

ALGERIA'S HUMAN RIGHTS CRISIS

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ABOUT THIS REPORT

The Human Rights Watch submission to the U.N. Human Rights Committee was researched and written by Nejla Sammakia, researcher in the Middle East and North Africa Division of Human Rights Watch; the summary and recommendations were written by Joe Stork, advocacy director for the division. Mike Lotze and Shiva Eftekhari, interns with the division, provided research and translation assistance. The report was edited by Hanny Megally and Eric Goldstein, executive director and deputy director of the division, and by Michael McClintock, deputy program director of Human Rights Watch. Georgina Coptly, associate of the division, prepared the report for publication. The report is also available in French and Arabic, thanks to a grant from the J.M. Kaplan Fund.

SUMMARY AND RECOMMENDATIONS

On July 20-21, 1998, an Algerian government delegation met with the United Nations Human Rights Committee to discuss Algeria's second periodic report regarding its implementation of the International Covenant on Civil and Political Rights (ICCPR). In its oral presentation to the committee on July 20, the Algerian delegation insisted that "there was no crisis of human rights in Algeria" but rather "a terrorist phenomenon which violated human rights." After its review, the committee, in unusually strong language, characterized the Algerian situation precisely as a "widespread human rights crisis."

The Human Rights Committee is a body of eighteen independent experts, elected by the 140 countries that are states parties to the ICCPR to monitor the implementation of the covenant (for a description of the committee and the text of the ICCPR, see Appendices 2 and 3 of this report). The committee's findings draw badly needed attention to the plight of ordinary Algerians who have been caught up in a vicious cycle of violence. Security forces have been implicated in torture, forced disappearances, arbitrary killings, and extrajudicial executions on a scale that can only be characterized as systematic. Women and men, young and old, have been brutally slaughtered by armed groups. Insurgent groups have engaged in a campaign of terror and intimidation against women and girls in particular, many of whom have been abducted, sexually assaulted, and sometimes mutilated by members of armed groups. The committee, in condemning the massacres of civilians, expressed particular concern that "women have been the victims of not only killings but also of abduction and rape and severe violence." It also called attention to the apparent failure of the authorities in a number of massacre situations to intervene to protect the population or to apprehend the perpetrators, and considered that allegations of involvement or collusion by the security forces themselves in these atrocities were widespread and persistent enough to require independent investigation. (The committee's "Concluding Observations" are reprinted as Appendix 1 of this report.)

The committee's report comes as the Algerian government continues to resist independent scrutiny of this "widespread human rights crisis." The authorities have stoutly refused to accede to the request of the U.N. High Commissioner for Human Rights, Mary Robinson, that they cooperate with expert U.N. bodies such as the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions. The government has similarly ignored requests by independent international human rights organizations such as Human Rights Watch and Amnesty International to conduct fact-finding missions relating to the most severe abuses. Such credible investigations are critical to ensure that the perpetrators of atrocities and human rights abuses do not continue to enjoy impunity and the victims are not compelled to live in a climate of fear.

Algeria did, however, agree to receive a "panel of eminent persons" appointed by U.N. Secretary General Kofi Annan and headed by Mario Soares, the former president of Portugal, which visited Algeria from July 22 through August 4. The secretary general was careful not to describe the mission of the panel in terms of human rights. Rather, its charge was to "gather information on the situation in Algeria and present a report to him, which he will make public." According to Annan's spokesperson, "The government of Algeria has assured the secretary-general that it will ensure free and complete access to all sources of information necessary for the panel to exercise its functions in order to have a clear vision and a precise perception of the reality of the situation in all its dimensions in Algeria today." The other members of the delegation are I.K. Gujral, former prime minister of India, Abd al-Karim al-Kabariti, former prime minister of Jordan, Donald McHenry, former U.S. permanent representative to the U.N., Simone Veil, former French secretary of state, and Amos Wako, attorney general of Kenya and former U.N. special rapporteur on summary and arbitrary executions. At the time of writing, the group had not yet presented its report to Annan. In light of the Human Rights Committee's conclusions, the special panel's handling of Algeria's human rights crisis, a crisis the government insists does not exist, will be closely watched. The diplomats' visit, in any event, should not be seen as a substitute for an in-country investigation by U.N. human rights experts such as the special rapporteurs on torture and extrajudicial executions.

The Algerian government's fifty-five page report to the Human Rights Committee, submitted in March and more than two years overdue, described in detail the official bodies established and statutes passed since 1992 with

respect to human rights. Human Rights Watch, in the briefing paper it submitted to the committee regarding Algeria's report, examined the discrepancies between the report and actual practices with regard to the gravest human rights abuses, including extrajudicial executions, torture, forced "disappearances," arbitrary arrest and detention, failure to protect the right to life, and restrictions on the rights of freedom of expression, association, and assembly. Because the mandate of the Human Rights Committee is to assess implementation of the ICCPR by the government in question, neither its findings nor the Human Rights Watch submission address in any detail the responsibility of the armed groups for the many atrocities they are alleged (or in some cases claim) to have committed.

The committee prefaced its August 4 "Concluding Observations" on Algeria's report by stating that the two days of discussions with government representatives were "characterized by a sense of solidarity by the Committee with the suffering of the Algerian people." However, it found the government's report deficient in its failure to "provide sufficient specific data" and expressed regret "that many of its questions were not fully answered by the Delegation." The committee expressed serious concern regarding the government's compliance with its obligations under the covenant in a number of areas, including those highlighted by the Human Rights Watch submission. Among the committee's most significant conclusions were the following:

Massacres of Civilians

The committee declared that it was "appalled at the widespread massacre of men, women and children in a great number of villages and towns," and the sexual violence directed against women. The committee went on to express concern "at the lack of timely or preventive measures of protection to the victims from police or military officials in the vicinity and at the persistent allegations of collusion of members of the security forces in terrorist attacks." The committee urged Algeria to conduct independent investigations, and "in all cases of massacres to conduct an independent enquiry into the conduct of the security forces, from the lowest to the highest levels, and where appropriate, to subject them to penal and disciplinary sanctions."

Arbitrary Killings and Extrajudicial Executions

The committee characterized the government's responses "with regard to innumerable reports" of such killings, some while in custody, as "less than satisfactory"; it urged the government to set up independent mechanisms to investigate such cases, to bring offenders to justice, and to grant access to the International Committee of the Red Cross (ICRC) and other independent observers.

Torture

The committee, while noting the denials of the government, wrote that it was "deeply concerned over persistent allegations of systematic torture" and "deplore[d] the apparent routine acceptance by trial court judges of confessions extracted under duress, even where there is medical evidence of torture..." It urged the government to establish a credible system for monitoring treatment of detainees, to have specific allegations of torture investigated by an impartial body and the results published, and to ensure that officials involved in torture are prosecuted and, if convicted, severely punished.

"Disappearances"

The committee expressed grave concern at the number of "disappearances" and "the failure of the State to respond adequately, or indeed at all, to such serious violations." The committee urged the Algerian government to establish a central register to record "all reported disappearances and the day to day action taken to retrace the disappeared." It further asked the government to give an account in its next report, due in June 2000, of the number of cases reported, the investigations conducted, and the results achieved.

The committee addressed Algerian human rights violations in other areas as well, including issues such as the independence of the judiciary, media censorship, and restrictions on the right to form political parties. With regard to legislation, the committee recommended that Algeria amend its Family Code to eliminate "important areas of inequality" for women, and to revise Penal Code amendments that increased the number of death penalty offenses and

extended the time for which a suspect may be held in *garde à vue* detention.¹ The committee also expressed concern that the Arabic Language Decree of July 5, 1998, mandating “the compulsory, immediate and exclusive use of that language in all areas of public activity,” would “impede large sections of the population who use Berber or French” in their enjoyment of the rights to free expression, to exchange and receive information, and to participate in public affairs.

The committee commended Algeria for several steps the government had taken, including the establishment of the semi-official National Observatory for Human Rights and the National Commission for the Preservation and Promotion of Women. It welcomed the Algerian delegation’s undertaking to submit additional written information in response to the committee’s questions, and requested that Algeria’s next periodic report “should contain material which responds to all the present concluding observations.” The committee also requested that this second periodic report and the committee’s concluding observations “be widely disseminated among the public at large in all parts of Algeria.”

An Algerian Foreign Ministry spokesperson characterized the committee’s concluding observations as “offensive,” and based on “facts that the committee itself recognizes to be allegations and which it accepts without the slightest discernment.”² The head of the Algerian delegation, Mohamed Salah Dembri, declared that the delegation “has called into question and rejected in advance all of the assessments of the experts which are based on allegations generally originating from the four NGOs [nongovernmental organizations] and a set of information which has not been cross checked or submitted to cross-examination....we have said in advance that we would consider [the committee’s procedure] as null and void because it was not founded on documented proof.”³

¹*Garde à vue* refers to the period of pre-arraignment detention, limited to forty-eight hours generally but extended by a 1995 amendment to the Code of Criminal Procedure to twelve days for crimes that are considered “terrorist or subversive acts.” During this period the state prosecutor must be informed of the detention and the detainee is legally entitled to communicate directly with his or her family and receive their visits. In practice these rights are often not accorded by the arresting authorities, and the time limits are frequently exceeded.

