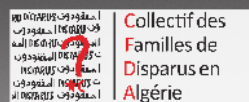
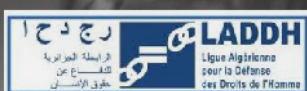


Fundamental Rights and Freedoms in Algeria

Universal Periodic Review of Algeria - 4th Cycle

41st UPR Session
2022



Action-Detainees
Collective



Algeria Universal Periodic Review report submitted by an Algerian and regional civil society coalition

Fourth session
March 2022

This joint report is submitted by a coalition of ten regional and Algerian civil society organisations: the Collective for the Families of the Disappeared in Algeria (CFDA), the Algerian League for the Defense of Human Rights (LADDH), the National Autonomous Union of Public Administration Staff (SNAPAP), Tharwa N'Fadhma N'Soumeur, the Justitia Center for Legal Protection of Human Rights in Algeria, Riposte Internationale, the Action-Detainees Collective, and the General Autonomous Confederation for Algerian Workers (CGATA), in coordination with EuroMed Rights and the Cairo Institute for Human Rights Studies (CIHRS).

1. This Universal Periodic Review report reviews fundamental rights and freedoms including freedom of peaceful assembly, expression, association, and conscience, and access to justice, migrant rights, social and economic rights, and gender equality.
2. Algeria previously received 229 recommendations during the third session, of which the Algerian government fully accepted 177 recommendations, and 18 recommendations partially, while 34 recommendations were noted.
3. We regret that the recommendations noted include the ratification of several important international conventions¹. Algeria also refused to decriminalise defamation² and homosexuality³, and to revise discriminatory provisions of Family Law⁴ and the definition of rape in the Penal Code⁵.
4. Recommendations that were accepted regarding public and individual freedoms have not been implemented⁶.
5. Since 2017, the human rights situation in Algeria has deteriorated acutely. This is evidenced by the violent repression of the pro-democracy protest movement “Hirak,” which was accompanied by a closure of civic space, a decline in freedom of association, the reinforcement of a legal framework targeting peaceful opposition, and a normalisation of the use of fabricated terrorist charges. The rights of religious minorities were particularly affected. The authorities have maintained their inaction and shortcomings in providing legal protection to women and gender minorities affected by discrimination while condoning impunity for violence against them. The rights of male and female

¹ Such as the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the Rome Statute, or the International Convention for the Protection of All Persons from Enforced Disappearance.

² 129.100

³ 129.160-165

⁴ 129.170,129.130

⁵ 129.198

⁶ It includes developing a national legal framework related to the right to asylum, aligning national legislation with constitutional and international obligations, guaranteeing public freedoms, and reviewing Law no. 12-06 on associations. The state also committed to protecting women's rights, combatting violence against them, and combatting terrorism while respecting human rights standards.

migrants continue to be disregarded or flagrantly violated. In addition, there has been a failure to adequately address the social and economic grievances which led to the outbreak of the Hirak movement.

Protection of fundamental rights and access to justice

6. The new Article 34 of the Constitution introduces restrictions of rights and freedoms on vague grounds⁷, and dismisses fundamental guarantees stipulated in international law⁸.

7. The new Article 30 (4)⁹ also grants broad powers to the army, which impedes civil and democratic oversight of it.

8. The Constitution guarantees independence of the judiciary; however, it maintains an over-representation of the executive powers within judicial institutions, which ultimately precludes judicial independence¹⁰.

9. Several members of judicial institutions and lawyers have faced arbitrary punishment or prosecution¹¹.

10. Repeated violations of the right to a fair trial, in particular the right to a lawyer, the right of the detainee to be informed of the reasons for their arrest or of the charges against them, and the right to sufficient time and resources to prepare their defence.

⁷ "Public order," "security" and the protection of "national constants."

⁸ Under international human rights treaties, exceptional restrictions on fundamental freedoms must be clearly defined by law, as a response to a legitimate objective. Restrictions must also not be discriminatory; be temporary and proportionate to specific legitimate objective; not be interpreted as a violation of human rights, and must be reviewed periodically.

⁹ "The People's National Army is responsible for defending the vital and strategic interests of the country in accordance with the provisions of the Constitution".

¹⁰ The Constitution maintains an over-representation of the executive branch within the Supreme Judicial Council, headed by the president, who directly appoints 19 of its 23 members. The new Constitutional Court is also subject to strong influence from the President, who directly appoints at least one-third of its members, including its President. Six other members are elected from among the professors of constitutional law under the conditions and procedures set by the President of the Republic. The President of the Republic also appoints the first president of the Supreme Court, the President of the Council of State, and judges.

¹¹ On 30 May 2021, the Supreme Judicial Council dismissed Judge Saad Eddine Marzouk, founder of the unregistered "Free Judges Club" union. In October 2019, Nora Mokrane, head of the indictment chamber at the Tipaza court, was dismissed and transferred to another court after ordering the release of political activist Karim Tabbou. On 17 September 2020, Belkacem Maza, writer and member of the Algerian League for the Defence of Human Rights, was arrested and prosecuted for his participation in the Hirak protests. In 2018, Mourad Ghedia, president of the National Federation of Justice Sector Workers, was suspended from work, and later arrested in April 2021 for his peaceful activism. On 26 May 2021, lawyer Abderraouf Arslane was arrested and tried for "participating in a terrorist organisation," and "spreading false information undermining security and public order," due to his work and his exercise of freedom of expression.

11. Pre-trial detention is deployed and used in an excessive and unjustified manner¹².

12. Decree 09-21 limits freedom of information, and constitutes an obstacle to access to justice for victims of violations¹³.

13. Deaths, torture and ill-treatment in detention centres are rarely investigated by the authorities.¹⁴ Families are no longer permitted to bring food for detainees, since the outbreak of the Covid-19 pandemic.

14. Impunity continues to prevail for serious crimes committed during the civil war in the 1990s, as a result of amnesty laws¹⁵ and obstruction of access to justice.

15. The Charter for Peace and National Reconciliation and its ordinance no. 01-2006 grants immunity to state agents, and censors any discussion of the events of the 1990s, especially in articles 45 and 46¹⁶.

16. Article 37 of Ordinance no. 01-2006 and Presidential Ordinance no. 06-93, prevent families of the disappeared from obtaining compensation, except after issuing a “death judgment,” which forces families to choose between their right to compensation on one hand, and their right to truth and justice on the other.

17. The authorities continue to refuse to exhume and identify bodies, whether from unidentified individual graves or mass graves.

¹² Article 45 of the Constitution guarantees the period of detention pending a criminal investigation does not exceed 48 hours and is subject to judicial supervision. However, the initial period of holding pending investigation can be extended up to 12 days for criminal cases, without judicial review. Article 123 of the Code of Criminal Procedure describes pre-trial detention as an exceptional measure. However, pre-trial detention may reach up to 8 months for misdemeanours and 48 months for felonies, if justified. At the same time, a large number of people are held in prolonged pre-trial detention and denied parole on demand, without any justification. In November 2021, at least 43 people, out of 59 people tried on baseless terrorist charges, were held in pre-trial detention for periods ranging from 7 weeks to 7 months without justification, in flagrant violation of Articles 41 and 44 of the Constitution as well as Articles 9 and 14 of the International Covenant on Civil and Political Rights.

¹³ Presidential Ordinance no. 21-09, adopted on 8 June 2021, provides for a prison sentence of between 3 and 5 years for people who share information about judicial investigations or ongoing proceedings or who allow it to be acquired by an “unqualified person.”

¹⁴ See the communications of the Special Procedures [AL DZA 8/2020](#) and [AL DZA 6/2021](#)

¹⁵ The Algerian government issued several amnesty laws for crimes committed during the civil war, which in turn entrenched a state of systemic impunity and prevented victims and their families from accessing justice. Ordinance 95-12 issued in 1995, known as the “Mercy Law,” provides for measures of mercy up to full amnesty for those convicted of “crimes of terrorism and armament,” who surrendered voluntarily and declared a cessation of their armed activities. Law No. 99-08, known as the “Civil Harmony Law,” which was adopted in 1999, specifically granted amnesty to people involved in terrorist groups. In 2000, Presidential Ordinance no. 2000-03 was issued expressly exempting members of the Islamic Salvation Front and the Islamic League for Preaching and Jihad from criminal prosecution.

