

# Freedom of Association and Peaceful Assembly

## Universal Periodic Review of Algeria

4th cycle - March 2022



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FOR HUMAN RIGHTS STUDIES  
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مركز القاهرة لدراسات حقوق الإنسان

# **Submission for the Universal Periodic Review of Algeria**

## **Fourth Cycle**

### **Freedom of Association and Peaceful Assembly**

Cairo Institute for Human Rights Studies (CIHRS)

March 2022

1. In its last review of 2017, Algeria received at least 42 recommendations that relate to freedom of association and peaceful assembly; 38 were accepted, including 16 considered already implemented, and 4 were noted.
2. Algeria pledged to put its legislation, notably Law 12-06 on associations, in line with its constitutional and international obligations and to remove all obstacles and restrictions on freedom of peaceful assembly and association<sup>1</sup>. Algeria regrettably considered already implemented recommendations<sup>2</sup> to guarantee the effective exercise of civil and political freedoms. As shown in the present report, Algeria has gone in a markedly opposite direction. These recommendations remain to be implemented.

#### **I. Freedom of Peaceful Assembly**

3. Freedom of assembly is guaranteed in Article 52 of the Constitution "under the framework of the law". In practice, its exercise under Law 91-09 on public

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<sup>1</sup> See recommendations 129.70; 129.76; 129.85; 129.94 to 129.96; 129.100; 129.106 to 129.109; 129.111 to 129.116; and 129.119.

<sup>2</sup> See recommendations 129. 98; 129.104; 129.118; 129.110; 129.105 and 129.69.

meetings and demonstrations<sup>3</sup> is subjected to a very restrictive and arbitrary prior authorisation regime<sup>4</sup>, emptying the right of its substance.

4. Demonstrations remain subjected to vague and illegitimate conditions<sup>5</sup> that, if not met by demonstrators, put them at risk of disproportionately harsh penalties<sup>6</sup>.
5. In February 2019, peaceful protests known as the “Hirak” movement erupted to protest former President Abdelaziz Bouteflika’s fifth presidential candidacy, and then progressed to include demands for a democratic and civilian government.
6. Algerian courts have since June 2019 repeatedly prosecuted peaceful protesters, activists and journalists covering protests based on overly broad provisions of the

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3 The legal framework relative to freedom of assembly consists of law 89-28 of 31 December 1989 on public meetings and demonstrations, modified by law 91-19 of 2 December 1991.

4 The law explicitly states that demonstrations are subject to prior authorization (art. 15, para. 2). Both public meetings and demonstrations require the submission of a written request, which, upon receiving, the authorities must issue a receipt. In addition to a burdensome process, the governor often does not respond to the request and the law does not provide for an appeal procedure in case of a refusal.

5 The Algerian legal framework prohibits the holding of any demonstration that would oppose “national constants”, “attack the symbols of the revolution of November 1st” as well as “public order and morality” (art. 9), and only allows the holding of “demonstrations of a political or protest nature” during the day. These provisions, as they are not clearly defined, can easily be used to prohibit criticism of authorities and stifle any groups working on issues deemed contrary to “public order” such as gender equality and the rights of LGBTQ+ individuals, in violation of the rights to freedom of assembly and freedom of expression. Articles 10, 13, 17 and 20 require meetings and demonstrations to have “bureaus”, responsible for ensuring the proper conduct of the assembly. Other restrictive provisions include: articles 7 and 19bis, which limit the participation of children in assemblies; article 8, which prohibits meetings in certain locations; article 16, which gives the use of public thoroughfares priority over demonstrations; article 15, which prohibits all demonstrations after 9 pm; articles 6 and 18, which allow authorities to change the itinerary or location of the event without justification or based on ill-defined justifications; articles 6bis, which gives authorities wide discretion to prohibit assemblies.

6 Article 23 allows for disproportionate harsh penalties (3 months to a 1 year of prison and a fine of 3,000 to 15,000 Dinars) for those who make inaccurate declarations, participate in non-authorized demonstrations, even without their knowledge, or fail to comply with the restrictive provisions of article 9.

Penal Code<sup>7</sup>, all stemming from exercising their right to free speech and/or peaceful assembly and association.

7. The first wave of mass arrests included 41 individuals carrying Amazigh flags prosecuted for "undermining national unity"<sup>8</sup>.
8. On 19 April 2019, protester Ramzi Yettou died after being brutally beaten by police. No investigation was announced.
9. In March 2020, protesters voluntarily halted marches due the outbreak of the Covid-19 pandemic. Authorities then intensified the arbitrary prosecution of activists and journalists online<sup>9</sup>.
10. On 28 April 2020, the Parliament passed amendments to the Penal Code introducing vaguely worded charges of foreign funding<sup>10</sup>, spreading false news

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7 Such as "weakening the morale of the army" (art.75), "inciting an unarmed gathering" (art.100), "undermining national unity" (art.79), "offense to public bodies" (art. 144; 144bis and 146) or "offense against the precepts of Islam" (article 144bis 2). The charges of "unarmed gathering" and "incitement to an unarmed gathering" have especially been used to sanction the exercise of freedom of peaceful assembly (Art. 98 and 100 of the Penal Code).

