



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

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Committee on the Elimination of Racial Discrimination

**Consideration of reports submitted by States
parties under article 9 of the Convention**

**Fifteenth to nineteenth periodic reports of States parties due
in 2009**

Algeria^{*}, ^{}, ^{***}**

[23 April 2012]

* This report contains in a single document the fifteenth to nineteenth periodic reports of Algeria due in 2009. For the thirteenth and fourteenth periodic reports of Algeria and the summary records of the Committee's meetings at which the reports were considered, see: CERD/C/362/Add.6 and CERD/C/SR.1445.

** In accordance with the information transmitted to States parties regarding the processing of their reports, the present document has not been edited by the editorial services.

*** The annexes to this report are on file with the Secretariat and are available for consultation.

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I. Introduction

1. Algeria ratified the International Convention on the Elimination of All Forms of Racial Discrimination by Presidential Decree No. 66-848 dated 15 December 1966. The ratification was announced in Official Gazette No. 110 of 30 December 1966.
2. Pursuant to article 9 of the Convention, Algeria has to date submitted 14 reports.
3. In introducing its thirteenth and fourteenth reports contained in a consolidated document on 9 March 2001, the Algerian delegation outlined what had been achieved since the date of consideration of its last report, highlighted the challenges to the full enjoyment of the rights under the Convention and spelled out the measures decided on by the public authorities to overcome them.
4. The Algerian delegation also noted that, at the international level, the Algerian authorities had sought to continue the process of accession to the various international human rights instruments so that now Algeria was a signatory country to all such Conventions.
5. The Committee members, for their part, made a number of observations and comments concerning which this report will set out the responses of the Algerian Government and provide the necessary clarification as to the changes that have been made since that time.
6. In accordance with the reporting guidelines for States parties, this consolidated periodic report, containing in a single document the fifteenth, sixteenth, seventeenth, eighteenth and nineteenth reports, is divided into two main parts.
7. The first, entitled “General information and responses of the Algerian Government to the concerns and recommendations of the Committee”, describes the general political structure of the country and recalls the framework in which human rights are promoted and protected. It also contains the responses of the Algerian Government to the observations and comments made by Committee members on the occasion of the last periodic report.
8. The second part contains information regarding substantive provisions of the Convention in regard to which changes have occurred.

II. Part One General information and responses to the concerns and recommendations of the Committee

A. General information

9. The efforts of the Algerian public authorities to promote and protect human rights began immediately after the country’s accession to independence in 1962. The successive Algerian Constitutions thus enshrine the related universal principles, while taking into account the need for authenticity and modernity and at the same time the process of development of Algerian society.
10. It was, however, upon its embrace of a multiparty system in 1989 that Algeria speeded up its process of accession to the international legal instruments on human rights. It is today a country that has achieved significant progress in the matter of freedoms and has, since then, been discharging the obligation to submit reports in accordance with its various international commitments.

1. Territory, population and indicators

11. Algeria: territory, population and selected indicators:

- (a) Land area: 2,381,000 km²;
- (b) Population: 36.3 million (2010);
- (c) Gross Domestic Product: US\$ 159 billion (2010)/Per capita income: US\$ 4,187 (2010);
- (d) External debt: US\$ 0.45 billion (August 2010); unemployment rate: 10 per cent (2010);
- (e) Official language: Arabic; national languages: Arabic, Tamazight;
- (f) Religion: Islam;
- (g) Average life expectancy (2010): 76.3 years; women: 77.08 years; men: 74.7 years;
- (h) Infant mortality rate (2010): 23.7 per thousand on average; boys: 25.5 per thousand; girls: 21.8 per thousand;
- (i) Maternal mortality rate: 76.9 maternal deaths per 100,000 births (2010);
- (j) Rate of economic growth: 4 per cent (2010); inflation: 4.02 per cent (November 2010);
- (k) School enrolment rate: 98 per cent (2010);
- (l) Age structure (%) (RGPH, 2008):
 - Under 5 years: 10.0;
 - Under 20 years: 38.7;
 - 15–24 years: 21.8;
 - 25–59 years: 53.8;
 - 60 and over: 7.4.

2. General political structure

12. In the aftermath of a devastating liberation war, Algeria was faced with multiple challenges. It needed to put in place institutions and structures for a new State and at the same time to engage in national reconstruction in every field.

13. Resource mobilization, driven by a proactive policy, made it possible to ensure compulsory, free education for all children, offer the population free access to basic health care and launch development plans throughout the country with a view to the promotion of social well-being.

14. This took place in a context of political and economic interventionism by the State. From 1988 onwards, Algeria decided to make a qualitative leap forward and resolutely turned towards political democratization and economic liberalization. This transition was not without difficulties. It was hampered by internal obstacles linked to the single-party culture and economic and social constraints.

15. The political reforms undertaken to that end gradually led to the reform of the political system, entailing the adoption of a new Constitution in February 1989, which further strengthened freedoms, political pluralism, the separation of powers and the independence of the judiciary.

16. The various elections held in Algeria since that time have helped to consolidate and underpin democracy and the rule of law and to make elective institutions more representative.

17. In addition, successive government programmes have confirmed the country's irreversible progress towards a market economy, while seeking to safeguard workers' social benefits through regular rounds of negotiations with social partners and the introduction of support measures for disadvantaged social groups.

18. The Government is implementing a national plan to ensure greater respect for the human rights guaranteed under the Constitution. This plan provides a framework for national policy in this area and reaffirms the Government's determination to consolidate the individual and collective freedoms and duties of citizens and to promote the values of solidarity, sharing and tolerance.

19. The Government also intends to continue gradually implementing projects to reform the functions and organization of the State, complete the reform of the justice system and evaluate the measures taken in the fields of education, health and social protection. Lastly, following noteworthy advances in the status of women, particularly through the constitutional reform of 12 November 2008, women will be able to become agents of change in society through more efficient and more dynamic representation in institutions that will allow them to engage with modernity in an authentic manner.

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

20. Most of the promotion, early-warning and monitoring mechanisms in the area of human rights have been put in place in Algeria. These mechanisms cover both individual, civil and political rights and collective, economic, social and cultural rights. They are divided into four main categories of interrelated mechanisms.

21. In Algeria, the democratization of public life is aided by the Constitution and several legislative texts. These are:

(a) The Political Parties Act, promulgated in 1997, which changed the political landscape in Algeria to a point where it now comprises 28 parties;

(b) The Associations Act, promulgated in 1990, which stipulates that associations may be established by a simple declaration of the founders, either at the *wilaya* (prefecture) or, for national associations, at the Ministry of the Interior. This Act has led to a boom in the number of associations, of which there are nearly 90,000 active in Algeria today in various fields, some of which claim recognition as associations of public interest;

(c) The Information Act, adopted in 1990, paved the way for a private or party press in addition to the public sector press.

(a) Political mechanisms

22. The political mechanisms centre around the Parliament, which is the institutional embodiment of the democratic dimension of the Algerian State and of the pluralism which is the hallmark of Algerian political life. More specifically, human rights issues are dealt with by standing committees set up for that purpose by both houses.

23. Parliament consists of two houses: the National People's Assembly and the Council of the Nation (Senate). It monitors the Government's action and passes laws. The National People's Assembly has 380 deputies, representing the different political tendencies, appointed following legislative elections by universal suffrage.

24. The Council of the Nation, established in December 1997, has 144 seats. Two thirds of its members are elected by a college of members of the communal and departmental

people's assemblies and the remaining third — i.e. 48 members — are appointed by the President of the Republic.

25. The political parties, for their part, are considered by law to be a component of the machinery for promoting human rights. Article 3 of the 1997 Political Parties Act stipulates that, in all their activities, political parties are required to abide by principles and objectives concerning respect for individual and collective freedoms and human rights, commitment to democracy, observance of political pluralism and respect for the democratic and republican nature of the State.

(b) *Judicial mechanisms*

26. The independence of the judiciary is enshrined in article 138 of the Constitution, which stipulates that “the judiciary shall be independent. It shall act in accordance with the law”.

27. The Algerian State has set up judicial machinery to guarantee citizens' rights and ensure autonomy of decision-making in the justice system. To that end, the judiciary in Algeria consists of three tiers: courts of first instance, appeal courts and the Supreme Court. In addition, a Council of State regulates the activity of the administrative courts and a dispute court is responsible for settling conflicts of jurisdiction between the Supreme Court and the Council of State.

(c) *Institutional machinery*

28. On 9 October 2001, the President of the Republic established the National Advisory Commission for the Promotion and Protection of Human Rights. It has a membership of 44, of whom 16 are women, and is based on the principle of sociological and institutional pluralism.

