

**Генеральная Ассамблея**

Distr.: General
12 June 2012
Russian
Original: English

Совет по правам человека

Двадцатая сессия

Пункт 3 повестки дня

Поощрение и защита всех прав человека, гражданских, политических, экономических, социальных и культурных прав, включая право на развитие

Доклад Специального докладчика по вопросу о поощрении и защите права на свободу мнений и их свободное выражение Франка Ла Руе

Добавление

Миссия в Алжир* ***Резюме*

Специальный докладчик по вопросу о поощрении и защите права на свободу мнений и их свободное выражение посетил с официальной миссией Алжир 10–17 апреля 2011 года. В настоящем докладе он приводит краткий обзор, касающийся истории и политического устройства страны, а также информацию о соответствующих положениях национального законодательства и соответствующих международных правовых стандартах. В основной части доклада Специальный докладчик рассматривает правовые меры, принятые в связи с осуществлением свободы выражения мнений; свободы прессы и права на получение информации; свободы придерживаться своих мнений и выражать их в Интернете; в связи с цензурой на ввоз в страну книг; свободы мирных собраний и демонстраций; свободы ассоциации; а также в связи с Национальной консультативной комиссией по поощрению и защите прав человека.

Алжир прошел долгий путь от так называемого "черного десятилетия", в течение которого журналисты заплатили непомерно высокую цену. Специальный докладчик приветствует отмену действия чрезвычайного положения, а также решение правительства об осуществлении политических реформ. Эти изменения являются позитивными событиями на фоне исторических событий

* Резюме настоящего доклада распространяется на всех официальных языках. Сам доклад, содержащийся в приложении к резюме, распространяется только на том языке, на котором он был представлен, и на французском языке.

** Представлен с опозданием.

в арабском мире и за его пределами. Вместе с тем он обращает внимание на то, что нынешние правовые рамки по-прежнему являются ограничительными и основываются на унаследованных из прошлого видах практики, которые неоправданно ограничивают право беспрепятственно придерживаться своих мнений и выражать их, а также права на свободу мирных собраний и на свободу ассоциации.

Специальный докладчик представляет ряд рекомендаций по каждому из затронутых основных вопросов с целью укрепления демократических основ Алжира.

Annex

[English and French only]

Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on his mission to Algeria (10 – 17 April 2011)

Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction	1–7	4
II. Historical and political background	8	4
III. Domestic legal framework	9–10	5
IV. International legal standards	11–12	5
V. Situation of the right to freedom of opinion and expression	13–89	6
A. Legal action in relation to the exercise of freedom of expression	17–23	6
B. Freedom of the press and the right to information	24–62	8
C. Freedom of opinion and expression on the Internet	63–71	15
D. Censorship of imported books	72	17
E. Freedom of peaceful assembly	73–79	17
F. Freedom of association	80–87	19
G. National Advisory Commission for the Promotion and Protection of Human Rights	88–89	20
VI. Conclusions and recommendations	90–117	21
A. Legal action in relation to freedom of expression	93–95	21
B. Freedom of the press and the right to information	96–104	22
C. Freedom of opinion and expression on the Internet	105–106	22
D. Censorship of imported books	107	22
E. Freedoms of peaceful assembly and of association	108–115	23
F. National Advisory Commission for the Promotion and Protection of Human Rights	116–117	23

I. Introduction

1. The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, undertook an official mission to Algeria from 10 to 17 April 2011, at the invitation of the Government. The visit was carried out pursuant to his mandate to assess compliance with international standards on the right to freedom of opinion and expression. During the visit, the Special Rapporteur visited the cities of Algiers and Oran.

2. In Algiers, the Special Rapporteur met with the Minister for Foreign Affairs; the Minister for Communications; the Minister for Postal Services and Information and Communication Technologies; the Adviser to the President; senior officials from the Ministries of Foreign Affairs, the Interior, Justice, Culture, and Education; the General Prosecutor; Members of the Council of the Nation (Senate) and of the National People's Assembly; the Directors-General of Public Television and Radio; the President of the Council of the Regulatory Authority of Postal Services and Telecommunications; the Head of the National Agency for Publishing and Advertising; and the President of the National Advisory Commission for the Promotion and Protection of Human Rights. In Oran, he met with officials from the *wilaya* (province).

3. In both cities, the Special Rapporteur met with journalists from State-sponsored and private newspapers, representatives of two journalist unions and members of non-governmental organizations working on civil, political, economic, social and cultural rights. Lastly, he met with representatives of the United Nations country team and with diplomatic missions.

4. The Special Rapporteur congratulates the Government of Algeria on having voluntarily invited him to visit the country. He believes that it is very symbolic when a State takes the initiative to invite a mandate holder of the Human Rights Council, and such an initiative should be seen as a good practice. He also thanks the Government for its cooperation, in particular for having facilitated all the meetings he had requested.

5. The Special Rapporteur also expresses his appreciation to the United Nations Resident Coordinator in Algeria and to staff members at the United Nations Development Programme for their invaluable support in preparation of, and during, the mission.

6. The Special Rapporteur believes that his visit was timely given the growing demand for more openness and freedom of expression in the country, as well as the expressed desire of the Government to embark on a new process of political reforms.

7. In the drafting of the present report, the Special Rapporteur took due consideration of the history of the country. He himself comes from a country that went through a 36-year civil war, and therefore understands the complexity of the situation and the trauma left by such a period.

II. Historical and political background

8. Algeria achieved its independence in 1962. Following major social protests in October 1988, the Constitution was revised, and a multiparty system and media pluralism were introduced. In 1991, the Islamic Salvation Front came first during the first round of legislative elections, and a decade of violence (the "Black Decade") ensued, during which 200,000 people were killed or disappeared. In 1992, a state of

emergency was declared. In 2005, a charter for peace and national reconciliation was adopted by national referendum with a view to bringing closure to the conflict, preserving the unity of the nation and the continuity of its institutions, and initiating a process of national reconciliation. The armed conflict left deep wounds in Algerian society. In February 2011, the state of emergency was finally lifted in the wake of social protests inspired by then unfolding events in the Arab region (the “Arab spring”); in April 2011, the President of Algeria announced a raft of political reforms.

III. Domestic legal framework

9. Algeria has a civil law system that is based on the Constitution, which guarantees fundamental human rights, including the right to freedom of opinion and expression. Article 36 of the Constitution provides that “freedom of conscience and freedom of opinion are inviolable”. Article 41 further provides that “freedoms of expression, association and assembly are guaranteed to citizens”. Treaties ratified by the President have primacy over national law, as provided for in article 132 of the Constitution.

10. At the time of the visit, the main legislation governing the exercise of the right to freedom of opinion and expression were the Criminal Code; Laws Nos. 90-07 on information, 91-19 on assembly, and 90-31 on association; and Ordinance No. 06-01 of 2006 on the implementation of the Charter for Peace and National Reconciliation. Laws Nos. 12-05 on information, and 12-06 on association, were subsequently adopted in December 2011. The content of the legislation and its implementation were carefully analysed when drafting the present report.

