



Child Rights References in the Universal Periodic Review

Summary:

A compilation of extracts featuring child-rights issues from the reports submitted to the first Universal Periodic Review. There are extracts from the 'National Report', the 'Compilation of UN Information' and the 'Summary of Stakeholder's Information'. Also included is the 'Final Report' and 'Conclusions and Recommendations' from the Review.

Algeria – 1st Session – 2008

Date of consideration: Monday 14 April 2008 - 9.00 a.m. - 12.00 p.m.

National Report

11. It was in 1989, however, with the introduction of multiparty democracy, that Algeria took a qualitative leap forward in terms of governance. It completed that process, which has now become irreversible, by acceding to the international human rights instruments. Algeria is now a party to the following instruments:

...

- The Convention on the Rights of the Child
- The Optional Protocol on the sale of children, child prostitution and child pornography
- The Optional Protocol on the involvement of children in armed conflict

...

13. Algeria is also a party to the following regional human rights instruments:

...

- The African Charter on the Rights and Welfare of the Child

...

27. The Algerian Constitution attaches importance to freedom of association for the defence of human rights. Article 32 guarantees the individual or collective defence of human rights and article 41 defines the area of application: freedom of expression, association and assembly. Freedom of association includes protection of the rights of certain categories of persons such as women, children, the sick, people with disabilities, consumers and users of public services.

32. Access to the law and the justice system is guaranteed by:

...

- A revised system of legal aid giving all citizens access to the justice system irrespective of their social status. The following have access to legal aid as a matter of law: minors, parties applying for maintenance, mothers in child custody matters, and workers in matters pertaining to occupational accidents or illness.

33. Furthermore, the following are entitled to the assistance of a legal representative free of charge: all minors before a juvenile court; on request, accused persons appearing before an investigating judge or a court ruling on major offences (délits); on request, persons filing an appeal to be heard by the Criminal Division of the Supreme Court when the sentence exceeds a five-year term of imprisonment; defendants suffering from a disability that may adversely affect their defence; on request, accused persons appearing before a criminal court.

45. Prisoners are entitled to submit applications and complaints which must be followed up by the prison director and the judge responsible for enforcement of penalties. Pregnant and nursing female prisoners receive preferential treatment in respect of food, health care and care of new born children.

46. Since September 1993, Algeria has observed a moratorium on enforcement of the death penalty. The death penalty is not imposed on minors aged under 18, pregnant women or mothers of children aged under twenty-four (24) months. Amendments to the Criminal Code since 2000 have abolished the death penalty for numerous offences (drugs, money laundering, counterfeiting, economic management, etc.).

53. The right to education is enshrined in the basic statutes of the Republic which guarantee access to education and the free provision thereof to all children. Article 53 of the Constitution states that “The right to education is guaranteed. Education shall be provided free of charge under the conditions established by law.”

54. Moreover, the general educational policy bill emphasizes the compulsory nature of education for all girls and all boys aged between 6 and 16, with a possible two-year extension for disabled children. Parents or legal guardians who fail to comply with this obligation are liable to a fine.

55. Since acceding to independence, Algeria has devoted a substantial proportion of its resources to developing the national education sector. After more than 40 years of effort, Algeria has not only made up for its traditional backwardness in educational matters, but has also been able to meet the strong demand for education that has been expressed since independence.

56. Overall pupil numbers have increased tenfold since 1962 to reach the current level of 7.5 million pupils (as a result of an infrastructure programme and the recruitment of staff in all disciplines), which has today made it possible to achieve an enrolment rate of nearly 97 per cent, compared with only 43.5 per cent in 1965, thereby bringing Algeria closer to fulfilling the Millennium Development Goals.

57. Attention has also been paid to school support, involving the provision of millions of textbooks, the opening of school canteens for which appropriations have increased twelvefold since 1999, as well as of half-board or full-board facilities which doubled in number over the same period, school transport arrangements covering more than 1,000 of the country's 1,561 communes, health services which are being made extensively available, and the allocation of new-school-year scholarships for the most needy children, numbering 3 million.

61. Upon independence, Algeria's health indicators showed high levels of maternal and infant mortality, low life expectancy and a major incidence of infectious diseases. This led the public authorities to launch national health programmes aimed in particular at reducing disparities in health coverage and combating mortality and morbidity caused by prevalent transmissible diseases and malnutrition.

62. As a result, maternal mortality fell from a rate of 500 per 100,000 live births in 1962 to roughly 88.9 in 2007, while infant mortality fell from 171 per 1,000 live births to approximately 24.1 during the same period.

63. The introduction of compulsory vaccination for all children and the increase in the rate of vaccine coverage to over 95 per cent led to an effective decline in epidemiological indicators.

