



MENA
Rights
Group

Algeria

Universal Periodic Review

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1 International obligations and cooperation with international human rights mechanisms

1.1 Scope of international obligations

Under the Constitution, ratified treaties are above the law.¹ Although their provisions can be invoked before courts, instances are rare in practice.²

During the last Universal Periodic Review (UPR), Algeria only “noted” recommendations on the ratification of treaties to which it is not a party,³ such as the Rome Statute, the Convention on the Protection of All Persons from Enforced Disappearances (ICPPED), the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR-OP2), and the Optional Protocol to the Convention against Torture (OPCAT).⁴

Recommendations:

- Ensure international human rights standards take precedence in the event of conflict with domestic legislation;
- Ratify outstanding human rights treaties and their optional protocols, namely the Rome Statute, the ICPPED, ICCPR-OP2, and the OPCAT.

1.2 Cooperation with international human rights mechanisms and bodies

A total of six reports to UN Treaty Bodies remain overdue.⁵

¹ Article 154 of the 2020 Constitution, available at: <https://menarights.org/sites/default/files/2021-07/Constitution%202020.pdf> (accessed 23 March 2022), stipulates that “the treaties ratified by the President of the Republic, under the conditions provided for by the Constitution, are above the law”.

² Human Rights Committee, *Concluding observations on the fourth periodic report of Algeria*, 17 August 2018, UN Doc. CCPR/C/DZA/CO/4, para. 5.

³ Algeria noted recommendations 129.1 (Philippines), 129.2 (Honduras), 129.3 (South Africa), 129.4 (Australia, Luxembourg), 129.5 (Ireland, Uruguay), 129.6 (Brazil), 129.7 (Montenegro, Portugal), 129.8 (Denmark), 129.9 (Rwanda), 129.10 (Ghana, Portugal, Spain, United Kingdom of Great Britain and Northern Ireland, Guatemala), 129.11 (Ghana, Sierra Leone, Guatemala), 129.12 (Ghana, Portugal), 129.13 (Ukraine, Guatemala), 129.14 (Iraq, Portugal, Ukraine, Sierra Leone), 129.18 (Ireland), and 129.19 (Spain).

⁴ In addition, Algeria has not ratified the Convention on the Reduction of Statelessness and the Convention on the Rights of Persons with Disabilities (UNCRPD).

⁵ The report to the Committee against Torture is overdue since 20 June 2012; to the Committee on the Elimination of Discrimination against Women since 1 February 2016; to the Committee on Economic, Social and Cultural Rights since 30 June 2015; to the Committee on the Rights of the Child under the CRC since 15 November 2018 and under the CRC-OP-SC since 27 January 2009; to the Committee on the Elimination of Racial Discrimination since 15 March 2021. See: United Nations Human Rights Treaty Bodies, UN Treaty Body Database, “Reporting Status for Algeria”, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Countries.aspx?CountryCode=DZA&Lang=EN (accessed 11 March 2022).

Moreover, despite supporting a recommendation to “cooperate with the Human Rights Committee and fully implement its views”,⁶ in May 2018, the Committee decided to suspend its follow-up dialogue “with the finding of unsatisfactory implementation”.⁷

Besides, Algeria has yet to issue a standing invitation to UN Special Procedures and has only noted previous recommendations in that regard.⁸ Despite committing to responding favourably and without delay,⁹ several requests for visits remain pending,¹⁰ and no visit has taken place since 2017. In practice, Algeria has formally accepted a number of invitations but has repeatedly postponed visits, including with the Working Group on Enforced Disappearances.¹¹

In September 2020, the Algerian press agency misrepresented the UN human rights system and claimed that a body had rejected a complaint by political activists.¹² In response, the Office of the UN High Commissioner for Human Rights clarified that this was incorrect, and that relevant bodies would examine complaints received in due course.¹³

Lastly, Algeria has appeared in all reports of the UN Secretary General on intimidation and reprisals for cooperation with the UN between 2017 and 2020.¹⁴

Recommendations:

- Fully cooperate with Treaty Bodies, including by submitting overdue periodic reports and implementing the Human Rights Committee’s Views;
- Extend a standing invitation to Special Procedures, respond positively to pending requests and set dates for visits;

⁶ Recommendation 129.26 (Luxembourg).

⁷ Human Rights Committee, *Follow-up progress report on individual communications*, 29 May 2018, UN Doc. CCPR/C/122/R.2, p. 5.

⁸ Recommendations 129.30 (Belgium, Georgia, Uruguay, Bosnia and Herzegovina) and 129.31 (Peru).

⁹ Recommendation 129.29 (Norway).

¹⁰ The request from the Special Rapporteur on freedom of peaceful assembly has been pending since 2011; the request from the Special Rapporteur on torture has been pending since 1997; the request from Special Rapporteur on human rights and counter-terrorism since 2010; the request by the Working Group on Arbitrary Detention has been pending since 2009. See: OHCHR, *View Country Visits of Special Procedures of the Human Rights Council since 1998*, (<https://spinternet.ohchr.org/ViewCountryVisits.aspx?visitType=all&country=DZA&Lang=en> (accessed 11 March 2022)).

¹¹ The request for visit from the UN Working Group on Enforced or Involuntary Disappearances has been made in 2000. Following several reminders, it was accepted with proposed dates in 2014. Algeria made a request to postpone in 2014, and new dates were agreed upon for a visit in 2016. Afterwards, four reminders were sent. Dates were proposed for 2021, but remained unanswered. The latest reminder was sent in January 2022.