8 See '41 arrested for carrying the Amazigh flag as authorities crack down on freedom of association', Amnesty International: <https://www.amnesty.org/en/latest/news/2019/07/algeria-41-arrested-for-carrying-the-amazigh-flag-as-authorities-crack-down-on-freedom-of-expression/>

9 In 2020, at least 1,300 individuals associated with the Hirak were prosecuted for exercising their freedom of expression or peaceful assembly, including at least 63 prosecutions for "offense to the President" (art. 144bis of the Penal Code), an accusation, which was not used more than four times in the 20 years of the previous Bouteflika Presidency.

10 Article 95bis provides for a prison sentence of 5 to 7 years for the receipt of any form of funding, gift or advantage from a non-Algerian, state or non-governmental entity, regardless of their status, whether within or outside Algeria, "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". Article 95bis provides for the doubling of the penalty when the funds, gifts or advantages are received within the framework of an organisation, group, or any sort of collective structure. 5 to 10 years prison sentences can be added if these actions are committed as part of a "concerted plan", which is not clearly defined.

and undermining the honour of a public official<sup>11</sup>. The Algerian Penal Code now provides for a prison sentence of 5 to 24 years for receipt of foreign funding. A large number of peaceful activists<sup>12</sup> and journalists<sup>13</sup> have since been prosecuted using these amended articles.

11. These arrests and prosecutions are often accompanied by violations of due process and lack of fair trial guarantees.<sup>14</sup>
12. Peaceful demonstrations resumed in February 2021. Authorities increasingly obstructed<sup>15</sup> peaceful assembly and used unlawful force<sup>16</sup>. Police made protesters

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11 Article 196bis enables authorities to charge people exercising free speech with “spreading false news” susceptible to undermine security and “public order”, punishable by 1 to 3 years in prison for a first offence, while Article 144 now includes sentences from 6 months to 3 years of prison for undermining the “honor, sensibility or respect” of a “magistrate, official, public officer, commander or agent of the public force”, by “words, gestures, threats, sending or delivery of an object, either in writing or drawing not made public”.

12 For instance, women and minority rights defender Kamira Nait Sid, in pretrial detention since 25 August 2021, is prosecuted under 9 different charges including the Article 95bis. Ms. Nait Sid is the Co-President of the World Amazigh Congress (WAC).

13 In August 2021, journalist Rabah Karèche was sentenced to one year in prison – suspended for four months using Article 196bis. The accusations were based on his coverage of protests of Tuareg communities over land management.

14 In a communication dated 4 August 2021 (AL DZA 6/2021), UN Special Procedures expressed their preoccupation with “what appears to be a systematic practice of arbitrary and incommunicado detention of Hirak demonstrators, without access to fundamental guarantees of a fair trial, including access to a lawyer, contact with the family, the medical examination, as well as the right to be presumed innocent.”

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26529>

15 Police forces repeatedly physically blocked access to the location of demonstrations. Internet access on mobile phones was disrupted for several hours during the demonstrations. Authorities physically obstructed journalists attempting to cover protests.

16 On 12 March 2021, human rights defender Kaddour Chouicha and his son were violently beaten by police forces (he reported that one of the police officers tried to strangle him). On 16 March 2021, during a student march in Bejaïa, several students also reported beatings by police forces. In April and May 2021, protesters also reported beatings and violent arrests, such as on 14 May in Algiers with clear videos showing police beating protesters. On 27 and 28 May in Boumerdes and 4 June in Bouira, on 12 June in Haïzer, Bouria and Boumerdes, police used rubber bullets and tear gas against demonstrators protesting the holding of the June 2021 parliamentary elections and several dozens of individuals were reportedly injured.

sign a pledge that they would stop participating in protests to allow for their release from police stations.

13. Between February and June 2021, 7,000 peaceful protesters were arrested and close to 700 arbitrarily prosecuted; at least 38 journalists were arrested and/or prosecuted and 15 reported assaults or violent arrests<sup>17</sup>.
14. Authorities have not investigated allegations of torture and ill-treatment of protesters in custody<sup>18</sup>.
15. On 9 May 2021, the Ministry of Interior (MoI) released a statement requiring "prior notification", understood to mean prior authorisation under Law 91-19<sup>19</sup>.
16. Since 21 May 2021<sup>20</sup>, Hirak protests have been unable to take place in the majority of the country due to heavy police presence, mass arrests, fear of further violence, and the MoI's statement.

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17 In Algiers, a group of ten journalists and activists was verbally and physically assaulted, in what initially appeared to be an attack against Abdelkader Kamli, a journalist from France 24.

18 See communications of Special Procedures AL DZA 8/2020 and AL DZA 6/2021. In these cases as well as cases of violent arrests, no investigation was conducted into their allegations. Victims' medical certificates often disappeared from their file or the victims did not have access to medical care.

19 Organizers had to provide their names, itinerary and slogans. See "Les autorités durcissent le ton vis-à-vis du Hirak: les mises en gardes du Ministère de l'Intérieur", El Watan: <https://www.elwatan.com/a-la-une/les-autorites-durcissent-le-ton-vis-a-vis-du-hirak-les-mises-en-garde-du-ministere-de-linterieur-10-05-2021>

20 Protests continued until July 2021 in Amazigh regions. Ahead of commemorations of the events of 5 October 1988 (when massive protests were brutally repressed by the army, leading to at least 500 deaths), authorities arrested at least 70 activists. A heavy police presence in Algiers prevented any gathering. Police also physically stopped citizens who attempted a demonstration in Tizi Ouzou. Lawyer and political activist Zoubida Assoul was prevented from entering the city of Bejaïa to participate in a conference.



