



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

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COMMITTEE AGAINST TORTURE

Fortieth session

SUMMARY RECORD OF THE PUBLIC PART* OF THE 816th MEETING

Held at the Palais Wilson, Geneva, on Friday, 2 May 2008, at 10 a.m.

Chairperson: Mr. GROSSMAN

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* The summary record of the closed part of the meeting appears under CAT/C/SR.816/Add.1.

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 19 OF THE CONVENTION (agenda item 7) (*continued*)

Third periodic report of Algeria (CAT/C/DZA/3; CAT/C/DZA/Q/3; CAT/C/DZA/Q/3/Add.1;
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1. *At the invitation of the Chairperson, Mr. Jazaïry, Mr. Soualem, Mr. Bessedik, Mr. Djacta, Mr. Lahdari, Mr. Hamed, Mr. Lakhdari, Mr. Toudert, Mr. Chabane and Ms. Hendel (Algeria) took seats at the Committee table.*

2. Mr. JAZAÏRY (Algeria), presenting Algeria's third periodic report, said that, in fulfilment of its obligation under article 9 of the Convention, Algeria intended to demonstrate its commitment to continuing the permanent dialogue with the Committee against Torture, which it had maintained since 1991 when it had presented its first report. He reiterated Algeria's determination to continue working for the promotion and protection of all human rights. Algeria was also party to seven international human rights instruments, which had been incorporated into its domestic legislation and took precedence over national laws.

3. At the time of the presentation of its second periodic report in 1996, Algeria had been the target of horrifying terrorist attacks, which had not only resulted in numerous deaths among the civil population but had also caused considerable damage socially and undermined national cohesion. The destruction of educational, hospital, economic and cultural infrastructures had produced a situation in which it had become extremely difficult to combine security with freedom. Citizen mobilization and the commitment of republican institutions responsible for order and security had enabled Algeria to hold terrorism at bay, by using all legal resources at its disposal and prioritizing right to life above any other consideration.

4. It was against that backdrop that, in 1999, President Bouteflika's civil harmony initiative had been put to a referendum by the Algerian people; this had enabled persons who had strayed from the straight and narrow to repent and reintegrate into society under certain conditions. In September 2005, to consolidate stability, the President of the Republic had once again consulted the Algerian people through a referendum, to vote on a "Charter for Peace and National Reconciliation". It was worrying that a process that promoted peace had been criticized in the way that it had, thereby giving terrorists an additional opportunity to legitimize violence and crime. Others would no doubt have found it more politically correct to overcome the crisis through other means, but Algeria could not remain a hostage to radicals or risk sliding into generalized chaos. The civil harmony initiative had enabled thousands of young people who were aimless, misled, disillusioned, and full of resentment to return to the straight and narrow; and it had shown citizens that it was better to unite than to tear each other apart.

5. Algeria belonged to the first group of countries that had undergone the Universal Periodic Review of the Human Rights Council in April 2008. The Minister of Foreign Affairs had stated that Algeria, which had had first-hand experience, during the long dark colonial period, of the practice of torture in its most abject forms, could not tolerate torture. Legislation, daily practice and various existing mechanisms made it possible to prevent and punish all forms of torture. Moreover, civil society and the media, the International Red Cross and Red

Crescent, and numerous other stakeholders regularly visited all places of custody and detention centres without exception. Mr. Jazaïry solemnly reiterated that, contrary to rumour, there was no secret detention centre in Algeria.

6. In the framework of its legislative reform, Algeria had followed up the recommendations made by the Committee following the consideration of its second periodic report, particularly in relation to dissemination of the Convention, the definition of torture in domestic law, supervision of police custody and provisional detention, and the independence of justice. The quest for human rights was a permanent process. For that reason, all issues relating to the violation of such rights were subject to severe penalties. Providing better training for personnel responsible for enforcing the law and the functioning of prevention and control mechanisms in detention centres was thus a permanent challenge for public authorities, which were striving daily to improve justice administration, to make it fair, effective and humane.

7. The CHAIRPERSON (Rapporteur for Algeria) pointed out that the definition of torture contained in the Algerian Criminal Code of 2004 did not mention civil servants, and he asked why the State party had not fully incorporated the terms of the first article of the Convention, which was all the more surprising as international laws prevailed over domestic legislation.