¹² Office of the UN High Commissioner for Human Rights, *UN Human Rights Office highlights fabricated information in relation to Algeria*, 4 September 2020, (<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26208&LangID=E> (accessed 9 March 2022)).

¹³ *Ibid.*

¹⁴ Human Rights Council, *Cooperation with the United Nations, its representatives and mechanisms in the field of human rights*, 29 March 2018, UN Doc. A/HRC/36/31, para. 20 and p. 16; Human Rights Council, *Cooperation with the United Nations, its representatives and mechanisms in the field of human rights*, 13 August 2018, UN Doc. A/HRC/39/41, p. 40; Human Rights Council, *Cooperation with the United Nations, its representatives and mechanisms in the field of human rights*, 9 September 2019, UN Doc. A/HRC/42/30, para. 36 and p. 18; Human Rights Council, *Cooperation with the United Nations, its representatives and mechanisms in the field of human rights*, 25 September 2020, UN Doc. A/HRC/45/36, paras 42-43 and p. 20.

- End reprisals against individuals who cooperate with the UN and investigate such reprisals.

2 National human rights framework

Though Algeria pledged to bring its national human rights institution in line with the Paris Principles,¹⁵ in 2018, the National Human Rights Council (CNDH)¹⁶ was awarded B status by the Global Alliance of National Human Rights Institutions.¹⁷ Among the concerns raised were the lack of independence of its members¹⁸ and of transparency of the selection process,¹⁹ as well as the fact that it failed to demonstrate that it was taking steps to address human rights violations such as torture, enforced disappearances, and the expulsion of migrants.²⁰

On 1 November 2020, a new Constitution was adopted by referendum that saw a record low voter turnout,²¹ following a process characterised by a lack of inclusiveness, participation and transparency.²² While the Constitution seemingly upholds fundamental rights and freedoms, these constitutional rights are severely restricted in law and practice. It also fails to set up comprehensive civilian oversight over the armed forces²³ and does not provide sufficient guarantees regarding the separation of powers²⁴ and independence of the judiciary.²⁵

Recommendations:

- Ensure that the CNDH is fully compliant with the Paris Principles;
- Align its legislation with fundamental rights and freedoms enshrined in the 2020 Constitution.

¹⁵ Recommendations 129.39 (Niger) and 129.40 (India).

¹⁶ The “Conseil National des Droits de l’Homme” was established through Law No. 16-13, available at: <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/103001/124783/F2049991226/DZA-103001.pdf> (accessed 23 March 2022). The CNDH’s website can be accessed here: <https://cndh.org.dz> (accessed 23 March 2022). The CNDH replaced the National Consultative Commission for the Promotion and Protection of Human Rights (*Commission nationale consultative de promotion et de protection des droits de l’Homme*).

¹⁷ Global Alliance of National Human Rights Institutions (GANHRI), *Report and recommendations of the Session of the Sub-Committee on Accreditation (SCA), 14-18 May 2018*, <https://ganhri.org/wp-content/uploads/2019/11/SCA-Report-May-2018-Eng.pdf> (accessed 11 March 2022), pp. 15-20.

¹⁸ *Ibid.*, pp. 16-17.

¹⁹ *Ibid.*, pp. 15-16.

²⁰ *Ibid.*, pp. 17-18.

²¹ Francisco Serrano, “Election Theater Is Alive and Well in Algeria, Too”, *Foreign Policy*, 3 November 2020, <https://foreignpolicy.com/2020/11/03/algeria-referendum-constitutional-change-democracy-protest/> (accessed 24 March 2022).

²² International Commission of Jurists, *Flawed and Inadequate – Algeria’s Constitutional Amendment Process*, October 2020, <https://www.icj.org/wp-content/uploads/2020/10/Algeria-NewConstitution-Advocacy-Analysis-Brief-2020-ENG.pdf> (accessed 24 March 2022), pp. 4-8.

²³ *Ibid.*, pp. 8-10.

²⁴ *Ibid.*, pp. 10-12.

²⁵ *Ibid.*, pp. 12-16.

3 Implementation of international human rights obligations

3.1 Right to life, liberty and security of persons

3.1.1 Right to life

During the last UPR, Algeria only noted recommendations to completely abolish the death penalty.²⁶ Although there is a *de facto* moratorium on the application of the death penalty since 1993, it has not formally been abolished in the Penal Code,²⁷ and, according to the Human Rights Committee, death sentences are not automatically commuted.²⁸ In 2020, one death sentence was recorded.²⁹

Recommendation:

- Formally abolish the death penalty in the Penal Code.

3.1.2 Torture and ill-treatment

During its last UPR, Algeria supported recommendations to prevent and punish torture as well as strengthen laws and policies to effectively implement the UNCAT.³⁰

However, the definition of torture enshrined in the Penal Code is not in line with international standards,³¹ and there is no provision explicitly prohibiting the use of confessions obtained under torture.³²

Since the beginning of the protest movement in 2019, several cases have been reported, including those of activist Sami Dernouni³³ and protestor Walid Nekiche,³⁴

²⁶ Recommendations 129.72 (Togo), 129.73.2 (France), 129.74 (Italy), 129.75.2 (Namibia).

