

Status of Human Rights in Algeria for the 41st Session of the Universal Periodic Review

Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organisation dedicated to promoting human rights around the world. The ECLJ holds Special Consultative status before the United Nations Economic and Social Council. This report discusses the status of human rights in the People’s Democratic Republic of Algeria (Algeria) for the 41st Session of the Universal Periodic Review (UPR).

Background

2. Located in northern Africa along the Mediterranean Sea, Algeria has an estimated population of 43.5 million people¹. It is predominately Muslim, with approximately 99% of the population identifying as Muslim and less than 1% identifying as either Christian or Jewish². In its 2022 World Watch List, Open Doors listed Algeria as the 22nd worst place for Christians to live due to severe “Islamic oppression”³. According to Open Doors, Christians are at risk for “harassment, beatings, threats and imprisonment, as well as pressure to adhere to Islamic customs”⁴.

3. Algeria’s previous review was held on 8 May 2017⁵. As a result of the review, Algeria received 230 recommendations, 194 of which Algeria supported⁶. One of the recommendations Algeria supported was that the government “[e]nsure that international norms on freedom of religion and belief and cult are fully respected, including the rights of religious minorities”⁷.

Legal Framework

4. In January 2021, Algerian President, Abdelmadjid Tebboune, signed into law a new Constitution. This new Constitution has been criticized as merely a surface level revision meant to appease progressives without actually implementing meaningful change⁸. Article 2 of the new Constitution states that “Islam shall be the religion of the State”⁹. And yet, Article 51 of the new Constitution enshrines protections for worship and freedom of conscience:

Article 51

Freedom of conscience and freedom of opinion shall be inviolable.

Freedom of worship shall be guaranteed and exercised without discrimination in compliance with the law.

The State shall impartially guarantee the protection of places of worship¹⁰.

However, despite these protections for worship enshrined within the Constitution, Algeria undermines these protections in their laws and practices.

5. In 2006, the government adopted Ordinance 06-03, which regulates places of worship for non-Muslim churches¹¹. Over the past several years, the government has used this law to shutdown numerous churches across the county proving that the new Constitution does *not* in fact provide for freedom of worship as it states in Article 51¹². Article 1 of Ordinance 06-03 states that, “its objective [is] to fix the conditions and rules of exercise of religious worship other than [Islam]”¹³. Furthermore, under Article 2:

Article 2

The Algerian state, of which the religion is Islam, guarantees the free exercise of religious worship in the framework of respect of the dispositions of the Constitution, of the present ruling, of the laws and regulations in force, of the public order, of good moral standards and of the fundamental rights and liberties of third parties.

The State equally guarantees the toleration and respect of different religions¹⁴.

6. Again, despite claiming to guarantee respect of different religions, further provisions in this law give the government the authority to restrict the religious practices of minority religions. Under Article 5 of Ordinance 06-03:

Article 5

Modification of a structure for the exercise of religious worship is subject to prior approval of the national commission of the exercise of religious worship provided under article 9 of the present ruling.

Any activity is forbidden in premises intended for the exercise of religious worship, which would be contrary to the nature and objectives for which (the premises) are intended.

Structures intended for the exercise of religious worship are subject to being registered by the State, who assures their protection¹⁵.

7. Article 11 of Ordinance 06-03 essentially creates a ban on proselytization as well as prohibits the distribution of any Christian literature because these actions can incite or “shake the faith of a Muslim”, stating:

Article 11

Without prejudice of more serious penalties, the punishment is imprisonment from two (2) years to five (5) years and a fine from 500.000 DA to 1.000.000 DA for whomever:

1. incites, constrains or utilizes means of seduction tending to convert a Muslim to another religion, or by using to this end establishments for teaching, for education, for health, of a social or cultural nature, or training institutions, or any other establishment, or any financial means,

2. makes, stores, or distributes printed documents or audiovisual productions or by any other aid or means, which has as its goal to shake the faith of a Muslim¹⁶.

8. The Ordinance further calls for the creation of a national commission to monitor religious affairs within the country and grant approval for the formation of religious associations. Under Article 9:

Article 9

A national commission of religious worship is created by the minister charged with religious affairs and of wakfs. The commission is charged in particular with:

- watching over the respect of the free exercise of religious worship;
- taking in charge the affairs and concerns related to the exercise of religious worship;
- giving prior approval for the formation of associations of a religious character.