67. The legislation on labour introduces a statutory minimum working age and establishes the right to protection, for women and children in particular, in relation to hazardous or arduous work.

76. Algeria has ratified the United Nations Convention on the Rights of the Child, the two Optional Protocols thereto and the African Charter on the Rights and Welfare of the Child. In 1992, it adopted a national action plan for the survival, protection and development of children. This was followed up by a second plan covering four topics, which deals with the objectives and principles enshrined in the document from the 2002 special session of the United Nations General Assembly, entitled “A world fit for us”, namely: a healthier life for children, quality education for all children, protection of children and children's rights.

77. It may be noted in this connection that a National Children's Commission was set up in July 2004. Draft outline legislation on child welfare has been introduced, which provides for a national body to monitor children's rights. This body will be empowered to receive, examine and process complaints from children.

86. Social welfare intended for women and girls also benefits needy children as well as disabled and elderly persons. During the period 1999-2006, 856,175 disabled persons received social welfare payments amounting to 33,765,314,544 dinars, including 3,184,349,472 dinars for social security.

94. In terms of the relevant indicators, while Algeria can point to the achievement of considerable progress, particularly as regards equality of access to education and schooling for girls, in response to both the Millennium Development Goals and the objectives of Education For All (EFA), the fact remains that these indicators, on closer analysis, show the existence and persistence of a number of difficulties relating in particular to educational wastage.

95. For example, with reference to the period from 2000-2001 to 2005-2006, the dropout rate rose from 1.78 per cent to 2.33 per cent for primary schools and from 10.83 per cent to 8.77 per cent for secondary schools. For the entire cycle of basic education, which constitutes the compulsory phase of schooling in Algeria, that is, the period from age 6 to age 16, the dropout rate rose from 4.49 per cent in 2000-2001 to 4.56 per cent in 2005-2006.

96. Educational counselling and assistance measures have also been taken as a means of combating educational wastage. They are aimed, inter alia, at keeping children in school as long as possible, particularly in the case of girls from underprivileged backgrounds.

97. The recent restructuring of the secondary education system also offers further possibilities for keeping pupils in the system by providing openings to occupational activity and springboards between the different parts of the education system (including, in particular, general education and vocational education and training), which now give pupils the chance to remain in the system as long as possible and to leave with a qualification that would facilitate their integration into working life.

122. Amendments and other changes will only be undertaken following prior consultation with actors and stakeholders in the areas in question. They include amendments to the Associations Act and the strengthening of protection for women and children in the Labour Code. Changes will also be made to the status of lawyers, the status of journalists and the Information Act. Legislation will be drafted

for the establishment of bodies concerned with ethics and codes of conduct; consumer and user protection; children's rights; social issues; and paternity search.

134. In that context, the objectives of the supplementary economic growth support plan for 2005-2009 include:

....

- 500 higher secondary schools and 1,000 lower secondary schools
- 2,000 school canteens and half-board facilities

Compilation on UN Information

CRC recommended that the State ratify CRC-OP-SC and CRC-OP-AC25

CRC reiterated its previous recommendation that the State should carry out the review with a view to withdrawing its interpretative declarations.²⁹

5. CRC noted with appreciation the establishment of new institutions aimed at protecting and promoting the rights of the child, such as: the Office of the Head of Government's Deputy Minister for the Family and the Status of Women in 2002; and the National Commission to Combat Child Labour, in 2003.³⁴ While taking note of the establishment of the CCPPDH in 2001, CRC regretted the absence of an independent and child-sensitive monitoring structure with a mandate that includes the power to receive and address individual complaints related to the rights of the child. CRC, and also UNICEF, recommended that the State establish such a body.³⁵

7. CRC expressed its concern at the lack of a comprehensive national plan of action and recommended that the State strengthen coordination with a view to developing and adopting a comprehensive national plan of action for the implementation of the Convention.³⁷

8. The CEDAW and the CRC noted with appreciation the written replies to the lists of issues, while the CCPR and the CRC expressed their gratitude to Algeria for the additional documents with which they were provided.