²⁷ The death penalty is provided for in the following articles of the Algerian Penal Code: 61, 62, 63, 64, 77, 80, 81, 84, 86, 87 bis 1, 87 bis 7, 89, 90, 148, 261, 263, 272, 274, 284, 293 bis and 293 bis 1, 399, 401, 403, 417 bis of the Penal Code, available at: <https://www.joradp.dz/trv/fpenal.pdf> (accessed 24 March 2022).

²⁸ Human Rights Committee, *Concluding observations on the fourth periodic report of Algeria*, 17 August 2018, UN Doc. CCPR/C/DZA/CO/4, paras 27-28.

²⁹ *Ibidem*.

³⁰ Recommendations 129.76 (Bosnia and Herzegovina) and 129.77 (Chile).

³¹ Article 263 bis of the Penal Code. See also: "Concluding observations on the fourth periodic report of Algeria", *op. cit.*, para. 31.

³² *Ibid.*

³³ Sami Dernouni was arrested 2 December 2020 and subsequently charged with "undermining national unity" and "national security" as well as "inciting riots". During his trial in March 2021, he declared having been subjected to acts of torture and ill-treatment. See: Ferial Bouaziz, "Tribunal de Tipasa: Sami Dernouni, condamné à 2 ans de prison ferme", *Interlignes*, 9 March 2021, <https://www.inter-lignes.com/tribunal-de-tipasa-sami-dernouni-condamne-a-2-ans-de-prison-ferme/> (accessed 24 March 2022); *Special Procedures communication AL DZA 6/2021*, 4 August 2021, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26529> (accessed 24 March 2022).

³⁴ Walid Nekiche was arrested on 26 November 2019 during a peaceful demonstration in Algiers for taking photos of policemen arresting protestors. He stated that he was subjected to acts of torture, cruel and inhumane treatment during his arrest while secretly detained for six days by agents of the General Directorate of Internal Security Forces. See: *Special Procedures communication AL DZA 8/2020*, 25 May 2021,

who were subjected to torture in the Antar military barracks by agents of the General Directorate of Internal Security Forces in late 2020 and late 2019, respectively. Though an enquiry was opened by the Public Prosecutor in February 2021 into the torture suffered by Nekiche, it has not yielded any results.³⁵ Saïd Chetouane also alleged that he was subjected to sexual violence in an Algiers police station on 3 April 2021.³⁶

Recommendations:

- Bring the definition of torture in line with international human rights standards;
- Ensure that suspected cases of torture and ill-treatment are thoroughly investigated and prosecuted, and that victims receive adequate compensation.

3.2 Administration of justice, impunity and the rule of law

3.2.1 Independence of the judiciary

Despite Algeria's commitment to improve judicial independence and undertake reforms,³⁷ the judiciary continues to suffer from interference by the executive.

In 2018, the Human Rights Committee expressed concern over the fact that "the executive plays a significant role in the organization of the judicial branch".³⁸ In fact, under the Law on the Organisation of the Judiciary,³⁹ magistrates are appointed by presidential decree upon recommendation by the Justice Minister and after deliberation in the High Judicial Council.⁴⁰ The latter, which is supposed to guarantee the judiciary's independence, is headed by the President of the Republic.⁴¹

In addition, military tribunals have continued to try civilians in violation of international standards. Such was the case of Louisa Hanoune,⁴² a former parliamentarian and president of the Worker's Party, who, in May 2019, was sentenced to 15 years in prison for "conspiracy against the authority of the state" by the military tribunal.⁴³

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=25546> (accessed 10 March 2022).

³⁵ *Ibid.* Hocine Lamriben, "Walid Nekkiche déplore les lenteurs de l'enquête", *El Watan*, 3 May 2021, <https://www.elwatan.com/edition/actualite/justice-walid-nekkiche-deplore-les-lenteurs-de-lenquete-03-05-2021> (accessed 24 March 2022).

³⁶ RFI, *Scandale en Algérie: le jeune Saïd Chetouane accuse des policiers de violences sexuelles*, 5 April 2021, <https://www.rfi.fr/fr/afrique/20210405-scandale-en-alg%C3%A9rie-le-jeune-sa%C3%AFd-chetouane-accuse-des-policiers-de-violences-sexuelles> (accessed 25 March 2022).

³⁷ Recommendations 129.81 (Spain), 129.82 (Angola), 129.83 (Maldives).

³⁸ "Concluding observations on the fourth periodic report of Algeria", *op. cit.*, para. 39.

³⁹ Organic Law No. 04-11, 6 September 2004, available at: https://publicofficialsfinancialdisclosure.worldbank.org/sites/fdl/files/assets/law-library-files/Algeria_Judiciary%20Status%20Law%2011_2004_fr.pdf (accessed 24 March 2022).

⁴⁰ *Ibid.*, article 3.

⁴¹ Article 180 of the 2020 Constitution.

⁴² She was released in February 2020. Terriennes, Pascal Priestley, "Algérie : la cible choisie de la justice militaire du régime, Louisa Hanoune enfin libre", *TV5 MONDE*, 24 December 2021, <https://information.tv5monde.com/terriennes/algérie-cible-choisie-de-la-justice-militaire-du-regime-louisa-hanoune-enfin-libre-323524> (accessed 24 March 2022).

⁴³ Her initial sentence was reduced to three years on appeal.

