

# Civic Space in Algeria

Universal Periodic Review of Algeria

4th cycle - March 2022



1. This submission was drafted jointly by the Cairo Institute for Human Rights Studies,<sup>1</sup> ARTICLE 19,<sup>2</sup> CIVICUS: World Alliance for Citizen Participation,<sup>3</sup> Front Line Defenders,<sup>4</sup> the International Federation for Human Rights<sup>5</sup>, MENA Rights Group,<sup>6</sup> the Algerian League for the Defence of Human Rights (LADDH),<sup>7</sup> SHOAA,<sup>8</sup> and Alter'Solidaire.<sup>9</sup>
2. The authors examine the Government of Algeria's compliance with its international human rights obligations to create and maintain a safe and enabling environment for civil society. We analyse Algeria's fulfilment of the rights to the freedoms of association, peaceful assembly and expression and unwarranted restrictions on human rights defenders (HRDs) since its previous UPR examination in May 2017. We

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<sup>1</sup> The Cairo Institute for Human Rights Studies is a regional human rights organisation with special consultative status with the Economic and Social Council of the United Nations (ECOSOC), promoting and protecting human rights in the Middle East and North Africa (MENA) since 1993.

<sup>2</sup> ARTICLE 19 is an NGO that works for a world where all people everywhere can freely express themselves and actively engage in public life without fear of discrimination. Article 19 works on five interacting areas: civic space, digital, media, protection and transparency all of which are underpinned by a focus on equality and our local to global theory of change.

<sup>3</sup> CIVICUS is a global alliance of civil society organisations (CSOs) and activists dedicated to strengthening citizen action and civil society around the world. Founded in 1993, CIVICUS has members in more than 180 countries throughout the world.

<sup>4</sup> Front Line Defenders is an international NGO based in Ireland with special consultative status with the Economic and Social Council of the United Nations (ECOSOC). Founded in 2001 Front Line Defenders has particular expertise on the issue of security and protection of human rights defenders and works to promote the implementation of the UN Declaration on Human Rights Defenders adopted by General Assembly

<sup>5</sup> International Federation for Human Rights (FIDH) is an international human rights CSO federating 192 organisations from 117 countries. Since 1922, FIDH has been defending all civil, political, economic, social and cultural rights as set out in the Universal Declaration of Human Rights.

<sup>6</sup> MENA Rights Group is a Geneva-based legal advocacy CSO that defends and promotes fundamental rights and freedoms in the MENA region. Adopting a holistic approach, it works at both the individual and structural level and represents victims of human rights violations before international law mechanisms.

<sup>7</sup> The Algerian League for the Defence of Human Rights (LADDH) is a national non-profit association with a mandate to defend individual and collective freedoms in accordance with the UN Charter.

<sup>8</sup> SHOAA is a non-profit organization that advocates for human rights. It investigates, monitors and records human rights violations and documents them.

<sup>9</sup> Alter'Solidaire is an Algerian French association that aims to support and promote initiatives from civil society in the Maghreb, mainly around youth and democracy issues.

assess its implementation of recommendations received during the 3<sup>rd</sup> UPR cycle relating to these issues and provide follow-up recommendations.

3. During the 3<sup>rd</sup> UPR cycle, the Government of Algeria received 55 recommendations relating to the space for civil society (civic space). 47 were accepted and eight were noted. Subsequent sections of this submission demonstrate that Algeria has only partially implemented two of these 55 recommendations. While the government has adopted a new constitution and conditionally released individuals arrested in relation to peaceful protests, the government has persistently failed to address unwarranted restrictions on civic space in law and practice. Since 2017, acute implementation gaps were found in this regard.
4. The Algerian authorities have imposed onerous restrictions on the freedoms of association, peaceful assembly and expression. Associations have been dissolved and HRDs, journalists and peaceful protesters subjected to widespread arbitrary prosecution.<sup>10</sup> After President Abdelmadjid Tebboune was elected in December 2019, the authorities passed several restrictive laws and exploited the COVID-19 pandemic to suppress online freedoms and further crackdown on civic space. 2021 saw an increase in the use of unlawful violence against protesters and the use of unfounded terrorism charges, and arbitrary legal actions were taken against civil and political organisations.
5. As a result, civic space in Algeria is currently classified as ‘repressed’ by the CIVICUS Monitor, indicating the existence of severe civic space restrictions.<sup>11</sup>
6. Below we examine Algeria’s implementation of UPR recommendations and compliance with international human rights standards:
  - In relation to the freedom of association (section 2).
  - In relation to the protection of HRDs (section 3).
  - In relation to the freedom of expression, media freedom and access to information (section 4).
  - In relation to the freedom of peaceful assembly (section 5).
  - In relation to the protection of human rights while countering terrorism (section 6).
  - Section 7 contains recommendations to address the concerns raised and advance implementation of recommendations made under the 3<sup>rd</sup> UPR cycle.
  - An annex on the implementation of 3<sup>rd</sup> cycle UPR recommendations related to civic space is in Section 8.

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10 The Hirak protests, which began in 2019, forced former President Abdelaziz Bouteflika to resign in April 2019. Restrictions on peaceful assemblies increased after that as protesters called for reforms and challenged the ruling elite.

11 ‘Algeria’ CIVICUS Monitor’, <https://monitor.civicus.org/country/algeria>.

## 2. Freedom of association

1. Under the 3<sup>rd</sup> UPR cycle, the government received 17 recommendations on the right to the freedom of association; it accepted 15 and noted two. Among other recommendations, the government committed to ensuring that it reforms the association law in conformity with its constitutional obligations.<sup>12</sup> As evidenced below, the government has failed to take adequate measures to realise most of these recommendations.
2. Article 53 of the Algerian Constitution (amended in December 2020) states that the freedom of association is guaranteed and exercised by simple declaration.<sup>13</sup> However, the government continues to use organic legislation and the Penal Code to restrict association rights.
3. Associational life in Algeria is governed by a regime of prior authorisation under Law on Associations 12-06-2012, which imposes significant restrictions on the creation and functioning of independent associations.<sup>14</sup> All organisations were required to re-register with the authorities under the 2012 law. Many organisations are maintained in legal limbo<sup>15</sup> as local authorities only selectively provide registration receipts.<sup>16</sup>
4. According to Law 12-06-2012, the authorities can reject or cancel the registration of an association on vague criteria.<sup>17</sup> The Law provides for up to six months of prison for those running an unregistered

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12 The recommendation states that this in order to provide a clear and unambiguous legal foundation for the work of CSOs, including cooperation with international partners.

13 In addition, article 10 of the African Charter on Human and Peoples' Rights guarantees the right to freedom of association. Moreover, article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which Algeria is a state party, also guarantees the freedom of association.

14 Restrictions Include making funding subject to authorisation, subjecting organisations to overly intrusive requirements based on vague provisions and empowering the authorities to easily suspend or dissolve associations without clear guidelines on how to contest these decisions

15 This makes it difficult for affected organisations to open bank accounts, register staff or rent office premises in their name. See 'Algeria: NGOs call for more freedom, end to restrictive associations law', 6 October 2018, Middle East Eye, <https://www.middleeasteye.net/fr/news/algeria-ngos-call-more-freedom-reforms-restrictive-associations-law-1331189917>.

16 'Algeria', International Centre for Not-for-Profit Law, 26 August 2021, <https://www.icnl.org/resources/civic-freedom-monitor/algeria>.

17 These criteria include 'interference in the internal affairs of the country' or 'infringement of national sovereignty'. See 'Algeria passes new law on Associations', International Centre for Not-for-Profit Law, 26 August 2021, <https://www.icnl.org/post/in-the-news/algeria-passes-new-law-on-associations>.

association.<sup>18</sup> The Law also places limits on the ability of associations to receive funding without approval from the authorities.<sup>19</sup>

5. Article 95bis of the Penal Code introduced in April 2020 provides for the punishment of five to seven years' imprisonment for the receipt of any form of funding or advantage from a non-Algerian 'to perform or incite acts likely to undermine State security, the stability and normal functioning of institutions, national unity, territorial integrity, the fundamental interests of Algeria, security and public order'. The penalty is doubled for an organisation or collective and further five-to-10-year prison sentences are added if there is a 'concerted plan', a phrase that is not precisely defined. Article 95bis therefore lends itself to abusive interpretation. Algerian courts have repeatedly sentenced individuals for 'undermining national unity' because of critical online publications or calls for protests.
6. On 13 October 2021, the Administrative Tribunal in Algiers complied with a petition made by the Ministry of Interior to dissolve<sup>20</sup> prominent youth organisation Rassemblement Actions Jeunesse (RAJ),<sup>21</sup> alleging that RAJ violated the Law on Associations by taking part in activities that were different from those set out in its statutes.<sup>22</sup> At least 11 members of RAJ have been prosecuted since 2019.
7. On 20 April 2021, the General Directorate of National Security targeted SOS Culture Bab El Oued, a youth and cultural organisation, and accused its leaders of receiving funding from a foreign power to make 'provocative films, documentaries', and to produce banners used for Hirak protests.<sup>23</sup> Its offices have been shut down since, and four members were prosecuted for charges including 'receiving foreign

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18 'European Parliament – Motion for Resolution', European Parliament, 24 November 2011, [https://www.europarl.europa.eu/doceo/document/B-9-2020-0378\\_EN.html](https://www.europarl.europa.eu/doceo/document/B-9-2020-0378_EN.html).

