



International Covenant on Civil and Political Rights

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Human Rights Committee

List of issues in relation to the fourth periodic report of Algeria*

Constitutional and legal framework within which the Covenant is implemented (art. 2)

1. With reference to paragraph 38 of the report (CCPR/C/DZA/4), please provide more information on measures taken to (a) ensure in practice the primacy of the Covenant over national law, and (b) ensure that the national legal framework is fully consistent with the Covenant. Please provide information on the practical application of the provisions of the Covenant in the national legal order, including specific cases in which Algerian courts have, during the past five years, invoked and directly applied the provisions of the Covenant or have invoked them in interpreting national legislation, and including the outcomes of such cases. Please provide information on measures to raise awareness of the Covenant among the general public, in particular judges, prosecutors, lawyers and members of the defence and security forces, including the intelligence services.
2. Please comment on information received by the Committee according to which the State party has failed in its obligation to ensure that the provisions of the Covenant are fulfilled with respect to all individuals on its territory, and has de facto transferred some of its powers, including judicial powers, to Frente Popular para la Liberación de Saguía el-Hamra y de Río de Oro (Frente Polisario), particularly in the refugee camps in the city of Tindouf.
3. Please state whether the National Human Rights Council, which replaces the National Advisory Commission for the Promotion and Protection of Human Rights, is now fully operational. Please provide more information on measures taken to ensure that the National Human Rights Council complies with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles), including with regard to its independence, the process of appointing its members, its budget and its financial autonomy. Please state whether the National Human Rights Council is competent to receive complaints and, if so, please provide information on the number of complaints handled since its establishment, the topics covered, and the outcomes of those complaints. Please state whether measures will be put in place to facilitate the transfer of tasks from the National Advisory Commission for the Promotion and Protection of Human Rights to the National Human Rights Council, including (a) following up on complaints submitted to the Commission that are still pending, and (b) following up on observations addressed to the Government of Algeria by treaty bodies and international entities. Please clarify the role of the parliament's standing committees for human rights issues, referred to in paragraph 17 of the report, and the kind of cooperation envisaged between the committees and the National Human Rights Council.

* Adopted by the Committee at its 121st session (16 October–10 November 2017).



4. Please provide information on the specific measures taken, including the procedures instituted, in law and in practice, to ensure the full implementation of the views already adopted by the Committee under the first Optional Protocol to the Covenant and the submission of relevant follow-up reports. Please also state what measures are in place to prevent reprisals against and harassment of persons using the individual complaint mechanism provided by the Committee, and to punish the perpetrators.

Right to an effective remedy and combating impunity (arts. 2, 6, 7 and 14)

5. With reference to paragraphs 57 and 58 of the report, please list the measures taken to ensure that victims of past violations have access to an effective and enforceable remedy notwithstanding Ordinance No. 06-01 implementing the Charter for Peace and National Reconciliation, particularly its articles 45 and 46. Please state how many persons have been granted, and how many denied, a pardon, the commutation of a sentence, or the termination of criminal proceedings, as provided for in the Charter, and the reasons for those decisions.

Counter-terrorism measures (arts. 2, 7, 9, 10 and 14)

6. Please describe the measures taken to amend the definition in article 87 bis of the Criminal Code and bring it into conformity with the provisions of the Covenant. Please indicate the number of investigations, prosecutions, acquittals and convictions in the last five years under article 87 bis, and the reasons invoked in each case. Please also respond to allegations that the provisions concerning terrorism are invoked against journalists and human rights defenders. Please specify what mechanisms are in place to ensure that law enforcement officials do not use improperly or abuse their powers in the area of counter-terrorism, but rather act in accordance with the Covenant.

Non-discrimination (arts. 2, 3, 13, 25, 26 and 27)

7. In view of the constitutional guarantee of the right to non-discrimination, please provide more information on the legal framework for combating discrimination and indicate, in particular, whether there is comprehensive anti-discrimination legislation (a) providing a clear definition of direct, indirect and multiple discrimination, whether occurring in public or in private, and clearly criminalizing all forms of the practice, (b) including an exhaustive list of the prohibited grounds for discrimination set forth in the Covenant, including sexual identity and gender and disability, and (c) providing effective judicial and administrative remedies for victims.