Moreover, lawyers have faced intimidation and reprisals. For instance, in February 2019, Ramzi Chekhab was summoned on grounds of inciting gathering through social networks.⁴⁴ In May 2021, Abderraouf Arslane was arrested in court and charged with “belonging to a terrorist organisation” and “publishing false news”.⁴⁵

Recommendations:

- Guarantee the independence of the judiciary, including by amending the Law on the Organisation of the Judiciary and strengthening the High Judicial Council’s independence;
- Cease trials of civilians before military courts;
- Ensure lawyers can exercise their functions with complete independence and free from reprisals.

3.2.2 Right to truth and the fight against impunity

During the Algerian civil war (1991-2002), the country experienced grave human rights violations: over 200’000 people lost their lives, and 7’000 to 20’000 were victims of enforced disappearances following their abduction by state security forces and armed groups.⁴⁶

Though during its last UPR, Algeria pledged to conduct investigations into such abuses,⁴⁷ Ordinance No. 06-01 implementing the Charter for Peace and National Reconciliation⁴⁸ continues to effectively prevent families from uncovering the truth and seeking justice, while granting blanket amnesties to security forces and members of armed groups for violations committed.

In particular, article 45 precludes any kind of effective remedy for victims of violations committed by state security forces,⁴⁹ fostering a climate of impunity.⁵⁰ In addition, article 46 prescribes a penalty of imprisonment and a fine for anyone who attempts to uncover or examine events that took place during the civil war,⁵¹ thus creating a

⁴⁴ Mehdi Mehenni, “Un avocat de Khenchela poursuivi en justice”, *Liberté*, 6 August 2019, <https://www.liberte-algerie.com/actualite/un-avocat-de-khenchela-poursuivi-en-justice-321399> (accessed 25 March 2022).

⁴⁵ Lawyers for lawyers, *Joint letter on the ongoing pre-trial detention of Abderraouf Arslane*, 9 November 2021, <https://lawyersforlawyers.org/en/joint-letter-on-the-ongoing-pre-trial-detention-of-abderraouf-arslane/> (accessed 25 March 2022).

⁴⁶ MENA Rights Group, *Waiting for Redress, The Plight of Victims of Enforced Disappearances in Algeria*, August 2020, https://www.menarights.org/sites/default/files/2020-08/MRG_Algeria_Baseline%20study_FinalDESIGN_30082020_2.pdf (accessed 24 March 2022), para. 60.

⁴⁷ Recommendation 129.78 (Israel).

⁴⁸ Ordinance No. 06-01 outlines the scope and obligations of the Charter for Peace and National Reconciliation. See: Ordinance No. 06-01, 27 February 2006, <http://www.interieur.gov.dz/index.php/fr/dossiers/168-la-charte-pour-la-paix-et-la-reconciliation-nationale.html> (accessed 24 March 2022).

⁴⁹ Article 45 of Ordinance 06-01 provides that: “No prosecution may be initiated, individually or collectively, against elements of the defence and security forces of the Republic, all components included, for actions carried out for the protection of persons and property, the safeguard of the Nation and the preservation of the institutions of the People’s Democratic Republic of Algeria. Any denunciation or complaint must be declared inadmissible by the competent judicial authority.”

⁵⁰ “Concluding observations on the fourth periodic report of Algeria”, *op. cit.*, para. 11.

⁵¹ Article 46 of Ordinance 06-01 provides that: “Anyone who, by speech, writing or any other act, uses or exploits the wounds of the National Tragedy to harm institutions of the Democratic and Popular Republic of Algeria, to weaken the state, or to undermine the good reputation of its agents who honourably served it, or to tarnish the image of Algeria internationally, shall be punished by three to five years in prison and a fine of 250,000 to 500,000 DA.”

climate of self-censorship.⁵² This provision has been invoked against Abdullah Benaoum, who was sentenced to two years in prison in 2018.⁵³

Because of the lack of domestic remedies, victims and families of victims have had no other choice but to resort to international mechanisms⁵⁴ and to rely on the principle of universal jurisdiction in order to seek redress.⁵⁵ In February 2022, the Swiss Office of the Attorney General conducted the final hearing of Khaled Nezzar⁵⁶ following the opening of an investigation for war crimes in 2011.⁵⁷

Recommendations:

- Repeal articles 45 and 46 of Ordinance 06-01 to guarantee victims' right to truth and accountability for perpetrators of human rights violations during the civil war;
- Establish a national truth-seeking commission tasked with the investigation of war crimes and serious human rights violations, including enforced disappearances.

3.3 Fundamental freedoms

During its last UPR, Algeria accepted to guarantee the rights to freedom of expression, peaceful assembly, and association, and bring its legislation in line with international standards.⁵⁸ However, these fundamental freedoms have been severely undermined over the past years.

3.3.1 Freedom of expression

In 2017, Algeria partially accepted recommendations pertaining to freedom of expression.⁵⁹

Although freedom of opinion and expression are enshrined in articles 51 and 52 of the Constitution, articles 54 and 55 state that freedom of the press must be exercised in "respect of the fundamental religious, moral and cultural values of the nation" and not infringe on "the legitimate interests of companies and the requirements of national security".

⁵² "Concluding observations on the fourth periodic report of Algeria", *op. cit.*, para. 13.

⁵³ On 6 June 2018, he was sentenced to two years in prison on charges of, among others, "using or instrumentalising the wounds of the National Tragedy with the aim of undermining of the Algerian Popular Democratic Republic, to weaken the state, dishonor its agents who served it with dignity, or tarnish the image of Algeria internationally". See: MENA Rights Group, *Algeria: Authorities must not allow another preventable death in detention*, 21 December 2021, <https://www.menarights.org/en/articles/algeria-authorities-must-not-allow-another-preventable-death-detention> (accessed 24 March 2022).

