



经济及社会理事会

Distr.
GENERAL

E/CN.4/2003/66/Add.1
9 January 2003
CHINESE
Original: FRENCH

人权委员会
第五十九届会议
临时议程项目 11 (e)

公民权利和政治权利，包括宗教不容忍问题

宗教信仰自由问题特别报告员阿卜杜勒法塔赫·奥马尔先生

根据人权委员会第 2002/40 号决议提交的报告

增 编

对阿尔及利亚的访问 *

(2002 年 9 月 16 日至 26 日)

* 本访问报告的内容提要以所有正式语文分发。报告正文载于本内容提要的附件，仅以原文、英文和阿拉伯文分发。

内 容 提 要

本报告概述特别报告员 2002 年 9 月 16 日至 26 日访问阿尔及利亚的情况，分析了宗教信仰自由的法律和政治框架以及信仰和信仰表现方式方面的状况，重点讨论了政治派系利用伊斯兰教的情况、宗教极端主义造成的暴力、妇女状况、宗教内部的对话和不同宗教间的对话以及学校在倡导容忍和不歧视方面的作用。报告的结论和建议阐述了如何处理和预防基于宗教或信仰的不容忍和歧视的问题。

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Introduction

1. This report has been drawn up pursuant to Commission on Human Rights resolution 2002/40 of 23 April 2002. It presents and discusses information gathered during a mission paid to Algeria, at the invitation of the Algerian Government, from 16 to 26 September 2002.
2. The mission provided an opportunity to visit Algiers (from 16 to 20 and from 23 to 26 September), Constantine (on 21 September) and Oran (on 22 September).
3. As Special Rapporteur, I should like to thank the Algerian authorities warmly for having invited me, and to express my gratitude to the Algerian Government for the cooperation extended to me in the fulfilment of my mandate. This visit was the first paid by a special rapporteur to Algeria. It is indicative of a willingness to cooperate with machinery for the protection and promotion of human rights that should be applauded, emphasized and nourished.
4. During the visit, the Special Rapporteur had interviews with the following figures in Government: the Prime Minister, the Minister for Foreign Affairs, the Minister of Justice, the Minister of Religious Affairs and Endowments, the Minister of National Education, the Minister of Culture and Communication, the Minister responsible for the family and the status of women, the Director of Public Liberties (Ministry of the Interior), and the *Walis* and regional directors of religious affairs for the *wilayas* of Constantine and Oran.
5. There were also meetings with the Chairman of the High Islamic Council, representatives of the parliamentary groups of the National Liberation Front (FLN), the Society for Peace Movement (MSP, formerly Hamas), the Islah Movement and the Workers' Party. For technical reasons it was not possible to meet representatives of the National Democratic Union (RND). Meetings were also held with officials of political parties not represented in Parliament.
6. Visits were paid to Islamic and Christian places of worship, university institutions and Christian charities. Discussions were held with members of the National Advisory Committee on the Promotion and Protection of Human Rights, representatives of religious and faith-based communities, representatives of non-governmental organizations, journalists, academics and a number of public figures. Owing to a lack of time and opportunity, it was not possible to meet other people who might have shed further light on freedom of religion or belief; it should be understood that the Special Rapporteur's pursuit of his agenda and his freedom of movement were not at any point obstructed.
7. After a brief description of Algeria, this report will discuss the legal and political setting within which freedom of religion or belief is exercised. It will then address the question of freedom of belief and religious observance, the status of women, and the prevention of intolerance and discrimination based on religion or belief.

I. GENERAL DESCRIPTION OF ALGERIA

8. In surface area (2,381,741 sq km), Algeria is the tenth largest country in the world. With a population of 30 million, it is a young country: almost 35 per cent of the population is

under 15, and nearly 70 per cent is under 25. Some 23 per cent of the population are said to be living below the poverty line, and the unemployment rate is 27.3 per cent or 2.3 million, 80 per cent of whom are aged under 20.

1. Independence and construction of the State

9. Algeria attained independence on 5 July 1962 amidst intense political struggles between personalities and political viewpoints jostling for power. Ahmed Ben Bella became head of State. The Constitution adopted in 1963 established a democratic people's republic and presidential regime together with a single political party, the National Liberation Front (FLN).

10. But the political situation remained unstable and, on 19 June 1965, the army, led by Colonel Houari Boumediene, took power following a coup d'état, secured for itself a dominant position and became the means by which the élite were chosen. All sectors of the economy were progressively nationalized, an agrarian revolution was launched in 1971, and in 1976 the country adopted a national Charter that blended political and economic voluntarism with nationalism, based on a combination of Islamic moral and socialist revolutionary principles that were incorporated into the Constitution adopted by referendum in November 1976.

11. On the death of Boumediene in December 1978, Colonel Ben Djedid Chadli assumed power and embarked on a policy of economic liberalization which was stepped up in 1985 and 1987, in view of falling oil prices and an increase in Algeria's foreign debts.

2. Political and economic difficulties

12. Extensive unemployment, the apparent inability of the regime to reform or improve living conditions for the general public, and corruption on the part of some officials led to more and more frequent unrest from 1986 onwards. Riots broke out in Algiers, then in Oran and Annaba, in October 1988, pitting young people against the forces of law and order; 159 people were reported killed, and 3,500 arrested.

13. On 23 February 1989, a referendum called by President Chadli adopted an amendment to the Constitution instituting the separation of powers, limiting the role of the army and restricting the presidential term of office to five years; above all, it allowed a multiparty system in Algeria. Many political parties were founded. The State monopoly over the press was abolished but, despite the reforms, strikes and demonstrations continued.

14. In April 1991, an indefinite strike and demonstrations led to the proclamation of a state of emergency and the arrests of roughly 700 members and sympathizers of the Islamic Salvation Front (FIS), including its chairman and vice-chairman.

3. Spread of religious extremism and violence

15. Having first come to light in 1982 and gained a foothold thanks to determined efforts from the mid-1980s onwards amongst the least well-off by militants operating in a dense, active associative and cultural network centring on the mosques, FIS swept to victory in the first multi-party local elections on 27 June 1990. On 26 December 1991, it won 47.5 per cent of the

votes in the first round of legislative elections. The National People's Assembly was dissolved by presidential decree on 4 January 1992, and President Chadli was forced to resign on 11 January.

16. A High Council of State was set up on 14 January 1992, and Mohamed Boudiaf, one of the original FLN leaders, was chosen to head it. A state of emergency was decreed and FIS was dissolved in March 1992. Boudiaf's assassination on 29 June 1992 signalled the outbreak of civil war. The Government pursued a policy of systematic action against the Islamists, who formed into armed groups and mounted terrorist attacks which gradually spread into all parts of the country.

17. After FIS was dissolved, a number of factions sprang up within its armed wing, the Islamic Salvation Army (AIS), and a ferocious struggle for power and influence broke out between AIS and the Armed Islamic Groups (GIA) although their aims and methods were virtually identical. Continual divisions within the Armed Islamic Groups gradually reduced the situation to one of impenetrable violence.

18. Violence by these groups, initially directed against the security forces, spread to include reporters, intellectuals generally, political militants who opposed the groups' views and foreigners, before being directed at the population at large. The whole of society was exposed to mindless terror sustained by agents claiming to be inspired by Islam who included common criminals and highway robbers.