² Lyes Malki, “Algeria ‘Indignantly’ Rejects the Human Rights Committee’s Report,” *La Tribune*, August 4, 1998, p.3. The spokesperson, Abdelaziz Sbaa, also said it was “unacceptable” that the committee failed to note steps the government had taken such as the closing of administrative detention centers, the moratorium on the death penalty, and the suppression of special courts.

³Interviewed by Tayeb Belghiche, “M. Dembri: ‘Allegations,’” *El Watan*, August 2, 1998, p.2. “The four NGOs” are presumably Human Rights Watch, Amnesty International, the International Federation for Human Rights (FIDH), and Reporters Sans Frontières. These organizations have separately issued reports on aspects of Algeria’s human rights crisis and participated together in a number of public interventions to raise international concern about the situation. Reports by the four groups were published together in 1997 by Editions la Découverte in a collection entitled *Algérie, Le Livre Noir*.

The eighteen independent experts on the committee are, in the words of the covenant, “persons of high moral character and recognized competence in the field of human rights” who are elected in their individual capacities to four year terms. As judges, lawyers, and human rights professionals, they are experienced in evaluating the reliability of sources and validity of allegations, and in examining situations such as that of Algeria, in which the government contributes substantially to the obstacles to comprehensive fact-finding and monitoring.

The committee’s conclusions constitute the most severe indictment by any U.N. body of the Algerian government’s human rights practices since the civil strife escalated in 1992. The series of massacres in Algeria that, especially since 1996, have claimed the lives of thousands of innocent women, men, and children, which the government and many outside observers attribute exclusively to armed Islamist insurgent groups, are part of a larger human rights crisis. This larger crisis is characterized by grave and systematic human rights violations by or seemingly with the collusion of the security forces as well as atrocities on a massive scale by armed opposition groups. It is also characterized by a serious deficit of information about what is taking place, who is responsible, and why, in the case of the massacres, the government has been unable to afford protection to Algeria’s citizens and residents. This information deficit is the result of a number of factors: One is the terror and repression that have made many citizens afraid of speaking out. Other factors include the restrictive government policies that have severely curtailed access to international human rights observers and journalists, and the government’s failure to conduct or allow any credible and transparent investigations.

In its successful campaign to preempt any critical resolution at the annual meeting of the U.N. Commission on Human Rights in March and April 1998, the Algerian authorities argued that the crisis was one of terrorism, not human rights, and that the government was nearing its goal of containing this crisis. The authorities adamantly rejected widespread calls for an international inquiry, insisting that the crisis was entirely an internal matter in which the international community had no useful or legitimate role to play. Algeria’s obligation to the international community with regard to its human rights record, the government further argued, would be met in its forthcoming report to the Human Rights Committee.

Human Rights Watch, in welcoming the findings and recommendations of the U.N. Human Rights Committee, calls attention to the committee’s stress on the importance of independent investigations in cases of massacres, arbitrary killings, extrajudicial executions, and “disappearances.” The committee further recommends that Algeria allow access to the International Committee of the Red Cross and other international observers. Human Rights Watch also shares the concern of the committee with regard to the Algerian government’s encouragement of the formation of local militia known as “legitimate defense groups.” Given the questionable competence, training, and supervision of these groups, and frequent reports of killings that went beyond self-defense and the limits of the law, Human Rights Watch endorses the committee’s recommendation that they be “brought under the strict and effective control of responsible State organs.”

Human Rights Watch strongly urges Algeria to take steps to implement the committee’s recommendations—most urgently those recommendations relating to clear violations of the right to life and the integrity of the person. In particular, Human Rights Watch calls on the Algerian authorities to:

- Establish a credible independent body to investigate massacres and other arbitrary killings and extrajudicial executions, to make public its findings, and to refer its findings to the appropriate judicial authorities so that those responsible may be brought to justice. This office or commission should have sufficient resources to carry out its mandate, and the public assurance of President Liamine Zeroual that it will have the power to question government officials and security forces at all levels.
- Release unconditionally all persons arbitrarily detained. Establish a public register listing the names, whereabouts, and pertinent details of detention for all persons detained by all branches of the security forces. Investigate allegations of unlawful or arbitrary detention, make the results public, and ensure that persons responsible are prosecuted and, if convicted, punished in accordance with the law.

- Establish a credible system for monitoring treatment of all detainees, particularly during the period of garde à vue detention, when torture and abuse of detainees is most common. Ensure that convictions at trials are not based solely on confessions made during garde à vue detention. Communicate to all military, intelligence and security forces, and judicial authorities, that torture will not be tolerated, and that officials who order or condone such actions will be prosecuted and, if convicted, punished in accordance with the gravity of these crimes.

ALGERIA: VIOLATIONS OF CIVIL AND POLITICAL RIGHTS
A Briefing Paper for the U.N. Human Rights Committee
July 1998

Human Rights Watch is presenting this document to the Human Rights Committee as it prepares to evaluate Algeria's compliance with its obligations as a State party to the International Covenant on Civil and Political Rights (ICCPR). We hope that the information provided in this document and in the appended Human Rights Watch reports will serve the committee in planning questions to present to the Algerian representatives during the July 1998 session.

We present here some of the gravest patterns of human rights violations in the period since 1992, the year the committee last evaluated Algeria's record of compliance. These violations include arbitrary arrests, "disappearances," torture, extrajudicial executions and violations of the rights of freedom of expression, assembly, and association. Human Rights Watch has also monitored the brutal and heinous attacks that have been carried out by groups that call themselves Islamist. These attacks have left thousands of men, women and children dead during six years of conflict. Human Rights Watch unequivocally condemns the deliberate and arbitrary killing of civilians by armed groups, security forces, or by any other party.

Human Rights Watch has monitored human rights conditions in Algeria since 1990, and last visited the country in April 1997. Since January 1998, when we formally requested permission from Algerian authorities to conduct a mission, we have been effectively barred from entering the country. We nevertheless continue to collect information from persons inside Algeria and from Algerians traveling abroad. We have also corresponded or met with Algerian authorities to raise our concerns. On the occasions when Algerian authorities have responded, the information they furnished to us was almost always lacking in specificity, and sometimes in accuracy, as shown below.

We have read Algeria's report to the Human Rights Committee.⁴ While it describes the official institutions established and laws passed since 1992 with respect to human rights, it overlooks the reality that the laws are not being enforced and the institutions are not functioning in a manner so as to protect those rights. It also overlooks the fact that certain articles in Algerian law and in its constitution conflict with Algeria's obligations under the ICCPR.

Violations of the Right to Life

Over the last two years, armed groups have attacked villages and hamlets, killing and maiming hundreds of men, women and children in nighttime raids. Thousands have lost their lives. In single incidents, up to 400 people were slaughtered by assailants who used crude weapons and took several hours to carry out their carnage, and then fled without being confronted.

In many instances, massacres took place in isolated locations. But in others, they occurred within a few hundred meters of security force barracks and posts. Yet no effort was made by the authorities to halt the attack or apprehend the attackers as they withdrew.

⁴ United Nations, Human Rights Committee, "Consideration of reports submitted by States parties under Article 40 of the Covenant, Algeria, Second periodic report of States parties due in 1995"(Geneva: United Nations, March 11, 1998), CCPR/C/101/Add.1.

The perpetrators of these atrocities are responsible for massive violations of the right to life, which is enshrined in Article 6 of the ICCPR. The repeated failure of the security forces to intervene to prevent the loss of civilian life, despite their proximity to some of the mass killings that have taken place, points to the Algerian government's failure to ensure and protect the right to life and also constitutes a violation of Article 6.

One example is the massacre that occurred on the night of September 23, 1997 at Bentalha, a southern suburb of the capital Algiers, in which more than 250 people were killed. One of the survivors, who had fled to a rooftop with other residents, told Human Rights Watch he saw two military armored-personnel carriers while the armed group was assaulting civilians. "They came up to about one hundred meters away from where we were being attacked. Then they turned on their floodlights—I don't know why, since they didn't rescue us. The people started to shout that the military had come to their rescue, but the emirs [leaders of the attackers] responded by urging their men to 'work calmly, the military will not come, don't worry.'" The witness and other survivors from Bentalha quoted paramilitary forces saying later that their superiors had not allowed them to confront the attackers because they had not received orders to intervene from the military commanders under whose direction they operate.

In explaining instances where massacres took place without any intervention by the security forces to stop or apprehend the attackers, authorities cited the danger to security forces of ambushes and mined roads. But in more than one of the recent massacres, according to survivors who were interviewed later, the security forces made no attempt to reach the scene of violence while it was occurring or to test the roads for mines. For example, survivors from Bentalha told Human Rights Watch of residents who escaped the area by driving out, without incident, along the same road that authorities later claimed were mined.

The military's concern for mines as an obstacle to timely intervention was also called into question by the testimony of a former rescue worker, now seeking asylum in a European country, who said he was one of the first people to reach the Algiers suburb of Rais hours after a massacre that claimed the lives of more than 350 civilians on the night of August 29, 1997. He told Human Rights Watch that ambulance workers and firemen had been alerted to an emergency and were told simply to await further orders. "They didn't tell us what had happened. After about one and-a-half hours, they asked us to go to Rais because there had been carnage there and we should go to help the people," he said. "We were the first to arrive at the scene. No cars had arrived there ahead of us. The gendarmerie who came with us were the first security forces to arrive on the scene. The gendarmes did not check for mines."