⁵⁴ The decisions are listed and accessible here: <https://justice4thedisappeared.org/en/> (accessed 28 March 2022).

⁵⁵ The Human Rights Committee adopted 35 Views on cases of enforced disappearances, none of which has ever been implemented by the Algerian authorities. See: <https://justice4thedisappeared.org/en/> (accessed 28 March 2022).

⁵⁶ Khaled Nezzar is accused of multiple war crimes (murder, torture, inhuman treatment, illegal detention) as well as killings in the context of a systematic and widespread attack against the civilian population between January 1992 and January 1994, when he headed the High State Council and served as Minister of Defence.

⁵⁷ TRIAL, *The way is now paved for the trial in Switzerland of General Khaled Nezzar*, 8 February 2022, <https://trialinternational.org/latest-post/the-way-is-now-paved-for-the-trial-in-switzerland-of-general-khaled-nezzar/> (accessed 25 March 2022).

⁵⁸ Recommendations 129.94 (Italy), 129.95 (Kenya), 129.96 (Australia).

⁵⁹ Recommendations 122.97 (Canada), 122.100 (Ireland), 122.101 (France), 122.103 (United States of America)

Although the 2012 Information Code decriminalised press offenses, it contains several restrictions such as “national identity, the cultural values of society, national sovereignty and national unity” that have a disproportionate impact on freedom of expression.⁶⁰ It also requires prior approval of all publications by the media regulatory authorities.⁶¹

On the other hand, the Penal Code punishes with imprisonment nonviolent speech offenses.⁶² As a result, accusations of “offending,” “insulting” or “defaming” public officials and institutions continue to be used to prosecute peaceful critics.⁶³

Moreover, additional restrictive legislative amendments have recently been introduced. In April 2020, the Penal Code was amended⁶⁴ following a restricted parliamentary debate in the context of the pandemic,⁶⁵ increasing penalties for defamation and prohibiting dissemination of “false information”.⁶⁶ In June 2021, a presidential ordinance⁶⁷ introduced disproportionate penalties for publishing information deemed to be “classified”, on overly broad criteria. The text seriously undermines the activities of whistle-blowers, investigative journalists, and human rights defenders.⁶⁸

⁶⁰ “Concluding observations on the fourth periodic report of Algeria”, *op. cit.*, para. 43.

⁶¹ Article 13 of Organic Law No. 12-05 states that “the regulatory authority of the written press authority shall issue the approval within sixty (60) days from the date of the date of submission of the declaration”. See also: chapter III of the law on the regulatory authority.

⁶² See articles 96, 144, 144 *bis*, 144 *bis* 2, 146, 296 and 298 of the Penal Code.

⁶³ See Chapter V of the Algerian Penal Code on “crimes and offences committed by persons against public”, in particular:

- Article 144 (as amended by law No. 20-06 of 28 April 2020) states that “anyone who, with the intention of violating their honor, delicacy or the respect due to their authority, insults a magistrate, civil servant, public officer, commander or law enforcement officer, either by words, gestures, threats, sending or handing over any object whatsoever, or by writing or drawing not made public” shall be liable to a prison sentence ranging from six months to three years, as opposed to two months to two years previously. The penalty may be increased to three years’ imprisonment if the contempt is directed at an Imam.

- Article 144 *bis* punishes “any person who offends the President of the Republic by an insulting, injurious or defamatory expression, whether by means of writing, drawing, declaration, or any other medium of speech or image, or by any other electronic, computerised or informational medium, shall be punished by a fine of between one hundred thousand (100,000) DA and five hundred thousand (500,000) DA. Criminal proceedings shall be instituted *ex officio* by the Public Prosecutor’s Office. In the event of a repeat offence, the fine is doubled.”

- Article 146 provides that “contempt, insult or defamation committed by any of the means set out in Article 144 *bis* against Parliament or one of its two chambers, the courts or the national people’s army, or against any national people’s army, or against any constituted body or any other public institution, shall be punished by the penalties provided for in the above article.”

⁶⁴ Law 20-06 amending and completing Ordinance 66-156 of 8 June 1966 on the Penal Code.

⁶⁵ MENA Rights Group, *Algeria: Penal Code Amendments restrict freedoms of expression and association*, 2 July 2020, <https://menarights.org/en/articles/algeria-penal-code-amendments-restrict-freedoms-expression-and-association> (accessed 24 March 2022).

⁶⁶ Law No. 20-06 introduced article 196 *bis* into the Penal Code, which punishes with “imprisonment for one to three years and a fine of DA 100,000 to DA 300,000, anyone who wilfully disseminates or propagates, by any means, to the public false or slanderous information or news likely to undermine public security or order. In the event of a repeat offence, the penalty shall be doubled.”

⁶⁷ Ordinance No. 21-09 of 9 June 2021 on the protection of information and administrative documents.

⁶⁸ MENA Rights Group, *Le président algérien promulgue une ordonnance sur les documents classifiés qui porte atteinte à la liberté de rechercher, de recevoir et de répandre des informations*, 24 June 2021, <https://www.menarights.org/en/articles/le-president-promulgue-une-ordonnance-sur-les-documents-classifies-qui-porte-atteinte-la> (accessed 28 March 2022).

