



## International Covenant on Civil and Political Rights

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### Human Rights Committee

#### Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2721/2016\*\*, \*\*\*

<i>Communication submitted by:</i>	M'Rabih Ahmed Mahmoud Adda (represented by counsel, Rachid Mesli of the Alkarama Foundation)
<i>Alleged victim:</i>	The author
<i>State party:</i>	Algeria
<i>Date of communication:</i>	12 June 2015 (initial submission)
<i>Document references:</i>	Decision taken pursuant to rule 92 of the Committee's rules of procedure, transmitted to the State party on 1 February 2016 (not issued in document form)
<i>Date of adoption of Views:</i>	4 March 2022
<i>Subject matter:</i>	Torture and unlawful detention
<i>Procedural issues:</i>	Failure to exhaust domestic remedies; substantiation of claims
<i>Substantive issues:</i>	Right to an effective remedy; cruel, inhuman or degrading treatment or punishment; liberty and security of person; human dignity
<i>Articles of the Covenant:</i>	2 (3), 7, 9 (1–4), 10 (1), 19 (2), 21 and 22
<i>Articles of the Optional Protocol:</i>	2, 3 and 5 (2)

1. The author of the communication is M'Rabih Ahmed Mahmoud Adda, who was born on 25 May 1979<sup>1</sup> in one of the Sahrawi refugee camps in Tindouf. He claims that the State party has violated his rights under articles 7, 9 (1–4), 10 (1), 19 (2), 21 and 22 of the Covenant. Both the Covenant and the Optional Protocol entered into force for the State party on 12 December 1989. The author is represented by counsel from the Alkarama Foundation.

\* Reissued for technical reasons on 27 July 2022.

\*\* Adopted by the Committee at its 134th session (28 February–25 March 2022).

\*\*\* The following members of the Committee participated in the examination of the communication: Tania María Abdo Rocholl, Wafaa Ashraf Moharram Bassim, Yadh Ben Achour, Arif Bulkan, Mahjoub El Haiba, Furuya Shuichi, Carlos Gómez Martínez, Marcia V.J. Kran, Duncan Laki Muhumuza, Photini Pazartzis, Hernán Quezada Cabrera, Vasilka Sancin, José Manuel Santos Pais, Soh Changrok, Kobauyah Tchamdja Kpatcha, Héléne Tigroudja, Imeru Tamerat Yigezu and Gentian Zyberi.

<sup>1</sup> The author's birth was registered on 5 July 1979, which is the date appearing on his identity card.



### The facts as submitted by the author

2.1 The author resided in the Tindouf camps in Algeria. He completed his secondary education in M'sila, in the centre of the country, and in Libya. He returned to the camps in 1998 and underwent military training in an Algerian army barracks before being assigned to a military unit of the Frente Popular para la Liberación de Sagúía el-Hamra y de Río de Oro (Frente POLISARIO),<sup>2</sup> which he decided to leave in 2006. Since 2010, the author has made a living trading in fuel smuggled between the Tindouf camps and Mauritania.

2.2 On 5 March 2011, after the events that occurred in the Arab world at the start of that year, the author and several young activists challenging the authority and practices of the Frente POLISARIO founded the 5 March movement to peacefully protest against abuses of the human rights of refugees living in the Tindouf camps. According to the author, since its inception, this movement has organized numerous sit-ins, calling, in particular, for the departure of the Frente POLISARIO's leaders.

2.3 As a result of his activism, and after attempting to deliver a letter to the Personal Envoy of the Secretary General for Western Sahara during one of his visits to the camps, the author was arrested for the first time on 26 March 2013. He was detained for three days by the security services of the Frente POLISARIO and was subjected to torture and ill-treatment, as well as threats intended to make him cease his political activities. He was released on the third day but continued to engage in peaceful protest activities challenging the actions of the Frente POLISARIO throughout 2014.

2.4 The author also claims to have been one of the founders of the Assomoud<sup>3</sup> association established to demand the right to freedom of expression and movement, as well as dignified living conditions, for the Tindouf refugees. With this association, he took part in an open sit-in outside the offices of the Office of the United Nations High Commissioner for Refugees (UNHCR) in Rabouni in January 2014. For this reason, he was arrested a second time on 25 July 2014 when he was back in Tindouf. The author was at the home of one of his relatives, located in the Ennahda district of Tindouf, when, at around 2 p.m., four Algerian security officers in civilian attire entered the dwelling.

