preservation of identity (art. 8)**

162. 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.

163. 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 that “the child enjoys civil rights from conception, provided it is born alive”.

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

165. 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. If the child is declared as that of a woman who has not in fact given birth, when the child has been voluntarily surrendered or abandoned by its parents, the guilty person shall be liable to imprisonment for between two months and five years.

### **C. Freedom of expression**

166. Freedom of opinion and expression, as well as freedom of intellectual, artistic and scientific creation, are guaranteed by articles 36 and 38 of the Constitution. Copyright is also guaranteed by law. The public exercise of these rights by a minor child requires the authorization of his guardian, in accordance with the Family Code.

### **D. Access to information (art. 17)**

167. Act No. 90-07 of 3 April 1990 stipulates that “the right to information shall be exercised freely, having due respect for the dignity of the human person, through any form of mass communication, including writing, radio, sound systems and television”.

168. Article 2 states that: “The right to information shall consist of the citizen’s right to be informed fully and objectively of facts and opinions of interest to society at the national and international levels, and of the right to participate in information through the exercise of the fundamental freedoms of thought, opinion and expression in accordance with articles 35, 36, 39 and 40 of the Constitution.”

169. This definition of information covers both facets of the right to information, namely the right to inform and the right to be informed. In fusing them together the legislature has enlarged the scope of this fundamental freedom.

170. This right is also recognized by article 3, which stipulates that it “shall be exercised freely with due respect for the dignity of the human person and the requirements of foreign policy and national defence”.

171. National or foreign periodicals and specialized publications may be distributed on condition they contain no illustration, report, information or insertion contrary to human rights or advocating racism. In addition, they must contain no advertisement or announcement likely to promote violence or crime (art. 26). Institutions, agencies or approved associations responsible for the promotion of human rights and the protection of children may exercise the rights recognized to parties bringing criminal indemnity actions.

172. Furthermore, Executive Decree No. 91-101 of 20 April 1991 regulating television and radio broadcasting sets out the following obligations:

Television and radio must warn viewers and listeners, in an appropriate manner, of any programme or broadcast that is likely to cause offence (art. 3);

Television and radio must produce and schedule educational and teaching broadcasts for children and adolescents, by obtaining the assistance of an educational structure in an advisory capacity (art. 5).

### **E. Freedom of thought, conscience and religion (art. 14)**

173. Freedom of thought, conscience and religion is guaranteed under Algerian law. However, article 2 of the Constitution lays down that “Islam is the State religion” and article 62 of the Family Code stipulates that “children shall be educated in the religion of their father”.

174. These provisions in no way restrict freedom of worship and religion of communities of other faiths living in Algeria. These freedoms are respected and protected by the State. The Archdiocese of Algiers covers several dioceses, including Algiers (seven churches), Laghouat (one church), Oran (four churches) and Constantine (two churches). The Jewish consistory is based in Algiers and administers two synagogues, one in Algiers and one in Blida.

175. Under the Criminal Code, it is a punishable offence to insult any person or persons on account of their belonging to a specific ethnic group or espousing a particular philosophy or religion (art. 298 bis). Similarly, article 77 of the Information Act provides that anyone who, in writing or by sound, image, drawing or any other direct or indirect means, insults Islam and the other celestial religions shall be liable to criminal penalties (six months’ to three years’ imprisonment and/or a fine).

### **F. Freedom of association and peaceful assembly (art. 15)**

176. Everyone has the right to associate freely with others, including the right to form and join trade unions.

177. The Associations Act (No. 31-90) of 4 December 1990 proclaims freedom of peaceful association and assembly. This Act has prompted the establishment of 11 national associations to protect the rights of children, including:

The National Association for the Rights of Children;

The National Association SOS Villages-enfants;

The National Association to Assist Children and Young People;

The National Association for the Protection of Child Health.

### **G. Protection of privacy (art. 16)**

178. This right is protected by article 39 of the Constitution, which lays down that: “The privacy and honour of the citizen are inviolable and shall be protected by law. The confidentiality of private correspondence and all forms of communication is guaranteed.”

179. Under article 40 of the Constitution, the home is inviolable. No search may be conducted unless authorized by law and in accordance therewith. Searches and inquiries are conducted subject to the procedures and conditions laid down in the Code of Criminal Procedure (arts. 44-50 and 60-65).

180. House searches and seizures of evidence may not take place without the express consent of the person concerned.

181. Article 122 of the Code of Criminal Procedure states that: “An officer charged with executing an arrest warrant may not enter a citizen’s home before 5 a.m. or after 8 p.m.”

182. Article 135 of the same Code provides that: “Any administrative or judicial official, police officer or commander or member of the security forces who, acting in that capacity, enters a citizen’s home against the wishes of the latter, except as provided for and subject to the formalities prescribed by law, shall be liable to a term of imprisonment for between two months and one year and a fine of 500 to 3,000 dinars, without prejudice to the application of article 107.”

183. Article 107 makes arbitrary acts or offences against liberty, if committed or ordered by a public official, punishable by 5 to 10 years’ imprisonment.

#### **H. Right not to be tortured or subjected to cruel, inhuman or degrading treatment (art. 37)**

184. Algeria is a party to many international instruments, including the African Charter on Human and Peoples’ Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Geneva Conventions of 12 August 1949, which contain specific provisions against torture and ill-treatment, and the Convention against Torture and Other Cruel, Human or Degrading Treatment or Punishment. Algeria has made no reservations to the last-mentioned Convention and has recognized in full the competence of the Committee against Torture.

185. In Algeria, the prohibition of torture is a constitutional principle, and various legal and other measures have been adopted fully to enforce this provision in law and in practice. All laws and regulations are based on this principle and that of respect for the dignity and physical and moral integrity of the human being. Acts of torture are crimes in the eyes of the criminal law. No legal provision authorizes a State official to order or perform acts of torture or other forms of violence or ill-treatment. What is more, the Criminal Code and various laws, such as the Prison Reform Code, punish and/or prohibit abuses of authority as well as violations of human freedom or dignity. The Criminal Code punishes acts of torture and other forms of violence and ill-treatment in articles 254 to 280, which penalize murder and other capital offences and intentional acts of violence.

186. Acts of torture are a capital crime (art. 293 bis). There are specific provisions punishing persons guilty of violence against minors and of wilfully depriving minors of food or care in such a way as to endanger their health (arts. 269-272). Terms of imprisonment ranging from 3 to 20 years, depending on the consequences of the violence or deprivation, are the penalty for this crime. The penalty is life imprisonment in cases of unintentional homicide.

187. The death penalty shall not be imposed on minors aged between 13 and 18. Article 50 of the Criminal Code states that: “If it is decided to impose a criminal punishment on a minor aged between 13 and 18, the following sentences shall be appropriate: if the minor is liable to the

death penalty or life imprisonment, he shall be sentenced to 10 to 20 years' imprisonment." Article 49 stipulates that "only protective or re-education measures may be applied to a minor aged under 13".

188. With reference to the safeguards applicable to persons accused of criminal offences, articles 42-45 of the Constitution stipulate that an accused person:

Has the right to be informed promptly and in detail in a language that he understands of the nature and cause of the charge against him;

Shall be presumed innocent until proved guilty by a regularly constituted court with all the safeguards of due process;

May not be found guilty except by virtue of a law promulgated prior to the offence charged;

May not be prosecuted, arrested or detained except as determined by law and in accordance with the procedures prescribed thereby;

Police custody shall be subject to judicial supervision and shall not exceed 48 hours. A person in police custody shall have the right to contact his family immediately. Police custody may not be extended, save on an exceptional basis under conditions established by law. Upon expiry of this time limit, a medical examination of the detainee must be carried out, if he so requests, and the detainee shall in all cases be informed of this option;

Any person charged with a criminal offence has the right to be present at his trial and to defend himself in person or through legal assistance of his choosing (Code of Criminal Procedure, art. 454).

189. The Criminal Code also establishes penalties for offences against liberty committed by persons in the performance of their duties.

190. The Prison Reform and Rehabilitation Code (Ordinance No. 72-02 of 10 February 1972) stipulates: "Sentences in criminal proceedings may be enforced only when the judgement has become final" (art. 8); "for a custodial penalty to be enforced, a copy of the judgement or decision shall be drawn up in order that the sentenced prisoner may be admitted to prison" (art. 11); "every penal establishment shall keep a prison register" (art. 13); and "no official responsible for the re-education and social rehabilitation of prisoners shall, on pain of prosecution for arbitrary detention, detain a person without a proper detention order or a definitive sentence, previously recorded in the prison register" (art. 14).

191. Article 110 of the Criminal Code establishes penalties for arbitrary detention in the following terms: "Any re-education official in a penitentiary establishment or detainee facility who admits a prisoner without a lawful committal order or refuses, without citing an injunction issued by the investigating judge, to present the prisoner to the authorities or to authorized visitors, or refuses to hand over records to the said authorized persons, shall be guilty of arbitrary detention and liable to punishment."



192. Article 456 stipulates that an offender under the age of 13 may not, even temporarily, be placed in a penitentiary establishment. Similarly, an offender aged between 13 and 18 years may only be sent to a penitentiary establishment if a provisional measure to that effect seems indispensable or if it is impossible to make other arrangements. In that case, the minor shall be kept in a special section or, failing this, in a special area. To the extent possible, the minor shall be segregated from other prisoners at night.

