

AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي African Commission on Human & Peoples' Rights		UNIÃO AFRICANA Commission Africaine des Droits de l'Homme & des Peuples
<i>48, Kairaba Avenue, P. O. Box 673, Banjul, The Gambia Tel: (220) 4392 962; Fax: (220) 4390 764 E-mail: achpr@achpr.org; Website: http://www.achpr.org</i>		

**CONCLUDING OBSERVATIONS ON
THE 3RD AND 4TH COMBINED PERIODIC REPORTS
OF THE PEOPLES DEMOCRATIC REPUBLIC OF ALGERIA**

Presented at the 42nd Ordinary Session of the African Commission held from 14th to 28th November 2007 in Brazzaville, Congo

I- INTRODUCTION

1. Algeria which signed the African Charter on Human and Peoples' Rights, on 10th April 1984 and ratified it on 1st March 1987, presented its Initial Report in Ouagadougou at the 19th Ordinary Session of the Commission in April 1996. Algeria subsequently presented its Periodic Report in Tripoli at the 29th Session in May 2001.
2. The present Report gives an account of the human rights situation in Algeria since the presentation of the second Report and thus combines the 3rd and the 4th Periodic Reports.
3. The African Commission commends the efforts made in the preparation of the Report, as well as its presentation during the 42nd Ordinary Session by the Algerian State represented by a delegation led by His Excellency Mr. Chebchoub Abdel Hamid, Ambassador of the Republic of Algeria in Senegal.
4. The present concluding observations are the outcome of the presentation of the Report by the Representatives of Algeria. They deal with both the positive aspects in the Report and those aspects which restrict or curtail the enjoyment of human rights in Algeria. Furthermore, these concluding observations highlight the areas of concern which, from the Commission's point of view, require rectifying measures. Finally, in the present concluding observations, recommendations to the State of Algeria are included. These recommendations refer to areas in which measures need to be taken to, strengthen the enjoyment of human rights in Algeria on the one hand, and on the other, to guarantee the rights prescribed by the African Charter in particular.

II- THE POSITIVE FACTORS

5. The African Commission observes that since its accession to independence in 1962, the Republic of Algeria has concentrated on the building of a State based on the respect for human rights and fundamental liberties.

6. The Commission also observes that Algeria has subscribed to the respect for the participation of the citizens in the democratic process through the promotion of multi-party politics in 1989.
7. The African Commission notes that the 23rd February 1989 Constitution facilitated the launching of a programme of political and economic reforms for the establishment of new institutions based on political pluralism, the separation of powers, the independence of the judiciary, the freedom of expression and the option for the introduction of a free market economy.
8. The African Commission further notes that the adoption by referendum of an amended Constitution on the 28th November 1996, further enhanced liberties, political pluralism, the separation of powers and the independence of the judiciary which is enshrined in Article 138 of its Constitution.
9. Apart from the Constitution, the Commission observes that three fundamental laws promote the democratization of public activities in Algeria; they are, the *Law on Political Parties*, adopted in 1989, and amended in 1997, which sanctions political pluralism, *the Law on Associations*, promulgated in 1988 and amended in 1990, which allows Associations to be created on the basis of a simple declaration by the founding members, and *the Law on Information*, adopted in 1990, which made it possible for the creation of an independent or partisan press alongside the public service media.

III- THE FACTORS IMPEDING THE ENJOYMENT OF THE RIGHTS SANCTIONED BY THE AFRICAN CHARTER ON HUMAN AND PEOPLES RIGHTS

10. The numerous terrorist attacks which shook the country and the exceptional security measures taken as a consequence restrict the total enjoyment of human rights; these are notably the state of siege which is decreed in these types of situations.
11. The nefarious and persistent traditional practices which contribute to the violation of women's rights.