2.5 After forcing their way into the house, the officers immediately covered the author's head and handcuffed him behind his back, while beating him with a stick. He was given no explanation for the arrest and no warrant was shown to him. At 7 p.m., after a severe beating, the author was taken to the entrance of the Rabouni camp and handed over to officers of the Frente POLISARIO, among whom he was able to recognize M.L. and A.O.A.S., who immediately took him to the Errachid detention centre, known by the inhabitants of the camps as a place in which torture was routinely practised.<sup>4</sup>

2.6 Upon arrival at the detention centre, the author was taken to an office for interrogation by the intelligence services of the Frente POLISARIO attached to the State Secretariat for Documentation and Security headed by B.A.M. During the interrogation, the officers asked him questions about his political activities and opinions and his reasons for having organized a sit-in protest. In response to the answers he gave, the officers began to insult and threaten him, then ordered him to read out a preprepared statement on camera, which he flatly refused to do.

2.7 In view of his resistance, the officers began to beat him, having first covered his face and removed all his clothes. He was then bound, strung and tortured until he lost consciousness. The officers then sprayed him with cold water to wake him up before

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<sup>2</sup> The author provides numerous additional details on the history and goals of the Frente POLISARIO. He notes that the Frente POLISARIO, with active and direct support from Algeria, is calling for the establishment of an independent Sahrawi State and has unilaterally proclaimed the foundation of the "Sahrawi Arab Democratic Republic", which is not recognized by the United Nations.

<sup>3</sup> A term that may be translated as "resistance".

<sup>4</sup> See Fondation Danielle Mitterrand – France Libertés, *Mission internationale d'enquête sur les conditions de détention des prisonniers de guerre marocains détenus à Tindouf (Algérie)*, (International mission of inquiry into conditions of detention for Moroccan prisoners of war held in Tindouf, Algeria), July 2003, available at the following address: [https://www.arso.org/flrapport\\_tindouf.pdf](https://www.arso.org/flrapport_tindouf.pdf).

beginning another round of torture. The author was subjected to this treatment for eight days, during which he was also deprived of food and sleep.

2.8 On the ninth day, the Director of Internal Security of the Frente POLISARIO, S.O.B., visited the author and ordered him once again to record statements prepared in advance by the security service in which he acknowledged his errors and admitted that he was in the pay of Morocco, failing which he would either be tried as a traitor or sent into exile. The author stated that he was willing to submit to the courts provided that he received a fair and public trial. The Director then told him that he would die in prison anyway.

2.9 On the thirteenth day of his detention, the author's family was finally informed of his arrest and deprivation of liberty. His father was given authorization to visit him at the Errachid detention centre, and, prior to the visit, the Frente POLISARIO officers allowed the author to wash and change his clothes in order to hide any signs of the torture he had suffered. Three days later, his mother and other family members also visited him, and they were able to see the deplorable state that he was in.

2.10 Subsequently, the author went on a two-week hunger strike to protest against his continued detention and ill-treatment. The head warden of the detention centre then came to see him and again offered to release him on condition that he made a video recorded confession in which he stated that he had never been detained by the Frente POLISARIO. On the sixtieth day of his detention, after another visit from his mother, and under pressure from his family, the author finally agreed to make the confession. He was taken to one of the POLISARIO Front's intelligence offices, where the Director, a cameraman and a journalist were waiting for him. A screen displaying a preprepared text that he was required to read out was placed in front of him. The author still does not know whether this video has been released by the Frente POLISARIO.

2.11 After his release, the author tried to contact a number of non-governmental organizations to inform them of what he had just been through, but he had to give up on these efforts because of the surveillance and the persistent threats of rearrest to which he was subject. One of his relatives, who was an officer of the Frente POLISARIO, informed him that he was in imminent danger of rearrest and advised him to leave the camps. The author then fled to Mauritania, where he has family connections. He subsequently moved to the city of Dakhla in Western Sahara. He is still affected by serious sequelae of the torture and ill-treatment he endured during his detention: his physical and mental health have deteriorated, causing him ongoing pain and suffering.