19 'Civil society undermined by restrictive laws and hostile environment', Human Rights Pulse, 3 June 2021, <https://www.humanrightspulse.com/mastercontentblog/civil-society-undermined-by-restrictive-laws-and-hostile-environment>.

20 'Algérie pourquoi la dissolution de l'association de jeunesse RAJ et en choc', TV Monde, 21 December 2021, <https://information.tv5monde.com/afrique/algerie-une-association-de-jeunesse-proche-du-hirak-dissoute-par-le-regime-un-choc-pour-les>.

21 'L 'Association est menacée de dissolution et le verdict est attendu pour demain', Liberté, 12 October 2021, <https://www.liberte-algerie.com/actualite/des-personnalites-et-des-organisations-se-mobilisent-pour-raj-366506>.

22 The Ministry mentioned media and public interventions in which the President of RAJ, Abdelouahab Fersaoui, supported prisoners of opinion and criticised the repression. They accused RAJ of inciting citizens to assemble without authorisation and of meeting with regional and international civil society groups including Amnesty International and the Tunisian League for Human Rights. See 'Le RAJ en danger de dissolution', Liberté, 27 September 2021, <https://www.liberte-algerie.com/actualite/le-raj-en-danger-de-dissolution-365661>.

23 Algerian police stormed its premises, arrested several staff members and confiscated digital equipment and banners. The authorities accused the organisation of failing to renew its operating permit since 2012.

funding to undermine national unity'.<sup>24</sup> The organisation's president was sentenced to a year in prison on 14 November 2021 for 'distributing and possessing publications to undermine national unity' and 'inciting an unarmed gathering'.

8. Opposition political parties and unions have also faced unprecedented legal challenges. In March and April 2021, the Ministry of Interior demanded that the Union for Change and Progress (UCP) and the Socialist Workers' Party (PST) respectively hold their national congresses in line with the requirements of the repressive Law 12-04 governing political parties.<sup>25</sup> The parties complied but on 20 January 2022, the State Council suspended and closed PST's premises.<sup>26</sup> It dismissed a request to suspend the UCP but has yet to rule on a motion to dissolve it. On 24 December 2021, the Rally for Culture and Democracy hosted a meeting of the 'popular front against the repression'; on that basis on 5 January 2022 it received a formal notice from the Ministry of Interior threatening legal action if it continued to host meetings without authorisation.
9. On 25 February 2018, the Governor of Oran closed down two women's rights organisations and sealed their premises<sup>27</sup> on the basis that they were operating without registration.<sup>28</sup> They had both been registered under Law 90-31 of 1990 and tried to renew their registration in 2012 and 2014 respectively.<sup>29</sup> On 5 March 2018, the Governor of Oran eventually allowed them to reopen.
10. Several independent unions continue to be prevented from registering, notably the General and Autonomous Confederation of Workers in Algeria (CGATA), the Confederation of Autonomous Trade Unions (CSA) and the Algerian Union of Employees of the Public Administration (SAFAP). Trade union meetings remain subject to prior authorisation. Union activity has also been obstructed by administrative closure of offices, and the judicial harassment and arbitrary dismissal of union members. Law No. 90-14

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24 They were prosecuted under article 95bis of the Penal Code. The four were eventually acquitted of this accusation.

25 Law 12-04 on political parties does not abide by international standards, imposing undue restrictions on the creation and administration of political parties while facilitating their arbitrary dissolution.

26 'L'Union pour le changement et le progrès,' UPC, 23 April 2021, <https://www.facebook.com/ucpdz/photos/pcb.1351016161939210/1351016021939224/>

27 The two organisations are the Association Féministe pour l'Epanouissement de la Personne et l'Exercice de la Citoyenneté and Femmes Algériennes Revendiquant leurs Droits.

28 'Algeria: New violation of the right to freedom of association,' EUROMED Rights, 2 March 2018, <https://euromedrights.org/fr/publication/algerie-nouvelle-violation-du-droit-la-liberte-dassociation>.

29 Ibid.

relating to the modalities of exercise of union freedom imposes restrictions on the constitution of a trade union<sup>30</sup> in violation of Article 22 of the International Covenant on Civil and Political Rights (ICCPR).

### **3. Harassment, intimidation and attacks against human rights defenders<sup>31</sup>**

1. Under Algeria's previous UPR examination, the government received 14 recommendations on the protection of HRDs, including on avoiding and preventing judicial persecution of HRDs in line with its international obligations. The government accepted 12 recommendations and noted two. However, the government has failed to operationalise these recommendations and has not fully implemented any
2. On 20 February 2022, HRD Faleh Hammoudi<sup>32</sup> was sentenced to three years of prison in an expedited trial based on critical media interventions and his activities with an "unregistered organisation" - the LADDH<sup>33</sup>. On 18 February 2022, HRD Zaki Hannache was arrested and faces up to 35 years of imprisonment over fabricated charges such as "praising terrorism" and "undermining national unity"<sup>34</sup>, based on the documentation work he was carrying out on arbitrary arrests and prosecutions since 2019. He has been on hunger strike since 8 March.

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<sup>30</sup> These include restrictions in relation to nationality and field of work.

<sup>31</sup> Front Line Defenders contributed to this section.

<sup>32</sup> Faleh Hammoudi is a HRD working on migrants' rights, member of the executive bureaus of union organisations SNAPAP and CGATA and president of the section of the Algerian League for Human Rights (LADDH) in Tlemcen.

<sup>33</sup> 'Algeria: Mounting repression as more human rights defenders are detained', Amnesty International, 2 March 2022, <https://www.amnesty.org/en/latest/news/2022/03/algeria-mounting-repression-as-more-human-rights-defenders-are-detained/>

<sup>34</sup> Ibid.

3. On 17 October 2021, HRD Mohad Gasmi<sup>35</sup> was sentenced to five years in prison after around 16 months in pretrial detention.<sup>36</sup> He was found guilty of ‘praising terrorism’ over an online publication<sup>37</sup> in which he blamed the authorities for indirectly abetting the radicalisation of a militant.<sup>38</sup>
4. On 24 August 2021, security services forcibly disappeared minority rights defender and co-president of the World Amazigh Congress Kamira Nait Sid; she appeared in court on 1 September and was charged with fabricated terrorism-related accusations.<sup>39</sup>

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35 Mohad is a member of the civic movement, the unemployed movement that advocates for social and economic rights, especially for young people in southern Algeria. He has led protests against the effect of the exploitation of gas on the environment in southern Algeria and also participated in the Hirak protests. See ‘Algeria: marked regression in human rights underscored by proliferation of baseless terrorism prosecutions’, CIVICUS, 23 December 2021, <https://www.civicus.org/index.php/media-resources/news/5530-algeria-marked-regression-in-human-rights-underscored-by-proliferation-of-baseless-terrorism-prosecutions>; ‘Mohad Gasmi l’homme qui dit “non” au gaz de schiste’, Liberte, 19 October 2021, , <https://www.liberte-algerie.com/actualite/mohad-gasmi-lhomme-qui-a-dit-non-au-gaz-de-schiste-366898>.

36 ‘Mohamed Gasmi’, Algerian Detainees, 17 October 2021, <https://www.algerian-detainees.org/mohamed-gasmi>.

37 In the post, he sought to explain that the marginalisation of ordinary Algerians has the potential of radicalising them.

38 ‘Mohad Gasmi – unemployed movement’, Business and Human Rights Centre, 11 June 2020, <https://www.business-humanrights.org/en/latest-news/mohad-gasmi-unemployed-movement>.

39 She is being prosecuted under nine charges including the ‘receipt from foreign sources of funds to undermine the security of the State, the stability of its institutions and their functioning’ (Penal Code article 95bis).



