



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

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COMMITTEE AGAINST TORTURE

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 19 OF THE CONVENTION**

**Third periodic reports of States parties due in 1998**

**Addendum**

**ALGERIA\* \*\***

[16 January 2006]

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\* For the initial report submitted by the Government of Algeria, see CAT/C/9/Add.5; for its consideration by the Committee, see documents CAT/C/SR.79 and 80 and *Official Records of the General Assembly, Forty-sixth session, Supplement No. 46 (A/46/46)*, paras. 263-290. For the second periodic report, see CAT/C/25/Add.8; for its consideration by the Committee, see documents CAT/C/SR.272 and 273 and *Official Records of the General Assembly, Fifty-second session, Supplement No. 44 (A/52/44)*, paras. 70-80.

\*\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

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## **Introduction**

Algeria ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, without reservations, by Presidential Decree No. 89-66 of 16 May 1989. The Convention was published in the Official Gazette, No. 11, of 26 February 1997.

Algeria presented its second periodic report on the implementation of the Convention to the Committee against Torture at a meeting on 18 November 1996; it had submitted its initial report in April 1991 at the Committee's sixth session.

During the presentation of these two reports, the Algerian delegation described the measures undertaken at the national level to implement the Convention, and informed the members of the Committee of the programme of political and economic reform launched after the adoption of the Constitution of 23 February 1989, with a view to promoting new institutions based on political pluralism, the separation of powers, the independence of the judiciary and freedom of expression. It also reported on progressive measures adopted by the authorities to find ways of opening up to the market economy.

The Algerian delegation also underlined that, at the international level, the Algerian authorities were committed to a gradual process of accession to the various international human rights instruments, as a result of which Algeria is now a signatory to all those instruments.

The members of the Committee made a number of observations and remarks, to which the Government will respond in this report, providing the necessary clarifications on changes that have occurred in the interim period.

In accordance with the guidelines for drafting State party reports, this consolidated report contains the third and fourth periodic reports submitted as one document, and comprises two parts.

Part One, entitled "General information and the Algerian Government's response to the Committee's concerns and recommendations", provides information on the country's general political structure and describes the context in which human rights are promoted and protected. It also contains the Algerian Government's replies to the observations and comments made by members of the Committee during the presentation of the second periodic report.

Part Two contains information concerning the substantive provisions of the Convention vis-à-vis the changes that have taken place.

The Algerian Government wishes to make it clear that the slightly late submission of this combined periodic report is by no means due to a deliberate desire to shirk its international obligations, but rather reflects its concern to submit a report showing the progress made since the submission of the previous reports, particularly in bringing national legislation into line with the Convention against Torture.

## Part One

### GENERAL INFORMATION AND THE ALGERIAN GOVERNMENT'S RESPONSE TO THE COMMITTEE'S CONCERNS AND RECOMMENDATIONS

#### I. GENERAL INFORMATION

1. The efforts of the Algerian Government to promote and protect human rights date back to independence in 1962. Successive Algerian constitutions have enshrined the universal principles of human rights while taking into account Algerian society's need for modernization and development.

2. However, it was only following the introduction of a multiparty system in 1989 that Algeria began to speed up the process of accession to the international human rights instruments. Today it is a country that has made significant progress in the area of democratic freedoms, and has complied with its reporting obligations under the various international treaties it has signed.

#### Land and people

3. Surface area:	2,380,000 km <sup>2</sup>
Population:	32,080,000 (as at 1 January 2004), of whom 50.5 per cent are men and 49.5 per cent are women
Per capita income:	US\$ 2,200 (2004)
External debt:	US\$ 22,571,000,000 (2001)
Unemployment rate:	15.3 per cent (2005)
Official language:	Arabic
National languages:	Arabic, Amazigh
Religion:	Islam
Life expectancy:	71.5 years (men: 70.03 years; women: 72.8 years)
Infant mortality rate (2002):	51.1 per thousand live births (boys: 36.1 per thousand; girls: 33.3 per thousand)
Maternal mortality rate:	106.1 per 100,000 live births
Economic growth rate:	6 per cent (2003)
Primary school enrolment rate:	97 per cent

### A. General political structure

4. Algeria faced many challenges upon gaining independence, related, inter alia, to the establishment of institutions and structures for a State emerging from a period of colonization, national reconstruction in all its aspects, the return of refugees, and social and psychological care for the families of victims of the war of national liberation. The efforts deployed made it gradually possible, in the space of a few years, to provide compulsory schooling for all children and free primary health care for the population, and to implement a policy of full employment.

5. Until 1988, the overall situation in Algeria was characterized by a proactive policy of State control of politics and the economy and a State monopoly on foreign trade. Thereafter Algeria decided to make a qualitative change by turning resolutely towards the democratization of politics and liberalization of the economy.

6. As was the case elsewhere, the process of change was not without problems. The building of a modern, democratic State with a transparent public administration was hampered by internal obstacles related to the single-party culture and economic and social constraints.

7. Subsequent political reforms gradually led to the establishment of institutions on the basis of universal suffrage. The Constitution adopted by referendum in February 1989 and revised on 28 November 1996 further strengthened freedoms, political pluralism, the separation of powers and the independence of the judiciary.

8. The presidential, legislative and local elections held in Algeria since the adoption of the new Constitution have helped to consolidate and establish democracy and the rule of law and to make the institutions concerned more representative.

9. Moreover, successive government programmes have confirmed the country's irreversible progress towards a market economy, while safeguarding the social benefits acquired by workers in regular negotiations with employers and the support measures introduced for disadvantaged sectors of society.

10. The democratization of State activities in Algeria today is based on several laws, in addition to the Constitution:

(a) The Political Parties Act, which was adopted in 1989 and amended in 1997, enabled more than 60 political groupings to emerge on the political scene. Subsequent realignments brought the number of parties down to its current figure of 28;

(b) The Associations Act, promulgated in 1988 and amended in 1990, stipulates that associations may be established by a simple declaration of the founders, either at the *wilaya* (prefecture) or, for national associations, at the Ministry of the Interior. The Act led to a boom in the number of associations, of which there are nearly 73,000 active in Algeria today. By way of example, between 2002 and 2004, 3,810 associations were registered. Some, such as associations for the protection and promotion of women's rights, claim recognition as associations of public interest;

(c) The Information Act, which was adopted in 1990, paved the way for an independent or partisan press in addition to the traditional public service press. More detailed information on the diversity of the media is contained elsewhere in this report.

11. The President of the Republic holds the country's highest office, subject to the limits set by the Constitution, and appoints the head of Government, who then defines his programme and submits it to the National People's Assembly and the Council of the Nation for approval. The President's mandate is renewable only once.

12. The many presidential, legislative and municipal elections held since 1995 have helped to consolidate the process of multiparty democracy embarked on several years ago.

13. The presidential elections held on 8 April 2004, in the presence of international observers, further consolidated this process and were a milestone in progress towards political stability in Algeria.