¹⁶ Article 45 of the Charter prohibits victims and their families from looking into the responsibility of any violations committed by agents of the state. Article 46 also prohibits any discussion of the events of the 1990s by claiming this would be “exploiting the national tragedy.”

18. The authorities continue to obstruct the work of individuals and organisations seeking justice by preventing their registration under Law no. 12-06 on Associations, by preventing their peaceful gatherings, and by threatening and prosecuting them¹⁷.

Recommendations

19. Revise the Constitution to guarantee a clear distinction between the authorities of the executive and the judiciary.

20. Repeal or amend Article 34 of the Constitution to ensure that restrictions on human rights are compatible with international law.

21. Repeal Article 30 (4) of the Constitution to guarantee that the role of the army is limited to national defence.

22. Stop arbitrarily punishing or prosecuting lawyers and members of the judiciary.

23. Repeal or substantially amend Ordinance 09-21 in accordance with international standards on freedom of information.

24. Completely align legislations and practices with Articles 9 and 14 of the International Covenant on Civil and Political Rights.

25. Ratify the Rome Statute, as well as the International Convention for the Protection of All Persons from Enforced Disappearance.

26. Repeal the Charter for Peace and National Reconciliation, its executive decrees, and all general amnesty laws.

27. Guarantee comprehensive and independent investigations are conducted into all suspected enforced disappearances, and that families of the disappeared have access to effective remedies, compensation, and psychosocial support.

28. Exhume and identify bodies, whether from unidentified individual graves or mass graves.

29. Allow individuals seeking justice for crimes committed during the civil war in the 1990s to operate freely and without hindrance.

Freedom of expression and the press

¹⁷ Activist Slimane Hamitouche, a member of the National Coordination for the Families of the Disappeared, was arrested several times for his peaceful activism. He was arrested on 7 March 2020, and was physically assaulted at a police station. On 15 September 2020, he was sentenced to one year in prison, including an eight-month suspended sentence. On 2 December 2021, he was tried in another case and was finally acquitted. In January 2018, human rights defender Amin Fadda was prosecuted for undermining the military, defamation and other charges over online posts in which he criticised the government and the military for their involvement in the massacres of civilians in the 1990s, and members of SOS Disappeared were on several occasions threatened by phone or in person. The association's president, Nassera Dutour, was subjected to numerous defamation campaigns on social media, in addition to receiving personal threats.

30. Articles 51 and 52 of the Constitution guarantee the right to freedom of expression but under the framework of national legislation, which arbitrarily restricts it. Freedom of the press is also subject to unjustified restrictions under articles 54 and 55¹⁸.

31. The Media Law of 2012 contains vague, subjective provisions interpreted to restrict the media.¹⁹ The 2014 Law on Audiovisual Activity requires a prior licensing system and imposes excessively restrictive registration requirements, and prohibits the possibility of appealing the refusal of a licence.

32. The Penal Code contains overly broad and vague provisions, allowing the authorities to penalise freedom of expression and the press, while maintaining custodial provisions for defamation offences²⁰. Several journalists and bloggers were arrested on the basis of these provisions - 20 between April 2020 and April 2021. At least six journalists are currently being tried on terrorist charges²¹.

33. Article 46 of Ordinance no. 01-06 regarding the implementation of the Charter for Peace and National Reconciliation still criminalises any criticism of the security forces for abuses committed during the Algerian civil war²².

34. On 28 April 2020, the House of Representatives approved Law no. 20-06 amending the Penal Code, which strengthens the legal arsenal criminalising freedom of press and expression²³.

35. The House of Representatives approved Law no. 20-05 on preventing and combatting discrimination and hate speech on 28 April 2020. Article 34²⁴ of this law led to the prosecution of Amazigh activist Yacine Mebarki in October 2020 and journalist Rabah Karèche in April 2021, which indicates that an arbitrary interpretation of this article was made in order to suppress freedom of expression.

¹⁸ It must be exercised with “respect for the constants of the nation and its religious, moral and cultural values,” (Article 54). Refrain from undermining “the legitimate interests of institutions and the exigencies of national security” (Article 55).

¹⁹ The law in principle allows media outlets to operate in Algeria but applies restrictive conditions such as respect for “the Islamic faith and all religions,” “sovereignty and national unity,” and “the requirements of public order.”

²⁰ Such as “harming the morale of the army” (Article 75), “harming national unity” (Article 79), “harming the national interest” (Article 96), “inciting an unarmed gathering” (Article 100), “insulting state institutions” (Article 146 of the Penal Code) and “discrediting court decisions” (Article 147).

²¹ Said Boudour, Jamila Loukill, Hassan Bouras, Mohamed Moloudj, Abdelkrim Zeghileche, and Ihsane El-Kadi.

²² This article was specifically used to sentence activist Abdallah Benaoum to two years in prison on 6 June 2018, for criticising the authorities.

²³ The amendments to Article 196bis stipulate a prison sentence of one to three years, doubled in the case of recidivism, for publishing “false information” that “undermines public order and state security,” which is a very vague definition. The penalty is increased to five years' imprisonment in “periods of quarantine, natural, biological, or technological disasters, or any other disaster.” Law no. 20-06 also amended Article 144 of the Penal Code to introduce a prison sentence of six months to three years for anyone who offends an employee or a representative of a public office “with the intent of undermining their honour, dignity, or due respect for their authority.”

²⁴ Creating or supervising an online platform or account may lead to imprisonment from one to five years, if it is likely to incite hatred within the community (Article 34).

36. On 22 November 2020, Executive Decree no. 332-20 regulating electronic media strengthened the authorities' control over digital media by replicating the repressive management framework already applied to print, audio and visual media²⁵.

37. Over the course of 2019 and 2020, at least 18 online media outlets declared that they could not be accessed via Algerian networks.

38. In 2020, the authorities obstructed the work of many media outlets,²⁶ with reports of journalists being dismissed in the public media on arbitrary grounds since March 2019²⁷.

39. From February to June 2021, at least 38 journalists were arrested and/or prosecuted in connection with their coverage of the protests, of whom 15 reported facing assault or arrest²⁸.

40. Until now there have been no investigations into the death of British-Algerian journalist Mohamed Tamalt on 27 June 2016, despite a complaint being filed.

Recommendations

41. Amend articles 54 and 55 of the Constitution to remove unjustified restrictions on freedom of the press.

42. Repeal articles of the Penal Code that are widely used to criminalise freedom of nonviolent expression.²⁹

43. Review Law no. 12-05 on media, the 2014 Law on Audiovisual Activity, and Executive Decree no. 332-20 on electronic media to guarantee compliance with international standards for freedom of expression.

44. Refrain from deploying anti-discrimination provisions to criminalise freedom of expression and review Law no. 20-05 in consultation with civil society and the media.

²⁵ The Algeria residency requirement in this decree is an unjustified obstacle to the work of online media, which may facilitate restricting access to sites designated by the authorities, while allowing them to obstruct media that do not wish to reside in Algeria.

²⁶ In [March 2020](#), *Tighremt*, a daily Tamazight-language newspaper, was officially banned from printing and marketing for its use of Latin script. In July 2020, a [stern warning](#) was given to the management of the *Liberté* newspaper for publications on how to manage the Covid-19 pandemic. [In July 2020](#), the authorities only allowed the public press to travel in the country to cover the health crisis. In September 2020, the authorities withdrew French TV channel M6's licence to operate in Algeria, after broadcasting a report on the "Hirak" movement, according to the Ministry of Communication. On [22 December 2020](#), the Algerian Press Photographers Association denounced obstacles faced during daily coverage of national events.

²⁷ In December 2019, public channel Canal Algérie expelled journalist Mahrez Rabia, after 14 years of work, because of his "excess weight", while the journalist had been actively covering the Hirak demonstrations. On 17 August 2020, EPTV's General Manager, Ahmed Bensabane, expelled journalists Abdelali Mezghiche and Nawal Souileh on charges of harming the institution's image and reputation.

²⁸ On 12 March 2021 in Algiers, eight journalists were subjected to verbal and physical assault, in what appeared to be an assault on a France 24 correspondent with no investigation yet opened. The next day, on 13 March, the Minister of Communication issued a final warning to France 24, accusing it of publishing false and subversive reports. On 13 June 2021, the Algerian government announced the withdrawal of France 24's accreditation due to "recurrent hostility".