19. Since fighting broke out, non-governmental organizations and United Nations human rights bodies have voiced grave concern at the way the country has become over-militarized, at the indiscriminate use of firepower by the security forces, at arbitrary arrests, detentions and disappearance, at persistent reports of summary executions, torture and ill-treatment, at the lack of timely preventive action by the police and military authorities to protect victims, at the growing lack of security resulting from the actions of the self-defence forces legalized by a 1997 law and, above all, at the fact that the security forces continue, according to reports, to act with impunity.

20. Fighting in Algeria has claimed the lives of 100,000 people according to the Algerian authorities, or 200,000 according to certain Algerian political parties and other non-governmental sources. The number of disappeared persons is put at between 4,000 and 7,000.

21. Despite the Civil Concord Act of 13 July 1999 and the decree of 10 January 2000 granting "clemency" to former organization members who decided to renounce violence, it must be said that terrorism has persisted and perhaps even risen again in spite of official statements claiming that the security situation is 95 per cent under control. Over 700 Algerians are said to have been killed since the beginning of 2002, some amnestied members of armed groups are thought to have gone back underground, and communiqués calling for massacres continue to circulate from certain European capitals: it will be recalled that many extremists have taken refuge, and sometimes been given protection, in European countries and elsewhere.

22. Militant extremists numbered around 25,000 in the 1990s; there are, however, probably no more than a few hundred left, most of them over 30, and the supply of post-teenage replacements is no longer so abundant as it was. Does that mean that Islamist terrorism in Algeria is a spent force? Some clues - which need to be viewed with a good deal of caution - deserve attention.
23. Five terrorist groups, with a collective membership of about 600, are said to be still active:
- GIA, with about 60 men led by Ouakali Rachid, the successor to Antar Zouabri, mount operations (very bloody ones, it appears) in the Mitidja plain and elsewhere;
 - The Groupe Salafiste pour la Prédication et le Combat (GSPC) is reported to have about 350 men under the leadership of Hassan Hattab and to be active mainly in the Boumerdès and Bouira regions and in Kabylie. According to the army this well-organized group has links to al-Qa'idah;
 - Houmat ed-Da'wa Salafiya is supposed to have about 70 men; led by a veteran of the fighting in Afghanistan, Slim Al Afghani, it operates chiefly to the west of Algiers and is said to have links to al-Qa'idah;
 - The Groupe salafiste pour le djihad is said to have about 60 men led by Abdelkader Souane;
 - The Groupe salafiste combatant is also thought to have about 60 men, led by Yahia Djouadi.
24. The weakening of Islamist groups is attributed to an improving economic situation, the opportunities that power affords, and resistance within society - especially from the elites in favour of freedom and democracy - but also action by the forces of law and order, so much so that the underground groups seem to have lost the attraction they used to exercise over many young people.
25. During the 1990s, over 15,000 Islamists are said to have been eliminated by the security forces; over 6,000 are said to have recanted, and nearly 30,000 were arrested and put on trial.
26. Nonetheless, Islamist groups continue to organize massacres and other violent operations. In general, however, security conditions in Algeria have improved markedly compared with 10 years ago. It is not certain that extremism and terrorism will soon vanish from Algeria, but they are already beginning to look like things of the past.

4. The drive to restore the authority of the State

27. Most of the officials interviewed said that the Algerian authorities, confident of their status after being returned to power in the 1999 presidential poll and the municipal and

legislative elections of May and October 2002, intended to see to it that the rule of law became established in a democratic process which would strengthen the multiparty system. The Minister of Justice also stressed that human rights were an asset and heritage that Algeria should embrace.

28. Under the heading "Broad areas of reform", the Government programme approved by the National People's Assembly on 27 July 2002 calls for a legislative programme based on a clearer delineation and better protection of fundamental rights and liberties, and on the amendment of laws and regulations to bring them into accord with international standards and treaty undertakings. The head of Government has said that he is determined to put through reforms so as to institute and entrench democracy and the rule of law and develop human rights beyond the reach of extremism and violence.

29. By letter dated 1 April 2002, President Bouteflika asked the National Advisory Committee on the Promotion and Protection of Human Rights to draw up a real plan of action on human rights, drawing both on agreements that Algeria had ratified and on the recommendations of United Nations human rights bodies. The lustre that the President added to a colloquium on St. Augustine is of a piece with his concern to remind people, first, of the need for tolerance, and second, of Algeria's richness and diversity.

5. The religious situation in Algeria

30. Ninety-nine per cent of the Algerian population are Sunni Muslim adherents of the Maliki school of law. The Maliki school, which predominates in the Maghreb, is a fairly hard-line one drawing on the tradition inherited from Medina at the time of the Prophet; it recommends taking account of the general interest and sets great store by tradition.

31. There is in the Mزاب region of Algeria an Ibadite community 150,000 to 200,000 strong. The Ibadites, descendants of the Kharidjites and doctrinally uncompromising Islamic purists, founded Ghardaïa and four other towns which are still home to their community.

32. In the absence of official statistics on religious minorities one has to rely on figures supplied by the communities concerned. These suggest that Algeria has 10,000 Catholics and between 5,000 and 20,000 Protestants. One Adventist church is said to have a congregation of about 20.

33. Before independence there was a Jewish community some 150,000 strong, but most have left the country. According to the Ministry of the Interior's Director of Public Liberties, there may be around 1,000 Jews living in Algiers, Blida and Constantine, but all those interviewed felt that there was no longer a real Jewish community and no working synagogue.

34. Atheism appears to be marginal, although it is found among a certain fringe of the lay elite.

II. LEGAL AND POLITICAL SETTING FOR FREEDOM OF RELIGION OR BELIEF

A. Legal setting

35. Some features of the international and national legal setting for protection of the right to freedom of religion or belief are discussed below.

1. The Constitution

36. The Constitution of the People's Democratic Republic of Algeria was adopted on 28 November 1996. Many of its clauses have to do with religion: the basic components of the national identity are Islam, Arabism and Amazighitism (Berber identity). Islam is the State religion (art. 2). Freedom of conscience and freedom of opinion are inviolable (art. 36). Political parties cannot be founded on religion and are not allowed to put out religiously based propaganda (art. 42). The right to inherit is guaranteed, endowments (*waqf*) and foundations are recognized; their intended purposes are protected by law (art. 52). To be eligible, candidates for the Presidency must be Muslims (art. 73). The Presidential Office incorporates a High Islamic Council whose members are appointed by the President; its responsibilities include encouraging and promoting the interpretation of Shariah law and giving opinions on religious prescriptions (art. 71). No amendment to the Constitution may adversely affect Islam as the State religion, basic liberties, or human and civil rights (art. 178).

37. It should also be pointed out that the Constitution guarantees equality before the law, bans discrimination on the basis of birth, race, sex, opinion, status or personal or social circumstances (art. 29), and guarantees the right to education, which is to be provided free of charge. Basic education is mandatory, and the State organizes the education system (art. 53).

2. International conventions

38. Algeria has ratified numerous international conventions on human rights, notably the International Covenant on Civil and Political Rights and its first Optional Protocol, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women. It has also been party to the adoption of numerous declarations, including the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

39. While Algeria has been in the avant-garde as regards the ratification of international conventions on human rights, it is to be noted that it has made numerous interpretative declarations and reservations to the agreements it has ratified. Still, according to article 132 of the Constitution, treaties ratified by the President rank above the law.

