



**International covenant  
on civil and  
political rights**

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HUMAN RIGHTS COMMITTEE

Ninety-first session

SUMMARY RECORD OF THE 2495th MEETING

Held at the Palais Wilson, Geneva,  
on Tuesday, 23 October 2007, at 3 p.m.

Chairperson: Mr. RIVAS POSADA

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The meeting was called to order at 3 p.m.

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

Third periodic report of Algeria (continued) (CCPR/C/DZA/3; CCPR/C/DZA/Q/3 and Add.1; HRI/CORE/1/Add.124)

1. At the invitation of the Chairperson, the members of the delegation of Algeria resumed their places at the Committee table.
2. The CHAIRPERSON invited the delegation to reply to the questions raised by the Committee during the previous meeting (CCPR/C/SR.2494).
3. Mr. JAZAÏRY (Algeria) said that his Government's approach to human rights was both ambitious and humble. Algeria hoped to become a beacon of liberty for the region, but was aware that much remained to be done. The support of international organizations and civil society would be crucial to the attainment of that objective.
4. When terrorism threatened to undermine the very foundations of a State by putting many lives at risk, striking a balance between freedom and security was a challenge. In the context of growing Islamophobia, for example, it was not always possible to safeguard the right to freedom of expression and at the same time protect individuals from manifestations of racial and religious hatred and violence. Algeria's achievements in the field of human rights had been undermined by terrorist activity in the 1990s. Algeria had become a target when Al-Qaida had shifted its area of operations from Afghanistan to the Maghreb after the collapse of the Soviet Union. The army and the security forces had been entirely unprepared and the country had received little support, or even sympathy, from elsewhere. The terrorists had used alleged human rights abuses to curry favour with opinion-leaders and NGOs in the West and to discredit the State's efforts to fight back. Algeria's anti-terrorist action had been misinterpreted by those unfamiliar with the situation or had been used for political ends. Only after the attacks of 11 September 2001 had the world become aware of the real situation.
5. Some of the comments made by Committee members failed to take account of that context. His delegation strongly objected to Sir Nigel Rodley's earlier suggestion that Algerian law enforcement officials had committed "crimes against humanity". No such allegation had ever been made within a United Nations forum. Such remarks were highly inappropriate and played into the hands of those who committed acts of terrorism while claiming to be victims of human rights violations.
6. Ms. Chanet's reference to the Department for Intelligence and Security (DRS) as "the famous DRS" was equally unacceptable. The DRS was a State institution like any other and undeserving of such a smear.
7. With regard to Ms. Wedgwood's observations concerning the use of force, he said that lessons had been learned from the terrorist massacres in Raïs and Bentalha. Regulations governing the use of force by law enforcement officials had been reviewed and the terrorists,

who had themselves confessed to the killings, had been brought to justice. In addition, steps had been taken to improve training in order to ensure that law enforcement and military personnel were better prepared to deal with such situations.

8. On the referendum leading to the adoption of the Charter for Peace and National Reconciliation, he said that a wide-ranging 45-day campaign had been conducted prior to the referendum to disseminate information on the content and purpose of the Charter. The public had supported its adoption in full knowledge of the facts; any suggestions to the contrary were baseless.

9. Some members had suggested that Ordinance 06/01 enacting the Charter might not be fully consistent with the instrument itself and that, by approving the Charter, the public might have agreed unwittingly to certain controversial provisions, namely articles 45 and 46. The principles underlying the Ordinance were consistent with chapter I, paragraph 2, and chapter IV, paragraph 4, of the Charter, and thus consistent with the idea that had been approved by popular vote.

10. Contrary to allegations, neither the Charter nor its enacting Ordinance contained any reference to amnesty or impunity for law enforcement officials who had committed human rights violations. The Charter had been adopted years after the tragic events in question, which had been the subject of thorough and lengthy investigations. Those found guilty of violations had been brought to justice, regardless of their position. Public servants found guilty of human rights abuses had been dismissed. However, in some cases it had been impossible to produce any evidence to support the allegations made. Since no one could be convicted on the basis of an allegation alone, the Charter provided that proceedings in such cases should be discontinued.