5. On 29 April 2021, HRDs Said Boudour, Kaddour Chouika and Jamila Loukil<sup>40</sup> were charged<sup>41</sup> with participating in the activities of a terrorist organisation and conspiracy against state security<sup>42</sup> based on their peaceful activism.<sup>43</sup> They have previously been subjected to arbitrary arrests and detentions<sup>44</sup>.
6. On 8 April 2019, Salah Dabouz, an HRD, lawyer and former president of the LADDH was arrested and placed under judicial observation for critical online publications.<sup>45</sup> In September 2019, he faced an assassination attempt.<sup>46</sup> He was also subjected to intense judicial harassment after one of his clients, Indigenous rights defender Kamel Eddine Fekhar, died in prison.
7. Fekhar had been arrested on 31 March 2019 over an interview in which he expressed concerns about the marginalisation of the Amazigh community.<sup>47</sup> He started a hunger strike and eventually died,

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40 Said Boudour and Jamila Loukil are also both journalists. All three are members of the Algerian League for the Defence of Human Rights (LADDH).

41 They were arrested on 4 April 2021 and physically assaulted. Their homes were searched and personal items including laptops and bank cheques were confiscated. Kaddour Chouika is a university lecturer, union activist and vice president of LADDH. See CIVICUS, 23 December 2021, op. cit.

42 'Algeria: journalists Said Boudour and Jamila Loukil transferred to anti-terrorism unit', 17 September 2021, <https://www.majalat.org/news/algeria-journalists-said-boudour-and-jamila-loukil-transferred-anti-terrorism-unit>.

43 The charges against them stemmed from their participation in protests and their human rights activities. See 'UN Concerned about judicial harassment of three human rights defenders in Algeria', Committee for Justice, 23 August 2021, , <https://www.cfjustice.org/un-concerned-about-judicial-harassment-of-3-human-rights-defenders-in-algeria>.

44 In November 2020, Said Boudour was arrested and charged with defamation and offending public bodies and sentenced to one year's imprisonment. He was released in March 2021 by the Oran Appeals Court after the defamation charge was dropped. He was handed a two-month suspended sentence for offending public bodies. See 'Algerian online journalist given a suspended two-month prison sentence for "insulting statutory body"', Mena Rights Group, 24 November 2020, <https://menarights.org/en/caseprofile/algerian-online-journalist-charged-insulting-statutory-body>.

45 He was interrogated about a post he published on social media in which he was critical of the judiciary and charged with 'provoking an armed assembly', 'defamation of public institutions', and 'undermining the integrity of the national territory'. He was released after several hours but placed under 'judicial observation'. This means he was requested to present himself to the police twice a week. See 'Algeria: Lawyer Salah Daboug under judicial harassment', International Observatory of Lawyers, 7 April 2019, <https://protect-lawyers.org/en/item/salah-dabouz-3>; 'Harassment of lawyer Salah Dabouz', Lawyers for Lawyers, 17 March 2019, <https://lawyersforlawyers.org/en/algeria-harassment-of-lawyer-salah-dabouz>.

46 Prior to the attack, he submitted a complaint to the Prosecutors Office in Ghardaia about death threats received. See 'Indigenous people of Algeria', International Work Group for Indigenous Affairs, 7 May 2020, <https://www.iwgia.org/en/algeria/3574-indigenous-world-2020-algeria.html>; Lawyers for Lawyers, 7 May 2020, op. cit.

47 He was a member of LADDH and founder of the Tifawt Foundation, which advocates for the rights of the Amazigh people. See 'NGOs call on authorities to end persecution of Activists', CIVICUS Monitor, 3 December 2020, <https://monitor.civicus.org/updates/2020/12/03/ngos-call-authorities-end-persecution-activists>.

seemingly as a result of medical negligence.<sup>48</sup> The findings of a reported investigation have never been made public.

8. Workers' rights defender Dalila Touat<sup>49</sup> was arrested and prosecuted repeatedly between 2019 and 2021 for exercising her right to free speech and free assembly.<sup>50</sup> Touat submitted a complaint about ill-treatment in detention<sup>51</sup>.

### **3. Freedom of expression, freedom of conscience, media freedom and access to information**

1. The government received 10 recommendations relating to the freedom of expression, media freedom and access to information; eight were accepted and two were noted. Among other recommendations, the government pledged to amend regulations and practices to implement constitutional provisions on press freedom and clarify legal provisions on defamation to protect freedom of opinion. However the government did not take effective measures to implement any of the eight accepted recommendations.
2. Articles 51 and 52 of the Algerian Constitution guarantee the right to the freedom of expression; however, national legislation unduly restricts this right. The Constitution adds that press freedom must be exercised in 'respect of the fundamental religious, moral and cultural values of the nation' (article 54) and not infringe on 'the legitimate interests of companies and the requirements of national security' (article 55).<sup>52</sup> The Penal Code contains provisions formulated in excessively broad and vague terms that include prison sentences for non-violent speech offences.<sup>53</sup> Journalists have been sentenced to

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<sup>48</sup> 'Amazigh activist Kamel Eddine Fekhar dies after more than 50 days of hunger strike', Nationalia, 29 May 2019, <https://www.nationalia.info/brief/11220/amazigh-activist-kamel-eddine-fekhar-dies-after-more-than-50-days-of-hunger-strike>.

<sup>49</sup> Dalia Touat is involved in the movement for the rights of unemployed people in Mostaganem.

<sup>50</sup> These included calls to support a boycott of legislative elections.

<sup>51</sup> She claims she was refused medical care while on hunger strike.

<sup>52</sup> Article 51 of the Constitution states that 'freedom of conscience and freedom of opinion shall be inviolable. Freedom of worship shall be guaranteed and exercised without discrimination in compliance with the law. The State shall impartially guarantee the protection of places of worship. Article 52 states that 'freedom of expression shall be guaranteed'.

<sup>53</sup> These include 'undermining army morale' (article 75), 'undermining national unity' (article 79), 'harming national interest' (article 96), 'incitement to an unarmed gathering' (article 100), 'insulting state institutions' (article 146) and 'discrediting court decisions' (article 147).

prison for ‘defamation’ and ‘offence to public bodies’, which goes against both international standards<sup>54</sup> and the Constitution.<sup>55</sup>

3. The 2012 Law of Information contains vague terminology and restrictive provisions, subjectively interpreted by the authorities to curtail the work of the media.<sup>56</sup> The law, in principle, allows for media to operate in Algeria but provides restrictive conditions.<sup>57</sup>
4. The 2014 law on audio-visual activity imposes excessively restrictive requirements, without the possibility of contesting a refusal. Consequently, Algerian audio-visual media remains dominated by non-independent public media and foreign private media.
5. Article 46 of Ordinance No. 06-01 implementing the Charter for Peace and National Reconciliation creates a climate of self-censorship as it encompasses all forms of criticism against state security forces for violations committed during the 1990s civil war. This provision was used to sentence activist Abdullah Benaoum to two years in prison on 6 June 2018.<sup>58</sup>
6. On 28 April 2020, parliament passed Law No. 20-06 amending the Penal Code, reinforcing the criminalisation of free speech. Article 196bis provides for penalties ranging from one to three years in prison, doubled for a repeated offence,<sup>59</sup> for the dissemination of ‘false information’ which undermines ‘public order and the safety of the State’. Law 20-06 article 144 introduced a penalty of imprisonment of up to three years for anyone who offends any public servant ‘with the intention of undermining their honour, delicacy or the respect due to their authority’.

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54 The United Nations Special Rapporteur on freedom of expression, in his report on his visit to Algeria in April 2011, indicated that ‘when a defamation action is brought, various means of redress should be available, including the possibility to apologize and/or make corrections; the use of criminal sanctions, including imprisonment, should be excluded’.

55 The Constitution stipulates in article 54 that “press offences cannot be punished with a prison sentence”.

56 The law provides for journalists to be subjected to excessive fines and have their publications closed if they are found guilty of defamation or for publishing information on a preliminary criminal investigation. See ‘Algeria’, International Centre for Not-for-Profit Law, [https://www.icnl.org/resources/civic-freedom-monitor/algeria#:~:text=In%20addition%2C%20in%20January%202012,to%20publish%20and%20disseminate%20information.&text=Violations%20under%20this%20law%20could,dinars%20\(approximately%20USD%206%2C700\).](https://www.icnl.org/resources/civic-freedom-monitor/algeria#:~:text=In%20addition%2C%20in%20January%202012,to%20publish%20and%20disseminate%20information.&text=Violations%20under%20this%20law%20could,dinars%20(approximately%20USD%206%2C700).)

57 These include respecting the ‘Islamic faith and all religions’, ‘national sovereignty and unity’, and ‘requirements of public order’. See article 2 of the Organic Law No. 12-05 of 12 January 2012.

58 Benaoum has been prosecuted in at least six different cases since 2018, all solely based on critical social media publications and private phone communications.

59 The penalty can reach five years’ imprisonment in ‘periods of sanitary confinement or of natural, biological or technological disaster or any other disaster’.