193. To protect children against all forms of violence, exploitation and other forms of cruel, inhuman or degrading treatment, the State has taken special measures in conformity with legislation. When the family environment endangers a child's upbringing, health or development, a judge shall order that the child be removed forthwith and placed in a foster family or appropriate institution.

194. Child victims of terrorist violence benefit from medical care, psychological counselling and social reintegration. The State has set up 67 counselling centres in areas where terrorist crime is widespread. These centres have treated hundreds of families and their children. Three national centres have been opened to care for child victims who have lost their parents. However, family solidarity has once again played its traditional protective role, since the majority of orphaned children are taken in by their extended families (grandparents, aunts, uncles and cousins). These families have received financial and material assistance to cover the costs associated with providing care.

#### **IV. FAMILY ENVIRONMENT AND ALTERNATIVE CARE**

##### **A. Family guidance (art. 5) and parental responsibilities (art. 18, paras. 1 and 2)**

195. The family enjoys the protection of the State and society (Constitution, art. 58). Article 2 of the Family Code defines the family as "the basic unit of society. It is composed of persons united by the bonds of marriage and of kinship". Article 65 of the Constitution states that: "The law endorses the duty of parents to bring up and protect their children." Matters relating to the custody of the children of a separated couple are dealt with in articles 62 to 72 of the Family Code. Articles 74 to 80 deal with maintenance and alimony. Failure by the parents to exercise their duty to protect their children is dealt with in articles 330 to 332 of the Criminal Code regarding wilful desertion of the family.

##### **B. Separation from parents (art. 9)**

196. 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 provide grounds or justification for separation. No child may be separated from its family or parents except by the decision of a judge.

197. Article 1 of Ordinance No. 72-03 of 10 February 1972 relating to the protection of children and young persons prescribes that “minors under the age of 21 years whose health, security, morals or education are endangered, or whose living conditions or behaviour may jeopardize their future, may be subject to protective and educational assistance measures”:

Only a juvenile judge may impose a protection and assistance measure in respect of children covered by this law (arts. 2 and 3);

Interim custody of the child may be decided upon by the juvenile judge (arts. 5 and 6). The judge may change or defer these measures at any time, at the request of the minor, his parents or the public prosecutor;

“Once the investigation 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 definitively, 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 poverty can be demonstrated” (art. 15).

### **C. Family reunification (art. 10)**

198. Article 44 of the Algerian Constitution provides that: “Any citizen in possession of his civil and political rights shall be entitled to choose his place of residence freely and to travel within the national territory. The right to enter and leave the national territory is guaranteed to him.”

199. The law imposes no limitations on the right of citizens to move freely throughout the national territory, their right freely to choose their place of residence or to leave and enter their country. Exit formalities comprise only the normal customs and frontier police controls and possession of a travel document in the prescribed form (a valid passport). However, if the person having custody of a child born of a separated couple elects domicile in a foreign country, the judge may confirm or remove custody, taking into account the interests of the child (Family Code, art. 69).

200. The freedom of movement of aliens in Algeria is also guaranteed and dealt with by Ordinance No. 66-211 of 21 July 1966 relating to the situation of aliens in Algeria, as supplemented by Ordinance No. 67-190 of 27 September 1967 and Ordinance No. 75-80 of 15 December 1975 relating to the enforcement of judicial decisions regarding residence and restricted residence.

201. These provisions are of a general nature and, as such, apply to all aliens who have lawfully entered Algeria, without need for recourse to an agreement. An alien may only be deported pursuant to a decision taken in conformity with the above-mentioned Ordinance

No. 66-211, article 20 of which stipulates that the deportation of an alien from the national territory “shall be ordered by the Ministry of the Interior”. The deportation order must be communicated to the person concerned.

202. An alien who proves that he is unable to leave the national territory may, until such time as he is in a position to comply with the order, be compelled, by decree of the Ministry of the Interior, to reside in a place assigned to him (arts. 12 and 20-22).

203. Article 13 of the same Ordinance establishes the principle that “an alien may reside and travel freely within Algerian territory”, subject to the obligation to produce at the request of persons invested with public authority evidence or documents authorizing him to reside in Algeria, and to report his domicile or any change of domicile to the police station or municipal authority at his place of residence.

#### **D. Recovery of maintenance for the child (art. 27, para. 4)**

204. The education, maintenance and protection of children are guaranteed by the Constitution (art. 62). Failure to fulfil parental duty is thereby punishable (Criminal Code, arts. 330-332).

205. The maintenance of the wife and children, both during marriage and after its dissolution, is governed by the Family Code. Among the husband’s obligations, pursuant to article 37 of that Code, is to provide for the maintenance of his wife and any children resulting from the marriage. Article 74 of the law relating to maintenance provides that “the husband is required to ensure the maintenance of his wife as soon as the marriage is consummated”; article 75 stipulates that “the father is required to provide for the maintenance of his child unless the latter has resources”.

206. Maintenance for male children must be provided up to the age of majority. For female children, it shall be provided up to the consummation of marriage. The father is bound by this obligation if the child is physically or mentally handicapped or attends school. This obligation ceases as soon as the child is able to provide for his own needs. Article 76 stipulates that “in the event of the incapacity of the father, the obligation to maintain the children shall devolve upon the mother if she is able to provide for them”.

207. Article 78 lays down that “maintenance consists in food, clothing, medical care, housing or rent and anything else that is deemed necessary by practice and custom”. In assessing maintenance, the judge shall consider the situation of the spouses and their living conditions. This assessment may not be challenged for one year after the judgement has been handed down (art. 79). Maintenance is due with effect from the date on which proceedings are initiated. It is the responsibility of the judge to rule on the payment of a maintenance allowance, based on evidence, for a period not exceeding one year prior to the initiation of proceedings.

208. The right to recovery of maintenance is protected and guaranteed by a number of statutes. The Family Code arranges for and regulates the provision of maintenance. The Criminal Code criminalizes and penalizes parents who fail in this duty (arts. 330-332). The Code of Criminal Procedure establishes and simplifies the procedure for the recovery of maintenance (art. 337).

209. The courts ensure that this right is upheld. Their decisions are communicated to the parties residing in Algeria.

210. Algeria has signed a considerable number of judicial agreements on mutual assistance and legal cooperation with different countries. These agreements contain regulations on proceedings to enforce civil judgements handed down by the courts in either country that automatically have the force of *res judicata* in the territory of the other country, such as the Agreement between Algeria and France on Children Born to Mixed Couples, signed at Algiers on 21 June 1988.

#### **E. Children deprived of a family environment (arts. 20 and 21)**

211. Children temporarily or permanently deprived of their family environment or who, in their best interest, cannot be left in that environment, are taken into the care of State institutions and qualify for special assistance.

212. Article 1 of Ordinance No. 72-03 of 10 February 1972 relating to the protection of children and young persons establishes that “minors aged under 21 years whose health, security, morals or education are endangered, or whose living conditions or behaviour may jeopardize their future, may be subject to protection and educational assistance measures”.

213. Article 1 of Ordinance No. 75-64 of 26 September 1975 setting up establishments and services for the protection of children and young persons stipulates that “in order to protect children and young persons, the Ministry of Youth and Sports is responsible for implementing all protective measures for minors under the age of 21 whose living conditions and behaviour may compromise their social integration”.

214. In addition, Algerian legislation envisages another form of assistance and care for children deprived of their family environment, known *kafalah* or fostering, provided for in Act No. 84-11 of 9 June 1984 establishing the Family Code, article 115 of which states that “fostering means an undertaking to assume charitable responsibility for the maintenance, education and protection of a minor child, as a father would for his son. *Kafalah* is established by a legal deed. The foster child may be of known or unknown filiation. The child must retain his original filiation if his parents are known. If this is not the case, article 64 of the Civil Status Code shall apply”. The foster parent may bequeath or donate up to one third of his property to the foster child.

215. If the father and the mother, or either of them, should seek to regain guardianship of the child in question, it shall be for the child, if he has attained the age of discernment, to decide whether or not to return to his parents. If the child has not attained the age of discernment, he may be returned only if the judge so authorizes, taking account of the interests of the child.

216. Article 125 of the aforesaid Act lays down that “an action to abandon the fostering arrangement must be referred to the court that established it, the public prosecutor having been notified. In the event of death, the right to foster shall be transferred to the heirs if they undertake to exercise it. If this is not the case, the magistrate shall give custody of the child to a welfare institution”.

217. *Kafalah* is the underlying aim of the policy pursued by the Ministry of Labour and Social Welfare to assist children permanently deprived of a family. Childcare facilities or residential nurseries are regarded merely as a transitional stage between the mother and the foster family.

218. When a child is placed in an appropriate institution, the State mobilizes all necessary human and material resources to ensure optimum living conditions and social integration.

219. In 1999 the 28 institutions administered by the Ministry of Social Welfare cared for 1,285 boys and girls looked after by multidisciplinary teams comprising teachers, childcare workers, psychologists and about 1,000 support personnel. These arrangements cost approximately 271,395,000 dinars.