14. Over the coming years, the Government will be implementing a national plan for the promotion and protection of the human rights guaranteed under the Constitution. This plan, which will provide a framework for national policy in this area, reaffirms the Government's determination to consolidate the individual and collective freedoms and obligations of citizens, including freedom of expression in general and freedom of the press in particular.

15. The Government also intends to start gradually implementing plans to reform the functions and organization of the State and to complete the reform of the justice and education systems.

16. As part of the reform of the justice system, a number of amendments have been made to Algerian legislation relating to the family and nationality with a view to improving the situation of women and the rights of the child.

17. The main amendments introduced by Ordinance No. 05-02 of 27 February 2005, amending and supplementing Act No. 84-11 of 9 June 1984 establishing the Family Code, were intended to remove certain provisions that discriminate against women, particularly in relation to a single age for marriage, marriage by mutual consent and women's freedom of choice concerning the presence of a guardian when she marries, thereby establishing equality between the spouses and affording better protection for children in the event of divorce.

18. The new act amending and supplementing the Nationality Code protects children in matters relating to nationality and takes account of new developments in interpersonal relationships within society.

19. One of the most important matters dealt with by the revised Code is the situation of children born abroad of an Algerian mother and a foreign father, as well as that of children born in Algeria of an Algerian mother and an unknown father.

20. The main amendments introduced by Ordinance No. 05-01 of 27 February 2005, amending and supplementing Ordinance No. 70-86 of 15 December 1970 establishing the Algerian Nationality Code, enabled children to take their mother's Algerian nationality and prevented children who are minors from losing their Algerian nationality.

21. Legislative power is exercised by parliament, which consists of two houses: the National People's Assembly and the Council of the Nation (the Senate). Parliament monitors action by the Government and enacts laws. The National People's Assembly has 380 deputies, representing different political opinions, following the May 2002 elections.

22. The Council of the Nation, established in December 1997, has 144 seats. Two thirds of its members are elected by a college of members of the municipal and departmental people's assemblies and the remaining third - i.e. 48 members - are appointed by the President of the Republic.

23. The independence of the judiciary is provided for in article 138 of the Constitution, which states that: "The judiciary is independent. It exercises its power within the framework of the law."

## **B. General legal framework for the promotion and protection of human rights**

### **1. Human rights mechanisms**

24. In addition to these constitutional provisions, and following its accession to all the international and regional human rights instruments, Algeria now has most of its promotion, early-warning and monitoring mechanisms in the area of human rights in place. These cover both individual, civil and political rights and collective, economic, social and cultural rights, and are divided into four main categories of interrelated mechanisms.

#### *Political mechanisms*

25. The political mechanisms centre around the legislative body, namely parliament, which, with its two houses - the National People's Assembly and the Council of the Nation - is both the institutional embodiment of the democratic component of the Algerian State and a fitting forum for the free, pluralistic expression of citizens' concerns. Human rights questions are a major topic of parliamentary discussions and are dealt with by standing committees established to that end by both houses.

26. Political parties are also considered by law to be a component of the machinery for promoting human rights. The Political Parties Act of 8 July 1989, amended in March 1997, requires party statutes and programmes explicitly to include among their objectives the safeguarding of individual rights and fundamental freedoms. Article 3 of the Act stipulates: "In all their activities, political parties are required to abide by the following principles and objectives: (a) respect for individual and collective freedoms and for human rights; (b) commitment to democracy and respect for national values; (c) observance of a multiparty system; and (d) respect for the democratic and republican nature of the State."

27. The provincial (*wilaya*) people's assemblies and the municipal people's assemblies also help to promote human rights. In contact with citizens, the assemblies must ensure that things run smoothly at the local level and must respond to citizens' concerns.



*Judicial mechanisms*

28. Current legislation relating to the organization of the justice system and the judicial machinery in place are intended to guarantee citizens' rights and to provide the justice system with decision-making autonomy. To that end, the court system in Algeria consists of (a) the *daira* (sub-prefecture) courts, (b) the *wilaya* (provincial) courts and (c) the Supreme Court (at the national level).

29. Article 152 of the Constitution also provides for a Council of State, composed of 44 members, which is intended to serve as the body regulating the activity of the administrative courts. It was established on 17 June 1998.

30. It should be noted that as part of its programme to strengthen the rule of law, Algeria has already undertaken an extensive reform of the justice system, with the aim of:

- (a) Strengthening the independence and credibility of the justice system by ensuring its accessibility and the prompt handling of disputes and enforcement of its decisions;
- (b) Bringing national legislation into line with Algeria's international obligations;
- (c) Improving the training of judges; and
- (d) Increasing the material resources of the judicial and prison systems.

*Freedom of the press*

31. The rights to information and freedom of the press, which are enshrined in the Constitution, are considered by the law as an essential tool for monitoring and protecting individual and collective rights. The remarkable development of the press in Algeria has given a real boost to the protection of human rights.

32. In addition to television, radio and the press agency that provide public services, there are currently 48 daily newspapers out of a total of 100 publications and their number and diversity mean that all political opinions and schools of thought in Algerian society are reflected in the media.

33. Total circulation averages 1.5 million copies a day. There are 43 weekly newspapers, whose average total circulation is 1.4 million copies a week. There are 20 other fortnightly or monthly periodicals, with a total circulation of 300,000 copies per month. The reading public is estimated at 9 million per week.

34. Contrary to certain media reports, no Algerian journalist has been convicted for a crime of opinion. The rare cases of journalists who have been convicted have involved trials for defamation or dissemination of false information. The non-publication of certain national newspapers is generally due to commercial disputes with their printers or to bankruptcy.

35. As the international organizations themselves have acknowledged, the Algerian press is one of the freest in the developing world. The International Federation of Journalists is accredited in Algeria, and its North Africa office is situated in Algiers.

36. Foreign journalists regularly receive accreditation in Algeria. Accreditation is granted under a special procedure in order to process applications more flexibly and rapidly. According to statistics on accreditation applications, more than 4,100 journalists from over 100 countries and working for various media outlets stayed in Algeria between 1999 and June 2004, including on average 100 permanent press correspondents.

*Civil society and trade union machinery*

37. The movement of civil society associations has grown considerably since 1988. At the national level, there are currently nearly 73,000 associations active in various fields. The Algerian Constitution gives prominence to freedom of association for the defence of human rights. Article 32 guarantees the individual and collective defence of these rights, and article 41 defines the area of application: freedom of expression, association and assembly. Freedom of association naturally includes the political field, but is also used to protect certain specific rights, such as the rights of women, children, the sick, the disabled, consumers and public service users. The authorities encourage the work of associations by granting them various subsidies and facilities.

38. Most associations now have statutes, established bases and activities that enable them to join networks of international associations. Associations working for women's rights and education or combating illiteracy are especially active. On account of their good work, some have consultative status with the United Nations Economic and Social Council.

39. Trade union freedom is established in the Constitution and regulated by the Act of 21 December 1991. Dozens of independent trade unions representing various occupational groups are recognized and play an essential role in industrial relations.