7. On 28 April 2020, parliament also passed Law 20-05 on preventing and combating discrimination and hate speech.<sup>60</sup> The recourse to this law to prosecute Amazigh activist Yacine Mebarki in October 2020 and journalist Rabah Karèche in April 2021 suggests an overly broad and abusive interpretation of the law's clause on 'incitation to discrimination and hatred' to repress fundamental freedoms.<sup>61</sup>
8. On 22 November 2020, Executive Decree No. 20-332<sup>62</sup> established a legal framework for electronic media. It strengthened the control of the authorities over digital media by duplicating the repressive mode of management already applied to written and audio-visual media.<sup>63</sup>
9. On 21 June 2021, President Tebboune adopted Ordinance 21-09 relating to the protection of information and administrative documents,<sup>64</sup> which introduced illegitimate and disproportionate penalties for publishing information deemed 'classified', according to overly broad formulations.<sup>65</sup> These severe penalties represent a real risk for whistleblowers, investigative journalists and HRDs.
10. On 17 March 2022, journalist Ihsane El Kadi was summoned by the police and is now prosecuted for "participation in a terrorist organisation".
11. On 24 January 2022, journalist Abdelkrim Zeghileche was arrested. He is accused of "praising terrorism," "using information technologies to spread terrorist ideas," and "disseminating information that could harm the national interest," in connection with online posts and media interventions.
12. On 28 December 2021, journalist and blogger Merzoug Touati was arrested. Touati was later sentenced to a year in prison over social media commentary about another imprisoned activist. In May 2018, Touati was sentenced to seven years in prison for 'conspiracy with a foreign power',<sup>66</sup> later reduced to

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<sup>60</sup> The Law for instance punishes the creation or supervision of an electronic platform susceptible to incite hatred within society with five to 10 years of prison (article 34).

<sup>61</sup> Article 4 of the law also states that the freedom of expression cannot be used to justify discrimination.

<sup>62</sup> Executive Decree No. 20-332 of 22 November 2020 sets the terms for carrying out the activity of online information and the dissemination of updates or corrections on an electronic site.

<sup>63</sup> The Decree includes a requirement of domiciliation in Algeria, an unjustified obstacle to the functioning of online media, which may make it easier for the authorities to restrict access to domiciled sites, while allowing them to hinder media that do not wish to be domiciled in Algeria.

<sup>64</sup> The text was not the subject of any parliamentary debate following the dissolution of the National People's Assembly on 1 March 2021. At the time of writing, we have not been able to find documentation showing that the ordinance was approved during the next session of the new legislature, as mandated by the Constitution.

<sup>65</sup> It also empowers security services to install surveillance technologies without judicial scrutiny and punishes anyone disclosing elements of an ongoing investigation or allowing their possession by an ill-defined 'unqualified person' with three to five years of prison.

<sup>66</sup> This charge came after he conducted an interview with an Israeli Foreign Ministry spokesperson.

two years.<sup>67</sup> On 12 September 2021, journalist Hassan Bouras<sup>68</sup> was placed in pretrial detention and charged with eight misdemeanours and criminal terrorist charges for his journalistic work and the exercise of his freedom of expression.<sup>69</sup>

13. On 20 October 2020, journalist Abdelhakim Setouane was arrested<sup>70</sup> and charged with defamation, blackmail and invasion of privacy. Setouane was sentenced in March 2021 to six months in prison and a fine.<sup>71</sup>
14. Whistleblower Nourredine Tounsi was sentenced to a year in prison on 21 April 2021 and previously to six months in prison on 24 November 2020 in connection with his investigative work about corruption with the Platform for the Protection of Whistleblowers in Africa.<sup>72</sup>
15. On 18 April 2021, journalist Rabah Karèche was arrested in Tamanrasset.<sup>73</sup> He was accused of spreading false news, undermining national security and using an electronic account to spread false information that could incite discrimination, under Law 20-05 of April 2020.<sup>74</sup> In August 2021 he was sentenced to a year in prison, suspended for four months.<sup>75</sup> Satirical blogger Walid Kechida was sentenced to a year in prison, with six months suspended, on 31 January 2021.<sup>76</sup>
16. Journalist Mustafa Bendjama has been subjected to intense judicial harassment for his publications. He was summoned or arrested at least 15 times in 2020 and prosecuted in six different cases. He received

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<sup>67</sup> Touati was also detained between June and July 2020 for covering a protest.

<sup>68</sup> He is also a member of LADDH.

<sup>69</sup> Bouras risks the death penalty for publishing online about the oxygen crisis during the COVID-19 pandemic, as well as about the murder of activist Djamel Bensmail, who was lynched by a crowd on 11 August 2021.

<sup>70</sup> 'Algerian journalist sentenced to six months jail for defamation', Alarabiya News, 29 March 2021, <https://english.alarabiya.net/News/north-africa/2021/03/29/Algerian-journalist-sentenced-to-six-months-jail-for-defamation->.

<sup>71</sup> 'Algeria jails journalist for defamation', Arab News, 29 March 2021, <https://www.arabnews.com/node/1833911/media>.

<sup>72</sup> He was arrested a couple of days after he submitted a complaint to the Ministry of Justice about his findings.

<sup>73</sup> 'Worrying arrest of Algerian journalist Rabah Kareche', Democracy Chronicles, 22 April 2021, <https://democracychronicles.org/worrying-arrest-of-algerian-journalist-rabah-kareche>.

<sup>74</sup> The accusations were based on his coverage of protests of Tuareg communities over land management. See 'Algeria: Rabah Kareche, between press freedom and disinformation', Le Journal l'Afrique, 30 June 2021, <https://lejournaldefrique.com/en/Africa-today/Algeria-rabah-kareche-between-freedom-of-the-press-and-disinformation>.

<sup>75</sup> 'Algeria: journalist Rabah Kareche sentenced on appeal to one year in prison including six months closed', Morning Express, 12 April 2021, <https://morningexpress.in/algeria-journalist-rabah-kareche-sentenced-on-appeal-to-one-year-in-prison-including-six-months-closed>.

<sup>76</sup> He was prosecuted for 'offence to a public body', 'offence to the President of the Republic' and 'offence against the precepts of Islam'.

finances and suspended prison sentences for ‘defamation’, ‘offence to public bodies’ and ‘publication of information undermining national unity’. Journalist and activist Abdelkrim Zeghileche was sentenced to a year in prison on 8 November 2020 after calling for the creation of a new political party.<sup>77</sup>

17. Journalist Khaled Drareni, correspondent for French television channel TV5Monde and representative of Reporters Without Borders in Algeria, was arrested on 7 March 2020 and charged with ‘undermining national unity’ and ‘inciting an unarmed assembly’ for his coverage of Hirak protests. He was sentenced to two years in prison on 15 September 2020 before eventually receiving a retrial on 17 February 2022.<sup>78</sup>
18. On 1 April 2020, reporter Meriem Cherfi, publications manager Rafik Mouhoub and editor-in-chief Mohamed Lamari of the private newspaper Essawt El-Akhar were interrogated after publishing a piece about the release of incorrect information related to COVID-19 results.
19. On 7 August 2018, Amazigh activist Salim Yezza was sentenced to a suspended one-year prison sentence for criticising government discrimination against the Mozabites.<sup>79</sup>
20. Article 144bis 2 of the Penal Code (on ‘offending the precepts of Islam’) has been used repeatedly to criminalise the freedoms of speech and conscience.<sup>80</sup> This context was aggravated by the removal of the reference to the inviolability of freedom of conscience when the Constitution was changed in 2020. Algerian academic Saïd Djabelkhir was sentenced to three years in prison on 22 April 2021 under article 144bis 2, based on publications about Islamic rituals and theology.<sup>81</sup> On 22 March 2021, a judge in Oran upheld a five-year prison sentence for the same charge against Christian convert Hamid Soudad for sharing a cartoon of the prophet of Islam. Activist Amira Bouraoui has been prosecuted in three different cases since June 2020 for ‘offence to the precepts of Islam’ and ‘offence to the President’ based on online publications.<sup>82</sup>

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<sup>77</sup> He was sentenced on two charges of ‘undermining national unity’ and ‘offending the President’.

<sup>78</sup> ‘Khaled Drareni sentenced to two years in prison on charges related to his work as a journalist’, MENA Rights Group, 17 September 2020, <http://www.menarights.org/en/caseprofile/khaled-drareni-sentenced-two-years-prison-charges-related-his-work-journalist>.

<sup>79</sup> The Mozabites are an Amazigh minority group.

<sup>80</sup> It was used in 2018 to convict members of the Ahmadi Muslim minority for practising their religion.

<sup>81</sup> Saïd Djabelkhir claims he was neither heard by nor summoned by the prosecution and learnt he was prosecuted online.