9. The CRC noted with satisfaction that several of its concerns expressed and recommendations made in its previous Concluding observations have been addressed. Nevertheless, both the CEDAW and the CRC were concerned that some of their concerns and recommendations have not been sufficiently addressed by the State. They urged Algeria to address and implement those recommendations.⁴⁶

14. In 2005, CRC was concerned that the existing domestic laws and policies do not adequately preserve and promote the Amazigh identity of children, including their right to use their own language. The Committee recommended that the State continue and strengthen its efforts to protect and promote the identity and the rights of the Amazigh children.⁵⁸

15. CRC recommended, as also highlighted by UNHCR,⁵⁹ that the State take all feasible measures to ensure full protection and care, as well as access to health and social services and to education, of Western Saharan refugee children living in refugee camps in Algeria.⁶⁰

24. CRC noted with concern that corporal punishment is widely accepted in society as a form of discipline. The Committee urged Algeria to adopt legislation explicitly prohibiting corporal punishment and to conduct public education campaigns promoting children's right to protection from all forms of violence as well as alternative, participatory, non-violent forms of discipline.⁸³

25. CRC urged the State to ensure that all children who have been directly or indirectly involved in armed conflict are protected, and to provide children involved in and traumatized by armed conflict with adequate assistance and counselling for their rehabilitation, physical and psychological recovery and social reintegration.⁸⁴ UNICEF also expressed concern at the impact of violence in the 1990s which has affected children physically as well as mentally.⁸⁵

26. A 2006 UNFPA report noted that some women along the border are vulnerable to sexual exploitation by smugglers and traffickers.⁸⁶ CRC noted with concern reports of trafficking in children and that Algeria is becoming a place of transit for trafficking between Africa and Western Europe. The Committee recommended that measures be taken, on an urgent basis, to provide a specific legal framework to prevent and protect children from trafficking for sexual and other exploitative purposes and define "trafficking" as a special criminal offence under domestic law.⁸⁷

32. CRC welcomed the revised provisions of the Act on the system of penal institutions and the social reinsertion of detainees, which improve the status of children within the juvenile justice system.¹⁰¹ However, it noted with deep concern that a child as young as 13 years old can be sentenced to prison from 10 to 20 years. Furthermore, the lack of specialized juvenile judges and systematic training of professionals, the limited capacity and the poor condition of the detention facilities for juveniles, the limited access to the complaint mechanisms while in detention, to recovery and social reintegration services upon release, gave rise to concern.¹⁰²

33. The HR Committee and CRC recommended that Algeria expedite the process of bringing the laws governing the family and personal status into line with the ICCPR and the CRC, particularly with regard to the institution of the wali and the rules relating to marriage, divorce and decisions concerning the custody of children. In addition, the HR Committee recommended that the State abolish polygamy.¹⁰³

38. CRC recommended that the State continue to take effective measures to prohibit the economic exploitation of children, in particular in the informal sector, and to strengthen the labour inspectorate to monitor the extent of child labour.

40. CEDAW appreciated the progress achieved in the area of women's health, including

the decrease in maternal and infant mortality and the increase in women's life expectancy.¹²⁵ While welcoming the adoption, in April 2005, of the Programme national de périnatalité 2005-2008 with the aim of reducing newborn and maternal mortality rates by 50 per cent, CRC expresses its grave concern at the high rates of infant and maternal mortality.¹²⁶

41. UNICEF informed that the high level of enrolment (97 %) is maintained and the projection that universal enrolment will be reached in the very short term, while slightly later for girls.¹²⁷ A 2006 UNDP report noted discrepancies throughout the education system, and that while the enrolment rate in pre-school education for girls in Algeria was less than 5 per cent most data show that equality between sexes in higher education has been achieved.¹²⁸

44. The Special Rapporteur on Violence against women noted Algeria has distinguished itself by realizing the equal access of boys and girls to all levels of education in little more than one generation. In addition, educated urban women have also achieved impressive levels of representation in key areas of the public sector, especially among judges, medical doctors and teachers.¹³³ CEDAW noted with satisfaction the increase in women's enrolment in institutions of higher learning and the fact that girls now comprise 57.53 per cent of students in secondary education.¹³⁴

45. CRC welcomed the fact that all children aged 6 to 16 years are entitled to compulsory and free education without any discrimination.¹³⁵

46. CRC acknowledged that natural catastrophes, such as the floods in 2001 and the earthquake in 2003, have given rise to a growing number of economic and social difficulties. The Committee acknowledges that the State party has experienced an exceptional cycle of political violence, including terrorism. ¹³⁶

Summary of stakeholders' information

22. According to the Global Initiative to End All Corporal Punishment of Children (GIECPC), in the home corporal punishment is not prohibited by law. Children have limited protection from violence and abuse under the Family Code (1984), the Penal Code, the Code of Criminal Procedure (1966, amended 2004) and the Code of Civil Procedure (1975, amended 1990). Corporal punishment is prohibited in schools. In the penal system, it is unlawful as a sentence for crime, but there appears to be no explicit prohibition of its use as a disciplinary measure in penal institutions. Applicable law includes Law No. 05-04 on the structural code of the penitentiary organisation and the social rehabilitation of convicts (2005) and Ordinance No. 73-3 relating to the protection of children and young persons. There is no explicit prohibition of corporal punishment in alternative care settings.²⁹