8. In particular, please describe the measures taken to combat and prevent acts of discrimination, stigmatization, violence and hate speech against (a) migrants and asylum seekers, (b) the Mozabite people, (c) the Amazigh people, and (d) lesbian, gay, transsexual and transgender persons. In this regard, please describe the measures that the State party intends to take to (a) combat the widespread stereotyping and stigmatization directed against homosexuals, and (b) revise article 338 of the Criminal Code criminalizing private sexual activity between consenting adults of the same sex. Please provide examples of judicial decisions relating to combating discrimination that have been handed down in the past five years.

9. Please provide information on the effective measures taken to (a) combat discrimination against women in access to employment and decision-making positions, including in the private sector, (b) tackle the issue of unequal pay, and (c) ensure protection against harassment in the workplace. Please describe the measures that will be taken to build on progress made in the representation of women in political and public life, including in the membership of judicial, legislative and executive bodies and at all institutional and administrative levels, especially in decision-making positions, in order to achieve full gender equality. Please provide the current percentages of female representation. Please indicate whether the State party intends to continue its efforts to ensure, at the legal and practical levels, the absence of discrimination in family law, and please provide more information on (a) the choice of spouse, including when the latter is a non-Muslim foreigner, and in the absence of a *wali*, (b) the conditions under which judges authorize polygamy, the number of authorizations issued annually, and the legal consequences of polygamy that has not been authorized by a judge, (c) the conditions under

which divorces are granted and the provisions for divorced women, including those with no children, (d) the rules governing the custody of children, including when the mother remarries, and the transmission of the family name by the woman to her children, (e) repudiation and the rules relating to the procedure known as *khula*, and (f) the rules governing inheritance. Please also provide more information on measures taken to eliminate entrenched negative stereotypes concerning the roles and responsibilities of men and women, both in the family and in society in general.

Violence against women (arts. 3 and 7)

10. Please state whether the State party intends to adopt a comprehensive law and strategy to combat violence against women, including femicide, domestic violence and sexual violence. Please describe steps taken at the level of the family, the community and the State in that regard, including information campaigns and training activities, in particular for judges, prosecutors, police officers and health workers. Please also state what definition of rape is currently used by jurisprudence and whether the State party intends to amend its legislation in order to (a) redefine rape, (b) criminalize marital rape, and (c) review the application of “forgiveness clauses”, which often enable perpetrators of spousal violence to escape prosecution. Please provide recent statistical data on the number of deaths and of complaints filed in connection with various forms of violence against women, on the number of investigations, prosecutions and court decisions (convictions and acquittals), on the penalties imposed, and on compensation obtained by victims or their relatives, particularly since the amendments of December 2015 to the Criminal Code. In particular, please provide information on the measures taken to (a) enable victims to overcome stigmatization and fear of reprisals when bringing complaints, (b) ensure that victims and witnesses of violence receive timely protection, including access to shelters, counselling and assistance centres, and appropriate and adequate support and rehabilitation services, (c) guarantee access to justice, including compensation, and (d) ensure that perpetrators of such acts of violence are effectively prosecuted and punished. Please indicate (a) the conditions attached to the provision of compensation to female victims of rapes committed by a terrorist or a terrorist group during the events of the 1990s, as provided for by Decree No. 14-26 of 1 February 2014, (b) the number of women who received compensation under the Decree, and (c) whether the State party intends to extend such measures to women who were raped by State officials during the same period.

Enforced disappearances (arts. 2, 6, 7, 9 and 16)