²⁹ Such as articles 75, 79, 96, 100, 144, 144 bis 1, 144 bis 2, 146, 147, 196 bis.

45. Halt the arbitrary practice of censorship of printed or online press.
46. Repeal articles 146 and 298 of the Penal Code to decriminalise defamation.
47. Conduct a comprehensive and independent investigation into the death of journalist Mohamed Tamalt in custody and bring those responsible to justice.

Freedom of peaceful assembly

48. Article 52 of the Constitution states, “the rights to freedom of assembly and freedom of peaceful demonstration are guaranteed, and to be exercised upon simple notification” However, Law no. 28-89 regarding public gatherings and demonstrations, amended by Law no. 91-191³⁰, subjects freedom of assembly to a highly restrictive legal system based on prior authorisation³¹, in addition to arbitrary practices that leave it void of meaning.

49. In addition to this restrictive law, the capital Algiers has been under a permanent ban on public demonstrations since June 2001³².

50. Security forces used excessive and unjustified force, extensively, in response to the pro-democracy demonstrations of the “Hirak” movement, between March and May 2021³³. On 19 April 2019, 23-year-old protester Ramzi Yettou died from being severely beaten by the police. No investigation was ever announced.

51. Access to Internet networks was systematically disrupted during demonstrations.

³⁰ The law requires the demonstration authorisation request be submitted eight days before its scheduled date. It must be addressed to the governor himself (Article 17, 1). The request for prior authorisation must include several information details (Article 17, 2), including ‘the number of persons expected to attend and the places from which they are coming’ and ‘the name and headquarters of the association or associations concerned.’ The law stipulates that statements regarding the information of the organisers must be signed by the president of each association, which only allows associations to organise public demonstrations. However, the law states “the governor must express his decision to accept or reject in writing at least five days before the scheduled date of the demonstration” (Article 17, 4). In reality, the law imposes strict conditions on the organisation of demonstrations, the governor either systematically refuses to receive the permission request file, or the governor accepts the request file on the day before the appointed date of the demonstration and announces his refusal.

³¹ The law prohibits opposing “national constants, harming the symbols of the November 1st revolution, public order, and good morals” in any demonstration (Article 9). The law also does not allow “demonstrations of a political or protest nature” with no further explanation of this condition. Demonstrations are only allowed during the day and prohibited after the 9 p.m. (Article 15, paras. 2 and 3).

³² This prohibition was announced during the state of emergency in effect, which has no legal or constitutional basis, nor in amended Law no. 89-28, or even in the provisions of the state of emergency at the time of enforcement. Moreover, the legal form of this ban is unknown, it was announced during the Council of Government on 18 June 2001, and this ban has never been officially published. Some are speculative of an unpublished decree (CCPR/C/DZA/CO/4, §45).

³³ The period during which disproportionate use of batons and tear gas was reported at nearly every demonstration.

52. Since June 2019, thousands of journalists, peaceful protesters, activists and human rights defenders have been prosecuted by Algerian courts on the basis of broad provisions in the Penal Code³⁴.

53. The number of arrests of peaceful demonstrators has surged since the resumption of “Hirak” marches in February 2021, with at least 7,000 protesters arrested between February and June 2021.

54. The Ministry of the Interior used the amended Law 89-28 to ban all marches as of March 2021. Subsequently, the May 2021 statement was issued, which in practice prohibits any unauthorised demonstration³⁵.

55. Penal Code amendments in April 2020³⁶ granted the authorities more power to criminalise participation in demonstrations under Article 290bis³⁷ of the Penal Code, which includes disproportionate and unjustified prison sentences³⁸.

56. The amendment of Article 87bis of the Penal Code in June 2021 appears to be targeting the “Hirak” movement and peaceful opposition, and has institutionalised the deployment of the terrorism accusation as a legal tool to suppress freedom of peaceful assembly³⁹.

57. Since April 2021, protesters, activists, and journalists who supported or covered the demonstrations have faced an escalation of prosecutions based on unfounded terrorism charges⁴⁰.

³⁴ Notably the provisions of ‘undermining national unity,’ (Article 79), ‘weakening the morale of the army,’ (Article 75), ‘offending state agents,’ (Article 144, 144bis, and 146). In most criminal prosecutions since February 2019, charges of unarmed assembly or incitement to unarmed assembly were used (Articles 97, 98, and 100).

³⁵ In Algiers, Oran, and Tizi Ouzou, demonstrators reported that they were asked to sign a statement that they would no longer participate in any “unauthorised” demonstrations.

³⁶ Law no. 20-06 of 28 April 2020.

³⁷ Article 290bis penalises ‘the wilful and clear violation of the obligation of precaution or safety established by law or regulations, which directly endangers the life or physical integrity of others.’

³⁸ These sentences vary from six months to five years in prison during quarantine. According to the testimonies of demonstrators, even by wearing masks and respecting physical distancing measures, the police forced the demonstrators to regroup, disregard physical precautions and get closer.

³⁹ On 8 June 2021, Algeria adopted Ordinance no. 21-08, which expands the definition of terrorism to directly target the ‘Hirak’ protest movement. Article 87bis of the Penal Code, which defines terrorist acts, was amended and supplemented by Articles 87bis 13 and 87bis 14.

The amendment of Article 87bis includes the criminalisation of ‘seeking or instigating by any means to gain power or change the system of governance by non constitutional means,’ which criminalises anyone who publicly expresses a desire to gain power, or opposes the current system of governance. This amendment occurred while the ‘Hirak’ movement was calling for a comprehensive reform of the regime. The inclusion of the phrase “by unconstitutional means,” remains unclear and may open the door to arbitrary prosecution. The term ‘undermining national unity,’ was also included in the definition of terrorism in Article 87bis, the same wording as Article 79 of the Penal Code, which has been widely used to prosecute protesters, activists, and journalists of the ‘Hirak’ movement, since February 2019.

⁴⁰ At least 59 people were tried or convicted on terrorism-related charges, between April and October 2021, including at least six human rights defenders. 43 of them remain in pre-trial detention, for up to 11 months.

58. The rise in terrorism prosecutions against demonstrators was accompanied by the disparagement of protesters' demands⁴¹.

59. On 18 February 2022, human rights defender Zaki Hannache was arrested on charges of "glorifying terrorism" and "undermining national unity," based on his documentation of arbitrary arrests and trials since 2019 ⁴².

60. Executive Decree no. 384-21 of 7 October 2021 describes the procedure for inclusion or removal in the newly created list of terrorist entities and individuals. Aside from the very broad definition of terrorist crimes, the list remains subject to the discretion of the executive authorities and security institutions without any independent judicial oversight⁴³ and individuals included on the list face severe penalties, some of which are unclear⁴⁴.

Recommendations

61. Repeal Law no. 19-91 and draft a new law that complies with Article 21 of the International Covenant on Civil and Political Rights to guarantee a simple notification process rather than prior authorisation for assembly and demonstrations.

62. Repeal articles of the Penal Code that have been used to criminalise the fundamental freedoms of peaceful demonstrators and activists⁴⁵, and review articles 97, 98, and 100 to stop criminalising peaceful assembly.

63. Repeal articles 87bis to 87bis 14 of the Penal Code, related to terrorist and subversive activities, and reformulate anti-terror legislation to be consistent with international law⁴⁶.

64. Review Executive Decree no. 384-21, which defines the process of adding or removing the names of entities and individuals on the national list of terrorism in accordance with international standards for terrorist lists.

65. Stop arbitrary arrests, trials, and judicial harassment of peaceful demonstrators, and release all detainees arrested for exercising their freedom of peaceful assembly.

66. Stop all arrests and prosecutions on baseless terrorism charges, release all individuals unjustly detained on terrorism charges, and provide access to effective remedy.

⁴¹ In its May 2020 issue, the editorial of the Defence Ministry's monthly magazine described supporters of the "civilian, not military state," one of the 'Hirak' movement's main slogans, as "traitors" who serve foreign agendas hostile to Algeria. This amendment to the definition of terrorism portrays this idea with a criminal interpretation.

⁴² Zaki Hannache was paroled on 30 March 2022.

⁴³ A committee headed by the Minister of Interior and consisting of several ministers and heads of other security services, decides to include and remove people and entities from the list, based on submissions received from relevant ministries. The same committee is the one that can decide the removal of a person or entity from the list, if it challenges its inclusion.

