Substantive Issues
- Enforced disappearance

Relevant Articles
- Art. 2 (3)
- Art. 6 (1)
- Art. 7
- Art. 9 (1) – (4),
- Art. 10 (1) - (2),
- Art. 16
- Art. 23 (1),
- Art. 24 (1)

Violations
- Art. 6
- Art. 7
- Art. 9 §3
- Art. 14 §1,2,3 (e) (g)

Facts
The authors, of Algerian nationality, claim that their grandsons and brothers, all of Algerian nationality, were forcibly disappeared. In April 1994, the first victim attempted to commit a burglary but was hit by a bullet fired by the police and transported to the hospital from where he vanished two weeks later. The second victim, aged 16, was abducted by around 20 uniformed and masked police officers and two plain clothes police officers in May 1995. Even though two visiting permits were issued by a judge, his family was not permitted to visit the victim. The third victim, aged 15, was arrested on the street without warning in February 1996. Three months later, several people told the family that they had seen his dead body on the street, bearing signs of severe torture.

Despite various efforts of family members, the victims remained untraceable. Numerous complaints lodged with the Algerian prosecutors were unsuccessful. The authorities issued a number of contradictory declarations including declarations of their deaths and statements that two of the brothers were wanted by the police.

The authors invoke a violation of article 6 (1) of the Covenant as the State party is unable to provide information on the circumstances of the victims’ disappearances. Moreover, they claim that the incommunicado detention amounts to a violation of articles 7, 9, 10 (1), 16 and 23 (1), read alone and in conjunction with article 2 (3). With regard to the two minor victims, they allege a violation of articles 10 (2), and 24 (1). Finally, the authors claim that they and other family members are victims of a violation of articles 7 and 23 (1), read alone and in conjunction with article 2 (3), due to the moral and material harm that they have suffered since the disappearance of the victims.
Committee’s View

Consideration of admissibility
The Committee recalls that consideration of a case by extra-conventional bodies such as those created by the Human Rights Council will not render the communication inadmissible under art. 5, para. 2 (a) of the Optional Protocol. Therefore, the consideration of this case by the Working Group on Enforced or Involuntary Disappearance does not affect the admissibility. The Committee rejects the state party’s claim that the case was inadmissibility due to the existence of a comprehensive domestic settlement mechanism implemented by the “Charter for Peace and National Reconciliation” noting that the state party had not proved the existence of any investigation into the disappearance.

Consideration of merits
The Committee notes that while the author has not substantiated every claim with evidence, according to its constant jurisprudence the burden of proof does not lie solely with the individual, especially as the latter seldom has the same or equal access to evidence as the State party. In absence of any reply submitted by the State party on substantive issues and in light of the facts as presented by the authors and several family friends and other individuals, the Committee finds that Algeria has failed to protect the life of the victims in violation of article 6 (1), of the Covenant. The incommunicado detention amounts to a violation of article 7 of the Covenant with regard to the victims themselves and additionally with regard to the authors and their family for their suffering over nearly twenty years.

The Committee furthermore concludes in finding a violation of articles 9, 10 (1), and 16 but declines to consider the claims based on a violation of article 23 (1), separately.

The lack of an effective investigation into the case amounts in violations of the article 2, (3), read in conjunction with articles 6 (1), 7, 9, 10 (1), and 16 with regard to the victims and of article 2 (3), read in conjunction with article 7, with regard to the authors and their family. Furthermore, the lack of special protection for the two minor brothers constitutes a violation of article 24 (1) but the Committee refrains from considering separately the claims of a violation of article 10 (2) (b).

Recommendation
The Human Rights Committee therefore decided the state is required to:

a. Provide the authors and their family with an effective remedy, including by conducting a thorough and effective investigation into the disappearance of the victims and providing the authors and their family with detailed information about the results of its investigation;

b. Release the victims immediately if they are still being detained incommunicado;

c. In the event that the victims are deceased, hand over their remains to the family;

d. Prosecute, try and punish those responsible for the violations committed; and

e. Provide adequate compensation to the authors and their family for the violations suffered and to the victims, if they are still alive.
Deadline to Submit the Report on the Implementation of the Recommendations

180 days from the adoption of the views: 30 March 2015