3. The law

40. According to information gathered from the authorities, there is no specific law governing freedom to worship. There are, however, laws that deal with religion or affect freedom of religion or belief. As the 1984 Family Code is the only piece of legislation derived from the Islamic Shariah, this will be looked at in detail later.

(a) The Penal Code

41. Under article 87 bis, any act intended to affect State security, territorial integrity, institutional stability or operation, and any act intended in part to hinder the actions of the public authorities or the free exercise of religious observance or public liberties, is regarded as a terrorist act. Anyone who creates, founds, organizes or directs any association, body, group or organization to such a purpose is subject to life imprisonment (art. 87 bis 3). Likewise, anyone who makes apology for, encourages or finances the above acts by any means is subject to 5 to 10 years' imprisonment and a fine. Article 87 bis 10 renders anyone who preaches attempts to preach in a mosque or other public place devoted to prayer without being appointed, approved or authorized to do so by the public authorities liable to a one-to three-year term of imprisonment and a fine. A three- to five-year term of imprisonment and a fine await anyone who, by preaching or through any other action, engages in activity counter to the noble mission of the mosque or likely adversely to affect social cohesiveness or to make apology for or promote the acts covered in the section (art. 87 bis 11). Article 144 bis 2 renders liable to three to five years' imprisonment and/or a fine anyone who insults the Prophet and God's messengers or denigrates Islamic dogma or precepts in writing, in a drawing, in oral statements or by any other means. Articles 150 and 160 ter protect burial grounds and places of worship, making encroachments upon them punishable by terms of imprisonment of six months to two years and one to five years respectively. Article 160 renders liable to imprisonment of 5 to 10 years anyone who voluntarily and publicly destroys, mutilates, degrades or profanes the holy book. Lastly, article 298 bis stipulates that any slur on one or more individuals belonging, inter alia, to a particular religion is punishable by five days' to six months' imprisonment and/or a fine.

(b) The Political Parties Act of 6 March 1997

42. In everything they do, political parties are required to avoid making use of the fundamental components of the national identity - Islam, Arabism and Amazighitism - for partisan propaganda ends and to reject violence and coercion as means of expression (art 3). No political party may be established or base its actions on grounds and/or objectives which entail sectarian practices or practices contrary to the values of Islamic morals (art. 5).

(c) The Information Act of 3 April 1990

43. According to article 26 of this Act, periodicals and specialist national or foreign publications, whatever their nature and target audience, must contain no illustration, account, report or insert contrary to Islamic morals, national values or human rights or make apology for racism, fanaticism or treason. Article 77 also specifies that anyone who offends against Islam or the other divinely revealed religions in writing or by means of sound, pictures, drawings or any other direct or indirect means is liable to six months' to three years' imprisonment and/or a fine.

(d) The Associations Act of 4 December 1990

44. The reason why the Associations Act is mentioned here is that it applies to religious associations among others. Article 5 states that any association founded in pursuit of a purpose counter to the established institutional system, public order, public morals or current regulations is automatically null and void. Associations are different in purpose, denomination and operation from any kind of political association and may not sustain any kind of relationship, whether organic or structural, with the latter, nor receive from them subsidies, gifts or legacies of any kind, nor help to finance them (art. 11). Associations may be dissolved by the courts at the request of the public authorities or in response to a complaint from a third party, if they engage in activities contravening the law in force or other than those stipulated in their statutes (art. 35).

45. Foreign associations, i.e. those which are based abroad or led entirely or partly by foreigners, require the prior approval of the Minister of the Interior before being set up (art. 40), and the Minister can suspend or withdraw his approval if they engage in activities other than those stipulated in their statutes or if they are likely to, or indeed do, adversely affect the territorial integrity of the nation, national unity, the State religion or national language, public order or public morals (art. 42), or if they refuse to provide the authorities with the documents and information they are asked for concerning their activities, financing, administration and management.

4. Regulations

46. The Ministry of Religious Affairs and Endowments provided the Special Rapporteur with the texts of numerous decrees on the organization, operation and powers of its central and regional services. The most interesting of their provisions are set out briefly below.

47. Within the central administration, the Department of Religious Orientation and Koranic Instruction, instituted by decree dated 28 July 2000, is responsible for monitoring the activities of mosques and sermons, conducting research with a view to improving the guidance offered by non-binding legal rulings (*fatwa*), and issuing certificates of conversion to and confirmation in Islam. According to a decree dated 27 April 1991, imams are responsible for order in the mosques and for protecting them from any activity unrelated to religious matters.

48. Regionally, the Department of Religious Affairs in each *wilaya* is responsible for ensuring that the mosques can play their assigned role as religious, educational, cultural and social centres, taking action to ensure that the religious and educative activities of the mosques and Koranic teaching institutions can proceed smoothly, monitoring the activities of religious associations approved at the *wilaya* level, and giving explicit permission for mosques to be built within the *wilaya*.

49. The Minister of Justice asserts that positive law does not permit any discrimination and there is no religious discrimination because the divinely revealed religions all enjoy the same legal status; the courts have means at their disposal, and the Algerian State is intolerant of intolerance.

5. States of emergency

50. The state of emergency declared by decree of 9 February 1992, of which the United Nations was notified, is still in effect. The Ministry of Justice and the Ministry of the Interior's Director of Public Liberties say that all that now remains of the state of emergency is the decree that proclaimed it: in other words, the decree no longer means anything and its maintenance is a pure formality. The Minister of Justice also said that the state of emergency is being kept in existence owing to instability, so as to permit action to be taken in real time, but many have called for its repeal.

B. Political setting

1. Religion, society and politics under Islam

51. Although many of those interviewed, whether official or not, emphasized the importance of not turning religion into a tool serving political ends, Algeria's history shows that it is always very difficult to separate Islam, society and politics and, in fact, there is invariably a religious element at the midst of every political struggle.

52. At independence, there was a pervasive desire to design a State and society in political terms that drew their inspiration from Islam and broke with the colonial period. The reinstatement of national values which then seemed to be inseparable from religion is said to have resulted in the definition of Algerian nationality by membership of the Muslim faith, the restoration of religious control over schools, the introduction of religious education and mass campaigns against declining moral standards launched by the Ministry of Religious Affairs.

53. Many non-governmental representatives interviewed emphasized that places of worship and religion generally have always been used, either by the opposition to challenge the powers that be, or by the authorities to entrench their position and combat those seeking to turn religion to partisan ends.

54. For example, mosques were said to have served as political platforms for touting the merits of agrarian reform, blocking left-wing political movements and generally rousing support for the authorities in power.

55. This constant exploitation of religion was said to be the source of all the disturbances; a number of speakers said that the Islamic Salvation Front was merely the product of this system that mingled politics with religion, extremism and holier-than-thou posturing.

2. Takeover of the mosques by FIS and the regimentation of the general public

56. In the mid-1980s a great many imams installed by the State were driven out of the mosques and replaced by imams with links to FIS - imams who, having for the most part scant religious learning, attracted the disaffected from all sides, especially disoriented young people, with simplistic speeches making the Koran (which many do not know) and religion (which many

do not fully understand) the only point of reference and the only route to follow on pain of punishment in the hereafter, not excluding punishment deriving from the obligation incumbent on every Muslim to propagate virtue and prevent vice.