11. Many members of the DRS had risked their lives to defend the State, but some had committed serious crimes. The Charter did not provide for amnesty or impunity. Rather, its adoption was an act of clemency aimed at preventing the serious misconduct of certain individuals from discrediting the law enforcement agencies as a whole. The Algerian army and police force should not be likened to terrorist groups. Algeria shared the values of the international community; those values should not be exploited for political ends or used to discredit a member of that community.

12. Although the absence of a clear definition of terrorism in Algerian legislation was regrettable, the international community itself had been unable to reach agreement on the issue. Algeria had long called for the adoption of an international instrument to combat terrorism; the project had thus far been thwarted by a lack of consensus on the definition of the term "terrorism". He agreed that the definition contained in article 87 (b) of the Criminal Code was unsatisfactory. However, the provision was only applied in relation to the commission of a second offence such as murder, rape or abduction. His Government understood terrorism as acts of violence committed by armed groups that sought to instil fear among ordinary people and to prompt overreaction by the authorities.

13. Although the annual reports of the National Advisory Commission for the Promotion and Protection of Human Rights had not been made public, legislative and other measures were being taken to address the problems identified. The adoption of the Charter for Peace and

National Reconciliation itself had been prompted by the recommendations contained in those reports. Similarly, the Government attached the utmost importance to the Committee's recommendations. Steps had been taken, for example, to ascertain the identity and whereabouts of the two Algerians who had been extradited by the United Kingdom. On the basis of the scant information available, namely their initials, the two individuals had eventually been identified. They had been held in police custody for 12 days and subsequently released. Although it might not be ideal to keep terrorism suspects in police custody for extended periods, in the light of the atrocities that could be potentially avoided it was a price worth paying. In the United Kingdom, for example, terrorism suspects could be kept in police custody for up to 30 days.

14. With regard to the application of the sharia, he agreed that the law should not only reflect the current situation in a country but also promote progress. However, many Muslims felt they were victims of a new wave of anti-Semitism that targeted the largest Semitic tribe, namely the Arabs. When people felt threatened, they tended to reject any ideas promoted by the perceived aggressor. In the contemporary context, promoting the kind of openness that had been possible during the presidency of Habib Bourguiba in Tunisia, for example, would merely play into the hands of Islamic fundamentalists. Progress, while desirable, could only be achieved by taking account of social contexts, and his Government relied on the Committee and other stakeholders for support and understanding.

15. On the question of the abolition of polygamy, he said the Koran stated that a man could take several wives provided he treated them equally, and that since that was impossible, he should limit himself to one wife. Algerian legislation was based on the same principle.

16. Mr. ABDELWAHAB (Algeria), replying to comments about the incompatibility of the revised Family Code with certain provisions of the Covenant, reminded the Committee that Algeria had entered reservations concerning those provisions and the provisions of the Convention on the Elimination of All Forms of Discrimination against Women that were incompatible with the sharia.

17. Under article 112 of the Family Code, the father was responsible for ensuring decent housing for the mother and the children in her care. If an Algerian woman married a non-Muslim abroad, the ceremony was performed by the civil registrar in the host country; the Algerian authorities, in that case the consulate, merely recorded the marriage.

18. There was no national register of people arrested and detained, but each police station had a register of persons in custody. Article 51 of the Code of Criminal Procedure provided for the right of persons in police custody to contact their families.

19. Rapists were not exempt from prosecution if they subsequently married the victim.

20. Confessions made under duress were not admissible in court. Even spontaneous confessions made during preliminary investigations could be withdrawn before a judge. Information obtained during interrogation was not considered irrefutable evidence.