The composition of this commission and the terms of its functioning are set by statutory means¹⁷.

9. Article 144 bis 2: (Law No. 09-01 of June 6th 2001) prohibits blasphemy against Islam:

Article 144 bis 2:

Whoever insults Prophet Mohammed (Peace Be Upon Him) or the rest of the prophets, or ridiculed the basics of the religion or any of the Islamic rituals either in writing, drawing, expression or any other method.

The General Prosecution shall initiate the litigation procedures spontaneously¹⁸.

10. In 2012, the government adopted Law 12-06 which provided the government with even greater control over religious groups and required already recognised religious associations to re-register with the government. Furthermore, it introduced new limitations by denying religious associations legal status if they acted contrary to “national constants and values, public order, good morals and the provisions of the laws in force”¹⁹. Given that the Constitution establishes Islam as the official religion, and Ordinance 06-03 prohibits converting Muslims to another religion, Law 12-06 effectively gave the government the authority to deny non-Muslim religious associations legal status on the basis that they teach a religion contrary to Islam. Furthermore, Article 46 of Law 12-06 provides punishment for religious associations operating without obtaining legal recognition:

Any member or leader of an association, not yet registered or approved, suspended or dissolved, who continues to activate in his name is liable to a sentence of 3 (03) to six (6) months of imprisonment and a fine of one hundred thousand dinars (100,000 DA) to three hundred thousand dinars (300,000 DA)²⁰.

11. Algeria is a party to the International Covenant on Civil and Political Rights (ICCPR) and is therefore bound to uphold the principles established within the ICCPR. Article 18 of the ICCPR states:

Article 18

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice²¹.

12. Algeria is also a party to the Universal Declaration of Human Rights (UDHR), which protects religious freedom with language identical to that found in Article 18 of the ICCPR.

Religious Persecution

13. The ECLJ is very concerned about Algeria's lack of commitment to protect the freedom of religion, despite its international and domestic commitments to do so. Apparently, Algeria does not feel compelled to honour the ICCPR, UDHR, or its own law that states that, "[t]he State equally guarantees the toleration and respect of different religions". Not only does the new Constitution specifically leave out a protection from religious discrimination, but Ordinance 6-03, Penal Code Article 144, and Law 12-06 actually promote discrimination by punishing any minority religion that dares to proselytise, or insult Islam, as well as targeting and shutting down their churches. These laws directly impact the ability of non-Muslim citizens to freely practice their religion. For example, those Christians who simply profess and share their belief in Jesus Christ as the Son of God and their Saviour can be construed under the current law as having blasphemed. Even more so, criminalising the act of proselytization explicitly prohibits Christians from practicing their faith as the act of simply spreading the message of Jesus Christ to Muslims can be viewed as "shaking the faith of a Muslim".

14. On 21 April 2021, an Algerian scholar was sentenced to three years in prison and a fine of 50,000 dinars for "offending Islam" under Article 144 bis 2 of the Algerian Penal Code²². His crime was that he asserted that certain Muslim practices were of pagan origin because they originated prior to Islam and that the Quran and the Hadiths lack scientific accuracy.

15. In March of 2021, an Algerian court convicted and sentenced in *absentia* a pastor and another Christian to two years in prison and a fine of 500,000 Algerian dinars (US \$3,745) for "shaking the faith of a Muslim"²³. According to the judgment, the pastor was sentenced for "distributing publications or any propaganda undermining the faith of a Muslim"²⁴. Both Christians appealed their conviction²⁵. As a result of the appeal, on 2 June 2021, a judge revised the sentence to one year in prison and reduced the fine to 200,000 dinars (US \$1,494)²⁶.

16. Unfortunately, this was not the first time the government brought charges against the pastor. In fact, he was first convicted of similar charges back in 2008, but was later acquitted on appeal²⁷. Then in 2017, the governor of Oran ordered that the pastor's bookstore be closed, but a court ruled in 2018 that the order was not valid²⁸. Despite the court overturning the order, the governor continued to keep the store closed²⁹.