29. An advisory body with monitoring, early-warning and evaluation responsibilities in relation to human rights, the Commission is an independent institution charged with investigating cases of human rights violations observed or brought to its notice, taking appropriate action, conducting awareness-raising, information and public relations activities to promote human rights and advising on possible improvements to national legislation. The Commission produces an annual report on the human rights situation, which it submits to the President of the Republic. That report is made public within two months from such submission.

(d) *The press*

30. Freedom of opinion and expression is an essential tool for monitoring and protecting human rights and acts as a countervailing power. Information Act No. 19-07 guarantees its exercise.

31. There are currently 52 daily newspapers of which only six are publicly owned, with an average circulation of about 1.7 million copies a day. There are 98 weekly newspapers with a total average circulation of more than 2.3 million and 43 other fortnightly or monthly periodicals with a circulation of 275,000 copies.

(e) *Civil society and trade union machinery*

32. The Algerian Constitution gives prominence to freedom of association for the defence of human rights. Article 32 guarantees the individual and collective defence of those rights and article 41 defines their field of application: freedom of expression, association and assembly. Freedom of association covers the protection of certain specific

rights, such as the rights of women, children, the sick, the disabled, consumers and public service users.

33. Act No. 90-14 of 2 June 1998 lays down the ways in which the right to form and to join trade unions may be exercised. There are 57 organizations for the defence of sectoral or professional rights, which serve more than 2.5 million wage earners, and 23 employers' organizations, including 3 confederations.

4. International treaties and the domestic legal order

34. Under the terms of a decision of the Constitutional Council dated 20 August 1989, the international commitments of Algeria prevail over domestic law. This decision confirms the constitutional principle according to which duly ratified international treaties prevail over domestic law, as is spelled out in the Constitution as follows: "After ratification and upon publication, any convention is incorporated into domestic law and, pursuant to article 132 of the Constitution, acquires a higher status than the law, thereby permitting any Algerian citizen to invoke it in the courts."

5. Cooperation with international human rights bodies

35. Algeria has acceded to and ratified all the international human rights treaties and regularly complies with its obligations under them by submitting periodic reports to the treaty-monitoring bodies. At the same time, Algeria maintains sustained and constant cooperation with the special rapporteurs and working groups of the Human Rights Council. It maintains cooperative relations with organizations of the United Nations system, the international humanitarian movement and the community of non-governmental organizations.

6. Information and publicity

36. Algeria's ratification of international human rights instruments was extensively publicized in the national media when they were submitted for consideration. All ratified texts are published in the Official Gazette of the Republic of Algeria.

37. The annual celebration of Human Rights Day, International Women's Day, the International Day of the Child and the International Day of Persons with Disabilities offers regular opportunities to make known to people at large, through organized events, the various international human rights instruments to which Algeria is a party.

38. It also provides an opportunity to measure the effect of the activities undertaken by the public authorities and to draw lessons about ways of improving the effectiveness of their implementation.

7. Human rights education

39. In the field of human rights education, the curricula and textbooks of primary schools in several suitable subjects (civics, Islamic education, languages, history, geography) ensure an introduction to human rights treaties.

40. Human rights are taught to pupils on the basis of universal texts (Universal Declaration and other international treaties) and posters or articles of particular conventions are widely used as a teaching aid in all schools throughout the country.

41. At the university level, a more comprehensive and more in-depth approach is adopted in the form of updated modules on human rights, which form an integral part of the teaching at the Judicial Training Institute, the Police Training School and the National Prison Administration Training School and at the National Gendarmerie Schools.

B. Responses of the Algerian Government to the recommendations formulated by the Committee on the Elimination of Racial Discrimination during consideration of its fourteenth report**Recommendations 1 and 5**

42. As has been noted on many occasions by the Algerian Government in its successive periodic reports and during its interactive discussions with the Committee members, Algerian legislation does not provide for the gathering of information on an ethnic basis.

43. This position of principle stems from the historical experience of the Algerian nation which, during the long night of colonialism, was artificially divided so as to allow the foreign occupier to achieve its aims of dominating and exploiting the Algerian people.

Recommendation 2

44. Under the Algerian Constitution, the Arabic language is the official national language. All official documents of the Algerian State are accordingly required to be produced in the Arabic language. This requirement is an act of sovereignty which, like everywhere else and in other contexts, is a product of national consensus.

45. As for the Law on the Generalization of the Arabic Language of 5 July 1998, this is a text voted by Parliament and enforceable against all natural and legal persons operating within the territory of the Republic.

46. Concerning the steps taken to promote the Amazigh language, it should be noted that, following the constitutional review of 22 April 2002, the Amazigh language now has the status of a national language.

Recommendation 3

47. In 2001, the Penal Code was further amended to increase the penalties for attacks against individuals or members of ethnic groups.

48. The fine prescribed in articles 297 and 298 of the Penal Code was multiplied by 30 for the same acts or utterances.

Recommendations 4 and 6

49. Whenever courts are seized of a request from a citizen who considers that he has been a victim of discrimination based on race, criminal proceedings are initiated automatically and promptly.

50. According to the information received, the Algerian courts have no record of any complaint related to the question of racial discrimination.

Recommendation 7

51. The High Commission on Amazighness and the promotion of the Amazigh language, attached to the office of the President of the Republic, was established by Decree No. 95-47 of 27 May 1995. It is directed by a High Commissioner, assisted by a Secretary-General.

52. The High Commission on Amazighness consists of an Educational, Scientific and Cultural Committee and a Steering and Follow-up Committee, both of which have the task of assisting the High Commissioner in crafting programmes related to the institution's purposes.

53. Decree No. 69-57 of 27 January 1996 established the organization chart of the High Commission, which comprises four directorates charged respectively with the promotion of culture, education and research, communication and general administration.

54. Since its establishment in 1995, the High Commission has, through its directorates, been devoting its energies to annual workplans that consist of scientific meetings relating to Amazighness on such topics as identity, language and culture; direct and/or indirect involvement in civil society projects; and the publication of works in and on the Tamazight language.

55. Since 1995, the High Commission has published more than a hundred works in Tamazight and on the Tamazight language. It has also granted more than 309 subventions to cultural and scientific associations engaged in projects related to Amazighness in Algeria (see annex I).

56. In order to promote and spread the use of the Amazigh language, three departments have been set up to teach that language at the universities of Tizi Ouzou, Bejaia and Bouira. Similarly, the university of Tlemcen has an institute of popular culture and a dialectal research laboratory. A television channel broadcasts in the Tamazight language, as do a number of local radio stations in several *wilayas* in the country.

57. The High Commission has organized a large number of scientific meetings (symposia, one-day conferences, seminars and forums) around the question of the rehabilitation of Amazighness in Algeria in all its linguistic, cultural, scientific and historical dimensions. The following activities may be mentioned in this connection.

58. The day-long conferences on Si Muhend U M'Hend, in October 2000, on Mohamed Iguerbouchen, in November 2000, on Aissa El Djermouni, in February 2001, on Mouloud Feraoun and Mouloud Mammeri, in April 2002, on Tahar Djaout, in June 2002, on Kateb Yacine, in June 2002, on Cheikh El Hesnoui and Slimane Azem, in June 2003, on Mohamed Idir Ait Amrane, in May 2005, on the development of Amazighness since its introduction in State institutions, in May 2008, on Amazighness and onomastic history and identity, medieval period, nineteenth century, in December 2008, on Hocine Ouarab, in June 2007, on Mohamed Benhanafi, in September 2010, and on Mouloud Gaid, in June 2011.

59. As regards Amazigh films, mention may be made of the third Amazigh Film Festival in Oran in September 2002, the fourth in Annaba in June 2004 and the sixth in Ghardaia in December 2005, and the Amazigh Film Days held in Paris from 10 to 12 October 2003. This regular High Commission event has been made into an institutionalized festival by the Ministry of Culture. It has become the annual national cultural festival of Amazigh film.

60. The High Commission on Amazighness has been organizing annually since 2001 the Amazigh Book and Multimedia Fair. It has also been instrumental in promoting the celebration of *Yennayer* (Amazigh New Year) since 2001.

61. Since 2008, during the month of Ramadan, the High Commission has organized specific literary activities in the different linguistic variants of Amazigh.