57. Many non-governmental representatives interviewed said that such speeches could not but be highly successful, given the deep social and moral crisis in the country and the lack of a response from the authorities in power or the established opposition. As evidence they pointed to the large crowds attending the mosques addressed by the most radical and virulent preachers, enlisting the general precepts of Islam in pursuit of the most narrowly partisan ends.

58. Young Algerians are said to have been recruited and sent to Afghanistan for military training; from 1975 onwards, Islamist movements began to receive funding from foreign countries which turned their sponsorship into a veritable bidding war.

59. FIS and its imams used the mosques to spread rousing sermons calling for the “enemies of Islam” to be punished - beginning with women, lay people, intellectuals, foreigners, Christians and Jews. The calls for killings posted on mosque doors or broadcast over loudspeakers were heeded: over 100 reporters, 19 Christian monks and nuns, some Jehovah’s Witnesses, and about 130 foreign Christians and Jews were killed. Women were attacked in the streets, threatened with death if they went out at night or because they were living alone, were divorced or were not wearing the *hijab*, and were kidnapped, raped and murdered in the most atrocious fashion.

60. Regarding themselves as upholders of the divine order and assuming the right to monitor people’s observance of religious precepts, men announced that they were guardians of Islam, attacked bars and alcohol stores and their clients and banned plays. All public areas gradually came under the sway of the extremists, who set up their own police to monitor the ban on men and women being found together in buses and schools, and to destroy television sets, antennas and anything else symbolizing the “corruption” they ascribed to the West.

61. The return to first principles which the extremists advocated and their consequent efforts to revive abandoned institutions destroyed the foundations of religious feeling in the Maghreb. It was on the basis of these considerations that the notion of Islamic dress emerged. So-called “Islamic” veils and tunics intended to hide women’s natural indecency appeared alongside the traditional veils that women wore, together with Afghan robes and beards.

62. Regarding those in power as tyrants and miscreants, and a people which accepted and submitted to them as an impious people, the extremists took it upon themselves to combat the “heresy of the faithful”. At this point it was not just Western influence they had in their sights but traditional Islam and local customs which they considered to be inconsistent with the Shariah.

63. About 150 individuals who stood their ground were killed, and the entire Algerian population whose mores were considered to be deviant became targets. Large-scale massacres began in 1996, the most sadly renowned being those at Raïs and Bentalha in 1997.

3. Partisan political exploitation of Islam and capitalization on Algeria's many difficulties and weaknesses

64. Despite the ban on political parties founded on religion, two parties founded in 1990, Mohfoud Nannah's Movement for Islamic Society (MSI) and Abdallah Djaballah's Islah Movement, clearly announced their Islamist origins, held 81 seats in the National Assembly and had ministers in the Government while at the same time Ahmed Taleb Ibrahim's Wafa party, which was accused of being a mere front for FIS, was dissolved.

65. According to many non-governmental representatives interviewed, public affairs and religious affairs nowadays are, as in the past, inextricably linked. In the view of one official source, most Algerian political parties, whether in power or not, turn towards religion, which lies behind competing courses of conduct, interpretations and programmes, thus leaving the way open for each to claim to be holier than the next.

66. Islamic missionary associations from Pakistan and elsewhere are said to be arriving daily from the south to win people over and make apology for violence, and religious associations are continuing to function without approval or, having been granted approval, pursue ends other than those they announced when they were set up, such as putting forward candidates for election. Besides the funds which local communities receive, which are not apparently monitored in any way, these associations continue to be financed from abroad and possess multiple bank accounts - although this is against the law.

67. In parallel to this, a number of informants, both governmental and not, commented on widespread distrust of human rights owing to the perception of them as being of purely Western origin, and to extreme sensitivity about the pretext they might afford for interference in Algeria's internal affairs. It was stated several times that rejectionist attitudes and the retreat into national identity were the result of the international community's failure to react to the ordeals facing Islamic peoples, the welcome extended to Islamist networks in some European capitals and the constant demonization of Islam, which was more and more regularly equated with fanaticism. Islamophobia coupled with double standards is starting to discredit the entire human rights system in the eyes of many Muslims, including Algerians.

III. FREEDOM OF BELIEF AND WORSHIP

A. Freedom of belief

1. Muslims

68. Many informants insisted that the religious culture that is deeply rooted in Algeria and is, indeed, inseparable from the Algerian national character, was a culture of moderation and tolerance towards other religions.

69. Some, on the other hand, said that religious observance in Algeria was not fully assimilated and instinct could thus easily serve as a religious pretext. The lack of thorough,

cogent theological debate and the fact that a large proportion of the population, including religious leaders, were illiterate, were also cited as potential causes for departures from approved practice.

70. In spite of the assertion that, under Islam, freedom of belief is absolute and that religion admits of no constraints, concern was expressed about Muslims' freedom of belief and the fact that the concept of the nation as a religious community would not allow enough scope within the group for the heterodox.

71. Social pressure was said to be such that a public declaration of atheism was unthinkable - just as impossible as it would be for the young in some districts not to attend the mosque on Fridays or fast during Ramadan.

72. There is a general tendency to believe that all Algerians are Muslim and that Christians are foreigners living in Algeria. The effect of this is said to be strong social repudiation of Muslims who convert to other religions, who are objects of shame to their families. One female Algerian lawyer was said to have lost her entire clientele when she converted to Christianity, and to be at present without a livelihood. Her case was not considered to be an isolated one, and several people had lost their homes in similar circumstances.

73. While there is no law that expressly penalizes apostasy, the Family Code states that a marriage will be declared null and void if it is established that the spouse is an apostate (art. 32), and that apostates cannot inherit (art. 138).

2. Christians

74. The special, and sometimes difficult, position of many foreign non-Muslim women who have married Algerians and live in Algeria, and of the children of mixed marriages, was emphasized by several of the people interviewed. While some of these women continue to attend church and even take their children, they are nonetheless exceptional cases; on the other hand, they are often put under pressure by their in-laws who, refusing to accept that they are different, confine them to the house or press them to convert. The offspring of mixed marriages have no choice, since they are automatically registered as having their father's religion.

75. Several of those interviewed, both official and unofficial, including the Minister of Religious Affairs, said that Christians were thought to go in for proselytising that could be described as an effort to convert the country to Christianity.

76. The President of the High Islamic Council and the Minister of Religious Affairs' *chef de cabinet* drew attention, respectively, to an article in the *Jérusalem Arabe* dated 20 February 2002 under the headline "Des milliers d'Algériens sont christianisés dans un silence absolu des officiels" ("Thousands of Algerians converted to Christianity and officialdom says nothing"), and an internal note from the Minister of Religious Affairs' office on the question of conversions in Kabylie and elsewhere.

77. Both texts allege that Christians are luring the young and idle and converting them to Christianity in exchange for material goods or promises of visas to Europe - visas which, according to the Minister of Religious Affairs, are granted with the connivance of certain embassies. These individuals are said to hand out bibles and religious video cassettes in profusion and hold prayer meetings on Fridays to divert people's attention and hide the fact that they belong to the Christian Church.

78. The texts are in agreement that conversions are becoming more frequent by the day, and that evangelization campaigns are chiefly being staged in Kabylie with a view to undermining the territorial integrity of the country; they differ in their identification of those responsible and the numbers of conversions taking place.