8. While nothing could justify terrorism, it was important that measures to counter that evil did not contravene respect for the provisions of the Convention. It would also be interesting to know whether officials of the Information and Security Department (DRS) had been made aware during their training of the principles enshrined by the Convention — specifically the prohibition of torture — whether they knew that the practice of torture was subject to criminal sanctions, and whether sentences had been handed down for acts of torture. Raising the awareness of such officials on the risks they ran if they engaged in such acts, by presenting specific cases that had led to a conviction during their training course, thereby demonstrating that such acts did not go unpunished, was the only way to effectively combat the practice. On that subject, the delegation could indicate whether any complaints of torture had yet been filed against DRS agents, and how many; whether punishment had been announced and whether disciplinary measures had been taken with regard to agents for mistreatment, excessive use of force or torture.

9. The Committee wanted to know whether the DRS foresaw transfer of the custody of individuals detained by other security services such as the Gendarmerie, and, if so, what authority approved the transfer. As the various services involved different hierarchical structures, it was also necessary to know what authority settled any jurisdictional disputes in such cases.

10. International law established that a state of emergency could legitimately and validly be proclaimed when the existence of the nation was under threat; but, under international jurisprudence, the danger had to be real and imminent. The Algerian State had made it known that security had improved considerably in recent times, so it was reasonable to ask whether the high-danger criterion was still satisfied.

11. Under article 47 of the Decree implementing the Charter for Peace and National Reconciliation, the Government could take “any necessary measure” to implement the Charter at any time. It would be useful to know whether there was a definition of what such necessary measures might be, and to have specific examples of measures that could be applied.

12. The Committee wanted to know which provisions of the Legislative Decree of 30 September 1992, on the fight against subversion and terrorism, had been integrated into the Criminal Code of 1995; whether its definition of terrorism was consistent with that recognized by international law; and, in particular, whether it was not by nature intended to restrict the exercise of certain civil and political rights and to make it possible to convict non-terrorist groups. As the age of criminal responsibility had been lowered from 18 to 16 years, the Committee wondered whether the State party considered that to be consistent with international rules on the subject. The issue of the conformity of the provisions of the Criminal Code with the Convention also arose in the case of article 15, under which any statement found to have been obtained through torture could not be used as evidence in a legal proceeding.

13. Additional information would be useful on “legitimate defence groups”; it was also necessary to know which official body was responsible for according that status, whether those groups respected, in the framework of their activities, the provisions of Executive Decree No. 97/04 promulgated in January 1997, setting out the conditions under which legitimate defence could be invoked; whether the names of those groups had been registered; whether their members had been made aware of the principle of proportionality during their training; whether the State took part in their training and provided them with material resources; whether any complaints had yet been filed against some of them for excessive use of force; and, if so, whether they had been investigated and whether those responsible had been named.

14. As Algeria did not have recourse to diplomatic assurances, the Committee wondered whether all persons deported to Algeria by another State were registered on arrival in the country and placed in detention; whether there was a register under which all details of the detention were recorded, including times of arrival and departure. Could the delegation confirm that the persons in question could challenge the legality of their detention before an ordinary judiciary body?

15. Apparently the decree implementing the Charter for Peace and National Reconciliation classified public criticism of acts undertaken by the security forces as a criminal offence punishable by imprisonment of up to 10 years. The Committee wondered, therefore, whether a woman who reported the disappearance of her husband and requested the opening of an inquiry, without naming the guilty party or identifying anyone in particular, would be subject to such a penalty, which would be contrary to the freedom of expression enshrined by international law, and particularly by the Covenant on Civil and Political Rights.

16. Referring to article 52 of the Code of Criminal Procedure, which allows judges to examine the records of detainees in the premises of the various police services, particularly the municipal police, Mr. Grossman asked whether judges could also inspect the records of the Information and Security Department. He also wanted to know whether there were unofficial private detention centres in the State party, and if, in the case of doubt, judges could make on-site inspections to verify for themselves.