62. The High Commission on Amazighness has several activities to its credit in the fields of science, culture and education. The main ones are as follows:

- Conference on "Knowledge of Algerian history", Algiers, 25–26 March 1998;
- Seminar on "The teaching of Tamazight", Algiers, 3–5 May 1998;
- Seminar on "Tamazight in the communication system", Algiers, 2–3 June 1998;
- Symposium on "The history of the Aures", Khenchela, 27–29 July 1999;

- National Festival of Amazigh Poetry, Ghardaia, 22–24 March 2000;
- Seminar on “Tamazight in the legal environment”, Algiers, 24–25 October 2000;
- Symposium on “Saint Augustine”, Algiers, 3 April 2000;
- Amazigh arts and crafts fair, Bejaia, 2–4 July 2000;
- Conference on “Mohamed Iguerbouhene”, Algiers, 13 November 2000;
- Symposium on “The rehabilitation of the Amazigh cultural environment”, Algiers, 15–16 November 2000;
- Conference on “Aissa El Djarmouni”, Algiers, 15 February 2001;
- Amazigh poetry festival, Oum El Bouaghi, 29–30 April 2001;
- Symposium on “The national movement and Amazigh demands”, Algiers, 25–26 December 2001;
- Aures Forum (civilization and culture), Algiers, 13 March 2002;
- Symposium on “Tamazight and the challenges of modernity”, Boumerdes, 15–17 July 2002;
- Symposium on “Identity, language and State”, Algiers, 18–20 March 2003;
- Symposium on “Amazigh architecture and changing Amazigh cities in Algeria”, Ghardaia, 21–23 April 2003;
- Symposium on “The Amazigh archival heritage; from inventory to use”, Algiers, 28–29 December 2004;
- Symposium on “The Amazigh intangible cultural heritage; the inventory process”, Bejaia, 28–29 June 2005;
- Seminar on “Tamazight in the media and at school: hypofunctionality and use of the vocabulary”, Bejaia, 5–6 November 2006;
- Symposium on “Libyco-Berber or Tifinagh; from authenticity to practical use”, Algiers, 21–22 March 2007;
- Symposium on “The Amazigh and Islam, 14 centuries of history”, Algiers, 3–5 December 2007;
- Symposium on “The contribution of the Amazigh to universal civilization”, Algiers, 12–13 November 2008;
- Symposium on “The Algerian media and questions relating to uses of the Amazigh language”, Zeralda-Algiers, 17–18 December 2008;
- Conference on “The coexistence of languages in Algeria”, Algiers, 21 February 2008;
- Conference on “Institutional work to rehabilitate and promote Amazighness”, Algiers, 19 April 2010;
- Conference on “The Algerian audiovisual media in relation to Amazighness”, Tizi-Ouzou, 29 April 2010;
- Day of tribute to “Hocine Ouarab; broadcast, teacher and poet”, Algiers, 10 June 2010;
- Day of tribute to “Meziane Rachid; a consummate artist”, Tizi-Ouzou, 26 June 2010;

- Symposium on “Civil society cultural projects”, Annaba, 6–8 July 2010;
- Symposium on “Neologisms and calques in the Amazigh media”, Tipaza, 13–14 July 2010;
- Conference on “Representations, myths and stereotype concerning the Amazigh”, Khenchela, 9–10 November 2010;
- International symposium on “The Amazigh kingdoms of the Muslim period”, Biskra, 1–2 December 2010;
- Conference on “Status of research in Amazigh oral literature, tales and poetry”, Boumerdes, 7 April 2011;
- Symposium on “Safeguarding the heritage and reappropriating national identity”, Guelma, 3–5 May 2011;
- Day of tribute to “Mouloud Gaid”, Algiers, 15 June 2011;
- Symposium on “Pierre Bourdieu and Algeria: commonality, Amazigh-speaking area and migration”, Oran, 19–20 September 2011;
- Symposium on “The translation of Algerian novels from French to Tamazight and Arabic”, Tizi-Ouzou, 28–29 September 2011;
- Symposium on “The referential grammar of Tamazight”, Zeralda, 17–19 October 2011;
- Conference on “The media, official language and mother tongues in Algeria, between pre-eminence and resistance, the case of Tamazight”, Boumedes, 30–31 May 2011;
- Symposium on “The Amazigh component in Algerian identity; a stocktaking”, Ouargla, 10–11 October 2011;
- Creation of a television channel and several local radios in the Tamazight language;
- Creation of three departments dedicated to Amazigh culture and language (Bejaia, Tizi-Ouzou and Bouira).

Recommendation 8

63. Established by Presidential Decree No. 01-71 of 25 March 2001, the Advisory Commission for the Promotion and Protection of Human Rights has replaced the Observatory established in 1992. It is an “independent institution under the President of the Republic, which shall safeguard the Constitution, the fundamental rights of citizens and public freedoms”.

64. This Commission is a human rights advisory body with monitoring, early warning and evaluation functions. It is responsible for investigating any violations of human rights observed or brought to its notice and for taking appropriate action. Part of its mission is to conduct awareness-raising, information and public relations activities in favour of human rights, to promote research, education and teaching in that area and to advise on possible improvements to domestic legislation. The Commission also produces an annual report on the human rights situation, which it submits to the President of the Republic.

65. In order to bring this new institution into line with the Paris Principles, Decree No. 01-71 of 25 March 2001 was amended by Decree No. 02-297 of 23 September 2002, which enables representatives of institutions (ministries) to participate in its work in an advisory capacity.

Recommendation 9

66. The periodic reports that Algeria submits to the Committee are brought to public notice through reports in the national press.

67. Access to the Internet, electronic media and the press now enables citizens to familiarize themselves with the different periodic reports submitted by Algeria to the human rights committees, including its report on the question of racial discrimination.

68. With regard to article 14 of the Convention, magistrates, lawyers and any other persons involved in human rights matters are encouraged to make the Convention known through their public activities.

Recommendation 10

69. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted by the Fourteenth Meeting of States Parties.

III. Part Two

Information on articles 2 to 7

Article 1

General provisions

70. Algeria is bound by the principles of the Charter of the United Nations and regional organizations. Since independence, it has based its foreign policy on support for peoples under colonial or foreign domination and for victims of policies of apartheid and racial discrimination.

71. The country's Constitution provides the framework for its policy of combating racial discrimination. Laws have been enacted to give effect to the promotion of the principle of non-discrimination and equality before the law of citizens and foreign nationals.

72. The Republic of Algeria is a sovereign, democratic, united and indivisible State founded on human dignity and the promotion of human rights and freedoms.

73. Algeria, during its colonization, was a victim of a policy of dispossession on many fronts. For that reason and very soon after independence, it abrogated the discriminatory legislative and regulatory measures left over from the colonial period.

74. Algeria is an advocate of the legitimate aspirations of peoples and human fulfilment and contributes to the development of friendly and cooperative relations among States.

75. It shares the goal of promoting a more just international order in which human rights and peoples' rights, including the right to development, are fully realized.

Article 2

Prohibition of racist practices and promotion of effective measures to integrate racial groups or persons belonging to such groups

76. Upon independence, Algeria established the constitutional principle of non-discrimination between citizens. This rule has been facilitated by the fact that, traditionally, discriminatory practices do not exist in Algerian society.

77. In Algeria, the principle that all citizens are equal before the law in respect of their rights and duties and the protection they receive is enshrined in article 29 of the Constitution. This article stipulates that “citizens are equal before the law and cannot be discriminated against in any way on the grounds of birth, race, sex, opinion or any personal or social condition or circumstance”.

78. Articles 27 and 42 of the Constitution prohibit any discrimination based on race, language or religion. The Civil Code, the Penal Code, the Code of Criminal Procedure, the Electoral Code and the various special codes (commerce, information, health, customs, etc.) establish this cardinal principle of equality of all citizens and are consequently in conformity with the spirit and letter of the Convention.

79. One of the functions of the Constitutional Council is to censure any violation of the principle of equality of all citizens. It also ensures that the laws and regulations applied to foreign nationals are compatible with the Constitution and the international conventions ratified by Algeria.

80. It should be noted that, with the exception of political rights that are dependent on nationality, all of the rights enjoyed by Algerian citizens are extended to foreigners lawfully present in Algerian territory.

Article 3

Combating apartheid and racial discrimination

81. Racism and racial discrimination are foreign to Algerian society.

82. The colonial administration, which developed a vexatious, discriminatory and exclusionist policy against the Algerian people, ultimately consolidated the moral solidarity of Algerian society. Moreover, it strengthened the opposition of Algerian society to any form of discrimination, exploitation or injustice directed against men and women struggling for their emancipation and dignity.

83. In that spirit, article 28 of the Constitution assigned to Algerian diplomacy the mission of working towards “the reinforcement of international cooperation and the development of friendly relations among States on the basis of equality, mutual interest and non-interference in internal affairs”.