<sup>82</sup> In one of these publications, she criticised the authorities’ management of the COVID-19 pandemic.

21. In 2019 and 2020, at least 18 online media reported not being accessible on Algerian networks. In September 2020, French television channel M6 had its authorisation to operate in Algeria withdrawn.<sup>83</sup> On 12 March 2021, eight journalists were assaulted verbally and physically, in what appeared to be an attack on France 24 correspondent Abdelkader Kamli. No investigation has been opened. The following day, the Minister of Communication issued a ‘final warning’ to France 24 and accused it of false and subversive reporting and of collaborating with non-governmental organisations.<sup>84</sup> On 13 June 2021, the Algerian government announced it was withdrawing France 24’s accreditation.<sup>85</sup>
22. No investigation has been carried out to date into the death in detention on 27 June 2016 of British-Algerian journalist Mohamed Tamalt despite an official complaint being lodged.

## **5. Freedom of peaceful assembly**

1. During the 3<sup>rd</sup> UPR cycle, the government received 12 recommendations relating to the freedom of peaceful assembly. Among other recommendations, the government committed to eliminating obstacles to peaceful assembly and adopting a law that guarantees its free enjoyment. Ten recommendations were accepted and two noted. However, the government has not fully implemented any of these recommendations.
2. Article 52 of the Algeria Constitution theoretically guarantees the right to the freedom of peaceful assembly upon notification. It however it states that the law shall determine the modalities of its exercise.

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<sup>83</sup> The authorisation was withdrawn following the broadcast of a report on the Hirak movement, according to the Ministry of Communication.

<sup>84</sup> The organisations it was accused of collaborating with included Amnesty International and Reporters Without Borders.

<sup>85</sup> Its accreditation was withdrawn over its ‘repeated hostility’.

3. Law No. 91-19 on Public Meetings and Demonstrations prohibits demonstrations based on broad provisions<sup>86</sup> that can easily be used to forbid criticism of authorities. In practice it implements a regime of prior authorisation, in contravention of article 21 of the ICCPR.<sup>87</sup>
4. In February 2019, the pro-democracy Hirak protest movement swept through Algeria,<sup>88</sup> in spite of a protest ban said to be in place in Algiers since June 2001.<sup>89</sup> The authorities responded by arresting scores of protesters, journalists and activists, subjecting them to judicial prosecutions and imprisonment, based on overly broad provisions of the Penal Code such as ‘undermining the morale of the army’, ‘undermining national unity’ and ‘inciting unarmed assembly’.<sup>90</sup> Algerian authorities regularly used unlawful violence. Protester Ramzi Yettou died after being brutally beaten by the police on 19 April 2019.<sup>91</sup> Several protesters were subjected to torture and ill-treatment in detention<sup>92</sup>.
5. Beginning in June 2019 and in the lead up to the December 2019 presidential election<sup>93</sup> security forces carried out large-scale arrests across Algeria. The first wave targeted 41 people carrying Amazigh flags who were prosecuted for ‘undermining national unity’. On 10 October 2019 the authorities arrested 10 RAJ members.<sup>94</sup> Journalists covering protests were also arrested, such as Mustapha Bendjama.<sup>95</sup>

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<sup>86</sup> Prohibitions include those on grounds of ‘national fundamental principles’, ‘public order and morality’ and ‘harm [to] the symbols of the 1954 revolution’.

<sup>87</sup> Both public meetings and demonstrations require the submission of a written request to the local Wali (governor). In practice, the Wali either does not respond to the request or responds on the day of the event. The law does not provide for the possibility to challenge a refusal and allows for disproportionate harsh penalties, of three months to a year in prison, for those who make inaccurate declarations or participate in non-authorised demonstrations, even without their knowledge.

<sup>88</sup> Hirak protests initially arose in response to a decision by then-President Abdelaziz Bouteflika to stand for a fifth term in office.

<sup>89</sup> The legal form of this ban, pronounced in a government council meeting on 18 June 2001, remains unknown. The Human Rights Committee referred to an unpublished decree (see CCPR/C/ DZA/CO/4, §45).

<sup>90</sup> ‘NGOs call on the authorities to end persecution of activists’, CIVICUS Monitor, 3 December 2020, <https://monitor.civicus.org/updates/2020/12/03/ngos-call-authorities-end-persecution-activists>.

<sup>91</sup> ‘Algeria: Authorities must ensure justice for protester beaten by police’, Amnesty International, 29 May 2019, [www.amnesty.org/fr/latest/news/2019/05/algeria-authorities-must-ensure-justice-for-protester-beaten-by-police-2](http://www.amnesty.org/fr/latest/news/2019/05/algeria-authorities-must-ensure-justice-for-protester-beaten-by-police-2), .

<sup>92</sup> See for instance Special Procedures communications AL DZA 06/2021 and AL DZA 8/2020.

<sup>93</sup> Ahead of contested presidential elections, at least 300 protesters were arrested between 17 and 24 November 2019.

<sup>94</sup> The 10 were arrested while they participated in their weekly sit-in protests in front of a courthouse in solidarity with those detained. See ‘Algeria regime steps up repression against protesters’, Al-Monitor, 17 October 2019, <https://www.al-monitor.com/originals/2019/10/algeria-army-crackdown-activists-arrested-protests.html>.

<sup>95</sup> ‘Algeria: repression intensifies and international civil society mobilises’, MAJALAT, 9 October 2019, <https://www.majalat.org/news/algeria-repression-intensifies-and-international-civil-society-mobilizes>.



6. In March 2020, the authorities ordered a sweeping ban on all protests in response to the COVID-19 pandemic. In parallel, Hirak protesters chose to halt protests in response to the health crisis. The authorities then moved to increasingly criminalise online speech and censor online media platforms (see Section 4). On 19 June 2020, at least 750 people who attempted to resume protests were arrested. In total in 2020, at least 1,300 individuals were prosecuted for exercising their right to peaceful assembly.
7. Peaceful demonstrations resumed in February 2021. The use of unnecessary and excessive force was reported in every demonstration.<sup>96</sup> Police forces repeatedly blocked access to the location of demonstrations. Internet access on mobile phones was disrupted during demonstrations. Police demanded that detained protesters sign a pledge that they would not participate in other protests before they could be released from custody. Between February and June 2021, at least 7,000 peaceful protesters and 38 journalists were arrested and 15 journalists reported assaults or violent arrests.
8. On 3 May 2021, the Algerian Interior Ministry announced the suspension and prosecution of 230 firefighters who peacefully protested for better working conditions.<sup>97</sup>
9. On 9 May 2021, the Ministry of Interior issued a statement stating that protesters must submit 'prior notification' with information about when protests will start and end, the location, slogans they will use and organisers' names. On 20 May 2021, the Ministry of Interior denied having received 'authorisation requests' and denounced 'malicious campaigns', following reports on social media that authorisations had been requested. On 21 May 2021, a journalist in Algiers was told by police that they were not allowed to cover a 'forbidden protest'.
10. Since the week of 21 May 2021, Hirak protests have not been able to take place in the majority of the country<sup>98</sup> due to a heavy police presence, mass arrests, intimidation of protesters, fear of further violence and the Ministry of Interior's statement, which was largely understood as forbidding protests without authorisation.

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<sup>96</sup> On 12 March 2021 in Oran, Kaddour Chouicha – HRD, trade unionist and president of the Oran section of LADDH – and his son were violently beaten by the police. He reported that one of the police officers tried to strangle him. In Tiaret, workers' rights defender Dalila Touat was beaten by the police, violently arrested and eventually released later that night. On 16 March 2021, during a students' march in Bejaïa, several students reported beatings by police forces. On 14 May 2021, videos showed police in Algiers physically assaulting protesters.

<sup>97</sup> Firefighters, like police officers, magistrates and other civil servants, do not have the right to strike or to demonstrate in Algeria. On the day of the protests, the Ministry said the movement was inspired 'by entities hostile towards Algeria and with a malicious agenda'.

<sup>98</sup> Protests continued in Amazigh-majority regions at least until June and July 2021.

11. Among the scores of peaceful protesters arrested since 2019, activist Chems Eddine Brahim Laalami was violently arrested on 9 September 2020.<sup>99</sup> Between September 2020 and October 2021, he was sentenced to a total of nine years of prison in relation to his participation in demonstrations.<sup>100</sup> His physical and mental health have severely deteriorated, notably due to the judicial harassment and ill-treatment he has been subjected to.