IV. International legal standards

11. In carrying out his assessment of the situation of the right to freedom of opinion and expression in Algeria, the Special Rapporteur was guided by several international legal standards, the most pertinent being the International Covenant on Civil and Political Rights, ratified on 12 September 1989, and article 19 thereof in particular. The Special Rapporteur also paid attention to articles 21 (right to freedom of peaceful assembly) and 22 (right to freedom of association), which are complementary to the exercise of the right to freedom of opinion and expression, as evidenced during the Arab spring.¹

12. The Special Rapporteur was also guided by other relevant declarations, resolutions and guidelines of various United Nations bodies, including general comments Nos. 10 and 34 of the Human Rights Committee, Human Rights Council resolution 12/16, and the Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights.

¹ In its general comment No. 34 (CCPR/C/GC/34), the Human Rights Committee provided that “freedom of expression is integral to the enjoyment of the rights to freedom of assembly and association” (para. 4). It should be noted that the mission took place before the Special Rapporteur on the rights to freedom of peaceful assembly and of association assumed his mandate, on 1 May 2011.

V. Situation of the right to freedom of opinion and expression

13. Algeria has come a long way since the Black Decade, during which journalists paid a tremendously high price: 100 journalists were killed, several the targets of a bomb attack at the Press House. The Special Rapporteur pays tribute to the memory of those who lost their lives during the conflict, and to their families. Today, such violence against journalists is no longer in Algeria.

14. The Special Rapporteur welcomes the lifting of the state of emergency as well as the decision of the Government to embark on political reforms, including the repeal of Law No. 90-07, also known as “Criminal Code bis”. These are positive developments against the backdrop of the historical events in the Arab region and beyond.

15. The Special Rapporteur cautions, however, that the current legal framework is still restrictive, coupled with practices inherited from the past that unduly restrict the right to freedom of opinion and expression, as well as the rights to freedom of peaceful assembly and association. In this connection, he notes the statement made by the Chairperson of the National Advisory Commission for the Promotion and Protection of Human Rights, Mr Ksentini, on 5 December 2011, regretting the absence of wider consultations on the then draft laws, including Laws Nos. 12-05 and 12-06.

16. Since the visit of the Special Rapporteur, at the end of which he made a series of preliminary conclusions and observations for the consideration of the Government in the context of the political reforms, substantive changes to the conclusions and observations have been made. In order to ensure that the report is still relevant, those changes have been reflected in it.

A. Legal action in relation to the exercise of freedom of expression

17. During his visit, the Special Rapporteur raised concerns about article 97 of Law No. 90-07, which provided that anyone deliberately offending the Head of State in office was punishable by a prison term of between one month and one year and/or a fine of 3,000 to 30,000 dinars (DA). The amendment made to the Criminal Code in 2001 broadened restrictions on the media, prohibiting the publication of information offending a magistrate, civil servant, public official, commander or State security agent. Sanctions may be taken against the author of the offence, the publisher and the editor, and the publication itself (articles 144 bis and 146 of the Criminal Code). Several journalists, including from *El Watan* and *El Khabar*, who notably denounced corruption by State officials had been charged with defamation and sentenced to imprisonment, although in most instances the sentence was not executed.

18. Law No. 11-14 of 2 August 2011 modified articles 144 bis and 146 of the Criminal Code, decriminalizing defamation against the above-mentioned officials. The Special Rapporteur commends the Government for this important decision. He is concerned, however, at the considerably high level of fines now imposed (between 100,000 and 500,000 DA). Such disproportionate fines have a chilling effect on the right to freedom of expression in general, notably by generating a continuous attitude of self-censorship among journalists who earn on an average basis 20,000 DA per month.

19. The Special Rapporteur notes with satisfaction that Law No. 12-05 abolished prison sentences pursuant to articles 77 to 99 of Law No. 90-07. However, he notes that the fines provided for some of the same offences in Law No. 12-05 were in some

instances multiplied by 20. Similarly, these fines have a deterring effect on the right to freedom of expression.

20. In addition, the Special Rapporteur is concerned that defamation remains a criminal offence under articles 296 and 298 of the Criminal Code. Article 296 defines defamation in broad terms, as “any allegation or imputation of a fact offending the honour or consideration of persons, or of the body to which the fact is imputed”. Article 298 provides that any act of defamation committed against individuals is punishable by imprisonment of two to six months and/or a fine between 25,000 and 50,000 DA.

21. The Special Rapporteur reiterates that, for a statement to be considered defamatory, it must be false, injure another person’s reputation and be made with malicious intent to cause injury to another individual’s reputation.² Furthermore, the following principles must be respected: (a) public figures should refrain from bringing defamation suits, as they are required to tolerate a greater degree of criticism than private citizens; (b) to require truth in the context of publications relating to matters of public interest is excessive; (c) with regard to opinions, it should be clear that only patently unreasonable views should qualify as defamatory; (d) the onus of proof of all elements should be on those claiming to have been defamed rather than on the defendant; where truth is an issue, the burden of proof lies with the plaintiff; (e) in defamation actions, a range of remedies should be available, including apology and/or correction; penal sanctions, in particular imprisonment, should never be applied.³ To this end, the Special Rapporteur notes that Law No. 12-05 offers the right of reply when someone has been the subject of slanderous accusations that may harm his honour or reputation (art. 101) without having to take legal action. He notes with concern that the right to correction requires directors of media to publish or broadcast, free of charge, any rectification submitted by natural persons or institutions regarding facts or opinions deemed to have been incorrectly reported (art. 100), without a court decision.

22. Furthermore, the Special Rapporteur is concerned about article 96 of the Criminal Code, which provides that whoever distributes or sells tracts, bulletins or flyers that “may harm the national interest” is subject to a term of imprisonment for a period between six months and three years, and a fine of between 3,600 and 36,000 DA. “When the tracts, bulletins or flyers come from abroad or are inspired by foreign sources, imprisonment may be for up to five years.”

23. In addition, the Special Rapporteur is concerned about article 46 of Ordinance No. 06-01 of 2006 on the implementation of the Charter for Peace and National Reconciliation, which provides that anyone who “through oral or written statements or any other act, exploits the wounds of the national tragedy, with a view to harming Algerian institutions, harming the honour of its agents who served it with dignity or tarnishing the image of Algeria at the international level” is punishable by imprisonment for three to five years and a fine of 250,000 to 500,000 DA. In the event of recurrence of an offence, the sanctions are doubled. Although this provision was never implemented, it contributes dramatically to the climate of self-censorship, especially in the media. The Special Rapporteur reiterates that reconciliation can never be achieved by imposing silence, and that peace must be based on the right to truth

² See A/HRC/4/27, para. 47. See also A/HRC/14/23, paras. 82-83; A/HRC/14/23/Add.2; A/HRC/7/14, paras. 39-43; E/CN.4/2006/55, paras. 44-55; E/CN.4/2001/64, paras. 43-48; E/CN.4/2000/63, paras. 45-52; E/CN.4/1999/64, paras. 24-28; and CCPR/C/GC34, para. 38.

