



Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

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List of issues prior to the submission of the fourth periodic report of Algeria (CAT/C/DZA/4)*

Specific information on the implementation of articles 1 to 16 of the Convention, including with regard to the Committee's previous recommendations

Articles 1 and 4

1. Please provide information, with specific illustrations, on the implementation in practice of article 132 of the State party's Constitution (which establishes that ratified international instruments have a higher status than the law, thereby permitting any Algerian citizen to invoke them in the courts), by indicating, for example, to what extent the Convention can be invoked by individuals before judicial bodies of the State party. Please indicate how often article 132 of the Constitution has been implemented since the previous concluding observations.

* The present list of issues was adopted by the Committee at its forty-fifth session, according to the new optional procedures established by the Committee at its thirty-eighth session, which consists in the preparation and adoption of lists of issues to be transmitted to States parties prior to the submission of their respective periodic report. The replies of the State party to this list of issues will constitute its report under article 19 of the Convention.

Article 2¹

2. With respect to the current state of emergency, which has been in place without interruption since 1992, please inform the Committee of the measures taken to ensure that no exceptional circumstances whatsoever may be invoked as a justification of torture (art. 2, para. 2, of the Convention).

3. Bearing in mind the letter by the Special Rapporteur for Follow-up to Concluding Observations and the Committee's recommendations dated 20 November 2009, as well as the Human Rights Committee's concluding observations (CCPR/C/DZA/CO/3, para. 14), please indicate whether the measures taken under the state of emergency are still in force. These measures include in particular the delegation of judicial police functions to officials of the Intelligence and Security Department, the ability of the Ministry of the Interior to make the administrative decision to place under house arrest individuals deemed "dangerous", as well as the ability granted to military courts to judge civilians suspected of terrorism. Please also specify how often these measures have been or are used, and provide precise data on the persons who have been subjected to them (names of the persons, charges against them and measures taken against them). Please also provide the Committee with a copy of the instructions given to law enforcement officials under the state of emergency. Is the State party aware of any complaints regarding breaches of the Convention committed under the state of emergency?

4. With reference to the Committee's recommendation (para. 4)² that the rather vague definition of terrorism set out in article 87 bis of the Criminal Code should not give rise to interpretations whereby the legitimate expression of the rights established under the Covenant on Civil and Political Rights can be sanctioned, a recommendation echoed by the Human Rights Committee (CCPR/C/DZA/CO/3, para. 17), please provide detailed information on cases tried under article 87 bis of the Criminal Code. Please also indicate the overall number of cases related to terrorism, the offences with which defendants are charged, the verdict of the court and the punishment meted out, if any, as requested by the Special Rapporteur for Follow-up to Concluding Observations in November 2009.

5. Please indicate whether the State party has adopted legislation to ensure the right to legal counsel during the period of remand in custody, pursuant to the Committee's recommendation (para. 5). Please provide information on the specific steps taken by the State party to ensure that all detained persons are afforded, in practice, fundamental legal safeguards and the opportunity to exercise their rights from the very outset of detention, in particular the right of access to a lawyer and to a medical doctor of their own choice, as well as the right to inform a relative, to be informed of their rights and to be presented to a judge within 48 hours. Please also specify whether the recordings of the interrogations of suspected terrorists (instituted by the judicial police) are made available to defence attorneys. Please specify whether all persons detained are registered at the outset of their

¹ The points raised under article 2 can also be raised under other articles of the Convention, including but not limited to article 16. As general comment No. 2, paragraph 3, states "The obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment (hereinafter 'ill-treatment') under article 16, paragraph 1, are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. (...) In practice, the definitional threshold between ill-treatment and torture is often not clear." See also part V of the same general comment.

² The paragraph numbers in parentheses refer to the Committee's previous final observations published as document CAT/C/DZA/CO/3.

detention and whether a national register of detained persons has been established, as recommended by the Committee (para. 5).