21. The duration of police custody was limited to 48 hours. However, given the complex nature of investigations into alleged acts of terrorism, persons accused of such acts could be held for a maximum period of 12 days on the application of the public prosecutor. Persons held in police custody at present had no access to a lawyer. The Algerian criminal justice system was inquisitorial, and thus based on the secret nature of preliminary inquiries. However, the Code of Criminal Procedure had recently been amended to provide for the presence of a lawyer when the accused was brought before the public prosecutor; the possibility of granting persons in police custody the right to legal counsel was currently under review.

22. Mr. M. LAKHDARI (Algeria) said that relatives of people who had disappeared had not encountered difficulties in obtaining death certificates. All staff involved in implementing the Charter for Peace and National Reconciliation had deadlines for responding to applications and issuing decisions. Special units had been set up to explain the provisions of the Charter to the public and to facilitate the relevant administrative and judicial procedures. His Government had arranged for free legal services to be available to all persons requesting death certificates for those who had disappeared.

23. Article 45 of Ordinance No. 06-07 did not state that those who perpetrated abductions or murders would not be prosecuted. Rather, it specified that there should be no confusion between individuals who had been involved in combating terrorism and those who had committed offences.

24. The Government had taken measures to ensure that the massacres that had taken place in the 1990s had been investigated and that suspects had been prosecuted. Several cases were outstanding since some of the perpetrators remained at large.

25. Article 407 of the Civil Code had become obsolete. Article 11 of the Covenant had often been invoked in domestic courts, owing in part to its clarity. While problems of interpretation could arise when invoking other articles of the Covenant, efforts were made to study the Committee's case law, particularly since the Covenant formed part of the curriculum in law schools. All articles of the Covenant could be invoked at all levels of the judicial system.

26. Mr. JAZAÏRY (Algeria) reaffirmed that all individuals and organizations had direct access to the Committee.

27. Mr. A. LAKHDARI (Algeria) said that human rights formed an important part of the training curriculum of all law enforcement officials. Armed forces personnel were also trained in human rights.

28. Mr. AKIR (Algeria) said legislation provided that at least eight days' notice was required for any public demonstration. Demonstrations which took place without notification or authorization were dispersed.

29. The relatives of disappeared persons who had wanted to form an association had been unable to do so as they had not deposited all the requisite documents with the Ministry of the Interior.

30. Since the lifting of the state of emergency, all citizens had enjoyed the full range of human rights. During the state of emergency, the only mandate that had been delegated to the army was that of the police. Anti-terrorist measures had in no way impeded the exercise of human rights.

31. Mr. ABDELWAHAB (Algeria) said that the Criminal Code had been amended since the time when a number of people had been sentenced to death for the crimes of counterfeiting and aggravated theft. It was highly probable that those who had been convicted prior to that amendment would be granted a presidential pardon.

32. Mr. JAZAÏRY (Algeria) added that Algeria was a de facto abolitionist State.

33. Mr. SOUALEM (Algeria) said that the National Advisory Commission for the Promotion and Protection of Human Rights had concluded an agreement with the Ministry of Education on the teaching of human rights in schools. Most members of the Commission were from civil society and were elected by their peers. The representatives of the Ministries of Justice and the Interior had no decision-making power in the Commission. The Commission was therefore completely independent of the Government, had its own budget, and reported directly to the President of the Republic.

34. Ms. BOUREGHDA (Algeria) said that there were no restrictions on women's participation in political life and public service. While there were no specific provisions criminalizing domestic violence, cases were currently taken up under the Family Code and efforts were being made to introduce such a provision in the overall reform of the Criminal Code. Several centres provided shelter and medical, psychological and economic assistance to victims of domestic violence.

35. Mr. JAZAÏRY (Algeria) added that further steps would be taken to raise awareness of gender equality and promote women's participation in public life.

36. Sir Nigel RODLEY suggested that the current discussion should focus only on the values covered by the Covenant. They comprised the right to repress criminality and revulsion at atrocities committed against civilians, which were aggravated when committed in the name of religion. Nonetheless, international human rights law in general and the Covenant in particular were not oblivious to the stresses that States could be placed under by terrorism. Article 4 of the Covenant drew a balance between what a State under pressure could do to attenuate the normal protection of human rights while not violating non-derogable rights. General comment No. 29 on that article was designed to help States parties resolve conflicts of interest during times of public emergency.