2.12 The author maintains that domestic remedies are effectively unavailable in the State party because persons living in the refugee camps that are de facto placed under the authority of the Frente POLISARIO cannot bring an appeal before the Algerian courts. The Frente POLISARIO has its own internal police, judicial and prison system, which is recognized by the Algerian authorities. The author recalls that it was the Algerian authorities themselves that arrested him and handed him over to the Frente POLISARIO prior to his second spell in detention, and, moreover, that, for fear of serious reprisals, he was forced to flee the State party, where he faced real risks to his safety. He would not, therefore, be safe from rearrest if he tried to return to the refugee camps situated in the State party. Furthermore, in Algerian legal practice, plaintiffs are required to be present in person if they wish to file a criminal complaint and civil claim for damages, and are likely to be called to testify, as a civil party, in a hearing before the examining magistrate if their complaint is upheld. Referring to the Committee's decision in *Traoré v. Côte d'Ivoire*,<sup>5</sup> the author states that it is de facto impossible for him to pursue his complaint at the national level.

### **The complaint**

3.1 Firstly, the author asserts that, although the State party allows the Frente POLISARIO to administer the Tindouf refugee camps, it retains sovereignty and is thus still under an obligation to uphold human rights within its territory. The violations committed by the Frente

<sup>5</sup> CCPR/C/103/D/1759/2008, para. 6.4.

POLISARIO must therefore be imputed to the State party in application of article 2 (1) of the Covenant.

3.2 The author claims violations by the State party of article 7; article 9 (1–4); article 10 (1); article 19 (2); article 21; and article 22 of the Covenant.

3.3 The author recalls the absolute and non-derogable nature of the right not to be subjected to acts of torture or cruel, inhuman or degrading treatment or punishment. The acts of torture and ill-treatment to which he was subjected took place within the territory of the State party, whose officers handed him over directly to the Frente POLISARIO intelligence service, and undoubtedly fall under the responsibility of the Algerian authorities, who acted by tacit consent. The author recalls that incommunicado detention automatically creates an environment conducive to the practice of torture insofar as the person concerned is removed from the protection of the law. According to the Committee's jurisprudence, such practice may in itself constitute a violation of article 7 of the Covenant. The impossibility of communicating with the outside world, which is inherent in incommunicado detention, causes the detainee immense psychological suffering that is serious enough to fall within the scope of article 7 of the Covenant. In this case, the author was held incommunicado for 13 days. He therefore claims to be a victim of a violation of article 7 of the Covenant.

3.4 The author further recalls that the right to liberty and security of person, as recognized under article 9 of the Covenant, entails the prohibition of arbitrary arrest and detention and requires the State party to provide a number of procedural safeguards. In application of article 9, he claims that he is a victim of violations attributable to the State party of: (a) paragraph 1, in that the Algerian intelligence officers who arrested him on 25 July 2014 did not specify the grounds for his arrest and did not show an arrest warrant; (b) paragraph 2, in that the officers who arrested him did so without communicating the reasons for his arrest or showing a warrant and that he never received an official notification following his arrest; (c) paragraph 3, in that he was not brought before a competent judge following his arrest, and was neither tried nor released, and that his detention exceeded the maximum period of 12 days in police custody permitted under the Code of Criminal Procedure for terrorism-related offences; and (d) paragraph 4, in that he was removed from the protection of the law and was thus never able to challenge the lawfulness of his detention.

3.5 The author then recalls the fundamental and universal character of the principle that all persons deprived of their liberty must be treated with humanity and with respect for the inherent dignity of the human person set out in article 10 (1) of the Covenant. Since he was subjected to cruel, inhuman and degrading treatment, in violation of article 7 of the Covenant, he was also a victim of a violation of article 10 (1), since cruel, inhuman or degrading treatment is, by its very nature, incompatible with respect for the inherent dignity of the human person.

