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RELIGIOUS FREEDOM IN ALGERIA

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RELIGIOUS FREEDOM IN ALGERIA

SECTION 1: LEGAL FRAMEWORK

Introduction

1. The People's Democratic Republic of Algeria (Algeria) became an independent nation in 1962.¹ Algeria's legal system combines French civil law with Islamic law.² An *ad hoc* constitutional council possesses the power of judicial review of all legislative acts.³

ICCPR

2. Algeria ratified the International Covenant on Civil and Political Rights (ICCPR) in 1989, and it recognizes the competence of the Human Rights Committee under Article 41.⁴ Thus, Algeria has committed to uphold Articles 18⁵ and 27,⁶ which obligate Algeria to protect religious freedom. Algeria has failed to fulfill its obligations under Articles 18 and 27, because government often abrogates minority religious groups' religious freedom, as explained herein. Additionally, by restricting Algerians' ability to freely obtain religious information, Algeria has also failed to fulfill its obligations under Article 19 of the ICCPR.

3. Algeria "frequently failed to grant official recognition" to minority religious groups expeditiously.⁷ For example, although the Ministry of Interior recently granted official recognition to the Eglise Protestante d'Algerie (EPA) church, it took 35 years to obtain that recognition.⁸ The Ministry of Interior also has the power to dissolve religious groups that are deemed a threat to governmental authority or public order.⁹ For example, in May 2011, the governor of Bejaia closed 7 unregistered churches under its anti-proselytism law.¹⁰ Government officials also use blasphemy laws against Christians, and "punish theological dissent or non-observance among Muslims."¹¹ As explained in more detail herein, Algeria's anti-proselytism and blasphemy laws have prohibited public expression concerning non-Islamic religions.

¹ U.S. CENTRAL INTELLIGENCE AGENCY, *The World Factbook – Algeria* (Introduction/Background), <https://www.cia.gov/library/publications/the-world-factbook/geos/ag.html> (last visited 7 Nov. 2011).

² *Id.* (Government).

³ *Id.* (Government).

⁴ *Status of Treaties, Ch. IV Human Rights, 4. ICCPR Status*, UNITED NATIONS TREATY COLLECTION, (22 Nov. 2011 19:02 p.m.), http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en.

⁵ International Covenant on Civil and Political Rights art. 18, 16 Dec. 1966, 999 U.N.T.S. 171 [hereinafter ICCPR], available at <http://www2.ohchr.org/english/law/ccpr.htm>.

⁶ Article 27 addresses religious minority populations, stating, "In those [s]tates in which . . . religious . . . minorities exist, persons belonging to such minorities shall not be denied the right . . . to profess and practise their own religion." *Id.* art. 27.

⁷ U.S. DEP'T OF STATE, *2010 Human Rights Practices: Algeria*, § 2(b), at 18 (8 Apr. 2011) [hereinafter *2010 Human Rights Practices: Algeria*], <http://www.state.gov/documents/organization/160446.pdf>.

⁸ OPENS DOORS UK, *Briefing Paper on Religious Liberties in Algeria 1* (2011) [hereinafter *Open Doors Briefing Paper 2011*], http://www.opendoorsuk.org/campaign/documents/Algeria_Religious_Liberty.pdf.

⁹ *2010 Human Rights Practices: Algeria*, *supra* note 7.

¹⁰ *Open Doors Briefing Paper 2011*, *supra* note 8, at 2.

¹¹ *Id.* at 1.

Population

4. Sunni Muslims compose more than 99 percent of the estimated 34.8 million people in Algeria. Christians compose a majority of the remaining 1 percent. There are varying estimates of the number of Christians and Jewish citizens in Algeria, between between 12,000 and 50,000 people.¹² These non-Islamic religious minorities are subject to institutional and societal discrimination.¹³

Constitutional Provisions

5. While the Algerian constitution provides that the “[f]reedom of *creed* and opinion is inviolable”¹⁴ and the “[f]reedom of expression, association and meeting are guaranteed to the citizen[s],”¹⁵ it firmly entrenches Islam as the state religion.¹⁶ Algeria’s president must be a Muslim, among other qualifications,¹⁷ and any institutional conduct that is adverse to Islam is prohibited.¹⁸

Anti-proselytism Laws

6. In 2006, President Abdelaziz Bouteflika issued Ordinance 06-03, which regulates non-Muslim religious worship.¹⁹ The ordinance permits non-Muslims to practice religious rights, but such practice must not violate public order, morality, and the rights of others.²⁰ However, Ordinance 06-03 forbids attempting to proselytize Muslims, or even to “‘shake the faith of a Muslim.’”²¹ As demonstrated in Section 2 herein, Algerian authorities have used these laws to harass and persecute minority religious groups.

