



REFERENCE: GH/fup-136

11 November 2022

Excellency,

In my capacity as Special Rapporteur for Follow-up to Concluding Observations of the Human Rights Committee, I have the honour to refer to the follow-up to the recommendations contained in paragraphs 30, 38 and 46 of the concluding observations on the report submitted by Algeria ([CCPR/C/DZA/CO/4](#)), adopted by the Committee at its 123rd session held from 2 to 27 July 2018.

On 25 June 2021, the Committee received the reply of the State party. At its 136th session (10 October to 4 November 2022), the Committee evaluated this information. The assessment of the Committee and the additional information requested from the State party are reflected in the Addendum 1 (see [CCPR/C/136/2/Add.1](#)) to the Report on follow-up to concluding observations (see [CCPR/C/136/2](#)). I hereby include a copy of the Addendum 1 (advance unedited version).

The Committee considered that the recommendations selected for the follow-up procedure have not been fully implemented and decided to request additional information on their implementation. Given that the State party accepted the simplified reporting procedure, the requests for additional information will be included, as appropriate, in the list of issues prior to submission of the fifth periodic report of the State party.

The Committee looks forward to pursuing its constructive dialogue with the State party on the implementation of the Covenant.

Please accept, Excellency, the assurances of my highest consideration.

Vasilka SANCIN

Special Rapporteur for Follow-up to Concluding Observations
Human Rights Committee

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Evaluation of the information on follow-up to the concluding observations on Algeria

Concluding observations (123rd session): [CCPR/C/DZA/CO/4](#), 20 July 2018

Follow-up paragraphs: 30, 38 and 46

Information received from State party: [CCPR/C/DZA/FCO/4](#), [25 June 2021](#)

Information received from stakeholders: [Cairo Institute for Human Rights Studies \(CIHRS\)](#), [18 July 2022](#); [Collectif des familles de Disparus en Algérie \(CFDA\)](#), [20 September 2022](#)

Committee's evaluation: 30 [E], 38 [C][D] and 46 [C][D]

Paragraph 30: Enforced disappearance

The State party should take all necessary action to (a) ensure that disappeared persons and their families have access to an effective remedy, including for those families who have declared — for purposes of being able to receive compensation — that their disappeared family member was dead; (b) ensure that thorough and independent investigations are launched into all allegations of enforced disappearance; (c) guarantee access to the truth for families of victims, such as by arranging for the exhumation of unmarked graves and mass graves and by having remains identified through scientific means, such as DNA testing; (d) guarantee the right to comprehensive reparation for all victims; (e) put in place guarantees to prevent enforced disappearance from reoccurring; and (f) implement the relevant Views adopted by the Committee under the Optional Protocol, provide any information that may be useful in resolving the cases pending before the Working Group on Enforced or Involuntary Disappearances and organize as promptly as possible the country visit referred to in the invitation extended in December 2013 by the State party to the Working Group. The State party should also take all necessary action to ratify the International Convention for the Protection of All Persons from Enforced Disappearance, which it signed in 2007.

Summary of the information received from the State party

Algeria submitted to the Committee information about enforced disappearances from the 1990s and the compensation for victims in 2017 and 2018. At the previous review, the delegation stressed that, under Algerian law, it was not lawful to pardon or to commute the sentences of persons convicted of rape, torture, bombings in public places, premeditated murder or abduction, or to terminate their prosecution. According to the Peace and National Reconciliation Charter, courts can try criminal cases and hear alleged human rights violations, except where alleged perpetrators were law enforcement officials or persons engaged in counter-terrorism operations. Individuals therefore have the right of appeal if the acts were unrelated to public order, security or counter-terrorism operations. The Charter was adopted by the parliament and submitted to a referendum and may be amended only following the same process.

Summary of the information received from stakeholders ([Collectif des familles de Disparus en Algérie \(CFDA\)](#))

Algeria has taken no new legislative measures to guarantee missing persons and their families effective remedies. No progress has been made in implementing effective or independent investigations. Algeria remains in total denial of the scourge, by urging families to declare their loved ones as deceased and indicating that the problem had already been resolved. It denies the existence of certain mass graves and refuses to exhume known sites.



No new system for reparations has been established. Reparation is possible only when the death of the missing person is declared.