Though Algeria previously claimed that no journalists were in prison for their views,⁶⁹ since the last UPR, several journalists, human rights defenders, and political activists have been deprived of liberty for peacefully expressing their views.

In September 2020, journalist Khaled Drareni was sentenced to two years in prison for “inciting an unarmed gathering” and “endangering national unity”, due to his covering of the *Hirak*.⁷⁰ In January 2021, founder of the satirical Facebook page *Hirak Memes* Walid Kechida was sentenced to three years in prison for “attacking constituted bodies” and “insulting and offending the President”.⁷¹ In April 2021, Islamologist Said Djabelkhir was sentenced to three years in prison for “offense to Islam”.⁷² In August 2021, journalist Rabah Karèche was sentenced to one year in prison on charges of “dissemination of information or news, false or slanderous, likely to undermine public security or order” in relation to an article about a protest movement led by the Tuareg community.⁷³ In January 2022, blogger and reporter Merzoug Touati⁷⁴ was sentenced to a year in prison over his social media comments.⁷⁵

In November 2021, the National Committee for the Liberation of Detainees listed 231 persons, including *Hirak* protesters, journalists, politicians and civil society activists, as behind bars for expressing dissent.⁷⁶

Recommendations:

- Amend the 2012 Information Code and relevant provisions of the Penal Code to bring them in line with international standards on freedom of expression;
- Release all those detained arbitrarily on charges related to the exercise of their right to freedom of expression.

3.3.2 Right to association

Article 53 of the Constitution provides that “the right to create associations is guaranteed” and “exercised by simple declaration.” However, the 2012 Law on

⁶⁹ Human Rights Council, *Report of the Working Group on the Universal Periodic Review, Algeria*, 19 July 2017, UN Doc. A/HRC/36/13, para. 60.

⁷⁰ MENA Rights Group, *Khaled Drareni sentenced to two years in prison on charges related to his work as a journalist*, 17 September 2020, <http://www.menarights.org/en/caseprofile/khaled-drareni-sentenced-two-years-prison-charges-related-his-work-journalist> (accessed 29 March 2022).

⁷¹ Under articles 144, 144 bis and 144 bis 2 of the Penal Code. See : Faouzi Senoussaoui, “Walid Kechida condamné à 3 ans de prison ferme”, *Liberté*, <https://www.liberte-algerie.com/actualite/walid-kechida-condamne-a-3-ans-de-prison-ferme-351930> (accessed 28 March 2022).

⁷² MENA Rights Group, *Algerian Islamologist sentenced to three years in prison for “offending Islam”*, 11 May 2021, <http://www.menarights.org/en/caseprofile/algerian-islamologist-sentenced-three-years-prison-offending-islam> (accessed 29 March 2022).

⁷³ Under article 196 bis of the Penal Code. See: Committee to protect journalist, *Algerian journalist Rabah Karèche detained on false news and anti-state allegations*, 20 April 2021, <https://cpj.org/2021/04/algerian-journalist-rabah-kareche-detained-on-false-news-and-anti-state-allegations/> (accessed 28 March 2022).

⁷⁴ Reporters Without Borders, *RSF condemns flagrant erosion of press freedom in Algeria*, 19 June 2020, <https://rsf.org/en/news/rsf-condemns-flagrant-erosion-press-freedom-algeria> (accessed 29 March 2022).

⁷⁵ Committee to Protect Journalists, *Algerian journalist Merzoug Touati sentenced to 1 year in prison*, 4 January 2022, <https://cpj.org/2022/01/algerian-journalist-merzoug-touati-sentenced-to-1-year-in-prison/> (accessed 29 March 2022).

⁷⁶ See: Facebook page of the *Comité National pour la Libération des Détenus – CNLD*, available at: <https://www.facebook.com/comitenationalpourlaliberationdesdetenusCNLD> (accessed 29 March 2022).

Associations⁷⁷ gives the authorities broad discretion to deny the registration if associations are deemed to be acting contrary to “national constants and values”, “public order” or “morality”, as well as suspend or dissolve those which interfere in internal affairs or attack “national sovereignty”. It also limits associations’ ability to receive foreign funds, imposes heavy fines and criminal penalties for members or leaders of informal associations, and fails to provide associations with an adequate remedy to appeal the rejection of their registration.⁷⁸

Although Algeria accepted to review the registration process of associations,⁷⁹ the text remains in force and has served as a basis for the dissolution of the Youth Action Rally (RAJ) in October 2021 because it had engaged in activities “different from those it was created for,” including “suspicious activities with foreigners” and activities “of a political nature for the purpose of creating chaos and disturbing the public order”.⁸⁰

Besides, the 2020 Penal Code amendments provide the authorities with excessive power to prosecute civil society activists receiving foreign funding if they consider that their activities undermine the “normal functioning of institutions” or “national unity”.⁸¹

Recommendations:

- Revise the Law on Associations and relevant legislation to ensure that provisions governing the right to freedom of association are in line with international standards;
- Immediately cease efforts to dissolve civil society groups and associations and guarantee the establishing of associations upon notification;
- Lift the excessive restrictions on access to foreign funding for association and repeal or amend article 95 *bis* of the Penal Code.