79. According to the representatives of religious minorities, the individuals trying to convert people to Christianity are not - contrary to what is asserted in these texts - connected with the Catholic and Protestant churches in Algeria. Rather, they come chiefly from France and the United States of America, and one was said to have been expelled by the Algerian authorities after outspoken statements appeared in the press. The Christian communities say that such underhand dealings, which are an insult to human dignity, are the work of people who know nothing about the local culture. According to the Director of Public Liberties, these people are affiliated to sectarian movements and are not looked upon kindly either by Algerians or by the Protestant and Catholic churches in Algeria.

80. Other informants contest these reports strongly. They say that the number of conversions is in fact tiny, but wilfully exaggerated in order to demonize Kabylie although access to the region is so difficult that the figures quoted cannot be verified. The Director of Religious Affairs of Oran *wilaya* said that no case of conversion had been brought to his attention. The Ministry of the Interior's Director of Public Liberties considered it to be a small-scale phenomenon.

81. The religious authorities said that they treated requests for conversion submitted to the approved churches with extreme caution. Quite apart from the fact that conversion is a procedure that takes several years, they said that checks were first made to ensure that the individuals concerned were adults and were not going through the motions in order to obtain a visa or to get away from their families. Only 10 to 15 people were said to have been converted in recent years, and there were not more than 100 cases in total, chiefly because of the social pressure that made conversion an ordeal.

B. Worship

1. Muslims

82. According to the Ministry of Religious Affairs, Algeria currently has 11,941 mosques in operation, including 1,840 that are still being completed and 1,079 under construction. Besides this, 39 churches have been converted into mosques.

83. These figures need to be viewed in the light of the Ministry's claim that one new mosque is built every day.

84. According to the same sources, each mosque serves an average of 1,000 of the faithful, and 15 million people attend the mosques on Fridays. It was also pointed out that smaller, separate areas have been set aside for women to pray in.

85. Mosque-building is done by citizens themselves, who form associations and take up collections for the purpose. Whether or not the State has contributed financially towards its construction, a mosque once built becomes part of the country's endowment assets. According to the Ministry of Religious Affairs, no financing has come from abroad for any mosque other than the one in Constantine and an Islamic cultural centre in the town of Chlef whose construction was partly or wholly financed by Saudi Arabia. The Ministry of the Interior's Director of Public Liberties nevertheless reports that money arriving in suitcases from the Middle East still appears to finance the country's mosques and Koranic schools, and that such funds are very difficult to monitor.

86. Under a decree dating from 1 December 1998, the Minister of Religious Affairs appoints the stewards for endowments, who must be Muslims and can be relieved of their duties if they take up alcohol, drugs or gambling.

87. On the personnel side, according to the Ministry of Religious Affairs, the country has 2,629 imams teaching in elementary schools, 852 imams employed as teachers and 3,769 as high school teachers, 7,304 Koranic instructors, 2,659 muezzins, 4,470 supervisors and 25 inspectors. Female guides have been introduced in mosques to counsel women.

88. The vast majority of teaching staff are civil servants with an average level of education or below, and this, according to non-governmental sources, explains why part of the population is dismissive of these imams who are often regarded as lowly representatives of the State. Such assessments are not always objective.

89. According to the Ministry of Religious Affairs, efforts are being made to ensure that Muslim religious officials are better educated. Since the 1980s the country has had six training institutions for imams which are currently attended by 960 students of Islamic Shariah law; the students are selected by competitive examination and receive a two-year training. To date, 5,271 imams have been trained at Islamic institutes. Seminars for imams are held regularly by the High Islamic Council or *wilaya* scientific councils to discuss questions such as Friday sermons.

90. Committees on non-binding legal rulings (*fatwa*) have been set up within the scientific councils responsible, at the *wilaya* level, for overseeing imams, to provide the necessary guidance in accordance with national law, as have disciplinary councils to punish departures from approved practice. The State is said to confine itself to guiding and supervising imams; just one case of an imam being dismissed (he supposedly refused to say the prayers for the dead over a body brought back from Europe) was brought to the Special Rapporteur's attention.

91. Yet serious doubts were voiced, at both the governmental and non-governmental levels, about the training that imams receive and how effectively and rigorously they are supervised. Inflammatory sermons are apparently still being delivered in many mosques without the State

intervening in any way, while at the same time some imams are said to have no latitude at all as regards the contents of their sermons, or even to be sent the texts of their Friday sermons by the Ministry of Religious Affairs.

92. The Special Rapporteur was given no information about religious observance on private premises. The Ministry of Religious Affairs said that it was still exceptional for mosques to overflow onto the streets.

93. Religious education, according to the Ministry of Religious Affairs, can be summarized as follows:

- 251 zaouïas (elementary schools attached to a Muslim shrine) together accommodating 11,490 pupils under the instruction of 305 teachers;
- 2,261 Koranic schools together accommodating 185,567 pupils under the instruction of 4,128 teachers;
- 3,344 koutabs (basic Koranic schools) together accommodating 85,488 pupils under the instruction of 2,553 teachers.

94. All these institutions come under the authority of the Ministry of Religious Affairs and are situated close to mosques; they serve as kindergartens or primary schools and adult literacy centres, but they also cater for children who have dropped out of the schools run by the Ministry of National Education.

2. Religious minorities

95. According to the Ministry of Religious Affairs there are 20 churches in operation in Algeria today, whereas there are thought to have been 500 before independence, plus 150 places of prayer. The Ministry of Justice says that priests, like imams, are paid a salary, and this is also true of the 17 chaplains who visit prisons. The Algerian State also allows masses celebrated at the religious festivals of Easter, Christmas and Whitsun to be televised.

96. In order to operate, Protestant churches are registered with the Ministry of the Interior as cultural associations and are thus subject to the law that governs associations generally, whatever their nature.

97. Following independence, the archdiocese is said to have ceded most churches to the State without requesting any compensation. The churches were turned into mosques, libraries or meeting halls. The Catholic Church, however, is said to have taken steps to prevent its assets from being categorized as endowments as a 1964 decree would have required.

98. Until 1990 the church was unable to dispose freely of its assets because of a 1976 decree which required prior authorization for any sale of church property, and in practice that authorization, which accorded a first right of refusal to the State, was never granted. Since the passage of a law in 1990 the Catholic Church alone has been able to get around the ban, because some of its members hold Algerian nationality.

99. In general, the Christian minorities do not feel their religious observance brings them any problems. Only one case of a church being seized has been reported: this was the St. Marcienne church in Algiers, which was used by Middle Eastern copts. It has been turned into a mosque.

100. It is said that the authorities refused to allow Trappist monks to return to the monastery of Notre Dame de l'Atlas in Tibherine on safety grounds. After three years of fruitless applications, the monks finally abandoned the attempt.

101. It is important to mention the letter sent by the Minister of Religious Affairs to the Algerian ambassador to the United States dated 21 July 1998, a copy of which was given to the Special Rapporteur during his visit. The letter concerned the takeover of a dilapidated synagogue by a suburb of Algiers with a view to its restoration and conversion into a library. In view of the complaints to which this gave rise, the synagogue was restored to its owners.

102. Although reference was made to stones being thrown at Christian places of worship, and to insults, the representatives of the Christian minorities prefer to stress the great support they have always enjoyed from the Algerian people, even at the most difficult times, explaining that the incidents concerned involved children on their way home from a nearby school and had occurred during a period of tension over affairs in the Middle East.