IV- THE AREAS OF CONCERN

12. The following points are a matter of concern for the African Commission:
13. The Report does not speak about the cooperation and contribution of all the actors in its preparation and finalization;
14. The lack of statistics on the implementation of the rights contained in the Charter;
15. The Report does not highlight specific cases of women in Algeria and notably, the provisions put in place to guarantee the active participation of women at all decision-making levels including cases where women have been subjected to violence;
16. To a certain extent, the Report does not lay emphasis on concrete measures taken to give effect to the provisions of the African Charter apart from legislative measures;
17. The Report does not delve into the guarantees for the protection of human rights within the framework of the enforcement of the state of emergency;
18. The report does not mention measures taken towards the implementation of the rights prescribed in Articles 25 and 26 of the provisions of the African Charter;
19. The report does not clarify the legislative measures taken or that are about to be taken to enable the National Human Rights Commission to comply with the Paris Principles;
20. The measures taken with regard to the United Nations declaration on Human Rights Defenders were not discussed in the Report;
21. The Report also does not make mention of the measures taken to give effect to the dialogue with the Algerian State initiated by the Special Rapporteur on human rights defenders in Africa;
22. The Report does not mention the measures taken for the abrogation of discriminatory laws against some NGOs in Algeria;
23. Concerning Treaties and Conventions, the instruments ratified by Algeria are not mentioned;

24. The issues of forced disappearances and the payment of fair and equal compensation are not discussed in the report;
25. The issues of overcrowded prisons and the living condition of inmates and measures taken to improve this situation are not dealt with in the report;
26. The problem of the fire outbreak in one of the prisons which brought about the loss of human lives was not mentioned;
27. The Commission has some concerns regarding the parallel between the 1990 law on Information and the declaration on freedom of expression in Africa;
28. The Report is also silent on the allegations of torture carried out in Algeria, and on cases of arrests of people who later died in prison;
29. The statistical data on HIV/AIDS and the measures taken eradicate the pandemic were not dealt with in the Report;
30. The issues of indigenous populations are not mentioned in the Report;
31. The issue of freedom of religion was not mentioned in the report;
32. The Report does not highlight the extent to which the recommendations contained in the concluding observations were implemented by Algeria. after the presentation of Algeria's last Periodic Report.

V. **RECOMMENDATIONS**

33. The Commission recommends to the Government of the Peoples' Democratic Republic of Algeria to:
 - a) Put in place an inter-ministerial team responsible for collaboration with the actors to carry out research and prepare Periodic Reports from the formulation stage to its finalization;
 - b). Study recurrent human rights problems in Algeria and list out statistics of the various cases to facilitate their solution;
 - c). Institute measures to increase the rate of participation by Algerian women at all levels of Algerian society;
 - d). Take concrete measures to give effect to the provisions of the African Charter and promulgate laws based on the respect of the

provisions of the African Charter in general and the freedom of religion in particular;

e). Include in the next Periodic Report the practical provisions which had been laid down to guarantee the enjoyment of the rights stipulated in Articles 25 and 26 of the African Charter;

f). Guarantee the independence of the National Human Rights Commission to ensure that the latter operates on the basis of the Paris Principles;

g). Guarantee security for the Human Rights Defenders in the exercise of their duties in conformity with the United Nations Declaration on Human Rights Defenders and also with the principles enshrined in the African Charter;

h). Respond to the allegations of torture and other allegations of human rights violations contained in the letters-communications conveyed by the Special Rapporteur on Human Rights Defenders in Africa;

i). Establish non-discriminatory working relations with Non-Governmental Organizations;

j). Draw up a comprehensive list of the Treaties and Conventions and other human rights instruments ratified by Algeria;

k). Find an appropriate solution to the situation of missing persons and ensure that a fair and equitable compensation is paid to the rightful heirs;

l). Take appropriate measures to solve the problem of overcrowding in the prisons and also make adequate provision and fully cater for the inmates;

m). Institute measures and ensure respect for the Robben Island Guidelines;

n). Take measures to ensure respect for the rights and freedom of all persons as enshrined in the African Charter;

o) Consolidate the rule of law by taking measures that would make the Declaration on the Freedom of Expression in Africa a reality in Algeria;

- p) Shed light on known HIV/AIDS cases in Algeria and the cure that is provided;
- q). Provide statistics on Indigenous Populations in Algeria and highlight the situation regarding the recognition and respect for their rights;
- r). Promulgate laws based on the respect for the provisions of the African Charter based on the respect for the provisions outlined in the African Charter in general and for the freedom of worship in particular;
- s). Ratify the Protocol to the African Charter on the Rights of Women in Africa and institute legislative and other measures to curb abuse against women in Algeria;
- t). Provide in the next Periodic Report to be submitted to the African Commission in 2009 a complete chapter on the implementation of the recommendations contained in the last concluding observations and on those contained in the present ones.

Adopted in Ezulwini, Kingdom of Swaziland on 22nd May 2008