Activists for the disappeared are intimidated and repressed and are victims of blackmail by the authorities. Some relatives of the disappeared have been harassed by the police and threatened with prison terms. Associations, including those of the families of the disappeared, are under strong pressure from the authorities.

Committee's evaluation

[E]

While noting the information provided, the Committee observes that the State party repeats the information and replies provided to the Committee before and during the adoption of the concluding observations, based on which such a specific and detailed recommendation was adopted. It therefore finds that the information reflects the State party's rejection of its recommendation and strongly reiterates its recommendation and requests further information on allegations of intimidation and threats against relatives of the disappeared as well as activists advocating for the rights of the disappeared and their relatives.

Paragraph 38: Refugees, asylum seekers and migrants

The State party should take the necessary steps to promptly adopt asylum legislation that is consistent with the Covenant and international standards and provides protection to asylum seekers and refugees, in particular with regard to procedures for entering the country, requesting asylum and lodging appeals. It should also (a) refrain from conducting mass arrests of migrants and asylum seekers; (b) refrain from subjecting migrants and asylum seekers to arbitrary detention and ensure that they have access to counsel and to information about their rights; (c) refrain from conducting, under any circumstances whatsoever, collective expulsions of migrants and asylum seekers, a fortiori in inhumane and degrading conditions; and (d) arrange for training programmes on the Covenant, international asylum and refugee standards and human rights standards to be organized for immigration and border control officials.

Summary of the information received from the State party

A new law is being drafted to better address the situation of refugees and stateless persons.

(a) Members of security services conduct arrests of foreigners with irregular status in accordance with legal provisions and procedures that safeguard their fundamental rights and protect them from unlawful expulsion or deportation.

(b) Under article 32 of Act No. 08-11 on the Conditions of Admission, Stay and Movement of Foreign Nationals in Algeria, foreigners subject to deportation may contact their diplomatic or consular representation and, if necessary, receive assistance from a lawyer and/or an interpreter.

Since 2019, repatriations have been organized in cooperation with the International Organization for Migration and countries of origin. Migrants with irregular status, not to be confused with asylum seekers, are not arbitrarily detained; in case of repatriation, they are held in reception centres pending the completion of identification procedures and the issuance of necessary laissez-passer by their consular offices.

The person concerned is notified of the expulsion decision and may file an appeal with suspensive effect. Urgent applications judge may provisionally suspend the execution of expulsion orders in case of force majeure and under special circumstances, including cases involving minors and pregnant women.

(c) Algeria does not conduct collective expulsions of foreigners with irregular status. Their removal is done in consultation with the official representation of their country of origin and at the expense of Algeria.



(d) Information is not provided.

Summary of the information received from stakeholders

Cairo Institute for Human Rights Studies (CIHRS)

According to CIHRS, Algeria has not adopted asylum legislation, the refugee status granted by the UNHCR is not recognized, and forcible returns of asylum seekers continue. A crackdown on civic space has hindered the work of migrant rights defenders, including of the Algerian League for the Defence of Human Rights.

(a)-(b) Migrants suffer from violent raids, mass expulsions, deportations and arbitrary detention in inhuman and degrading conditions, based on racial profiling and without individual assessment or due process. Police apprehend black-skinned migrants without verifying their identity and status and detain them in “refoulement centres” or camps in promiscuous conditions. Children are often separated from their families and detained with adults.

Law 11-08 continues to criminalize illegal entry and exit, punishable by up to five years’ imprisonment. The number of irregular migrants arrested in 2021 was 10,889, compared to 5,825 in 2020. Individuals arrested, including asylum-seekers, are held in detention waiting for trial while simultaneously going through an expulsion procedure. They can be detained for up to 30 days, renewable indefinitely. Expulsion decisions are often implemented too rapidly for migrants to contact lawyers or the UNHCR to introduce a suspensive appeal within five days provided by the law. Migrants are not informed of their rights or given access to interpretation.

(c) Migrants have no opportunity to contest their summary expulsions and are neither provided with a motive for their arrest and deportation nor access to a lawyer, translator or embassy contact information. There are reports of beatings, physical and sexual assault, including in detention. Nigeriens are crammed into trucks or buses and handed over to Niger’s army while others are abandoned in the desert. In 2021, the estimated number of summary expulsions to Niger is 25,396, compared to 22,631 in 2020.