17. The Algerian government continues to crack down on Christian churches and have closed at least 19 churches since 2018³⁰. According to a local Christian whose church was shut down by the government, authorities "refuse to grant permission for churches to operate, and then they close them down because they don't have official permission"³¹. Much of this stems from Ordinance 06-03 which requires the government to grant permission for sites to be used as places of worship³². However, according to the Protestant Church of Algeria, the government "rarely approve[s] their applications, putting their churches at constant risk of closure"³³. According to the Chief Executive for Christian Solidarity Worldwide (CSW):

The 2006 law is being used as a pretext to clamp down on churches in Algeria despite the fact that the Commission it created is yet to meet to consider the requests it has already received. This is manifestly unjust. If the Commission is unable or unwilling to fulfil this essential part of its mandate, then the government should either reconstitute it entirely, or the law itself should be repealed in order to ensure the right to freedom of religion or belief for religious minorities in the country³⁴.

18. It is troubling that the government denies that Christians are facing persecution³⁵. In 2018, the religious affairs minister, Mohamed Aissa, stated that the reason for these closures were because of their "nonconformity with the laws"³⁶. However, as we have noted in this report, the "laws" are extremely problematic because they allow the government to discriminate against Christians and deny registration on vague criteria. If a church speaks out against Islam by declaring that Christianity is the one true religion and salvation can only be found through belief in Jesus Christ, not the Prophet Mohammad, they could be accused of blasphemy. Under the law this is considered a crime and therefore the church could be subject to getting shut down because they are no longer in "conformity with the laws".

19. On 16 October 2019, police shut down one of the largest Protestant churches -- which was home to approximately 700 Christians³⁷. The following day, authorities proceeded to shut down two more churches³⁸. According to the pastor of one of the churches, police stormed in during the middle of a church service forcing everyone to leave and even beating the pastor and other church members³⁹.

20. Within Algeria, the majority of Christians are Muslim converts⁴⁰. As a result, they face persecution not only from the government in the form of anti-blasphemy and anti-proselytization laws but from their family and friends⁴¹. When individuals convert from Islam to Christianity, they are often ostracized from their family and friends and face harassment from the wider community⁴².

21. For example, in April of 2019, an Algerian court upheld the acquittal of five Christians who were charged with inciting a Muslim to change their religion after one of the individual's wife, who was Muslim, became upset that they were singing Christian songs⁴³. She proceeded to

tell her relatives about the singing and they convinced her to file a complaint with the authorities⁴⁴. In the complaint, she accused her husband and four other individuals of “having brought her to a church service and trying to persuade her to leave Islam and become a Christian”⁴⁵. This case further highlights the problem with anti-proselytization laws and the division it can cause between members of the same family who practice different religions.

22. While some of those charged in these cases have eventually been acquitted, the targeted harassment of Christians within Algeria through these laws is problematic. The fact that these cases are even being brought to court in the first place is a form of religious persecution. These cases take time, resources, and money and are used to discourage Christians from living out their faith publicly.

Conclusion

23. It is critical that Algeria reform its laws and Constitution to ensure that it is upholding the standards of religious freedom to which it agreed in becoming a party to international treaties such as the ICCPR and the UDHR. Algeria must take immediate steps to remove the crimes of proselytization and blasphemy from its penal code and not only institute language within its Constitution guaranteeing protection for all citizens regardless of their religion, but take action in compliance with those guarantees. Furthermore, the government must stop its targeted attack against Christian associations and allow them to openly and freely operate so that every Algerian citizen is able to exercise freedom of religion and belief.

¹ *Algeria*, WORLD FACTBOOK (27 Sep. 2021), <https://www.cia.gov/the-world-factbook/countries/algeria/>.

² *Id.*

³ *Algeria*, Open Doors, <https://www.opendoorsusa.org/christian-persecution/world-watch-list/algeria/>.

⁴ *Id.*

⁵ *Universal Periodic Review Third Cycle – Algeria*, UNHRC, <https://www.ohchr.org/EN/HRBodies/UPR/Pages/DZIndex.aspx>.