3.6 Lastly, the author considers that his detention – which was linked to the fact that, in March 2013, he delivered a letter to the Personal Envoy of the Secretary-General for Western Sahara, that he organized peaceful sit-ins outside the offices of UNHCR in Rabouni, and that he was one of the founders of the Assomoud association, which has drawn attention to the living conditions of refugees in the Tindouf camps – constitutes a violation of his rights under articles 19 (2), 21 and 22 of the Covenant.

#### **State party's observations on admissibility and the merits**

4.1 The State party submitted observations on admissibility on 1 April 2016, arguing that the communication should be declared inadmissible in view of the lack of credibility to be accorded to the foundation representing the author and the political motivations underpinning his petition. It argues that almost all of the founding members of the Alkarama Foundation have come into conflict with the law – in a number of countries, notably in Europe – for having supported and encouraged terrorist activities, and that, on 28 January 2014, after the United States of America expressed reservations, the organization was refused observer status before the Economic and Social Council.

4.2 Following an investigation into the allegations contained in the present communication, it was established that the document giving the Alkarama Foundation power of attorney to act on behalf of the author could not be authenticated since it appeared to have

been executed in the Non-Self-Governing Territory of Western Sahara illegally occupied by the Kingdom of Morocco since 1975 where the author has apparently found refuge. Consequently, the author cannot be heard before the courts even if his identity is proven. In taking refuge in this occupied part of Western Sahara, the author is expressing a political opinion favourable to the occupier and against the Frente POLISARIO, which is leading the struggle for the liberation of the Sahrawi people. In making the allegations, the author is simply reproducing the occupier's propaganda regarding the human rights situation in the Tindouf camps in Algeria. However, none of the organizations of the United Nations system, no non-governmental organization, none of the members of the European Parliament or the United States Congress and no international press publication have ever reported practices contrary to human dignity occurring there.

4.3 On 15 July 2021, the State Party reiterated its comments regarding the lack of credibility to be accorded to the Alkarama Foundation and the deeply political motivations underpinning this petition. With regard to the substance of the communication, it stated that, in July 2014, the author, together with a group of young Sahrawis, had organized a sit-in outside the offices of UNHCR in Rabouni, claiming: (a) access to work and health cover; (b) the right to obtain both a refugee card and an Algerian passport; (c) the right of young Sahrawis to engage freely in commercial activities; and (d) access to high-level responsibilities within the Frente POLISARIO. During this same period, on 19 July 2014, Laâyoune TV, a Moroccan television channel, broadcast a video recording in which members of the aforementioned group revealed their faces and announced the formation of the Assoumd association in opposition to the Frente POLISARIO, whose practices and policies were considered by the association's activists to be contrary to the interests of the Sahrawi people.

4.4 After the video was broadcast, the author, who was a military officer by profession, was arrested on 6 August 2014 and handed over on the same day to the Sahrawi security services, which had made an official request for his surrender. At the time of his arrest, the author was in possession of a letter drawn up by a foreign intelligence service that had been retrieved from his computer. The letter referred to his arrest before it had even taken place, the aim being to make people believe or give credence to the assertion, should it be made, that the letter had been written inside Errachid prison where he was allegedly being subjected to all forms of ill-treatment.

4.5 When asked for further details, the Sahrawi authority indicated that, at the time of the events, the author was in the ranks of the Saharawi People's Liberation Army. He was arrested in accordance with in-force military regulations after committing offences. During the period of his incarceration, he was regularly visited by family members, including his father and uncle, who were willing to give evidence to refute the false accusations of torture that he alleged.

4.6 Lastly, it is important to note that it is clear that the author appointed the "lawyer" Rachid Mesli to represent him while he was residing in the occupied Saharan city of Dakhla. Rachid Mesli, who is not a member of any professional body in Switzerland, is one of the leaders of the subversive Rachad pseudo-movement, which was classified as a terrorist organization on 18 May 2021 – a fact clearly showing that he is acting on the instructions of foreign intelligence services. Furthermore, the arguments formulated by the non-governmental organization Alkarama Foundation are extremely biased and predicated entirely on the theses of the other party to the Western Sahara conflict, namely Morocco, which is illegally occupying the Non-Self-Governing Territory of Western Sahara in violation of international law.