(d) CIHRS is unaware of any such trainings.

Committee’s evaluation

[C]: (a), (b) and (c)

While noting the information on drafting of asylum legislation, the Committee regrets the lack of progress since the adoption of the previous concluding observations.

While noting the information provided, the Committee regrets the lack of specific information on measures taken to refrain from conducting mass arrests of migrants and asylum seekers. It reiterates its recommendation and requests further information on steps taken to address the increased number of arrests of migrants and reported racial profiling by the police.

While noting the information on safeguards stipulated in the Act No. 08-11 and the cooperation with the IOM, the Committee regrets the lack of specific information on the measures taken after the previous concluding observations to refrain from subjecting migrants and asylum seekers to arbitrary detention and to ensure their access to counsel and information about their rights. It reiterates its recommendation and requests further information on the number of detained migrants, including asylum-seekers, and the duration of such detention, and steps taken to reduce them.

The Committee regrets the lack of specific information on steps taken after the previous concluding observations to refrain from conducting collective expulsions of migrants. It reiterates its recommendation and requests further detailed information on the appeals procedures and migrants’ access to lawyers and interpreters in cases of collective expulsions.

[D]: (d)



The Committee regrets the absence of information on the trainings available for immigration and border control officials and reiterates its recommendation.

Paragraph 46: Right to peaceful assembly

The State party should:

(a) **Amend Act No. 91-19 of 2 December 1991 to remove all restrictions on peaceful demonstrations that are not absolutely necessary or proportionate in terms of the provisions of article 21 of the Covenant, and institute a simplified advance authorization arrangement for public demonstrations;**

(b) **Repeal the unpublished decree of 18 June 2001;**

(c) **Guarantee that demonstrators and meeting organizers are not prosecuted for exercising their right of assembly;**

(d) **Take effective measures to ensure that law enforcement personnel do not use excessive force during crowd dispersal operations.**

Summary of the information received from the State party

(a) Freedom of peaceful assembly and demonstration underpins the strengthened and consolidated democratic freedoms enshrined in the Constitution of 1 November 2020. A new article 52 of the Constitution provides that the freedom of peaceful demonstration may be exercised pursuant to a simple declaration. Conditions and rules governing this freedom will be regulated by law, unlike under previous provisions, which subjected the organization of public events to an authorization procedure.

The current law governing public meetings and demonstrations is being brought into line with the new constitutional provisions. The new legislative framework will be in line with international standards and the best practices of democratic countries.

The measures taken include the abolition of the prior authorization procedure, the affirmation of the principle of freedom of peaceful assembly, the introduction of a positive obligation on the State to facilitate the exercise of this freedom, the strengthening of the role of the judiciary, and the definition of circumstances under which a peaceful demonstration may be prohibited.

Restrictions imposed comply with article 21 of the Covenant, insofar as they are established by law and are necessary in a democratic society. The restriction placed on demonstrations in the wilaya (province) of Algiers was to maintain public order. Nevertheless, demonstrations and sit-ins were regularly held in Algiers without authorization. The demonstrations organized during the “Hirak” clearly illustrate the authorities’ desire to return to the normal state of affairs with regard to the organization of demonstrations. The Ministry of the Interior, Local Authorities and Land-Use Planning issued a reminder that peaceful demonstrations must be organized in accordance with the current law.

(b) No information is provided.

(c) Legal action may be taken in relation to the exercise of the right of assembly only in accordance with the relevant legal provisions. Penalties for violations are either a period of imprisonment of 1 to 3 months or a fine of 2,000 Algerian dinars or both.

(d) Law enforcement personnel take a flexible approach when dispersing crowds, in accordance with the law, using democratic crowd management techniques and conventional means.

Summary of the information received from stakeholders

Cairo Institute for Human Rights Studies (CIHRS)

(a) Despite the statement of Algeria that article 52 of the Constitution now protects the freedom of peaceful assembly with a simple declaration, the prior authorization regime



under Act No. 91-19 still applies. Articles 97 to 100 of Penal Code, which provide for an imprisonment of 1 month to 1 year and a deprivation of civil rights for “unarmed gathering” or “incitement to unarmed gathering”, have been overwhelmingly used. CIHRS is unaware of any ongoing legislative process to review Act No. 91-19.