220. The authorities nevertheless encourage placement in families. Thus the institution of fostering has gone from strength to strength, with approximately 100 children placed in foster families every year. The option of *kafalah* abroad is also increasingly popular:

92 children were placed with families in 1997;

102 children were placed with families in 1998;

122 children were placed with families in 1999.

221. Children removed from their families on a temporary basis, for family or other reasons, are placed in an appropriate institution by the State, which intervenes through the competent judicial authorities.

222. These establishments, 32 in number, accommodated 2,000 children in 1999. During their stay, the children receive education, training and social welfare in accordance with an educational programme decided upon and devised to suit their needs and taking account of their individual requirements.

223. In addition, 43 community services throughout the country provide assistance and support to children in a difficult relationship with their parents. They are guided and monitored by social workers, who accompany them to their schools, workplaces and homes in an effort to resolve and overcome their problems.

224. These services, provided with the necessary resources (educational and cultural workshops for needy children), were responsible for 4,442 children in the course of 1999.

225. Institutions and services responsible for children and the protection and promotion of their interests, and the organization and administration of these institutions and services, come within the remit of the social welfare sector in accordance with universal norms.

226. The work of these institutions is overseen by their statutory bodies (governing body, child guidance board, educational action board). They are also monitored and inspected by social welfare offices, 48 decentralized structures which since 1997 have been responsible for the smooth operation of social welfare structures and the management of arrangements relating to the institutional placement of children.

227. Additional checks are conducted by officials from the General Inspectorate of the Ministry of Social Welfare, established in 1996, and a team of 20 technical educational inspectors trained in 1998 at the sector's national training centres.

228. All these institutions are also authorized to monitor the professional staff (psychologists, teachers, social workers and paramedics) directly responsible for children admitted to socio-educational facilities.

#### **F. Adoption**

229. According to law, the public prosecutor shall authorize placement of a child with an adoptive family once the family requesting adoption has been screened, with the cooperation of consular offices if the child is to be adopted abroad.

#### **G. Illicit transfer and non-return (art. 11)**

230. Convinced of the need for children to have, in all circumstances, a regular and peaceful relationship with their separated parents, wherever they reside, lawmakers have endeavoured to ensure the best possible protection for children and guarantee the organization and effective implementation of visiting rights. Current Algerian legislation and the bilateral judicial agreements ratified by Algeria have broadened the scope of this protection.

231. Article 69 of the Family Code states that “if the person having custody wishes to elect domicile in a foreign country, the judge may confirm or remove custody, taking into account the interests of the child”.

232. Several articles in the Criminal Code stipulate penalties for the non-return, kidnapping and abduction of children:

Article 327 states that “anyone entrusted with custody of a child who fails to present the child to persons having a legitimate right of access shall be liable to imprisonment for a term of between two and five years”;

Article 328 states that “when a court has handed down an enforceable judgement concerning custody of a minor, either in the form of an interim or a final decision, the father, mother or anyone who fails to present the minor to persons having a legitimate right of access, or any person who, even without fraud or violence, kidnaps, abducts or arranges for the kidnapping or abduction of the child from the custody of those to whom it has been granted, or from the premises where the child has been placed, shall be liable to imprisonment for between one month and one year and a fine of between 500 and 5,000 dinars. If the guilty party has previously been deprived of parental authority, the term of imprisonment shall be increased to three years”;

Article 329 provides that, except where the act is a punishable act of complicity, anyone who knowingly hides or conceals a kidnapped or abducted minor, or who conceals a minor from the authority to which he is legally subject, shall be liable to imprisonment for between one and five years and/or a fine of between 500 and 2,500 dinars.

233. The Algerian courts monitor respect for and protection of visiting rights and the right of access to the child. Relevant legal decisions are communicated to the parties concerned through the usual procedural channels, if they reside in Algeria.

## H. Abuse and neglect (art. 19)

234. The current Constitution and the provisions of the Civil and Criminal Codes and other laws and regulations, specifically Ordinance No. 72-03 of 10 February 1972 on the protection of children and young people, protect children against all forms of violence, physical or mental abuse, desertion or ill-treatment.

235. Violations of these provisions are punishable by law. When the family environment in any way endangers a child's health or harmonious development, a juvenile judge shall order that the child be immediately removed from this environment and placed in a youth protection institution designed to accommodate and care for the child, pursuing education programmes adapted to the child's needs in terms of upbringing, schooling, culture and sports.

236. These institutions, numbering 32, accommodate the following age groups:

Children aged between 12 and 14;

Children aged between 14 and 18;

Minor girls.

237. Upon placement in one of these institutions, children become the responsibility of the Central Monitoring and Guidance Service, which identifies and assesses their welfare and support needs and devises a tailor-made case management plan.

238. To this end, social workers and educators visit the child's family and the juvenile judge who placed the child to obtain whatever information they consider necessary to understand the situation.

239. Alternatively, the child may be left in the family environment, always at the discretion of the juvenile judge, who keeps the parent/child relationship under review and recommends psychological assistance or other help for the parents if this is felt to be necessary.

240. For this purpose there exist 43 non-custodial monitoring and education services attached to the social welfare offices at the *wilaya* level, which help juvenile judges to fulfil their responsibilities.

241. In 1999, a total of 4,442 children were monitored and assisted in their everyday lives by the team of 154 education workers who make up the mentoring staff. These services provide cultural and recreational workshops and support and remedial classes for children from needy families.

242. These services, supervised by the Ministry of Social Welfare, are periodically monitored by social welfare managers, juvenile judges and the Ministry's General Inspectorate.

243. Other teaching establishments responsible for children (either with disabilities or deprived of their family) are subject to the same regulations as schools. Regular inspections are carried out to check whether the child protection provisions in force are actually being complied with.

244. Accordingly, some 20 technical and educational inspectors were trained in 1998 by the social welfare sector to assess and monitor the implementation of social welfare programmes and ensure that mentoring staff carry out their respective tasks.

245. Instruments governing the education sector and school regulations prohibit violence within educational establishments, including the use of corporal punishment. Ministerial circulars are regularly sent out to remind school authorities of these measures and administrative penalties are imposed on violators.

246. The Ministry of National Education has also established a national commission bringing together representatives of various sectors, NGOs active in children's affairs and parents' associations to promote a culture of peace and combat violence and other evils such as drugs and tobacco in schools. This commission has branches in all *wilayas* (departments) throughout the country. A national programme to this effect is being implemented in all schools.

247. With help from UNICEF, an intersectoral programme has been launched to provide psychological assistance to children traumatized by terrorist violence. Among other things, the programme envisages awareness-raising campaigns and management training for all professionals dealing with children.

248. The cases of all children admitted to counselling as a result of any kind of ill-treatment (physical abuse, sexual violence) are reported to the various competent services, thus triggering an inquiry and action if required. At the same time, school doctors also have a responsibility to raise teachers' awareness of how to prevent violence, monitor children's health and manage issues relating to various forms of violence.

#### **I. Physical, psychological and social reintegration (art. 39)**

249. Children temporarily removed from their homes for family or other reasons are placed in an appropriate institution by the State, acting through the competent judicial authorities. These establishments, 32 in number, accommodated more than 2,000 children in 1999. During their stay, the children receive education, training and social welfare according to an educational programme decided upon and devised to suit their needs and taking account of their individual requirements.

250. In addition, 43 community services throughout the country provide assistance and support to children in a difficult relationship with their parents. They are guided and monitored by social workers, who accompany them to their schools, workplaces and homes to try to resolve and overcome their problems.

#### **J. Periodic review of placement (art. 25)**

251. Decree No. 80-59 of 8 March 1980 on the establishment, organization and operation of child guidance centres and specialized centres for handicapped children, established child guidance boards "to guide medical and psychological treatment and educational, re-educational and teaching activities". They keep track of children's development and recommend to the directors of the centres any individual or collective pedagogical and child guidance measures.



Ordinance No. 75-64 of 26 September 1995 setting up establishments and services for the protection of children and young persons provides for the physical and mental protection of children who have been placed pursuant to a judicial order. Decree No. 76-101 of 25 May 1976 setting up the Commission for the Protection of Children and Young Persons lays down rules for the periodic examination of children placed in an institution. Homes for children in care established under Decree No. 80-83 of 15 March 1980 are administered by boards of psychologists, educators and physicians. The rules on cooperation between the staff of ministries monitoring children placed in specialized institutions are set out in various inter-ministerial decrees.

## **V. HEALTH AND WELFARE**

### **A. Survival and development (art. 6)**

252. Like other children, children temporarily deprived of their family have the unrestricted right to survival and development. There exist to this end specialized structures and institutions provided with the requisite human and material resources to ensure the best possible conditions of life. They include:

12 homes for children in care;

32 protection and re-education centres for children in moral danger;

3 residential homes for child victims of terrorism.

253. Among other benefits, these structures provide education, schooling, training, medical care and treatment, prosthetic appliances and a full range of cultural and leisure activities to promote the fulfilment and well-being of children. The cost of this care was approximately 630,287,800 dinars in the financial year 1999.

254. Additionally, with a view to making ongoing improvements in the quality of care at such institutions, cooperation programmes in conjunction with international organizations such as UNICEF have been in place since the 1990s.

255. These programmes have focused on the provision of facilities and teaching materials, technical assistance, specialized documentation and training for professional staff.