103. It was observed, however, that the religious minorities are very discreet and give no sign of their religious affiliation in public. The sisters of Mother Teresa's order, who are the only ones to wear religious robes, and who look after the children of poor families during the day, are said to have been directly targeted by the sermons of one imam warning parents against the dangers of their children being converted to Christianity.

104. According to one non-governmental informant, the Christian minorities were explicitly prohibited from witnessing before Algerians, who are quite generally uneasy about being seen in the company of religious people other than Muslims.

105. For a long time, the State reportedly banned imports of religious books; it later authorized them, but in Arabic only. The United Bible Societies, which distributed the Bible, were closed in 1983-1984 on security grounds. The person in charge is said to have been abducted and threatened if he did not cease all operations.

106. Today, imports of religious books are subject to authorization from the Ministry of Religious Affairs, which countersigns the order forms. In 1998 the Ministry allowed 1,866 religious books to be imported, including 33 Bibles in Arabic. Importing Bibles in Arabic is still difficult, however, and Bibles handed out in Marseille to Algerians going home to Algeria are often said to be seized by Algerian Customs officers.

107. Religious instruction dispensed by religious minorities concerns only a small number of children, given the few foreigners in Algeria. It is also dispensed to foreign students, most of them from Africa. All colonial era religious schools have, like many churches, been ceded to the State.

IV. STATUS OF WOMEN

108. This report is concerned with the status of women only from the religious viewpoint. Although women took part in all the struggles which shaped the history of their country, and although they participate fully in the activities of political parties and trade unions, holding managerial posts such as rectors, court presidents, *walis*, ministers and ambassadors, it must be said that the law and politics have failed to keep up with the advances made by Algerian women, who still face discrimination at all levels of society for reasons to do with both religion and tradition.

109. Less likely than boys to attend school, more likely to be illiterate, only 6 per cent of women have jobs. Many reports from non-governmental organizations also speak of violence - apparently socially condoned - against Algerian women, particularly in the home but also within society, as can be seen from the punitive expeditions mounted against women in Tébessa, Tiaret and Hassi Messaoud who were beaten, raped and thrown into the street for the simple reason that they were living alone and were thus taken for prostitutes.

110. Algeria still appears to be a society in which tradition and religion combine to keep women in a subordinate position. It was observed that issues relating to the status of women invariably give rise to theological debate and that, most of the time, women are excluded from decisions affecting them. One example of this was the debate on the right of women who had been sexually assaulted to have an abortion, which was conducted among the country's religious and/or political bodies rather than among those directly concerned.

111. The Family Code, the only law which explicitly draws upon the Shariah, was adopted in 1984. Described by President Boudiaf as the "Code de l'Infamie", it applies to all Algerians, whatever their religion, and systematizes women's subordinate legal status by giving pre-eminence to their fathers, husbands, brothers and sons and putting women under male supervision.

112. Hence an Algerian woman does not decide to get married: her matrimonial guardian, in point of fact her nearest male relative, does that for her (art. 11) and may refuse to let her choose her own spouse (art. 12). Muslim women may not marry non-Muslim men (art. 31). While the Minister of Justice says that this ban is not actually enforced, since the registrar does not check the husband's religion, and marriages which Algerian women enter into abroad are regarded as entirely valid, a number of sources, governmental and other, report that Algerian consulates refuse to register such marriages and their refusal has disastrous consequences for both the married couple and their children.

113. Polygamy is authorized (art. 8) and does not require the consent of the existing wives, since they cannot oppose the new marriage. The reason given for its retention is that it supposedly meets the deep-seated wishes of the Algerian people, whereas even the Algerian authorities say that it is a marginal phenomenon encountered in no more than 0.2 per cent of cases. Article 39 of the Code requires wives to obey their husbands and show them due

deference as the head of the family, and to respect the husband's relatives and close friends, while they themselves are not entitled to any respect and no legislation will protect them from domestic violence. What is more, the father has sole custody over minor children.

114. The Family Code also makes it burdensome for Algerian women to secure a divorce, whereas men can do so easily. The fact that nearly half of all magistrates are women does not seem to have the beneficial effect than one might hope. On the contrary, conservatism is still said to be *de rigueur*, and the decisions handed down very often go against women. Besides, the result of the stipulation in article 52 of the Code that, in the event of divorce, the family home goes to the husband is that many women and their children find themselves in the street in circumstances incompatible with human rights.

115. As far as inheritance is concerned, a widowed mother is entitled to only one eighth of her husband's estate, whereas a widower is entitled to one quarter (arts. 145 and 146). A male heir receives double the legacy of a female heir. It is also reported that foreign non-Muslim women married to Muslim Algerian men cannot inherit from their husbands.

116. It was observed that the Family Code has always provoked discussion within Algerian society and continues to do so, thanks in part to the women's associations which have always militated against laws designed to restrict their rights.

117. Most of the governmental representatives interviewed admitted that the Family Code was a problem and that the status of women in Algeria had to change. The Minister of the Family and the Status of Women considers that the ideas the Code articulates give a pejorative and distorted impression of Shariah law, and the Code is an offence to the family. President Bouteflika himself is said to have stated on two occasions, while commemorating International Women's Day, that the Code had to be amended.

118. Although equality between men and women is at the heart of the issue of how to build a democracy, many non-governmental informants have always voiced grave doubts as to the willingness of the Algerian authorities to embark on any such reform, since the question is always being put on the back burner and regarded as a minor issue. Some consider it such a source of holier-than-thou attitudes and passion, particularly on the part of the Islamists, that it could destabilize the Government.

119. The tendency among political parties, as among several non-governmental representatives interviewed, seems still to be to tread cautiously or make no move, on the grounds of cultural inertia, the impossibility of passing reforms that go against the deep-seated beliefs of the Algerian people, and the need to preserve the family group and avoid creating divisions.

120. Still, non-governmental sources pointed out that the claim that society would not be able to tolerate such change indicated that part of the elite was out of touch with the Algerian people. Similarly, some non-governmental informants complained that Algerian society was being made to take the blame when in fact the State alone was responsible for having promulgated and kept in force a Code that continued to satisfy the Islamists' demands.

V. PREVENTION OF INTOLERANCE AND DISCRIMINATION BASED ON RELIGION OR BELIEF

1. Inter- and intra-religious dialogue

121. The point was repeatedly made that, with a view to better protection, at governmental level and elsewhere, of human rights in general and freedom of religion or belief in particular in the future, Algeria would have to rethink Islam through determined interpretation of Shariah law.

122. Many informants spoke highly of the modernity of Islamic thought between the seventh and twelfth centuries, but many also lamented the way it was now hemmed in by restrictive interpretations. President Bouteflika himself has raised this matter in numerous speeches, deploring the stifling of critical thought and calling for a rethink of Islam.

123. As things stood, non-governmental informants pointed out that an inadequate level of religious instruction hampered dialogue between and within religions and, more generally, acceptance of differences, despite the efforts made by the High Islamic Council and the representatives of Algeria's religious minorities.

124. The Minister of the Family and the Status of Women, who believed that the question of rethinking Islam needed to be moved out of its current framework of discussion, i.e. confrontation with the West, argued that there was a case for serious social analysis and firm self-criticism on the subject of the status of women in Algerian society and the Arab world generally.