37. He requested clarification whether article 45 of Ordinance No. 06-07 provided impunity for agents of the State, or whether they were subject to the law for offences such as abduction, torture and murder. Further information on prosecutions that had taken place and had yet to take place under that article would be useful. In particular, the State party should provide data on the number of State agents who had been prosecuted, details of the offences they had committed and in what context, who their victims had been and the penalties to which the offenders had been sentenced. Details of the courts that had tried the offenders and dates of the prosecutions would also be useful.

38. Article 46 of the Ordinance defined a crime and its punishment in extremely vague terms. It was unclear whether it provided for people to bring human rights concerns before any national or international body, whether official or unofficial.

39. He suggested that the State party should publish the reports of the International Committee of the Red Cross in full.

40. He remained concerned at the length of time people could be detained in police custody, and the fact that detainees could be held incommunicado.

41. Ms. CHANET said that by “famous” she had simply meant well-known. While none of the legal enactments in Algeria used the terms “amnesty” or “impunity”, and the delegation had preferred to use the term “clemency”, her question had not involved semantics. She wished to know which serious violations of human rights were no longer punishable as a result of the enactment of article 45 of the Charter for Peace and National Reconciliation, and who and what actions had been involved. Further clarification would be appreciated in order to enable the Committee to understand the full scope of that article.

42. Mr. AMOR said that while, in accordance with the Vienna Convention on the Law of Treaties, all States had the right to submit reservations to treaties, there were certain parameters within which those reservations must fall. Reservations that undermined the main purposes and objectives of a treaty were not admissible. The Committee had adopted clearly-defined legal positions on the submission of reservations. Problems only arose when there was an incompatibility between the content of the reservation and the purpose of the Covenant.

43. Turning to the issue of Islamophobia, he said he agreed with the Algerian delegation that Islam was under attack. That attack was, however, fuelled by extremism and the abuse of Islam itself. All forms of extremism were incompatible with the Covenant. While many statements had been made in the United Nations and elsewhere about the need to combat Islamophobia, Muslim States and societies also had a responsibility in that regard. States should propel society forward. Algeria’s ratification of international treaties confirmed that the State was playing a role in the evolution of its society.

44. As a State party to the Covenant, Algeria had undertaken commitments in respect of women’s rights and the rights of men and women to marry non-Muslims. While the Koran gave advice on marriage and polygamy, it was open to interpretation. The higher judicial authorities could remind judges of the primacy of international law over domestic legislation, so as to enable Algeria to meet its obligations under the Covenant. He asked whether marriages that took place between Algerian Muslims and foreign non-Muslims outside Algeria were registered unequivocally by the Algerian authorities.

45. Ms. WEDGWOOD said the Committee was concerned that there were such a large number of civilians who were unaccounted for that it was possible that not all of them had been killed by guerrillas; some might have fallen victim to self-defence forces or other forces that had been ill-trained or had abused their authority. There should be no shame in investigating the situation, since that could bring to light possible gaps in training and requirements for the future; accounting for all the missing, and addressing any problems of training or accountability in the armed forces, would provide comfort to the families who had lost loved ones.

46. Article 45 of the Charter for Peace and National Reconciliation appeared to extinguish any legal recourse against any action of the defence and security forces. She asked if that was indeed the case, and how the article should be interpreted. She asked whether there had been a careful investigation to ascertain whether any of the people who had been reported missing were still alive in prisons somewhere in Algeria. The signing of death certificates closed those cases and removed the duty to search and account for missing people and to establish by whom, when and where they had been killed. The problem of disciplining armed forces was faced by all States, and should be taken very seriously.