#### **Author's comments on the State party's observations**

5.1 The author submitted his comments on the State party's observations on admissibility on 19 September 2016. He responded to the State party's personal attacks on his lawyer and asked the Committee to disregard them. As to the question of his identity, the author states that the members of his family are well known in the Tindouf camps and that they have never received notification of or been summoned or questioned in connection with any investigation concerning him. Furthermore, the author's name is mentioned as one of the founders of the 5 March movement in a publicly available report issued by Human Rights

Watch.<sup>6</sup> Lastly, the place in which a power of attorney is executed does not constitute grounds for its rejection or lack of validity.

5.2 On 15 November 2021, the author noted with regret that, instead of responding with legal arguments, the State party persisted in seeking to politicize the complaint and discredit the Alkarama Foundation and its director, Rachid Mesli. Secondly, the author points out that the State party acknowledged that he had indeed been arrested on 25 July 2014 by the Algerian security services. In this connection, he specifies that he was conscripted by the Frente POLISARIO at the age of 15 years old and that, like most Sahrawi children residing in the camps, he underwent military training and was even forced, despite his age, to participate in operations.

5.3 The author goes on to deny the State party's assertion that he had been calling for access to positions of responsibility within the Frente POLISARIO, noting that – as, moreover, the State party had rightly pointed out – the Assomoud association is opposed to the Frente POLISARIO. Lastly, he specifies that he is currently living in Mauritania with part of his family and that he has no allegiance to any party in the current conflict between the State party and Morocco.

### **Issues and proceedings before the Committee**

#### *Consideration of admissibility*

6.1 Before considering any claim contained in a communication, the Human Rights Committee must decide, in accordance with rule 97 of its rules of procedure, whether the communication is admissible under the Optional Protocol to the Covenant.

6.2 The Committee has ascertained, as it is required to do under article 5 (2) (a) of the Optional Protocol, that the same matter is not being examined under another procedure of international investigation or settlement.

6.3 The Committee takes note of the arguments of the State party, which is challenging the validity of the power of attorney submitted by counsel on the grounds that it was executed in the territory of Western Sahara, which it considers to be non-self-governing. In this connection, the Committee recalls that it is only required to ascertain whether the author has clearly given his or her legal representative a power of attorney, and that its rules of procedure do not make the validity of a power of attorney conditional on the place where it was executed. Consequently, the Committee considers that the Alkarama Foundation has the authority to act on behalf of the author in the present case and is therefore entitled to submit the communication.

6.4 Regarding the exhaustion of domestic remedies, the Committee recalls that the State party has a duty not only to carry out thorough investigations into alleged violations of human rights brought to the attention of its authorities, particularly violations of the right to life, but also to prosecute, try and punish anyone held to be responsible for such violations.<sup>7</sup> In the present case, the Committee notes that other than undertaking a two-week hunger strike to protest against his continued detention and ill-treatment – a fact that has not been disputed by the State party – the author took no action to bring his complaints to the attention of the relevant authorities, fearing reprisals. However, the Committee takes the view that the authorities must have known why the author began this hunger strike. Even so, they failed to institute any investigation in connection with it. Furthermore, the State party has failed to provide any evidence to demonstrate either that an effective remedy was available at the time of the events or that an investigation has been initiated.

6.5 The Committee has already expressed concern about the de facto devolution of authority – especially jurisdictional authority – to the Frente POLISARIO and the fact that this situation is inconsistent with the State party's obligation to respect and guarantee all Covenant rights for all persons within its territory.<sup>8</sup> The Committee has also already

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<sup>6</sup> Human Rights Watch, *Off the Radar: Human Rights in the Tindouf Refugee Camps*, October 2014, pages 42 and 60.

<sup>7</sup> *Boudjemai v. Algeria* (CCPR/C/107/D/1791/2008), para. 7.4.

<sup>8</sup> *Braih v. Algeria* (CCPR/C/128/D/2924/2016), para. 5.4.

underscored the fact that, in this context, victims of violations of the rights recognized under the Covenant who are living in the Tindouf camps do not have access to an effective remedy in the State party's courts.<sup>9</sup> The Committee therefore considers that, in the present case, and in the absence of sufficient information from the State party concerning the remedies available, there is no impediment to its consideration of the communication under article 5 (2) (b) of the Optional Protocol.<sup>10</sup>

6.6 The Committee notes that the author has also claimed a violation of articles 19 (2), 21 and 22 of the Covenant. However, it considers that the author has not sufficiently substantiated these allegations and that these claims are therefore inadmissible under article 2 of the Optional Protocol.