17. Paragraph 111 of the report stated that “if a person is suspected of having committed acts of torture classifiable as a crime, the Attorney General of the Republic orders a prosecuting judge to open an inquiry”. Any act of torture necessarily constituted a crime; yet the State party seemed to suggest that another classification was possible. Perhaps the delegation could clarify that point. The

report did not specify how many inquiries had been opened for that reason, nor the follow-up that had been given to them. It would be interesting to know.

18. The fact that judges had to have been in practice for at least six years before gaining tenure rendered them vulnerable and could undermine their independence. The State party insisted that that was necessary to ensure fair geographic distribution of judges and the continuity of the public service in southern areas of the country. Were there not other ways to achieve those perfectly legitimate objectives, however?

19. In its written replies, the State party reported that 32 people had been prosecuted for abuse, violence, beatings and injuries. More precise information regarding the total number of cases that had been brought in that context and the number that had led to convictions would be useful. It would also be interesting to know whether those persons had been publicly tried and whether the sentences had been publicly announced.

20. The Committee warmly welcomed Algeria's signing of the International Convention for the Protection of all People Against Forced Disappearances and wanted to know the results of the national consultation held to consider whether to ratify it.

21. Another positive point to the credit of the State party was the prohibition of expulsion, extradition, or refoulement to another country of a person for whom there were reasonable grounds to believe that any such measure could pose a threat to his or her safety or physical integrity. That provision was all the more important to stress since it went further than article 3 of the Convention against Torture. The Committee also applauded the fact that the State party intended to send a bill to parliament aimed at abolishing the death penalty. Could the delegation clarify the state of progress of the draft law and the timeframe that the Government envisaged for submitting it to Parliament?

22. With regard to State officials, the regulation implementing the Charter for Peace and National Reconciliation granted immunity from prosecution to members of the defence and security forces in relation to actions undertaken to protect individuals, safeguard the nation, and preserve the institutions of the Algerian Republic. It also provided that any denunciation or complaint should be declared inadmissible by the competent judicial authority. One could question the compatibility of that provision with the rules of international law that established that international crimes, particularly torture, could not be subject to amnesty or prescription. The Committee would like to hear the State party's opinion on that issue. Clarification of the timeframe for applying that provision would also be welcome.

23. Many countries in the world were currently engaged in the fight against terrorism, and experience had unfortunately shown that activities undertaken in that framework could cause violations of the rights of detainees. Nonetheless, it was essential to reconcile the defence of national security with the rules of international law. The State party had explained that the time for which persons suspected of terrorist acts could be held in custody could be extended up to 12 days to give the judicial police time to complete their investigations, given the complex ramifications of terrorist networks. The Committee wanted to know what steps had been taken by the State party to ensure that that timeframe was respected,

specifically whether there were clear directives in that regard, whether violations of the prescription had already been identified and whether the State officials responsible had been punished. It would also be useful to know whether there was a national register of detentions.

24. In the domain of prevention, the introduction of a procedure for video recording of interrogations was a significant innovation. Clarification of the date on which that procedure came into force would be useful. According to the report filed by the State party, such recording would serve to disprove allegations of torture formulated by suspects seeking to escape the charges filed against them through false accusations of that type. The Committee wanted to know whether such recordings had been made available to the lawyers of detainees.

25. In relation to acts of torture, mere suspicion was sufficient for a prosecutor to request the opening of inquiry; it was not necessary for a complaint to be filed. It would be useful to know whether any inquiries had been opened at the initiative of a prosecutor based on suspicion of acts of torture.

26. In May 2001, the Ministry of the Interior had reported to the National Assembly that 4,884 forced disappearances had been reported to the immigration offices; in March 2005, the Chairperson of the National Consultative Commission for the Promotion and Protection of Human Rights mentioned 6,146 known disappearances. If the lists of those cases had been made public, the Committee would appreciate receiving a copy.

27. The State party had indicated that the families of disappeared persons would be able to receive compensation. Precise information on the number of families that had been compensated to date, the amounts they had received and the criteria to be satisfied to be eligible for compensation would be useful. The State specifically required families requesting compensation to sign a statement of the death of their disappeared next of kin. The Committee wanted to know how the State party reconciled that provision with international regulations on forced disappearances.

28. Ms. BELMIR (Co-rapporteur for Algeria) thanked the State party for the seriousness with which it had prepared its replies to the Committee's questions. She had listened with great interest to the preliminary statement made by the head of the Algerian delegation, in which a number of key issues had been raised involving the international community as a whole, which were at the heart of the Committee's concerns.