47. Mr. JAZAÏRY (Algeria) said that his country had exercised its legitimate right to express its reservations to the Covenant regarding contradictions with Islamic sharia. Those reservations did not undermine the substance of the Covenant, but rather related to the sociological situation in Algeria. While he agreed that the State had the duty to propel society forward, the way in which that society moved forward depended on the situation in that State. The circumstances of each society had their own limitations, and the advice that the Committee gave could only be applied within those limitations. He agreed that civil society and NGOs should be ready to move society forward towards the values enshrined in the Covenant. He also agreed with the concept of the primacy of international treaties over domestic legislation.

48. Although the Committee had requested information on the number of prosecutions of members of the armed forces, it had not requested information on the number of members of terrorist groups who had been prosecuted. His delegation looked to the Committee for guidance, and wished to move forward, beyond the events of the 1990s. The Committee was not a tribunal of inquiry, and should help his Government to improve its implementation of the Covenant, rather than harping on past issues. The number of disappeared persons should not be equated with the number of violations of the law committed by the armed forces. There had been over 100,000 casualties in Algeria during the 1990s, and the Committee was focusing on one particular group as the culprit. Although the Government had tried, in good faith, to investigate the disappearances, a number of cases remained unresolved. The devastation that had taken place during that period was 30 times greater than that of 11 September 2001; accounting for all the casualties was therefore particularly complex. The logical standards applied in civilized and peaceful societies could not necessarily be applied in all situations.

49. Regarding article 45 of the Charter for Peace and National Reconciliation, he said that if further evidence against an individual could be produced, then cases could be followed up. Problems had arisen as a result of the politicization of the situation, and the tendency to call into question the integrity and commitment of the security forces in general. The Charter was intended to assist the rebuilding of the nation on the basis of peace and solidarity. The Government had tried beyond all reasonable expectations to investigate all outstanding cases. Those that had not been solved should be put to rest, and should not be allowed to undermine the reputation of the security forces. He disagreed with Sir Nigel Rodley's statement that one should understand the social events in a country that had preceded a national tragedy. The events of 11 September 2001 had caused the international community to recognize that terrorism did not exist only in countries where there was a lack of democracy.



50. The CHAIRPERSON invited the delegation to respond to questions 16 to 27 of the list of issues.
51. Mr. AKIR (Algeria), responding to question 16, said that as a result of the deterioration in the security situation in Algeria, particularly in 1997, a number of families had left their homes temporarily. When security had been re-established, the authorities had ensured the safe return of those who had been displaced, as a result of which the phenomenon of internal displacement had almost ceased to exist.
52. On question 17 he said that all legal migrants were guaranteed the same rights as Algerian citizens. Illegal migrants were brought before a judge, and had the right to contest expulsion orders issued against them.
53. Mr. M. LAKHDARI (Algeria), responding to question 18, said that during the initial investigation accused persons were not questioned, but rather were asked to make a statement. The investigating judge was obliged to inform the accused of his or her right to legal counsel and the right to remain silent. If the judge did not fulfil that obligation the investigation would be declared null and void.
54. Mr. ABDELWAHAB (Algeria) said that the Code of Criminal Procedure had been revised in 2001 to strengthen the hierarchical power of the judicial authorities over the judicial police and to augment the rights of persons held in police custody. The amendments provided them with the opportunity to communicate with their family immediately, the right to receive visits and to undergo a medical examination by the physician of their choice, and the obligation of the judicial police officer in charge of custody to inform the accused of all his or her rights. Those rights were posted on notice boards in places of detention. An inter-ministerial instruction signed by the Ministers of Justice, the Interior and Defence established the hierarchical relationship between the judicial authorities and the judicial police, and had been distributed to all judicial police forces.
55. Mr. SOUALEM (Algeria), responding to question 20, said that according to the Constitution, Islam was the religion of the State. In an effort to preserve order and security, rules which applied to all religions had been established. The criminalization of activities relating to religion applied to persons who through constraint or blackmail tried to force individuals to renounce their religion. The National Faith Commission comprised six members, including one representative of the National Advisory Commission for the Promotion and Protection of Human Rights. Its remit was to guarantee freedom of religion and respect for the right to practise one's religion, approve the establishment of religious associations and assign buildings for religious activities.
56. Mr. SAID (Algeria), responding to question 21, said that Algerian legislation and regulations were applicable under ordinary law to all Algerians, including journalists. Many court cases involving journalists over the past two years had been unrelated to the practice of their profession. Moreover, a large proportion of press offences had not been prosecuted. The number of recorded cases had dropped from 20 in 2006 to 8 in 2007 and sentences imposed by lower courts had been either commuted or turned into acquittals on appeal. Presidential pardons had been granted in 2006 to some 200 journalists whose convictions had been confirmed on appeal. No journalist was currently imprisoned in Algeria for a press offence.