84. The Constitution also clearly states in its article 26 that the leaders of the country must “refrain from resorting to war to violate the legitimate sovereignty or liberty of other peoples” and establish the principle of solidarity to be applicable solely to “colonial peoples and territories”, as clearly stipulated in General Assembly resolution 1514 (XV) of 14 December 1960.

85. Algeria has accordingly acceded to a number of international instruments to combat discrimination and apartheid, including:

- The International Convention on the Suppression and Punishment of the Crime of Apartheid, ratified by Decree No. 82-01 of 2 January 1982, published in Official Gazette No. 1 of 5 January 1982;
- The Convention against Discrimination in Education, ratified by Decree No. 68-581 of 15 October 1968, published in Official Gazette No. 87 of 29 October 1968;
- International Labour Organization Convention (No. 111) concerning Discrimination in Respect of Employment and Occupation, ratified by Decree No. 69-21 of 22 May 1969, published in Official Gazette No. 18 of 6 June 1969;

- The International Convention against Apartheid in Sports, ratified by Decree No. 88-89 of 3 May 1988, published in Official Gazette No. 18 of 4 May 1988.

Article 4

Punishing incitement and commission of racist acts and racist propaganda

86. Notwithstanding the fact that discriminatory practices are a phenomenon that has its roots outside Algerian society, which is fundamentally opposed to any form of racial, religious or cultural segregation, Algerian lawmakers have, since independence, treated as a crime any defamation directed at one or more persons belonging to an ethnic or philosophical group or to a specific religion.

87. Any allegation prejudicial to the honour or reputation of the person or entity at which it is levelled is thus regarded as defamation by Algerian criminal law and is punished as such by the Penal Code, as follows:

- Article 296 stipulates that: “Any allegation or charge likely to be prejudicial to the honour or reputation of the person or entity at which it is levelled constitutes defamation. The publication or reproduction of that allegation or charge is punishable, even if it is done in a way that leaves room for doubt or if it is directed at a person or body not expressly named, but identifiable by the terms used in the incriminating speech, cry, threat, written or printed text, notice or poster”;
- Article 298 stipulates that: “Any defamation directed at an individual shall be punishable by imprisonment for between 5 days and 6 months and a fine of between 150 and 1,500 Algerian dinars, or one of those penalties only. Any defamation directed at one or more persons belonging to an ethnic or philosophical group or to a specific religion, with a view to stirring up hatred between citizens or inhabitants, shall be punishable by imprisonment for between 1 month and 1 year and a fine of between 300 and 3,000 Algerian dinars”;
 - Similarly, any offensive expression, term of contempt or invective which does not contain any particular charge is considered to be an insult and punishable as such under articles 297 and 298 bis of the Code;
 - Article 297 of the Penal Code: “Any offensive expression, term of contempt or invective which does not contain any particular charge constitutes an insult”;
- Article 298 bis (Act No. 82-04 of 13 February 1982) stipulates that: “Any insult directed at one or more persons belonging to an ethnic or philosophical group or to a specific religion shall be punishable by imprisonment for between 5 days and 6 months and a fine of between 150 and 1,500 Algerian dinars, or by one of those penalties only”.

88. Pursuant to Act No. 01-09 of 26 July 2001, the above-mentioned articles 298 and 298 bis were amended so as to increase the amount of the fine incurred for defamation or insult.

89. New article 298 (Act No. 01-09 of 26 July 2001) states that: “Any defamation directed at an individual shall be punishable by imprisonment for between 5 days and 6 months and by a fine of between 5,000 and 500,000 Algerian dinars, or by one of those penalties only. Any defamation directed at one or more persons belonging to an ethnic or philosophical group or to a specific religion, with a view to stirring up hatred between citizens or inhabitants, shall be punishable by imprisonment for between 1 month and 1

year and by a fine of between 10,000 and 100,000 Algerian dinars, or by one of those penalties only.”

90. New article 298 bis (Act No. 01-09 of 26 July 2001) stipulates that: “Any insult directed at one or more persons belonging to an ethnic or philosophical group or to a specific religion shall be punishable by imprisonment for between 5 days and 6 months and by a fine of between 5,000 and 50,000 Algerian dinars, or by one of those penalties only.”

91. Sanctions against any activities by an organization that constitute an incitement to racial discrimination are provided for in the following articles:

(a) 22, 30 and 61 of Act No. 19-14 of 2 June 1990 concerning exercise of the right to form or join a trade union;

(b) 3 and 5 of Act No. 97-09 of 6 March 1997 concerning political parties, as amended and supplemented;

(c) 9, 10 and 24 of Act No. 89-28 of 31 December 1989 concerning public meetings and demonstrations;

(d) 24 and 41 of Act No. 90-31 of 4 December 1990 concerning associations.

92. Article 77 of Information Act No. 90-07 of 3 April 1990 provides for imprisonment and fines for offending Islam and other celestial religions in writing, sound, image, drawing or any other direct or indirect means.

93. Lastly, the ban on incitement to or encouragement of racial discrimination by public institutions and authorities is established by articles 8, 9, 14, 24, 51 and 100 of the Constitution, article 44 of the Commune Code and articles 51 and 94 of the *Wilaya* Code.

Article 5

Full and effective enjoyment of civil and political, economic, social and cultural rights

Article 5 (a): The right to equal treatment before the tribunals and all other organs administering justice

94. Having ratified the Covenant on Civil and Political Rights and the Optional Protocol thereto, along with the African Charter on Human and Peoples’ Rights of 27 June 1981, Algeria offers to its citizens and to all persons under its jurisdiction the possibility of exercising this right within the framework of the procedures in force.

95. Equality before the law is a constitutional right that does not allow any restriction or distinction on grounds of race, colour or national or ethnic origin. It should be noted that foreigners wishing to have access to the civil courts in Algeria are no longer required first to deposit a security for payment of costs. In criminal proceedings, they automatically benefit from the assistance of an interpreter when necessary, and a lawyer in all cases, as the right of defence is guaranteed by the Constitution.

96. In addition, Act No. 09-02 of 25 February 2009, amending and supplementing Ordinance No. 71-57 of 5 August 1971 on legal assistance, now entitles to legal assistance (assistance of a lawyer, defrayal of legal costs) “any alien legally present in the national territory having insufficient resources to assert his or her legal rights”. In addition, “legal assistance is granted for all cases brought before ordinary and administrative courts and for all matters relating to discretionary and conservatory measures”.

97. Under this Act, legal assistance is automatically granted to victims of trafficking in persons, organ trafficking and illicit trafficking in migrants whether national or foreign.

98. It is clear that in Algeria, the only form of discrimination that was exercised previously concerned foreigners. Such discrimination has been removed by law and no distinction now exists in that regard. In Algeria, there is no discrimination on the basis of race, colour, sex, religion or ethnic origin.

99. Algerian legislation systematically provides for equal treatment of all litigants and judicial remedies whenever the exercise of any right is limited in any way.

100. This rule is applicable not only to the decisions handed down by courts, but also to decisions taken by administrative authorities, the merits of which are ultimately determined by the Council of State (the highest administrative court).

101. Judicial and administrative authorities are required to observe these legal means of redress under penalty of sanction. Open to all litigants, whether “arrested” or “in custody”, these remedies are available at all stages in the handling of cases.

102. At the stage of the preliminary investigation, prosecutors are informed of any arrests and are required to monitor the methods used by judicial police officers to conduct that investigation (searches of persons or premises, seizures, police custody).

103. When detention is decided on the basis of a person’s file, following a detention warrant or an arrest warrant, or following the handing down of a prison sentence, the person concerned may apply to the competent court (indictment chamber, the relevant trial court or, in certain conditions, the Supreme Court) for release on bail.

104. The rules laid down in this regard by the Code of Criminal Procedure are equally applicable to nationals and foreigners.

105. Article 49 of the Constitution states that “miscarriage of justice shall be compensated by the State. The conditions and modes of compensation shall be determined by law.”

106. Citizens who have been unlawfully detained or arrested have the right to compensation. This right is extended to foreigners. Exercise of this right is guaranteed under the Code of Criminal Procedure.

107. The amendments made to the Code of Criminal Procedure by Act No. 01-08 of 26 June 2001 establish a right to compensation in the event of unjustified pretrial detention leading to a dismissal of proceedings, discharge or final acquittal (arts. 137 bis to 137 bis 14), or in the event of the mistaken conviction of a person whose innocence is subsequently established (arts. 531 bis and 531 bis 1).

108. In another connection, article 91 of the Code of Criminal Procedure stipulates that: “The investigating judge may be assisted by an interpreter, without his registrar or witnesses. Any interpreter who is not sworn in must take the following oath: ‘I hereby swear and promise to give a faithful rendering of whatever is said or exchanged by persons speaking in different languages or tongues.’”