6. Please inform the Committee about any emergency or anti-terrorist legislation that may limit the guarantees granted to detainees, particularly the right to be heard by a judge as soon as possible, the right to contact family members (particularly to inform them of the situation), and the right to have access to a lawyer and a doctor from the outset of deprivation of liberty. Please indicate at which stage of the procedure persons suspected of involvement in acts of terrorism, whose detention in custody can be extended for up to 12 days, must be brought before a judge. On what basis does the State party determine whether persons are terrorist suspects? Please provide examples and indicate the number of cases tried on the basis of emergency or anti-terrorist legislation since the previous concluding observations.

7. Please provide the Committee with the number of persons who have been subjected to trial before a military court since the State party's submission of its previous periodic report in 2006. Please indicate for what offences these persons were tried, as well as the number of sentences handed down in absentia. Does the State party intend to reform military courts?

8. Please provide detailed information on the situation of Mr. Mohamed Rahmouni, who was the subject of an urgent appeal issued jointly by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on the independence of judges and lawyers (A/HRC/11/41/Add.1, para. 24). Please indicate whether any investigations have been conducted in response to reports that Mr. Mohamed Rahmouni had allegedly been mistreated in prison. Please comment on reports that Mr. Rahmouni's lawyer was prevented from seeing his client under article 18 of the Code of Military Justice, which establishes that, in cases relating to special offences, the counsel for the defence designated by the defendant cannot assist, defend or represent the latter, either during the pretrial proceedings or during the trial, without the authorization of the president of the permanent military court dealing with the case.

9. Please provide updated information on the situation of Mr. Abderrahmane Mehalli, who was the subject of urgent appeals sent jointly on 29 January 2007 and 23 July 2008 (A/HRC/7/3/Add.1 and A/HRC/10/44/Add.4, para. 1). Please indicate whether any investigations have been conducted following reports that Mr. Abderrahmane Mehalli had been mistreated and sexually abused while he was being held incommunicado by officials of the Intelligence and Security Department. If so, please indicate what the outcome of those investigations was.

10. Please comment on reports that an operation to disarm legitimate defence groups is under way in certain regions of the country and please indicate the current number of members of the legitimate defence groups and the number of individuals who have been disarmed. Please indicate the powers and prerogatives of these groups, whether they are under the control of organs of the State and whether the members of these groups could be held responsible for possible acts of torture committed in their capacity as public officials or with the consent of the State, in accordance with the relevant provisions of the Criminal Code. Please provide information on Presidential Decree No. 42/09, of 24 October 2009, allowing members of the legitimate defence groups to join the army. Please indicate the number of members who have taken advantage of this opportunity, and whether a preliminary investigation aimed at ruling out any potential involvement in acts of torture is carried out systematically.

11. Please reply to the request by the Special Rapporteur for follow-up on concluding observations and recommendations contained in a letter sent in November 2009 concerning secret detention centres run by the Intelligence and Security Department. In that letter the

Committee commented on recurrent and consistent reports that individuals had been held in secret detention centres and regretted the State party's categorical denial of the existence of such facilities. Please indicate whether the competent judicial authority has taken steps to look into these allegations, as recommended by the Committee.

12. Please provide detailed information on the situation of Mr. Adel Saker, who, according to an allegation letter received by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, has been held incommunicado in a secret centre run by the Intelligence and Security Department since 26 May 2008 (A/HRC/13/39/Add.1, p. 7).

13. Further to the Committee's previous recommendation (para. 8), please provide information on the work of the National Advisory Commission for the Promotion and Protection of Human Rights (CNCPPDH) and indicate whether its annual reports are made public and widely distributed. Please indicate whether the Commission has received any complaints related to violations of the Convention and whether it has the mandate and capacity to investigate and respond promptly and in full independence to such complaints, in compliance with the Paris Principles. Please provide relevant statistics and indicate what specific action has been taken in this regard, and the outcome of every complaint concerning torture and/or ill-treatment. Further to the decision of the International Coordinating Committee of National Institutions to grant "B" status to the Commission in March 2009, and in the light of the recommendations of the Committee on Economic, Social and Cultural Rights (E/C.12/DZA/CO/4, para. 6), please provide information on the measures taken or envisaged to strengthen the independence of the Commission, to facilitate its role of monitoring compliance with Algeria's national and international obligations and to encourage increased interaction with the international human rights system.