6.7 Lastly, and although the author does not raise this point in his complaint, the Committee notes his claim to the effect that domestic remedies vis-à-vis the State party are not effectively available insofar as persons living in the refugee camps that are de facto placed under the authority of the Frente POLISARIO cannot bring an appeal before the Algerian courts. The Committee takes the view that the author is in effect invoking a violation of article 2 (3) of the Covenant, read in conjunction with article 7. Moreover, the Committee is of the view that the author has sufficiently substantiated his other allegations for the purposes of admissibility and therefore proceeds to consider the merits of the claims made under articles 2 (3), 7, 9 and 10 of the Covenant, read in conjunction with article 2 (3).

#### *Consideration on the merits*

7.1 The Committee has considered the present communication in the light of all the information made available to it by the parties, as required under article 5 (1) of the Optional Protocol.

7.2 The Committee notes that the State party has not responded to the author's claims concerning the merits of the case and recalls its jurisprudence according to which the burden of proof should not lie solely with the author of a communication, especially given that the author and the State party do not always have the same degree of access to evidence and that often only the State party is in possession of the necessary information.<sup>11</sup> In conformity with article 4 (2) of the Optional Protocol, the State party has a duty to investigate in good faith all allegations of violations of the Covenant made against it and its representatives and to provide the Committee with whatever information is available to it.<sup>12</sup> In the absence of any explanations from the State party in this respect, due weight must be given to the author's allegations, provided that they have been sufficiently substantiated.

7.3 As to the incommunicado detention to which the author claims to have been subjected, the Committee recognizes the degree of suffering involved in deprivation of liberty without contact with the outside world for an indefinite period of time. It recalls its general comment No. 20 (1992), in which it recommends that States parties adopt provisions to prohibit incommunicado detention. It notes in this case that the author was arrested on 25 July 2014 in the presence of witnesses, by officers of the Algerian security services, and that his family was not informed of his arrest and detention until 13 days later. The State party considers 6 August 2014 to be the official date of his arrest. The Committee therefore considers that the author was held incommunicado by the Algerian authorities from 25 July to 6 August 2014. Furthermore, the author's statements concerning the circumstances of his arrest and the observations that members of his family who visited him made about the deplorable state in which they found him give grounds to assume that he was indeed subjected to treatment contrary to article 7 of the Covenant: he claims to have been beaten repeatedly and then bound, strung and tortured until he lost consciousness. The State party has provided no evidence giving cause to refute the author's allegations. In the absence of any such information, the Committee concludes that the treatment to which the author was subjected

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

<sup>11</sup> See, inter alia, *Ammari v. Algeria* (CCPR/C/112/D/2098/2011), para. 8.3; *Mezine v. Algeria* (CCPR/C/106/D/1779/2008), para. 8.3; *El Abani v. Libyan Arab Jamahiriya* (CCPR/C/99/D/1640/2007), para. 7.4; and *Berzig v. Algeria* (CCPR/C/103/D/1781/2008), para. 8.3.

<sup>12</sup> *Mezine v. Algeria*, para. 8.3; and *Medjnoune v. Algeria* (CCPR/C/87/D/1297/2004), para. 8.3.

and the conditions of his prolonged incommunicado detention constitute a violation of article 7 of the Covenant.<sup>13</sup>

7.4 In view of the foregoing, the Committee will not consider separately the claims relating to the violation of article 10 of the Covenant.<sup>14</sup>

7.5 As to the alleged violation of article 9 of the Covenant, the Committee notes the author's allegations that he was arrested arbitrarily without a warrant, was not charged and was not brought before a judicial authority through which he would have been able to challenge the lawfulness of his detention. The State party does not accept 25 July 2014 as the date of the author's arrest, admitting only that he was arrested on 6 August 2014. It has also failed to provide any further information regarding the circumstances of the author's arrest. Accordingly, the Committee considers that due weight must be given to the author's allegations<sup>15</sup> and finds a violation of article 9 of the Covenant.<sup>16</sup>