⁴⁴ Listed individuals and entities are subject to travel bans, asset freezes, and are prohibited from engaging "in any activity of any kind". This activity ban, due to its lack of clarity, facilitates arbitrary restrictions on the rights to freedom of association, freedom of peaceful assembly, or even the right to work, without any legal basis.

⁴⁵ Such as articles 75, 79, 96, 144, 144bis, 144bis 1, 144bis 2, 46, 147, 196bis.

⁴⁶ It was also mentioned in Human Rights Council Resolution 34/35 and the United Nations Special Procedures communication of 27 December 2021.

67. Impartially investigate all cases of excessive use of force by security forces regarding demonstrations, and bring perpetrators to justice.

68. Disseminate and share information with the family of protestor Ramzi Yettou about any investigation into his death on 19 April 2019.

Freedom of Association

69. The new Article 53 of the Constitution stipulates that “the right to form associations is guaranteed,” and “exercised by mere notification.” In practice, however, Law no. 12-06 maintains a prior authorisation system⁴⁷, which considerably restricts the creation of associations⁴⁸ and their independent operation⁴⁹. Meanwhile, the law facilitates the arbitrary dissolution⁵⁰ of associations and provides harsh prison sentences for members or leaders of unregistered associations⁵¹.

⁴⁷ The creation of the association requires submission of a founding declaration, accompanied by a heavy file of incorporation, which includes the minutes of the constituent general assembly established by a bailiff, and the criminal records of all the founding members, who must be at least 25 members for “national” association, as well as documents justifying the address of the headquarters of the association, which has not yet been established. The process has always been characterised by an arbitrary refusal from local administration to issue a receipt acknowledging the deposit of this file, which keeps the legal status of associations in limbo.

⁴⁸ This law establishes a limiting view of what constitutes an association. Article 2 requires that the statutes and objectives of associations, among other things, shall not conflict with national values and constants. This use of vague terms facilitates arbitrary restrictions on freedom of association.

⁴⁹ Article 23 of Law no. 12-06 allows accredited Algerian associations to cooperate with foreign associations and international non-governmental organisations. However, it imposes restrictive conditions on this cooperation. Foreign associations or international non-governmental organisations must pursue the same goals as the Algerian association, and this cooperation must take place in respect of national values and constants, and is subject to prior approval from the competent authorities. Article 30 states that “outside the cooperative relations established by the regulations, in accordance with the terms of Article 23, it is prohibited for any association to receive funds from foreign representations and NGOs, without the prior approval of the competent authorities”.

⁵⁰ Article 42 of Law no. 12-06 states that an association can be dissolved voluntarily or through the judiciary. Dissolution can be requested from administrative courts by the competent public authority (Article 43), when it carries out one or more activities other than those stipulated in its statutes, or when it obtains funds from foreign organisations in violation of the highly restrictive Article 30 of the same law, or if it is established that the association is no longer operating. In addition, Article 39 states that the association may be dissolved, in case of interference in the internal affairs of the country or infringement of national sovereignty.

⁵¹ Article 46 of Law no. 12-06 imposes severe penalties on members or leaders of de facto associations: “any member or leader of an association that has not been registered, that has been suspended or dissolved, and who continues to operate in its name, shall be subject to a prison sentence of three to six months and a fine of between 100,000 and 300,000 dinars”.

70. Article 95bis of the Penal Code, amended in April 2020, now provides for 5 to 24 years of prison for members of organisations receiving foreign funding ⁵².

71. Many organisations remain in legal limbo as to their registration, such as the Algerian League for the Defence of Human Rights (LADDH), and religious organisations such as the Protestant Church of Algeria (EPA).

72. In February 2018, the governor of Oran arbitrarily sealed the premises and offices of the Feminist Association for Personal Development and the Exercise of Citizenship (Association Féministe pour l'Epanouissement de la Personne et l'Exercice de la Citoyenneté - AFEPEC) and the Association of Algerian Women Claiming their Rights (Femmes Algériennes Revendiquant leurs Droits - FARD)⁵³.

73. In April 2021, the activities of the association SOS Culture Bab El Oued were *de facto* suspended, following the arrest of four of its members including its president, Nacer Meghne, who was sentenced to one year in prison on 14 November 2021, for banners denouncing repression.

74. In October 2021, Youth Actions Rally (Rassemblement Actions Jeunesse-RAJ) was arbitrarily dissolved for organising meetings with foreign NGOs without authorisation.

75. Article 57 of the Constitution extends the right to establish political parties in theory, but is accompanied by a long list of prohibitions through Law no. 12-04 on political parties, which complicates and impedes their establishment, and facilitates their dissolution.

76. All political party and association members of the Pact for a Democratic Alternative⁵⁴, which boycotted all polls organised since February 2019, were subjected to arbitrary prosecution and sanctions.

77. On 20 January 2022, the State Council temporarily suspended the activities of the Socialist Workers' Party (PST) for unjustified reasons⁵⁵. On 22 April 2021, the Ministry of Interior initiated

⁵² This article provides for a prison sentence of five to seven years for any person who receives money, gifts or benefits from a non-Algerian governmental or non-governmental entity, regardless of their status, whether inside or outside Algeria, with the aim of carrying out or inciting acts that would undermine the security of the state, the stability or the normal functioning of its institutions, national unity, territorial integrity, Algeria's basic interests, or security and public order". The article stipulates double the penalty when receiving funds within the framework of an association or group, and an additional ten years in prison if it is within the framework of a "coordinated plan".

⁵³ On 5 March 2018, the governor of Oran allowed the two organisations to reopen, alleging that this decision was temporary until their registration status was corrected.

⁵⁴ A coalition of pro-democracy individuals, parties, and groups formed in 2019, with the goal of achieving the demands of the 'Hirak'.

⁵⁵ On 11 April 2021, the Socialist Workers Party (PST) received an official notice from the Ministry of Interior stating that the organisation of the party conference was delayed and gave it 15 days to organise and hold this conference, amid the pandemic, to comply with Law no. 12-04 on Political Parties. On 24 April 2021, the PST organised its conference, and broadcasted it live on social networks. The conference file, including its minutes, was sent on 25 April 2021 to the Ministry of Interior. Despite these measures, the State Council announced, on 20 January 2022, a temporary suspension of the activities of the party, which effectively meant the closure of its headquarters.

similar arbitrary legal action to suspend and dissolve the Union for Change and Progress (UCP)⁵⁶. On 22 January 2022, the State Council rejected the suspension of the UCP but has not yet ruled on the decision to dissolve it. On 5 January 2022, the Rally for Culture and Democracy (RCD) received an official notice threatening it for having hosted an unauthorised meeting of the Front against Repression on 24 December 2021⁵⁷.

78. Several public figures were arbitrarily arrested and/or prosecuted in connection with their political activities⁵⁸.

79. Article 69 of the Algerian Constitution guarantees the right to organise in a union freely. However, Law no. 90-14 on the procedures for exercising union freedom imposes a system of prior authorisation, and grants authorities complete freedom to refuse to register unions without clear reasons⁵⁹.

80. Law no. 90-14 also imposed restrictions on the creation of unions on the basis of nationality, status of employment and field of work, notably in its Articles 2, 4 and 6. Under Articles 2 and 4, unions can only be formed by "salaried workers" and by employees of the same field of work. According to Article 6, foreign workers are not entitled to form a union. These articles constitute a violation of the right of workers to freely choose their representatives and form trade unions and federations of their own choice, regardless of the sector to which they belong, without any kind of discrimination.

81. In April 2020, a partial legislative reform of Law no. 90-14 was announced. The new draft law, which was prepared without any inclusive consultations, is expected to amend Articles 4 and 6 to allow the formation of trade union federations independent of their respective fields of work, and allow foreign workers and employers to form trade unions. However, there are no plans to change either Article 2 or the limiting term of "salaried workers" in Article 6.

⁵⁶ On 25 March 2021, the Union for Change and Progress (UCP) received an official notification from the Ministry of Interior ordering it to regularise its legal status by organising its national conference within 15 days. According to the public statements of its president, the UCP held its conference on 10 April 2021. The participants in the conference amended the party's statute and elected its executive office headed by Mrs. Zoubida Assoul. The Ministry of Interior was informed of these measures within 30 days, which is the period stipulated in Article 36 of Law no. 12-04, and they were published in two national daily newspapers as required by Article 37 of this law. However, the Ministry of Interior announced on 22 April 2021, the initiation of legal procedures against the party, which it considered to be in an illegal situation.