14. Please provide information on any applicable legal provisions that provide that an order from a superior cannot be invoked as a justification for torture.

15. In the light of information provided by the State party to the Special Rapporteur on violence against women, its causes and consequences (A/HRC/7/6/Add.2, para. 46) and of the recommendations of the Committee against Torture (para. 19), the Committee on Economic, Social and Cultural Rights (E/C.12/DZA/CO/4, para. 15), the Human Rights Committee (CCPR/C/DZA/CO/3, para. 21) and the Committee on the Elimination of Discrimination against Women (A/60/38, para. 150), please provide information on the conclusions of the Commission tasked with revising the Criminal Code, particularly with regard to the definition of rape, including marital rape, sexual crimes and the criminalization of abortion. More generally, please provide information on existing legislation to combat violence against women in the State party, particularly domestic violence, and the remedies available to victims.

16. Please provide statistical data in order to assess the scale of domestic and sexual violence in the State party. Please provide updated information on measures taken to adequately prevent, combat and repress violence against women and children, including domestic violence and violence in the workplace, or in the public sphere. In this respect, please comment on the fact that violence would appear to be socially legitimized and to benefit from a culture of silence and impunity and that cases of violence are thus underreported (A/HRC/7/6/Add.2, para. 51). Please provide information on the implementation of recommendations contained in the study published by the National Institute for Public Health in 2005, including on training provided for public officials, on the establishment of centres for victims of domestic violence and on national information and prevention campaigns.

17. In the light of the recommendations of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW/C/DZA/CO/1, para. 39) and the Committee on the Rights of the Child (CRC/C/15/Add.269, para. 79), please provide information on measures and means employed to adequately prevent, raise awareness of and combat trafficking. Please also provide statistical data on the incidence of trafficking in women and children, updated since the consideration of the previous report. Statistical data should also be provided on the number of complaints, and on the related investigations, prosecutions, convictions and sanctions, and on compensation provided to victims.

Article 3

18. Please provide information on measures taken by the State party to fulfil its obligations under article 3 of the Convention, in particular to take into account all elements of an individual case and to provide, in practice, all procedural guarantees to the person expelled, returned or extradited.

19. Please provide the Committee with information on any requests for extradition received or issued and provide detailed information, including their outcome, on all cases of extradition, return or expulsion since the previous report. Please provide data, disaggregated by age, sex and ethnicity, on:

- (a) The number of asylum applications registered;
- (b) The number of applicants in detention;
- (c) The number of applicants whose application for asylum was accepted;
- (d) The number of applicants whose application for asylum was accepted on grounds that they had been tortured or might be tortured if returned to their country of origin;
- (e) The number of cases of refoulement or expulsion.

20. In its previous concluding observations (para. 9), the Committee expressed concern about allegations of collective expulsions of migrants in violation of principles guaranteeing their right to have their case reviewed individually and to appeal against the expulsion decision. Similar concerns were expressed by the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW/C/DZA/CO/1, para. 22). Please indicate:

- (a) Whether any collective expulsions have occurred since the previous concluding observations of the Committee;
- (b) Whether steps have been taken to implement the previous recommendations of the Committee in that regard;
- (c) Whether the relevant alien policing authorities carry out a systematic and thorough examination, prior to making an expulsion order, in all cases of foreign nationals who have entered or are staying in Algeria unlawfully, in order to ensure that the person concerned would not be subjected to torture, inhuman or degrading treatment or punishment in the country to which he or she would be returned;
- (d) Whether steps have been taken to ensure that detention of asylum-seekers and migrants is used only in exceptional circumstances or as a last resort, and then only for the shortest possible time.

21. Please provide information on the reported practice of the State party of taking in terrorist suspects, whether Algerians or foreign nationals, from other countries, including

through its participation in the United States of America Central Intelligence Agency (CIA) rendition programme.