125. The symbolic value of President Bouteflika's speeches in praise of St. Augustine in Rimini, Italy, at a meeting organized by an Italian Catholic association, and in Algiers in April 2001 at the convention on the subject of "Saint Augustine: African and universal", must be emphasized. President Bouteflika expressed Algerians' pride to be related to St. Augustine, Algeria's son, who had previously been regarded as a traitor, and said that St. Augustine's work might now serve as a bridge towards concord among human societies in all their diversity, a vantage-point for joint reflection, thus signposting the way towards an ethos of relations between civilizations based on respect, mutual understanding and solidarity.

2. The state of the schools

126. The state of the schools is mentioned here only insofar as it contributes (or does not) to tolerance and non-discrimination in matters of religion and belief. Many informants drew attention to the state of Algeria's schools and, more specifically, their ability to inculcate in children a sense of respect for others, tolerance and non-discrimination.

127. The Algerian educational system has long been cited as an example owing to the considerable efforts made at independence to ensure education for all when, at the time, only 10 per cent of children attended school and the country lacked everything - institutions and qualified staff. School has been free and compulsory for 6- to 16-year-olds since 1962, and the number of schoolchildren in 1995 was put at 8 million, with over 450,000 teachers. The policy

pursued over the past 40 years has certainly been a success in quantitative terms, but the outcome in terms of efficacy and quality has not been satisfactory. Besides, many informants, including teachers, indicated that quite apart from their quality shortcomings, the schools had played a not insignificant role in spreading the Islamists' ideas.

128. The urgent recruitment of teaching assistants from the Middle East who could put Algeria's policy of Arabizing education into effect was said to have been the initial vector for the spread of extremist ideas in schools.

129. In the religious education classes that took the place of civics, teachers were said to have taught very young children how to stone an adulterous woman and how to wash the dead. The case of a teacher citing nationalities that should henceforward be regarded as nations of miscreants was also reported. In general, curricula were said to have conveyed a distorted notion of Algerian history and a degrading image of women, and to have encouraged pupils to spurn other religions, which were presented merely as those of colonial settlers. At the same time, concern was expressed that children could not speak out freely in class and ask awkward questions about Islam for fear of being labelled as troublemakers.

130. Although some teaching staff sought to use the schools to popularize extremist ideas, both governmental and non-governmental sources emphasized the need not to stigmatize teachers, who put up a fierce resistance against obscurantism and for doing so found themselves, like their pupils, among the victims of religious extremism.

131. On the organization of religious teaching, the Ministry of National Education provided the Special Rapporteur with answers to the questionnaire which he had sent to all States in 1994. These reveal that there is no religious establishment within the educational system run by the Ministry of National Education, and that the Ministry has sole authority to design religious instruction curricula although, according to the Minister, these are vetted by the Ministry of Religious Affairs and the High Islamic Council.

132. Islamic instruction is compulsory, and is taught from the first year of primary school to the last year of secondary education for two hours each week (five hours for streams preparing the baccalaureate in Islamic studies). Religious topics may also be taken up in other subjects. Religious education curricula, which allot no time to other religions but do tackle the question of eliminating all forms of intolerance and discrimination in matters of belief, are monitored, and sanctions are applied if they overstep the mark. The Minister of Education informed the Special Rapporteur, however, that religious instruction takes no account of the different tendencies within Islam.

133. On the subject of compulsory religious education, the Special Rapporteur's attention was drawn to one case in which the children of a foreign couple were refused a dispensation. During their discussions with the Special Rapporteur, the Minister of Education and Ministry staff expressed astonishment and said they were prepared to grant such dispensations; the Special Rapporteur was given this commitment in writing. On the other hand, Algerian children of originally Muslim but now atheist parents would not be allowed the benefit of such an arrangement given Algeria's interpretative declaration relating to article 14 of the Convention on the Rights of the Child which states that a child must be brought up in its parents' religion.

134. It was also mentioned that the Islamic studies stream served as a last resort when there was no room available in other courses [leading to the baccalaureate].

135. A reform of the educational system is currently in preparation following a report by a presidential advisory committee. The Government's programme has two objectives: to prepare children to learn and observe moral and religious principles as part of the values of Algerian civilization, and to prepare them for citizenship, democratic culture, tolerance and dialogue.

136. Parents today are still asking for their daughters to be excused physical education; the national education system does grant dispensations provided a medical certificate is produced, and this does not appear to be an insurmountable obstacle.

3. The role of the media

137. Sporadic incidents notwithstanding, freedom of the press in Algeria is a reality. The press does not stint on criticism - nor, at times, on excess. Excesses may occur even on State television. Most of the media tackle religious questions with a passion and definite stance which would be understandable were they not so apt to favour intolerance and discrimination based on religion or belief. Anyone who stands out tends to be portrayed in unflattering terms. The topics of conversion and non-Muslim proselytising tend to be blown up and treated as though they were major threats to the existence of Islam, though Islam is deeply rooted in Algeria. Some of the media also have a tendency to use clichés and stereotypes to convey a simplified and distorted view of Islam that is apt to favour a levelling-down of Islam to the level of Muslims with deep-seated convictions and generally modest religious learning, instead of raising Muslims up to the level of Islam and Islamic values, including those of tolerance and non-discrimination, which, by an effort of intelligence - "T'mal ar-Raï" - will enable Islam to move with the times and adapt to "all ages and all places".

VI. CONCLUSIONS AND RECOMMENDATIONS

138. **At the outset, it is worthwhile emphasizing the importance of the visit to Algeria at the invitation of the Algerian Government. As the first of its kind, it bears witness to the Algerian authorities' willingness to cooperate more closely with the United Nations human rights mechanisms, where an Algerian presence is increasingly in evidence. It is to be hoped that this visit will be followed by visits by other mandate-holders with a view to more sustained dialogue and more fruitful cooperation. Algeria deserves to be better known and understood.**

139. **During the visit, the Algerian authorities at all levels helped to establish a rewarding and frank dialogue. The visit passed off smoothly and the Special Rapporteur's freedom of movement was not hindered at any time. The United Nations Development Programme representative in Algiers, political parties, non-governmental organizations and all other informants helped to make the visit a success and make the situation better understood.**

140. **The visit revealed a number of encouraging aspects, which do not, however, detract from a certain number of genuine problems.**

141. The authority of the State, which was flouted for over a decade, is being progressively restored. Considerable efforts are being made to deal with and deflect the violence without compromising pluralism in its democratic form. Disturbances within the mosques, for example, are increasingly being contained. It is nonetheless clear that the establishment of any kind of democracy is a commitment presupposing a modicum of order, implies that extremism and holier-than-thou attitudes towards religion or belief must be rejected, and requires - if necessary by a display of political and legal will - the institution of a democratic culture inseparable from tolerance and non-discrimination.

142. The reforms embarked on by the Algerian State are likely to provoke serious resistance if they are likely to interfere directly or indirectly, actually or in people's minds, with the religious sensitivities of a large part of the population; this calls for legitimate caution but is no excuse for deferring change that has become essential, far less an excuse for inertia. It is not the role of the State simply to keep abreast of society or stand for the social status quo. The State is also responsible for prompting and guiding change. The law does not need to be restricted to articulating the current situation. It can also be looked upon as an important vehicle for change, one whose power can be mobilised to wear down resistance and encourage the emergence of new mindsets, attitudes and ways of behaving. Algeria appears to be aware of this possibility, but its excessive caution and occasional hesitations do not help to make the reform process irreversible or set out the options clearly enough.