## **6. Protection of human rights while countering terrorism**

1. Algeria received and accepted two recommendations<sup>101</sup> pertaining to the respect of human rights while countering terrorism in the previous UPR cycle. However, the authorities have completely gone against these recommendations. Since the resumption of Hirak protests in February 2021, the authorities have repeatedly used demonising rhetoric against peaceful protests and increasingly resorted to charges of terrorism to prosecute peaceful activists.
2. On 18 May 2021, the High Security Council, chaired by President Tebboune, designated political opposition movements the Movement for the Self-Determination of Kabylie (MAK) and Rachad as ‘terrorist organisations’.<sup>102</sup> In the same week, the army released a documentary denouncing the ‘criminal subversive plans’ of the MAK and Rachad, while also incriminating French media and the states of Israel and Morocco. On 18 August 2021, the Council accused the MAK and Rachad of being responsible for the forest fires that overtook north-eastern Algeria that month and for the lynching of activist Djamel Bensmail on 11 August 2021, while he was under police custody. The Council further announced it would intensify efforts to arrest the members of these two movements, until their ‘total eradication’, on the grounds that they threaten public security and national unity.
3. On 8 June 2021, Algeria adopted Ordinance No. 21-08, which expanded the definition of terrorism in a way that appears to directly target the Hirak movement and peaceful dissent.<sup>103</sup> Article 87bis of the

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<sup>99</sup> Police also used a taser during his arrest.

<sup>100</sup> On 27 September 2020, he was sentenced to three years of prison in relation to his participation in demonstrations. On 15 February 2021, he was sentenced to another two years in prison. On 11 October, he was sentenced to a further four years of prison in two other cases.

<sup>101</sup> UPR 3<sup>rd</sup> cycle recommendations 129.69 and 129.70 respectively from Hungary and Lebanon.

<sup>102</sup> The two were designated as terrorist organisations on the basis of ‘hostile and subversive acts committed [...] to destabilize the country and threaten its security’.

<sup>103</sup> In its last Concluding Observations in 2018 (CCPR/C/DZA/CO/4), the UN Human Rights Committee reiterated its concern with regard to article 87bis for defining terrorism in overly broad and vague terms.

Penal Code,<sup>104</sup> which defines terrorist acts, was amended to include ‘working or inciting, by any means whatsoever, to gain power or to change the system of governance by non-constitutional means’, thereby criminalising anyone publicly expressing the desire to gain power or voicing opposition to the current system of governance, in a context in which the Hirak has been calling for a complete overhaul of the system of governance. ‘Undermining national unity’ is now also included in the definition of terrorism, a formulation taken from article 79 of the Penal Code, which has been widely used to prosecute protesters and journalists since February 2019.

4. Executive decree No. 21-384, adopted on 7 October 2021, relates to the establishment of a national list of terrorist entities and individuals. Listed individuals and entities are subject to a travel ban and asset freeze, and are ‘prohibited from any activity of any kind’. The listing and appeal process is entirely left to the discretion of executive and security bodies.<sup>105</sup> On 6 February 2022, the MAK and Rachad were officially added to the national terrorist list, along with 16 of their members.
5. The Constitutional Council approved the Ordinance based on article 34 of the Constitution. Article 34, introduced in the 2020 constitutional revision, provides criteria for the imposition of restrictions on rights and freedoms.<sup>106</sup> However, these restrictions are formulated in vague terms, thus opening the door to arbitrary interpretation. This would allow for an infringement of fundamental rights without the safeguards of necessity and proportionality mandated by international law.
6. Increasingly since 2021, Algerian authorities have been unjustly prosecuting individuals using Penal Code article 87bis, often on the basis of an alleged association with MAK or Rachad. Between April and October 2021, at least 59 people were prosecuted on unfounded terrorism charges, including HRDs, journalists and activists such as former policeman Zahir Moulaoui, journalist Mohamed

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<sup>104</sup> Article 87bis of the Penal Code provides for sentences ranging from one year in prison to lifelong imprisonment and the death penalty for those convicted of terrorist acts.

<sup>105</sup> The process is overseen by a commission chaired by the Minister of Interior and composed of several other ministers and heads of security bodies.

<sup>106</sup> Article 34 states that ‘No restriction can be imposed on rights and freedoms unless by law and for motives linked to the maintaining of public order and security, for the protection of national constants and to safeguard other rights and freedoms protected in this Constitution’.

Mouloudj, activist Bouabdellah Bouachria, lawyer Abderraouf Arslane, protesters Fatima Boudouda and Moufida Kharchi<sup>107</sup>.

7. On 25 August 2021, Christian Amazigh activist Slimane Bouhafs – an Algerian refugee recognised by the UN Refugee Agency since 2018 – was abducted from Tunisia, subjected to ill-treatment and forcibly returned to Algiers. Bouhafs is currently in pretrial detention and could face life imprisonment for alleged ‘participation in a terrorist organisation’ alongside nine other charges.

## **7. Recommendations to the Government of Algeria**

Our organisations call on the Government of Algeria to create and maintain, in law and in practice, an enabling environment for civil society, in accordance with the rights enshrined in the ICCPR, the African Charter on Human and Peoples’ Rights, the UN Declaration on Human Rights Defenders and Human Rights Council resolutions 22/6, 27/5 and 27/31.

At a minimum, the following conditions should be guaranteed: the freedoms of association, peaceful assembly and expression, the right to operate safely and free from unwarranted state interference, the right to communicate and cooperate, and the right to seek and secure funding. In the light of this, the following recommendations are made:

### **7.1 Freedom of association**

- 7.1.1. Repeal Law 12-06-2012 and adopt a new law in full compliance with ICCPR articles 21 and 22.
- 7.1.2. Foster a safe, respectful and enabling environment for Algerian civil society.
- 7.1.3. Repeal Article 95bis of the Penal Code and remove all undue restrictions on the ability of civil society organisations (CSOs) to receive funding, in line with best practices articulated by the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association.
- 7.1.4. Abolish criminal responsibility for organising and participating in the activities of non-registered organisations.

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<sup>107</sup> Activist and former policeman Zahir Moulaoui was detained on 5 October 2021 for charges such as ‘participation in a terrorist organisation’ and ‘praising terrorism’. Fifteen Amazigh activists, along with journalist Mohamed Mouloudj, were also arrested between 2 and 14 September 2021 and prosecuted on terrorism charges, for their alleged affiliation with MAK. On 10 November 2021, activist Bouabdellah Bouachria was sentenced to nine years in prison on charges that included ‘praising terrorism’. Lawyer Abderraouf Arslane has been in pretrial detention since 26 May 2021 for ‘participation in a terrorist organisation’ in relation to his work and his online criticism of the repression. Protesters Fatima Boudouda and Moufida Kharchi have also been in pretrial detention since 21 May 2021 for terrorism-related charges.

- 7.1.5. Refrain from acts leading to the arbitrary closure of civil or political organisations or the suspension of their peaceful activities, immediately reinstate any organisations that have been unduly sanctioned, and instead promote a free civic space that allows for a meaningful dialogue embracing diverging views.
- 7.1.6. Repeal Law 12-04 relating to political parties, and draft a law in line with international standards.<sup>108</sup>
- 7.1.7. Amend Law 90-14 relating to the modalities of exercise of union freedom to enable all workers to form trade unions and all trade unions to conduct their activities without distinction.
- 7.1.8. Promptly process registration requests of all trade unions without discrimination, and enable trade unions to conduct their activities freely by ceasing all legal harassment and intimidation towards them.

## **7.2 Protection of human rights defenders**

- 7.2.1. Conduct impartial, thorough and effective investigations into all cases of attacks, harassment and intimidation against HRDs and bring the perpetrators to justice.
- 7.2.2. Ensure that HRDs are able to carry out their legitimate activities without fear, undue hindrance, or legal and administrative harassment.
- 7.2.3. Immediately and unconditionally release all HRDs detained for exercising their fundamental rights and provide adequate remedy.
- 7.2.4. Publicly condemn at the highest levels of government harassment and intimidation of HRDs.
- 7.2.5. Establish mechanisms that protect HRDs, including by adopting a specific law on the protection of HRDs in accordance with Human Rights Council resolution 27.31.
- 7.2.6. Make public the results of the investigation allegedly conducted on the death in custody of HRD Kamel Eddine Fekhar in order to bring those responsible to justice.

## **7.3 Freedom of expression, media freedom and attacks on journalists**

- 7.3.1. Amend articles 54 and 55 of the Constitution to remove undue restrictions on press freedom.

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<sup>108</sup> These standards guarantees a prior notification system and the freedoms of association, peaceful assembly and expression of all political activists.