In at least two massacres that occurred in 1998, survivors told reporters that despite the proximity of army barracks and security posts, no one came to their rescue. In Chouardia, a village in Medea province seventy kilometers south of Algiers, more than forty persons were reported killed on April 27. Survivors told the Agence France-Presse the following day that the carnage lasted about three hours and security forces only came four-and-a-half hours after the end of the massacre. One resident was quoted as saying that a paramilitary gendarme post is located one kilometer from the massacre site.

The French-language daily *La Tribune* reported on May 28 that assailants who killed twelve civilians two days earlier in Hammam Melouane, south of Algiers, had slipped past government-backed militia and a military post. "Despite the presence of 'self-defense' [paramilitary] groups and a military post near the massacre site, the group [of attackers] slipped into the village through a route that apparently was not patrolled the night of the massacre," the paper said.

Regular security forces have engaged in extrajudicial executions. For example, Rachid Medjahed, the alleged mastermind of the assassination of Abdelhaq Benhamouda, head of Algeria's largest workers union, was apparently executed while in custody. Almost one month after the labor leader was gunned down on January 28, 1997,⁵ Medjahed,

⁵ Human Rights Watch/Middle East, "Algeria, Elections in the Shadow of Violence and Repression," *A Human Rights Watch Short Report*, vol. 9, no. 4, June 1997, p. 20.

who had been in incommunicado detention, “confessed” on Algerian television to his role in the assassination. Soon after, the police showed his family a written confirmation of his death, dated February 26. When they were allowed to see the body they said it bore nine bullet wounds, in the thighs, abdomen, back, and neck.

In a letter sent to the authorities on April 26, Human Rights Watch expressed concern that Medjahed may have been extrajudicially executed in custody. A reply from the semi-official National Human Rights Monitoring Body (Observatoire Nationale des Droits de l’Homme, ONDH) stated that it had learned from the authorities that Medjahed died on March 18 from wounds incurred during his arrest. The divergence between this information and that which was provided to the family points to an official attempt to cover up an extrajudicial execution.

On February 21 and 22, 1995, an attempted mutiny at Serkadji Prison and its suppression by security forces resulted in the death of five prison guards and about one hundred prisoners. Despite the evidence that most of the fatalities were caused by vastly excessive force used by the security forces, authorities hastily buried the dead prisoners without autopsies, blocked all independent investigations and prosecuted no security force members for their role in the killings.⁶

There have been reports over the past five years, including cases documented by Amnesty International, of suspects being arrested and then being found dead, with official news agencies reporting that they had been killed in a clash. Military and security forces also reportedly carried out deadly reprisals in neighborhoods thought to be sympathetic to Islamists, or where their colleagues had been ambushed. In Blida, paratroopers went from door to door rounding up youths on March 20, 1994, a day after six security troops had been killed. The corpses of fourteen of those arrested were found the next day in the streets, *Le Monde* reported.

Human Rights Watch’s concerns:

In the face of repeated massacres of civilians by armed groups, the government has failed to provide a satisfactory explanation for its poor record in protecting the civilian population.

The government has not stated what precise measures it is now taking to enhance civilian protection in isolated rural areas.

Enforced “Disappearances”

Algeria’s security forces have routinely flouted Algerian law and international law during the arrest and interrogation of security suspects.

During and after its 1997 mission to Algeria, Human Rights Watch collected testimony from families and lawyers concerning persons who “disappeared” at the hands of security forces. We also spoke to four released detainees who had been held in secret detention for periods of up to three months. The report we issued earlier this year on “disappearances” forms the basis for the information presented below.

Human Rights Watch collected testimonies showing that persons are often seized from their homes by forces that refuse to identify themselves or provide any reason for the arrest. Many of those detained are held for weeks or months without being brought before a judge or informed of the charges against them. Many are held in unacknowledged detention sites without being able to contact their family or lawyer, in violation of international standards and of Algeria’s own Code of Criminal Procedure, which provides in Article 51 that “While protecting the

⁶ Human Rights Watch/Middle East, “Algeria: Six Months Later, Cover-Up Continues in Prison Clash that Left 100 Inmates Dead,” *A Human Rights Watch Report*, August 1995.

confidentiality of the investigation the police officer is obligated to grant to the person held in *garde à vue* detention all means for enabling him to communicate immediately and directly with his family and to receive visits by it.”

The following case is typical of many “disappearance” cases documented by Algerian lawyers and by human rights organizations. Mourad Ouchefoune, a twenty-five-year-old economics student from Dar el-Baida in Algiers, was arrested from his home by police and military forces around midnight on March 17, 1997. According to testimony the family gave to lawyers, the security forces broke into the house, forced everyone out and checked their identities. They then handcuffed Ouchefoune and led him away, saying he was needed only for an investigation. As of June 29, 1998, the family had received no reply to their official inquiries as to his whereabouts.

“Disappeared” persons come from a wide range of professions. At least two journalists who were detained have “disappeared.” Djamel Fahassi, a journalist with Islamist sympathies at Algiers Radio, was seized near his home in el-Harrache on May 6, 1995. His wife, Safia, stated that neighbors said they witnessed him being taken by about four men carrying walkie-talkies whom they believed to be security forces. They drove him away in a convoy of two vehicles. She has received no official information about his whereabouts, but about two months after his arrest, a released detainee wrote a letter to a private newspaper saying he had seen Fahassi at Châteauneuf, a police academy and security center in Algiers. His wife was unable to confirm this. A report in October 1995 in a government-run newspaper, *l'Horizon*, that Fahassi was outside the country was later discounted by journalists at the same paper, and the family dismissed the claim.⁷

Another journalist, Aziz Bouabdallah, who worked with the Arabic-language daily *Al-'Alam al-Siyassi*, was taken from his home on April 12, 1997 by men dressed in police uniforms who introduced themselves as members of the security forces, according to Amnesty International and the New York-based Committee To Protect Journalists. A few months later he was believed to be held in the Châteauneuf police academy in Algiers. However, no official information about his whereabouts has been divulged.

To this day, hundreds of people remain missing after their arrest months or years ago. The practice is so widespread and routine that it could only persist with the sanction of the highest level of national authority. Relatives of “disappeared” persons have told Human Rights Watch that they make the rounds of police stations, the state prosecutor’s office, jails and courthouses, and file missing-person complaints with agencies such as the semi-official National Human Rights Monitoring Body (Observatoire nationale des droits de l’homme, ONDH), usually without results. In the rare instances where they obtain information about a “disappeared” family member, it is usually through informal channels such as prison guards or recently released prisoners.

On September 12, 1997, Human Rights Watch submitted the information we had collected on “disappearances” to the authorities, along with questions concerning twelve cases in which we had evidence the persons had been taken by the security forces.⁸ We received only an indirect response, in the form of a meeting with Maître Kemal Rezag Bara, president of the ONDH. Although Me. Rezag Bara went through the cases with Human Rights Watch, no information was disclosed to us, either by Me. Rezag Bara or by any government official, confirming that any individual on our list was in official custody or specifying his whereabouts.

⁷ Human Rights Watch/Middle East, “Neither among the Living nor the Dead”: State-sponsored ‘Disappearances’ in Algeria,” *A Human Rights Watch Short Report*, vol. 10, no.1, February 1998, p. 15.

⁸ *Ibid.*, p. 20.

The ONDH has acknowledged the existence of secret places of detention in Algeria. In an interview with the Arabic-language daily *Al-Khabar* in May, Me. Rezag Bara said he had proof of some such cases. Although he later officially repudiated that statement, previous ONDH reports refer to the existence of such centers. In its 1996 annual report, the ONDH said there should be an end to “detention centers outside the control of the law.” In its 1994-95 report, the ONDH said secret detention centers existed in “places that the law has not designated for that function. They are mainly ... certain police stations or army barracks serving as detention centers. Persons arrested were freed after more than three months of secret detention in these places.”⁹

Human Rights Watch is aware of no other official acknowledgment, to this date, of a pattern of “disappearances” or secret detentions. In a parliamentary session May 28, Interior Minister Mustafa Benmansour responded to questions from deputies by denying that “disappearances” took place in Algeria. There has been no visible effort by the Algerian authorities to compensate victims of unlawful arrest or detention, or to bring those responsible to justice.

Human Rights Watch’s concerns:

The Algerian authorities have not taken sufficient measures to ensure that when a person is detained, the precise time and place of detention is recorded and the information is made available promptly to his or her family.

The authorities have failed to provide evidence to show that security force members suspected of violating the rights of detainees under Algerian law are investigated and appropriately disciplined.

Human Rights Watch is aware of no evidence that victims of wrongful detention have been compensated, in accordance with the provisions of the ICCPR’s Article 9.5

Torture

Based on interviews with victims of torture, their relatives and lawyers, and former police personnel, Human Rights Watch has concluded that, since at least 1992, Algerian security forces routinely practice torture and cruel, inhuman or degrading treatment.

Security forces commonly torture security-related detainees during the period when they are held in *garde à vue*, or pre-arraignment detention. The torture is facilitated by the negating of safeguards when detainees are held incommunicado and for prolonged periods in unacknowledged detention sites, as often occurs in Algeria.