³ Ibid.

and the victim's right to justice. In the case of forced disappearances, these rights are particularly relevant.

B. Freedom of the press and the right to information

1. Main observations

24. According to article 2 of No. Law 12-05, informing is an activity that must respect 12 principles, including the "national identity and cultural values of the nation", "the requirements of State security and national defence" and "the State's economic interests". Such restrictions are inherently vague, and not compatible with article 19(3) of the Covenant. They apply to journalists, but also to political parties, trade unions and human rights organizations. The Special Rapporteur recalls that the general principle is that permissible limitations and restrictions must constitute an exception to the rule, and must be kept to the minimum necessary to pursue the legitimate aim of safeguarding other human rights established in the Covenant or in other international human rights instruments.⁴

25. Furthermore, the Special Rapporteur notes with serious concern article 4 of Law No. 12-05, which provides that only registered associations may establish media to undertake information activities. This article is highly problematic in view of Law No. 12-06, which introduces a regime of preliminary authorization for the creation of associations (see paragraphs 83 – 88 below).

(a) Status of journalists

26. The precarious nature of journalism was brought to the attention of the Special Rapporteur on several occasions. Journalists expressed their concerns about the low standards of working conditions, which limit their professional freedom.

27. The Special Rapporteur notes with satisfaction that Law No. 12-05 aims at addressing this difficult situation. According to the law, journalists are entitled to a written contract from their employer that specifies the rights and obligation of both parties (art. 80). They are entitled to life insurance when sent to a war zone, a zone held by rebels or in regions affected by epidemics or natural disasters, or any other region where his or her life may be at risk (art. 90). Article 75 also provides that the nomenclature of the different categories of professional journalists is determined by the law on the status of journalists (unavailable when the present report was drafted). Furthermore, according to the Government, a salary scale involving a substantial increase in salary for all categories of journalists is currently applied.

28. Although a national journalist identification card should never be necessary to practice professional journalism, many journalists expressed their concern at not having professional recognition as such. At the end of his visit, the Special recommended that such a card be granted upon voluntary request. In this regard, he notes with concern article 76 of Law No. 12-05, which provides that professional journalism is reserved to holders of a national card of journalism issued by a commission, the composition, organization and functioning of which are determined by regulatory measure.

29. The Special Rapporteur also notes with concern that article 79 provides that at least one third of newspaper editorial teams be composed of full-time journalists who are holders of the national professional journalist card. Such quotas governing

⁴ A/HRC/14/23, para. 77.

the composition of editorial teams are not found in international law, and may amount to a form of control.

30. The Special Rapporteur notes the existence of two unions, the National Union of Journalists (since 1997) and the International Federation of Journalists (since 2009), with whom he met. He supports their work, but notes that less than 50 per cent of journalists belong to either one of the unions. He calls on both unions to join forces to fully support the work of journalists.

(b) *Access to information*

31. The Special Rapporteur received various testimonies from journalists who were unable to obtain information from public authorities, despite article 35 of Law No. 90-07, which guaranteed the right of access to sources to information, and the existence of communication officers within public institutions. Several State officials acknowledged the unfortunate lack of public communications on activities undertaken by the Government. This is all the more serious given that journalists have been tried for defamation because they were lacking sufficient and/or accurate information. In all democratic societies, transparency of public activities plays a crucial role for the confidence and trust of the population. Since State officials should work in representation of the people and for the common and public good, all official activities and management of resources should also be made public at the request of citizens, especially journalists.

32. At the end of his mission, the Special Rapporteur recommended that legislation on access to public information, which should in itself establish the limitations of an exceptional nature, be enacted. He notes with satisfaction article 83 of Law No. 12-05, which provides, inter alia, that all administrations and institutions must provide journalists with the information and data that they request to guarantee citizens the right to information within the framework of the law and applicable legislation. Article 84 also allows professional journalists to have access to sources of information. The Special Rapporteur notes with concern, however, the list of restrictions (longer than under the previous law) drafted in broad terms, such as “national sovereignty”, “strategic economic secret” and “foreign policy and economic interests of the country”. It is feared that investigative journalism on issues such as corruption of officials will not be possible. Furthermore, there is no reason why such access should only be granted to professional journalists. Lastly, procedural modalities for access to information and to challenge refusals are not in place.

33. In this regard, the Special Rapporteur stresses that the Human Rights Committee, in its general comment No. 34, observed that:

States parties should also enact the necessary procedures, whereby one may gain access to information....The procedures should provide for the timely processing of requests for information according to clear rules that are compatible with the Covenant. Fees for requests for information should not be such as to constitute an unreasonable impediment to access to information. Authorities should provide reasons for any refusal to provide access to information. Arrangements should be put in place for appeals from refusals to provide access to information as well as in cases of failure to respond to requests.⁵

⁵ CCPR/C/GC/34, para. 19.

(c) *Ethics*

34. During his visit, the Special Rapporteur was repeatedly told by the authorities and journalists that there was a need for journalists to adhere to high professional standards and ethical values. To quote one journalist with whom the Special Rapporteur met: “every day, Algerian citizens oblige journalists to be professional: since they tasted freedom of opinion and expression, they have not been willing to abandon it”.

35. At the end of his visit, the Special Rapporteur publicly stated that journalists should be held to such standards and values, but as a process of self-regulation and in a voluntary fashion, never by determination of State authorities or by law. He notes with concern title 6, chapter 2 of Law No. 12-05, in particular article 92, which states that journalists must strictly respect ethics and deontology. In addition to article 2, a long list of limitations is provided, including the respect of the State’s attributes and symbols; the prohibition to damage national history; the prohibition to use the moral prestige associated with the profession for personal or material purposes; and the prohibition to diffuse or publish statements and images that are amoral to or shock citizens’ sensitivity. The Special Rapporteur is concerned that this list is dangerously vague and may have an adverse impact on the work of journalists.

36. The Special Rapporteur notes the establishment of the High Council of Ethics and Deontology for Journalism (arts. 94-99), whose members are elected by professional journalists. The body is responsible for drafting and adopting a charter of honour for the profession of journalism (art. 96). In the event of breach of rules of ethics and deontology, the High Council may order sanctions against the author (art. 97). The nature of such sanctions is determined by the High Council (art. 98). The Special Rapporteur stresses the utmost importance that the High Council be fully and truly independent.

(d) *Training of journalists and State support for the media*

37. The proliferation of newspapers with low professional standards reportedly led to a decline in the overall quality of newspapers in Algeria. There is, therefore, a large number of journalists who could benefit from specific training.