⁵⁷ In this official notice, the Ministry of Interior considered that the Rally for Culture and Democracy (RCD) had violated Law no. 12-04 relating to political parties and Law no. 89-28 relating to public meetings and demonstrations, without clarifying specific provisions, or a deadline for compliance.

⁵⁸ Such as Fodil Boumala, Karim Tabbou, Hichem Khiaat, Zubaida Assoul, Louisa Hanoune, and even Fethi Ghares, the coordinator of the Social and Democratic Movement (MDS)

⁵⁹ The Solidarity Union of Higher Education Teachers (SESS) eventually obtained its registration in 2020 after submitting a request in 2011. Meanwhile, the General Autonomous Confederation of Workers in Algeria (CGATA), the Algerian union of public administration officials (SAFAP) and the Confederation of Autonomous Trade Unions (CSA) are still not registered, for the latter on the grounds that it brings together affiliates from several sectors of activity, while the Confédération Forum des chefs d'entreprise (CFCE), which also brings together affiliates from different sectors, received its registration in February 2019.

82. Trade union activity faces persistent obstacles. Union meetings remain subject to prior authorisation, and the authorities continue to practise the ‘cloning’ of independent organisations⁶⁰. In December 2019, the offices of the National Autonomous Union of Public Administration Staff (SNAPAP) were closed administratively. Union activity continues to be obstructed by the judicial harassment and the arbitrary dismissal of union members⁶¹. Several leaders of the SNAPAP and the General Autonomous Confederation of Workers in Algeria (CGATA) were summoned by the police, questioned about their activities, and prosecuted⁶². Workers or union members in public administration are liable to dismissal on the grounds of any judicial conviction of any kind, which then excludes them from their union role.

Recommendations

83. Repeal Law no. 12-06 and Law no. 12-04 and adopt new laws that guarantee a prior notification system for associations and political parties, do not impose illegitimate restrictions on the activities of organisations, and fully protect the public freedoms of their members.

84. Repeal Article 95bis of the Penal Code and lift all restrictions imposed on foreign and national funding of associations.

85. Put an end to prosecutions and other obstacles against individuals, associations and political parties, merely for exercising their freedom of association, and immediately reintegrate any organisation that has been subjected to arbitrary and unjustified sanctions, and guarantee that an appropriate remedy is provided.

86. Eliminate penal liability for organising and participating in the activities of unregistered organisations.

87. Amend articles 2, 4 and 6 of Law no. 90-14 regarding the procedures for exercising the right to organise in a union, and allow all workers to form unions without discrimination, and for unions to carry out their activities freely.

88. Process all trade union registration requests expeditiously without discrimination, and allow unions and their members to carry out their activities freely by ending all forms of harassment and judicial obstruction.

⁶⁰ Among the cloned unions are the National Autonomous Union of Public Administration Staff (SNAPAP), the Autonomous Union of Education and Training Workers (SATEF), the National Council of Teachers of Higher Education and Scientific Research (CNES), the National Union of Education Workers (SNTE) and the National Autonomous Council of Teachers of Secondary and Technical Education (CNAPEST).

⁶¹ A crackdown on the leaders and members of the Autonomous National Union of Electricity and Gas Workers (SNATEG) has been ongoing since 2015, through mass dismissals and refusal to implement decisions to rehire employees, through the union’s arbitrary dissolution in October 2017, judicial harassment since 2017, and acts of violence and intimidation by the police.

⁶² Nadia Djaddour, a member of the SNAPAP, was sentenced on 26 October 2020, to a suspended prison sentence of one year, which has prevented her from carrying out her union activities. On 5 April 2021, Mourad Ghedia, president of the National Union of Justice Sector Workers (affiliated to the SNAPAP), was summoned and tried for “interference in public, civil or military functions,” under Article 242 of the Penal Code. In 2018, he was suspended from his duties due to his union activity. Kaddour Chouicha, coordinator of the Syndicate of Higher Education Teachers (SESS) and member of the administration of the CGATA, and head of the Algerian League for the Defence of Human Rights in Oran, was subjected to judicial harassment. Since 2019, he has been tried in at least three different cases, mainly on charges of offending public figures and unarmed gathering. The third lawsuit filed against him, which is still ongoing, is based on fabricated terrorism charges. Chouicha was severely beaten by police forces along with his son during a demonstration on 12 March 2021.

Gender equality

89. The Family Code⁶³ continues to generate and legitimise all forms of institutional violence and discrimination against women. It is preserved in violation of the dignity of women and in violation of the Constitution⁶⁴.

90. Although Penal Code amendments in 2015⁶⁵ represented partial progress⁶⁶, the Algerian legal framework remains very ineffectual⁶⁷ in regards to the prevention of gender-based violence⁶⁸. There is no comprehensive law on the subject or official statistics until now. Several articles in the Penal Code also allow perpetrators of violence to evade justice, especially through the victim's "pardon"⁶⁹. Women victims of violence are systematically subjected to intimidation and social pressure to withdraw their complaints, including by state agents. Despite the new Article 40⁷⁰, shelters for

⁶³ Algeria's Family Code, adopted by the National People's Assembly on 9 June 1984, includes regulations inspired by Sharia law to define family relations in Algeria. This law imposes on women living conditions that clearly undermine gender equality.

⁶⁴ Article 37 states that "all citizens are equal before the law and have the right to equal protection. No discrimination based on birth, race, gender, opinion, or any other personal or social condition or circumstance may be invoked." Article 35 states that "the institutions of the Republic aim to ensure equality of rights and duties for all male and female citizens by removing obstacles that hinder the development of the human person and prevent the effective participation of all in political, economic, social and cultural life." Article 39 states that "the state guarantees that human dignity is not violated. Any physical or moral violence or any infringement of dignity is prohibited."

⁶⁵ Article 266bis punishes it with imprisonment from one year to life imprisonment, depending on the severity of the injuries inflicted. Article 266bis 1 also punishes with imprisonment from one to three years anyone who commits any form of repeated verbal or psychological abuse, or violence against their partner. Article 333bis 2 states that whoever harasses a woman in a public place with any act, gesture or word that offends her modesty shall be tried with imprisonment from two to six months. Article 333bis 3 punishes with imprisonment from one to three years any sudden assault, violence, coercion, or threat that affects the sexual integrity of the victim.

⁶⁶ The concept of sexual harassment was introduced along with punishment for any form of aggression, verbal or psychological violence, or mistreatment of women, especially in the case of recidivism.

⁶⁷ Rape is a punishable offense under Article 336 of the Penal Code, but it is not defined and thus does not include marital rape. The Penal Code does not deal with other forms of sexual violence and only covers 'acts of indecency,' reflecting the focus on morality rather than physical integrity.

⁶⁸ Law no. 15-19 only applies to spouses and ex-spouses. Under Article 264 of the Penal Code, survivors need a medical certificate to initiate proceedings, and there are no provisions for protection or restraining orders.

⁶⁹ In Articles 266bis, 266bis 1, 279, and 330bis, the pardon clause allows the offender to escape criminal prosecution, when the victim pardons the offender, and often, if not always, such pardon is concluded under family and/or social pressure.

⁷⁰ Article 40 states, "the state protects women from all forms of violence everywhere and in all circumstances, in the public sphere, in the professional sphere, and in the private sphere. The law guarantees victims' access to reception structures, mechanisms of care and legal aid."

women victims of violence are almost non-existent, and where they do exist, they more resemble prisons than protective shelters⁷¹.

91. The Labour Code provides for equality with regard to wages⁷² and access to employment⁷³; any discriminatory decision is void in theory⁷⁴. However, the Labour Code does not provide any protection against sexual harassment in the workplace⁷⁵. The employment rate of women remains low⁷⁶ despite the high percentage of women in higher education⁷⁷. Women face great difficulties in accessing work and senior positions⁷⁸. Women working in the informal/private sector are exposed to significant social insecurity, exacerbated by the Covid-19 pandemic⁷⁹.