30. According to AI, Article 30 of the new Family Code prohibits marriage between a Muslim female and a non-Muslim male, whereas a Muslim man may marry a non-Muslim woman. The 2005 amendments have brought further restrictions on the practice of polygamy, although the right of a man to marry more than one woman has been maintained in law. A woman still needs the presence of a wali (matrimonial tutor or guardian) at her marriage, although the wali can now be a person of her choice. Furthermore, under the new Family Code, the custody of children, in case of divorce, now falls first to the mother with a view to ensuring the best interests of the child. However, if the mother remarries, she loses the custody of her children. The new Code also gives women more grounds to demand a divorce, for instance disagreement between the spouses or violation of the clauses of the marriage contract. A woman may now obtain a divorce without the consent of her husband by paying financial reparation (khol'a). Men are not obliged to pay financial reparation when requesting a divorce. Inheritance has been left untouched by the 2005 amendments to the Family Code and daughters receive one part for every two parts received by sons.³⁹

31. The International Lesbian and Gay Association (ILGA), in a joint submission with others, noted that Algeria maintains criminal sanctions against consensual same-sex activity. Article 338 of Algeria's Penal Code (Ordinance 66-156 of June 8, 1966) provides: "Tout coupable d'un acte d'homosexualité est puni d'un emprisonnement de deux mois à deux ans et d'une amende de 500 à 2000 DA. Si l'un des auteurs est mineur de dix-huit ans, la peine à l'égard du majeur peut être élevée jusqu'à trois ans d'emprisonnement et 10.000DA d'amende."⁴⁰

Final Report

On 28 February 2008, the Human Rights Council selected the following group of rapporteurs (troika) to facilitate the review of Algeria: Uruguay, Philippines, and Senegal. The delegation of Algeria was headed by H.E. Mourad Medelci, Minister for Foreign Affairs.

(i) Summary of the State under Review

- The new Nationality Code rendered null and void the reservation expressed by Algeria on article 9 (2) of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), thus making possible for Algerian women to transmit their nationality to their children.

- The Minister also noted that the steady improvements in child and maternal health, should allow Algeria to meet the relevant Millennium Development Goals by 2015.

- The Minister informed the Working Group that the Constitution, since 2002, gave Amazigh the status of a national language and more than 100,000 pupils have so far learnt Amazigh in State schools. A specific programme of training of teachers has been set up to continue the teaching of Amazigh.

(ii) Interactive dialogue and responses by the State under Review

- China noted that Algeria, since its independence, has been committed to social development, social fairness and justice, and has been engaged in achieving progress in the area of economic and social rights, for instance with regard to the right to education - with 97 per

cent enrolment in basic education - and fulfilling MDG 2.

- Italy recognised the positive steps with regard to the rights of the child but noted that corporal punishment remains widely accepted in society as a form of discipline. Italy thus recommended that Algeria take further measures to address violence against children, including corporal punishment.

- In reply to the first set of interventions, another member of the delegation underlined that corporal punishment was formally prohibited in the school environment and that all educational partners, and child health workers, must declare all cases of violence against children.

- The Republic of Korea welcomed the reform of the family laws concerning equal treatment of men and women, as well as efforts to elevate the status of children within the juvenile justice system. It also noted achievements with regard to the right to education, such as the high level of school enrolment, which has reached 97 per cent according to UNICEF, and the guarantee of compulsory and free education for all children between ages 6 and 16.

- With regard to the establishment of a National Children Commission in 2004, Malaysia requested information on how this Commission functions in receiving, examining and processing complaints from children, different from that of the juvenile court.

- Belarus noted the serious work done to guarantee economic and social rights, highlighting the access to free education and medical care.

- The Syrian Arab Republic noted Algeria's efforts in promoting the rights to education, food, labour, the rights of children, women, as well as the right to development. It enquired about measures to promote the rights of women and encouraged to continue its efforts to ensure the right to education.

- Belgium welcomed Algeria's initiatives in regard to the protection of rights of children.

- Slovenia asked the following questions which could lead to recommendations: what steps Algeria was taking to establish a legal framework to prevent and protect children from being trafficked for sexual and other exploitation, and to define 'trafficking' as a special criminal offence under domestic law;

- Indonesia welcomed provisions in the Constitution on compulsory education for all between the ages of 6 and 16 years.

Conclusion and Recommendations

The recommendations formulated during the interactive dialogue have been examined by Algeria and the recommendations listed below enjoy the support of Algeria:

- That Algeria take appropriate measures to address violence against children; (Italy).

- That Algeria pursue its efforts in the area of the right to education (Syrian Arab Republic).

- That Algeria take steps to adopt a legal framework to protect children from trafficking and to define trafficking as a criminal offence under domestic law; (Slovenia).