29. The fact that a state of emergency was still in force in Algeria was a key factor in the analysis of the country's situation. In its final remarks on the consideration of Algeria's third periodic report (CCPR/C/DZA/CO/3/Add.1), the Human Rights Committee had expressed its concern at the continuing state of emergency, and noted that article 4 of the International Covenant on Civil and Political Rights had not been fully respected, since certain rights and freedoms which, under that article could not be derogated, had in practice been restricted. The Committee against Torture shared that concern and wanted to hear from the delegation on the subject.

30. The written replies of the State party indicated that the state of emergency was not causing any obstacle to the exercise of individual and collective, associative or political freedoms, and that the situation had been made more flexible; measures that had been taken in that framework were gradually being lifted (CAT/C/DZA/Q/3/Add.1, para. 7). That statement called for an explanation because it was difficult to see how a

state of emergency could be maintained if all the measures taken to implement it had been lifted.

31. The State party had indicated in its replies (para. 75 (c) (i)) that under a 1992 decree, the Ministry of the Interior could issue an administrative order for placement in secure centres without any judicial oversight, although no use had actually been made of it. The Committee wanted to know whether appeal channels were available for persons who had been subject to placement of that type and, on that occasion, had been victims of treatments relating to article 16 of the Convention, and whether administrative jurisdictions were in a position to receive complaints and, if so, whether they had received any from such persons.

32. In its comments on the final observations of the Human Rights Committee (CCPR/C/DZA/CO/3/Add.1), the State party had noted that, as a political document, the Charter for Peace and National Reconciliation not give rise to any comment by a judicial body. Clarifications of what the State party meant by that would be useful, particularly the meaning of “political document”, since the Charter contained legal provisions.

33. One of the fundamental principles of human rights protection is the independence of the judiciary and respect for guarantees of due procedure. That principle could not be derogated, even in exceptional circumstances. In those conditions, when the forces of law and order were strengthened, which was the case in the State party following the provisions introduced under the state of emergency and implementation of the Charter for Peace and National Reconciliation, there was reason to fear a weakening of the rule of law. Although praiseworthy, efforts to provide personnel concerned with in-depth training in the domain of human rights were not sufficient guarantee against possible abuse.

34. The precarious situation of judges was also an obstacle to the independence of the judiciary. The State party justified the fact that judges only gained tenure after six years’ career by the need to ensure a fair at geographic distribution. That explanation was insufficient, however, and it was regrettable that Algerian judges, who included persons of international reputation, could not be given the security needed to fulfil their functions.

35. In relation to forced disappearances, the State party had indicated that a report on that issue had been presented by the National Ad Hoc Commission on Disappearances to the President of the Republic; but the document had not yet been published since the decision to do so was a sovereign matter for the Head of State. The Committee considered it essential that the next of kin of disappeared people and public opinion could be made aware of the content of the report, for which reason it should be published as soon as possible. Moreover, as it concerned human rights, the State party could not permanently hide behind the principle of sovereignty to demote the right to life and the right to know the truth to a second rank. On that point, it was worth noting the transparency effort being undertaken by Morocco, of which the Co-rapporteur was a national. Although it had not been easy to bring certain realities into the open, the initiative had been very fruitful for Moroccan society. Lastly, the current practice in the State party of requiring the families of disappeared people to sign a statement certifying that their next of kin was dead, when there was no evidence of that, should be abolished.

36. The situation of women deprived of their liberty was worrying for two reasons; not only did they risk being subjected to abuse, but they also were particularly vulnerable to sexual violence. Lastly, in a state of emergency, the justice sector needed more than ever to be able to fulfil its role thoroughly. If a state of emergency had been proclaimed in the country and military jurisdictions played an important role in the administration of justice, it was impossible to consider that the state of law prevailed in Algeria.