109. Article 92 states that: “In the case of witnesses who are deaf and dumb, questions and replies shall be in writing. If they are unable to write, the investigating judge must automatically appoint an interpreter who is able to converse with them. The court minutes must mention the name, first name, age, profession, place of residence and oath of the interpreter, who must sign the minutes.”

Article 5 (b): The right to security of person and protection against violence or bodily harm inflicted by officials or by an individual group or institution

110. All violations of a person’s physical integrity are forbidden by the Constitution.

111. Article 34 stipulates that “the State guarantees the inviolability of the human person. All forms of physical or moral violence or affronts to human dignity are forbidden.”

112. Article 35 provides that “all infractions against the rights and liberties or injuries to the physical or moral integrity of a human being are punishable by law”.

113. These provisions also apply to foreigners in accordance with article 67, which states that “any foreigner who is lawfully present in the national territory shall enjoy the protection of the law with respect to his person and property”.

114. Furthermore, the Criminal Code punishes the same offences. Title II of that Code, entitled “Crimes and offences against individuals”, identifies and punishes the crimes of wilful homicide (murder), wilful homicide with premeditation and malice aforethought (assassination), infanticide, poisoning and crimes and offences involving intentional assault and battery.

115. The penalties for these offences, within the framework of the protection of victims living in the territory, apply without exception, reservation or distinction of any kind, such as sex, race, colour, language, religion, conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, poverty, marital status, birth or other status.

116. Following its ratification in 1989, practical steps were gradually introduced to implement the Convention against Torture, culminating in the reform of the justice system undertaken in 2000.

117. Criminal provisions punishing torture and cruel, inhuman or degrading treatment have thus been further strengthened in the Penal Code.

118. All persons living in the territory enjoy the right to the protection of the law, regardless of whether they are nationals or foreigners (such as migrant workers and members of their families), even if they are in an irregular situation. This is in conformity with article 5 of the Civil Code, which expressly stipulates that: “All law enforcement rules are binding on all persons who reside in the territory.”

119. This protection is ensured through the punishment of:

- Infringements of freedom (arts. 107 to 111);
- Abuse of authority (arts. 135 to 140);
- Crimes and offences against persons (arts. 254 to 303);
- Crimes and offences against property (arts. 350 to 417).

120. Under Act No. 04-15 of 10 November 2004, three articles were added to the Penal Code to give practical effect to the provisions contained in articles 34 and 35 of the Constitution.

121. These three articles are 263 bis, 263 ter and 263 quater, which prescribe very heavy penalties (5 to 10 years’ fixed-term rigorous imprisonment plus a fine) for perpetrators of acts of torture. These penalties are increased if the perpetrators are public officials (from 10 to 20 years’ fixed-term rigorous imprisonment) or if the acts of torture are preceded, accompanied or followed by a crime other than murder (from 10 to 20 years’ fixed-term rigorous imprisonment and life imprisonment).

122. The Penal Code (art. 263 quater, para. 3) goes so far as to define as a crime the failure of public officials to report acts of torture, which is punishable by a penalty of between 5 and 10 years’ fixed-term rigorous imprisonment and a fine. Article 293 of Ordinance No. 66-156, amended by Act No. 06-22 of 20 December 2006, punishes by

rigorous imprisonment for life any person who subjects to physical torture another person who has been abducted, arrested, detained or sequestered.

123. As a preventive measure, new rules have been introduced in the Code of Criminal Procedure, referring specifically to preliminary investigations conducted by the judicial police with the aim of providing mechanisms to ensure the humane treatment of persons held in police custody and to monitor the use of such procedures (through medical examinations of detainees by decision of the Public Prosecutor or at the request of their family or legal counsel, and monitoring of the conditions in which police custody is ensured). A medical examination is mandatory at the conclusion of the period of police custody (arts. 51 bis, para. 2, and 52, para. 6, of the Code of Criminal Procedure).

124. Citizens lawfully imprisoned by virtue of a court order or a decision handed down by a tribunal are entitled to receive visits under articles 71 and 75 of the Code of prison organization and the social reintegration of detainees.

125. In the prison system of Algeria, the treatment of persons deprived of their liberty follows the same rules without distinction. Thus “the treatment of detainees shall be such as to preserve their human dignity and to ensure the steady improvement of their intellectual and moral standards without distinction as to race, sex, language, religion or opinion”.

126. This general principle, which applies to all detainees, whether at the pretrial stage, that is, prior to judgement, or convicted and sentenced to deprivation of liberty, is enshrined in article 2 of Act No. 05-04 of 6 February 2005 on the Code of prison organization and the social reintegration of detainees.

127. Detention costs for persons deprived of liberty are paid for by the Public Treasury. Such costs include expenses arising for the detainees’ food and health care. The rules applied to detainees (whether pretrial, charged or convicted) are the same for nationals and foreigners. The latter are entitled in addition to be assisted by their accredited diplomatic or consular representatives in Algeria.

128. The rules in the Code of Criminal Procedure governing police custody (art. 16, para. 6) are strictly observed with regard to both nationals and foreigners. These rules provide the following safeguards for persons held in police custody:

- A 48-hour limit on police custody, unless extended by written authorization of the territorially competent Public Prosecutor or a longer limit in certain cases; any judicial police officer who violates the rules governing police custody incurs the same penalties as for arbitrary detention;
- The right to enter into contact with a family member and/or a diplomatic or consular representative in the case of foreigners, and the right to receive visits;
- The automatic right to be examined at the person’s request or that of his lawyer or family, by a doctor of his own choosing at the end of the period of police custody.

129. Act No. 01-08 of 26 June 2001 introduced new regulations concerning police custody by adding the notion of “human dignity”. Article 52, paragraph 4, thus stipulates that “police custody must take place in premises consistent with human dignity and intended for that purpose”.

Article 5 (c): Political rights to participate in elections, to vote and to stand for election, to take part in public affairs and to have access to public service

130. The right to take part in the conduct of public affairs, to vote and to be elected is guaranteed by articles 6, 7, 10 and 11 of the Constitution and by all the laws that establish the democratic and multiparty nature of the Algerian political system.

131. Article 50 of the Constitution stipulates that “every citizen meeting the legal requirements shall be eligible to vote and to stand for election”.

132. Access to public office and employment is guaranteed by article 51 of the Constitution.

Article 5 (d): Other political rights

(i) The right to freedom of movement and choice of residence

133. Article 44 of the Constitution of 28 November 1996 stipulates that Algerian citizens have the right to choose freely their place of residence and to move freely within the national territory.

134. Article 44 of the Constitution provides that “All Algerian citizens enjoying civil and political rights have the right to choose freely their place of residence and to move freely within the national territory. They are guaranteed the right to enter and leave the national territory.”

135. This possibility is also extended to foreign residents provided that they comply with the laws and regulations of the host country, particularly in respect of entry and residence visas for Algeria (Act No. 08-11 of 25 June 2008 concerning conditions for the entry, residence and movement of foreigners in Algeria).

136. The right of asylum is a constitutional right and in no case can a political refugee enjoying this right be surrendered or extradited (art. 69). Extradition may be effected only pursuant to and in implementation of an extradition law (art. 68).

137. Restrictions on “the right to enter and leave the national territory” may only be imposed by order of the legally competent authorities or by an investigating or trial judge, in accordance with the conditions laid down by the Code of Criminal Procedure.

138. The only restrictions placed on freedom of movement relates to the declaration of a state of emergency. Article 6 of the relevant decree authorizes the Minister of the Interior throughout the national territory, and the *Wali* (Prefect) throughout his *wilaya*, to restrict or prohibit the movement or assembly of persons in public places and thoroughfares, to establish regulated residence areas for non-residents, and to bar from residence any adult whose activities are harmful to public order and to the normal functioning of institutions.

139. Following the improvement of the security situation and the restoration of peace in the country, the Algerian Government decided to lift the state of emergency as at 23 February 2011, while continuing to combat terrorism.

(ii) The right to leave and return to one’s country

140. Article 44, paragraph 2, of the Constitution stipulates that “Algerian citizens have the right to enter and leave the national territory.”

141. The only restrictions that may be placed on the right to leave the territory concern persons involved in legal proceedings in which the investigating judge has confiscated travel papers for reasons connected with the investigation.

142. In any event, only the judicial authority is authorized to forbid a person from leaving the territory. No Algerian citizen can be prevented from returning to Algeria.