*Other mechanisms for the protection and promotion of human rights*

40. The process of promoting and protecting human rights has been strengthened through the establishment of a national institution called the National Advisory Commission for the Promotion and Protection of Human Rights, which was officially inaugurated by the President of the Republic on 9 October 2001. It has 45 members, including 13 women, appointed on the basis of social and institutional pluralism.

41. The Commission was established under Presidential Decree No. 01-71 of 25 March 2001, as "an independent institution under the President of the Republic, which shall safeguard the Constitution, the fundamental rights of citizens and public freedoms".

42. It is thus a human rights advisory body with monitoring, early-warning and evaluation functions.

43. The Commission is responsible for investigating any violations of human rights reported or brought to its notice, and for taking appropriate action. Part of its mission is also "to conduct awareness-raising, information and public relations activities in favour of human rights, to promote research, education and teaching in that area and to advise on possible enhancements to domestic legislation". It produces an annual report on the human rights situation, for submission to the President of the Republic.

44. This new institution was established to replace the National Human Rights Observatory, which had the status of a national institution but was wound up under the presidential decree that established the Commission.

## **2. International treaties and the domestic legal order**

45. Algeria's international commitments prevail over domestic law. In a decision dated 20 August 1989, the Constitutional Council reaffirmed the constitutional principle according to which duly ratified international treaties prevail over domestic law: "... after ratification and upon publication, any convention is incorporated into domestic law and, pursuant to article 132 of the Constitution, acquires a higher status than the law, thereby permitting any Algerian citizen to invoke it in the courts".

46. Consequently, individuals may avail themselves of the protective mechanisms established by the Human Rights Committee and the Committee against Torture once domestic remedies have been exhausted.

47. The Algerian authorities, the National Advisory Commission for the Promotion and Protection of Human Rights, associations and the media make much of the possibility of seeking remedies under international mechanisms. In practice, Algerian citizens and their lawyers seem satisfied with the many domestic remedies available.

## **3. Cooperation with international human rights mechanisms**

48. Algeria has acceded to and ratified all the international human rights treaties and regularly complies with its obligations under them by submitting periodic reports to the treaty-monitoring bodies.

49. At the same time, Algeria enjoys close and regular cooperation with the special rapporteurs and working groups of the Commission on Human Rights. Despite the questionable approach of some of these mechanisms, which tend to use unreliable and partisan sources, Algeria has always responded promptly to their communications and has no serious dispute with them that might hinder its exemplary cooperation with them.

50. Another feature of Algeria's action in the area of human rights has been its opening up to non-governmental human rights organizations: representatives of various non-governmental organizations visited Algeria many times in 2000, 2001, 2002 and 2003.

51. It must also be emphasized that since its struggle for independence, Algeria has developed a good relationship with the International Committee of the Red Cross (ICRC). Already a signatory to the Geneva Conventions of 12 August 1949 under the provisional Government, Algeria was one of the foremost proponents of the Additional Protocols thereto of 1977, which it ratified in 1989.

52. At present, relations between Algeria and ICRC are excellent. ICRC delegates pay regular visits to prisons and detention facilities throughout the country. Such cooperation is deemed exemplary by both parties, the diplomatic community and experienced observers.

### **C. Information, publicity and human rights education**

53. Algeria's ratification of international human rights instruments was extensively publicized in the national media when they were submitted for consideration and adoption by the National Assembly. All the instruments thus ratified were published in the *Official Gazette*.

54. In addition to the symposia and seminars regularly organized on this topic, the annual celebration of Human Rights Day, on 10 December, is an occasion for publicizing the various international human rights instruments to which Algeria has acceded and the measures adopted by the authorities to improve the human rights situation. Similarly, 8 March and 1 June offer regular opportunities to reaffirm the importance and role of women and children in society.

55. In the field of human rights education, it should be noted that in universities, a module entitled "Civil liberties", which used to be taught in law faculties, has been reintroduced with an updated syllabus that takes account of international developments and recent accessions. Some universities, such as Oran, Tizi Ouzou and Annaba, have already created specific modules. Human rights are taught to students at the National Judicial Training Institute, the Police Training School and the National Prison Administration Training School as well as in gendarmerie training schools.

56. A UNESCO Chair in the teaching of human rights was established at the University of Oran in December 1995. It provides an educational framework within which to organize and promote an integrated system of human rights research, teaching, information and documentation.

### **D. Human rights and the fight against terrorism**

57. Since 1991, Algeria has had to confront terrorism in an atmosphere of indifference and suspicion. Efforts to combat this evil, which calls for the implementation of special measures, have always been deployed within the framework of the law and with respect for human dignity.

58. In order to deal with this exceptional situation, in February 1992 the Algerian authorities decided to declare - as they are entitled to do under the Constitution - a state of emergency. Although the state of emergency did impose some restrictions on the exercise of civil rights and liberties, it did not relieve the State of its obligations to guarantee the right to exercise the fundamental civil liberties provided for in the existing domestic constitutional order and in the international agreements ratified by Algeria.

59. The exceptional measures taken during the state of emergency were all accompanied by guarantees for the protection of human rights. No restrictions were placed on the rights and freedoms enshrined in articles 6, 7, 8, 11, 15, 16 and 18 of the International Covenant on Civil and Political Rights.

60. Similarly, action to preserve public order and protect individuals and property threatened by terrorism has always been carried out in accordance with the law and with due regard for Algeria's commitments under various international instruments. The purpose of such action is to strengthen the rule of law and re-establish the conditions that legitimized the country's institutions through a return to the genuinely free, multiparty and democratic universal suffrage seen in Algeria's elections in 1995, 1996, 1997, 1999, 2002 and 2004.

61. With a view to facilitating the restoration of civil peace, Algeria introduced clemency measures to give terrorists the opportunity to repent, through the adoption of legislation on clemency (Ordinance No. 95-12 of 25 February 1995) which provided for a series of measures ranging from exemption from prosecution to substantial reductions in penalties.

62. This piece of legislation was backed up by the President's decision to strengthen the process of establishing civil harmony by holding, on 16 September 1999, a referendum on his overall approach to achieving peace and civil harmony, which was approved by 96.19 per cent of voters.

63. The resulting legislation, which had been discussed and approved beforehand by parliament, repeals the provisions of Ordinance No. 95-12 of 25 February 1995 on clemency measures. It gives persons involved in terrorist or subversive activities who express their intention to desist from them the opportunity, where appropriate, to benefit from measures ranging from exemption from prosecution to probation and reduced penalties. In this respect, the judiciary has been accorded a key role, since all the probation commissions to be established in each *wilaya* will be presided over by professional judges.

64. These provisions are not applicable to persons who have committed or participated in offences that have caused loss of human life, mass killings, bombings in public places or places frequented by the public, or rape.

65. The application of the relevant provisions of this legislation has enabled thousands of people whose terrorist activities did not extend to murder or similar crimes to be reintegrated into society.