A few months after Algeria presented its last report to the Human Rights Committee in March 1992, Legislative Decree 92-03 came into effect, establishing “Special Courts” and establishing stiff penalties for crimes of subversion and terrorism. The decree, commonly known as the anti-terrorism law, made public on October 4, 1992, provided for the extension of the legal *garde à vue* period from forty-eight hours to twelve days in cases involving “terrorism” or “subversion.” Even this twelve-day limit, which in the view of Human Rights Watch violates the right of detainees to be brought promptly before a judge, has been routinely exceeded in cases involving security detainees. When the decree was canceled in February 1995, most of its provisions were incorporated into the Criminal Code and the Code of Criminal Procedure, including the twelve-day limit for security suspects.

According to testimonies that Human Rights Watch has collected, torture in Algeria commonly includes severe beatings and forcing dirty water down a victim’s throat to the point of choking. We have also interviewed persons who said their interrogators had administered electrical shocks to their bodies or sexually assaulted them.

⁹ Ibid., pp. 10-11.

When security suspects have been held for long periods in garde à vue, often well beyond the twelve-day limit provided by law, traces of torture have often faded or disappeared by the time the victim appeared before the examining magistrate. Thus, a potential mechanism for holding security forces accountable was undermined.

Victims, lawyers, and former security agents have identified a number of unofficial places of detention where torture is practiced. These include the Châteauneuf police academy and Magharia post, both in Algiers. They are ostensibly used to coordinate among “anti-terrorist” security forces and not to hold detainees. Torture is also commonplace at the following official detention centers:

the Commissariat Centrale, or central police station on rue Amirouche in Algiers; the Cavaignac police station, downtown Algiers; and the Hussein Dey police station in Algiers.

An Algerian torture victim presently undergoing treatment at the Medical Foundation for the Care of Victims of Torture, a privately run treatment center in London, told Human Rights Watch that masked special police forces (known popularly as “ninjas”) came to his house in 1993 to arrest his brother. “When they couldn’t find him,” he said, “they took me to a place behind the Ecole Supérieure de Châteauneuf. The ninjas and police then tortured me, beat me and when they realized I knew nothing, proceeded to rape me.” He told Human Rights Watch that until he fled the country in 1996 he was rearrested repeatedly and raped on each occasion.

The man, who is seeking asylum in the United Kingdom, said in his testimony to the British Home Office that during his first detention he fainted after the police placed a rag with excrement on his face. When he regained consciousness, he said, “I found myself naked and was told to face the wall. One of them started to penetrate me. They told me each member of my family would face the same treatment, that they did this to my father, and that we should forget we are men.” He said he was repeatedly raped during three days at el-Biar police station in Algiers and at the Cavaignac police station. A medical examination conducted by the Medical Foundation concluded that the Algerian had “anterior scarring around the anus area consistent with sexual abuse.” Dr. Michael Peel, who treats torture victims at the foundation, stated publicly that of the forty-five Algerian male torture victims he had seen between 1994 and 1997, more than half said they had either been raped or subjected to anal penetration with a foreign object or other sexual abuse by the forces holding them in detention.

Another Algerian man who was undergoing treatment abroad for torture described his experience after being arrested and held in the central Algiers police station (Commissariat centrale) in late 1994: “The room had two desks and a “medical” bed. Three men in plainclothes questioned me....One was questioning me while the other two put me on my knees and beat me on the back with a wooden stick. They laid me on the ground, stuffed my shirt in my mouth and poured water down my throat through a tube. I felt like I was going to die. They then left me alone for ten minutes, and when they returned, one of them put a gun to my head and pulled the trigger in mock execution.” After two days, he was blindfolded, placed in a car and driven to an unknown place where he was kept in a small, dark cell for fifteen days and again subjected to torture that included electric shock administered to his body. He was then taken to the infirmary in Serkadji prison, from which he later escaped.

In many cases, confessions have been extracted under torture and then admitted into evidence by the trial court. Human Rights Watch has learned that in violation of Article 51 of the Code of Criminal Procedure, detainees are often not informed of their right to a medical examination at the end of their pre-arraignment detention. In those cases where a medical examination does take place and evidence of torture is noted, it is rare that presiding judges acknowledge the evidence and accept defense arguments that the coerced confession be dismissed as evidence.

A former examining magistrate in a special court in the city of Constantine told Human Rights Watch, during an interview in a European city where he resides as a refugee, that he had ordered medical examinations of detainees who were brought before him in 1993. He said that most of the suspected Islamist or security-related detainees he saw appeared to have been tortured by police or military security personnel during the initial detention period.

During 1994, more than 3,000 suspected Islamists were tried in the special courts set up by Legislative Decree 92-03. Special court judges routinely dismissed the claims of defendants that their confession had been extracted under torture and ignored violations of legal safeguards against ill-treatment. Statements made under torture may have resulted in death sentences. In a highly publicized trial in May 1993, a special court sentenced thirty-eight defendants to death without probing their claims that they had been held beyond the twelve-day legal limit for pre-arraignment detention, and that they had been tortured into making false confessions. At least seven of them were executed the same year.¹⁰

Human Rights Watch's concerns:

Algeria's report to the Human Rights Committee refers to domestic laws that prohibit torture, but does not explain why these laws are not enforced. It does not explain what affirmative measures have been taken to eradicate torture and to bring to justice those who have perpetrated it.

The government has tolerated the use as detention centers of military and police sites that are not acknowledged to be places of detention.

The government has not furnished evidence of measures taken to curtail and punish the frequent exceeding of the legal time limit on garde à vue detention.

The government has not taken measures to ensure that detainees are aware of, and able to exercise, their right to a medical examination at the end of garde à vue.

The government has not taken measures to address the apparently routine acceptance into evidence by trial court judges of confessions extracted under torture, even where there is medical evidence of torture.

Freedom of Association

Law 97-09, governing the formation and activities of political parties, took effect in March 1997, three months before legislative elections. It was ratified that month by the interim appointed parliament that was later dissolved.

Algeria's constitution, amended in 1996, laid the groundwork for the restrictions imposed on political parties by Law 97-09.¹¹ While recognizing in Article 42 the right to create parties, the constitution prohibits the creation of parties on a basis that is "religious, linguistic, racial, gender-related, corporatist or regional." The political party law stipulates in Article 5 that the limits described in the constitution also apply to the *activities* of the party. Article 3 of the law bans the use for partisan or propaganda purposes of "the fundamental components of the national identity in its three dimensions, Islam, Arabism, and Amazigh identity [Berber ethnicity]."

Law 97-09's broadly worded ban on particular categories of political parties violates the right of supporters of parties that claim a basis in the proscribed categories to associate with one another and to vote for representatives of their choice. Since taking effect, the law has been invoked to ban or prevent the legalization of more than thirty parties.

¹⁰ *Human Rights Watch World Report 1994*, (New York: Human Rights Watch, 1993), Algeria chapter.

¹¹ Human Rights Watch/Middle East, "Algeria, Elections in the Shadow of Violence and Repression," p. 11.

Public liberties have also been circumscribed by the State of Emergency law decreed in 1992 and still in effect. The government of Algeria has failed to demonstrate that the conditions required by the ICCPR in order to restrict the right to freedom of association are being met.¹² No such case is presented in its submission to the Human Rights Committee, which refers to the constitution and the political party law without referring to those articles that violate the ICCPR.

Human Rights Watch's concerns:

The Algerian government has not made the case that its restrictions on the right to form political parties meet the strict criteria under which such restrictions are permitted by the ICCPR.

Freedom of expression

The Algerian government's actions against the press since 1992 have inhibited criticism of government officials and institutions, and drastically curtailed independent reporting and commentary on the security situation.¹³ The government has banned newspapers, jailed reporters, and exerted financial pressure on private newspapers through its ownership of printing presses and the agencies responsible for purchasing the bulk of advertising in Algeria's print media.

Some positive measures taken in 1998 deserve mention. The authorities withdrew the Interior Ministry-guided "reading committees" that had been stationed at printing presses since February 1996 and stopped enforcing directives, issued in 1993 and 1994, forbidding publication of unauthorized information related to security issues. The "reading committees" had reviewed security-related items prior to publication and decided which items to censor.

Despite these developments, violations of press freedom since 1992 have been numerous, and many of the restrictions remain in place.

La Nation, a French-language weekly that openly advocated broader political participation for Algeria's Islamists, was suspended at least nine times between January 1995 and December 1996. One of the suspended issues carried an extensive report on human rights in Algeria, and was co-published with *Le Monde Diplomatique* in March 1996. Algeria's submission to the ICCPR refers to a July 1992 suspension order against *La Nation* resulting from an article about the arrest of a southern tribal leader that was deemed to be "false" and an "attack on national unity." To our knowledge, no official reasons have been provided for *La Nation's* many subsequent suspensions.

Abdelkader Hadj Benâamane, a journalist at the official news agency Algerie Presse Service (APS), served more than two years in prison before being paroled on April 2, 1997. He had been arrested for filing a report that identified the place where Ali Belhadj, a leader of the outlawed Islamic Salvation Front (Front Islamique du Salut), was being imprisoned. Benâamane was detained on February 27, 1995; his whereabouts remained unknown until a newspaper reported almost two months later that he had been arrested.

Government efforts to limit news content extend beyond security topics, and include coverage of allegations of corruption and criticism of government officials. For example, *La Tribune*, a French-language daily, was suspended for six months and its publisher and editor given one-year suspended sentences in September 1996 for publishing a satirical

¹² Ibid., p. 13.