38. The Special Rapporteur met with senior officials from the Ecole nationale supérieure de journalisme et des sciences de l’information, which was established by decree in 2009. He noted with interest the various courses offered to students, with a focus on, inter alia, new technologies.

39. The Special Rapporteur notes with satisfaction article 128 of Law No. 12-05, which provides that “the State contributes to the increase of the professionalism of journalists by means of training activities”. In this context, he welcomes the statements made by the Minister for Communications in December 2011 that the Government would devote, in 2012, 400 million DA for the training of journalists, and that the ministry, in cooperation with the Ministry of Professional Training and Teaching, would establish a training centre for journalists and audiovisual professionals in Sidi Abdallah, Algiers. In this regard, on 16 January 2012, a convention was signed by the two ministries to promote the training of professionals in the communications sector. The Special Rapporteur also notes with satisfaction that, under article 127, the State supports financially the promotion of freedom of expression, particularly through local and specialized press. In that regard, he recalls that

“care must be taken to ensure that systems of Government subsidy to media outlets ... are not employed to the effect of impeding freedom of expression.”⁶

(e) *Foreign journalists*

40. During his visit, the Special Rapporteur was informed that the number of visas granted to foreign journalists had been reduced several weeks prior to the mission, in connection with the then unfolding events. He was also informed that some foreign journalists had been given accreditations for a very limited period (for example, a week), and that accreditation could be revoked any time. The Special Rapporteur expresses concern about such practices. He notes that article 81 of Law No. 12-05 states that professional journalists working for foreign media receive an accreditation, the modalities of which are determined by statutes. He looks forward to receiving a copy of those statutes.

2. Written media

(a) *Negative practices*

(i) Intimidation and self-censorship

41. In its concluding observations on the third periodic report of Algeria, the Human Rights Committee observed that, while taking note of the pardon granted to some journalists in July 2006, it nevertheless noted with concern that many journalists had been and continued to be subjected to pressure and intimidation, or even measures of deprivation of liberty, by the authorities of the State party.⁷

42. During his mission, the Special Rapporteur was struck by one event amounting to a clear act of intimidation against the profession of journalists. On 5 March 2011, a group of journalists, from *Le Soir d'Algérie*, *La Liberté*, *Le Quotidien d'Oran*, *El Watan*, *L'Expression*, *La Tribune* and *La Voix de l'Oranie*, were apprehended by security forces after a rally in Oran, organized by the Oran section of the National Coordination for Change and Democracy, even though they had shown their press cards, which was denied by the Government. The journalists were transferred to different police stations and subsequently released a few hours later. On the same day, a journalist from *La Liberté* intending to cover a similar rally in Batna reportedly had his camera confiscated by the police. The fact that he had taken photographs of security forces dispersing this rally was reportedly regarded by the authorities as an act of provocation. The camera was returned later that day.

43. The detention of the 10 journalists in Oran was seen by many journalists as a warning to the media to no longer cover such events. Several journalists stated that they were indeed dissuaded from attending and reporting on similar events. In addition, one journalist who covered the rally in Oran was dismissed for issuing a statement on the incident, while another resigned because the article he wrote on the police action that day was eventually not published by his newspaper for fear of offending the authorities. Under the pressure of authorities, some newspapers were therefore forced to censor themselves – above and beyond the above-mentioned legal sanctions in relation to freedom of expression, which lead to further self-censorship.

44. Another pervasive form of pressure on editorial positions was brought to the attention of the Special Rapporteur. Two independent newspapers, *El Watan* and *El Khabar*, which have repeatedly been critical of Government policies, were report-

⁶ Ibid., para. 41.

⁷ CCPR/C/DZA/CO/3, para. 24.

edly subjected to 6-month-long auditing processes by the tax administration in 2010. Similarly, in January 2012, *El Watan* was summoned by the National Insurance Fund to pay 221,084,409.75 DA for unpaid social security contributions for collaborators and freelancers between 2005 and 2011. Other national newspapers had been targeted by the fund two years ago, but all procedures against them were stopped because of complaints by the editors. The Special Rapporteur finds such apparent politically motivated practices highly disturbing.

(ii) Lack of independence and weakening of the press

45. The Special Rapporteur notes with concern a lack of independence of the written press in general. At the time of the visit, there were 80 daily newspapers in Algeria, of which fewer than six are considered independent, according to several sources. Most of these newspapers are very small and depend entirely on official advertisement for their subsistence, and paper supplied by State-owned rotary presses. The Special Rapporteur sees this as a problem, given that he was told on several occasions that they were reportedly used by the State to create a “balance” to critical newspapers, with a view to diluting any criticism of State policies.

46. The Special Rapporteur met with the Chief Executive Officer of the *Entreprise nationale de communication, d’édition et de publicité* (ANEP), an agency in charge of, inter alia, allocating public advertising to newspapers. It is entirely funded by the State. Prior to the meeting, the Special Rapporteur received testimonies of several journalists concerning unfair allocation of official advertising by ANEP as a way to sanction criticism and encourage self-censorship of journalists; for instance, *El Watan* and *El Khabar* have been reportedly banned from receiving public advertising since 1996 and 1997, respectively, owing to their critical stance on Government policies.

47. The Special Rapporteur was informed by the agency’s Chief Executive Officer that there were no rules governing such allocations, and that such an absence of rules made the work of ANEP difficult. He was in favour of having a specific law on advertising, which would certainly improve the image of ANEP with the press in general. He stated that a number of laws on advertising had been drafted, to which ANEP had contributed, but to no avail. The Head of the National People’s Assembly expressed his support for having such a law.

48. The Special Rapporteur is of the opinion that a law should govern the allocation of public advertising, based on the principles of equity and fairness, with clear standards that preclude preferential treatment for those who are closer to Government positions and the sanctioning of those critical of public policies. He notes with satisfaction that article 28 of Law No. 12-05 limits advertising space to one third of the global surface of general information newspapers and publications. The Government later informed the Special Rapporteur that a law on advertising was being prepared.

49. The Special Rapporteur received testimonies from journalists about the dependence of the majority of newspapers on State-owned rotary presses and access to paper, which seriously limits their press freedom, and as a result creates unfair competition for those forced to acquire their own rotary presses to exist. The majority of these newspapers reportedly have debts with the printing company, and therefore will refrain from having a critical stance towards the Government. This closed circuit harms freedom of expression; it is important that the printing activity is not held exclusively in the hands of the Government. In addition, the supply of paper for print should be diversified so that a monopoly situation can be avoided.

(b) *Undue legal restrictions*

(i) Regulatory authority for the press

50. Article 40 of Law No. 12-05 establishes an independent and financially autonomous regulatory authority for the press that is responsible for, inter alia, ensuring the quality of media messages; ensuring the transparency of economic management practices of editorial houses; fixing rules and conditions of State financial aid to information bodies, and ensuring its distribution; and collecting all necessary information from press administrations and publishers to ensure that they respect their obligations. In the event of breach of the provisions contained in Law No. 12-05, the authority makes observations and recommendations, and sets the conditions and the time limit for their implementation (art. 42). The Special Rapporteur is concerned that this overall broad mandate could potentially impede the exercise of freedom of expression.