Articles 5 and 7

22. Please indicate whether, since the consideration of the previous report, the State party has rejected, for any reason, any request for extradition by a third State for an individual suspected of having committed an offence of torture, and which is thus initiating its own prosecution as a result. If so, please provide information on the status and outcome of such proceedings.

Article 10

23. In its previous concluding observations (para. 10), the Committee recommended that the State party should step up its efforts to provide education and training on the prohibition against torture, especially among Intelligence and Security Department officials, and establish evaluation and monitoring mechanisms to measure the results. Please provide updated information on:

(a) New education and training programmes introduced by the State party to ensure that law enforcement officials, border guards, staff of prisons and detention centres, all members of the judicial apparatus and public prosecutors are fully aware of the State party's obligations under the Convention;

(b) The type of training provided, if any, to Intelligence and Security Department officials;

(c) Measures taken to ensure that all medical personnel attending detainees are adequately trained to detect signs of torture and ill-treatment according to international standards, as provided for in the Istanbul Protocol;

(d) Measures taken to develop and apply a method for evaluating the effectiveness of training and education programmes and their effect on reducing the number of cases of torture. If such a method has been developed, please give information on its content and application and the results achieved.

Article 11

24. Please provide information on any new interrogation rules, examination procedures, methods or practices and on any form of detention introduced since consideration of the previous periodic report. Please indicate how often such rules or forms of detention are reviewed.

25. Please give information on the measures taken by the civil prisons administration and the office of the public prosecutor to ensure effective and systematic monitoring of all places of detention, including those that fall under the Intelligence and Security Department and those where aliens are held, as recommended by the Committee against Torture (para. 6) and the Human Rights Committee (CCPR/C/DZA/CO/3). Indicate which independent body or bodies is or are responsible for visiting penal establishments and other places of detention. Indicate the frequency of such visits since 2006, any recommendations made by the body or bodies in question after carrying out visits, and how those recommendations are implemented.

Articles 12 and 13

26. Please provide statistical data on the number of complaints of alleged acts of torture, ill-treatment or disappearances made since the last concluding observations, any resulting criminal or disciplinary investigations or proceedings and the results thereof. Please also provide information on the number and nature of cases in which the provisions of criminal legislation on torture have been applied since they were introduced into the Criminal Code in 2004. Please indicate the findings in these cases, the type of penalties and the length of sentences imposed, or the reasons for acquittal. This information should be disaggregated by sex, age and ethnic affiliation of the complainant and the perpetrator of the acts in question. Please indicate whether all suspects in cases of alleged torture or ill-treatment are systematically suspended from duty or transferred while the investigation takes place.

27. In the light of the concluding observations on the subject of the impunity allegedly enjoyed by members of armed groups and State officials (para. 11) for acts committed during the internal conflict of the 1990s — the “black years” — please provide information on the measures taken by the State party to: (1) amend chapter 2 and article 45 of order No. 06-01 so that amnesties shall not under any circumstances apply to crimes such as torture, rape and enforced disappearance, which are offences to which the statute of limitations does not apply; (2) guarantee that past or recent cases of torture, rape and enforced disappearance are systematically and impartially investigated and that the perpetrators of such acts are prosecuted and punished in a manner proportionate to the gravity of the offences committed, and that victims are appropriately compensated. Please also indicate the number of complaints of torture that have been submitted but not prosecuted under article 45 of the above order and specify whether the order applies to members of legitimate defence groups and police communal guards.

28. Concerning the fact that the Charter for Peace and National Reconciliation expressly provides that perpetrators of rape are not covered by the amnesty provision, please provide relevant statistics or information on individual cases of persons found guilty of rape who have been refused amnesty, in accordance with the Charter.

29. Bearing in mind the Committee’s concluding observations (para. 17), please explain whether the State party plans to amend the provisions of the Charter for Peace and National Reconciliation, particularly article 46, which jeopardizes the right to effective remedy, both at the national and international levels, for victims of torture. Please provide information on the number of people charged under article 46 of the order since its promulgation in February 2006.