57. Certain press offences were due to lack of professionalism and failure to comply with a code of ethics. The problem was usually addressed through a combination of law enforcement and action by regulatory bodies and professional associations. The Government had adopted a programme aimed at enhancing the quality of the country's private and public media by means of training courses, promotion of professional ethics, and striking a balance between freedom of expression and its associated responsibilities. The Government's main objective consisted in developing public communication services, especially by creating autonomous public channels during the process of transition towards the opening-up of the broadcasting sector. Newspapers were established by means of a simplified declaratory process pursuant to the 1990 Information Act.

58. Mr. M. LAKHDARI (Algeria), referring to allegations of harassment of journalists, said that 98 per cent of judicial proceedings brought against journalists were instituted by private individuals alleging that their interests had been harmed. They were private prosecutions and did not involve the Public Prosecutor's Office.

59. The justice system could play a useful role in regulating press freedom by determining where the borderline lay between freedom of expression and action that harmed public or private interests. He delivered a training course at the Legal Service Training College on the relationship between justice and the media, a course that focused on the jurisprudence of the European Court of Human Rights regarding press freedom issues. He was keen to see the Algerian courts playing a regulatory role and promoting a code of ethics based, inter alia, on that jurisprudence.

60. Mr. JAZAÏRY (Algeria) noted that the delegation had covered most of the issues raised by question 22 in its response to question 4.

61. Mr. AKIR (Algeria), supplementing that response, said that nobody had been prosecuted for criticizing the Charter for Peace and National Reconciliation since its adoption.

62. Mr. JAZAÏRY (Algeria) said that media personnel would benefit from the existence of an association that concerned itself with professional ethics in order to ensure that the right to freedom of expression was not exercised to the detriment of other rights. There had been such a body but it had unfortunately ceased to function in 2004. He felt that it ought to be revived.

63. Mr. AKIR (Algeria), responding to question 23, said that the conference on "Truth, Peace and Conciliation" that was to have been held in February 2007 had not been authorized because it had been convened by a local association, "Djazairouna", whose territorial jurisdiction was restricted to the wilaya of Blida in which it was registered. The ban on street demonstrations in Algiers was still in force.

64. Mr. JAZAÏRY (Algeria) said that any institution wishing to convene a countrywide or international meeting was required to have the status of a national organization whose jurisdiction extended to the country as a whole.

65. Mr. AKIR (Algeria), responding to question 24, said that the Islamic Charitable Association had been dissolved at the request of the wilaya of Algiers by an order of the Algiers court dated 15 October 2002. The grounds for dissolution were that its activities breached the Association's statutes and that their scope had been extended beyond the wilaya of Algiers.

66. A total of 80,706 applications for registration had been filed; 952 of the associations concerned had been registered as national associations and 79,023 as local associations; 731 applications had been rejected. The registration process took 60 days, in accordance with article 7 of the Associations Act (No. 90-31 of 4 December 1990). Registration could be refused if the purpose of the association was incompatible with the established institutional regime, with public order or morals or with the laws and regulations in force. It could also be refused if the founding members were not authorized to exercise civil and civic rights, if the members' conduct was contrary to the interests of the national liberation struggle and if the application failed to comply with the provisions of the Associations Act. The decision-making bodies in the case of national associations were the relevant ministries and the security services and, in the case of local associations, the administrative authorities of the wilaya concerned, the security services and the municipalities.