3.3.3 Right to freedom of peaceful assembly

In 2017, Algeria accepted to “eliminate obstacles and restrictions to freedom of assembly”,⁸² while stating that it was already refraining from restricting this right.⁸³

Though article 52 of the Constitution provides that “freedom of assembly and peaceful demonstration are guaranteed, and may be exercised by simple declaration”, the Law

⁷⁷ Law on Associations No. 90-31 of 4 December 2012, available at: https://www.icnl.org/wp-content/uploads/90-31-En.pdf?_ga=2.258140298.182156813.1648456715-716052540.1582881702 (accessed 30 March 2022).

⁷⁸ See Amnesty International, *Algeria: Associations law must be repealed before January deadline*, 18 December 2013, <https://www.amnesty.org/en/wp-content/uploads/2021/06/mde280032013en.pdf> (accessed 29 March 2022); ICNL, *Algeria country page*, last updated on 26 August 2021, <https://www.icnl.org/resources/civic-freedom-monitor/algeria> (accessed 29 March 2022).

⁷⁹ Recommendations 129.111 (Germany), 129.112 (Slovenia), 129.113 (United States of America), 129.114 (France), 129.115 (Netherlands).

⁸⁰ MENA Rights Group, *Algeria: effort to dissolve prominent civic association*, 12 October 2021, <http://www.menarights.org/en/articles/algeria-effort-dissolve-prominent-civic-association> (accessed 29 March 2022).

⁸¹ Article 95 *bis* of the amended Penal Code sanctions with “imprisonment of five to seven years and a fine of DA 500,000 to DA 700,000 DA, anyone who receives funds, a gift or an advantage, by any means, from a State, an institution or any other public or private body or from any legal or natural person, inside or outside the country, to carry out or incite to carry out acts likely to undermine the security of the State, the stability and normal functioning of its institutions, national unity, territorial integrity, the fundamental interests of Algeria or public security and order. The penalty shall be doubled when the funds are received within the framework of an association, group, organisation or agreement, regardless of its form or name.”

⁸² Recommendation 129.108 (Mexico).

⁸³ Recommendation 129.110 (Uruguay).

on Public Meetings and Gatherings⁸⁴ contains a number of extremely restrictive provisions.⁸⁵ These include prior authorisation by the executive, compliance with vague criteria, such as “national principles”, “public order” or “public decency”, an excessively long advance notice of eight days, and criminal sanctions for any public assembly not meeting these conditions. Such events are considered as “unarmed gatherings”.⁸⁶

In May 2021, the Ministry of Interior stated that any demonstration will be prohibited if it does not benefit from a prior authorisation, conditioned to the organisers disclosing their identity as well as start and end times of the gathering.⁸⁷ The 2001 blanket ban on demonstrations in Algiers has yet to be lifted.⁸⁸

In March 2020, the President banned all protests, marches, demonstrations and other mass gatherings in the context of the COVID-19 pandemic.⁸⁹ Since the resumption of demonstrations in February 2021, numerous violations of freedom of assembly have been reported.⁹⁰ In June, Special Procedures expressed their concerns as to “massive arbitrary arrests of peaceful demonstrators, bans on demonstrations and excessive use of force”.⁹¹

Recommendations:

- Revise the Law on Public Gatherings and other relevant domestic legislation to ensure that provisions governing the right to freedom of peaceful assembly are in line with international standards;
- Enable peaceful assemblies in practice and cease all excessive use of force against peaceful demonstrators;
- Revoke the 2001 blanket ban on demonstrations in Algiers.

3.4 Human rights and counterterrorism

During its last UPR, Algeria supported recommendations to define terrorism in a clear manner and to combat such acts in the framework of respecting human rights

⁸⁴ Law No. 91-19 of 2 December 1991, available at: https://www.europarl.europa.eu/meetdocs/2009_2014/documents/dmag/dv/dmag20120125_09_/dmag20120125_09_fr.pdf (accessed 24 March 2022).

⁸⁵ “Concluding observations on the fourth periodic report of Algeria”, *op. cit.*, para. 45.

⁸⁶ Articles 97 of the Penal Code prohibits “unarmed gatherings” while article 98 provides that “any unarmed person shall be punished by imprisonment of two months to one year who, who is part of an armed or unarmed gathering and does not abandon it after the first summons. The imprisonment is from six months to three years if the unarmed person continued to be part of an armed of an armed gathering that has only dissipated in the face of the use of force.”

⁸⁷ Algérie Presse Service, *Organisation de marches: Le ministère de l'Intérieur rappelle l'impératif respect des procédures légales*, 9 May 2021, <https://www.aps.dz/algerie/121578-organisation-de-marches-le-ministere-de-l-interieur-rappelle-l-imperatif-respect-des-procedures-legales> (accessed 29 March 2022).

⁸⁸ Human Rights Watch, *Algeria: End Public Assembly Ban in Algiers*, 20 March 2011, <https://www.hrw.org/news/2011/03/20/algeria-end-public-assembly-ban-algiers-0> (accessed 29 March 2022).

⁸⁹ France 24, *Coronavirus : en Algérie, le « Hirak » suspend ses manifestations*, 18 March 2020, <https://www.france24.com/fr/20200318-coronavirus-en-alg%C3%A9rie-les-manifestants-du-hirak-contraints-de-suspendre-leur-mobilisation> (accessed 29 March 2022).

⁹⁰ OHCHR, Press briefing notes on Algeria, 11 May 2021, <https://www.ohchr.org/en/2021/05/press-briefing-notes-algeria?LangID=E&NewsID=27078> (accessed 29 March 2022).