30. Bearing in mind the Committee’s concerns (para. 12) with regard to the fact that the State party has not initiated proceedings to investigate the fate of thousands of persons who disappeared during the “black years” in order to identify, prosecute and punish the perpetrators of enforced disappearances, please provide up-to-date information on the measures taken to: (1) shed light on the fate of missing persons and identify victims; (2) investigate every case of enforced disappearance and communicate the results of investigations to the families of missing persons; (3) publish the names of missing persons registered since 1990; and (4) make public the final report of the ad hoc National Commission on Missing Persons. As requested in the concluding observations, please submit to the Committee the list of missing persons registered since the 1990s to the Committee.

31. Please indicate whether an independent commission has been set up to investigate sexual violence committed during the “black decade”, whether its final report has been published and widely disseminated, and whether all those identified as perpetrators of sexual violence have been excluded from the amnesty and brought to justice, as recommended by the Special Rapporteur on violence against women, its causes and

consequences (A/HRC/7/6/Add.2, para. 104 (b)). If not, please provide information on any other measures that may have been taken to investigate the numerous allegations of rape committed during the 1990s; on the results of those investigations, especially the number of identified perpetrators brought to justice; and on the compensation offered to victims, in accordance with the request of the Committee's Special Rapporteur for follow-up (p. 2 of the letter containing the request).

Article 14

32. Please:

(a) Give details of the measures taken to ensure that victims of torture or other ill-treatment, trafficking, and domestic or gender-based violence benefit from appropriate compensation, redress and rehabilitation programmes, including medical and psychological assistance. Indicate which specific redress and compensation measures ordered by the courts have benefited victims of torture and their families in practice;

(b) Give details, if applicable, of the number of cases in which victims have been compensated and the nature of the compensation, including rehabilitation measures, along with any other relevant information;

(c) Provide information on State-financed redress and compensation provided to the families of those who disappeared during the "black decade", particularly assistance for psychological, social and financial rehabilitation. Bearing in mind the Committee's concluding observations (para. 13) as well as the recommendations of the Human Rights Committee (CCPR/C/DZA/CO/3, para. 13) and the Special Rapporteur on violence against women, its causes and consequences (A/HRC/7/6/Add.2, para. 103), please indicate whether the State party has abolished the obligation for families to certify the death of a missing person in order to receive compensation. Please specify the criteria established for compensating the families of missing persons;

(d) Provide information on the number of victims of sexual violence committed during the "black decade" who have benefited from compensation, in accordance with the 1999 presidential decree. Please explain the conditions that must be met in order to obtain such compensation.

33. Please provide information on the implementation of the recommendations made by the Human Rights Committee concerning torture, conditions of detention and disappearances, and also those relating to arbitrary detention adopted under the Optional Protocol to the International Covenant on Civil and Political Rights (communications No. 1297/2004, *Medjnoune v. Algeria*, Views adopted 14 July 2006 [arbitrary detention and disappearance]; No. 1196/2003, *Boucherf v. Algeria*, Views adopted 30 March 2006 [disappearance]; No. 992/2001, *Bousroual and Saker v. Algeria*, Views adopted 30 March 2006 [disappearance]; No. 1495/2006, *Madoui v. Algeria*, Views adopted 28 October 2008 [disappearance]; No. 1328/2004, *Kimouche v. Algeria*, Views adopted 10 July 2007 [arbitrary detention and disappearance]; No. 1327/2004, *Grioua v. Algeria*, Views adopted 10 July 2007 [arbitrary detention and disappearance]; No. 1173/2003, *Benhadj v. Algeria*, Views adopted 20 July 2007 [arbitrary detention, detention conditions and fair trial]; No. 1439/2005, *Aber v. Algeria*, Views adopted 13 July 2007 [arbitrary detention, torture and detention conditions]).

Article 15

34. Please indicate whether the State party has amended its Code of Criminal Procedure in order to bring it fully into line with article 15 of the Convention, as recommended by the Committee in its concluding observations (para. 18) and by the Human Rights Committee (CCPR/C/DZA/CO/3, para. 19). Please provide information on the number of complaints submitted seeking re-examination of sentences handed down following confessions obtained under torture, duress or threat.