7.6 Lastly, the Committee notes that, although the author has not expressly invoked a violation of article 2 (3), read in conjunction with article 7 and 9, of the Covenant, he refers to the obligation imposed on States parties by virtue of this provision to ensure that all persons have access to effective and enforceable remedies for asserting the rights recognized in the Covenant.<sup>17</sup> The Committee reiterates the importance of States parties establishing appropriate judicial and administrative mechanisms for considering complaints of violations of Covenant rights,<sup>18</sup> particularly when they involve allegations of ill-treatment (and incommunicado detention). It refers to its general comment No. 31 (2004), in which it states that a failure by a State party to investigate allegations of violations could in and of itself give rise to a separate breach of the Covenant.

7.7 In the present case, the author went on a two-week hunger strike to protest against his detention and the torture and ill-treatment to which he was subjected, without the State party initiating an investigation into his allegations. In addition, the legal impossibility of applying to a judicial body as a result of the de facto devolution of the State party's jurisdictional authority to the Frente POLISARIO, and the lack of effective remedies for persons in the Tindouf camps, continue to deprive the author of all access to an effective remedy.<sup>19</sup> The Committee therefore concludes that the facts before it reveal a violation of article 2 (3), read in conjunction with articles 7 and 9, of the Covenant.<sup>20</sup>

8. The Human Rights Committee, acting under article 5 (4) of the Optional Protocol, is of the view that the information before it discloses a violation by the State party of articles 7 and 9 of the Covenant, read alone and in conjunction with article 2 (3).

9. In accordance with article 2 (3) (a) of the Covenant, the State party is under an obligation to provide the author with an effective remedy. It is required to make full reparation to persons whose Covenant rights have been violated. In the present case, the State party is required to: (a) conduct a prompt investigation into the author's allegations that is effective, thorough, impartial, independent and transparent and provide him with detailed information about the results of the investigation; (b) prosecute, try and punish those responsible for the violations that have been committed; and (c) provide the author with adequate compensation. The State party is also under an obligation to ensure that similar violations do not occur in the future.

<sup>13</sup> See, inter alia, *Ammari v. Algeria*, para. 8.5; *Mezine v. Algeria*, para. 8.5; *Khirani et al. v. Algeria* (CCPR/C/104/D/1905/2009 and CCPR/C/104/D/1905/2009/Corr.1), para. 7.5; *Berzig v. Algeria*, para. 8.5; and *El Abani v. Libyan Arab Jamahiriya* (CCPR/C/99/D/1640/2007), para. 6.5.

<sup>14</sup> *Ammari v. Algeria*, para. 8.6.

<sup>15</sup> *Chani v. Algeria* (CCPR/C/116/D/2297/2013), para. 7.5.

<sup>16</sup> See, inter alia, *Mezine v. Algeria*, para. 8.7; *Khirani et al. v. Algeria*, para. 7.7; and *Berzig v. Algeria*, para. 8.7.

<sup>17</sup> *Cherguit v. Algeria* (CCPR/C/128/D/2828/2016), para. 7.13; and *Souaiene and Souaiene v. Algeria* (CCPR/C/128/D/3082/2017), para. 8.12.

<sup>18</sup> *Allioua and Kerouane v. Algeria* (CCPR/C/112/D/2132/2012), para. 7.11.

<sup>19</sup> *Braih v. Algeria*, para. 6.12; and *Saadoun v. Algeria* (CCPR/C/107/D/1806/2008), para. 8.8.

<sup>20</sup> *Braih v. Algeria*, para. 6.12.

10. Bearing in mind that, by becoming a party to the Optional Protocol, the State party has recognized the competence of the Committee to determine whether there has been a violation of the Covenant and that, pursuant to article 2 of the Covenant, the State party has undertaken to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant and to provide an effective and enforceable remedy when it is determined that a violation has occurred, the Committee wishes to receive from the State party, within 180 days, information about the measures taken to give effect to the present Views. The State party is also requested to publish the present Views and to have them widely disseminated in the official languages of the State party.

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