37. Ms. GAER noted, from reading the information contained in the report (paragraph 49) on collaboration between Algeria and special procedures mandate holders, that the State party had close cooperation links with special rapporteurs. Nonetheless, three requests for visits, submitted respectively by the Special Rapporteur on the issue of torture, the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Working Group on forced or involuntary disappearances, had not yet been accepted. Nonetheless, according to the report of the Working Group on the Universal Periodic Review (A/HRC/WG.6/1/DZA/4), which had examined the situation of Algeria at its first meeting, in April 2008, the State party had indicated that it would review requests for visits by mandate holders but reserved the right to decide the appropriate nature of such visits (para. 69). It would be useful to know whether the State party would authorize mandate holders, particularly the Special Rapporteur on torture, to visit Algeria.

38. The National Consultative Commission on the Promotion and Protection of Human Rights (CNCPPDH) had not yet published an annual report, although, under the provisions of the decree creating that institution, that activity was included in its statutes. One of its bodies, the National Ad Hoc Commission on Disappeared People had produced a report and submitted it to the President of the Republic, but the document had not been made public, which called for a comment from the Algerian delegation: was the consultative commission really operational, and when could its reports expected to be made public?

39. In the report on its visit to the State party (A/HRC/7/6/Add.2), the Special Rapporteur on violence against women, its causes and consequences, had stressed that the lax attitude shown by the authorities to sexual violence committed during the “black decade” had allowed the perpetrators of such acts to escape with impunity. It would be interesting to know whether the National Strategy against Violence against Women quoted in that report (para. 44), which had not been approved by the Council of Ministers at the time of the visit of the Special Rapporteur, had been adopted, and whether it had yet been launched in the country.

40. According to information in the Committee’s possession, the “black decade” had been marked specifically by serious violations against women committed by armed groups. Such groups had perpetrated widespread rape and kidnapped a large number of women to exploit them as domestic servants and sexual slaves. Given that, according to the periodic report (paras. 64 and 80), the provisions of the Charter for Peace and National Reconciliation did not grant any amnesty to the perpetrators of certain serious offences, including rape, it would be useful to have statistics on the number of investigations and prosecutions opened in cases of rape and kidnapping attributed to members of armed groups. According to Amnesty International, the assumed perpetrators of rape were almost never be accused or prosecuted, so it would be interesting to know how many people had been refused an amnesty because they were suspected of rape and how many individuals had

actually been prosecuted by the Chief Prosecutor. Lastly, the Committee would like to have information on the instructions published by the Ministry of Health in 1998, authorizing women made pregnant after rape committed by members of an armed group to undergo an abortion.

41. Ms. Gaer referred to the incidents that had occurred in Hassi Messaoud, a Saharan village some 100 km from Algiers, where, in July 2001, a group of 300 men had descended upon a neighbourhood in which 40 single women employed by local firms were living, and had beaten them and mutilated and raped some of them. Those events had occurred shortly after an imam from the local mosque had called on believers to punish the women in question for their supposed immorality. According to statistics for 2005, 28 men involved in those events had been brought to trial immediately afterwards, of whom 22 had been sentenced to prison terms; 20 had been sentenced in absentia for sexual violence and torture, and 2 had been sentenced to 10 years imprisonment. The Committee wanted to know what measures had been taken to ensure that all of the men involved in the case would respond for their acts. Moreover, given that, according to certain information, the Government had not acted with due diligence and that the convicted individuals had not been tried for rape, it would be useful to know under what charges those convicted had been accused.

42. Clarification would also be welcome on the incident at Tebessa, a town in the north-east of Algeria where, on the night of 23-24 July 2001, three single women had been attacked by a group of men. In particular, it would be important to know how the authorities had reacted after that incident and what measures had been taken to protect single women against such collective aggression and to prevent incidents of that type occurring again in the future.

43. Ms. SVEAASS, recalling that armed groups included combatants of under 18 years of age, wanted recent information on the situation of children held in detention and asked whether the rights of that category of detainees were taken into due consideration, irrespective of the seriousness of the offences of which they were suspected.

44. Contrary to other requests for visits filed by special procedures mandate holders, that of the Special Rapporteur on promotion and protection of the right of freedom of opinion and expression had been accepted; but, while the visit to Algeria should have taken place in December 2005, it had been postponed to an unspecified later date. The Committee wanted to know whether a date had subsequently been set for the visit.