66. It should be noted that the implementation of this legislation by no means signifies that the Government has called a halt to its fight against terrorism, which it is committed to pursuing in accordance with the law.

67. Algeria subsequently embarked on a new course of action intended to consolidate peace and achieve national reconciliation.

68. To deal once and for all with the consequences of the crisis in the country, in a referendum held on 29 September 2005, the Algerian people voted overwhelmingly in favour of the Charter for Peace and National Reconciliation, the draft version of which had been tabled by the President on 14 August 2005.

69. Through this Charter, the Algerian people expressed their gratitude to those responsible for protecting the country and their approval of measures to consolidate peace and national reconciliation and their support for the policy for handling the tragic problem of disappearances.

70. The Charter reflects the Algerian people's determination to build a future of peace and stability and its conviction that steps should be taken to uphold the dignity of all victims of the national tragedy and their beneficiaries and to provide for their social needs, as part of a joint effort of national solidarity.

71. It may be recalled that since 11 September 2001 the whole world has come to realize that terrorism is a transnational phenomenon that can undermine social harmony and national stability, and that it must be fought on all fronts through international cooperation, which is the only way to eradicate it.

72. Algeria has for a long time called for a united front against terrorism, and is fully committed to this approach. It has acceded to the international and regional treaties and agreements to combat terrorism, and acts on its commitments and does all it can to support any initiatives in this area.

73. Algeria is absolutely convinced that issues as sensitive and topical as the promotion of human rights would benefit from being viewed as part of efforts to strengthen a genuine and mutually beneficial dialogue based on trust among the institutions concerned by such problems.

## **II. THE ALGERIAN GOVERNMENT'S RESPONSE TO THE CONCERNS AND RECOMMENDATIONS OF THE COMMITTEE AGAINST TORTURE IN CONNECTION WITH THE CONSIDERATION OF THE SECOND PERIODIC REPORT OF ALGERIA**

### **A. Subjects of concern to the Committee**

74. During the presentation of the second periodic report of Algeria, the Committee against Torture noted many positive aspects, including the country's commitment to establish the rule of law and to promote the protection of human rights, the adoption of new legislation to that end, and its voluntary contributions to the United Nations Voluntary Fund for Victims of Torture.

75. The Committee nevertheless expressed concern about certain matters, on which clarification is provided below.

76. Torture is not more fully defined, in conformity with article 1 of the Convention:

- (i) The amendments to the Criminal Code make torture a criminal offence and now take account of all aspects of torture in accordance with relevant United Nations treaties;
- (ii) In the new amendments, which are explained in greater detail in Part Two of this report, torture is defined as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for any purpose whatsoever";
- (iii) A series of penalties against the perpetrators of acts of torture have also been adopted.

77. Detention in custody can be extended for up to 12 days:
- (i) Article 51 of the Code of Criminal Procedure stipulates that custody may not exceed 48 hours;
  - (ii) After examining the case file, the State prosecutor may give written authorization to extend custody by a further 48 hours;
  - (iii) Exceptionally, such authorization may be granted by a substantiated decision without the person concerned being brought before the prosecutor (art. 65);
  - (iv) The above periods of custody are doubled when a breach of State security is involved. With the written authorization of the State prosecutor, they may be extended for a maximum of 12 days for offences qualified as terrorist acts;
  - (v) In view of the foregoing, the extension of custody for up to 12 days applies only to persons involved in terrorism;
  - (vi) As regards the length of the period of custody, which has been criticized for being excessively long, it should be noted that the legislator's decision to allow it to be extended to a maximum of 12 days is based on the nature and form of the crime, which is outwardly violent and highly organized, in that it has complex and often transnational ramifications and relies on networks based abroad;
  - (vii) In view of the specific nature of this type of crime, it would be difficult, if not impossible, for the judicial police to conduct the various investigative steps required to dismantle terrorist networks if they could not impose a longer period of custody than that stipulated for investigations into ordinary crimes;
  - (viii) Lawmakers therefore prescribed a maximum of 12 days' custody so as to enable judicial police officers combating terrorism to trace the leaders of complex terrorist rings and dismantle networks operating in different regions of Algeria and abroad.
78. Administrative placement in custody centres:
- (i) Decree No. 92-44 of 9 February 1992 allows the Minister of the Interior or his representative to order administrative placement in custody centres with no judicial supervision;
  - (ii) Under the Constitution, the head of State, as the guarantor of basic law and civil liberties, may proclaim a state of emergency or martial law, following consultations with the competent bodies mentioned in the Constitution, when it is established that there is a threat to public security. Such a situation has implications for the exercise of freedoms, some of which are temporarily suspended or subject to temporary restrictions. The main provisions are set out in Legislative Decree No. 92-03 of 3 September 1992;

- (iii) The task of implementing the state of emergency is entrusted to the Minister of the Interior, who is responsible for requisitioning military personnel to maintain order (traditionally this is the preserve of the police or gendarmerie) and for ordering custodial measures against persons who pose a threat to public order or security;
- (iv) Persons deprived of their liberty, however, have remedies at their disposal to invalidate such administrative measures. During the period in question, namely between February and September 1992, of the 9,000 persons taken in for questioning, 95 per cent were released within a fortnight of the examination of their case. The rest were released gradually thereafter;
- (v) Since November 1996 there have been no “custody centres” in Algeria. Information relating to their definitive closure was brought to the Committee’s attention during the presentation of the previous periodic report. The Committee welcomed the closure of administrative detention centres as a positive aspect in paragraph 75 of that report.

79. With regard to the welcome given by the Committee to the moratorium on capital punishment since 1993 and the concern it expressed about the rising incidence of torture since 1991, after it had virtually ceased between 1989 and 1991, the following points can be made:

- (a) Concerning the death penalty:
  - (i) The Government confirms that no execution has taken place since September 1993. A large number of death sentences in absentia are of course handed down, but under Algerian legislation a sentence in absentia is not considered as definitive;
  - (ii) Likewise, since Algeria gained independence, no one under the age of 18 has been sentenced to death and no women have been executed;
  - (iii) It should be added that, in 2001, 215 persons sentenced to death in a final judgement had their sentence commuted to life imprisonment, and 15 of them had their sentence reduced to 20 years’ imprisonment because they were elderly;
  - (iv) The Government plans to submit a bill on the abolition of the death penalty in Algeria to parliament.
- (b) On the alleged rising incidence of torture:
  - (i) The Government of Algeria cannot accept the Committee’s comment about the alleged rising incidence of torture, since the allegation is based on a subjective assessment and assertions that are not supported by irrefutable evidence;



- (ii) If there have been cases of torture, they could only have been isolated or marginal cases and are by no means representative of any systematic practice of torture;
- (iii) It should be noted that as part of its cooperation with the Commission on Human Rights mechanisms, the Government has always responded promptly to the allegations of torture and ill-treatment referred to it by the Special Rapporteur on the question of torture;
- (iv) At any event, when a proven case of torture does arise, it is dealt with under the appropriate judicial procedure.