(iii) The right to a nationality

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

144. Under articles 6 and 7 of that Code, the following are deemed to be Algerian:

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

145. Article 8 stipulates that “a child who is of Algerian nationality by virtue of articles 6 and 7 is deemed to have been Algerian since birth, even if the conditions required by law for the attribution of Algerian nationality were established only after birth”.

146. Recognition as “an Algerian national” from birth, as well as the withdrawal or renunciation of such status pursuant to the provisions of article 6, paragraph 3, and article 7, paragraphs 1 and 2, “shall not impair the validity of any acts signed by the person concerned, or the rights acquired by third parties on the basis of the apparent nationality formerly held by the child”.

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

148. Furthermore, the unmarried minor children of an Algerian who has resettled in Algeria, when they actually reside with that person, automatically acquire or reacquire Algerian nationality. The child automatically takes the father’s patronymic where the father is known. In the absence of the father and mother, the person making the declaration chooses the child’s given names (art. 64).

149. Amendments to the Nationality Code in February 2006 make it possible for the mother’s nationality to be transmitted to children born abroad to an Algerian mother and a foreign father.

150. Accordingly, foreigners may, on request and under certain conditions, be naturalized as Algerian citizens (art. 10 of Ordinance No. 05-01 of 27 February 2005 on the Algerian Nationality Code).

151. Notwithstanding article 10, articles 11 et seq. of that Ordinance provide that the following persons may be naturalized:

- (a) Foreigners who have rendered exceptional service to Algeria or whose infirmity or disease was contracted in the service or interest of Algeria;
- (b) The spouse and children of a deceased foreigner who could, when alive, have been included in category (a) and who may therefore apply posthumously for his or her naturalization at the same time as applying for their own naturalization;
- (c) Foreigners who are of exceptional interest to Algeria.

(iv) The right to marriage and choice of spouse

152. The family enjoys the protection of the State and of society (art. 58 of the Constitution). Relations between members of the family are regulated by the Family Code which, in determining the legal status of the members of the basic unit of society

constituted by the family, in fact reflects the level of social, economic and cultural development of society.

153. The Family Code was promulgated by Act No. 84-11 of 9 June 1984. Article 4 defines marriage as a legal contract entered into between a man and a woman. Its objectives include the following: to form a family based on affection, kindness and mutual support, to provide moral protection for each spouse and to preserve family ties by safeguarding the family's interests, protecting the children and raising them in a healthy manner (arts. 4 and 36 of the Family Code).

154. In view of the many social changes that have occurred in Algerian society, combined with the need to bring domestic legislation into line with the international conventions ratified by Algeria, in particular the Convention on the Elimination of Discrimination against Women and the Convention on the Rights of the Child, it naturally became necessary to revisit that Code.

155. Thus, Act No. 84-11 of 9 June 1984 on the Family Code, amended and supplemented by Ordinance No. 05-02 of 27 February 2005, considers marriage to be a consensual contract which requires the consent of the future spouses. This has resulted in the outright abolition of proxy marriages.

156. Article 9 thus stipulates that "the marriage contract is concluded upon the mutual consent of the two spouses".

157. Consent is considered by law to be a basic condition for marriage; in other words, if the consent of either or both of the two parties is lacking, the marriage is invalidated and any person concerned, including the parties, may request its annulment by the courts. Attention should be drawn here to the role played by the representative of the Office of the Public Prosecutor in matters of personal status, which in Algerian law comes within the sphere of public order (*ordre public*). The territorially competent public prosecutor may accordingly use all legal means available to restore the law in cases submitted to him. Article 3 bis of Ordinance No. 05-02 of 27 February 2005, amending and supplementing Act No. 84-11 of 9 June 1984 on the Family Code, stipulates that: "the Office of the Public Prosecutor shall be the principal party in all proceedings to give effect to the provisions of this Act".

158. Article 13 of Ordinance No. 05-02 of 27 February 2005 forbids the *wali* (guardian), whether the father or another member of the family, from forcing a minor under his responsibility to marry or from giving an unconsenting minor for marriage.

159. In addition to giving their consent, the parties to the marriage must have the legal capacity to contract marriage.

160. For both men and women, the legal minimum age for marriage is 19 years; this serves as a form of guarantee for the preservation of individual rights, particularly the rights of women, who can thus be aware of what they are consenting to.

(v) The right to own property

161. Article 52 of the Constitution guarantees the right to own property.

162. Article 20 stipulates that "expropriation is allowed only in the public interest against fair, prior compensation".

163. These two principles are reflected in the terms of Act No. 91-11 of 27 April 1991, which lays down the rules for expropriation in the public interest.

Act No. 91-11 of 27 April 1991 on rules of expropriation in the public interest

164. This Act, published in Official Gazette No. 21 of 8 May 1991, which is enforceable against all citizens, is applicable throughout the national territory. It lays down rules governing expropriation in the public interest and details the relevant procedures. Under this Act, expropriation in the public interest:

- Must constitute an exceptional means of acquiring goods or property rights;
- Is enforceable only if all other solutions have failed;
- Must follow a specific, formal procedure (involving a declaration that expropriation is in the public interest, an evaluation of the goods and rights to be expropriated and an administrative deed of transferability, which must include an indication and prior deposit of the amount of the compensation). Failing a friendly agreement with the administration regarding the compensation proposed, the owner has the legal right to refer the matter to the competent court.

165. According to that Act, any expropriation enforced outside the permitted cases and conditions will be held null and void and constitutes abuse, which, in addition to other penalties under the law, may give rise to a court order of compensation.

166. Article 386 of the Penal Code imposes a penalty of imprisonment and a fine on “any person who, surreptitiously or by fraud, dispossesses another of immovable property”. The penalty is increased if the dispossession takes place at night, or with threats and violence, either by climbing or breaking in, or is carried out by several persons, or if one or more of the perpetrators is carrying a visible or hidden weapon.

(vi) The right to inherit

168. Article 52, paragraph 2, of the Constitution guarantees the right to inherit. Articles 126 to 172 of the Family Code establish the rules governing succession.

(vii) Freedom of thought, conscience and religion

168. Article 36 of the Constitution establishes the inviolability of freedom of conscience and religion, enshrined in article 18 of the International Covenant on Civil and Political Rights.

169. Practice of the Muslim religion and other faiths is regulated in Algeria. Religious associations are required to register with the authorities in order to be recognized and operate under conditions of transparency.

170. They receive, without discrimination, a financial contribution from the State, which maintains and restores places of worship. The main monotheistic religious holidays are recognized as public holidays under Act No. 63-278 of 26 July 1963 as amended and supplemented (days of paid rest).

171. Ordinance No. 06-03 of 28 February 2006 on conditions governing the practice of faiths other than Islam reinforces the above-mentioned constitutional principle and reflects a real willingness on the part of the public authorities to recognize all revealed religions.

172. This text thus guarantees “freedom of religious practice consistent with respect for the provisions of the Constitution, the president Ordinance, laws and regulations in force, public order, good morals and the fundamental rights and freedoms of third parties” as well as “tolerance and respect between the different religions” and “State protection” for associations of religions other than Islam (arts. 2 and 3).

173. Furthermore, it “prohibits the use of religious affiliation as a justification for discrimination towards any individual or group of individuals” (art. 4).

174. Persons wishing to develop a religious activity must have the capacity to do so, the authorization of their own religious authority and the requisite administrative authorization. This provision applies to all religions, including the majority religion in Algeria, namely, Islam.

175. Other legal safeguards for religious practice and freedom are established by Algerian legislation. Mention should be made in this regard of:

- The status of ministers of non-Muslim religions established by Decree No. 69-204 of 6 September 1969 on the individual status of the personnel of non-Muslim religions, which sets out the following rights:
 - (a) The right to remuneration;
 - (b) The right to social security;
 - (c) The right to family allowances;
- The right to own property enjoyed by non-Muslim religious associations and exemption from taxes, including registration and transfer-of-ownership taxes, established by Ordinance No. 76-54 of 10 June 1976;
- The right of non-Muslim parents to give a first name of their choosing to their children, established by article 28 of the Civil Code and article 64 of the Code of Civil Status;
- The right of detainees to fulfil their religious obligations and their right to receive appropriate clergy, established by article 66-3 of Act No. 05-04 of 6 February 2005 on the Code of prison organization and the social reintegration of detainees. For example, in Algiers alone, there are seven registered chaplains, of whom three are French and four serve other language communities;
- The right of recourse to the National Commission for Faiths other than Islam, whose membership and rules of procedure are laid down by Executive Decree 07-158 of 27 May 2007. This Commission ensures respect for freedom of worship and is responsible for related issues and concerns.