17. Presidential pardons and conditional releases<sup>21</sup>, which raise the question of the independence of the judiciary, did not halt the systematic crackdown on civic space.

**i. Unfounded terrorist prosecutions**

18. On 8 June 2021, Algeria adopted Ordinance 21-08, which further expanded the overly broad definition of terrorism in the Penal Code, seemingly to target peaceful activism<sup>22</sup>.

19. Executive decree n°21-384 of 7 October 2021 laid out the modalities of establishment of the national terrorist list, under which entities or individuals can be subjected to serious human rights restrictions<sup>23</sup> solely based on a preliminary investigation by security bodies<sup>24</sup>, without judicial and legislative

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21 In January 2020, 76 Hirak detainees were conditionally released reportedly following a decision from the government, including activist Mohamed Tadjadit and founder of RAJ Hakim Addad. President Abdelmadjid Tebboune issued several presidential pardons in February, April and July 2020 for a total of 19,502 detainees, out of which thirteen were Hirak detainees. President Tebboune announced on 18 February 2021 a presidential pardon for about 30 Hirak detainees and a conditional release for about 60 detainees. At least 38 prisoners of opinion were released according to the National Committee for the Release of Detainees (CNLD), although it remains unclear how many were pardoned, as the presidential pardon decree was never published in the Official Gazette. At least 19 of them were only conditionally released while awaiting judgment. On 18 July 2021, 101 Hirak detainees were reportedly pardoned or benefited from measures of clemency through Presidential Decree n°21-290.

22 Articles 87bis of the Penal Code, which defines terrorist acts, is the article that was amended, and supplemented with Articles 87bis 13 and Articles 87bis 14. The amendment to Article 87 bis include "working or inciting, by any means whatsoever, to gain power or to change the system of governance by non-constitutional means"; in a context in which the Hirak movement has been calling for a complete overhaul of the system of governance. The inclusion of "by non-constitutional means" remains ill defined. "Undermining national unity" is now also included in the definition of terrorism under the same formulation of Article 79 of the Penal Code, which has been widely used to prosecute Hirak protesters, activists and journalists since February 2019.

23 Listed individuals and entities are subject to a travel ban, asset freeze, and are "prohibited from any activity of any kind".

24 A commission, chaired by the Minister of Interior and composed of several other ministers and heads of security bodies, decides on the inclusion and removal of individuals and entities onto the list based on submissions from relevant ministries.

oversight. The lack of independent review runs counter to international standards<sup>25</sup>.

20. On 27 December 2021, UN Special Procedures warned that counter-terrorism legislation undermined fundamental rights and imposed disproportionate penalties for acts that should not be addressed by counter-terrorism legislation<sup>26</sup>.
21. Between April and October 2021, at least 59 individuals were prosecuted on unfounded terrorism charges. Among them, 43 are held in pretrial detention for up to 11 months<sup>27</sup>.
22. On 29 April 2021, human rights defenders (HRDs) Kaddour Chouicha, Jamila Loukil and Said Boudour, and 12 other peaceful activists, were prosecuted on terrorism-related charges<sup>28</sup>.
23. Protester Hakima Bahri was arrested on 21 May 2021 for "participation in a terrorist organisation".

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25 According to the Office of the High Commissioner for Human Rights (OHCHR) (Factsheet n°32 on Human Rights, Terrorism and Counter Terrorism), a transparent listing and delisting process is "based on clear criteria, (...) with an appropriate, explicit and uniformly applied standard of evidence, as well as an effective, accessible and independent mechanism of review". In addition, in a report submitted to the former United Nations Commission on Human Rights (UNCHR) (E/CN.4/2005/103, para. 15.), the independent expert on the protection of human rights and fundamental freedoms while countering terrorism highlights that "civilian courts must have jurisdiction to review the provisions and supervise the application of all counter-terrorist measures without any pressure or interference, particularly from the other branches of Government".

26 They stated that the procedure for registration on the national terrorist list did not comply with international human rights standards (including the presumption of innocence and the right to a fair trial) and expressed "concern that this legislative framework could give rise to abuse and allow arbitrary decisions to be made".

See communication OL DZ 12/2021 <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26905>.

27 See "Marked regression in human rights underscored by proliferation of baseless terrorism prosecutions", CIHRS: <https://cihrs.org/algeria-marked-regression-in-human-rights-underscored-by-proliferation-of-baseless-terrorism-prosecutions/?lang=en>

28 See "Algeria: terrorism charges brought against human rights defenders", Front Line Defenders: <https://www.frontlinedefenders.org/fr/statement-report/joint-statement-algeria-terrorism-charges-brought-against-human-rights-defenders>



24. On 26 May 2021, human rights lawyer Abderraouf Arslane<sup>29</sup>, was arrested and prosecuted for participation in a terrorist organisation<sup>30</sup>.
25. Activists Fatima Boudouda and Moufida Kharchi have been in pretrial detention since 21 May 2021 on terrorism related charges.
26. Trade unionist Ramzi Derder and three other activists<sup>31</sup> were arrested in Batna on 27-30 June 2021 on terrorism charges.
27. On 24 August 2021, security services forcibly disappeared minority rights defender Kamira Nait Sid; then charged her with several terrorism-related accusations<sup>32</sup>.
28. Christian Amazigh activist Slimane Bouhafs, an Algerian refugee<sup>33</sup>, was forcibly returned from Tunis on 25 August 2021 to be prosecuted for "participation in a terrorist organisation".
29. Fifteen Amazigh activists, along with journalist Mohamed Mouloudj, were arrested between 2-14 September 2021 and prosecuted on terrorism charges.
30. Former policeman Zahir Moulaoui was detained on 5 October 2021 and accused of "participation in a terrorist organisation" and "praising terrorism".
31. HRD Mohad Gasmi was sentenced to five years in prison on 17 October 2021 for "praising terrorism" on the basis of critical social media posts<sup>34</sup>.