¹³ Ibid., pp. 25-35.

cartoon that “profaned” the Algerian flag. After a month in preventive detention, the cartoonist, Chawki Amari, was given a three-year suspended sentence for “desecrating a national emblem” in his cartoon.

While constraints on reporting of security-related news have eased somewhat, visiting foreign journalists say they continue to be placed under armed security escort, even when they ask to forego it. This escort, for correspondents who do not wish to have it, hampers their freedom of movement and ability to interview Algerians, many of whom are reluctant to talk freely in the presence of security agents. There have been reports that massacre survivors and professionals having contact with massacre sites and victims, such as physicians, nurses, ambulance workers, and firemen, have been warned by the authorities not to speak to the press.

In addition to the Information Code, Algeria’s media is subject to broadly-worded articles that were incorporated into the Criminal Code and the Code of Criminal Procedure in February 1995 and based on the 1992 “anti-terrorism” decree (see above). The amended criminal code punishes writers and editors-in-chief for the publication of any “expressions of sympathy” for and “encouragement” of subversive or terrorist acts, as stated in Article 87*bis*. That article defines subversive or terrorist acts as any “act against the state security, the territorial integrity, the stability and normal functioning of institutions, with the aim of creating insecurity or endangering lives.”

Human Rights Watch’s concerns:

The Algerian authorities have failed to show how suspensions of newspapers such as *La Nation* and *La Tribune* were consistent with Algeria’s obligations under the ICCPR to guarantee freedom of expression.

The authorities have failed to show how the prosecution and imprisonment of journalist Abdelkader Hadj Benâamane conformed to Algeria’s obligations to guarantee freedom of expression.

Freedom of Assembly

Algeria’s constitution guarantees, in Article 41, “freedom of expression, association and assembly.” The State of Emergency decree and the December 1991 amendment to the Law on Assemblies and Public Demonstrations drastically limit these rights.¹⁴

The State of Emergency decree gives the interior minister and local governors sweeping powers to “restrict or prohibit the movement of persons and vehicles” and to order the “temporary closure of [all types of] halls and ban all demonstrations that could disturb the public order and peace.” In addition, the December amendment subjects assemblies to the control of the provincial government and requires organizers of demonstrations to obtain permission from that government. Such requests are often refused.

International law permits restrictions on the right of peaceful assembly only in narrow circumstances. Advance prohibition of assemblies must always be exceptional measures, based on well-founded concerns for security and public safety. Algeria’s emergency decree does not require the authorities to explain or justify decisions to block public gatherings.

Many of the demonstrations that the authorities have banned were announced as peaceful events organized to express criticism of government policies or support alternative policies to end the country’s strife. Following local elections in October 1997, which were won by a pro-government party, more than 15,000 supporters of other major parties took to the streets to protest alleged fraud. Police prevented a second planned march a few days later, and the interior ministry banned further “unauthorized public demonstrations.”

¹⁴ Ibid., pp. 22-25.

On October 20, 1997, police blocked a small, peaceful demonstration in downtown Algiers by lawyers and families of “disappeared” persons. Security forces dispersed the demonstrators, and arrested about fifteen women and human rights lawyer Mohamed Tahri. They were released the same day.

In April 1997, security forces were deployed in large numbers in central Algiers to stop a march by a small number of Berber cultural activists demanding official status for the Tamazight language. A month earlier, tens of members and supporters of the opposition Socialist Forces Front attempted to march in downtown Algiers to protest violence, terrorism and the government’s security policies. They were met by hundreds of riot police who dispersed them.

In 1995, parties favoring a boycott of the November presidential elections were sometimes refused permission to hold gatherings, and political groups that supported negotiations between the government and the Islamist opposition were barred on occasion from holding public meetings.

Human Rights Watch’s concerns:

The frequent prevention of peaceful demonstrations does not comport with Algeria’s obligations under the ICCPR to permit freedom of assembly.

The government has given no convincing reason for dispersing the small, peaceful October 20, 1997 demonstration by relatives of “disappeared” persons, and for arresting some of the participants.

We hope this survey of human rights violations in Algeria will assist the Human Rights Committee in urging the government of Algeria to carry out independent investigations into the abuses and bring to justice those responsible. We also hope the committee will request that the government of Algeria bring all of its laws in line with international standards, and ensure compliance with those laws that protect human rights.

*Human Rights Watch
Middle East Division*

Human Rights Watch is dedicated to protecting the human rights of people around the world.

We stand with victims and activists to bring offenders to justice, to prevent discrimination, to uphold political freedom and to protect people from inhumane conduct in wartime.

We investigate and expose human rights violations and hold abusers accountable.

We challenge governments and those holding power to end abusive practices and respect international human rights law.

We enlist the public and the international community to support the cause of human rights for all.

The staff includes Kenneth Roth, executive director; Michele Alexander, development director; Reed Brody, advocacy director; Carroll Bogert, communications director; Cynthia Brown, program director; Barbara Guglielmo, finance and administration director; Jeri Laber, special advisor; Lotte Leicht, Brussels office director; Patrick Minges, publications director; Susan Osnos, associate director; Jemera Rone, counsel; Wilder Tayler, general counsel; and Joanna Weschler, United Nations representative. Jonathan Fanton is the chair of the board. Robert L. Bernstein is the founding chair.

Its Middle East division was established in 1989 to monitor and promote the observance of internationally recognized human rights in the Middle East and North Africa. Hanny Megally is the executive director; Eric Goldstein is the research director, Joe Stork is the advocacy director; Virginia N. Sherry is associate director; Clarisa Bencomo, Elahé Sharifpour-Hicks, and Nejla Sammakia are researchers; Georgina Copty and Awali Samara are associates. Gary Sick is the chair of the advisory committee and Lisa Anderson and Bruce Rabb are vice chairs.

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CONCLUDING OBSERVATIONS OF THE UNITED NATIONS HUMAN RIGHTS COMMITTEE

CCPR/C/79/Add.95
Original: ENGLISH

HUMAN RIGHTS COMMITTEE
Sixty-second session

HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Concluding Observations of the Human Rights Committee

Algeria

1. The Committee considered the second periodic report of Algeria (CCPR/C/101/Add.1) at its 1681st, 1682nd, 1683rd and 1684th meetings, held on 20 and 21 July 1998 (CCPR/C/SR.1681-1684), and adopted (at the 1696th meeting, held on 29 July 1998, CCPR/C/SR.1696) the following concluding observations:

A. Introduction

2. The Committee commends the State party for addressing some of the issues raised in the Committee's concluding observations (CCPR/C/79/Add.1) following the examination of Algeria's initial report (CCPR/C/62/Add.1) in 1992. It notes that Algeria's second periodic report was submitted with a delay of more than two years. While acknowledging that the report and subsequent submissions provided information as to the laws and regulations adopted by the Algerian government to implement the provisions of the Covenant, the Committee observes that it does not provide sufficient specific data on the prevailing human rights crisis. The Committee regrets that many of its questions were not fully answered by the Delegation and welcomes Algeria's undertaking to submit additional written information in response to questions raised by Committee members during two days of dialogue, which was characterised by a sense of solidarity by the Committee with the suffering of the Algerian people.

B. Factors and difficulties affecting the implementation of the Covenant

3. Widespread and indiscriminate attacks against the civilian population, involving the loss of innumerable human lives, and a general climate of violence heighten the responsibilities of the State party to re-establish and maintain the conditions necessary for the enjoyment and protection of fundamental rights and freedoms in Algeria.

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C. Positive factors

4. The Committee welcomes the establishment of the National Observatory for Human Rights, and the Mediateur de la République (Ombudsman of the Republic), with competence to receive complaints from individuals about human rights violations.

5. The Committee commends the establishment of the National Committee for the Preservation and the Promotion of Women, and the increased participation of women in public life.

D. Principal subjects of concern and recommendations

6. The Committee is appalled at the widespread massacre of men, women and children in a great number of villages and towns.

The Committee is also seriously concerned that women have been the victims of not only killings but also of abduction and rape and severe violence.

The Committee is also concerned at the lack of timely or preventive measures of protection to the victims from police or military officials in the vicinity and at the persistent allegations of collusion of members of the security forces in terrorist attacks.

The Committee urges the State party to adopt effective measures:

- a) to prevent those attacks and, if they nevertheless occur, to come promptly to the defence of the population;
- b) to ensure that proper investigations are conducted by an independent body to determine who the offenders are and to bring them to justice; and
- c) in all cases of massacres to conduct an independent enquiry into the conduct of the security forces, from the lowest to the highest levels, and where appropriate, to subject them to penal and disciplinary sanctions.

7. The Committee is further concerned at the less than satisfactory responses from the Delegation, with regard to innumerable reports of arbitrary or extrajudicial executions of individuals, some while in custody, others under suspicion of being associated in one way or another with terrorists groups.

The State party should urgently ensure that

- a) independent mechanisms be set up to investigate all violations of the right to life and security of the person;
- b) the offenders be brought to justice;
- c) access be given as soon as possible to the ICRC and other independent observers.

8. The Committee is concerned about the meagre information provided by the Government, both in its report and its oral presentation and in its responses to questions raised by the Committee, regarding the organisation of the "legitimate defence groups", their official recognition, competence, supervision and training. Serious questions arise as to the legitimacy of the transfer of such power by the State to private groups, especially in view of the power which the State itself confers on them and the very real risk to human life and security entailed by the exercise of that power, coupled with the risks of unsanctioned abuse.