### **Children with disabilities**

256. Children with disabilities enjoy the constitutional right to protection of their health. All children have the right to protection of their health, education, instruction and all other activities that promote their fulfilment and well-being.

257. State welfare measures to help children with disabilities take different forms (direct and indirect assistance). Direct assistance is channelled through 102 specialized institutions responsible for the provision of schooling, education, speech therapy, functional rehabilitation, training and prosthetic appliances with a view to encouraging the social reintegration of

disabled children. The services offered at these institutions, which accommodate 10,771 disabled children, are completely free of charge. The following institutions exist in Algeria:

- 30 schools for deaf youngsters;
- 13 schools for blind youngsters;
- 57 guidance centres for mentally handicapped children;
- 2 guidance centres for physically handicapped children;
- 4 centres for children with respiratory difficulties.

258. The entire cost of these institutions is met from public funds, in the amount of 1,210 billion dinars in the financial year 1999.

259. The children are looked after by 2,130 professionals forming part of a multidisciplinary team of psychologists (speech therapists, educators, physicians, medical specialists, teachers, social workers, psychomotricity nurses and physiotherapists). Two national training centres with capacity for 600 trainee teachers organize training and refresher courses for the staff responsible for looking after these children.

260. Families of children with disabilities receive a monthly allowance of 300 dinars per child, representing a disbursement of 111 and 122 million dinars in 1998 and 1999 respectively. Free urban and rail transport provided under agreements between the authorities and transport operators represented a cost of 40 million dinars.

261. Mentally and physically handicapped children, like all other children, are entitled to free consultation and hospitalization in public health institutions. In addition, all children are members of the national insurance scheme, even if their parents are not. The number of disabled persons is estimated at 1,590,466, including 339,745 under the age of 20. There are three hospitals offering functional rehabilitation for adults and children. The National Office for Prosthetic Appliances and Accessories was established in 1998. Its primary responsibilities are:

- To promote the use of prosthetic appliances;
- To provide disabled persons with prosthetic appliances;
- To assist with reintegration through the establishment of sheltered workshops and preferential access to employment for young people with disabilities (Ministry of Social Affairs).

262. There are sufficient schools for visually impaired and deaf and speech-impaired children to keep up with demand. The majority are administered by the Ministry of Labour and Social Welfare, and some by associations of parents of handicapped children. A workshop was organized at Batna in March 2000 on the care of children with cerebral palsy, which brought together representatives of ministries, intergovernmental organizations and national associations.

## **B. Health and medical services (art. 24)**

263. The Algerian Government has made the reduction of infant and maternal mortality a priority. A number of programmes have been developed resulting in lower infant mortality, for example expanded programmes of immunization, campaigns to eliminate diarrhoeal diseases, respiratory infections, maternal and perinatal morbidity and mortality, protein-energy malnutrition and acute rheumatoid arthritis.

264. Still at the intersectoral level, responsibility for children's health lies with the Ministry of National Education and the Ministry of Health and Population, which have established school health teams covering all the schools in the country and more than 1,000 screening and monitoring units comprising physicians, dental surgeons and psychologists who work directly with schools.

265. In addition to the measures taken in the areas of health, national education, youth and sports with the intention of establishing the optimum conditions for the survival of the child, the social welfare sector, in cooperation with the sectors referred to above, has implemented medical, social and educational programmes in the institutions for which it is responsible (154 social welfare institutions supervised by the Ministry).

266. The 13,954 children admitted to these institutions benefit from the prevention and immunization campaigns launched by the Ministry of Health, the same campaigns as those implemented under the school hygiene programme to detect diseases at an early stage.

## **C. Social security and childcare services and facilities (arts. 18 and 26)**

267. The obligation stemming from article 18 of the Convention is put into practice by opening nurseries and kindergartens to accommodate children whose parents work.

268. Local communities (communes), public and semi-public institutions (welfare agencies), social welfare bodies and, more recently, the private sector are involved in establishing pre-school and extra-curricular structures.

269. All children are automatically entitled to social security, specifically health insurance, regardless of whether they live with their families or in an institution. The State provides social welfare benefits and free prosthetic appliances to children with disabilities, in accordance with the legislation in force.

### **Right to social security**

270. With regard to health insurance, the social security system applies not only to wage-earning or non-wage-earning individuals, but also to certain categories of the population, such as the disabled, students, trainees and apprentices undergoing vocational training. Children in the *kafalah* (adoption) system qualify in the same way as legitimate children.

271. This system is supplemented by State family benefits for wage earners with dependent children and benefits offered by mutual associations and company welfare facilities:

(a) Assistance to particularly low-paid workers, involving two forms of aid and support: first, State benefits, and second, welfare benefits for the disabled, children without families and disinherited, infirm and incurable elderly people. This latter category accounts for 0.3 per cent of the State budget;

(b) In 1994 a new arrangement, the so-called “social safety net”, was put in place. This is a form of social protection for the less well-off, giving priority to households and people living alone in difficult financial circumstances or without income, in socially at-risk situations. The first sort of aid, which takes the form of a lump-sum solidarity allowance, is for heads of families or people living alone aged over 60 and disabled people who cannot work. The second type of aid, an allowance for the performance of community service, is granted to heads of family of working age. This allowance, which is equivalent to 52.5 per cent of the guaranteed national minimum wage, is paid to heads of families with children.

272. Other benefits include social security, which also covers the cost of prosthetic appliances; assistance provided by local community welfare services, the Algerian Red Crescent and other associations.

#### **Childcare facilities and services**

273. The State has entrusted childcare centres to local communities, which are charged with administering and financing these facilities. In addition to the Ministry of the Interior, which is responsible for the administrative supervision of childcare centres, the Ministry of National Education monitors the implementation of teaching programmes.

#### **D. Standard of living (art. 27, paras. 1-3)**

274. In order to shelter children, to the extent possible, from the consequences of the economic problems besetting Algeria, a number of steps have been taken:

Improvement and expansion of school canteens, particularly in rural areas;

Expansion of schools with boarding facilities (thus giving children a balanced diet);

Free medical care in public health centres.

### **VI. EDUCATION, LEISURE AND CULTURAL ACTIVITIES**

#### **A. Education, including training and career guidance (art. 28)**

275. The Algerian State guarantees the right to education to all children, without distinction as to race, colour, sex or other factors. This right is also enshrined in the basic texts of the Republic, specifically the Constitution (art. 53) and Ordinance No. 76-35 of 16 April 1976 on the organization of education and training, which refers in articles 4 to 7 to equal access to

education, compulsory education for children aged between 6 and 16, equal criteria for access to education and free education. The decree that makes basic education compulsory even provides for coercive measures to be taken against parents or guardians who disregard this requirement.

276. To put the implementation of these instruments into context, various statistics and indicators relating to the Algerian education system are cited below.

### **Pupil population**

277. The number of children in school is increasing by an average of 6.55 per cent a year, which equates to an average annual increase of 190,000 pupils, including 92,000 girls.

278. By way of illustration, the following table gives some indication of the growth in pupil numbers in the school system, disaggregated by gender.

#### **Pupil population**

School year	Population	Of which girls	Percentage
1995/96	7 162 592	3 310 933	46.22
1998/99	7 587 545	3 624 849	47.77

279. The average increase in the pupil population is in the order of 106,238 additional pupils a year, including 78,479 girls.

#### **School population in the first and second stages of basic education (primary)**

School year	Population	Of which girls	Percentage
1995/96	4 617 728	2 129 494	46.12
1998/99	4 778 870	2 229 152	46.65

280. Pupils enrolled in primary school in the academic year 1995/96 represented 64.47 per cent of the school population (all stages); in the academic year 1998/99 they represented 62.98 per cent of the total school population. The school enrolment ratio of 6-year-olds is currently almost 100 per cent. The annual increase in the number of primary school children is 40,285, including 24,914 girls.

#### **School population in the third stage of basic education (middle)**

School year	Population	Of which girls	Percentage
1995/96	1 691 561	751 023	44.40
1998/99	1 898 748	896 262	47.20

281. Pupils enrolled in middle school in the academic year 1995/96 represented 23.61 per cent of the school population (all stages); in the academic year 1998/99 they represented 25.02 per cent or one quarter of the total school population. The average annual increase in the number of middle school pupils is almost 52,000, including over 24,000 girls.

### School population in secondary education

School year	Population	Of which girls	Percentage
1995/96	853 303	430 416	50.44
1998/99	909 927	499 435	54.89

282. Pupils enrolled in secondary school in the academic year 1995/96 represented 11.91 per cent of the school population (all stages); in the academic year 1998/99 they represented 12 per cent of the total school population.

283. The proportion of girls in secondary education has increased from 50.44 per cent in 1995/96 to 54.89 per cent in 1998/99, i.e. to more than half the secondary school population.

284. The above statistics indicate that, in addition to primary education, the Algerian system provides for perfectly adequate middle and secondary education. The ratio of girls to boys in basic education is practically equal. Girls outnumber boys in secondary education.

285. This significant increase in the pupil population has led to sizeable investment in infrastructure and mass training and recruitment of teachers.