80. With regard to the Committee's recommendations:

(a) **Publishing the full text of the Convention in the Official Gazette.** The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was published in the Official Gazette of the People's Democratic Republic of Algeria, No. 11, on 26 February 1997;

(b) **Bringing the definition of torture closer into line with article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.** As indicated above, in the amendments introduced to the Criminal Code, torture is defined as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for any purpose whatsoever";

(c) **Making the judiciary more independent and ensuring the effective exercise of its internationally recognized powers.** The recommendations of the National Commission on Judicial Reform established by Presidential Decree No. 99-234 of 19 October 1999, which the Ministry of Justice is striving to implement gradually, are intended to strengthen the independence of the judiciary pursuant to the 1996 Constitution, which, like the 1989 Constitution, made the judiciary an independent power, whereas under the former Constitution, dating from 1976, the judiciary was merely a service;

(d) **Taking steps to ensure that only a judicial authority can take decisions restricting individual liberty.** From the legal standpoint, to infringe on personal freedom is to violate the principle of the presumption of innocence, which is a fundamental right proclaimed by the Universal Declaration of Human Rights of 10 December 1948. This principle is also enshrined in article 45 of the Constitution of 28 November 1996, according to which "any person is presumed innocent until his or her guilt has been established by an ordinary court with the guarantees required by law". Among the legal measures affecting the presumption of innocence, it is worth mentioning custody and pretrial detention. These are in fact very exceptional measures which affect only those persons of whom there is a strong presumption of guilt:

- (i) Custody is ordered by a judicial police officer and supervised by the prosecutor. The person held in custody is allowed to make immediate contact with his or her family and to receive visits. The judicial police

officer is also required to have the person held in custody examined by a physician of his or her choice upon expiry of the period of custody (Code of Criminal Procedure, art. 51 bis (1));

- (ii) Pretrial detention is an exceptional measure (Code of Criminal Procedure, art. 123) that reflects the desire of Algerian lawmakers to protect the personal freedoms guaranteed by articles 34, 35 and 36 of the Constitution.

(e) **Individual cases mentioned during the presentation of the second periodic report on the basis of allegations by non-governmental human rights organizations.** The Government has not received a list of the individual cases mentioned during the presentation of the second periodic report on the basis of allegations by non-governmental human rights organizations. Thus no comment or clarification can be made on the matter. The Government wishes to stress, however, that it cooperates closely with the Special Rapporteur on the question of torture and has always replied to his communications and urgent appeals.

## Part Two

### **NEW DEVELOPMENTS RELATING TO THE ARTICLES OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT**

#### **Article 1: Definition of torture**

81. The Algerian Criminal Code makes provision for and punishes acts of torture. A new definition of torture was the subject of legislation adopted by parliament as part of a move to bring national legislation into line with the treaties and conventions ratified by Algeria.

82. The amendments adopted consist of a set of provisions that make torture an offence under the Criminal Code. The amendments are contained in articles 263 bis, 263 bis (1) and 263 bis (2), which read as follows:

*Article 263 bis:* Torture is defined as any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for any purpose whatsoever.

*Article 263 bis (1):* Anyone who uses or incites or orders the use of torture on a person shall be liable to a penalty of between 5 and 10 years' imprisonment.

83. Torture shall be punishable with a prison sentence of between 10 and 20 years and a fine of between DA 150,000 and DA 800,000 when it precedes, accompanies or follows any crime other than murder.

*Article 263 (bis):* Any public servant who uses or incites or orders the use of torture for the purpose of obtaining information or a confession, or for any other reason, shall be liable to a penalty of between 10 and 20 years' imprisonment.

84. The penalty shall be life imprisonment when the torture precedes, accompanies or follows any crime other than murder.

85. Any public servant who agrees to or overlooks the acts referred to in article 263 bis of this law shall be liable to a penalty of between 5 and 10 years' imprisonment and a fine of between DA 100,000 and DA 500,000.

86. The adoption by parliament of the Act amending and supplementing Ordinance No. 66-156 of 8 June 1966 establishing the Criminal Code has thus filled the gap in Algerian legislation regarding the definition of torture, which was highlighted by the Committee during its consideration of the second periodic report.

87. The Algerian Government takes this opportunity to point out that the torture endured by the Algerian people in the war of national liberation will remain forever engraved on the collective memory, its horrors having affected every family. Mindful of the duty not to forget, the authorities have introduced the following text into article 160 (amendments to Act No. 90-15 of 14 July 1990): "Anyone who deliberately desecrates, destroys, mutilates or damages steles, commemorative monuments or plaques, caves or refuges used during the revolution of liberation, detention or torture centres or any other places classed as symbols of the revolution, shall be liable to a prison sentence of between 1 and 10 years and a fine of between DA 5,000 and DA 20,000."

#### **Article 2: Measures taken to prevent acts of torture**

(a) Criminal liability: Article 107 of the Criminal Code stipulates that "a public servant who has ordered or committed an arbitrary act or an act infringing on either the individual liberty or the civic rights of one or more citizens shall be liable to a penalty of five to six years' imprisonment";

(b) Civil liability: Article 108 of the Criminal Code stipulates that "the crimes provided for in article 107 involve the personal civil liability of the perpetrators as well as that of the State, unless the latter files an action against the said perpetrator".

88. Moreover, article 110 bis, paragraph 3, of the Criminal Code stipulates that "any public servant or officer who uses or orders the use of torture to obtain a confession shall be liable to a prison sentence of between six months and three years".

89. Any person held in police custody must be presented to the competent public prosecution service, together with the relevant case file, within the regulatory time limits.

90. In addition, and with the aim of preventing any excesses by unscrupulous officers and pre-empting the misuse of allegations of torture or abuse by police officers - a tactic commonly used by criminals in an effort to escape the charges against them - the judicial police, under the supervision of the prosecutor's office, has introduced a procedure for recording on video the interrogation of criminals arrested in the fight against terrorism and subversion.

91. Various sources, including some foreign ones, have accused the security forces of committing many excesses against citizens in recent years, particularly during police questioning. Such accusations are not completely unfounded; some proven cases of excess have indeed been brought to court.

92. What is unfounded, however, is the claim that the perpetrators of such excesses are never punished by the appropriate authorities, and thus enjoy impunity.

93. Yet cases of excess punished by the courts have been reported to various bodies at different times, including the Committee against Torture in 1996, the Human Rights Committee, the visiting Panel of Eminent Personalities in 1998 and various non-governmental organizations that visited the country in 2000 (Amnesty International, the International Federation of Human Rights Leagues and Human Rights Watch).

94. The only conclusion that can be drawn is that no case of excess brought to the attention of the authorities ever goes unpunished, and the perpetrator is punished in accordance with the law.

### **Article 3: Expulsion, extradition and refoulement**

95. The Algerian Constitution stipulates that any foreigner who is legally in Algerian territory enjoys the protection of the law in respect of his or her person and property. It also stipulates that no political refugee who has been officially granted asylum may ever be returned or extradited.