11. Please describe the specific measures taken to ensure that victims of enforced disappearances and their relatives have access to effective remedies. In this regard, please indicate (a) the results of the work of the Ad Hoc National Commission on Missing Persons, the report on which seems not to have been published to date, (b) the other measures taken to investigate disappearances, ascertain the whereabouts of disappeared persons and, if they are dead, return their remains to families, (c) the number of complaints registered, investigations and prosecutions, and the outcome of those prosecutions (convictions, acquittals, penalties imposed and compensation awarded to victims and their relatives), (d) the steps taken to establish a central public registry of all places of detention, and (e) measures taken by the State party to elucidate the cases submitted to the Working Group on Enforced or Involuntary Disappearances, and to implement the Committee’s views thereon. Please describe the measures taken to ensure that families seeking to know the fate of their missing relatives do not face harassment or other kinds of pressure. Please indicate whether the State party intends to revise article 3 of Presidential Decree No. 06-93, which seems to make the granting of compensation to the families of disappeared persons conditional on the prior recognition of the death of the latter, and whether it intends to allow the reopening of cases in which the families of victims reportedly acknowledged the death of their relatives under financial pressure. Please comment on reports that mass graves were discovered and that no measures were taken to identify the remains, including through DNA testing. Please describe the measures taken to guarantee that such actions will not recur, and comment on reports that enforced disappearances are still occurring, including some cases that have been submitted to the Working Group on Enforced or Involuntary Disappearances.

Right to life (art. 6)

12. Please describe the measures taken to abolish de jure the death penalty, and any obstacles impeding its abolition. Please explain how the amendment to article 293 bis of the Criminal Code is compatible with the moratorium on the death penalty that has been in force since 1993. Please (a) state the exact number of convictions since the previous review, specifying which courts handed them down and for what crimes, and (b) indicate whether the State party intends to ratify the second Optional Protocol to the Covenant.

Voluntary termination of pregnancy and sexual and reproductive rights (arts. 2, 3, 6, 7, 17 and 26)

13. Please provide information on the estimated number of clandestine abortions per year, and whether the State party intends to amend its legislation in order to prevent such acts, which may endanger the life and health of women forced to practise them. Please state the rate of maternal mortality linked to abortion. Please indicate whether the State party intends to amend its legislation in order to (a) grant additional exceptions to the prohibition of abortion, and (b) decriminalize abortion. Please describe the efforts being made to ensure access, throughout the country, to safe contraceptive methods and to education and information on contraception and sexual and reproductive health, as well as to prevent teenage pregnancies.

Prohibition of torture and other cruel, inhuman or degrading treatment or punishment (arts. 7 and 10)

14. Please comment on reports that torture and ill-treatment are still practised by police and security officers, including in the context of the fight against terrorism. Please clarify whether the Intelligence and Security Department has been abolished, and the legal basis and responsibilities of the entity that replaced it. Please provide information on (a) the complaint mechanisms and effective remedies that are available to persons claiming to have been subjected to torture or ill-treatment by State officials, including members of the security and intelligence services, and (b) the measures taken to prevent and combat torture, especially in detention centres and in facilities of the security and intelligence services. Please respond to reports that persons reporting acts of torture or ill-treatment by State officials are subjected to judicial harassment. Please indicate the exact number of complaints registered, investigations, prosecutions and convictions handed down for acts of torture during the reporting period, and provide details about (a) the persons convicted and the sentences handed down, and (b) the compensation obtained by victims. Please provide information on the status of the investigation into the case of Mohamed Tamalt. Please state whether there are plans to establish a national mechanism for the prevention of torture or another independent external oversight mechanism for investigating allegations of such practices.

15. Please describe measures to (a) prevent the obtaining of confessions through coercion or torture, (b) allow the review of the cases of persons sentenced on the basis of such confessions, and (c) ensure that officials responsible for such acts are prosecuted and punished in ways commensurate with the gravity of the offences in question.

Liberty and security of person (art. 9)

16. Please describe the measures taken to (a) prevent arbitrary and illegal detentions, (b) ensure that officials responsible for such acts are punished, and (c) ensure that victims have access to effective remedies and receive full reparation. Please describe the measures taken concerning Djameleddine Laskri, who has been imprisoned for 24 years.

17. Please respond to allegations that the provisions of article 51 of the Code of Criminal Procedure, allowing the fivefold extension of the 48-hour police custody period in cases involving terrorist or subversive acts, are in fact systematically applied in other cases. Please describe the measures taken to ensure the implementation of the provisions of article 51 bis (1) of the Code of Criminal Procedure relating to (a) communication with relatives or a lawyer and visits by such persons, and (b) consultation with a doctor at the end of custody. Please state how often article 51 bis is applied with regard to medical examinations of

persons in custody at the decision of the public prosecutor or at the request of a member of the person's family or the person's lawyer. Please indicate whether the above-mentioned fundamental legal safeguards are also applicable to persons suspected of terrorist or subversive acts. Please provide information on pretrial detention, including its average duration, the number of persons in such detention, and the proportion of the total prison population that is being held in such detention.