### Teacher training

School year	Number of teachers	Of which women	Percentage
1995/96	319 407	140 641	44.03
1998/99	324 147	149 986	46.27

286. There are 169,549 primary teachers, of whom 77,833 are women. In 1995/96 there were 169,010 teachers including 74,309 women.

287. There were 98,187 middle school teachers in 1995/96, of whom 45,852 were women. Today, there are 100,525 teachers, of whom approximately half (49,389) are women.

288. There are 54,033 secondary school teachers, including 22,764 women. In the academic year 1995/96 there were 52,210 teachers, of whom 20,480 were women.

### Infrastructure

289. Considerable efforts have been made to extend the school network, particularly in rural areas, so as to reach as many families as possible. The table below shows the number of schools in the years 1995/96 and 1998/99:

Year	Primary	Middle	Secondary	Total
1995/96	15 186	2 921	1 033	19 140
1998/99	15 507	3 224	1 183	19 914
Balance	321	303	150	774

## Budget

290. Education has always been one of the Government's major priorities; since the early 1960s some 20 per cent of the national budget has been devoted to this sector. In recent years the proportion of the State budget allocated to education has fluctuated between 20 and 30 per cent.

291. Over 128 billion dinars were allocated to education in 1999, or nearly US\$ 1.8 billion.

## Educational performance

### *Successful completion of stages of education*

292. Successful completion rates are as follows:

#### **Successful completion rate, primary stage (core year 6)**

Year	Completion rate	Boys	Girls
1995/96	79.54	77.49	82.10
1998/99	72.80	68.74	72.80

#### **Successful completion rate, middle stage (core year 9)**

Year	Completion rate	Boys	Girls
1995/96	47.31	42.21	53.54
1998/99	44.53	39.16	50.22

#### **Successful completion rate, secondary stage (baccalaureate)**

Year	Completion rate	Boys	Girls
1995/96	19.63	18.27	20.93
1998/99	23.96	22.75	24.89

293. These figures show that the number of girls sitting examinations at the end of each stage is equal to or greater than the number of boys. However, they are greatly underrepresented in technical subjects. It should be noted, however, that they enjoy equal access to these subjects, which are increasingly being studied by girls.

### *Repeat years and dropouts*

294. The most recent statistical survey conducted by the Ministry of National Education in 1998/99 shows that the number of girls repeating school years is lower than the number of boys at all stages of education.

**Repeat rate, core year 6 (end of primary stage)**

Year	Repeat rate	Boys	Girls
1995/96	11.27	14.20	7.60
1998/99	19.60	23.43	14.97

**Dropout rate, core year 6 (end of primary stage)**

Year	Dropout rate	Boys	Girls
1995/96	9.19	8.31	10.30
1998/99	5.93	6.33	5.46

**Repeat rate, core year 9 (end of middle stage)**

Year	Repeat rate	Boys	Girls
1995/96	26.42	29.09	23.17
1998/99	30.03	32.17	27.77

**Dropout rate, core year 9 (end of middle stage)**

Year	Dropout rate	Boys	Girls
1995/96	26.26	28.70	23.29
1998/99	25.44	28.66	22.01

**Repeat rate, end of secondary year 3**

Year	Repeat rate	Boys	Girls
1995/96	32.70	32.31	33.06
1998/99	44.59	42.66	46.08

**Dropout and expulsion rate, end of secondary year 3**

Year	Dropout rate	Boys	Girls
1995/96	47.68	49.42	46.01
1998/99	31.46	34.59	29.03

295. These tables show that repeat and dropout rates are relatively high. There are many and various reasons for this, and they include economic, social, psychological and educational factors.



296. The Ministry of National Education is aware of the magnitude of the problem and has prioritized efforts to combat educational wastage. Urgent measures are envisaged for the start of the school year 2000/01 to counteract this phenomenon. In addition, a study has been commissioned (with support from UNICEF) to review the situation as fully as possible, thus making it easier to deal with the problem more effectively. It is also important to note that a number of measures have already been taken to bolster school enrolment, especially of girls, targeting in particular the most deprived populations and regions.

*Campaign to support school enrolment (especially of girls)*

297. This campaign involves backup measures to encourage school enrolment, especially of girls, and particularly in deprived areas. The measures include provision of canteens and boarding schools.

**School canteens and boarding schools (primary stage)**

Year	Number of pupils	Boarders	Percentage
1995/96	4 617 728	516 440	11.18
1998/99	4 778 870	577 858	12.09

298. There are 27 boarding schools accommodating almost 3,000 girls and boys aged between 6 and 12. They are intended for children in the remotest areas, in particular nomadic children in Saharan regions. Canteens and boarding schools are entirely free. The construction of schools in very remote areas has made it possible to bring education closer to the population.

**Semi-boarding and boarding schools at the middle school stage**

**Semi-boarding schools**

Year	Number of pupils	Girls	Welfare recipients	Girls	Percentage	Girls
1995/96	1 691 561	751 023	91 223	41 620	5.52	5.72
1998/99	1 898 748	896 262	133 725	65 310	7.04	7.29

**Boarding schools**

Year	Number of pupils	Girls	Welfare recipients	Girls	Percentage	Girls
1995/96	1 691 561	751 023	32 249	7 939	1.95	1.09
1998/99	1 898 748	896 262	33 801	10 075	1.78	1.12

## Semi-boarding and boarding schools at the secondary school stage

### Semi-boarding schools

Year	Number of pupils	Girls	Welfare recipients	Girls	Percentage	Girls
1995/96	853 303	430 416	71 750	38 316	8.41	8.90
1998/99	909 927	499 435	100 907	56 776	11.09	11.37

### Boarding schools

Year	Number of pupils	Girls	Welfare recipients	Girls	Percentage	Girls
1995/96	853 303	430 416	51 899	18 123	6.08	4.21
1998/99	909 927	499 435	54 007	20 905	5.94	4.19

299. In addition, three years ago there were a number of dropouts, especially among girls, owing to an increase in boarding costs. The State immediately decided to cover this expense for poor children, who are now boarded free of charge.

### Bursary schemes

300. The State makes available bursaries to the poorest parents to enable them to pay the cost of boarding or semi-boarding for their children.

### Educational solidarity

301. This consists in providing poor children with stationery, textbooks, satchels, aprons and other items of clothing. During the academic year 1998/99, this operation was extended to other areas:

In school canteens there has been an observable improvement in the standard of meals for 145,800 pupils in 14 *wilayas* (departments) in the southern and high plateau regions;

With regard to school transport, in addition to the efforts made by local communities, the Ministry of National Solidarity and the Family has purchased buses for use by communes (the initial phase of the operation involves the allocation of school buses to 20 communes, one per *wilaya*. The ultimate target is the purchase of 700 school buses).

302. Educational solidarity aims to reduce household expenditure on schooling, thus permitting children (especially girls) to remain in school.

### Educational and career information and guidance

303. Educational and career information and guidance are tools that are used throughout a pupil's schooling, specifically at key stages in the pupil's academic career.

304. To carry out its responsibilities in this area, the Ministry of National Education employs more than 1,000 advisers and educational and career guidance counsellors with basic training in psychology and specialist training in educational psychology or educational and career guidance. These professionals are posted throughout the country, either in schools themselves or - in the majority of cases - in school and career guidance centres, which number 60 nationwide.

305. As for cooperation, the Ministry of National Education has educational and cultural exchange relationships at the bilateral and multilateral levels with various countries in Africa, Europe, the Americas, Asia and the Arab world, as well as with various international bodies (United Nations agencies, the European Union, the World Bank, etc.).

306. These cooperation programmes feature a number of projects relating to sharing of experience, documentation, training, studies, etc.

### **B. Aims of education (art. 29)**

307. As part of their educational mission, Algeria's schools ensure the development of cultural and sporting activities in their teaching programmes, which incorporate physical and artistic education (drawing, music) as fully-fledged, compulsory disciplines assessed and recognized in entry examinations, whether offered by the schools themselves (sports, music, singing, dance, drawing, theatre, crafts) or by scientific and cultural clubs (covering health, astronomy, information technology, natural history and poetry).

308. Love of reading is also encouraged in Algerian schools through the provision of primary and secondary school libraries.

309. The Algerian education system trains tomorrow's citizens and thus provides civic education by instilling in children national and universal values through a variety of disciplines such as history, Arabic and foreign languages, health education, environmental education and, above all, civic and religious education, with the aim of teaching certain types of behaviour, attitudes and "life skills" from the earliest stage of primary education.

310. Civic education is therefore a key discipline in this endeavour. Formerly called "social education", it was taught from the third year of primary schooling. Since September 1997 it has been taught from the first year of primary schooling and incorporated into the official curriculum.

### **Literacy**

311. Literacy programmes are being run throughout the country, both in urban and rural areas.

#### **Change in illiteracy rate (population aged 10 years and over)**

Sex	1966	1977	1987	1998
	Percentage			
Male	62.80	48.20	30.75	23.65
Female	85.40	74.30	56.56	40.27
Total	74.60	58.10	43.82	31.90

312. It seems clear that illiteracy is on the wane. This decline is particularly apparent among persons aged 59 and over, 83.9 per cent of whom were illiterate in 1994, when a downward trend was still evident. In 1992 the rate was 87.92 per cent.