45. According to the report (para. 79 to (b) (i) and (iii)), The Algerian Government categorically denied the veracity of allegations of a systematic practice of torture in the country, considering them to be unsupported by irrefutable evidence. Nonetheless, the number of allegations of torture reported to the Committee, specifically by non-governmental organizations, was too large for the Algerian Government to refuse to dismiss them as unfounded. Moreover, the statement that Algeria had always responded immediately to allegations of torture and abuse communicated by the Special Rapporteur on torture was only valid for the period up to 1998. Since then, collaboration between that mandate holder and the Algerian Government had been suspended, which was a serious problem on which the delegation's comments would be welcome.

46. The delegation could indicate what steps the Algerian Government intended to take to assist in the rehabilitation of women who had been victims of serious violations in the armed conflict and enable them to obtain compensation. Perhaps it could also say whether those women were suffering from lasting gynaecological and psychological after-effects, and whether any of them had interrupted a pregnancy as a result of rape or whether they had brought into the world and were raising a child who was the product of rape. The Committee was concerned that the Charter for Peace and National Reconciliation might guarantee impunity to the perpetrators of sexual violence and it would be useful to hear the opinion of the Algerian delegation, to be able to dispel that concern.

47. Lastly, in view of the serious psychological aftermath and lasting traumas caused by enforced disappearances among both the victims and their next of kin, it was essential that the Algerian Government accept the requests made by associations of the families of disappeared persons by publishing lists of names and doing everything possible to ensure those still alive were returned to their families. Otherwise, national reconciliation would never really take place in Algeria.

48. Mr. MARIÑO MENÉNDEZ said he had taken note of the statements made by the delegation explaining that there were no secret prisons in Algeria; nonetheless, he had read in the report submitted to the Committee by Amnesty International that there was an unofficial detention centre in the Hydra district on the outskirts of Algiers, namely the Antar barracks, where terrorist suspects were held and interrogated. He asked the delegation to clarify whether that information was correct and, if so, whether the barracks in question were controlled by a Government body. As most of the agents of the Information and Security Department (DRS) were military personnel, the delegation could specify whether there were protocols governing the conduct of interrogations and, if not, whether certain methods were prohibited. As the DRS carried out judicial police missions, it would be interesting to know whether the identity of its member agents could be made known, or whether their anonymity was protected, and whether they were required to account for their acts in the event of complaint. It was also necessary to know whether appeal channels were open to individuals that had been convicted of terrorism by a military court and who wished to challenge the conviction; and, if so, how many levels of jurisdiction were available to the convicted person. Mr. Mariño Menéndez referred to the case of Mounir Hammouche, a young man who had been killed under torture while being held in custody, whose next of kin had never been able to see the autopsy report and had thus been deprived of the possibility of obtaining justice. He asked why autopsy reports were not provided to the families of suspects who had died in custody.

49. Although the State party had made the declaration referred to in article 22 of the Convention, the Committee had not received any communication from an individual invoking a violation of the Convention by Algeria, which was possibly due to ignorance of the existence of that mechanism among the Algerian population. Clarification on this point was desirable, and it would also be interesting to know whether Algeria intended to ratify the optional Protocol to the Convention and the Rome Statute of the International Criminal Court.

50. It had come to the Committee's attention that immigrants in irregular situations and persons suspected of terrorism were being held in camps located in remote regions, and that detainees in these two categories, which were very

different, were not being held separately. The Committee wanted to know whether the State party made a practice of placing illegal immigrants in a detention centre, and whether requests filed by such immigrants for residency visas on humanitarian grounds were treated on an individual basis.

51. Mr. GAYE considered that most of the serious issues raised by the Committee — torture, forced disappearances, secret prisons and other problems — were related to the state of emergency. The undue prolonging of the state of emergency was contrary to re-establishing the rule of law, and he therefore wanted to know whether the delegation could indicate when the end of the state of emergency could be announced in Algeria. Given that under Order No. 06 01 of 27 February 2006, concerning implementation of the Charter for Peace and National Reconciliation, it was impossible to bring a prosecution, either individual or collective, against any member of the defence and security forces of the Republic, it would be interesting to know whether private militias acting within the framework of legitimate defence were considered as forming part of the Armed Forces of the State party.

52. Mr. KOVALEV said that, as forced disappearances could be classified as crimes against humanity, it would be highly desirable for the State party to adhere to the Rome Statute of the International Criminal Court.