(viii) Freedom of opinion and expression

176. The rights to freedom of opinion and expression are guaranteed by articles 32, 36 and 38 of the Constitution, along with freedom of intellectual, artistic and scientific creation, including intellectual property rights:

- Article 32: “Fundamental freedoms, human rights and citizens’ rights are guaranteed. They are the common heritage of all Algerians, men and women, whose duty it is to transmit it from generation to generation in order to preserve its integrity and inviolability”;
- Article 36: “Freedom of conscience and opinion is inviolable”;
- Article 38: “Freedom of intellectual, artistic and scientific creation is guaranteed to citizens. Intellectual property rights are protected by the law. No publication, recording or any other means of communication and information can be seized except by virtue of a court order”.

(ix) Freedom of assembly and association

177. The right of peaceful assembly is recognized under article 41 of the Constitution, according to which “the freedoms of expression, association and assembly shall be enjoyed by all citizens”. The conditions for the exercise of this right are laid down in Act No. 89-28

of 31 December 1989 on public meetings and demonstrations. The operative part of this Act (arts. 2 to 20) establishes a flexible procedure for the exercise of this right whereby the public authorities must be notified three days in advance of meetings and five days in advance of demonstrations.

178. Act No. 91-19 of 2 December 1991 increased the period of advance notice to eight clear days for the organization of public meetings, which have since been subject to the authorization of the *Wali* (Prefect). Any demonstration taking place without authorization or after being forbidden is considered to be a gathering that may be dispersed by the Minister of the Interior or the *Wali* under whose territorial jurisdiction it occurs.

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

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

181. After political parties, voluntary associations are one of the dynamic and irreplaceable forces in social, professional, cultural and scientific life. The streamlined registration procedure established by Act No. 90-31 of 4 December 1990 in order to facilitate the creation of associations has led to a considerable increase in their number.

(x) Economic, social and cultural rights

(a) The rights to work, to equal pay for equal work, to just and favourable conditions of work and to just and favourable remuneration

182. All Algeria's Constitutions since independence have recognized the right to work. Article 55 of the Constitution of 28 November 1996 thus provides that "all citizens have the right to work".

183. It may be noted that, following the structural adjustment programme, the phased upgrading of enterprises and the privatization of some of them, the Algerian economy has started to grow again and that this has naturally affected employment, particularly in view of the measures introduced by the State to encourage job creation.

184. It may be recalled that the 1989 Constitution, as amended in 1996, broke once and for all with the previous system and established the following basic principles:

- Freedom of association (art. 43);
- The right of all citizens to form or join trade unions (art. 56);
- The right to strike (art. 57);
- Protection of health (art. 54);
- The right to rest (art. 55);
- The right to work (art. 55);
- The right to protection, security and health in the workplace (art. 55);
- The right to free education under conditions established by law (art. 33);
- Equal access to free vocational training in public vocational training establishments (art. 53).

185. These principles have been incorporated and spelled out in labour legislation, with particular regard to:

- Opportunities for consultation and negotiation granted to social partners to settle differences and for workers to exercise their right to strike (Act No. 90-02 of 2 February 1990);
- Rights and obligations and general protections, the organization of collective bargaining and workers' participation in the life of the enterprise (Act No. 90-11 of 21 April 1990 on labour relations);
- Modes of intervention, monitoring and arbitration by the public authorities set out in Act No. 90-03 of 6 February 1990 on labour inspection and Act No. 90-04 of 6 February 1990 on the settlement of individual labour disputes;
- Procedures and mechanisms whereby social partners can join together in defending their material and moral interests: Act No. 90-14 of 2 June 1990 on the exercise of the right to form or join trade unions.

186. This machinery was supplemented in 1994 by three legislative decrees designed to serve as a framework for the redundancy plans resulting from the industrial restructuring measures and to provide social coverage for workers suffering from the consequences. These decrees were:

- Legislative Decree No. 94-09 of 26 May 1994 on the preservation of employment and the protection of workers likely to be made redundant;
- Legislative Decree No. 94-10 of 26 May 1994 establishing early retirement;
- Legislative Decree No. 94-11 of 26 May 1994 instituting unemployment insurance for workers likely to be made redundant and/or be laid off for economic reasons.

187. Lastly, in 2004, Act No. 04-19 of 25 December 2004 on the recruitment of workers and the supervision of employment gave the National Employment Agency a status more suited to its activity and opened up the possibility of setting up private recruitment agencies. This Act provides protection for job seekers against any form of labour bargaining.

188. Furthermore, Algeria, which is a member of the World Health Organization and the International Labour Organization, makes every effort to guarantee the fundamental rights of individuals, including the right to health, and constantly to improve health coverage while respecting the dignity and equality of all, with special attention to migrant workers and their families.

(b) *The right to form and join trade unions*

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

190. Exercise of this right is also regulated by the statutes of trade union organizations (cf. arts. 1, 2 and 3 of the Act).

191. In addition to a vast array of independent trade unions, there are no fewer than 60 national labour organizations and 19 employers' organizations, 2 of them in the public sector and 17 in the private sector. However, public sector unions predominate at the present time, mainly in the sectors of health (nine trade unions), social affairs (nine trade

unions), transport (seven trade unions), education (six trade unions) and training (six trade unions).

(c) *The right to housing*

192. The Algerian Government endeavours to bring about a steady rise in the standard of living of citizens. Achievement of this goal depends on an equitable distribution of the benefits of development and a judicious assignment of resources, in order to meet the needs of citizens and ensure national solidarity with the most deprived.

193. For example, under the 2005–2009 economic growth plan and additional programmes for the South and the high plateaux totalling more than US\$ 150 billion, Algeria intends to create 1,200,000 housing units.

194. The housing sector has a budget of 555 billion Algerian dinars, equivalent to US\$ 5.5 billion, over five years. It is worth recalling that for the period 1999–2004, the total housing stock increased by 810,000 housing units. With these additions, the occupancy rate fell from 7.2 in 1998 to 5.34 at the end of 2005, and finally to under five persons per housing unit at the end of 2009.

195. It should be noted that the Government provides low-income families with full direct support through the allocation of subsidized rental accommodation and has created a range of housing and an aid scheme for families seeking to own property in rural and urban areas.

(d) *The right to health, medical care and social security*

196. The right to health protection is a constitutional right enshrined in article 54 of the Constitution, which stipulates that “the State shall make every effort to prevent and eradicate epidemic and endemic diseases”.

197. The health-care system in place since independence has thus been steadily improving through the development of health indicators, and human, material and infrastructure resources aimed at protecting and promoting citizens’ health.

198. These advances are illustrated in financial terms by an increase in budget allocations, which rose from 59,047,650,000 Algerian dinars in 1999 to 224,244,771,000 Algerian dinars in 2008. Similarly, the number of doctors and paramedics rose sharply from 432 doctors (50 per cent Algerian) and 811 paramedics to 62,403 doctors (48 per cent private) and 93,354 paramedics (1.8 per cent private) serving 9,682 public health establishments and 23,567 private clinics (see annex III).

199. In the light of health indicators showing high maternal and infant mortality, low life expectancy and infectious diseases on a significant scale in the early days of independence, the local authorities put in place national health-care programmes aimed in particular at reducing disparities in health coverage and combating mortality and morbidity caused by prevalent transmissible diseases and malnutrition. In addition to national health programmes against transmissible diseases, Algeria has also developed a national integrated strategy to combat common risk factors for non-transmissible diseases and recently launched an anticancer plan, which is expected to be followed by other plans to combat non-transmissible diseases, such as diabetes.

200. The maternal mortality rate thus dropped from 500 per 100,000 live births in 1962 to nearly 88.9 in 2007, and infant mortality dropped from 171 per thousand live births to nearly 24.1 in the same period.

201. The introduction of compulsory vaccination for all children and an increase in vaccination coverage to more than 95 per cent have been followed by a real drop in the

level of epidemiological indicators. In addition to improving vaccination coverage, Algeria regularly introduces new vaccines (hepatitis B, haemophilus influenzae) and is extending the vaccination drive to the adult population, as is already the case for vaccines against diphtheria and tetanus, for which booster shots are compulsory every 10 years, and influenza vaccination which is provided annually free of charge to persons at risk and pregnant women.

202. Moreover, free health care, reform of medical training and the organization of the health system according to health-care sectors are the pillars of the health policy established during the 1970s, which has also been characterized by the development of health-care infrastructure.

203. Lastly, the launching in 1983 of the national programme to control population growth through the spacing of births marked the advent of a proactive policy aimed at balancing demographic and economic growth, which was consolidated at the legislative level by Act No. 85-05 of 16 February 1985, as supplemented and amended, on the protection and promotion of health and the physical and mental well-being of human beings and their full development within society.