96. The application by the Algerian judicial authorities of the conditions and procedures for extradition is governed by articles 694 to 720 of the Code of Criminal Procedure, which define the legal framework for extradition and the conditions for granting or refusing it in the absence of any provisions to the contrary in treaties or diplomatic conventions.

97. Further information on extradition and mutual judicial assistance can be found in the comments on articles 6 and 9 of the Convention.

### **Article 4: Torture and criminal law**

98. Under Algerian law, torture is a crime punishable under the Criminal Code. Articles 107, 108 and 110 bis, paragraph 3, of the Criminal Code deal with this issue, while the new provisions contained in the new law adopted by parliament introduce a more appropriate definition of torture and punish the act of torture and similar acts.

99. *Attempted torture:* Article 30 of the Criminal Code stipulates that “any attempt to commit a crime is considered the same as a crime where the attempt is apparent from the initiation of execution or from unequivocal acts aimed directly at committing it, if it is suspended or fails in its purpose only on account of circumstances outside the control of the perpetrator, even if the objective could not be achieved on account of a circumstance unknown to the perpetrator”.

100. Accordingly, under Algerian law, an attempt to obtain a confession is punishable in the same way as the crime itself.

101. An attempt to commit an offence is punishable only under a specific provision of the law (Criminal Code, art. 31).

102. *Complicity*: Article 44 of the Criminal Code stipulates that an accomplice to a crime or offence is liable to the same penalty as the perpetrator of the crime or offence.

#### **Article 5: Measures to establish territorial jurisdiction**

103. The establishment of territorial jurisdiction is provided for in article 582 et seq. of the Code of Criminal Procedure in the case of crimes and offences committed abroad by Algerian nationals, and in article 590 et seq. in the case of crimes and offences committed on board ships and aircraft.

104. Article 582 provides that “any act defined as a crime punishable under Algerian law which is committed outside the territory of the Republic by an Algerian may be prosecuted and tried in Algeria”.

105. “However, the prosecution and trial may take place only when the criminal returns to Algeria and cannot prove that they have been tried abroad and, if convicted, that they have served their sentence, benefited from a statute of limitations or been pardoned.”

106. Article 590 stipulates that “Algerian courts have jurisdiction over crimes or offences committed at sea on ships flying the Algerian flag, regardless of the nationality of the perpetrators. The same applies to crimes or offences committed in an Algerian seaport on board a foreign merchant ship”.

107. It should be stressed that Algeria does not generally extradite its own nationals, although it undertakes to prosecute them on receipt of an official complaint from the requesting State.

108. Like most other States, Algeria has incorporated these provisions into all the bilateral treaties on judicial matters that it has signed and ratified.

#### **Article 6: Custody and legal measures**

109. Except where the rules on the extension of time periods are applicable, the general rules of the Code of Criminal Procedure apply to the conduct of criminal proceedings and investigations. The Code of Criminal Procedure defines the conditions for investigating and deciding whether an offence has been committed and the powers of the judicial police, the Public Prosecutor’s Office and the investigating judge; it also has a number of provisions dealing with cases of *flagrante delicto* and preliminary inquiries.

110. The judicial police consists of judges, officers, officials and public servants designated by the Code of Criminal Procedure, and is headed by the State prosecutor. It reports criminal offences, collects evidence and searches for the perpetrators until a judicial investigation is opened. Once the judicial investigation has been opened, it enforces judicial warrants. Judicial police officers also handle complaints and accusations and conduct preliminary inquiries. When a judicial police officer is informed that a crime has just been committed, he or she immediately notifies the State prosecutor, goes to the scene of the crime as soon as possible and notes all the relevant facts. Judicial police officers are required to write a report on their actions and to notify the State prosecutor promptly of any crimes or offences brought to their attention.

111. The Public Prosecutor's Office instigates criminal proceedings on behalf of the general public and enforces the law. The State prosecutor receives reports, complaints and accusations and decides on follow-up action. Where a person is suspected of committing acts of torture that could be classed as crimes, the State prosecutor asks the investigating judge to open a criminal investigation.

112. The investigating judge is responsible for carrying out the preliminary criminal investigation. He or she takes up a case upon receiving a request from the State prosecutor to commence proceedings or a complaint from a party claiming criminal indemnification. The investigating judge may, in the course of his or her duties, call on the services of the law-enforcement agencies.

113. In cases of flagrante delicto, if the investigating judge has not already taken up the case, the State prosecutor may issue a warrant to have any person suspected of involvement in the offence brought before the judge. The State prosecutor questions the individual in the presence of the latter's counsel, if counsel is available. If the individual reports voluntarily to the authorities and is accompanied by counsel, questioning takes place in the presence of the latter. If the individual cannot meet bail, the prosecutor may order his or her detention and must immediately refer the case to the court under the procedure for cases of flagrante delicto. The case must be heard within eight days of the issuance of the detention order.

114. The procedure in cases of flagrante delicto follows strict rules set out in the Code of Criminal Procedure in order to guarantee the suspect's rights and prevent the abuse of those rights. The procedure may not be applied to, inter alia, offences under the legislation on the press or political offences, or to children under the age of 18 (Code of Criminal Procedure, arts. 58-62).

115. Whenever an offence is brought to their attention, judicial police officers conduct the preliminary inquiry either on their own initiative or on the instructions of the State prosecutor. The conduct of the preliminary inquiry is covered by guarantees that safeguard human rights (Code of Criminal Procedure, arts. 44-50 and 64-65). Searches, home visits and the seizure of incriminating evidence may not be carried out without the express consent in writing of the person whose home is concerned. If the person cannot write, a third party of their choice may help them (Code of Criminal Procedure, revised art. 64). A search may only be carried out with the written authorization of the State prosecutor or investigating judge (Code of Criminal Procedure, art. 48).

116. If, for the purposes of the inquiry, the judicial police officer needs to detain an individual, the officer must immediately notify the State prosecutor, and the period of custody may not exceed 48 hours. The officer is also required to give the detainee the opportunity to have immediate and direct contact with his or her family and to allow visits (Code of Criminal Procedure, revised art. 51, para. 1). Where there is sufficient reliable and consistent evidence against the person to justify pressing charges, the officer must take the individual before the State prosecutor and may not detain the person for more than 48 hours (Code of Criminal Procedure, art. 51, para. 2). At the end of the period of custody, the detainee must be given a medical examination if one is requested by either the detainee or the detainee's counsel or family. The examination will be carried out by a physician of the detainee's choosing. The detainee will be informed of this right (Code of Criminal Procedure, revised art. 51, para. 4).

117. Any violation of the rules on the time limits for custody leaves the judicial police officer liable to the penalties for arbitrary detention (Code of Criminal Procedure, art. 51, para. 5). As we have seen, the above-mentioned guarantees embody constitutional principles (Constitution, art. 45).

#### **Article 7: Extradition procedure**

118. As pointed out in the comments on article 3, the application of the conditions and procedures for extradition by the Algerian judicial authorities is governed by articles 694 to 720 of the Code of Criminal Procedure.