67. Responding to question 25, he said that, pursuant to the Political Parties Organization Act, a person who had been convicted of a crime could not be a founding member of a political party. Pursuant to the Charter for Peace and National Reconciliation, persons who had participated in the exploitation of religion for criminal purposes culminating in the national tragedy, in the formulation and implementation of a policy that promoted violence against the nation and State institutions, or in the commission of crimes involving the death of individuals, massacres, bomb attacks in public places or rape were prohibited from engaging in any kind of political activity.

68. Mr. M. LAKHDARI (Algeria), responding to question 26, said that trainee judges at the Legal Service Training College attended a three-month course in human rights and fundamental freedoms, focusing on international treaties. Serving judges had also in recent years attended a one-week seminar on human rights dealing, *inter alia*, with fair trial principles, protection of prisoners' rights, and the implementation by the courts of treaties ratified by Algeria. Security services personnel also received training in human rights.

69. Mr. ABDELWAHAB (Algeria) added that Algerian judges also benefited from further training under cooperation programmes with European countries and the United States. The courses dealt with a range of subjects including international humanitarian law, human rights, codes of judicial conduct and the treatment of detainees.

70. Mr. SOUALEM (Algeria), responding to question 27, said that the Committee's conclusions and recommendations concerning Algeria's second periodic report had been widely publicized. The general public was very well informed about international human rights instruments. Although Algeria had traversed a period of turmoil, it had continued to meet its obligations under the Covenant in the midst of adversity and had acceded to several additional human rights treaties. The process of preparation of the third periodic report had been open and transparent. The National Advisory Commission for the Promotion and Protection of Human Rights had been associated with the process and its views and comments had been reflected in the final version of the report.

71. Mr. JAZAÏRY (Algeria), responding to a question concerning marriages between Algerian women and non-Muslim foreigners, said that when he had served as Ambassador to the United States he had also been responsible for consular affairs and for recording mixed marriages and births resulting from such marriages. He had done so without seeking prior approval from any judicial or other authority.

72. Mr. KÄLIN said that question 16 regarding internally displaced persons (IDPs) had been raised because, according to article 12 of the Covenant, a person displaced by violence had the right to choose a place of residence and hence also to return voluntarily to his or her place of origin. He asked what action the Algerian authorities were taking to ensure that displaced persons were able to exercise that right. According to the written and oral replies, “some families” had been temporarily displaced. He gathered from newspaper reports, however, that the scale of the problem had been far greater. According to Le Figaro of 6 April 2004, for instance, President Bouteflika had mentioned a figure of 1.5 million IDPs, half of whom had managed by that date to return home. According to Al-Watan of 10 April 2004, the Ministry of Internal Affairs had mentioned a figure of 500,000. If figures for specific locations mentioned in other press reports were added up, the resulting total came to about 700,000 IDPs. He would therefore welcome additional information on the current situation.

73. Turning to question 17, he said that the Committee was seeking information about procedural guarantees in expulsion proceedings and would like to be provided with the text of relevant legislation within the next few days. It was particularly concerned about the fact that no migrants from sub-Saharan Africa were recognized by the Algerian authorities as bona fide refugees. While many might certainly be economic migrants, others, according to UNHCR, were refugees and had been recognized as such under the 1951 Convention relating to the Status of Refugees. Under Algerian domestic law, however, they were deemed to be illegal migrants and could be deported. He therefore requested additional information on existing procedural safeguards and practices aimed at ensuring that nobody was returned to a country where his or her life or physical integrity would be in jeopardy.