Freedom of movement (art. 12)

18. Please indicate (a) how article 175 bis (1) of Act No. 09-01 of 25 February 2009, criminalizing leaving the country through locations other than border posts, is compatible with article 12 of the Covenant, explaining the reasons for such restrictions, and (b) the number of convictions handed down on the basis of this provision and the types of persons convicted. Please comment on reports that 96 activists wishing to travel to Tunis to participate in the thirteenth World Social Forum were arbitrarily prevented from leaving the country.

Rights of refugees and asylum seekers (arts. 7, 9 and 13)

19. Please indicate whether the State party intends to develop a comprehensive legal framework regulating asylum, including refugee status determination, supplementing Decree No. 63-274 of 25 July 1963. Please describe the measures taken to (a) establish fair and effective procedures for asylum and expulsion that can be used by all border posts, including in the border area between Morocco and Algeria, and guarantee access to the territory of Algeria to all persons in need of protection, (b) respect the rights of refugees and asylum seekers, including the right not to be subjected to arbitrary, violent and collective detention or expulsion, and (c) ensure that children who are unaccompanied or separated from their families benefit from special protective measures, including against all forms of abuse and violence.

Right to a fair trial and independence of the judiciary (art. 14)

20. Please state how many requests for legal assistance have been addressed to legal assistance offices since the promulgation of Act No. 09-02 of 25 February 2009, how many have been granted, what types of persons have benefited from the service, and in which *wilayas*. Please clarify the procedure for appointing a public defender and state the number of cases in which a public defender has been appointed since the adoption of the Act, what types of persons have benefited from the service, and in which *wilayas*.

21. Please provide information on the main elements of the reform and modernization of the justice system, its various phases, goals already achieved and those still being worked towards. In particular, please describe the measures taken to guarantee and implement the principle of the independence and impartiality of the judiciary, including to prevent interference by the executive branch and to prevent corruption. Please indicate (a) what is done to guarantee the independence of the Constitutional Council and the Supreme Council of Justice from any pressure or interference by the executive branch, including in the appointment and evaluation of their members, and (b) the number of disciplinary proceedings brought by the Supreme Council of Justice against judges, the reasons for those proceedings and their outcomes. Please specify how many judges and prosecutors have been appointed since the previous review, the percentage of women among them, and the types of induction and periodic training they are required to undergo, in particular in human rights issues and professional ethics and conduct.

Freedom of religion (arts. 2 and 18)

22. Please describe the measures taken to (a) guarantee freedom of religion, both in law and in practice, and to eliminate discrimination based on religion, and (b) ensure the compatibility of Ordinance No. 06-02 bis of 28 February 2006 establishing the conditions and rules governing the practice of faiths other than Islam, in particular its articles 8 and 11, with article 18 of the Covenant. Please comment on reports that (a) some religious associations encounter obstacles when trying to register with the authorities, and (b)

members of the Ahmadi community have been prosecuted and even convicted for exercising their religion.

Freedom of expression and the right to peaceful assembly (arts. 7, 9, 19 and 21)