⁷¹ The system in place offers promising programs to combat violence against women, which is a widespread societal issue, yet reception centres for women victims of violence are almost non-existent. The Darna Centre closed five years ago, and for the other state centres, there are currently only two. However, other associations, such as Tharwa N'Fadhma N'Soumer, operate with the SOS Women in Distress Centre, but their reception capacity does not meet the demand. In the event of a dispute or complaint, police officers, and sometimes even judges often patronise the women, and advise them to return to their marital home and pardon their abuser. This situation is one of the practices leading to femicide.

⁷² Article 84 states, "Each employer is obligated to guarantee equal pay among workers for work of equal value without any discrimination."

⁷³ Article 6 states, "within the framework of the work relationship, workers have the right to respect for their physical and moral integrity and dignity, and to be protected from any discrimination for holding a work position other than one based on their eligibility and entitlement."

⁷⁴ Article 17 states, "all provisions stipulated in agreements, collective agreements or labour contract that lead to discrimination between workers, of whatever kind in the field of employment, wages or working conditions, on the basis of age, gender, social status, relative, kinship, family, political convictions, and belonging to or not affiliated with a union, shall be null and void."

⁷⁵ Article 341bis of the Penal Code penalises sexual harassment in a professional context, but legislators' inaction on witness protection constitutes a real obstacle.

⁷⁶ In 2019, the employment rate for women did not exceed 13.5 per cent, compared to 61.2 per cent for men. In the same year, the unemployment rate among women was 20.4 per cent, while the unemployment rate among men did not exceed 9.7 per cent.

⁷⁷ The latest statistics indicate that 62 per cent of academics are female students. According to the latest UNESCO report titled 'The Race Against Time for Smarter Development,' Algeria topped the list with 48.5% of female engineers in the world.

⁷⁸ Difficulty obtaining funds, training, integrating into a professional environment, reconciling work and family life, or even other forms of social and cultural difficulties that continue to hinder well-qualified women with a degree.

⁷⁹ Many women working in the informal/private sector have found themselves at great risk, such as unauthorised household aids, or women working in traditional bakeries, during the outbreak of the Covid-19 pandemic.

92. Health Law⁸⁰ no. 18-11 provides for therapeutic abortion⁸¹ only when the life of the mother or her psychological and mental balance are seriously threatened⁸². The procedures are so long that they cause the woman to effectively lose her right to an abortion⁸³.

93. In March 2021, the quota law of 2012 was repealed and replaced by an organic law⁸⁴ relating to the Electoral Code⁸⁵, which only provides for gender parity within electoral lists. However, the fact that these lists are open without ranking has led to a sharp decline in the actual percentage of elected women representatives in Parliament⁸⁶.

94. The “Hirak” protest movement witnessed prominent women’s participation despite internal disagreements⁸⁷. Repression by the authorities affected many feminist activists who were subjected to violations⁸⁸ simply because they are women. Some of them are still facing judicial harassment⁸⁹ or defamation campaigns⁹⁰.

⁸⁰ Article 77 states, “the therapeutic abortion of pregnancy is intended to preserve the health of the mother when her life or her psychological and mental health balance is seriously endangered by the pregnancy. The modalities of application of this article shall be determined by regulation. Article 78 states, “therapeutic interruption of pregnancy can only be carried out in public hospitals.”

⁸¹ It is also called therapeutic or medical interruption.

⁸² Article 308 states, “abortion shall not be punishable when it constitutes an essential measure to save the life of the mother in danger and when it is publicly practiced by a physician or a surgeon after having been informed of it by the administrative authority.”

⁸³ A baby may be born, before doctors, judges, and imams can issue their approval.

⁸⁴ Ordinance no. 21-01 of 10 March 2021 regarding the law relating to the electoral code.

⁸⁵ The law was issued by presidential order on 10 March 2021.

⁸⁶ After the 2012 legislative elections, there were 31.6 per cent of women represented in the House of Representatives, and 25.97 per cent at the end of the 2017 legislative elections, compared to 8.35 per cent currently.

⁸⁷ Some individuals violently assaulted women within the feminist quarter of the ‘Hirak’ marches.

⁸⁸ An adult woman protester had to wait for the police to call her father to sign-off on her release.

⁸⁹ Dalila Touat was a victim of judicial harassment. Khadidja Belkhodja, a victim of continuous harassment. trade unionist Fatiha Briki was kept in police custody for more than a week. Kamira Nait Sid, President of the Amazigh World Congress, has been in pretrial detention since August 2021. Amira Bouraoui was sentenced to several prison terms for speaking openly. Fatma Boufenik, a feminist activist, was also exposed to a smear campaign.

⁹⁰ Fatma Boufenik, and her colleagues from the Association of Algerian Women Claiming Rights (FARD), and Leila Bouchenaf faced smear campaigns, after a demonstration against femicides in October 2020. Law no. 12/06 adds to these difficulties, as many associations have become unofficial due to their lack of a clear legal status. Among these associations suffering from the registration problem is the Algerian feminist organisation Tharwa Fadhma N'Soumer. In March 2017, the headquarters of the Association of Algerian Women Claiming their Rights (FARD) was sealed by an administrative decision and reopened only thanks to the mobilisation of activists.

95. The Penal Code and its Articles 333 ⁹¹ and 338 criminalise same-sex relations, in contravention of the Constitution. There is an alarming upsurge in the persecution of the LGBTQ+ community in the context of a total legal vacuum regarding their protection, thus preventing LGBTQ+ individuals from accessing any remedy in case of violence or other discriminatory treatment.

96. With regards to freedom of expression, association and assembly of LGBTQ+ individuals, the community evolves through discreet and sometimes deliberately suppressed activism. These groups find themselves persecuted both by public authorities and by a very homophobic society⁹².

Recommendations

97. Lift all reservations to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), ratify its Optional Protocol, and rapidly submit a periodic report.

98. Request an invitation to the Committee of Ministers of the Council of Europe to join the Convention on Preventing and Combating Violence against Women and Domestic Violence, known as the Istanbul Convention.

99. Repeal all provisions discriminating against women, and amend the Labour Code to punish sexual harassment in the workplace.

100. Repeal Articles 333 and 338 of the Penal Code, which criminalise same-sex relations, and introduce legal provisions criminalising discrimination, violence, and hate speech against LGBTQ+ individuals.

101. Repeal articles 266bis, 266bis 1, 279 and 330bis of the Penal Code, which allow for perpetrators of gender-based violence to be “pardoned”.

102. Adopt comprehensive legislation to combat all forms of discrimination and violence on the basis of gender in accordance with the provisions of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and review national education and awareness policies to combat degrading gender stereotypes and effectively change discriminatory behaviours.

103. End legal harassment and intimidation of feminist activists and LGBTQ+ people, enabling them to fully defend their rights in law and in practice, and prosecute defamation and incitement to hatred campaigns against them.

Freedom of conscience and religion

104. The Penal Code primarily threatens freedom of conscience and religion in Algeria, by criminalising freedom of expression. The legal framework established by Ordinance no. 06-03 and

⁹¹ Article 338 states, “anyone who commits an act of homosexuality with a person of the same sex shall be punished with imprisonment from two months to two years.” Article 333 states, “if the public act of indecency is a homosexual act committed against a person of the same sex, the penalty shall be imprisonment from 6 months to 3 years.”

⁹² Algeria prohibits the establishment and registration of organisations with statutes that are deemed inconsistent with public morals. Algeria has declared Islam the state religion and prohibits institutions from engaging in conduct contrary to Islamic morals.

Law no. 12-04 regulating associations⁹³ places major administrative and judicial barriers to the practice of rituals for non-Muslims.

105. The provisions regulating the practice of worship are discriminatory in the text and in practice.

106. This context has been exacerbated by the suppression of the inviolability of freedom of conscience in the 2020 Constitution (Article 51)⁹⁴.

107. According to Article 144bis 2 of the Penal Code, insulting the teachings of Islam⁹⁵ is a penal offence, as is proselytising towards Muslims. However, these charges are often utilised to suppress freedom of opinion and belief⁹⁶.

108. Ordinance no. 06-03 restricts the religious freedom of non-Muslims and discriminates against them by imposing regulations on their worship, which are not imposed on Muslims⁹⁷. This legal framework impedes one's freedom "to have or to adopt a religion or belief of one's choice," (Article 18/1 of the International Covenant on Civil and Political Rights).