119. Under Algerian law, and more specifically under article 696 of the Code of Criminal Procedure, the Government may hand over to a foreign Government, at the latter's request, any non-Algerian individual in Algerian territory who faces prosecution in the requesting State or who has been sentenced by a court in that State.

120. Article 704 of the Code of Criminal Procedure stipulates that "in the 24-hour period of arrest, the State prosecutor shall conduct an examination to establish the foreigner's identity and shall notify him or her of the provision under which the arrest took place. The prosecutor shall prepare a report on these steps". The accused is transferred as quickly as possible to the Algiers penitentiary (Code of Criminal Procedure, art. 705).

121. In accordance with customary international law on consular protection and the 1963 Vienna Convention on Consular Relations, the embassy or consulate of the country of which the individual under arrest is a national is notified by the Ministry of Foreign Affairs.

122. Extradition is generally provided for in bilateral agreements signed by the Algerian Government. The justice and foreign affairs ministries are responsible for considering the admissibility and implementation of the procedure.

123. Under Algerian law (Code of Criminal Procedure, art. 696), extradition is granted when the offence leading to the request is committed:

(a) In the territory of the requesting State by a national of that State or by a foreigner; or

(b) Outside its territory by a national of that State; or

(c) Outside its territory by an individual from that State when the offence is one of those that may, under Algerian law, be prosecuted in Algeria even if committed by a foreigner abroad.

The following acts are extraditable under article 697 of the Algerian Code of Criminal Procedure:

(d) All acts that are crimes under the law of the requesting State;

(e) Acts that are offences under the law of the requesting State, where the maximum penalty under the law is two years or more or, if the person has already been convicted, where the person has been sentenced by the court in the requesting State to a prison term of two months or more;

(f) Acts that constitute an attempt to commit an offence or aiding and abetting are subject to the aforementioned rules provided that they are punishable under the law of the requesting State and the law of the requested State;

(g) During the period of arrest and appearance before a judge, the accused foreigner enjoys the same guarantees of due process as a national.

#### **Article 8: Conclusion of extradition treaties**

124. Article 132 of the Algerian Constitution establishes the principle that any international convention ratified by Algeria takes precedence over domestic law. This principle was reaffirmed by the Constitutional Council in a decision dated 20 August 1989 concerning the Electoral Code, which mentions in the preamble that every agreement that has been ratified forms an integral part of national law and, pursuant to article 132 of the Constitution, acquires a higher status than domestic laws, thus permitting any Algerian citizen to invoke it in the courts.

125. It is worth stressing that the National Commission on Judicial Reform, established by the President in 2000, had already recommended that domestic legislation should be brought into line with the international conventions ratified by Algeria. The reform since 2001 of the civil, civil procedure, criminal, criminal procedure, nationality, family and commercial codes is part of this move to bring domestic legislation into line with the various international conventions ratified by Algeria.

126. It should also be stressed that the scope of the extradition treaties concluded by Algeria goes beyond the provisions of the Convention against Torture.

127. So far, no foreign State has invoked the Convention to request the cooperation of the Algerian Government in a case of extradition; nor has the Algerian Government submitted any request based on the Convention.

#### **Article 9: Mutual judicial assistance**

128. Generally speaking, Algeria has always favoured strengthened international cooperation in matters of extradition and mutual judicial assistance. The only restrictions on extradition are set out in article 698 of the Code of Criminal Procedure, which stipulates that extradition is not granted in the following cases:

(a) When the subject of the extradition request is of Algerian nationality, and this status was recognized at the time of the offence for which extradition is requested;

(b) When the crime or offence is of a political nature or when circumstances show the extradition request to be politically motivated;

(c) When the crimes or offences were committed on Algerian territory;



(d) When, according to the laws of the requesting State or the State of which the request is made, the time limit for bringing an action has passed before the extradition request is served, or the time limit for the enforcement of the sentence has passed before the arrest of the individual whose extradition is requested and, generally, whenever the criminal proceedings in the requesting State have been completed;

(e) If there has been an amnesty in either the requesting State or the State of which the request is made, as long as, in the latter case, the offence is one which can be prosecuted in that State when committed outside its territory by a non-national of that State.

129. Article 699 stipulates that “if, for a single offence, extradition is simultaneously requested by several States, it shall preferably be granted to the State whose interests were targeted by the offence or the State on whose territory it was committed”.

130. With regard to mutual judicial assistance, Algeria has concluded and ratified about 40 bilateral agreements on mutual legal and judicial assistance with Arab, African, European and Latin American countries.

131. At the multilateral level, Algeria has signed and ratified more than 10 multilateral international and regional conventions, notably those on combating terrorism, the suppression of financing for terrorism, and combating transnational organized crime and corruption.

#### **Article 10: Training of law-enforcement personnel**

132. The teaching of human rights holds a special place in the various training courses. A module on civil liberties that was taught in law faculties has been introduced in all universities, and has been updated to take account of international developments and Algeria’s accession to other instruments.

133. Human rights have also been taught in the National Judicial Training Institute, the National Prison Administration Training School, the Police Training School and military schools for over 10 years.

134. “Human rights” is a subject in its own right on the training courses in every police training school, and is taught to all units of the security forces.

135. Lectures on the subject are regularly given by teachers, eminent university professors and human rights defenders.

136. Course graduates have been given research projects on human rights issues in recent years.

137. In addition, the National Security Department (DGSN) has always sent its brightest managers to take part in workshops, forums and conferences on the subject of human rights, in Algeria or abroad, taking advantage of these opportunities to build up the libraries in the various police training schools and training bodies.

138. The principle “The rule of law begins with the police” and other slogans have been adopted and are used for teaching purposes in schools and discussed whenever possible, especially during the initial training phase and during in-service training, in order to maximize police officers’ awareness of human rights.

139. The four principles underlying the philosophy of the National Security Department with regard to torture can be summarized as follows: torture is a reprehensible practice that debases its practitioners; torture is a tempting but dangerous shortcut, easily becomes routine and prevents investigators from being effective in pursuit of their noble calling; torture can produce false confessions and mislead investigators (the accused becomes the victim and vice versa); and torture is prohibited by law, so there can be no talk of “the end justifying the means”.

140. In the field of public health, training and information activities for medical staff are provided by the Ministry of Health, Population and Hospital Reform on refresher courses for the staff of rehabilitation centres, in accordance with the above-mentioned law on health protection and promotion and article 12 of the code of medical ethics (Executive Decree No. 92-276 of 6 July 1997), as mentioned in Algeria’s second periodic report.

141. Student doctors are given training on these provisions in the forensic medicine module of their course.

#### **Article 11: Review of interrogation rules, instructions, methods and practices**

142. Oversight of police activities by the public prosecution service is governed by articles 36, 51, 51 bis and 52 of the Code of Criminal Procedure (Act No. 01-08 of 26 June 2001).