51. The regulatory authority is composed of 14 members: three members, including the chairperson, whose vote counts double, are appointed by the President of Algeria; two are appointed by the President of the National People's Assembly; two are appointed by the President of the National Council; and seven are elected by absolute majority from a list of professional journalists with at least 15 years of experience (art. 50). The Special Rapporteur is concerned that the nomination and appointment procedure does not fully guarantee the independence of the authority, given the degree of influence that may be exerted by the dominant political party and the President, as well as the lack of independence of the written press in general.

(ii) Starting a publication

52. During his visit, the Special Rapporteur received testimonies of associations and trade unions wishing to initiate a publication of their own, but who had not received any receipt from State authorities after submitting their preliminary declaration under law 90-07. He publicly stated that anyone should be able to start a publication without any restrictions, and there should be no official or de facto mechanisms of authorization beyond notification to State institutions.

53. The Special Rapporteur notes with concern that article 11 of Law No. 12-05 states that the publishing of periodical publications is free, subject to a preliminary declaration by the director in charge of the publication to the regulatory authority for the press. A receipt is immediately issued to the director, then 60 days later, an authorization is issued by the regulatory authority (art. 13). In the event of refusal, the authority must justify its decision, which can be appealed before the competent jurisdiction. The Special Rapporteur regrets that the procedure has been formally changed to an authorization regime.

(iii) Foreign participation in the media

54. Article 23 of Law No. 12-05 stipulates that the director in charge of a periodic publication must, inter alia, hold Algerian citizenship. Article 22 states that the printing of any publication owned by a foreign company is subject to authorization by the Ministry for Communications. Article 38 states that the production and/or importation by foreign entities and diplomatic missions of periodic publications to be freely distributed is/are subject to authorization of the Ministry of Foreign Affairs. The Special Rapporteur deplores such systems of authorization, and recalls that the right to freedom of expression applies regardless of frontiers, as provided by article 19(2) of the International Covenant on Civil and Political Rights.

55. In addition, article 29 of Law No. 12-05 prohibits periodic publications from receiving direct or indirect material support from any foreign party. Article 116 provides for a fine of 100,000 to 300,000 DA, and the temporary or definite suspension of the publication or of the body responsible for it. Article 117 further sanctions the directors of press or media bodies listed in article 4 with a fine of 100,000 to 400,000 DA for receiving funds or benefits from a foreign public or private entity. The Special Rapporteur believes that these provisions are aimed at controlling periodic publications, and are therefore unacceptable.

3. Television and radio broadcasting

56. At the end of his visit, the Special Rapporteur stated that it was clear that the opening granted to the press in the early 1990s had yet to be extended to television and radio broadcasting, given that the State had a monopoly on both media. The Special Rapporteur met with the Directors-General of Public Television and Radio, and was informed of their activities. There were then five television channels: three general channels; one on the promotion of the Amazigh culture; and one devoted to the Koran. There were 54 radio channels, one channel for each wilaya. Most of the country had radio broadcast coverage.

57. The Special Rapporteur conveyed the concerns of several interlocutors, who reported that national television and radio had given biased coverage of the protests in the country during the Arab spring, and did not grant sufficient access to opposition parties and critical non-governmental organizations. These affirmations were denied by the directors of television and radio. The Special Rapporteur notes with interest the statement made in December 2011 by the Minister for Communications⁸ that his sector would contribute to opening Algerian television to all political parties, acknowledging that television was experiencing a difficult period, owing also to former policies that did not allow it to accomplish its mission as a public service.

58. At the end of his visit, the Special Rapporteur recommended that, in order to guarantee openness, an independent collective authority for broadcasting be established with the representation of different sectors of stakeholders, including the press and civil society, which could guarantee genuine independence in the public broadcasting service. This is all the more relevant since a high percentage of the population draws its information from television and radio.

59. The Special Rapporteur notes with satisfaction that Law No. 12-05 establishes a regulatory authority in the audiovisual field, which is independent and financially autonomous (art. 64). The missions, attributions, composition and functioning of this authority will be determined by the law on audiovisual activities (art. 65). Once again, the Special Rapporteur stresses the utmost importance of having the press and civil society – actors who must be genuinely independent from the Government – represented in this authority. He expresses his willingness to provide comments on the draft law on audiovisual activities.

60. At the end of his visit, the Special Rapporteur encouraged the authorities to consider the possibility of opening some broadcasting channels and frequencies to private or joint initiatives. He noted with satisfaction the schedule determined by the Minister for Communications for the digitization of the system, which will allow the diversification of initiatives. He welcomes the opening of the audiovisual sector to Algerian private companies through the adoption of Law No. 12-05 (art. 61). This is certainly a commendable achievement, as it was a long-standing request of various

⁸ See www.ministerecommunication.gov.dz/index.php?option=com_content&task=view&id=657&lang=fr_FR.

stakeholders. Article 59 stipulates that audiovisual activity is a mission of public service. In this connection, the Special Rapporteur once again raises concern about article 2 of Law No. 12-05, which is bound to have an adverse impact on audiovisual activity.

61. The Special Rapporteur remains concerned that the news television channel *Al Jazeera* is still not permitted to operate in the country. According to the authorities, *Al Jazeera* gave biased coverage of the marches organized by the opposition in February 2011, and exacerbated tension. He thinks that such exclusion is not compatible with the commitment expressed by the Government to embark on political reforms, aimed at, inter alia, enhancing the freedom of expression.

4. Online media

62. Law No. 12-05, in its title five, covers online media, namely, online newspapers (arts. 67 and 68) and online audiovisual activities (arts. 69 and 70). Articles 68 and 70 provide that online media activities should consist in the production of work that has original content, is of general interest and regularly renewed and composed of information relevant to current events and that has been handled in a journalistic manner. Once again, such provisions are vague and may lead to a restrictive interpretation of the law. Article 71 states that the activities of the online press and audiovisual media must respect article 2 of the same law. This article is problematic owing to its reference to article 2, as mentioned above.

C. Freedom of opinion and expression on the Internet

1. Legal framework

63. Law No. 09-04 of 2009 governs the prevention and fight against offences linked to information and communications technologies. Article 3 provides that, in order to protect public order or for the needs of an investigation or for ongoing judicial inquiries, technical devices may be used for surveillance of electronic communications, and to collect and register in real time their content; in computer systems, searches and seizures may also be conducted. Article 4 provides that surveillance operations may be conducted to, inter alia, prevent offences amounting to terrorist or subversive acts and infractions against State security. Such operations may only be conducted on the basis of a written authorization from the competent judicial authority.