313. In 1990 the National Office for Adult Literacy and Education launched a literacy programme for women and girls in urban and rural areas in a number of *wilayas*, with support from UNICEF. The programme focuses on:

Acquisition of basic skills (reading, writing, arithmetic);

Promoting wider knowledge of hygiene, health, economics, etc.;

Introductory vocational training.

This project was acclaimed by UNESCO on 8 September 1995 at the World Conference on Women in Beijing.

314. The State supports organizations working in this sphere through the National Office for Adult Literacy and Education (programmes, teaching materials and teacher training aids). It also pays literacy workers and makes available facilities (classrooms) and subsidies.

315. An exhaustive survey has been carried out of all national and local NGOs working in the field of literacy, and of all local initiatives, with a view to coordinating and harmonizing nationwide action to improve efficiency and performance in this sector.

### **C. Leisure, recreation and cultural activities (art. 31)**

316. Social welfare institutions run rich and varied programmes in the areas of leisure, sports and cultural activities. Specifically, these programmes involve:

Music, painting, drawing, physical education, plastic arts, painting on silk, macramé, sculpture, pottery, dance;

Workshops on photography, information technology, screen printing, agriculture;

Holiday programmes (outing, visits to museums, inter-institutional holiday camps for deprived children);

Sporting events and tournaments for disabled persons organized by sports associations and leagues (football, swimming, athletics, volleyball, table tennis, etc.).

## **VII. SPECIAL PROTECTION MEASURES**

### **A. Children in conflict with the law (art. 1)**

317. Criminal cases involving minors are governed by specific rules for juvenile delinquency contained in book III of the Code of Criminal Procedure (arts. 439-494). Articles 447 to 450 specify that every court shall have a juvenile division comprising a juvenile judge, a presiding judge and two associate judges. Article 491 stipulates that proceedings shall be held in camera,

once the parties have been heard. The court's decision is also handed down in camera (art. 493) and every case is tried separately in the absence of all the other defendants (art. 498). The juvenile division reaches a decision after hearing the minor, witnesses, the parents, the tutor or guardian, the Department of Public Prosecution and defence counsel. It may, if the minor's interest so requires, permit the minor not to attend the hearing (art. 497).

318. No child may be suspected, accused or convicted of an offence against criminal law by reason of actions or omissions that were not prohibited by national or international law at the time of their commission. This principle is guaranteed by article 43 of the Constitution and by article 1 of the Criminal Code, which states that: "In the absence of law there can be no breach of law, nor any penalties or preventive measures."

319. Any child suspected or accused of offences against criminal law has the right to a number of safeguards. He is presumed innocent until proved guilty according to law. Article 42 of the Constitution states that: "Every person shall be presumed innocent until proved guilty by a regularly constituted court and with all the safeguards required by the law."

320. As regards the establishment of guilt, article 453 of the Code of Criminal Procedure establishes that: "The juvenile judge shall undertake all necessary steps and investigations to arrive at the truth, become acquainted with the personality of the minor and determine appropriate measures for the minor's re-education." He shall thus proceed to take evidence in the prescribed manner, or he may follow preliminary investigation procedures. He may issue any warrant considered necessary, in accordance with the rules of ordinary law.

321. Article 458 of the Code of Criminal Procedure stipulates that: "When the juvenile judge considers that the facts do not constitute an offence or petty offence, or that there is insufficient evidence against the offender, he shall order a nonsuit as prescribed by the law." An accused minor is to be informed of the charge against him, in accordance with article 100 of the Code of Criminal Procedure.

322. Article 454 stipulates that the juvenile judge shall notify the parents, tutor or guardian of the proceedings initiated against the minor. If the minor or his legal representative fails to appoint defence counsel, the judge shall assign legal assistance to him or instruct the leader of the local bar to assign such assistance. He may request a social inquiry report from the social services or duly authorized persons holding a social service diploma. If the juvenile judge considers that the facts constitute an offence, he shall refer the matter to the juvenile division sitting in chambers. The proceedings shall be held in camera, the parties shall be heard and the minor must appear in person, assisted by his legal representative and counsel.

323. Any minor prosecuted for a criminal offence has the right to examine, or have examined, the witnesses for the prosecution and to obtain witnesses for the defence under the same conditions as the witnesses for the prosecution. This right is recognized during the pre-trial stage and during the trial stage. An accused minor has the right not to be forced to testify against himself or to confess guilt. Any minor charged with a criminal offence has the right to the free assistance of an interpreter if he does not understand the language of the hearing.

324. Various articles of the Code of Criminal Procedure contain provisions amplifying this right, which is recognized also for deaf and speech-impaired persons (arts. 91-95 and 108-298) at all stages of the proceedings. The interpreter is obliged to take an oath if he is not sworn in (art. 91). If the pleadings indicate that the offence is not attributable to the minor, the juvenile judge dismisses the case. If, however, the hearing indicates the minor's guilt, the juvenile division expressly states this fact in the judgement, admonishes the offender and returns him to his parents, his guardian, the person who had custody over him or, in the case of an abandoned minor, a person worthy of trust. The juvenile division may also order non-custodial supervision for the minor, either provisionally, for one or more probationary periods to be determined by the division, or definitively up to the age of 19 years. The juvenile division may order this decision to be enforced notwithstanding appeal. The final decision shall be handed down in camera and may be appealed within 10 days of its announcement in the court. In order to safeguard the minor's privacy, Algerian legislation stipulates that the proceedings shall take place, and the judgement shall be handed down, in camera (Code of Criminal Procedure, arts. 461 and 493). The publication of the record of juvenile court proceedings in books or the press, on radio or film, or through any other medium is prohibited. The publication by the same means of any text or illustration concerning the identity or personality of juvenile offenders is also prohibited (art. 477), on pain of criminal penalty. The judgement may be published but the minor's name must not be indicated, even by initials.

325. As mentioned previously, the legal procedure applicable to minors is subject to the provisions of book III of the Code of Criminal Procedure (rules on juvenile delinquents). The rules aim to protect children and they take account of the desirability of re-educating them.

326. Article 442 sets the age of majority in criminal proceedings at 18 years. Article 443 stipulates that the age to be used in determining criminal majority is the age of the offender at the time of the offence.

327. Article 444 states the principle that, in the case of indictable offences, a child aged under 18 years may be subjected only to one or more of the protection or re-education measures listed below:

Restoration to his parents, his legal guardian or a person worthy of trust;

Non-custodial supervision;

Placement in an authorized public or private educational institution or establishment or a licensed vocational training establishment;

Placement in an authorized medical or medical-pedagogical establishment;

Placement in State care;

Placement in a boarding school suitable for juvenile delinquents of school age.

328. A minor aged over 13 may, however, be placed in a public correctional school or remedial educational institution. Article 465 of the Code of Criminal Procedure establishes that, in the case of a serious indictable offence, if the minor has co-principals or accomplices who are

of age and the investigating judge has brought proceedings against all of them, he shall refer the latter to the competent ordinary court. The case against the minor shall be separated and heard by the juvenile division.

329. Decisions handed down by the juvenile courts are recorded in a special closed register kept by the clerk of the court (art. 489). Decisions involving protection or education measures are placed on the individual's criminal record. However, they are indicated solely on bulletin No. 2 made available to judges and not to any other public administration or public authority. If the individual concerned has pledged to mend his ways, the juvenile division may decide, five years after the expiry of the protection or re-education measure and at the request of the individual concerned, the Department of Public Prosecution, or of its own motion, to destroy bulletin No. 1 which records the measure in question. Bulletin No. 1 recording the measure is destroyed as soon as the order to do so is received.

### **Sentencing of juveniles, in particular prohibition of capital punishment and life imprisonment**

330. An examination of the legal provisions of the Algerian Criminal Code and the various ordinances referred to above shows that the Algerian legal system pays special attention to the age of the minor and his situation as a child.

331. As far as criminal liability is concerned, the death sentence is not imposed on minors aged between 13 and 18 pursuant to article 50 of the Criminal Code, which states that: "If it is decided that a minor between the ages of 13 and 18 should be subject to criminal punishment, the following sentencing options are available:

If the minor is tried for an offence for which the penalty is death or life imprisonment, the sentence shall be between 10 and 20 years' imprisonment;

If the minor is tried for an offence for which the penalty is a term of imprisonment, the sentence shall be one half of the term of imprisonment to which the minor would have been sentenced had he been an adult."

332. Article 49 of the Criminal Code states that: "Only protective or re-education measures may be applied to a minor aged under 13", and that "no criminal proceedings may be taken against a child aged under 13".

### **B. Treatment of children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings (art. 37 (b) and (c))**

333. The rules applicable to the treatment of children deprived of their liberty are governed by the ordinances referred to below.

**Ordinance No. 72-02 of 10 February 1972 establishing the Prison Reform and Rehabilitation Code**

334. By the promulgation of this Code, Algeria reaffirms its commitment to respect for individual freedoms and to the principle of the legality of penalties, the enforcement of which is the responsibility of the judiciary.

335. The preamble states that, in laying down the rules applicable to the treatment of detainees, the recommendations of the United Nations, in particular the resolutions adopted on 30 August 1955 at Geneva and approved on 31 July 1957 by the United Nations Economic and Social Council, shall serve as a model. The Code stresses that the enforcement of criminal sanctions protects society and contributes to the re-education and readjustment of offenders, thus helping them to return to their place in their family, at work and in society. These provisions ensure the protection of detainees, a particularly vulnerable category, against torture and all similar acts and practices or acts of an inhuman, cruel or degrading nature.