109. The worship practice of non-Muslim is subject to arbitrary decisions issued by the National Commission for Non-Muslim Religious Services, which has not issued official permits for any church affiliated with the Algerian Protestant Church (EPA) since 2006.

110. Since 2017, the Algerian authorities have shut down at least 21 churches affiliated with the EPA.

111. Law no. 12-06 is used to block the renewal of the EPA's status as a legally recognised association, although the registration request was submitted in 2014, 2015 and 2016. Similarly, the Ministry of Interior did not provide the Ahmadiyya Community with a receipt acknowledging the submission of their registration application in 2012, 2016 and 2020.

⁹³ In September and October 2019, the governor of Tizi Ouzou and Bejaia closed nine churches belonging to the Protestant Church of Algeria (EPA). Police reportedly beat worshipers with batons. The Administrative Court of Tizi Ouzou rejected the complaints filed by three churches in July 2020, based on articles 5 and 9 of Ordinance no. 06-03 of 2006, which stipulate that any non-Muslim place of worship must obtain official permission from the National Commission for the Practice of Other Religions other than Islam, thus the churches are considered illegal because they did not have this permit. The ruling also confirmed that the Protestant Church of Algeria is not registered under the Associations Law of 2012.

⁹⁴ The 2016 Constitution affirmed the inviolability of freedom of opinion and conscience (Article 42), while the 2020 Constitution disregarded freedom of conscience in the corresponding article (Article 51).

⁹⁵ The Penal Code provides for a prison sentence of three to five years for insulting the beliefs or the prophets of Islam by writing, drawing, through a statement, or any other means (Article 144bis 2).

⁹⁶ Amira Bouraoui, an activist and gynaecologist, was sentenced in absentia on 18 October 2021 to two years in prison for offending the teachings of Islam, due to online posts criticizing a companion of the prophet of Islam. On 23 April 2021, researcher Saïd Djabelkhir, was sentenced to three years in prison for 'insulting the teachings of Islam' in four online publications dating back to January 2020, in which the researcher shared his view on several topics related to Islamic rituals and faith. On 25 November, 2020, Amazigh activist Yacine Mebarki was sentenced to one year in prison on several charges based on Article 144bis 2. Article 144bis 2 was also used to convict at least 50 members of the Ahmadiyya Muslim minority simply for practising their religion in December 2017.

⁹⁷ Ordinance no. 06-03 of February 2006 regulating the worship of non-Muslims stipulates, in Article 11, a maximum penalty of one million dinars and five years in prison for anyone, who 'incites, pressures, or uses means of temptation to induce a Muslim to change his religion, or use for this purpose educational institutions, or any other financial means.' The manufacturing, storage or distribution of printed materials or audiovisual materials with the intent of violating the faith of a Muslim is also subject to the same penalties.

112. The Protestant Church⁹⁸ of Algeria and the Ahmadiyya community⁹⁹ frequently face intimidating practices and discriminatory treatment toward their members and representatives.

Recommendations

113. Repeal Article 11 of Ordinance no. 06-03 and Article 144bis 2 of the Penal Code, to comply with international standards on freedom of religion or belief.

114. Acquit or drop all judicial prosecutions brought against anyone under Article 11 of Ordinance no. 06-03, or Article 144bis 2 of the Penal Code.

115. Allow all religious groups, whether recognised Muslim or not, to assemble and obtain legal status, and halt arbitrary prosecution and intimidation of religious minorities for exercising their fundamental freedoms.

116. Withdraw all warnings, closure orders, and lawsuits against churches, grant them permission to continue using rented buildings as places of worship, and return confiscated buildings to the Protestant Church of Algeria.

Economic, social and cultural rights

117. The right of all peoples to self-determination has been disregarded under Article 1 of the International Covenant on Economic, Social and Cultural Rights. The ‘Hirak’ movement arose to demand this right, which was denied at the expense of a closure of civic space.

118. The unemployment rate has increased gradually over the past five years¹⁰⁰, according to official statistics. The unemployment rate remains high, especially among those under 30 years old, graduates, and women. The deteriorating economic situation has had a strong impact on the fragile informal labour sector, the artisan sector, and small businesses.

⁹⁸ On 11 March 2021, a judge in Oran upheld a five-year prison sentence for Hamid Soudad, who was convicted of republishing a cartoon of the prophet of Islam in 2018. Soudad’s Protestant faith was included as an element of his prosecution file. Slimane Bouhafs, an Amazigh activist who converted to Christianity, fled Algeria in 2018 after being convicted of blasphemy and was granted refugee status in Tunis. On 25 August 2021, he was forcibly returned to Algeria and is currently being prosecuted over false terrorism charges. On 26 September 2021, Pastor Rachid Seghir and his assistant Noah Hamimi were convicted of proselytising and undermining the faith of a Muslim. They were given a one-year suspended prison sentence and a fine of 200,000 Algerian dinars. Their bookstore has been closed since 2017, despite a court order ordering local authorities to reopen it. On 28 January 2022, Mohamed Derrab, an Algerian Protestant, was sentenced to 18 months in prison for proselytising. Derrab was arrested for preaching outside his church, and distributing a Bible to a listener, after his church in Tizi Ouzou was sealed closed.

⁹⁹ In October 2020, a court in Constantine issued two-year prison sentences to Ahmadiyya Muslims convicted of gathering without a permit. There were reportedly 220 cases related to unauthorised gatherings of Ahmadiyya Muslims pending before the Supreme Court as of December 2020. On 22 December 2020, a court in Tizi Ouzou sentenced four Ahmadiyya Muslims to a suspended two-month prison term and a fine of 20,000 dinars for exercising their freedom of association, peaceful assembly, expression and belief. The charges included engaging in activities without registration under Ordinance no. 06-03, even though the government never gave an official status to the Ahmadiyya faith.

¹⁰⁰ See Unemployment report, total (% of total labour force) (modelled ILO estimate) – Algeria <https://data.worldbank.org/indicator/SL.UEM.TOTL.ZS?locations=DZ> [Accessed 22 May 2022]

119. According to the statistics of the SNAPAP and CGATA, the average income has decreased while the cost of living has risen significantly. In addition, six million Algerians who work in the informal sector lack any social protection¹⁰¹. Meanwhile, governmental aid was only given to five per cent of small businesses during the pandemic.

120. At the same time, whistleblowers who disclosed cases of corruption in public companies or within the military¹⁰² faced imprisonment.

121. The Covid-19 pandemic exposed the fragility of the health system¹⁰³, especially outside urban areas¹⁰⁴.

122. Despite the positive development of including Tamazight as a national and official language in the list of 'national constants' and excluding it from any constitutional amendment in the amended Constitution in December 2020 (Article 223), the text still maintains the inequality of status between the Tamazight and Arabic languages¹⁰⁵. It is still not possible to use Tamazight in any public facilities. Meanwhile, Law no. 18-17, issued in September 2018, significantly reduces the scope of constitutional provisions¹⁰⁶ to content itself with establishing an 'Algerian Academy for the Tamazight language,' without focusing on practical methods for formalising and strengthening¹⁰⁷ the Tamazight

¹⁰¹ See the study conducted by the Autonomous General Union of Algerian Workers and the National Autonomous Union of Public Administration Staff, March 2021: <https://www.facebook.com/CGATA-Conf%C3%A9d%C3%A9ration-g%C3%A9n%C3%A9rale-autonome-des-travailleurs-en-Alg%C3%A9rie%20750457288343416/photos/pcb.3682352915153824/3682352641820518> [Accessed 22 May 2022]

¹⁰² For example, whistleblower Noureddine Tounsi was sentenced to one year in prison on 21 April 2021, and on 24 November 2020 to six months in prison as part of his investigative work on corruption at the Oran Port Company with the Platform for the Protection of Whistle-blowers in Africa (PPLAAF). He was arrested days after he filed a complaint to the Ministry of Justice about his findings. On 14 May 2019, the Blida Military Court sentenced corruption whistle-blower and former sergeant in the National Gendarmerie, Mohamed Abdallah, to 20 years in prison for undermining state security and the government's reputation. When he was refused asylum and forcibly returned from Spain on 21 August 2021, he was held incommunicado and told the court that he had been tortured and physically abused.