Throughout 2021, the police blocked access, including of journalists, to the “Hirak” demonstrations. Internet access on mobile phones was disrupted during demonstrations. Police made protesters pledge not to participate in unauthorised protests as a condition of release from police stations.

The statement of the Ministry of Interior, dated 9 May 2021, reminded protesters of the prior authorization requirement under Act No. 91-19. This statement and the increased use of unlawful force and mass arrests led to the end of the “Hirak” protests.

(b) There is no official information of the content of this decree or any announcement about repealing it.

(c) Although Hirak demonstrations were allowed for the first months, courts have since June 2019 prosecuted protesters, activists and journalists for “weakening the morale of the army”, “inciting an unarmed gathering”, “undermining national unity”, and “offence to public bodies”. Between February and June 2021, at least 7,000 demonstrators were arrested and around 700 prosecuted. At least 38 journalists were arrested and/or prosecuted. These were often accompanied by the lack of due process and fair trial guarantees. Judge Saad Eddine Merzouk was dismissed and Deputy Prosecutor Ahmed Belhadi was warned for supporting Hirak protesters.

On 3 May 2021, the Interior Ministry announced the suspension and prosecution of 230 firefighters who protested for better working conditions.

Ordinance 21-08, adopted on 8 June 2021, further expanded the broad definition of terrorism in article 87bis of the Penal Code. It was approved on the basis of the new article 34 of the Constitution that permits restrictions based on broad and subjective grounds without safeguards. Between April and October 2021, at least 59 were prosecuted on terrorism charges, mostly for exercising their right of peaceful assembly. In October 2021, ahead of planned commemorations, authorities arrested at least 70 Hirak activists. Rally Youth Actions, a youth organisation, was dissolved for holding “unauthorised meetings” and its members were prosecuted. In 2021 and 2022, the Algerian League for the Defence of Human Rights was prevented from organising meetings, and their members were prosecuted. In 2022, Rally for Culture and Democracy (RCD), opposition party, and Democratic and Social Movement received a notice from the Ministry of Interior to stop organising unauthorized meetings. Members of RCD have been imprisoned.

(d) The police carried out beatings and violent arrests of demonstrators, human rights defenders and journalists, including Ramzi Yettou on 19 April 2019, Kaddour Chouicha and his son on 12 March 2021, students in Bejaïa on 16 March 2021 and journalist Saïd Boudour on 23 April 2021. The police used rubber bullets and tear gas against demonstrators protesting the holding of the June 2021 parliamentary elections in May and June 2021. No investigations were conducted. Third parties committed violence against Hirak protestors, journalists and activists, but effective investigations were not conducted.

Committee’s evaluation

[C]: (a), (c) and (d)

While noting the information on the 2020 Constitution and the ongoing legislative process of amending relevant domestic legislation, the Committee regrets that Act No. 91-19 has not yet been amended. It reiterates its recommendation and requests further information on reports of: (a) the continued requirement of the prior authorization under Act No. 91-19; and (b) undue obstructions by the police of peaceful assemblies, including the Hirak movement.

While noting the information provided, the Committee regrets the lack of specific information on steps taken to ensure that demonstrators and meeting organizers are not prosecuted for exercising their right of assembly. It reiterates its recommendation and



requests further information on: (a) alleged arrests and prosecution of Hirak protestors, human rights defenders and journalists covering the movement as well as meeting organizers, including members of Rally Youth Actions, Rally for Culture and Democracy and Democratic and Social Movement; and (b) the compatibility with the Covenant of the Ordinance 21-08.

While noting the information provided, the Committee regrets the lack of specific information on measures taken to prohibit the use by the police of excessive force in dispersing crowds. It reiterates its recommendation and requests further information on the aforementioned allegations of beatings and use of bullets and tear gas against demonstrators, human rights defenders and journalists in the context of peaceful assemblies, and on any investigations conducted into these cases.

[D]: (b)

The Committee regrets the lack of information regarding the unpublished decree of 18 June 2001 and reiterates its recommendation.

Recommended action: A letter should be sent informing the State party of the discontinuation of the follow-up procedure. The information requested should be included in the State party's next periodic report.

Next periodic report due: 2028 (country review in 2029, in accordance with the predictable review cycle).