Article 16

35. Please provide updated information on the measures taken to improve conditions in all places of detention, including detention centres for asylum-seekers and psychiatric institutions, in order to bring them into conformity with international minimum standards and, in particular, to address problems of overcrowding and health care. Please provide information on access to places of detention by United Nations human rights mechanisms, the International Committee of the Red Cross and non-governmental human rights organizations.

36. Please indicate whether the State party uses solitary confinement during detention. If so, please provide up-to-date statistics and describe the provisions in place to ensure that solitary confinement is used as a last resort and for the shortest possible time, and is subject to strict supervision.

37. Please inform the Committee whether separate places of detention exist for juvenile offenders and women.

38. Bearing in mind the concerns expressed by the Committee on the Rights of the Child in 2005 with regard to the fact that “corporal punishment is lawful in the home” and that “it is widely accepted in society as a form of discipline” (CRC/C/15/Add.269, para. 41), please indicate whether the State party has adopted legislation expressly prohibiting corporal punishment and, more generally, all forms of physical, sexual and psychological violence against children, including sexual abuse within the family. Please provide information on the nature and extent of ill-treatment and abuse suffered by children, and on any awareness-raising and public education campaigns aimed at protecting children from all forms of violence.

39. Bearing in mind the recommendations of the Human Rights Committee (CCPR/C/DZA/CO/3, para. 25) and the Special Rapporteur on violence against women, its causes and consequences (A/HRC/7/6/Add.2, para. 103), please provide information on the measures taken to protect all individuals, including those who monitor and report on the human rights situation, against all intimidation, unfair imprisonment or violence in connection with their activities, and to ensure prompt, impartial and effective investigation of such acts.

40. Please comment on reports that, at the request of the Chairperson of the National Advisory Committee on the Promotion and Protection of Human Rights (CNCPPDH), the authorities have forbidden the peaceful weekly demonstrations by the families of disappeared persons that had been held regularly for 12 years and explain the reasons for such a prohibition. Please indicate whether State officials who used violence against the demonstrators have been disciplined and, if necessary, prosecuted.

41. Please provide detailed information on the number and nature of offences punishable by death and the number of people condemned to death. In view of the moratorium on

executions in force in Algeria since 1993, please indicate whether steps have been taken to abolish the death penalty.

42. Please provide information on any acts of mob violence against religious minorities or persons seeking alternative modes of expression or behaviour. Please also indicate whether cases of violence and collective rape against women suspected of prostitution by their neighbours have been reported since the last concluding observations.

Other

43. Please indicate the extent to which the adoption of Act No. 04-11 of 6 September 2004, on the regulations governing the judiciary, is compatible with the independence of judges, bearing in mind the influence of the executive branch on the Supreme Judicial Council in the nomination, promotion and removal of judges.

44. Please provide information on the steps taken by the State party towards ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment.

45. Recalling the signing by Algeria of the International Convention for the Protection of All Persons from Enforced Disappearance in February 2007, please indicate whether the State party has taken steps towards ratification.

46. The Committee observes that it has not received the follow-up information requested in paragraph 26 of its previous concluding observations from the State party. A reminder to this effect was sent by the Special Rapporteur for follow-up, dated 20 November 2009. Please provide the information requested.

General information on the national human rights situation, including new measures and developments relating to the implementation of the Convention

47. Please provide detailed information on new developments in the legal and institutional framework within which human rights are promoted and protected at the national level, including any relevant judicial decisions, since submission of the previous periodic report (16 January 2006).

48. Please provide detailed information on any new political, administrative or other measures taken, since submission of the previous periodic report, to promote and protect human rights at the national level, including any national human rights plans or programmes adopted, and specify the resources allocated, methods used, objectives set and results achieved.

49. Please provide any other information on new measures and initiatives introduced to ensure implementation of the Convention and to follow up the Committee's recommendations since consideration of the previous periodic report in 2008, including relevant statistical data, and describe any developments in the State party of relevance under the Convention.