¹⁰³ Intissar Fakir, Isabelle Werenfels, 'Pandemic and Governance in the Maghreb: A Moment of Truth,' German Institute for International and Security Affairs: <https://www.swp-berlin.org/en/publication/the-pandemic-and-governance-in-the-maghreb-a-moment-of-truth> [Accessed 22 May 2022]

¹⁰⁴ See Nejma Brahim, 'In Algeria, the resistance of a people' stood alone in the face of Covid-19, Mediapart: <https://www.mediapart.fr/journal/international/280322/en-algerie-la-resistance-d-un-peuple-livre-lui-meme-face-au-covid-19> [Accessed 22 May 2022]

¹⁰⁵ The Arabic language remains the national and official language of the state, while Tamazight remains "a" national and official language, under a still pending law.

¹⁰⁶ Article 4 of the Constitution states, 'Tamazight is also a national and official language. The state works to promote and develop it with all its linguistic diversity used throughout the national territory. An Algerian academy for the Amazigh language is created and placed with the President of the Republic. The assembly is based on the work of experts, and is charged with providing the necessary conditions for the promotion of Tamazight, in order to reflect its status as an official language later. The modalities of applying this article are determined by law.'

¹⁰⁷ See "Algeria: The Mirage of the Basic Law Relating to the Official Status of Amazigh", World Amazigh Conference: <https://kabyle.com/communiqués/algerie-le-leurre-de-la-loi-organique-concernant-le-statut-officiel-de-tamazight> [Accessed 22 May 2022]

language. Moreover, the preamble to the Constitution states that Algeria is an 'Arab land' and an integral part of the 'Greater Arab Maghreb,' without specifying that Algeria is also an 'Amazigh land.'

Recommendations

123. Sign and ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

124. Guarantee access to primary health care and education to all citizens, regardless of economic status or geographic location, and ensure adequate public investment to guarantee the right to health and education.

125. Amend the Constitution to recognise Tamazight as an official language with the same status as Arabic, recognise Amazigh identity as a component of Algerian identity, and adopt an organic law that truly implements the formalisation and promotion of Tamazight.

126. Develop a program of action to reduce the unemployment rate, especially among women and youth, and to guarantee access to decent work.

127. Urgently review the national minimum wage and take the necessary measures to ensure an adequate standard of living for all residents.

128. Implement effective measures to guarantee the extension of social protection and fair working conditions to the informal economy, notably by collecting accurate data to assess its prevalence, reinforcing inspections of labour conditions, and prosecuting employers for economic exploitation.

Rights of migrants, asylum seekers, and refugees

129. Algeria's migration policy remains dominated by the violent practices of raid, mass expulsion, deportation and arbitrary detention in inhuman and degrading conditions, based on racial profiling¹⁰⁸, without any individual assessment or guarantee of procedures, in violation of the principle of non-refoulement¹⁰⁹.

130. Algerian legislation¹¹⁰ does not recognise the right to asylum. Law no. 11-08¹¹¹ continues to punish irregular residence, without ensuring a fair trial for foreigners, while no form of administrative regulation has been established.

¹⁰⁸ For example, between January and March 2021, Algeria expelled more than 3,000 migrants to Niger. In 2020, it is estimated that around 22,600 foreigners have been returned to Niger. Migrants are generally abandoned in the middle of the desert. The vast majority of them are women.

¹⁰⁹ These practices continued, as Algeria closed its land and air borders as part of anti-Covid-19 measures in March 2020.

¹¹⁰ The United Nations High Commissioner for Refugees (UNHCR) remains the only entity authorised to receive asylum claims. This recognition is not necessarily respected due to the occurrence of forcible returns of asylum seekers recognised by the UNHCR.

¹¹¹ Law no. 08-11 of 2008 defines illegal entry into Algerian territory as a criminal offence punishable by imprisonment for a maximum of five years. According to the [National Gendarmerie Command](#), the number of irregular migrants arrested in 2021 was 10,889, compared to 5,825 in 2020.

131. Discrimination and hate speech against migrants continue to be widespread, fuelled by stigmatising speech from state officials¹¹². Meanwhile, legislation against incitement to hatred and racial discrimination is used to criminalise freedom of expression and peaceful activism¹¹³.

132. Children of migrants from sub-Saharan Africa do not have access to education¹¹⁴. Despite existing provisions in the Penal Code on human trafficking¹¹⁵ and the formation of a national inter-ministerial anti-trafficking committee in 2016, migrants and asylum seekers are prohibited from the right to work in national legislation unless they have a residency permit, which pushes them into informal work where they are exposed to exploitation and human trafficking without any effective access to justice. Meanwhile, unions are not allowed to support migrant workers, who are discriminated against with regards to their wages, and they cannot file complaints to security or judicial authorities. During the outbreak of the Covid-19 pandemic, no measures were taken to support migrants or asylum seekers, and migrants had limited access to emergency medical departments. Access to health services remains hampered by discriminatory practices, fear of illegal status and a lack of social protection. There is no detailed official statistical data on migrants.

133. It has become more difficult to monitor violations against migrants, due to the intensified crackdown on civil space and human rights defenders. Migrant rights advocates have been particularly targeted¹¹⁶.

Recommendations

134. Immediately cease the practice of mass expulsions, returns and arbitrary detention of migrants.

135. Firmly combat racist hate speech, especially by public figures, and violence against migrants, regardless of their legal status, take effective measures to bring all those responsible to justice, and implement public awareness campaigns to combat such acts.

136. Develop disaggregated statistical data on the economic situation and living conditions of non-nationals.

137. Amend Law no. 08-11 criminalising the illegal entry and stay of non-citizens, in order to make it an administrative offence.

¹¹² Ahmed Ouyahia, the chief of staff of the President of the Republic, stated in July 2017 that “those illegal foreigners are a source of crime, drugs, and several other nuisances”. Also in July 2017, Abdelkader Messahel, Minister of Foreign Affairs then declared that immigrants posed a threat to national security.

¹¹³ See paragraph 35 above regarding Law no. 20-05 of April 2020. In May 2019, Mozabite minority rights defender Kamal Eddine Fekhar died following a hunger strike, while he was in pre-trial detention on charges of ‘inciting hatred or discrimination,’ (Article 295bis 1 of the Penal Code), based on a Facebook post accusing local officials of discriminatory practices against the Ibadi Mozabites, a Muslim and Amazigh minority.

¹¹⁴ Thousands of children are in different parts of the country with their mothers, begging for alms and living in deplorable conditions. Migrant women are exposed to psychological and physical pressure, while men are constantly looking for any kind of work.

¹¹⁵ Especially Articles 303bis 4 to 303bis 10 and 343 of the Penal Code.

¹¹⁶ Among them are members of the Algerian League for the Defence of Human Rights in Oran, and Faleh Hammoudi, member of the executive councils of two trade unions (SNAPAP and CGATA) and head of the Tlemcen section of the Algerian League for the Defence of Human Rights, in charge of migrant rights. The latter was sentenced on 20 February 2022, to three years in prison for ‘operating an unregistered organisation’ following an expedited trial. Humanitarian or other migrant rights organisations are prevented from operating or obtaining a registration.

138. Adopt national legislation on the right to asylum, implementing the 1951 Convention Relating to the Status of Refugees and its 1967 Optional Protocol, and ensure protection for asylum seekers and refugees recognised by the UNHCR.

139. Ensure that all migrants have access to education, health care and employment, regardless of their legal status, and focus a regularisation policy to combat their exploitation.

140. Combat human trafficking by guaranteeing the full implementation of existing legislation, and by guaranteeing that victims receive necessary remedy and assistance¹¹⁷.

141. Urgently send an invitation to the United Nations Special Rapporteurs on the human rights of migrants and on racism to visit the country.

Cooperation with United Nations mechanisms

142. No visits by United Nations Special Procedures have taken place since 2017, while at least five visit requests have been pending for several years¹¹⁸.

Recommendation

143. Issue a standing invitation to all UN Special Procedures and respond promptly to mandate holders who have requested a visit.

¹¹⁷ Including legal, social and psychological assistance.

¹¹⁸ The Special Rapporteurs on the independence of judges and lawyers, on the protection of human rights while countering terrorism and torture, and the Working Groups on arbitrary arrest and enforced or involuntary disappearance have requested visits respectively since 2018, 2014, 2010, 2009 and 1997. The Independent Expert on Strengthening a Democratic and Fair International Order and Rapporteur, and the Special Rapporteur on the Situation of Human Rights Defenders requested a visit in March and February 2022 respectively.