⁹¹ OHCHR, Communication No. AL DZA 5/2021, 21 June 2021, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=26486> (accessed 29 March 2022).

norms.⁹² However, the authorities have not taken any measures to that end, and have broadened counterterrorism legislation and used it to crackdown on peaceful dissident.

In June 2021, the Penal Code was amended⁹³ so as to broaden the definition of terrorism⁹⁴ and establish a national list of terrorist persons and entities.⁹⁵ UN Special Procedures expressed their concern over the new definition and highlighted that such listing, conducted in the absence of a final judgement, contravenes the principle of presumption of innocence.⁹⁶ This reform was adopted shortly after the High Security Council labelled the *Rachad* movement and the Movement for the Self-Determination of the Kabylie region (MAK) as “terrorist organisations.”⁹⁷ The first listing was issued in February 2022.⁹⁸

In recent years, the authorities have increasingly resorted to terrorism charges to prosecute peaceful dissidents. In February 2021, 15 *Hirak* activists, including Kaddour Chouicha, Djamilia Loukil and Said Boudour, and members of the *Ligue Algérienne pour la Défense des Droits de l’Homme* were charged with “enrolment in a terrorist or subversive organisation active abroad or in Algeria”.⁹⁹ UN Special Procedures declared that such terrorism accusations appeared “to be directly related to their peaceful

⁹² Recommendations 129.69 (Hungary) and 129.70 (Lebanon).

⁹³ Ordinance No. 21-08 amending the Penal Code entered into force without prior parliamentary debate, due to the dissolution of the National People’s Assembly. The text is available at: www.joradp.dz/FTP/jo-francais/2021/F2021045.pdf (accessed 29 March 2022).

⁹⁴ Article 2 of Ordinance No. 21-08 amends 87 *bis* of the Penal Code, introducing two paragraphs to the list of acts qualified as terrorist. The additional paragraphs read as follow: “any act aimed at state security, national unity and the stability and normal functioning of institutions by any action aimed at [...] working or inciting, by whatever means, to gain access to power or to change the system of governance by non-constitutional means [para 14]; to undermine or incite, by any means whatsoever, the integrity of the national territory [para 15].”

⁹⁵ Article 3 of Ordinance No. 21-08 provides that “a national list of terrorist persons and entities who commit any of the acts provided for in Article 87 *bis* of this Code, who are classified as a ‘terrorist person’ or ‘terrorist entity’ by the Commission for the Classification of Terrorist Persons and Entities, hereinafter referred to as the ‘Commission’, shall be established. No person or entity shall be included in the list referred to in this article unless he or she is the subject of a preliminary investigation, criminal prosecution, or is found guilty by a judgment or ruling. For the purposes of this article, an entity is understood to be any association, body, group or organisation, whatever its form or name, whose purpose or activities fall within the scope of the provisions of Article 87 *bis* of this Code. The decision to include them on the national list shall be published in the Official Journal [...]. This publication is equivalent to notification of the persons concerned, who have the right to request their removal from the national list, to the Commission, thirty (30) days from the date of publication of the decision of inscription. The National Commission may remove any person or entity from the national list, ex officio or at the request of the person or entity concerned, when the reasons for its inclusion are no longer justified.”

⁹⁶ *Special Procedures communication OL DZA 12/2021*, 27 December 2021, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=26905> (accessed 29 March 2022).

⁹⁷ Iddir Nadir, *Haut Conseil de Sécurité : Le MAK et Rachad classés « organisations terroristes »*, 19 May 2021, <https://www.elwatan.com/a-la-une/haut-conseil-de-securite-le-mak-et-rachad-classes-organisations-terroristes-19-05-2021> (accessed 29 March 2022).

⁹⁸ Official Journal of the Algerian Republic No. 11, published on 22 February 2022, available at: <https://www.joradp.dz/FTP/JO-FRANCAIS/2022/F2022011.pdf> (accessed 29 March 2022).

⁹⁹ Frontline Defenders, *Joint statement – Algeria: Terrorism charges brought against human rights defenders in Oran constitute a dangerous escalation*, 7 May 2021, <https://www.frontlinedefenders.org/en/statement-report/joint-statement-algeria-terrorism-charges-brought-against-human-rights-defenders> (accessed 29 March 2022).

commitment to human rights in Algeria, and in particular their exercise of their rights to peaceful assembly and expression.”¹⁰⁰

Finally, Algerian law does not provide adequate procedural safeguards for persons accused of terrorism. Article 51 *bis* of the Code of Criminal Procedure allows for the 48-hour police custody to be extended up to five times, while access to legal counsel is only granted halfway through that period.¹⁰¹

Recommendations:

- Repeal or amend article 87 of the Penal Code with a concise definition of terrorist acts;
- Limit the period of initial police custody to a maximum of 48 hours, including in terrorism-related cases;
- End the use of terrorism accusations to crackdown on peaceful dissent.

¹⁰⁰ *Special Procedures communication AL DZA 4/2021, 17 June 2021, a*<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?qlId=26463> (accessed 29 March 2022).

¹⁰¹ Article 51 *bis* of the Code of Criminal Procedure states that “if, for investigative purposes, the judicial police officer is required to keep one or more of the persons referred to in article 50 in custody, he or she shall immediately inform the public prosecutor and submit a report on the reasons for the custody. Custody may not exceed 48 hours. [...] Custody may be extended with the written authorisation of the competent public prosecutor: five (5) times, in the case of crimes classified as terrorist or subversive acts.”