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29 Member of the Collective for the Defense of Hirak Detainees.

30 Articles 87bis 2 and 87bis 3 of the Penal Code

31 Aissam Messadia, Okba Toulmit and Oussama Medaci.

32 See "Unlawful arrest and detention: woman human rights defender Kamira Nait Sid", Front Line Defenders: <https://www.frontlinedefenders.org/en/case/unlawful-arrest-and-detention-woman-human-rights-defender-kamira-nait-sid>

33 Recognized by the UNHCR since 2018. See "Tunisia: Authorities must come clean over abduction of Algerian activist", Amnesty International: <https://www.amnesty.org.uk/press-releases/tunisia-authorities-must-come-clean-over-abduction-algerian-activist>

34 See "Human rights defender Mohad Gasmi preventive detention", Front Line Defenders: <https://www.frontlinedefenders.org/en/case/human-rights-defender-mohad-gasmi-preventive-detention>

32. On 12 September 2021, journalist Hassan Bouras was placed in pretrial detention on eight misdemeanour and criminal charges related to terrorism<sup>35</sup>.
33. On 10 November 2021, activist Bouabdellah Bouachria was sentenced to nine years of prison for charges including “praising terrorism”.
34. On 18 February 2022, HRD Zaki Hannache was arrested for “praising terrorism” and “undermining national unity”, based on his documentation of arbitrary prosecutions.

## **II. Freedom of Association**

### **i. Civil society organisations**

35. Although enshrined in the Algerian Constitution (Article 53), freedom of association under Law 12-06 on associations is subject to a restrictive prior authorisation regime<sup>36</sup>, which makes it very difficult to create an organisation, enables tight administrative control<sup>37</sup>, and subjects organisations to intrusive

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35 Bouras risks the death penalty, for online publications about the oxygen crisis during the Covid-19 pandemic, as well as about the murder of Hirak activist Djamel Bensmail, lynched by a crowd on 11 August 2021.

36 Although the law uses the term “declaration”, the regime is in reality a regime of prior authorization, especially as the administration is known to refuse arbitrarily to issue a deposit receipt when filing the declaration of constitution. The decision to refuse a registration can be challenged within three months before an administrative court, but an appeal does not suspend it. The creation process is overly constraining, lengthy and requires close involvement from the authorities, contrary to international standards.

37 Article 18 requires organisations to inform authorities of changes to their statute or executive structure within 30 days. Article 19 requires organisations to transmit copies of the minutes of their meetings, along with any activity reports and financial reports discussed, within 30 days of the meetings. Article 22 and 23 provide the possibility for registered Algerian organisations to cooperate with international bodies, however the law imposes restrictive conditions. Article 22 states that registered organisations may only join a foreign upon approval of the Interior Ministry, and article 23 states that organisations may only cooperate with foreign organisations if given the consent of the authorities. In addition, Article 30 requires consent from the authorities to receive any funding from foreign sources.

requirements<sup>38</sup>, while facilitating their dissolution<sup>39</sup>. Associative activity outside of this very narrow framework carries severe disproportionate penalties<sup>40</sup>.

36. Several human rights and civil society organisations remain in legal limbo without remedy<sup>41</sup>.
37. On 13 October 2021, the administrative court of Algiers approved a request from the Ministry of Interior (MoI) to dissolve Rally Youth Actions (Rassemblement Actions Jeunesse – RAJ)<sup>42</sup>, a youth cultural and human rights organisation, on the basis that its "political" activities allegedly contradict its statutes<sup>43</sup>. The dissolution was solely based on the organisation carrying out "unauthorised meetings" with other civil society organisations and the fact that Law 12-06 enables the dissolution of organisations based on unjustified or unclear motives. At least 11 members of RAJ, including its President, have been

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38 Article 2 states that the goal of the organisation must be precisely defined and in conformity with the “general interest” and “national constants and values”, a particularly vague and indeterminate concept which paves the way for arbitrary limitations on freedom of association. Article 13 also forbids organisations from having any relations with political parties. Article 6 requires between 10 and 25 founding members according to the territorial scope of the organisation.

39 Article 39 of Law 12-06 is particularly vague and paradoxical, and opens the door to an abusive interpretation, as it provides for the dissolution of an organisation for “interference in the internal affairs of the country” or “infringement of national sovereignty”. Article 43 allows authorities to request the dissolution of an organisation before an administrative court when the organisation exercises activities not authorized by its statute.

40 Even though it is particularly difficult to create an organisation, Article 46 imposes severe penalties on members or leaders of organisations that are not registered, who are liable to 3 to 6 months' imprisonment and a heavy fine of 100,000 to 300,000 dinars (at least 50 times the minimum wage).