⁶ *Id.*

⁷ UPR of Algeria Thematic List of Recommendations A/HRC/36/13/Add. 1 -Para. 7, <https://lib.ohchr.org/HRBodies/UPR/Documents/Session27/DZ/MatriceRecommendationsAlgeria.docx>.

⁸ Francisco Serrano, *Election Theater is Alive and Well in Algeria, Too*, FOREIGN POLICY (3 Nov. 2020), <https://foreignpolicy.com/2020/11/03/algeria-referendum-constitutional-change-democracy-protest/>.

⁹ Constitution of Algeria art. 2, https://www.constituteproject.org/constitution/Algeria_2020?lang=en.

¹⁰ *Id.* art 50.

¹¹ *General Briefing Algeria*, CSW (1 May 2020), <https://www.csw.org.uk/2020/05/01/report/4641/article.htm>.

¹² *Id.*

¹³ *Algeria: Text of Presidential Order Concerning Religion* art. 1, WORLD EVANGELICAL ALLIANCE (3 Apr. 2006), <https://worldea.org/news/algeria-text-of-presidential-order-concerning-religion/>.

¹⁴ *Id.* at art. 2.

¹⁵ *Id.* at art. 5.

¹⁶ *Id.* at art 13.

¹⁷ *Id.* at art. 9

¹⁸ Law No. 09-01 of June 26th 2001, art. 144 bis 2, https://www.icnl.org/wp-content/uploads/Algeria_crimenselection.pdf.

¹⁹ *Algeria*, ICNL (26 Aug. 2021), <https://www.icnl.org/resources/civic-freedom-monitor/algeria>.

²⁰ Law 12-06 art. 46, https://www.icnl.org/wp-content/uploads/F2012002.pdf?_ga=2.41666658.1163546916.1633531754-1494918708.1633370563.

²¹ International Covenant on Civil and Political Rights, Dec. 16, 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1976), 999 U.N.T.S. 171, art. 18.

²² *Freedom of Expression in Algeria: The Case of Islamologist Said Djabelkhir*, ECLJ, <https://eclj.org/religious-freedom/osce/liberte-dexpression-en-algerie--laffaire-de-lislamologue-said-djabelkhir-?lng=en>.

²³ *Two Christians Sentenced to Prison and Heavy Fine in Algeria*, MORNING STAR NEWS (4 Mar. 2021), <https://morningstarnews.org/2021/03/two-christians-sentenced-to-prison-and-heavy-fine-in-algeria/>.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Pastor in Algeria Receives Suspended Sentence and Fine*, MORNING STAR NEWS (6 Jun. 2021), <https://morningstarnews.org/2021/06/pastor-in-algeria-receives-suspended-sentence-and-fine/>.

²⁷ *Two Christians Sentenced to Prison and Heavy Fine in Algeria*, *supra* note 23.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Church Closures Continue in Algeria; Here's Why It Matters*, MISSION NETWORK NEWS (28 Jan. 2020), <https://www.mnnonline.org/news/church-closures-continue-in-algeria-heres-why-it-matters/>.

³¹ *Big Church Growth in Algeria Despite Adversity*, SAT-7 (13 Dec. 2018), <https://sat7.org/big-church-growth-in-algeria-despite-adversity/>.

³² *Algeria: Crackdown on Protestant Faith*, HUMAN RIGHTS WATCH (24 Oct. 2019), <https://www.hrw.org/news/2019/10/24/algeria-crackdown-protestant-faith>.

³³ *Id.*

³⁴ *Church in Oran Closed Down by Authorities*, CSW (24 Jan. 2020), <https://www.csw.org.uk/2020/01/24/press/4538/article.htm>.

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Algeria Intensifies Persecution of Churches – Pastor, Church Members Beaten*, OPEN DOORS (18 Oct. 2019), <https://www.opendoorsusa.org/christian-persecution/stories/algeria-intensifies-persecution-of-churches-pastor-church-members-beaten/>.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Algeria*, Open Doors, *supra* note 3.

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Acquittals Upheld for Christian Converts in Algeria Who Lost Their Wives*, EVANGELICAL FOCUS (6 May 2019), <https://evangelicalfocus.com/world/4427/acquittals-upheld-for-christian-converts-in-algeria-who-lost-their-wives>.

⁴⁴ *Id.*

⁴⁵ *Id.*