The Committee recommends that the Government urgently take measures to maintain within its police and defence forces the responsibility of maintaining law and order and the protection of the life and security of the population and, in the meantime, to ensure that these defence groups are brought under the strict and effective control of responsible State organs, and that they are promptly brought to justice in the case of abuse.

9. Notwithstanding the denial by the Algerian delegation that torture is not practiced by certain authorities, the Committee is deeply concerned over persistent allegations of systematic torture. The Committee deplores the apparent routine acceptance by trial court judges of confessions extracted under duress, even when there is medical evidence of torture, and calls on the State party to take all necessary measures to redress this situation.

The Committee urges the State Party to ensure:

- a) a credible system for monitoring treatment of all detainees so as to ensure that they are not subject to torture or to cruel, inhuman or degrading treatment;
- b) that all specific allegations be investigated by an impartial body and that the results of such investigations be published;
- c) that officials involved in torture be prosecuted and, if convicted, severely punished.

10. Given the unsatisfactory responses of the Delegation and the number of complaints from family members, the Committee is gravely concerned at the number of disappearances and at the failure of the State to respond adequately, or indeed at all, to such serious violations. Disappearances may involve the right to life consecrated under Article 6 of the Covenant, and where the disappeared individuals are still alive and are kept incommunicado, disappearances may involve the right guaranteed under Article 16 of the Covenant which provides that every individual shall have the right to recognition everywhere as a person before the law. In this situation these individuals are also deprived of their capacity to exercise all the other rights, without any recourse, recognised under the Covenant. Furthermore, disappearances violate Article 7 with regard to the relatives of the disappeared.

The Committee urges the State party to adopt measures

- a) to establish a central register to record all reported cases of disappearances and day to day action taken to retrace the disappeared;
- b) to assist the families concerned to retrace the disappeared.

The Committee further requests the State party, in its next periodic report, to give an account of the number of cases reported, the investigations conducted and the results achieved.

11. The Committee has noted that, while the Emergency Decree of 1992 relating to "subversion of terrorism" has been repealed, some of its provisions have been incorporated in the normal Penal Laws. Those provisions prescribe an increased number of offences for which the death penalty may be imposed; a lowering of the age to 16 for which a person may be liable to such a penalty; an extension from 2 to 12 days for which a suspect may be administratively detained incommunicado; and a definition of "terrorist" or "subversive" activities which lends itself to abuse.

The Committee recommends that the amendments to the Penal Law be brought into strict compliance with Articles 6 and 9 of the Covenant.

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12. The National Observatory for Human Rights has conceded in its Annual Report for 1996 that places of detention exist which are outside the control legally stipulated by law. This reinforces allegations from many

sources on detention of people who are not registered and brought before the courts, as required both by Algerian law and Article 9 of the Covenant.

The State Party must ensure that

- a) nobody may be arrested or detained "outside the law";
- b) that complaints about such arrest or detention be given immediate attention and that relatives, friends or lawyers of persons detained are able to receive an effective remedy, which includes reviewing the legality of the detention;
- c) all persons arrested be kept at officially designated places of detention; their families be immediately informed; they have immediate access to a lawyer; and they are promptly charged and brought to trial;
- d) their detention not exceed the limit provided by law and that they have a right to medical examination on arrest and at the end of their detention.

13. With regard to the guarantee of equal treatment of women in the enjoyment of all the rights guaranteed to them, the Committee notes the statement made by the Delegation that the interpretative declaration concerning Article 23, paragraph 4, of the Covenant made by Algeria on ratification of the Covenant would become obsolete with time. The Committee also notes that progress has been achieved by women in public life and civil society. Nevertheless, the Family Code still contains important areas of inequality which are not in conformity with Articles 3, 16, 23 and 26 of the Covenant in respect of which Algeria has made no reservations. In this regard, the Committee notes that under the Family Code, a woman's consent to her first marriage is generally mediated by a male guardian, and that this guardian can deny the woman her choice of a husband. It notes also that the Family Code provides for the husband to be the head of the family and for the possibility of polygamous marriage and that it precludes a woman from marrying a non-muslim while the same restriction does not apply to a man.

The Committee therefore recommends that the State party should bring its legislation into conformity with all the rights to which women are entitled under Articles 3, 16, 23 and 26 of the Covenant.

14. With regard to the judiciary, the Committee is concerned that the application of certain executive decrees of 1992 regulating nomination, promotion and dismissal of judges, compromises its independence. It is also concerned at the fact that judges enjoy immovability only after ten years of work.

The Committee should like to receive additional information on the procedure for designating, electing and dismissing judges. The Committee recommends that appropriate measures be taken to ensure the full independence of the judiciary.

15. The Committee notes the statement of the Delegation that the intention underlying the Arabic Language Decree which came into force on 5 July 1998 was to reinforce the status which that national language should possess. The Committee notes, however, that the compulsory, immediate and exclusive use of that language in all areas of public activity would have for effect to impede large sections of the population who use Berber or French in the enjoyment of the rights guaranteed under Articles 19, 25, 26 and 27 the Covenant.

The Committee recommends that the law should be urgently reviewed so as to remove the negative consequences that it produces.

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16. The Committee welcomes the abolition of the state-controlled "reading committees" stationed at publishing establishments as well as the formal directives prohibiting the publication of unauthorised information relating to "security issues." The Committee, however, notes that in practice numerous restrictions still persist with regard to freedom of expression dealing with, for example, coverage of allegations and discussion of corruption and criticism of government officials and of material regarded as an expression of sympathy or encouragement of subversion, all

of which gravely prejudice the right of the media to inform the public and the right of the public to receive information. The Committee is also deeply concerned at the threats against and assassinations of journalists, human rights defenders and lawyers.

The Committee recommends that current legislation should be reviewed so as to protect fully the right to freedom of thought and opinion and freedom of expression as guaranteed under Articles 18 and 19 of the Covenant.

17. The Committee remains concerned that the State party's restriction under Law 97-09 on the right to form political parties, effectively prohibits political activists the right to associate with one another or to vote for representatives of their choice, in view of the wide range of proscribed categories (religious, linguistic, racial, gender related, regional, corporatist). Since taking effect, this law has been invoked to ban or prevent the legalisation of more than 30 parties.

The Committee recommends that the conditions required by the Covenant with respect to restrictions on the right to freedom of association be met and that current legislation be amended so as to bring it in conformity with the requirements of the Covenant and the obligations entered into by Algeria upon its accession to it.

18. The Committee observes that, although Algeria became a party to the Optional Protocol in 1989, very few communications have been addressed to the Committee, in spite of the widespread human rights crisis and consequent violations which have occurred in the last decade. This situation indicates that the people in Algeria may not be aware of their right to address communications to the Committee.

The Committee recommends that urgent steps be taken by Algeria to make known to the public, the universities, the legal community and, particularly, to the non-governmental human rights organisations, the rights protected under the Covenant and the fact that individuals whose rights have been violated may submit communications to the Committee.

19. The Committee draws to the attention of the Government of Algeria the provisions of paragraph 6(a) of the Guidelines Regarding the Form and Contents of Periodic Reports from State parties, and requests that its next periodic report, due in June 2000, should contain material which responds to all the present concluding observations. The Committee further requests that Algeria's second periodic report and these concluding observations be widely disseminated among the public at large in all parts of Algeria.

THE UNITED NATIONS HUMAN RIGHTS COMMITTEE

The International Covenant on Civil and Political Rights and its first Optional Protocol allowing individuals to submit complaints to the Human Rights Committee were adopted by the General Assembly on December 16, 1966 and entered into force on March 23, 1976. The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, was adopted on December 15, 1989 and entered into force on July 11, 1991. Algeria ratified the ICCPR on 12 September 1989 and submitted its initial report on 25 and 27 March 1992 (CCPR/C/62/Add.1). The Committee, commenting on the report on 9 April 1992 (CCPR/C/79/Add.1), characterized it as a "good report" with regard to information on laws and regulations pertinent to the Covenant, but regretted that it included "little information concerning the actual application of human rights standards" and noted that it made no reference to the states of emergency decreed in June 1991 and February 1992. The Committee expressed concern about the suspension of the democratic process, and expressed doubts about respect for due process and other civil rights. Algeria's third periodic report is due June 2000.

The Human Rights Committee was established to monitor the implementation of the covenant and the protocols to the covenant by the states parties. It is composed of eighteen independent experts who are, in the words of the covenant, "persons of high moral character and recognized competence in the field of human rights." Committee members serve in their personal capacity, and are elected for a four year term by a secret ballot of the states party to the covenant. Elections for half the membership are held every two years, during the annual session of the General Assembly. During the sixty-third session, the committee members were Nisuke Ando (Japan); Prafullachandra Natwarlal Bhagwati (India); Thomas Buergenthal (United States); Christine Chanet (France); Omran El Shafei (Egypt); Elizabeth Evatt (Australia); Pilar Gaitan de Pombo (Colombia); Eckart Klein (Germany); David Kretzmer (Israel); Rajsoomer Lallah (Mauritius); John Mark Alexander Lord Colville (United Kingdom); Cecilia Medina Quiroga (Chile); Fausto Pocar (Italy); Julio Prado Vallejo (Ecuador); Martin Scheinin (Finland); Danilo Türk (Slovenia); Maxwell Yalden (Canada); and Abdallah Zakhia (Lebanon).