41 This is the case for instance for the Algerian League for the Defence of Human Rights (LADDH), the Algerian Human Rights League (LADH), Rally Youth Actions (RAJ), the Center for Information and Documentation on the Rights of Children and Women (CIDDEF), as well as Amnesty International.

42 RAJ was created to “promote cultural activities, human rights and the values of citizenship”. It openly supported the Hirak movement; its headquarters became a meeting point and debate venue for activists. In 2019, RAJ co-founded the Pact for a Democratic Alternative (PAD), a collective of opposition parties, civil society groups, labor union members, lawyers, and intellectuals formed in June 2019.

43 See "Algeria: Efforts to dissolve prominent civic association", CIHRS: <https://cihrs.org/algeria-effort-to-dissolve-prominent-civic-association/?lang=en>

prosecuted since 2019 in connection with their civil society work. Authorities prohibited the holding of meetings organised by RAJ, including its weekly Forum since May 2019 and its summer school since August 2019.

38. On 14 November 2021, Nacer Meghnine, the President of SOS Culture Bab El Oued, a youth and cultural organisation<sup>44</sup>, was sentenced to one year in prison for “disseminating publications to undermine national unity”<sup>45</sup> and “inciting an unarmed gathering”<sup>46</sup>. He was charged with then acquitted of accusations of “foreign funding”<sup>47</sup> and “undermining national unity”<sup>48</sup>. He was arrested along with three other members in April 2021, when authorities shut down their offices. The accusations were based on leaflets and banners, which included messages denouncing the repression. The court considered that these banners were “subversive” and tarnished Algeria's reputation, which would open the door to “foreign interference”.
39. Members of the Algerian League for the Defence of Human Rights (LADDH) have also been targeted. At the time of writing, at least nine members of the LADDH are prosecuted in relation to their activism; three of them have been in pre-trial detention for several months. Members currently or formerly prosecuted include Kaddour Chouicha, Jamila Loukil, Said Boudour<sup>49</sup>, journalist

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44 SOS Culture Bab El Oued, founded in 1997, provided training courses in several subjects (photography, cinema, languages) and rehearsal space for young artists. SOS Culture Bab El Oued completed the formalities to re-register under Law 12-06 but never received a formal confirmation of receipt from the administration and was therefore maintained in legal limbo.

45 Article 96 of the Penal Code

46 Article 100

47 Article 95bis of the Penal Code, introduced in April 2020

48 Article 79

49 Kaddour Chouicha, Jamila Loukil and Said Boudour are prosecuted for terrorism-related charges since April 2021 (see section III of this report).

Hassan Bouras<sup>50</sup>, Belkacem Maza<sup>51</sup>, Djamel Bakhtaoui<sup>52</sup>, Hamid Goura<sup>53</sup>, Ahmed Manseri<sup>54</sup> and Malek Sebahi<sup>55</sup>.

40. On 27 February 2018, the Governor of Oran sealed the premises of the Feminist Association for the Fulfillment of the Person and the Exercise of Citizenship (AFEPEC) and the Algerian Women Claiming their Rights (FARD) on the basis of operation without the required licenses<sup>56</sup>. They were allowed to reopen on 5 March 2018.

## **ii. Religious organisations**

41. Law 12-06 is also used to prevent religious minorities from fully exercising their freedom of association and peaceful assembly.
42. At least 21 churches affiliated to the Algerian Protestant Church (EPA) have been closed since 2018<sup>57</sup> allegedly due to their "illegality". Using both Law 12-06

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50 Journalist Hassan Bouras and member of the LADDH in El Bayadh was arrested on 6 September 2021 and remains in pre-trial detention for terrorism-related charges (see section III).

51 On 11 April 2021, Belkacem Maza, suspended from his position as court clerk since 17 September 2020, was sentenced to a 6 months suspended prison sentence for offending public bodies and discrediting court decisions.

52 Authorities arrested Djamel Bakhtaoui in October 2021 for terrorism-related accusations.

53 Hamid Goura was arrested on 29 December 2021 in Laghouat and later placed in pretrial detention for "distributing and possessing publications to undermine national unity" (Article 96 of the Penal Code) and "membership in terrorist organisation" (Article 87bis3).

54 Ahmed Manseri, president of the local section of the LADDH in Tiaret, was arrested on 12 September 2021 and placed in judicial supervision for praising terrorism and other charges. He was summoned for interrogation repeatedly to 2020. In another case in 2018, Mr. Manseri was prosecuted for defamation for having filed a criminal complaint against the head of the Tiaret police for assault.

55 Malek Sebahi was arrested on 13 June 2020, on 22 September 2020 and again on 8 December 2021. Following his last arrest, he was charged for "distributing and possessing publications to undermine national unity" (Article 96 of the Penal Code).

56 AFEPEC and FARD had both attempted to register under Law 12-06 in 2012 and 2014 respectively. FARD received the deposit in March 2014, while AFEPEC had yet to receive it.

57 The EPA has 46 affiliated churches in total.

and Ordinance 06-03 regulating the worship of non-Muslims<sup>58</sup>, the authorities have not allowed the renewal of the EPA's status as a legally recognised association, despite submitting applications in 2014, 2015 and 2016<sup>59</sup>.

43. Similarly, the authorities refuse to recognise the Ahmadiyya Muslim community. The MoI never provided them with a receipt acknowledging their registration application submitted in 2012, and again in 2016 and 2020.
44. Acts of intimidation and discriminatory treatment suffered by EPA members<sup>60</sup> and Ahmadi Muslims<sup>61</sup> are frequently reported.