64. While mindful that the Internet may facilitate the commission of a crime, that the Government is responsible for ensuring that the Internet remains a safe place, and that persons behind such criminal conduct should be held accountable, the Special Rapporteur is concerned about the vagueness of the terms “terrorist or subversive acts”, which may lead to potential abuses in the implementation of Law No. 09-04. He echoes the observations of the Human Rights Committee on Algeria in that regard. While it understood the security requirements associated with the fight against terrorism, the Committee expressed its concern at the lack of details on the particularly broad definition of terrorist and subversive acts given in the Criminal Code. “The State party should ensure that counter-terrorism measures are consistent with the Covenant. In addition, the definition of terrorist and subversive acts should not lead to constructions whereby the terrorist acts can be invoked to deny the legitimate expression of rights established in the Covenant.”⁹

⁹ CCPR/C/DZA/CO/3, para. 17.

65. Furthermore, the Special Rapporteur is concerned that Law No. 09-04 might infringe upon Internet users' right to privacy, and impede the free flow of information and ideas online by undermining people's confidence. As recalled previously by the Special Rapporteur, "the right to privacy is essential for individuals to express themselves freely."¹⁰

2. Access to the Internet

66. The Special Rapporteur welcomes the work of the Ministry of Postal Services and Information and Communication Technologies in allowing greater access to the Internet to the public (now 8 million users), including users with a private subscription (1 million), as well as to, inter alia, universities and research centres connected via the Academic Research Network, the national education sector, the professional training and teaching sector, cultural institutions and public administrations.

67. The Government's strategy with regard to information and communication technologies is reportedly to generalize the use of such technologies for the benefit of the national economy and of citizens. Access to high and very high bandwidth is a prerequisite. To this end, an appropriation fund for the use and development of information and communication technologies, called FAUDTIC, was established in 2009. The fund covers, inter alia, generalizing access of the public to the Internet, teaching information and communication technologies to all social categories, and strengthening research, development and innovation.

68. In addition, in the framework of the fund's missions, the Ministry of Postal Services and Information and Communication Technologies signed, in 2010, a convention with the Ministry of Culture aiming at generalizing free access to the Internet with a 2-megabit bandwidth for all cultural centres and public libraries at the national level, thereby enabling the development of community spaces, and the training of all concerned activity leaders on the use of information and communication technologies. Within the same framework, a similar convention was signed with the Ministry of Youth and Sport in 2010 to give Internet access to all 2,000 youth centres. The Ministry of Postal Services and Information and Communication Technologies has also provided some centres with information and communication technology facilities. The Ministry of Education also referred to its commendable effort to teach information technologies in primary and secondary schools.

69. Access to the Internet is further facilitated by the exoneration of (a) value added tax on related fees pertaining to access via telephone land lines, the hosting of web servers for ".dz" data centres located in Algeria, and related maintenance and assistance; and (b) a tax on the creation, production and national publishing of digital works.

70. The Special Rapporteur was encouraged by the plans presented by the Minister aiming at expanding the network of Internet services via optical fibres, and through other existing networks. At the time of his visit, there were reportedly 62,000 km of optical fibres and 52,000 km of digital radio transmission lines.

71. The Special Rapporteur was informed by the Minister for Postal Services and Information and Communication Technologies and the President of the Council of the Regulatory Authority of Postal Services and Telecommunications that the authorities did not censor any websites nor had they developed Internet blocking or filtering mechanisms. The Special Rapporteur, however, received testimonies of how Facebook was unavailable for a short period of time in early 2011 when protests

¹⁰ A/HRC/17/27, para. 53.

were taking place in neighbouring countries in the region, which the same Minister denied. Similarly, the website of a news agency was reportedly disrupted for 15 days during the same period.

D. Censorship of imported books

72. The Special Rapporteur was informed that imported books may be subject to censorship by the Ministry of Culture. He is of the opinion that there is a very clear contradiction between such a law and the fact that the Internet and the purchase of satellite dishes are allowed. The censorship of imported books is relic of the past. The free circulation of books is emblematic of the freedom of opinion and expression.

E. Freedom of peaceful assembly

73. Decree No. 92-44 of 1992 established a state of emergency and authorized the Minister for the Interior and the *wali* (local governors) to temporarily close access to all public meeting places and to prohibit any gathering or demonstration that might disrupt public order. Under a decree issued in 2001, all marches in Algiers were also banned. Several peaceful gatherings and demonstrations were not allowed: for example, in March 2010, the Algerian League for the Defence of Human Rights was not permitted to hold its third congress despite having filed a declaration with the *wilaya* of Algiers several weeks before the event. In May 2010, a group of people peacefully gathering in front of the office of the national television broadcaster on the occasion of the World Press Freedom Day was dispersed by security forces.

74. When the state of emergency was lifted in February 2011, Law No. 91-19 of 1991 governing the exercise of the right to freedom of peaceful assembly was once again applied. Public gatherings are subject to a prior declaration made to the *wali* at least three days before the event takes place (art. 5). Public demonstrations are subject to prior authorization (art. 15), and the request to hold a public demonstration must be made to the *wali* at least eight days before it commences (art. 17). Should a demonstration be held without prior authorization, it is considered an illegal assembly (art. 19) and the organizers and participants may face imprisonment of three months to one year and/or a fine of 3,000 to 15,000 DA (art. 23). Article 9 provides that “it is forbidden in any public gathering or demonstration to express opposition to national values” and “to undermine the symbols of the first November revolution, public order and morals”. In the event of violation of article 9, the sanctions envisaged under article 23 apply.

75. According to several activists, however, despite the lifting of the state of emergency, the 2001 decree continues to be invoked to prevent a number of marches in the capital and in other cities, such as Oran. When marches are allowed, authorization may be granted at the last minute; when refused, justification is rarely provided. The Special Rapporteur deplors such arbitrary and oblique practices. He favours a declaratory practice for both public gatherings and demonstrations rather than one of authorization.

76. People from all parts of society, in particular young people, have taken to the streets to demand their rights, including the rights to freedom of expression, peaceful assembly, and association, as well as basic economic, social and cultural rights, such as employment opportunities. During his visit, the Special Rapporteur witnessed in Algiers a number of peaceful assemblies, as well as a march by students, contained

by a massive police presence. According to several sources, the march was eventually violently dispersed by security forces. In addition, on 13 April 2011, the Special Rapporteur went to the scene where a peaceful assembly of relatives of disappeared persons had just been repressed by security forces, in front of the offices of the National Advisory Commission for the Promotion and Protection of Human Rights. One activist from the non-governmental organization SOS Disparus had been hit in the lower body, another one was beaten, and women, including some elderly, were roughly handled. The Special Rapporteur is deeply concerned about this completely unacceptable brutality.