- **7.3.2.** Repeal overly broad articles of the Penal Code<sup>109</sup> that are widely used to criminalise non-violent free speech and repeal Penal Code articles 146 and 298 to decriminalise defamation, in conformity with ICCPR article 19 and article 54 of the Constitution.
- **7.3.3.** Review law 12-05 on Information, Law 14-04 on Audio-visual activity and Executive Decree No. 20-332 on electronic media in consultation with media, civil society and journalists' unions to bring them into line with international media freedom standards.
- **7.3.4.** Stop misusing hate speech and discrimination offences to criminalise free speech and peaceful activism, notably by Amazigh activists, and review and amend Law 20-05 on preventing and combating discrimination and hate speech, in consultation with civil society.
- **7.3.5.** Repeal Ordinance 21-09 that enables the arbitrary prosecution of individuals<sup>110</sup> for sharing information deemed to be an 'offence' or 'undermining' of authorities' interests.
- **7.3.6.** Cease any practices of arbitrary censoring and obstructing media<sup>111</sup> and guarantee unfettered access to online information.
- **7.3.7.** Ensure that journalists and writers can work freely and without fear of retribution for expressing critical opinions or covering sensitive topics.
- **7.3.8.** Repeal Ordinance No. 06-01 implementing the Charter for Peace and National Reconciliation, which criminalises the exercise of free speech about human rights violations committed during the 1990s conflict.
- **7.3.9.** Conduct a prompt, thorough and independent investigation into the death in custody of British-Algerian journalist Mohamed Tamalt and bring those responsible to justice.

## **7.4 Freedom of peaceful assembly**

- **7.4.1.** Repeal Law No 91-19 and adopt a new law fully in line with ICCPR article 21 and international best practices,<sup>112</sup> with a simple notification process for holding assemblies rather than prior authorisation.

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<sup>109</sup> These articles include 75, 79, 96, 100, 144, 144 bis, 144 bis1, 144 bis2, 146, 147 and 196 bis.

<sup>110</sup> Particularly in relation to the prosecution of HRDs, journalists and whistleblowers.

<sup>111</sup> Including practices of rendering digital media inaccessible on Algerian networks and withdrawing media accreditation.

<sup>112</sup> As put forward by the 2012 report of the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association and UN Human Rights Committee General Comment No. 37 of 2020 on the right to peaceful assembly.

- **7.4.2.** Cease arbitrary arrests, prosecutions and judicial harassment of all HRDs and peaceful activists and unconditionally and immediately release all those detained for exercising their right to the freedom of peaceful assembly.
- **7.4.3.** Review Penal Code articles 97 and 100<sup>113</sup> to stop criminalising peaceful assembly.
- **7.4.4.** Immediately and impartially investigate all instances of excessive force and violent arrest committed by security forces in the context of protests as well as allegations of ill-treatment of protesters in custody, bring perpetrators to justice and publicly condemn at the highest levels the use of excessive and brutal force in response to protests.
- **7.4.5.** Review existing human rights training for police and security forces, with the assistance of independent CSOs, to foster a more consistent application of international human rights standards, including the UN Basic Principles on the Use of Force and Firearms.
- **7.4.6.** Provide recourse to judicial review and effective remedy, including compensation, in cases of unlawful denial of the right to the freedom of peaceful assembly by state authorities.

## **7.5 Counterterrorism and human rights**

- **7.5.1.** Repeal Penal Code article 87bis to article 87bis 14 relative to terrorist and subversive activities, and redraft counter-terrorist legislation in line with international law, as highlighted by Human Rights Council Resolution 35/34 and the UN Special Procedures communication of 27 December 2021.<sup>114</sup>
- **7.5.2.** Cease all arbitrary arrests and prosecutions without evidence of violent terrorist activity, and release all those unjustly detained for terrorism-related crimes.
- **7.5.3.** Review executive decree No. 21-384 relating to the national list of terrorist entities and individuals in line with UN Special Procedures recommendations.<sup>115</sup>

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<sup>113</sup> These articles respectively include provisions criminalising ‘unarmed gathering’ and ‘incitement to an unarmed gathering’.

<sup>114</sup> Communication OL DZA 12/2021, 27 December 2021, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26905>

<sup>115</sup> Notably it is recommended to establish judicial and legislative control on the decisions of the commission establishing the listing, to ensure independent periodic review of the list and to allow for judicial recourse for the individual or entity listed with no limitation.

- 7.5.4. Repeal article 34 of the Constitution, which imposes restrictions on rights and freedoms without safeguards.

## 7.6 Counterterrorism and human rights

- 7.6.1. Implement transparent and inclusive mechanisms of public consultations with CSOs on all issues mentioned above and enable the more effective involvement of civil society in the preparation of law and policy.
- 7.6.2. Systematically consult with civil society on the implementation of UPR recommendations, including by holding periodical comprehensive consultations with a diverse range of civil society.
- 7.6.3. Incorporate the results of this UPR in an action plan for the promotion and protection of all human rights, taking into account the proposals of civil society, and present a midterm evaluation report to the Human Rights Council on the implementation of the recommendations of this session.

## 7.7. Cooperation with UN Special Procedures mandate holders

- 7.7.1. Accept the visit of the Special Rapporteur on the situation of human rights defenders requested in February 2022 and extend a standing invitation to all UN Special Procedure mandate holders, notably the:
  - 1) Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression;
  - 2) Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of association;
  - 3) Special Rapporteur on the independence of judges and lawyers;
  - 4) Working Group on Arbitrary Detention; and
  - 5) Special Rapporteur on human rights and counter-terrorism.

## 8. Annex: Assessment of implementation of civic space recommendations under the 3rd cycle

Recommendation	Position	Full list of themes	Assessment/comments on level of implementation
<i>Theme: A28 Cooperation with other international mechanisms and institutions</i>			



<b>Recommendation</b>	<b>Position</b>	<b>Full list of themes</b>	<b>Assessment/comments on level of implementation</b>
<p>129.111 Reform the association law 12-06 of 2012 to provide a clear and unambiguous legal foundation for the work of civil society organizations, including with regard to cooperation with international partners (Germany);</p> <p><b>Source of position:</b> A/HRC/36/13/Add.1 - Para. 6</p>	Supported	<p>A28 Cooperation with other international mechanisms and institutions</p> <p>D7 Right to participation in public affairs and right to vote</p> <p>D43 Freedom of opinion and expression</p> <p>D45 Freedom of association</p> <p>H1 Human rights defenders</p> <p><b>Affected persons:</b></p> <ul style="list-style-type: none"> <li>- general</li> <li>- media</li> <li>- persons deprived of their liberty</li> </ul>	<p>Status: Not implemented</p> <p>Source: 2.2 - 2.3</p>
<b>Theme: A41 Constitutional and legislative framework</b>			
<p>129.35 Continue incorporating international human rights norms into the national legislation (Uzbekistan);</p> <p><b>Source of position:</b> A/HRC/36/13/Add.1 - Para. 7</p>	Supported	<p>A41 Constitutional and legislative framework</p> <p><b>Affected persons:</b></p> <ul style="list-style-type: none"> <li>- general</li> </ul>	<p>Status: Not Implemented</p> <p>Source: 2.2-2.3</p>
<p>129.36 Continue to align its legislation with the new constitution and with the provisions of international human rights instruments (Namibia);</p> <p><b>Source of position:</b> A/HRC/36/13/Add.1 - Para. 7</p>	Supported	<p>A41 Constitutional and legislative framework</p> <p><b>Affected persons:</b></p> <ul style="list-style-type: none"> <li>- general</li> </ul>	<p>Status : Not Implemented</p> <p>Source: 3.2-3.7</p>

<b>Recommendation</b>	<b>Position</b>	<b>Full list of themes</b>	<b>Assessment/comments on level of implementation</b>
129.37 Expedite the amendment of previous legislation that is not in line with the amended Constitution of 7 February 2016 and its human rights guarantees (Ethiopia); <b>Source of position:</b> A/HRC/36/13/Add.1 - Para. 7	Supported	A41 Constitutional and legislative framework  <b>Affected persons:</b>  - general	Status: Not Implemented  Source: 4.3-5.3
129.113 Amend the law on associations to remove undue restrictions on civil society organizations (United States of America); <b>Source of position:</b> A/HRC/36/13/Add.1 - Para. 6	Supported	A41 Constitutional and legislative framework  <b>Affected persons:</b>  - general	Status: Not Implemented  Source: 2.2 – 2.3
129.114 Revise or repeal legislation on associations and elaborate a new organic law on associations in conformity with international human rights norms (France); <b>Source of position:</b> A/HRC/36/13/Add.1 - Para. 6	Supported	A41 Constitutional and legislative framework  <b>Affected persons:</b>  - general	Status : Not Implemented  Source: 2.2 – 2.3