336. Prisoners are sent to and classified within prisons on the basis of their penal status, the seriousness of the offence, their age, their personality and the extent to which they have reformed (Prison Reform Code, art. 24).

337. Under article 28, specialized centres for minors have been established to house defendants or offenders under the age of 21, unless the Ministry of Justice expressly indicates otherwise (art. 29).

338. All facilities, except for remand units where the layout of the premises does not permit, have one or more special sections for minors.

339. Chapter III of the Prison Reform Code deals with the reintegration of minors. Article 21 stipulates that: "Minors in respect of whom final criminal sentences have been handed down shall serve their custodial sentence in appropriate establishments known as specialized centres for the reintegration of minors."

340. The staff of these centres comprises warders with appropriate training, psychologists, educators, monitors, instructors and welfare assistants. The diet must be healthy and balanced. The hygiene and cleanliness of the premises are constantly monitored. The centres have infirmaries with specialized medical and paramedical staff.

341. The minors are educated within the establishment and their vocational training is in conformity with the legislation applicable to non-offenders of the same age. No additional work may be required of them and they must never be required to work at night. They are granted annual leave that can be taken at a holiday centre. They may also spend official holidays with their families.

342. Any minor who disobeys the internal rules of the centre may be punished only by reprimand or suspension of visiting rights for a maximum of 45 days. Each specialized centre for the reintegration of minors has a re-education board, chaired by the juvenile judge, whose task it is to organize annual education and vocational training programmes and make any



necessary changes. Each minor must have an administrative file and a re-education file. The cost of maintaining, educating and training minors under sentence who are committed to specialized centres for the reintegration of minors is borne by the State, unless the sentence provides otherwise.

**Ordinance No. 72-03 of 10 February 1972 relating to the protection of children and young persons and children in situations of emergency**

343. There is another category of children and adolescents who live a potentially criminal existence and for whom urgent educational measures must be adopted as a preventive measure. These measures are set out in Ordinance No. 72-03 of 10 February 1972 relating to the protection of children and young persons, which is designed to protect and assist minors who have not yet come into conflict with the law, but whose security, morals or education are endangered or whose living conditions or behaviour may jeopardize their future.

344. This ordinance gives the juvenile judge broader powers to deal with maladjusted children. Intervention by this specialized judge may have a salutary effect on children and young people in danger and thus forestall juvenile delinquency.

345. The matter is referred to the judge on an application from the parents or guardian of the minor, the public prosecutor, the officials responsible for non-custodial supervision or the chairperson of the communal assembly (art. 2). The juvenile judge may also intervene of his own motion. This statutorily conferred prerogative means that he enjoys full freedom of action to identify and protect minors at risk. He has very wide-ranging decision-making powers since he may order the minor to be entrusted to the following persons:

The father or mother who does not have custody, provided that the right of custody has not previously been removed from that parent;

Another relative or trustworthy person;

A State care institution;

A public institution or an educational, vocational or medical institution (arts. 5 and 6).

346. The judge may also order that the placement of the minor with his parents or a trustworthy person be supplemented through monitoring by an educational and non-custodial supervision service and, to this end, he may appoint an educator to monitor the minor in his family, at school or, if applicable, at work (art. 5). The judge may amend these measures at any time. The option of changing the decision frees the judge from any narrow procedural constraint and enables him to act at all times exclusively in the interest of the child (art. 8).

**Ordinance No. 75-64 of 26 September 1975 setting up institutions and services to protect children and young persons**

347. To support the action of the juvenile judge in the areas of prevention and social protection, Ordinance No. 75-64 of 26 September 1975 establishes a board in each institution for the protection and re-education of minors, whose responsibility it is to coordinate the treatment

and education programmes for the children accommodated therein. This “educational action board” is chaired by the juvenile judge (art. 17). Meetings are called by the chairperson of the board at least once a month.

348. In its efforts to protect children and young people, the Ministry of Labour and Social Welfare has the task of implementing measures to protect minors under 21 years of age whose living conditions and behaviour may jeopardize their social integration. To enable the Ministry to perform this task, Algerian legislation makes provision for various establishments and services, namely:

Specialized re-education centres;

Specialized protection centres;

Non-custodial monitoring and education centres;

Multi-purpose youth protection centres.

349. Only juvenile judges and courts are empowered to order permanent or temporary placement in the aforesaid centres and services. In no event may temporary placements (defined by article 455 of the Code of Criminal Procedure and articles 5-7 of Ordinance No. 72-03 of 10 February 1972) exceed six months. Any decision on permanent placement must be preceded by a social report compiled by the non-custodial monitoring and education service or a progress report on an individual at a residential institution or in a non-custodial setting.

350. Specialized re-education centres are residential facilities designed to accommodate minors aged under 21 years who have been the subject of one or more of the protection or re-education measures specified in article 444 of the Code of Criminal Procedure. The following services operate in these centres:

A monitoring service, whose task it is to study the minor’s personality and problems;

A re-education service, which provides the minor with moral, civic and sports education, schooling and vocational training conducive to his reintegration;

An aftercare service, with responsibility for the social integration of the minor after he has been re-educated. Pending the end of the protection or re-education measure, the service may place minors outside the institution.

351. Specialized protection centres are institutions providing residential accommodation that are designed to accommodate, educate and protect minors who have been the subject of one of the measures set out in articles 5, 6 and 11 of Ordinance No. 72-03 of 10 February 1972. These centres offer the same services as those described above and perform the same tasks and functions.

352. The non-custodial monitoring and education services are responsible for minors subject to non-custodial supervision, pursuant to a decision by the juvenile judge or the juvenile court. Minors placed in these centres are young offenders or young people in moral danger. These

services work together with the above-mentioned specialized services, carry out research and undertake activities to prevent juvenile crime. They have an advice and educational guidance section and a reception and referral section. Among other things, they monitor the health of the minors entrusted to them, as well as their work and education and the proper use of their leisure time.

353. The multi-purpose youth protection centres combine the functions of the specialized re-education centres, specialized protection centres and services providing non-custodial monitoring and education. They operate according to the same procedures and offer the same services as the centres referred to above. These centres currently accommodate about 3,000 young people. An additional programme, with 1,080 places, has been implemented to ensure better coverage of needs.

354. Ordinance No. 75-64 of 26 September 1975 lays down the procedure to be followed when a minor is placed in a centre. Upon arrival, the minor is referred to the monitoring service. A file is drawn up containing information on the minor's civil status, behaviour, health, education, vocational training and family relationships. A report on the minor's behaviour is sent to the competent judge at the end of the monitoring period. The report must indicate the measures that have been recommended to ensure the minor's education. The competent judge receives a half-yearly report, under the same conditions, regarding minors in re-education, education or aftercare service.

355. This report and the proposals it contains give the juvenile judge guidance on any changes necessitated by the interests of the minor. Minors placed in centres may be entitled, under article 35 of the aforesaid ordinance, to permission to leave the centre, granted by the juvenile judge, at the request of the parents or legal guardian and with the approval of the director of the institution. The director of the institution may, after consulting the educational action board, grant the minor annual leave for a period not exceeding 45 days during the summer. The institution pays the transport costs of minors allowed out on parole, on leave or on outings.

### **C. Physical and psychological recovery and social reintegration (art. 23)**

#### **Social reintegration**

356. Article 1 of Ordinance No. 72-03 of 10 February 1972 relating to the protection of children and young persons stipulates that "minors aged under 21 years whose health, security, morals and education are endangered or whose living conditions or behaviour may jeopardize their future, may be subject to protection and educational assistance measures".

357. In addition to the custody measures provided for under article 10 of this ordinance and articles 393 and 394 of the Code of Criminal Procedure, the juvenile judge may appoint a non-custodial monitoring, education or re-education service to keep the minor under observation and afford him such protection and assistance as are necessary for his education, training or physical well-being. The juvenile judge may also rule definitively on placement in a remand home, a State children's home or in a facility or institution providing education, vocational training or medical care.

358. Article 38 of Ordinance No. 75-64 of 26 September 1975 relating to establishments and services for the protection of children and young persons states that “a minor who is subject to permanent placement may be placed outside the facility, after consultation with the educational action board, to carry on an educational or vocational activity. In this case, the minor may be accommodated by his employer, in the establishment itself, or with a third party”.

359. An apprenticeship contract is drawn up in accordance with current legislation, in triplicate, on plain paper and free of charge. One copy is held in the establishment, one is given to the minor and one to the employer. A duplicate of the contract is sent to the competent juvenile judge by the director of the institution. The contract must indicate the remuneration paid to the minor (art. 38). The director of the institution is responsible for the ongoing supervision of the re-education of the minor, his living conditions and his vocational or educational activities. He monitors the employer’s compliance with the clauses of the apprenticeship and work agreement and informs the educational action board of progress in the minor’s training (art. 40).

360. Under articles 482 and 486 of the Code of Criminal Procedure and article 13 of Ordinance No. 72-03 of 10 February 1972, the competent court may, after examining the minor’s progress report (Ordinance No. 75-64 of 26 September 1975, art. 29) and the proposals contained therein, make any necessary changes in the interests of the minor.