143. The Algerian Constitution provides a variety of means for eliminating all forms of intolerance and discrimination based on religion or belief. It guarantees freedom of conscience. It proclaims that men and women are equal, and that human rights should be respected. Algeria has also become party to a considerable number of international agreements on human rights, both general and agreements relating to specific issues or categories. President Bouteflika, like the head of Government, calls for international human rights conventions to be respected. Yet it has to be said that the language of the Constitution is not always accorded its rightful scope, particularly where the rights of women are concerned. The declarations and reservations that Algeria has entered to various international agreements deprive them of some of their important aspects. Algeria needs to ensure that all its legislation and regulations are consistent with the Constitution, on the one hand, and with international agreements, on the other.

144. Algeria's problems have less to do with freedom of religion or belief than with the use made of it. The partisan political use of religion as a tool and the takeover of religious affairs by extremists claiming inspiration from Islam largely explain the country's problems since the end of the 1980s. Exploiting genuine economic and social difficulties, particularly those faced by young Algerians, challenging a largely discredited political class, taking advantage of the rudimentary religious learning of many Algerians and turning to their own advantage certain inequitable features of international relations, the extremists have managed to bring about a reversal in the national character dictated solely by an overtly backward-looking interpretation of Islam by imams whose religious learning is often patently scant. Freedom of conscience is thus in the custody of religious police determined to shape society as they envisage it, to impose what they regard as good and combat what they regard as evil. The population is increasingly regimented, and those who

protest are subjected to public opprobrium. Politics has given way to calls for killings and executions. It is as though there were no salvation outside extremism, and religious sentiment could be measured by the length of one's beard or the size of one's *hijab*. Rampant theocracy has been gaining sway in Algeria thanks, in part, to violence, while States harbouring Algerian extremists have not been unduly bothered. It must be clearly understood, once and for all, that from this point of view freedom of religion or belief in Algeria is not a problem; what is a problem is the partisan, violent political exploitation of freedom of religion or belief. While upholding freedom of religion or belief, the Algerian State must ensure that everyone living in the country or under its jurisdiction is safe.

145. Controversy still surrounds the role of the mosques, which have often been used to political ends by both the powers that be and the Islamists. While ensuring freedom of worship, the Algerian State must keep partisan disputes, on whatever side they originate, out of the mosques. Respect for the function of the mosques will brook neither interference nor indifference.

146. If there are not to be disturbances in the mosques and if Islam is not to be reduced to fanaticism and extremism, an enlightened Islamic culture will have to be fostered and Islam will have to be rethought, supporting and sustaining efforts to interpret Shariah law, encouraging openness and helping to rationalize methods and approaches to the topic of freedom of religion or belief.

147. Fighting religious extremism and abolishing all forms of intolerance and discrimination based on religion or belief implies preventive economic and social action to prevent young people and others from turning to fanaticism and extremism, seeking comfort in mirages or being tempted by desperate solutions. Extensive unemployment, particularly among the young, intractable housing problems, and limited opportunities for worthwhile occupation, not to speak of entertainment or leisure, provide fertile ground for extremism and violence. The Algerian State must react vigorously.

148. Schools, while providing Algerian children with almost universal and mandatory education, have not always given them adequate or balanced instruction, despite the quality and efforts of many teachers. School curricula concerned with religion or belief must be revised and given the impetus to ensure that future generations are, as far as possible, immunized against extremism, intolerance and discrimination based on religion or belief. Teachers, many of whom require further training, bear considerable responsibility in this sense, since the best educational reform will not go far unless it is backed up by a teaching body prepared to carry out its tasks and aware of the role it must play in entrenching citizenship.

149. The status of women in relation to religion and belief remains frankly worrying. Given the changes that women in Algeria have undergone and the active role played by women's associations and the Algerian elite generally, there are grounds for a thorough review of the Family Code, which President Boudiaf has described as the "Code de l'Infamie". Polygamy, a marginal phenomenon, should be banned because it violates Algeria's international commitments including article 3 of the International Covenant on Civil and Political Rights, in the light of which the Human Rights Committee determined

that polygamy was an affront to human dignity; it is also very dubious, not to say questionable, on religious grounds. A woman's right to decide to marry and not to be married off must be recognized and protected. She should be entitled to divorce under the same conditions as a man. Her contribution to the maintenance of authority in the household should be acknowledged. She should not have to bear the brunt of divorce, being required to abandon the family home to the husband and finding herself in a legally untenable position and social circumstances that are, at times, especially difficult. It is hard, not to say unacceptable, to invoke Islam as the justification for something it explicitly or implicitly condemns.

150. As regards non-Muslims, there is, first, the problem of conversion from Islam to other religions, a question that sometimes arouses passions and is addressed in alarmist and somewhat exaggerated tones. Evangelists may indeed take advantage of the distress suffered by some young people in Kabylie and elsewhere, but the phenomenon is still a marginal one, and there is not always the lure of material assistance or a promised visa in the background. In any event, there must be no constraints in religion and international law guarantees the freedom to believe or not to believe, just as it guarantees the freedom to adopt the religion or belief of one's choosing - and this, as the Human Rights Committee has stressed, also means the freedom to change one's religion. While apostasy is not a crime in Algeria (though apostasy on the part of the husband is grounds for annulling a marriage), conversion is still frowned upon by society. The problem is a social one, and the State needs to be able to shape attitudes so that matters of conscience, which are personal, are not reduced to appearances at the expense of the truth. As far as international law is concerned, there is no justification for forbidding a Muslim woman to marry a non-Muslim man, and doing so is a form of discrimination which should be abolished or at least rendered inoperative.

151. If one excludes the case of some foreign Christian women married to Muslim Algerian men, there do not appear to be any particularly insoluble problems facing people raised as Christians. They do have freedom of belief. Their religious practices take place normally. Most of their religious property has been ceded voluntarily to the State, partly because of the small number of worshippers, but they still have enough; the only outstanding question is that of St. Marcienne's church, which has been turned into a mosque. There is still the matter of importing religious books, which continues to be subject to an authorization procedure that merits review. There is also a need to review and strengthen the status of religious association established for Protestant churches in a manner compatible with article 18 of the International Covenant on Civil and Political Rights and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief: this would avoid the risk of distorted perceptions of the religious activities concerned.

152. The only known problem affecting Jews, who have diminished in number considerably in recent times, had to do with a synagogue taken over by a city suburb for restoration and conversion to another use. When the central authorities intervened, the synagogue was restored to its owners. In any event, transfers of religious property under the law must take place by agreement with the religious representatives concerned, as has been the case with a substantial amount of Catholic Church property.

153. Religious freedom in Algeria relates only to the divinely revealed religions; it is important to extend it, in conformity with international law, to all religions and beliefs, with no restrictions on their pursuit beyond those laid down by international law.

154. Lastly, emphasis must be laid on the importance of dialogue between and within religions, which needs to be further encouraged and developed with a view to greater tolerance and non-discrimination in matters of religion and belief. In this sense the experiment in dialogue with the Catholic Church deserves to be singled out, sustained and extended.