77. The Special Rapporteur also met with Dalila Touat, a member of the non-governmental organization Comité national pour la défense des droits des chômeurs (National Committee for the Defence of the Rights of the Unemployed), who was arrested in Mostaganem on 16 March 2011 for distributing flyers calling for a peaceful demonstration to defend the rights of the unemployed, and charged under article 100 of the Criminal Code. The Special Rapporteur raised the case with the authorities, and was pleased to learn that, a few weeks later, all charges were dropped and the case was closed.

78. Since the visit of the Special Rapporteur, a number of public demonstrations have reportedly been banned; for instance, on 23 April 2011, civil servants of the Ministry of National Education were reportedly prevented from holding a peaceful assembly in front of the presidential office, and several of them were beaten. On 29 June 2011, a peaceful march organized by lawyers of the Algiers bar association was not allowed. Likewise, marches organized by the Coordination nationale pour le changement et la démocratie (National Coordination for Change and Democracy) have repeatedly been prevented. On 16 October 2011, security forces reportedly used violence to disperse a peaceful assembly of 30 members of the Comité nationale pour la défense des droits des chômeurs in the wilaya of Laghouat. It is reported that some of the members were physically assaulted and arrested for some time; five of them were severely injured. The security forces also took away their banners and mobile phones. The Committee coordinator was summoned shortly after to the police station in Batna, and was interrogated on the the Committee's activities and its link with other trade union activists. The Special Rapporteur was also informed that organizers of peaceful assemblies were targeted by security forces prior to planned assemblies. For instance, in June 2011, three members of the Rassemblement pour la culture et la démocratie (Alliance for Culture and Peace) were apprehended before the weekly gathering of the Coordination nationale pour le changement et la démocratie and interrogated on their political activities before being released.

79. The Special Rapporteur met with the Director-General of National Security and four other high-ranking officials, to whom he expressed his concerns about the use of excessive force by law enforcement officials in the context of peaceful assemblies. He was informed that law enforcement officials were trained in human rights law and never used force against participants in such assemblies. Furthermore, all levels of command in the security forces were instructed to, *inter alia*, act with "tact and professionalism" when maintaining or re-establishing public order and to systematically avoid using repressive means against demonstrators or when dispersing non-authorized gatherings in public areas. However, in the light of the above-mentioned incidents witnessed or brought to his attention, the Special Rapporteur would like to reiterate the need for law enforcement agencies to adhere to the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. In this regard, the Special Rapporteur would like to stress the importance of prompt and thorough investigation of all allegations of excessive use of force by an independent body, of holding respon-

sible persons accountable and of providing reparation to victims. Such measures are not only essential to protect the rights of individuals, but also to build public confidence in the Government.

F. Freedom of association

80. During his visit, the Special Rapporteur met with a number of human rights activists, including trade unionists, who raised a number of issues pertaining to the exercise of their right to freedom of association.

81. At the time of the visit, Law No. 90-31 of 1990 governed the modalities of constitution, organization and operation of associations. Articles 7 and 10 provided that an association was lawfully established, *inter alia*, after (a) a declaration of constitution had been submitted to the wali of the wilaya where the association was based, or to the Minister for the Interior, in the case of national or inter-provincial associations; and (b) the issuance of a registration receipt by the competent authority within 60 days of receiving the said declaration. In the event that the competent authority believed that the establishment of the association would be contrary to the law (namely, based on an object contrary to the established institutional system, public order, public morality or law and regulations in force), it referred the case to the administrative chamber of the relevant court eight days before the expiry of the 60-day period. The court would then have 30 days to give its decision (art. 8).

82. The Special Rapporteur was repeatedly informed that, in practice, registration receipts were arbitrarily denied, upon instructions from authorities or without referring the case to a court, or indefinitely delayed, for organizations critical of the Government's policies or on issues deemed controversial, such as enforced disappearances and the victims of terrorism during the Black Decade. For instance, the non-governmental organizations SOS Disparus and Somoud, which work on the above-mentioned issues, were reportedly never informed of the status of their submission to the Minister for the Interior. Similarly, the youth association El Manara has still not received any registration receipt since its submission in 2006 before the wilaya of Mostaganem. In the absence of the registration receipt, an association has no legal personality and, as a consequence, cannot open a bank account, receive funds or file a complaint before a court. In addition, some associations have been arbitrarily asked to change their name when applying for the renewal of their board. This was the case, for instance, of the non-governmental organization Femmes algériennes revendiquant leurs droits (Algerian Women Claiming Their Rights).

83. At the end of his visit, the Special Rapporteur publicly encouraged the Government of Algeria to facilitate the exercise of the right to freedom of association. However, the provisions of Law No. 12-06 on association, which was adopted in December 2011, unduly restrict freedom of association.

84. The creation of an association is now subject to a procedure amounting to a regime of preliminary authorization since the administrative authorities are required to either deliver a receipt granting authorization or reject the application (art. 8), without having to refer the case to a judicial court. In the event of rejection, the association may appeal before the competent court. The criteria upon which an application may be refused are extremely broad, and may therefore lead to arbitrariness, as the object and the goals of an association's activities must be compatible with the general interest and not contrary to national values, public order, public morality or applicable laws and regulations (art. 2). Another issue of concern is the fact that associations may no longer receive funds from legations and foreign non-governmental organizations outside the framework of duly established partnerships (art. 30), finan-

cially stifling several human rights associations that rely on such funding. Should an association receive funds from these entities, it may be suspended for a maximum period of six months (art. 40) or even dissolved (art. 43). Furthermore, administrative authorities may suspend or dissolve an association “when it interferes with domestic affairs or when it infringes upon national sovereignty” (art. 39); again, such broad terms may be invoked in an arbitrary manner. Lastly, any member or head of an association that has not been registered or authorized, has been suspended or dissolved, and who continues to work in its name will face a prison term of three to six months and a fine of 100,000 to 300,000 DA (art. 46). Such a provision is particularly problematic in the light of the above.

85. With regard to foreign associations, they may be authorized to operate only if they aim at implementing provisions contained in an agreement between the Government of Algeria and the Government of the country of origin of these associations, with a view to promoting relations based on friendship and brotherhood between the Algerian people and the people of the country of origin of such associations (art. 63). Foreign associations may similarly be suspended or dissolved by the administrative authority in the event of, *inter alia*, “blatant interference with the host country’s affairs, or when its activity infringes upon national sovereignty, the established institutional order, national unity or the integrity of the national territory, public order, public morality, or the civilizational values of the Algerian people” (art. 65). Likewise, these provisions are broad and may be used arbitrarily.

86. It is therefore feared that the same associations, whose right to freedom of association was reportedly illegitimately restricted under Law No. 90-31, will continue to be targeted under the new provisions – even to a greater extent, given that the new law is far more restrictive. The Special Rapporteur is, therefore, deeply concerned about this new legislation, which impedes the right to freedom of association, and therefore has a detrimental impact on the right to freedom of expression.