### **Children in situations of exploitation, including physical and psychological recovery**

#### **(a) Economic exploitation, including child labour (art. 32)**

361. It is incumbent on the State to protect children against any work that endangers their health, education or development and the State has therefore set minimum ages for admission to employment and minimum conditions of employment.

362. Article 15 of Act No. 90-11 of 21 April 1990 on employment relations stipulates, among other things, that “the minimum age for recruitment may under no circumstances be less than 16 years, except by virtue of apprenticeship contracts established in accordance with current legislation and regulations. A minor worker may be recruited only upon presentation of an authorization issued by his legal guardian. The minor may not be employed in dangerous or unsafe work harmful to his health or morals”.

363. In addition, article 28 of the same statute prohibits night work for persons aged under 19. In the event of a breach of labour law, labour inspectors may fine offenders between 1,000 and 2,000 dinars. Repeat offenders may be imprisoned for between 15 days and two months.

364. In the context of respect for the general observance of these provisions, the General Labour Inspectorate has intensified on-site visits to public and private enterprises throughout the country. These inspections indicate that only privately-owned enterprises have been penalized for breaching legislation prohibiting child labour.

**(b) Drug use (art. 33)**

365. Article 192 of Act No. 85-05 of 16 February 1985 relating to the protection and promotion of health stipulates that “it is forbidden for any importer, producer or manufacturer of essences that could be used in the manufacture of alcoholic beverages to sell or offer, free of charge, such products to any persons other than beverage manufacturers who are authorized to store such products on behalf of the authorities, the indirect taxation service, pharmacists, the perfume trade and direct export organizations”.

366. The sale of such products by all the above-mentioned categories, in kind on the domestic market, is prohibited, with the exception of pharmacists who may issue them on a medical prescription after recording the requirements pertaining thereto in their prescriptions register.

367. Anyone who contravenes the provisions of article 190 of the Act relating to the production, transport, import, export, holding, supply, possession, acquisition and use of non-narcotic poisonous substances or plants shall be liable to a term of imprisonment of between two months and two years and a fine of between 2,000 and 10,000 dinars. Anyone who contravenes the regulations in article 190 relating to poisonous substances classified as narcotics is liable to a term of imprisonment of between 2 and 10 years and a fine of between 5,000 and 10,000 dinars.

368. Article 243 provides for a term of imprisonment of between 10 and 20 years and a fine of between 5,000 and 10,000 dinars for “anyone who illicitly manufactures, prepares, processes, imports, passes in transit, exports, stores, brokers, sells, dispatches, transports or markets narcotic substances in any form”. Imprisonment for between 2 and 10 years and a fine of between 5,000 and 50,000 dinars shall apply in the following cases:

To a person who facilitates the use by a friend of such narcotic substances or plants, whether for payment or free of charge;

To a person who, by means of fictitious or bogus prescriptions, avails himself or attempts to avail himself of such substances or plants;

To a person who, knowing a prescription to be fictitious or bogus, supplies such substances or plants upon presentation of said prescription;

When a minor receives assistance in the use of such substances or plants, or when such substances or plants have been supplied under the conditions described in the previous subparagraph, the term of imprisonment shall be between 5 and 10 years;

The illicit use of substances or plants classified as narcotics shall be punishable by imprisonment for between two months and one year.

369. When passing sentence for the offences mentioned above, the courts may also apply additional penalties:

Deprivation of civil capacity for between 5 and 10 years;

Disqualification from carrying on the profession under cover of which the offence was committed, for a period of five years;

Prohibition on residence in certain areas;

Withdrawal of passport or suspension of driving licence;

Confiscation of the substances and plants seized;

Confiscation of furniture, equipment, utensils and any other items used to manufacture and transport the substances or plants, subject to the rights of third parties.

370. In the case of a repeat offence, the aforesaid penalties shall be doubled.

371. Article 248 states that “when the nature of one of the offences indicated in articles 243 and 244 is such as to endanger the moral health of the Algerian people, the death sentence may be imposed”.

372. Article 250 allows the investigating judge or the juvenile judge to impose compulsory detoxification treatment, with any medical supervision or rehabilitation measure as may be appropriate. In addition, Ministry of Health Decree No. 276 of 1984 includes drug addiction in the list of notifiable diseases.

373. The conditions of treatment are specified in a joint decree of the Ministry of Justice, the Ministry of the Interior and the Ministry of Health.

374. In proceedings connected with one of the offences indicated in articles 242 to 244 of Act No. 85-05, the investigating judge may order, as a provisional measure and for a period not exceeding six months, the closure of any hotel, lodging house, guest house, bar, restaurant or club that is open to the public or used by the public, in which these crimes were committed by the proprietor or with the proprietor’s complicity. This closure may be extended under the same terms and for the same duration. If the proprietor of any of the premises listed above is sentenced, the court may revoke his operating licence.

375. Incitement in writing, sound or images brought into the country or broadcast from overseas and received in Algeria, shall render the perpetrators liable to legal proceedings under the Criminal Code. An alien may be banned from entering Algerian territory for a period of between 1 and 10 years if he has been sentenced for any of the crimes indicated in articles 242-245 of the aforesaid law. This ban may be made permanent.

**(c) Sexual exploitation and sexual abuse (art. 34)**

376. Article 342 states that: “Anyone who incites, promotes or facilitates vice or corruption involving minors under 19 years of age shall be liable to between 5 and 10 years’ imprisonment and a fine of between 500 and 2,500 dinars.”

377. The Criminal Code is even stricter where minors are involved, since it prescribes the same penalties for attempted offences as it does for the offence itself.

378. Indecent assault committed or attempted upon a minor aged under 16 shall be punishable by imprisonment for between 5 and 10 years. An adult relative who commits indecent assault on a minor, even a minor who is 16 years of age but has not been emancipated by marriage, shall be liable to imprisonment for between 5 and 10 years. Indecent assault with violence committed or attempted upon a minor aged under 16 shall be punishable by imprisonment for between 10 and 20 years.

379. The rape of a minor aged under 16 shall be punishable by imprisonment for between 10 and 20 years. If the guilty parties are adult relatives of the victim, if they have authority over her, if they are her teachers or hired servants, or those of the persons listed above, if they are public officials or ministers of religion, or if the guilty party is assisted in his crime by one or more persons, the punishment shall be 10 to 20 years’ imprisonment for indecent assault without violence on a minor aged under 16, or life imprisonment in the case of indecent assault with violence or rape.

**(d) Other forms of exploitation (art. 36)**

380. The Constitution protects citizens against all forms of exploitation and guarantees their equality before the law, proscribing all forms of discrimination on the grounds of birth, race, sex, opinion or any other personal or social condition or circumstance.

381. The aim of State institutions is to eliminate the obstacles impeding the full development of the human personality and to protect citizens against any infringement of their rights and freedoms or physical or psychological violence (Constitution, art. 30).

**(e) Sale, trafficking and abduction (art. 35)**

382. Algerian legislation contains a set of measures to eradicate sale and trafficking by focusing on their causes and consequences. Article 36 of the Civil Code stipulates that “a contract shall be null and void if its purpose is contrary to public order and morals”.

383. Under criminal law, trafficking in persons and the exploitation of prostitution are punishable (arts. 342-346). The law contains specific provisions to punish the incitement of minors to vice and soliciting.

384. Algeria has signed a number of international conventions abolishing trafficking in women and children, notably the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.

385. As to abduction, an entire section of the Criminal Code is devoted to violations of personal freedom, abduction, kidnapping and false imprisonment. Article 291 establishes penalties for kidnapping, arbitrary detention and false imprisonment in the following terms: “Any person who kidnaps, arrests, detains or falsely imprisons another person without an order from the established authorities, except in those cases authorized or ordered by law, shall be sentenced to imprisonment for 5 to 10 years.” The same penalty applies to any person who allows premises to be used to detain or falsely imprison the person concerned.

386. It should be noted that the wording of this article in no way allows such acts to be justified by an order received, as the conditions laid down are crystal clear: “No person shall be arrested other than by order of the established authorities or in circumstances other than those permitted by law.”

387. If the arrest or kidnapping is carried out by persons wearing or appearing to wear official uniform or insignia, as specified in article 246 of the Criminal Code, or persons assuming a false identity or using a bogus official order, the penalty shall be life imprisonment. The same penalty shall apply if the arrest or kidnapping is carried out using a motor vehicle or if the victim’s life is threatened (art. 292). If the victim of the kidnapping, arrest, detention or false imprisonment is physically tortured, the offenders shall be liable to the death penalty (art. 293).

388. Any person who, using violence, threats or fraud, kidnaps another person or causes another person to be kidnapped, regardless of age, shall be sentenced to between 10 and 20 years’ imprisonment. If the purpose of the kidnapping was to secure payment of a ransom, the offender shall be liable to the death penalty (Criminal Code, art. 293 bis).

#### **D. Children belonging to a minority or an indigenous group (art. 30)**

389. As indicated in the initial report, population censuses are not based on ethnic, religious or linguistic criteria. However, this approach is not based on a simplistic view of Algerian identity, which is recognized as being rich and varied in 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.

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