204. Occupational health protection for all workers is a right enshrined in the Constitution, which has gradually been incorporated into national public health policy under Act No. 85-05 of 16 February 1985.

205. The national health system ensures equity in terms of the right to health protection and the access of individuals and families without distinction to all health-care structures for the purpose of receiving appropriate emergency care and essential preventive and curative care, as well as equality of treatment of migrant workers and members of their families, irrespective of their residence or employment status, and nationals of the State.

206. Thus the provisions regarding health protection contained in the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families, in particular articles 28, 43, 45 and 70, are covered by current Algerian legislation and regulations.

207. As for the discrimination that may be suffered by persons living with HIV, the Ministry of Health, Population and Hospital Reform has issued a ministerial instruction, No. 6 of 1 December 2010, which recalls the obligation to respect the rights of patients to preventive care and medical treatment.

208. Act No. 88-07 of 26 January 1988 on occupational health, safety and medicine stipulates that “occupational medicine is the responsibility of the employing organization and sets out general rules relating to occupational health, safety and medicine, training and information, the organization of prevention and the monitoring of activities”.

209. Organizational health activities mainly involve the maintenance and promotion of workers’ health and their aptitude for work, as well as the improvement of working conditions and a working environment such as to ensure health and safety in the workplace.

(e) *The right to education and training*

210. The right to education is enshrined in the fundamental texts of the Republic, which guarantee access to free education for all children.

211. Article 53 of the Constitution stipulates that “The right to education is guaranteed. Education is free under conditions laid down by law.”

212. Furthermore, the Education Act (Act No. 08-04 of 23 January 2008) stipulates that education is compulsory for all boys and girls between the ages of 6 and 16, with a possible further two years for children with disabilities. Parents or legal guardians who fail to enrol

their children in school are liable to a fine. Article 10 provides that “the State guarantees the right of every Algerian, male and female, to education without discrimination based on sex, social origin or geographical origin”.

213. Since gaining independence, Algeria has devoted a significant portion of its resources to the development of the national education sector.

214. The State spares no effort to ensure that all Algerian boys and girls without distinction receive education. Educational support measures have been put in place to that end (see annex II).

215. After more than 40 years of effort, Algeria has not only made up for time lost historically in terms of school enrolment, but has also met the high demand for education that has been expressed since independence.

216. Total pupil numbers have increased tenfold since 1962, so that there are currently more than 7.9 million children enrolled in schools, thanks to a programme of infrastructure development and personnel recruitment in all disciplines, resulting today in nearly 98 per cent school enrolment, as against 43.5 per cent in 1965.

217. The effort has also been directed towards educational support, entailing the provision of millions of school textbooks, the opening of canteens financed by the State under a budget that has increased twelvefold since 1999, boarding and semi-boarding facilities, which have doubled in number over the same period, a school bus service covering the country’s 1,541 communes, increasingly universal health services and 3 million educational grants awarded at the beginning of the school year to the most deprived children.

218. Article 73 of the Education Act stipulates that “the purpose of adult education is to provide citizens with literacy instruction and constantly to upgrade their level of education and general culture. Adult education is free and is intended for young people and adults who have received no or insufficient school education or who wish to improve their cultural level or benefit from socio-occupational advancement.” (See annex II for statistics on the number of illiterates and illiteracy ratios by gender.)

219. Children of migrant workers or resident foreigners are immediately integrated into the school system.

220. Where occupational training is concerned, the responsible ministry establishes the conditions and referral procedures for the various occupational training courses according to the wishes of the applicants and the capacity of the host establishment. This possibility is also open to migrant workers and members of their families, who benefit from the same referral services.

(f) *The right to equal participation in cultural activities*

221. It is an active, day-to-day concern of the Algerian State to develop the culture sector, as can be seen by the measures taken at the local, regional and national levels.

222. These efforts have paved the way for a revival of cultural and artistic life, revealed every day in the programming of various events and the keen participation of citizens in creative and cultural activities.

223. The main lines of cultural policy in Algeria are reflected in the following measures:

- Promotion and development of public reading through a denser library network consisting of the National Library of Algeria, which will have 14 branches throughout the national territory, and the establishment of a house of culture in each

wilaya, in addition to the 32 houses of culture that currently exist throughout the national territory, as well as the creation of a National Book Centre;

- Under an agreement with the Ministry of the Interior, it has been decided to provide each of the 1,541 communes with a library;
- Lastly, the public authorities have decided in favour of the gradual acquisition of 40 mobile libraries.

The principal means used to promote cultural activities include the following:

- The revival of major national cultural events, particularly through the institutionalization of a number of festivals;
- The organization of symposia on culture, music and Sufism;
- Creation of the cultural outreach agency;
- Assistance to cultural associations;
- Theatre subsidies;
- Assistance to theatre cooperatives through the arts and letters development fund;
- The renovation and refurbishing of certain theatres;
- Establishment of the Institute of Audiovisual Professions and the Performing Arts (ISMAAS).

224. Algeria has constantly pursued the unchanging objective of encouraging the intellectual creation of literary and artistic works.

225. This policy has translated into commitments, in particular through accessions to international conventions and, domestically, through the passing of legislation on copyright.

226. Algeria has thus acceded to international conventions on the protection of copyright and related rights. At the domestic level, copyright protection is enshrined in article 38 of the Constitution, which stipulates that “Citizens shall enjoy freedom of intellectual, artistic and scientific creation. Intellectual property rights are protected by law.”

(g) *The right of unrestricted access to all public places*

227. Other than the provisions of the Constitution, no legislation exists in Algeria to restrict or reduce fundamental freedoms in any way.

Article 6

The right to remedies and reparation through the courts

228. Article 49 of the Constitution states that “miscarriage of justice shall be compensated by the State. The conditions and modes of compensation shall be determined by law.”

229. Article 151 of the Constitution provides that “the right of defence is recognized and is guaranteed in criminal cases”. This guarantee is applicable at all stages of the procedure. On that basis, every accused person has the right to be present at his trial and to defend himself or to have the assistance of a lawyer. That is, however, a recognized “right” of the accused and not a *sine qua non* for the holding of the trial.

230. Any person whose rights have been violated may seek an appropriate remedy from the competent judicial authority. The procedure to be followed is determined by the act or circumstance that led to the violation or denial of rights. Any person who claims to have

suffered injury due to a violation of rights may, by lodging a complaint, institute criminal indemnity proceedings before the competent judge.

231. In administrative cases, any individual claiming to have suffered injury due to actions of a public authority may apply for discretionary or hierarchical remedy before applying for a judicial remedy to the competent administrative court, namely, the Supreme Court, which has jurisdiction in:

(a) Annulment appeals for abuse of authority against decisions taken by the administrative authorities (art. 231 of the Code of Civil Procedure);

(b) Annulment appeals against statutory or individual decisions taken by the administrative authorities (art. 274, para. 2, of the same Code);

(c) Appeals for an interpretation or review of the legality of acts where such acts are justiciable by the Supreme Court (art. 274, para. 2, of the same Code).

232. In addition to the possibility of seeking reparation through civil or criminal proceedings open to all persons alleging injury, articles 125, paragraph 4, 531 bis and 531 bis, paragraph 1, of Act No. 86-05 of 4 March 1986 give to all convicted persons subsequently declared innocent by the Supreme Court the right to obtain, either in person or through their assignees, damages to compensate for the moral or material injury resulting from the conviction.

Article 7

Measures to promote understanding, tolerance and friendship among nations

233. For more than a century, Algeria was the victim of a systematic settlement policy. During the colonial period, Algeria was subject to every form of dispossession, alienation, discrimination and exclusion.

234. Resolved to put an end to such subjection, the Algerian people, on gaining independence, declared its solidarity with all peoples fighting for independence. It likewise expressed its commitment to peoples who are victims of policies of discrimination and apartheid.

235. In this spirit, Algeria played a leading role in the elaboration and adoption of the International Convention on the Elimination of All Forms of Racial Discrimination. Similarly, for many years it chaired the United Nations Committee on Namibia, thereby demonstrating its attachment to the principles of humanism and solidarity.

236. Algeria is a party to all instruments contributing to the elimination of discrimination in respect of education; forced labour; employment and occupation; sports; and against women.

237. Every year Algeria celebrates Africa Liberation Day by organizing a number of meetings and events. It also, on the occasion of commemorative days devoted to the Universal Declaration of Human Rights, the rights of the child and women's rights, recalls the crimes committed through apartheid and urges vigilance with respect to all new forms of discrimination. It has been active in the codification of new norms to combat racism, racial discrimination and related practices.