87. Lastly, the Special Rapporteur is also concerned about reports of members of international human rights non-governmental organizations who were, on a number of occasions, not allowed to enter Algeria; for instance, the Executive Director of the Euro-Mediterranean Human Rights Network, a network of more than 80 human rights organizations, institutions and individuals based in 30 countries in the Euro-Mediterranean region, was twice in 2009 not granted a visa to attend meetings in the country. Similarly, in 2009, a Tunisian journalist and human rights activist due to participate in a programme on media monitoring, on the invitation of the Algerian League of Human Rights, was denied entry on her arrival at Algiers airport.

G. National Advisory Commission for the Promotion and Protection of Human Rights

88. During his visit, the Special Rapporteur met with a number of members of civil society supportive of the work in the National Advisory Commission for the Promotion and Protection of Human Rights, and others who expressed their distrust in the activities of the Commission. In a meeting with the Chairperson and members of the Commission, the Special Rapporteur mentioned the importance of raising the legitimate human rights demands, past and present, of all sectors of civil society. He also reiterated, *inter alia*, the importance of guaranteeing its independence in the appointment procedure and its work, following the confirmation in October 2010 of “B” status, relating to the status and functioning of national institutions for promotion and protection of human rights (the Paris Principles) by the Subcommittee of the

International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights.¹¹

89. In this connection, the Special Rapporteur recalls that, in March 2010, the International Coordinating Committee raised a number of concerns, including that the “Commission’s reports are not widely circulated, discussed, nor considered by governmental bodies or parliament” and the critical importance for national human rights institutions “to maintain close cooperation with civil society in order to effectively fulfil their mandate”, and called upon those institutions “to improve its relations with such organizations”.¹²

VI. Conclusions and recommendations

90. **The Special Rapporteur reiterates the importance of freedom of opinion and expression, coupled with freedoms of peaceful assembly and of association, in a truly democratic society. The political reforms in which Algeria has embarked are certainly important and come at a critical time; however, these reforms are marred by gaps and shortcomings that seriously impede the exercise of the rights to freedom of expression and association. Enduring negative practices in relation to the rights to freedom of expression, peaceful assembly and association further undermine the exercise of these rights.**

91. **The logic of the past can no longer be used to ignore the expectations of the people, in particular the young, and to limit their freedoms. The Government should heed such voices. Freedom of expression, together with freedoms of peaceful assembly and association, allow society to ease tensions.**

92. **To strengthen the democratic foundations of Algeria, the Special Rapporteur, in a spirit of constructive engagement, recommends the steps set out below.**

A. Legal action in relation to freedom of expression

93. **Defamation should be made a civil action, and fines should be significantly reduced in order not to dissuade freedom of expression.**

94. **Defamation should never be used to stifle criticism of State institutions and policies.**

95. **The Government should implement the recommendation of the Human Rights Committee, namely, to repeal any provision of Ordinance No. 06-01 enacting the Charter for Peace and National Reconciliation, in particular article 46, which infringes freedom of expression and the right of any person to have access, at the national and international levels, to an effective remedy against violations of human rights.¹³ In this context, the Special Rapporteur notes that Algeria accepted the recommendation made at the first session of the universal**

¹¹ “B” status denotes “not fully in compliance with the Paris Principles or insufficient information provided to make a determination”. See the report and recommendations of the session of the Sub-Committee on Accreditation, March-April 2010, para. 1.8, available from the website <http://nhri.ohchr.org/EN/Documents>.

¹² Ibid., paras. 3.2.(1) and 3.2.(6). See also E/C.12/DZA/CO/4, para. 6.

¹³ CCPR/C/DZA/CO/3, para. 8.

periodic review, namely, that the State take into account the observations made by the Human Rights Committee.¹⁴

B. Freedom of the press and the right to information

96. The Government should implement the recommendation of the Human Rights Committee, namely, to guarantee the exercise of freedom of the press and the protection of journalists, in accordance with article 19 of the Covenant.¹⁵

97. All provisions under Law No. 12-05 identified as problematic in the present report should be revised with a view to fully ensuring the right to freedom of opinion and expression.

98. The Government should adopt legislation to establish specific mechanisms to ensure access to public information.

99. State institutions should design a common strategy of communication that would keep the public better informed, with a view to publicizing, inter alia, the positive measures taken by the Government.

100. Journalists' visas and accreditations and their renewals should be dealt with promptly, and not be used as a means to threaten or limit their freedom to cover all stories. The access of foreign journalists to the country should be facilitated.

101. Acts of intimidation and other forms of pressure against journalists should cease with a view to ending self-censorship among the profession.

102. The Parliament should enact legislation to make ANEP a truly independent institution and establish principles on governing the allocation of public advertising.

103. Printing activities should be governed by principles of fair competition.

104. *Al Jazeera* should be allowed to operate in the country.

C. Freedom of opinion and expression on the Internet

105. Law No. 09-04 should be applied only as an exception to the general norm of permitting the open and free use of the Internet, like all other forms of communication; only very few qualified and clearly legislated exceptions should be permitted.

106. Surveillance should be conducted only in accordance with international human rights law and never be arbitrary.

D. Censorship of imported books

107. The censorship of imported books should no longer be possible.

¹⁴ A/HRC/8/29, para. 69 (10).

¹⁵ CCPR/C/DZA/CO/3, para. 24.

E. Freedoms of peaceful assembly and of association

108. The Government should implement the recommendation of the Human Rights Committee, namely, to respect and protect the activities of human rights organizations and human rights defenders. It should ensure that any restrictions imposed on the right of peaceful assembly and demonstration and on the registration of associations and the peaceful pursuit of their activities are compatible with articles 21 and 22 of the International Covenant on Civil and Political Rights.¹⁶

109. The right of relatives of victims of enforced or involuntary disappearance to express themselves publicly should be recognized and respected.

110. The 2001 decree banning marches in Algiers should be abrogated.

111. The Government should amend Law No. 91-19 with a view to introducing a regime of notification for public demonstrations rather than authorization.

112. Law enforcement officials should not use excessive force against peaceful demonstrators. These officials should be fully trained in international human rights standards on the policing of assemblies and demonstrations. All allegations of excessive use of force should be promptly and thoroughly investigated by an independent body, persons responsible should be held accountable, and victims should obtain reparation.

113. The Government should amend Law No. 12-06 with a view to fully ensuring the right to freedom of association.

114. The Government should allow members of international human rights organizations to enter Algeria to conduct their legitimate activities, in the exercise of their right to freedom of opinion and expression.

115. The Government should respond favourably to the request of the Special Rapporteur on the rights to freedom of peaceful assembly and of association to undertake a visit to the country to address the related issues identified in the present report.

F. National Advisory Commission for the Promotion and Protection of Human Rights

116. The National Advisory Commission for the Promotion and Protection of Human Rights should be brought into full conformity with the Paris Principles.

117. The Commission should heed the claims and gain the trust of all non-governmental organizations.

¹⁶ Ibid., para. 25.