### **iii. Political parties**

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<sup>58</sup> Ordinance 06-03 restricts the religious freedom of non-Muslims and discriminates against them, by imposing regulations on their worship that are not imposed on Muslims.

<sup>59</sup> For instance, in September and October 2019, nine churches affiliated EPA were closed by the governor of Tizi Ouzou and Bejaïa. The police reportedly beat worshipers with batons. The administrative court of Tizi Ouzou rejected complaints filed by three of the nine churches in July 2020, arguing that the churches were illegal in part because the EPA was not registered under Law 12-06. The court also argued that the EPA had not received a permit from the National Commission for Non-Muslim Worship under Ordinance 06-03 of 2006.

<sup>60</sup> For instance, on 22 March 2021, a judge in Oran upheld a five-year prison sentence against Hamid Soudad, a Christian convicted of publishing a cartoon of the Prophet of Islam on social media in 2018. Mr. Soudad's Protestant faith was included as an element of the case. On 26 September 2021, Pastor Rachid Seghir, and his employee, Nouh Hamimi, were found guilty of proselytizing and undermining the faith of a Muslim. They were sentenced to a one-year suspended sentence and a fine of 200,000 Algerian dinars. Their bookshop has been shut down since 2017.

<sup>61</sup> In October 2020, a court in Constantine handed down two-year prison sentences to Ahmadiyya Muslims found guilty of assembling without authorization. There were [reportedly](#) 220 cases involving unauthorized gatherings of Ahmadi Muslims pending with the Algerian Supreme Court as of December 2020. On 22 December 2020, a court in Tizi Ouzou sentenced four Ahmadi to two months' suspended sentences and 20,000-dinar fines in relation to the exercise of their freedom of association, peaceful assembly, expression and belief. Charges included conducting activities without registration under Ordinance 06-03, even though the government has not granted the Ahmadiyya community official status.

45. Article 57 of the Constitution recognises and guarantees the right to create political parties, however with undue restrictions<sup>62</sup>.
46. Law 12-04 on political parties imposes illegitimate restrictions on the creation<sup>63</sup> and administration<sup>64</sup> of political parties under a prior authorisation regime, while enabling their arbitrary dissolution<sup>65</sup>.
47. On 11 April 2021, the Socialist Workers' Party (PST) received a formal notice from the MoI urging them to rectify their legal situation in line with Law 12-04. Despite meeting these requirements<sup>66</sup>, on 20 January 2022, the State Council

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62 This right may not be invoked "to undermine fundamental freedoms, the values and the fundamental components of national identity, national unity, the security and integrity of the national territory, the independence of the country, the sovereignty of the people and the democratic and republican character of the State". The imprecise character of concepts like "the values and the fundamental components of national identity" and "national unity" add illegitimate constraints to the right to create political parties from the onset.

63 According to Article 16 of the Law, political parties are subjected to prior authorization from the Ministry of Interior, which itself is reliant upon strict conditions. Parties must already have headquarters ahead of the request for authorization for example. The founding members must file a "declaration of constitution" to be allowed to hold their constitutive congress after which they can file an application for registration approval. A number of detailed administrative requirements need to be respected to be able to register. The process is both time-consuming, burdensome and overly left at the discretion of the Ministry of Interior, that can refuse to hand it the receipt acknowledging submission of the application.

64 Under Article 36, parties must submit to the Ministry of Interior "for validation" any changes made to their statutes, internal regulations or composition. As with civil society organisations, cooperation with foreign entities is unduly restricted. Under Article 51, parties are forbidden from "carrying out actions abroad aimed at undermining the State, its symbols, its institutions and its economic and diplomatic interests, nor have links or relations of a nature to give it the form of a section, an association or a foreign political group". This provision effectively prevents any party from fully exercising its freedom of association, assembly and expression in any critical way.

65 Under Article 70 (2), the Ministry of Interior can request a party's dissolution in front of the State Council if the "party has not presented candidates to at least four consecutive legislative and local elections", which indirectly puts pressure on parties wanting to boycott electoral processes, as it has been done since 2019. A dissolution can be requested if a party has carried out activities contrary to Law 12-04 or to those provided by its statutes.

66 The notice asked them to organize their congress within 15 days in line, which the party did with the presence of a judicial officer. Despite having notified the Ministry about the congress, on 22 May 2021, the party announced that authorities had launched summary proceedings to temporarily suspend it and close its offices for non-compliance with Law 12-04. On 23 April 2021, they denounced "legal and administrative pressures" in the run-up to legislative elections.



temporarily suspended activities of the PST and closed its premises for “illegal activity”.

48. On 22 April 2021, the MoI announced legal action against the Union for Change and Progress (UCP)<sup>67</sup> for “illegal activity”. The UCP rectified its situation in compliance with the law<sup>68</sup>. Yet on 2 May, the government announced they had requested that the Council of State suspend the UCP, pending a legal ruling on its outright dissolution. On 20 January 2022, the State Council dismissed this request; it is yet to rule on the dissolution.
49. On 24 December 2021, the Rally for Culture and Democracy (RCD) hosted a meeting of the “popular front against the repression”. They subsequently received a warning from the MoI on 5 January 2022 to stop organising “activities outside of the objectives stipulated in its statutes” in contravention of both Law 12-04 and Law 91-19 on public meetings and demonstrations. At least nine members of the RCD have been sentenced to prison, placed under judicial supervision or remain in pretrial detention since September 2021.
50. On 1 July 2021, police arrested Fethis Ghares. He was eventually sentenced to one year of prison including six months suspended on 22 March 2022 for exercising free speech<sup>69</sup>. Political activist Karim Tabbou, head of the unrecognised Social and Democratic Union party, was also subjected to several

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67 Headed by lawyer and political activist Zoubida Assoul.