23. Please confirm that Law No. 90-07 of 3 April 1990 on information has been revoked by Act No. 12-05 of 12 January 2012 on information. Please provide more information on the compatibility of Act No. 12-05, in particular articles 2, 29, 84 and 92 and the penalties listed in those articles, with article 19 of the Covenant. Please provide examples of legal rulings in which those provisions were applied. Please clarify the roles of the High Council of Ethics and the press oversight authority and actual measures taken by them. Please provide more information on the implementation of articles 3 and 4 of Act No. 09-04 of 2009, which regulates the prevention and punishment of crimes related to information technology and communication, including examples of legal rulings based on those articles. Please confirm whether the national prevention body provided for by articles 13 and 14 of the Act has already been established and what regulatory provisions have been enacted in that regard. Please state whether the State party intends to review the legal provisions that may interfere with freedom of expression and of the press, in particular articles 96, 144, 144 bis, 144 bis (2), 146, 296 and 298 of the Criminal Code. Please provide information on the number of complaints registered on the basis of these provisions, as well as the number of investigations, prosecutions, convictions and acquittals, and any penalties imposed. Please describe specific measures taken to (a) ensure that, in practice, journalists, human rights defenders and trade union activists are able to exercise their right to freedom of expression without being subjected to harassment or intimidation, and (b) encourage the establishment of private media outlets, including television and radio channels, that are free to operate independently. Please comment on reports that media outlets allegedly critical of the authorities are subject to reprisals, including arbitrary suspension of activities.

24. Please describe the measures taken to ensure the compatibility of Act No. 91-19 of 2 December 1991 on public meetings and demonstrations with the Covenant, in particular with respect to (a) the restrictive definition of a public meeting, (b) the vague grounds for restricting the freedom to assemble and hold demonstrations under article 9, and (c) article 19 stipulating that any unauthorized demonstration is considered an unlawful assembly, as is also stated in articles 97, 98 and 100 of the Criminal Code. Please provide information on the number of complaints registered, investigations, prosecutions, convictions and acquittals for the period under review, penalties handed down for “unlawful assembly”, and the types of persons who were convicted. Please comment on reports that (a) *walis* often refuse to issue receipts for authorization requests submitted to them, (b) marches and demonstrations are often prohibited arbitrarily, with the reasons for refusal rarely given, or are authorized at the last minute, and (c) law enforcement officials use excessive force during peaceful gatherings and intimidate organizers. In this regard, please state whether the State party has a code of conduct for law enforcement officials that incorporates the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and please describe the human rights training provided to members of the police and security forces, the content of such training and the number of officials trained during the reporting period. Please also indicate whether any members of the police and security forces have been prosecuted for excessive use of force during demonstrations, the number of acquittals and convictions, and the penalties handed down. Please clarify the legal basis and the reasons for the continuing ban on demonstrations in Algiers and Oran, the lifting of the state of emergency notwithstanding. Please indicate the number of demonstrations authorized during the reporting period, as well as the number for which authorization was not granted, and the *wilayas* concerned. Please state whether the State intends to make it possible to lodge an appeal with the administrative court when authorization for a demonstration has been refused.

Freedom of association and the right to participate in public life (arts. 22 and 25)

25. Please explain how Act No. 12-06 of 12 January 2012 on associations, and in particular its articles 2, 8, 30 and 39, are compatible with the Covenant. Please provide information on the implementation of article 70 on the obligation of associations established under the previous regime to renew their registration with the authorities. Please

state the number of associations affected by the article, the number that have been able to reregister, the number that have been denied reregistration, and the reasons invoked in the two types of decisions.

26. Please describe the measures taken to ensure (a) the protection of freedom of association, and (b) the compatibility of Act No. 90-14 of 2 June 1990 on the exercise of the right to organize with the Covenant, in particular its article 6. Please comment on reports that (a) in practice, trade unions wishing to register encounter many obstacles, and (b) union activists are harassed by the judiciary and law enforcement entities and are subjected to unfair suspension and dismissal. Please clarify the status of the Autonomous National Union of Workers of the National Electricity and Gas Company (Sonelgaz). Please specify the number of registered trade unions, the number of unions whose application for registration is still pending, the number of those whose application for registration has been denied, and the reasons for such denials. Please indicate, for the reporting period, the number of trade unionists (leaders and members) who have been subjected to investigations or other judicial procedures, the outcome of those investigations, the number of trade unionists dismissed, and the reasons for the dismissals.

27. Please describe efforts to promote political pluralism and ensure the effective participation in public life of all parties, including opposition parties. Please explain the reasons for (a) the constitutional reform of 2008 abolishing the two-term limit for holding presidential office, and (b) the reestablishment of the limit in 2016. Please provide more information on the mechanisms for civil society participation in public affairs, in particular in connection with projects for the exploitation of natural resources.