143. Under article 36 of the Code, the State prosecutor supervises the judicial police officers and officials within his or her jurisdiction and monitors custodial measures.

144. Article 51 of the Code requires judicial police officers to notify the State prosecutor immediately of any custodial measure and to submit a report on it, while article 51 bis (1) requires the officer to provide the necessary means to enable the detainee to make contact immediately with his or her family and to receive visits.

145. The officer is also required to arrange a medical examination for the detainee, and the medical certificate must be attached to the report.

146. If he or she deems it necessary, the State prosecutor may appoint a doctor to examine the detainee, either on his or her own initiative or at the request of a member of the detainee’s family or counsel for the detainee.

147. It should be stressed that some new provisions are to be introduced into the Criminal Code and the Code of Criminal Procedure to strengthen the presumption of innocence and the defendant’s rights, among other things.

148. Moreover, detainees are entitled to receive medical treatment, including from doctors, dentists and psychologists.

149. Health care for detainees is governed by an agreement signed on 3 May 1997 between the Ministry of Justice and the Ministry of Health; detainees are covered by national prevention programmes and are entitled to consultations with specialists and admission to public hospitals where necessary.

150. The new law containing the code on the organization of prisons and the social rehabilitation of prisoners provides that:

(a) Health care for detainees is guaranteed by law. Medical examinations are compulsory for prisoners arriving in and leaving prison, and are available on demand at other times;

(b) The prison administration is required to enforce rules of hygiene at the individual and group level, to avoid outbreaks of contagious diseases;

(c) Convicted prisoners suffering from serious infections that are incompatible with their detention, and pregnant women or mothers with babies under the age of 24 months, have their custodial sentences postponed;

(d) Individual prison regimes are provided for sick or ageing prisoners. Pregnant women too are entitled to special detention conditions, including a more balanced diet, medical care and private personal visits;

(e) Detainees with mental health problems receive treatment and are placed in mental hospitals.

151. The law also stipulates that medical assistance must be provided when physical force is necessary to restrain a prisoner considered a danger to himself or herself or to others.

152. In the event of a serious disciplinary problem requiring the prisoner to be kept in solitary confinement, not only must the opinion of a doctor or psychologist be sought on the use of this punishment, but medical supervision must also be provided throughout the period of confinement.

153. The training programme run by the Ministry of Health, Population and Hospital Reform in 2004 basically dealt with the chronic diseases found in prisons. There are plans to organize training courses on issues related to sexually transmitted diseases and AIDS before the end of 2004.

154. To improve psychological treatment for prisoners suffering from stress brought on by their situation, training courses have been planned and are now being provided for prison psychologists. The current training course for psychologists covers good practice in dealing with patients, treatment for attempted suicides and help for prisoners with drug problems.

155. The Ministry of Health provides in-service training and advanced courses for prison physicians. In the past two years, all physicians have had training in transmissible diseases and their prevention, mental health and drug addiction.

156. A training programme on common chronic illnesses such as diabetes, asthma and high blood pressure was introduced in 2003.

157. Prisoners undergo a compulsory medical examination upon admission to prison so that their state of health can be evaluated. This examination also, of course, reveals if they have been subjected to any physical abuse.

158. They subsequently undergo regular medical examinations, in addition to any they specifically request.

159. A workshop on prison medicine was held on 23 October 2002; its recommendations are being implemented and followed up by the Ministry of Justice and the Ministry of Health, Population and Hospital Reform.

160. Since 2000, one of the tasks the Ministry of Health, Population and Hospital Reform has set for itself has been to coordinate health care and to help promote health education in rehabilitation centres.

161. With regard to abuse in general, Act No. 90-17 of 31 July 1990, amending and supplementing Act No. 85-05 of 16 February 1985 on health protection and promotion, stipulates that “physicians must report any abuse of minors or persons deprived of their liberty that comes to their attention in the course of their professional duties” (art. 206 (3)).

162. As has been stressed in the first part of this report, Algeria has an excellent relationship with the International Committee of the Red Cross, whose representatives regularly visit prisons and custodial facilities throughout Algeria.

163. General detention conditions have regularly been upgraded in response to the recommendations made at the end of these visits.

### **Article 12: Impartial investigation**

164. Whenever there have been reasonable grounds to believe that an act of torture has been committed, the judicial authorities have carried out an impartial investigation to establish the facts.

165. The Algerian courts punish every case of torture in strict compliance with the law.

### **Article 13: The right to complain and protection of the complainant**

166. Article 63 of the Code of Criminal Procedure stipulates that “when an offence is brought to their attention, the judicial police, acting either on the instructions of the State prosecutor or on their own initiative, shall undertake preliminary inquiries”.

167. Moreover, anyone who is the victim of an act of torture can file a complaint with the appropriate courts.

168. Article 72 of the Code of Criminal Procedure stipulates that “any person who claims to have been harmed by an offence, may, in filing a complaint, apply to the competent investigating judge for criminal indemnification”.

#### **Article 14: Right to redress and fair and adequate compensation**

169. The civil responsibility of both the perpetrator of an act of torture and the State is engaged, unless the latter files an action against the perpetrator, in accordance with article 108 of the Criminal Code. The victim’s right to redress is therefore guaranteed.

#### **Article 15: Evidence in proceedings**

170. Notwithstanding the legal guarantees to prevent the use of torture to obtain statements from persons in police custody, the judicial investigation (which is optional in the case of less serious offences) would reveal if a statement has been obtained by torture, since the investigating judge examines the evidence for the defence as well as the prosecution.

171. In the last resort, the trial court will, if necessary, rule on the matter in a completely impartial manner.

#### **Article 16: Prohibition of acts of torture committed by public officials**

172. Article 143 of the Code of Criminal Procedure deals with this question, stipulating that: “... except in cases where the law prescribes special penalties for crimes or offences committed by public servants or officials, any of the latter who take part in other crimes or offences that they are responsible for monitoring or suppressing shall be punished as follows: (a) in the case of an offence, the penalty for the offence shall be doubled; (b) in the case of a crime, they shall be sentenced to 10 to 20 years’ imprisonment if the crime is punishable with 5 to 10 years’ imprisonment and to life imprisonment if the crime is punishable with 10 to 20 years’ imprisonment.”

173. As far as punishments are concerned, the National Security Department has a range of disciplinary measures to cover all conflicts, irregularities or infringements of police ethics, and has taken the initiative to counter, in a timely, appropriate and rigorous fashion, any misdemeanours or abuses, by having the National Security Inspectorate (IGSN) carry out planned or unannounced inspections periodically.

174. With a view to encouraging good habits and creating synergies that will encourage compliance with the law and regulations, “positive sanctions” have been introduced to reward the most deserving officials who can serve as an example to others.

175. Moreover, the Code of Criminal Procedure gives the State prosecutor full authority to monitor the judicial police and all their activities in this field.

176. In addition, prosecutors’ comments on the organization of the judicial police and the annual performance grade awarded to judicial police officers give the National Security Department yet another effective tool for evaluating its officers.

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