53. Ms. KLEOPAS thanked the Algerian delegation for engaging in dialogue with the Committee on a number of sensitive issues, such as displaced persons. The Cypriot experience showed that to make progress on that issue, it needed to be treated independently of all political considerations and first and foremost from a humanitarian standpoint. In paragraph 69 of its report, Algeria said it wanted to take measures “to support the policy of dealing with the dramatic case of disappeared people”. This initial step should be welcomed, as it was decisive for laying the foundation for genuine inquiries that would shed light on the circumstances of the disappearance of victims and provide justice for their next of kin, who were also victims.

54. Mr. GALLEGOS CHIRIBOGA said that Algeria’s report essentially highlighted issues relating to the state of emergency and impunity. Given the restrictions in place on the exercise of fundamental freedoms, could the delegation specify when the state of emergency would be lifted? In relation to overcoming impunity, which was essential for national reconciliation and establishing the truth, it should be remembered that under its own legislation and the relevant rules of international law, Algeria was required to bring to justice and convict the perpetrators of any offence committed. The experience of Latin American countries showed that to make progress in that direction, which was certainly tricky, the first step consisted of agreeing to address problems head-on.

55. Mr. WANG Xuexian said that he supported the Algerian people in their fight against terrorism, a scourge that he had experienced in all its tragic consequences on several occasions. Terrorism had to be eradicated and one could only welcome the efforts made by Algeria to ensure security in the country, while ensuring that fundamental rights were upheld. It was nonetheless right to encourage a redoubling of efforts in that direction, to ensure that several those basic rights were effectively respected — particularly for people held in custody, which was when the risk of torture was greatest. What steps had Algeria taken to ensure that, in practice, anybody held in custody could receive assistance from a lawyer, be examined by a doctor, and have contact with his or her family or next of kin?

56. Mr. JAZAÏRY (Algeria) thanked the members of the Committee for their comments. He had taken note of their concerns, some of which reflected a situation that did not correspond to the Algerian reality. Clearly, the discrepancy resulted from a lack of clarity in the report and the verbal and written explanations submitted. The delegation would take steps to rectify that when it replied to all questions at a later meeting.

The meeting was suspended at 12.30 p.m. and resumed at 12.50 p.m.

CONSIDERATION OF COMMUNICATIONS RECEIVED UNDER ARTICLE 22
OF THE CONVENTION (agenda item 9) (*continued*)

Report of the Rapporteur for follow-up to communications (CAT/C/40/R.1)

57. Mr. MARÍÑO MENÉNDEZ (Rapporteur for follow-up to communications) drew the attention of Committee members to the fact that a number of States parties had not yet submitted any reply. The only thing to do was to continue sending letters of reminder through various channels (ministries, embassies), because the only explanation for certain cases that did not involve any problem was that the letters had not been addressed correctly. In contrast, the three cases involving Serbia-Montenegro did raise a problem, and the Committee should decide how to proceed since there were now two sovereign states involved. The Rapporteur suggested that the Committee should send the same request to each State, to ascertain which of the two considered itself responsible.

58. Mr. GALLEGOS CHIRIBOGA said that he was not opposed to identical follow-up requests being sent to each of the two States, but it was important to decide exactly how the Committee would present its follow-up request; the issue was a delicate one that had already been the subject of a debate for other communications involving the issue of succession of states.

59. The CHAIRPERSON said that he understood that the Committee accepted the proposal to send the same request to Serbia and Montenegro.

60. Mr. MARÍÑO MENÉNDEZ (Rapporteur for follow-up to communications), continuing the presentation of his report, said that in the case of *Falcón Ríos v. Canada* (Communication No. 133/1999) the State party had intimated that it had not intended to deport the petitioner to Mexico. Canada was asked to remember the existence of that communication and its willingness not to expel the petitioner. It was necessary to indicate to the petitioner, to whom the State party's response had been sent without eliciting any reply, that his silence could be interpreted as desistance, and that he risked losing the benefit of the interim protection measures if he failed to provide news of his situation.

61. The CHAIRPERSON suggested that the Committee should continue considering the report on follow-up to communications at a later meeting.

The meeting rose at 1 p.m.