68 The party held its congress in the presence of a judicial officer, notified the Ministry of Interior and published it in two national daily newspapers as required by Article 37 of the law.

69 He was prosecuted for charges such as offending the President, offending public bodies and disseminating publications susceptible to undermine national unity; all solely based on critical publications on social media and private exchanges over the phone.

arbitrary prosecutions since 2019 for exercising free speech <sup>70</sup>. On 10 February 2020, the Blida military court sentenced the president of the Workers' Party Louisa Hanoune to nine months in prison for 'conspiring' to undermine the army<sup>71</sup>.

51. Since 2021, authorities have increasingly used demonising rhetoric against civil and political activists. Political organisations Rachad<sup>72</sup> and the Movement for the Self-determination of Kabylie (MAK)<sup>73</sup> have been particularly targeted<sup>74</sup>. On 6 February 2022, the MAK and Rachad were officially added to the national terrorist list, along with 16 of their members<sup>75</sup>.

#### **iv. Unions**

52. The right to organise in a trade union is recognised under Article 69 of the Constitution. However, Law 90-14 relating to the modalities of exercise of union

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<sup>70</sup> He was arrested on 12 September 2019, released on 25 September 2019, then arrested again 14 hours later. He was sentenced to 1 year in prison on 24 March 2020 for "undermining national unity" due for his criticism of the military institution, then provisionally released on 2 July 2020. On 7 December 2020, he was sentenced in another case to a suspended prison sentence of one year for "undermining national security". He was arrested again on 28 April 2021 and placed under judicial supervision.

<sup>71</sup> She was prosecuted after she met with former intelligence officials and the brother of former president Abdelaziz Bouteflika.

<sup>72</sup> An opposition political movement founded in 2007 in London.

<sup>73</sup> An Amazigh political movement created in 2001.

<sup>74</sup> On 19 May 2021 the current army chief, General Said Chengriha, warned "adventurers, whatever their [political] obedience or ideological views, against any attempts to undermine national unity". This speech came a day after the High Security Council chaired by the President designated Rachad and MAK as "terrorist organisations" on the basis of "hostile and subversive acts committed (...) to destabilize the country and threaten its security". In the same week, the army released a documentary denouncing the "criminal subversive plans" of Rachad and MAK, while also incriminating French media, Morocco and Israel. On 22 March 2021, Algeria issued an international arrest warrant against four peaceful activists leaving abroad, including a leader of the Rachad movement, Larbi Zitout, for involvement in terrorist activities. On 18 August, the HCS also accused the MAK and Rachad of being responsible for the devastating forest fires that overtook northeastern Algeria over the summer and threatened their members with "total eradication".

<sup>75</sup> See Official Gazette n°11 of 27 February 2022.

freedom establishes a prior authorisation regime, giving authorities complete discretion to refuse to register unions without clear motives.

53. Law 90-14 imposes restrictions on the constitution of a trade union based on nationality, employment status and field of work, notably in Articles 2, 4 and 6, in contravention of Article 22 of the International Covenant on Civil and Political Rights (ICCPR). Under Article 2 and 4, unions, federations and confederations can only be formed by "salaried workers" and "employers" from the same field while, under Article 6, foreign workers cannot constitute a union.
54. Article 2 unduly limits access to union functions, which is contrary to the right of workers to choose their representatives freely, including non-salaried workers or retirees. In addition, the dismissal of a trade union leader also dismisses them from their union role. This allows for the possibility of interference from employers wanting to obstruct union work. It is for these reasons that the CGATA was not allowed to register for several years, as its President Rachid Malaoui was dismissed from his function in the public administration back in 2013 and therefore not allowed to represent it.
55. Conditions for union registration are interpreted in an inconsistent and very restrictive manner<sup>76</sup>, leading several unions to be prevented from registering<sup>77</sup>. Following the visit of the International Labour Organisation to Algeria in May 2019, the registration of the Solidarity Union of High Education Teachers (SEES) was approved, after they had demanded it in 2011<sup>78</sup>.

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<sup>76</sup> For example, the Confederation of Autonomous Trade Unions (CSA) was not able to receive its receipt on the grounds that it brings together affiliates from several sectors of activity, whereas another employers' organization, the Confederation Forum of Business Leaders (CFCE), that also brings together affiliates from different sectors, received its approval in February 2019.

<sup>77</sup> Such as the General 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).

<sup>78</sup> In February 2020.

56. Trade union meetings remain subject to prior authorisation. Union work has been obstructed through administrative closure of offices<sup>79</sup> and the judicial harassment and arbitrary dismissal of their members<sup>80</sup>. Authorities maintain the "cloning" practice of independent unions to obstruct their registration<sup>81</sup>.
57. A partial legislative reform of Law 90-14 was announced in April 2020. The new law will reportedly amend Article 4 while maintaining limitations under Article 6<sup>82</sup>, without reviewing Article 2.
58. Members of the Autonomous National Union of Electricity and Gas Workers (SNATEG) have been subjected to an ongoing repressive campaign since 2015<sup>83</sup>.