<b>Recommendation</b>	<b>Position</b>	<b>Full list of themes</b>	<b>Assessment/comments on level of implementation</b>
129.117 Create a secure and enabling environment for civil society, notably by amending the Law 12-06 of 12 January 2012 to bring it into conformity with its Constitution and international obligations (Switzerland);  <b>Source of position:</b> A/HRC/36/13/Add.1 - Para. 6	Supported	A41 Constitutional and legislative framework  <b>Affected persons:</b>  - general	Status : Not Implemented  Source: 2.2 – 2.3
129.99 Amend administrative and other regulations and practices in order to implement the constitutional provisions regarding freedom of the press and clarify the law on defamation and its application so as to ensure freedom of opinion and expression (Sweden);  <b>Source of position:</b> A/HRC/36/13/Add.1 - Para. 6	Supported	A41 Constitutional and legislative framework  D43 Freedom of opinion and expression  <b>Affected persons:</b>  - media	Status: Not Implemented  Source : 4.3 – 4.5
129.105 Take urgent measures to amend criminal legislation which criminalizes freedom of expression and opinion online and in different social media (Argentina);  <b>Source of position:</b> A/HRC/36/13/Add.1 - Para. 7	Supported	A41 Constitutional and legislative framework  D43 Freedom of opinion and expression  <b>Affected persons:</b>  - media	Status: Not Implemented  Source: 4.4 – 4.7

<b>Recommendation</b>	<b>Position</b>	<b>Full list of themes</b>	<b>Assessment/comments on level of implementation</b>
<p>129.94 Strengthen efforts to bring national legislation into line with the Constitution and with its international human rights obligations, especially with regard to the right to freedoms of assembly, expression and association (Italy);</p> <p><b>Source of position:</b> A/HRC/36/13/Add.1 - Para. 6</p>	Supported	<p>A41 Constitutional and legislative framework</p> <p>D43 Freedom of opinion and expression</p> <p>D44 Right to peaceful assembly</p> <p>D45 Freedom of association</p> <p><b>Affected persons:</b></p> <p>- general</p>	<p>Status: Not Implemented</p> <p>Source: 4.4 – 4.7</p>
<p>129.106 Bring its legislation into line with the new Constitution to ensure the full exercise of freedom of expression, association and assembly (Spain);</p> <p><b>Source of position:</b> A/HRC/36/13/Add.1 - Para. 6</p>	Supported	<p>A41 Constitutional and legislative framework</p> <p>D43 Freedom of opinion and expression</p> <p>D44 Right to peaceful assembly</p> <p>D45 Freedom of association</p> <p><b>Affected persons:</b></p> <p>- media</p>	<p>Status: Not Implemented</p> <p>Source: 2.2.2.4, 4.4-4.4, 5.5-5.5</p>

<b>Recommendation</b>	<b>Position</b>	<b>Full list of themes</b>	<b>Assessment/comments on level of implementation</b>
<p>129.107 Align its domestic legislation to international standards so as to fully respect the right to freedom of peaceful assembly and association, in line with the International Covenant on Civil and Political Rights, as well as remove any obstacles to the exercise of the right to freedom of opinion and expression (Brazil);</p> <p><b>Source of position:</b> A/HRC/36/13/Add.1 - Para. 6</p>	Supported	<p>A41 Constitutional and legislative framework</p> <p>D43 Freedom of opinion and expression</p> <p>D44 Right to peaceful assembly</p> <p>D45 Freedom of association</p> <p><b>Affected persons:</b></p> <ul style="list-style-type: none"> <li>- general</li> <li>- media</li> </ul>	<p>Status: Not Implemented</p> <p>Source: 2.2.2.4, 4.4-4.4, 5.5-5.5</p>
<p>129.98 Guarantee the effective exercise of freedom of expression, assembly and association, by reforming its legislation, notably so as not to hamper the legitimate work of non-governmental organizations and human rights defenders (Luxembourg);</p> <p><b>Source of position:</b> A/HRC/36/13/Add.1 - Para. 7</p>	Supported	<p>A41 Constitutional and legislative framework</p> <p>D43 Freedom of opinion and expression</p> <p>D44 Right to peaceful assembly</p> <p>D45 Freedom of association</p> <p>H1 Human rights defenders</p> <p><b>Affected persons:</b></p> <ul style="list-style-type: none"> <li>- human rights defenders</li> </ul>	<p>Status: Not Implemented</p> <p>Source: 5.3 – 5.4</p>

<b>Recommendation</b>	<b>Position</b>	<b>Full list of themes</b>	<b>Assessment/comments on level of implementation</b>
<p>129.108 Eliminate obstacles and restrictions to freedom of assembly and peaceful protest, and adopt a law that guarantees the free enjoyment of these freedoms, in conformity with the International Covenant on Civil and Political Rights (Mexico);</p> <p><b>Source of position:</b> A/HRC/36/13/Add.1 - Para. 6</p>	Supported	<p>A41 Constitutional and legislative framework</p> <p>D44 Right to peaceful assembly</p> <p><b>Affected persons:</b></p> <p>- general</p>	<p>Status: Not Implemented</p> <p>Source: 5.3 – 5.6</p>
<p>129.112 Review the application of the associations law from 2012 so as to ensure that it strengthens the right to freedom of association, and conduct the legislative consolidation of the law accordingly (Slovenia);</p> <p><b>Source of position:</b> A/HRC/36/13/Add.1 - Para. 6</p>	Supported	<p>A41 Constitutional and legislative framework</p> <p>D45 Freedom of association</p> <p><b>Affected persons:</b></p> <p>- general</p>	<p>Status: Not Implemented</p> <p>Source: 2.2-2.5</p>
<p>129.96 Take further measures to guarantee the rights to expression, assembly, association and belief (Australia);</p> <p><b>Source of position:</b> A/HRC/36/13/Add.1 - Para. 6</p>	Supported	<p>D42 Freedom of thought, conscience and religion</p> <p>D45 Freedom of association</p> <p><b>Affected persons:</b></p> <p>- general</p>	<p>Status: Not Implemented</p> <p>Source: 2.2 – 2.4</p>
<p><b>Theme: D43 Freedom of opinion and expression</b></p>			

<b>Recommendation</b>	<b>Position</b>	<b>Full list of themes</b>	<b>Assessment/comments on level of implementation</b>
129.95 Implement freedom of association, expression, assembly and peaceful demonstration in accordance with the International Covenant on Civil and Political Rights (Kenya); <b>Source of position:</b> A/HRC/36/13/Add.1 - Para. 6	Supported	D43 Freedom of opinion and expression  D44 Right to peaceful assembly  D45 Freedom of association  <b>Affected persons:</b>  - general	Status: Not Implemented  Source: 2.6-2.10, 4.7-4.16, 5.5-5.11
129.102 Complete the procedures related to the establishment of the independent regulatory authority for the broadcast media (Tunisia); <b>Source of position:</b> A/HRC/36/13/Add.1 - Para. 6	Supported	D43 Freedom of opinion and expression  D44 Right to peaceful assembly  D45 Freedom of association  A46 National Plans of Action on Human Rights (or specific areas)  <b>Affected persons:</b>  - media	Status: Not Implemented  Source: 2.6-2.10, 4.7-4.16, 5.5-5.11
<b>Theme: D44 Right to peaceful assembly</b>			
129.109 Take steps to ensure its obligations under the International Covenant on Civil and Political Rights are upheld when it comes to articles 21 and 22 regarding the right of peaceful assembly and the right to freedom of association (Norway); <b>Source of position:</b> A/HRC/36/13/Add.1 - Para. 6	Supported	D44 Right to peaceful assembly  D45 Freedom of association  <b>Affected persons:</b>  - general	Status: Not Implemented  Source: 2.6-2.10, 5.5-5.10

<b>Recommendation</b>	<b>Position</b>	<b>Full list of themes</b>	<b>Assessment/comments on level of implementation</b>
129.110 Avoid applying severe restrictions on freedom of assembly and prohibiting peaceful demonstrations, and take the necessary measures to make procedures for the registration of non-governmental organizations more flexible and to ensure that they can carry out their work without undue interference (Uruguay);  <b>Source of position:</b> A/HRC/36/13/Add.1 - Para. 7	Supported	D44 Right to peaceful assembly  D45 Freedom of association  <b>Affected persons:</b>  - general	Status: Not Implemented    Source: 2.6-2.10, 5.5-5.10
129.116 Take measures to foster a safe, respectful, enabling environment for civil society, including through the removal of legal and policy measures, which unwarrantedly limit the right to association (Zambia);  <b>Source of position:</b> A/HRC/36/13/Add.1 - Para. 6	Supported	D44 Right to peaceful assembly  D45 Freedom of association  <b>Affected persons:</b>  - general	Status: Not Implemented    Source: 2.6-2.10, 5.5-5.10
<b>Theme: H1 Human rights defenders</b>			Status: Not Implemented    Source: 1.3, 3.1
129.118 Create and maintain a safe and enabling environment suitable for civil society and human rights defenders (Republic of Korea);  Source of position: A/HRC/36/13/Add.1 - Para. 7			