74. Sir Nigel RODLEY, referring to the delegation’s replies to questions 18 and 19, asked for further clarification of procedures during police custody. The Committee would like to receive a copy of the list of rights of persons deprived of their liberty that was posted in places of detention. He wondered whether those rights included the right to be informed of the charges against them and the right to remain silent. A statement taken during police custody might include a confession that would not have been made if the detained person had been aware of the right to remain silent. Judicial police officers were required to permit persons deprived of their liberty to communicate immediately with their family and to receive visits. Yet visits from lawyers were apparently not permitted during police custody. He wished to know what kinds of visits were permissible and how the detainees’ families were informed. It was unclear whether detention was effected only by the judicial police or whether other detaining authorities who were not obliged to follow the same procedures might be involved.

75. Mr. AMOR, referring to the response to question 20 regarding freedom of religion, noted that regulations were applied to prevent “excesses or abuses” and thereby preserve public safety and order. It was clear from article 18 (3) of the Covenant that the freedom to manifest one’s

religion or beliefs could be subject to such limitations as were necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. Problems arose, however, when one sought to define and interpret “excesses or abuses”. All religions considered that they held a monopoly of the truth, that other religions were mistaken and that they had a duty to engage in proselytism, which could be either peaceful or aggressive.

76. Freedom of religion as defined in article 18 included freedom to change one’s religion or faith. It was claimed that the sharia did not permit such action, but that depended on how the sharia was interpreted. The question of apostasy (ridda) in Islam was not a doctrinal but a socio-political issue. It had first arisen when many Muslim members of Arab tribes had reverted to their former religion after the death of the Prophet. The resulting Ridda War had been a socio-political and not a religious war. A person might decide to change his or her religion on account of personal conviction or in response to peaceful proselytism. Moreover, Islam itself engaged in proselytism through a multitude of organizations. He therefore requested information regarding the legal situation in Algeria with respect to changing one’s religion. He feared that the terms “excesses or abuses” were being interpreted more broadly than was permissible under article 18 (3).

77. Mr. KHALIL, referring to the responses to questions 21 to 23, said that freedom of opinion and expression was not absolute, as recognized in article 19 (3). Regrettably, however, the restrictions imposed on that right were frequently disproportionate and rendered it meaningless. Although no journalist was currently being prosecuted in Algeria, article 46 of the Charter for Peace and National Reconciliation hung like a sword of Damocles over those wishing to exercise their right to freedom of opinion and expression.

78. Under the amended Criminal Code journalists found guilty of defamation were liable to harsh penalties. He had been taken aback to hear about the number of journalists who had been tried and subsequently released or pardoned, a number that spoke volumes about the environment in which journalists practised a profession that was of the greatest importance in all societies. The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression had stated in his March 2006 report (E/CN.4/2006/55/Add.1) that the penalties imposed, particularly imprisonment for defamation, seemed incompatible with the effective exercise of that right. In its conclusions and recommendations on Algeria’s second periodic report, the Committee had urged the authorities to review the relevant legislation in order to bring it into line with article 19 of the Covenant. The delegation’s recognition of the existence of a problem and its comments on the need for a code of ethics led him to hope that priority would in future be given to the question of freedom of expression and opinion in Algeria.

79. Turning to question 22, he noted that the Special Representative of the Secretary-General on the situation of human rights defenders had expressed concern about the situation of human rights defenders in Algeria, especially those engaged in activities relating to enforced disappearances. Moreover, it was alleged that pressure had been brought to bear on the lawyer Amin Sidhoum, a member of SOS Disparus, to prevent him from making a statement before the African Commission on Human and Peoples’ Rights at its 2006 session.

80. With regard to the right of peaceful assembly, it had been alleged that on 12 September 2005 the police had attacked a peaceful assembly by the families of victims of enforced disappearance in Ben Abdel Malek Ramdan stadium in Constantine during a speech by President Bouteflika on the Charter for Peace and National Reconciliation.

81. With regard to the response to question 23 regarding the Conference on Truth, Peace and Conciliation, he understood that the formal reason for its prohibition was the local status of the Djazairouna association. He wondered, however, whether the real reason might be related to the fact that the conference would have raised the question of enforced disappearances.

The meeting rose at 6 p.m.