The committee convenes three times a year for sessions of three weeks' duration, normally in March at United Nations headquarters in New York and in July and November at the United Nations Office in Geneva. During these sessions the committee receives and examines reports by states parties to the covenant, issues General Comments on the scope and meaning of provisions of the covenant, and under certain conditions, receives communications from individuals and from states parties alleging violations of the covenant.

States parties must submit reports on the measures they have adopted which give effect to the rights recognized in the covenant and on the progress made in the enjoyment of those rights. The first report is due within one year of entry into force of the covenant, and subsequent reports are due every five years. The committee examines the reports in public meetings, through a dialogue with representatives of each state party whose report is under consideration. On the final day of the session, the committee adopts concluding observations summarizing its main concerns and making appropriate suggestions and recommendations to the state party. Although only members of the committee and representatives of the relevant state party may take part in the dialogue, nongovernmental organizations are encouraged to submit written information or reports to the committee. The Committee also submits to the general assembly an annual report on its activities.

Copies of state party reports to the Human Rights Committee, as well as the committee's Concluding Observations, Summary Records of reviews of state party reports, and General Comments on the covenant, can be obtained on the Internet at:

<http://www.unhchr.ch/tbs/doc.nsf>
Office of the High Commissioner for Human Rights
Palais des Nations 8-14, avenue de la Paix 1211
Geneva 10, Switzerland

THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

Adopted by the General Assembly of the United Nations on December 16, 1966; entered into force Mar. 23, 1976, in accordance with Article 49, for all provisions except those of Article 41; March 28 1979 for the provisions of Article 41 (Human Rights Committee), in accordance with paragraph of the said Article 41.

Preamble

The States Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

PART I

Article I

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

PART II

Article 2

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

3. Each State Party to the present Covenant undertakes:

(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

(c) To ensure that the competent authorities shall enforce such remedies when granted.

Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

Article 4

1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, color, sex, language, religion or social origin.

2. No derogation from articles 6, 7, 8 (paragraphs I and 2), 11, 15, 16 and 18 may be made under this provision.

3. Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.

Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.

2. There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

PART III

Article 6

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.
2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.
3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.
4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.
5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.
6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

Article 8

1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.
2. No one shall be held in servitude.
3. (a) No one shall be required to perform forced or compulsory labor;

(b) Paragraph 3 (a) shall not be held to preclude, in countries where imprisonment with hard labor may be imposed as a punishment for a crime, the performance of hard labor in pursuance of a sentence to such punishment by a competent court;

(c) For the purpose of this paragraph the term "forced or compulsory labor" shall not include:

(I) Any work or service, not referred to in subparagraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention;

- (ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;
- (iii) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;
- (iv) Any work or service which forms part of normal civil obligations.

Article 9

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.
2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.
3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.
4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.
5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

Article 10

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.
2. (a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;
- (b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.
3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

Article 11

No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation.

Article 12

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
2. Everyone shall be free to leave any country, including his own.
3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.
4. No one shall be arbitrarily deprived of the right to enter his own country.

Article 13

An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.

Article 14

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.
2. Everyone charged with a criminal offense shall have the right to be presumed innocent until proved guilty according to law.
3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:
 - (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
 - (b) To have adequate time and facilities for the preparation of his defense and to communicate with counsel of his own choosing;
 - (c) To be tried without undue delay;
 - (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;
 - (e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;

(g) Not to be compelled to testify against himself or to confess guilt.

4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

6. When a person has by a final decision been convicted of a criminal offense and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

7. No one shall be liable to be tried or punished again for an offense for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

Article 15

1. No one shall be held guilty of any criminal offense on account of any act or omission which did not constitute a criminal offense, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offense was committed. If, subsequent to the commission of the offense, provision is made by law for the imposition of the lighter penalty, the offender shall benefit thereby.

2. Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

Article 16

Everyone shall have the right to recognition everywhere as a person before the law.

Article 17

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honor and reputation.

2. Everyone has the right to the protection of the law against such interference or attacks.

Article 18

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Article 19

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the rights or reputations of others;
 - (b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 20

1. Any propaganda for war shall be prohibited by law.
2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

Article 21

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 22

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.
2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public),

the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.

3. Nothing in this article shall authorize States Parties to the International Labor Organization Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.

Article 23

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.
2. The right of men and women of marriageable age to marry and to found a family shall be recognized.
3. No marriage shall be entered into without the free and full consent of the intending spouses.
4. States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

Article 24

1. Every child shall have, without any discrimination as to race, color, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.
2. Every child shall be registered immediately after birth and shall have a name.
3. Every child has the right to acquire a nationality.

Article 25

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- (c) To have access, on general terms of equality, to public service in his country.

Article 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 27

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.

PART IV

Article 28

1. There shall be established a Human Rights Committee (hereafter referred to in the present Covenant as the Committee). It shall consist of eighteen members and shall carry out the functions hereinafter provided.
2. The Committee shall be composed of nationals of the States Parties to the present Covenant who shall be persons of high moral character and recognized competence in the field of human rights, consideration being given to the usefulness of the participation of some persons having legal experience.
3. The members of the Committee shall be elected and shall serve in their personal capacity.

Article 29

1. The members of the Committee shall be elected by secret ballot from a list of persons possessing the qualifications prescribed in article 28 and nominated for the purpose by the States Parties to the present Covenant.
2. Each State Party to the present Covenant may nominate not more than two persons. These persons shall be nationals of the nominating State.
3. A person shall be eligible for renomination.

Article 30

1. The initial election shall be held no later than six months after the date of the entry into force of the present Covenant.
2. At least four months before the date of each election to the Committee, other than an election to fill a vacancy declared in accordance with article 34, the Secretary-General of the United Nations shall address a written invitation to the States Parties to the present Covenant to submit their nominations for membership of the Committee within three months.
3. The Secretary-General of the United Nations shall prepare a list in alphabetical order of all the persons thus nominated, with an indication of the States Parties which have nominated them, and shall submit it to the States Parties to the present Covenant no later than one month before the date of each election.
4. Elections of the members of the Committee shall be held at a meeting of the States Parties to the present Covenant convened by the Secretary General of the United Nations at the Headquarters of the United Nations. At that meeting, for which two thirds of the States Parties to the present Covenant shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

Article 31

1. The Committee may not include more than one national of the same State.

2. In the election of the Committee, consideration shall be given to equitable geographical distribution of membership and to the representation of the different forms of civilization and of the principal legal systems.

Article 32

1. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these nine members shall be chosen by lot by the Chairman of the meeting referred to in article 30, paragraph 4.

2. Elections at the expiry of office shall be held in accordance with the preceding articles of this part of the present Covenant.

Article 33

1. If, in the unanimous opinion of the other members, a member of the Committee has ceased to carry out his functions for any cause other than absence of a temporary character, the Chairman of the Committee shall notify the Secretary-General of the United Nations, who shall then declare the seat of that member to be vacant.

2. In the event of the death or the resignation of a member of the Committee, the Chairman shall immediately notify the Secretary-General of the United Nations, who shall declare the seat vacant from the date of death or the date on which the resignation takes effect.

Article 34

1. When a vacancy is declared in accordance with article 33 and if the term of office of the member to be replaced does not expire within six months of the declaration of the vacancy, the Secretary-General of the United Nations shall notify each of the States Parties to the present Covenant, which may within two months submit nominations in accordance with article 29 for the purpose of filling the vacancy.

2. The Secretary-General of the United Nations shall prepare a list in alphabetical order of the persons thus nominated and shall submit it to the States Parties to the present Covenant. The election to fill the vacancy shall then take place in accordance with the relevant provisions of this part of the present Covenant.

3. A member of the Committee elected to fill a vacancy declared in accordance with article 33 shall hold office for the remainder of the term of the member who vacated the seat on the Committee under the provisions of that article.

Article 35

The members of the Committee shall, with the approval of the General Assembly of the United Nations, receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide, having regard to the importance of the Committee's responsibilities.

Article 36

The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Covenant.

Article 37

1. The Secretary-General of the United Nations shall convene the initial meeting of the Committee at the Headquarters of the United Nations.
2. After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.
3. The Committee shall normally meet at the Headquarters of the United Nations or at the United Nations Office at Geneva.

Article 38

Every member of the Committee shall, before taking up his duties, make a solemn declaration in open committee that he will perform his functions impartially and conscientiously.

Article 39

1. The Committee shall elect its officers for a term of two years. They may be re-elected.
2. The Committee shall establish its own rules of procedure, but these rules shall provide, inter alia, that:
 - (a) Twelve members shall constitute a quorum;
 - (b) Decisions of the Committee shall be made by a majority vote of the members present.

Article 40

1. The States Parties to the present Covenant undertake to submit reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made in the enjoyment of those rights:
 - (a) Within one year of the entry into force of the present Covenant for the States Parties concerned;
 - (b) Thereafter whenever the Committee so requests.
2. All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit them to the Committee for consideration. Reports shall indicate the factors and difficulties, if any, affecting the implementation of the present Covenant.
3. The Secretary-General of the United Nations may, after consultation with the Committee, transmit to the specialized agencies concerned copies of such parts of the reports as may fall within their field of competence.
4. The Committee shall study the reports submitted by the States Parties to the present Covenant. It shall transmit its reports, and such general comments as it may consider appropriate, to the States Parties. The Committee may also transmit to the Economic and Social Council these comments along with the copies of the reports it has received from States Parties to the present Covenant.
5. The States Parties to the present Covenant may submit to the Committee observations on any comments that may be made in accordance with paragraph 4 of this article.