### **III. Recommendations**

#### **i. Freedom of peaceful assembly**

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<sup>79</sup> Offices of the SNAPAP were closed down in December 2019 for instance, without a court order.

<sup>80</sup> Throughout 2020, several union leaders within the SNAPAP and the CGATA were summoned by police and interrogated about their activities. Legal proceedings were initiated against some of them and resulted, for example, in a one year suspended prison sentence for Nadia Djaddour on 26 October 2020, a member of the National Bureau of SNAPAP, which prevented her from exercising her activities. Mourad Ghedia, president of the National Federation of Justice Sector Workers (affiliated to the SNAPAP), was summoned and arrested on 5 April 2021 and reportedly prosecuted for "interference in public, civil or military functions" under Article 242 of the Penal Code. He was suspended from his functions in 2018 in relation to his union activity.

<sup>81</sup> Unions that were cloned include the Autonomous National Union of Public Administration Staff (SNAPAP), the Autonomous Union of Education and Training Workers (SATEF), the National Council of Higher Education Teachers (CNES), the National Union of Education Workers (SNTE) and the Autonomous National Council of Scientific and Technical Teaching Staff (CNAPEST).

<sup>82</sup> According the government, the amendment to Article 6 would "allow foreign salaried workers and employers fulfilling the legal conditions to create trade union organizations." The expression "salaried workers" already highlighted as limiting by the ILO is therefore maintained. See: <https://www.aps.dz/economie/137163-conseil-de-la-nation-presentation-du-projet-de-loi-relative-aux-modalites-d-exercice-du-droit-syndical>

<sup>83</sup> These difficulties include mass dismissals and refusal to enforce reinstatement decisions since 2017, the arbitrary dissolution of the SNATEG in October 2017, judicial harassment since 2017 and 2018, and acts of police violence and intimidation during peaceful demonstrations.

59. Repeal Law No 91-19 and adopt a new law fully in line with Article 21 of the ICCPR, with a prior notification process<sup>84</sup>.
60. Cease the arbitrary arrests, prosecutions and judicial harassment of peaceful protesters, immediately release all those detained for exercising their right to freedom of peaceful assembly, and provide access to effective remedy.
61. Repeal articles of the Penal Code used to criminalise fundamental freedoms of peaceful protesters and activists<sup>85</sup> and review Articles 97 and 100 of the Penal Code to stop criminalising peaceful assembly.
62. Immediately and impartially investigate all instances of excessive force and violent arrest committed by security forces as well as allegations of ill-treatment of protesters in custody, and bring perpetrators to justice.
63. Make public or share with family information about any investigation conducted on the death of protester Ramzi Yettou on 19 April 2019 and hold perpetrators accountable.
64. Repeal Article 87bis to Article 87bis 14 of the Penal Code and redraft counter-terrorist legislation in line with international law<sup>86</sup>.
65. Cease arbitrary arrests and prosecutions based on unfounded terrorism charges, release all individuals unjustly detained for terrorism-related crimes and give access to effective remedy.

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84 As well as best practices put forward by the 2012 report of the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association and General Comment No. 37 on the right to peaceful assembly, which call for a simple notification process rather than prior authorization for assemblies.

85 Such as Articles 75; 79; 96; 144; 144 bis; 144 bis1; 144 bis2; 146; 147; 196 bis.

86 As highlighted by Human Rights Council Resolution 35/34 and by UN Special Procedures communication of 27 December 2021.

66. Review Executive Decree n°21-384 in line with international standards<sup>87</sup>.

67. Repeal Article 34 of the Constitution.

## **ii. Freedom of association**

68. Repeal Law 12-06-2012 and adopt a new law fully in compliance with ICCPR Articles 21 and 22.

69. Repeal Article 95bis of the Penal Code and remove all undue restrictions on the ability of organisations to receive funding<sup>88</sup>.

70. Foster a safe, respectful and enabling environment for civil society<sup>89</sup>.

71. Abolish criminal responsibility for organising and participating in activities of non-registered organisations, including religious organisations.

72. Allow all religious groups, whether recognised as Muslims or not, to assemble and obtain legal status, and stop the arbitrary prosecution and intimidation of religious minorities.

73. Refrain from acts leading to the closure of organisations, immediately reinstate any organisations that have been unduly sanctioned, and ensure adequate remedy.

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87 Notably 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.

88 in line with best practices articulated by the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association.

89 Notably by implementing a prior notification regime in law and in practice, stopping the prosecution of individuals for having exercised their freedom of association, and stopping practices that prevent them from operating, expressing their opinions, and meeting, including with international civil society

74. Repeal Law 12-04 relating to political parties, and draft a law fully in line with international standards<sup>90</sup>.
75. Amend articles 2, 4 and 6 of Law 90-14 relating to the modalities of exercise of union freedom to enable all workers without distinction to form trade unions and all trade unions to conduct their activities freely.
76. Promptly process registration requests of all unions without discrimination, and enable unions and their members to conduct their activities freely by ceasing all judicial harassment and obstruction.

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<sup>90</sup> Which guarantees a prior notification system, does not allow for the interference of the authorities with their work, and fully protects the freedom of expression, freedom of assembly and peaceful assembly of all political activists.