Article 41

1. A State Party to the present Covenant may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the present Covenant. Communications under this article may be received and considered only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:

(a) If a State Party to the present Covenant considers that another State Party is not giving effect to the provisions of the present Covenant, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication the receiving State shall afford the State which sent the communication an explanation, or any other statement in writing clarifying the matter which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending, or available in the matter;

(b) If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State;

(c) The Committee shall deal with a matter referred to it only after it has ascertained that all available domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged;

(d) The Committee shall hold closed meetings when examining communications under this article;

(e) Subject to the provisions of subparagraph (c), the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for human rights and fundamental freedoms as recognized in the present Covenant;

(f) In any matter referred to it, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information;

(g) The States Parties concerned, referred to in subparagraph (b), shall have the right to be represented when the matter is being considered in the Committee and to make submissions orally and/or in writing;

(h) The Committee shall, within twelve months after the date of receipt of notice under subparagraph (b), submit a report:

(i) If a solution within the terms of subparagraph (e) is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;

(ii) If a solution within the terms of subparagraph (e) is not reached, the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report.

In every matter, the report shall be communicated to the States Parties concerned.

2. The provisions of this article shall come into force when ten States Parties to the present Covenant have made declarations under paragraph I of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further

communication by any State Party shall be received after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

Article 42

1. (a) If a matter referred to the Committee in accordance with article 41 is not resolved to the satisfaction of the States Parties concerned, the Committee may, with the prior consent of the States Parties concerned, appoint an ad hoc Conciliation Commission (hereinafter referred to as the Commission). The good offices of the Commission shall be made available to the States Parties concerned with a view to an amicable solution of the matter on the basis of respect for the present Covenant;

(b) The Commission shall consist of five persons acceptable to the States Parties concerned. If the States Parties concerned fail to reach agreement within three months on all or part of the composition of the Commission, the members of the Commission concerning whom no agreement has been reached shall be elected by secret ballot by a two-thirds majority vote of the Committee from among its members.

2. The members of the Commission shall serve in their personal capacity. They shall not be nationals of the States Parties concerned, or of a State not Party to the present Covenant, or of a State Party which has not made a declaration under article 41.

3. The Commission shall elect its own Chairman and adopt its own rules of procedure.

4. The meetings of the Commission shall normally be held at the Headquarters of the United Nations or at the United Nations Office at Geneva. However, they may be held at such other convenient places as the Commission may determine in consultation with the Secretary-General of the United Nations and the States Parties concerned.

5. The secretariat provided in accordance with article 36 shall also service the commissions appointed under this article.

6. The information received and collated by the Committee shall be made available to the Commission and the Commission may call upon the States Parties concerned to supply any other relevant information.

7. When the Commission has fully considered the matter, but in any event not later than twelve months after having been seized of the matter, it shall submit to the Chairman of the Committee a report for communication to the States Parties concerned:

(a) If the Commission is unable to complete its consideration of the matter within twelve months, it shall confine its report to a brief statement of the status of its consideration of the matter;

(b) If an amicable solution to the matter on the basis of respect for human rights as recognized in the present Covenant is reached, the Commission shall confine its report to a brief statement of the facts and of the solution reached;

(c) If a solution within the terms of subparagraph (b) is not reached, the Commission's report shall embody its findings on all questions of fact relevant to the issues between the States Parties concerned, and its views on the possibilities of an amicable solution of the matter. This report shall also contain the written submissions and a record of the oral submissions made by the States Parties concerned;

(d) If the Commission's report is submitted under subparagraph (c), the States Parties concerned shall, within three months of the receipt of the report, notify the Chairman of the Committee whether or not they accept the contents of the report of the Commission.

8. The provisions of this article are without prejudice to the responsibilities of the Committee under article 41.

9. The States Parties concerned shall share equally all the expenses of the members of the Commission in accordance with estimates to be provided by the Secretary-General of the United Nations.

10. The Secretary-General of the United Nations shall be empowered to pay the expenses of the members of the Commission, if necessary, before reimbursement by the States Parties concerned, in accordance with paragraph 9 of this article.

Article 43

The members of the Committee, and of the ad hoc conciliation commissions which may be appointed under article 42, shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

Article 44

The provisions for the implementation of the present Covenant shall apply without prejudice to the procedures prescribed in the field of human rights by or under the constituent instruments and the conventions of the United Nations and of the specialized agencies and shall not prevent the States Parties to the present Covenant from having recourse to other procedures for settling a dispute in accordance with general or special international agreements in force between them.

Article 45

The Committee shall submit to the General Assembly of the United Nations, through the Economic and Social Council, an annual report on its activities.

PART V

Article 46

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

Article 47

Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

PART VI

Article 48

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a Party to the present Covenant.
2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.
5. The Secretary-General of the United Nations shall inform all States which have signed this Covenant or acceded to it of the deposit of each instrument of ratification or accession.

Article 49

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.
2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 50

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

Article 51

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General of the United Nations shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favor a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that at least one third of the States Parties favors such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.
2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes.
3. When amendments come into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

Article 52

Irrespective of the notifications made under article 48, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in paragraph I of the same article of the following particulars:

(a) Signatures, ratifications and accessions under article 48;

(b) The date of the entry into force of the present Covenant under article 49 and the date of the entry into force of any amendments under article 51.

Article 53

1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in article 48.

ALGERIA'S RESERVATIONS TO AND DEROGATIONS FROM THE COVENANT

Adopted by the General Assembly of the United Nations on 16 December 1966

ENTRY INTO FORCE: 3 January 1976, in accordance with article 27.1

REGISTRATION: 3 January 1976, No. 14531.

TEXT: United Nations, Treaty Series, vol. 993, p. 3.

STATUS: Signatories: 61. Parties: 137.

Algeria

Interpretative declarations:

1. The Algerian Government interprets article 1, which is common to the two Covenants, as in no case impairing the inalienable right of all peoples to self-determination and to control over their natural wealth and resources.

It further considers that the maintenance of the State of dependence of certain territories referred to in article 1, paragraph 3, of the two Covenants and in article 14 of the Covenant on Economic, Social and Cultural Rights is contrary to the purposes and principles of the United Nations, to the Charter of the Organization and to the Declaration on the Granting of Independence to Colonial Countries and Peoples [General Assembly resolution 1514 (XV)].

2. The Algerian Government interprets the provisions of article 8 of the Covenant on Economic, Social and Cultural Rights and article 22 of the Covenant on Civil and Political Rights as making the law the framework for action by the State with respect to the organization and exercise of the right to organize.

3. The Algerian Government considers that the provisions of article 13, paragraphs 3 and 4, of the Covenant on Economic, Social and Cultural Rights can in no case impair its right freely to organize its educational system.

4. The Algerian Government interprets the provisions of article 23, paragraph 4, of the Covenant on Civil and Political Rights regarding the rights and responsibilities of spouses as to marriage, during marriage and at its dissolution as in no way impairing the essential foundations of the Algerian legal system.

THE UNITED NATIONS HUMAN RIGHTS BODIES

The paramount United Nations body with responsibility for human rights is the Commission on Human Rights, established in 1947 by the Economic and Social Council. The commission, which meets for a six week session each year in Geneva, comprises fifty-three U.N. member states serving three-year terms. The commission was responsible for drafting the Universal Declaration of Human Rights and the covenants on civil and political rights and economic and social rights. The commission also discusses human rights violations in particular countries, adopting resolutions of concern and naming rapporteurs to carry out investigations. In addition, the Commission has set up thematic procedures to monitor violations of particular rights. These include the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on Summary or Arbitrary Executions, and the Special Rapporteur on Torture.

The U.N. Sub-Commission on Prevention of Discrimination and Protection of Minorities is the main subsidiary body of the commission. Its twenty-six independent experts, elected by the commission for four year terms, meet every year in August, in Geneva, acting as a "think tank" examining human rights situations around the world, bringing serious violations to the attention of the UN system, and proposing draft standards and principles to the commission.

Compliance with each of the international human rights covenants or treaties is monitored by a separate committee of experts, known as the treaty body, elected by the states parties, who review the periodic reports required of each state party. Thus the Human Rights Committee reviews the implementation of the ICCPR, the Committee Against Torture (CAT) reviews compliance with the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, the Committee on the Elimination of Racial Discrimination (CERD) reviews implementation of the Convention on the Elimination of All Forms of Racial Discrimination, the Committee on Economic, Social and Cultural Rights (CESCR, elected by the U.N. Economic and Social Council) reviews compliance with the International Covenant on Economic, Social and Cultural Rights, the Committee on the Rights of the Child (CRC) reviews the implementation of the Convention on the Rights of the Child, and the Committee on the Elimination of Discrimination against Women (CEDAW) reviews the implementation of the Convention on the Elimination of All Forms of Discrimination against Women.

The entire UN human rights machinery is coordinated by the Geneva-based Office of the High Commissioner for Human Rights. Mary Robinson, the former president of Ireland, was appointed high commissioner in 1997 by the U.N. secretary general.