7. Under Ordinance 06-03, printing, storing, or distributing materials for converting Muslims carries heavy penalties: up to five years in jail and up to one million Algerian dinars.²² As such, Christians do not carry religious materials with them out of fear.²³ Likewise, proselytism carries heavy punishments: lay persons can receive one to three years in jail and fines up to 500,000 dinars; religious leaders can receive three to five years in prison and may be fined up to one million dinars.²⁴ Further, conduct that incites, constrains, or seduces with a tendency to convert a Muslim, or using “education, health, social, culture, training . . . or any

¹² U.S. DEP’T OF STATE, *July-December, 2010 International Religious Freedom Report—Algeria*, § I, at 2 (13 Sept. 2011) [hereinafter *July-December, 2010 Int’l Religious Freedom Report*], <http://www.state.gov/documents/organization/171731.pdf>.

¹³ See *infra* Section 2.

¹⁴ CONSTITUTION 1989 as amended by 1996 rev., art. 36 (Alg.) (English translation) (emphasis added), *available at* http://confinder.richmond.edu/admin/docs/local_algeria.pdf.

¹⁵ *Id.* art. 41.

¹⁶ *Id.* art. 2.

¹⁷ *Id.* art. 73.

¹⁸ *Id.* art. 9.

¹⁹ *Open Doors Briefing Paper 2011*, *supra* note 8, at 1.

²⁰ *July -December, 2010 Int’l Religious Freedom Report*, *supra* note 12, § II, at 3.

²¹ *Open Doors Briefing Paper 2011*, *supra* note 8, at 1.

²² *Id.*; see also *July -December, 2010 Int’l Religious Freedom Report*, *supra* note 12, § II, at 7.

²³ *Open Doors Briefing Paper 2011*, *supra* note 8, at 1.

²⁴ *July -December, 2010 Int’l Religious Freedom Report*, *supra* note 12, § II, at 7.

financial means” to convert a Muslim is punishable by five years in jail and fines up to 500,000 dinars.²⁵

8. Although government officials stated that the ordinance does not impose any extraordinary burdens on non-Muslims that are not faced by Muslims as well,²⁶ no reciprocal legislation banning Muslim proselytism of non-Muslims exists.²⁷

Registration for Religious Organizations

9. In addition to prohibiting proselytism, the Ordinance 06-03 requires religious groups to register with the government;²⁸ any group that engages in religious activity without being registered violates the law and may be penalized.²⁹ Any structure used for worship must be registered, and any modification to a registered structure must be approved.³⁰ Ordinance 06-03, together with other penal code provisions, allows the government to shut down any unapproved religious service, even in private homes.³¹ Ordinance 06-03 is “mainly applied to non-Muslims.”³²

10. Executive Decree 07-135 specifies in greater detail the requirements for observing non-Muslim religious events.³³ The wali’s (governor’s) approval is required at least five days prior to an event, and the event must take place in a public building.³⁴ The governor may also move an event or deny an application outright if he determines that the event is a danger to public order.³⁵

11. Government began enforcing Ordinance 06-03 in 2008, and the government did not register any new churches during the 2010 reporting period.³⁶ Generally, all requests to register non-Muslim associations since 2008 were “deferred,” with no action taken by the end of 2010.³⁷ During that time, only one application for registration by the Jewish community was approved.³⁸ Twenty-five Jewish synagogues were “permitted” to re-open, but this was never implemented; none were in use by the end of 2010.³⁹ Christian leaders reported difficulties in registering due either to government officials’ ignorance of the process or officials’ plain refusal, even if they had knowledge of an administrative procedure.⁴⁰ Many church representatives and human rights

²⁵ *Id.*

²⁶ *Id.* at 1.

²⁷ HUMAN RIGHTS WATCH, *January 2011 Country Summary: Algeria* 3 (Jan. 2011), http://www.hrw.org/sites/default/files/related_material/algeria_3.pdf.

²⁸ *July-December, 2010 Int’l Religious Freedom Report*, *supra* note 12 § II, at 3–4.

²⁹ *Id.* at 5.

³⁰ *Id.*

³¹ *Id.* at 4.

³² *Id.*

³³ *Id.* at 5.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.* at 6.

³⁷ *Id.* at 1.

³⁸ *Id.* § II, at 6.

³⁹ *Id.*

⁴⁰ *Id.* at 8–9.

activists reported that the government did not implement adequate means to process and approve registration requests.⁴¹

Blasphemy Laws

12. The Algerian penal code criminalizes insults against Islam or Muhammad.⁴² Article 144 provides that anyone who “insult[s] the prophet and any of the messengers of God, or denigrat[es] the creed and precepts of Islam, whether by writing, drawing, declaration, or any other means” may be imprisoned for up to five years and fined 50,000 to 100,000 dinars.⁴³ Because the language of the statute is not precise, it is “open to interpretation and manipulation by police and judicial officials.”⁴⁴ For example, in September 2010, ten Algerian citizens were arrested for eating in public during Ramadan, which was deemed to “violate the sanctity of Ramadan.”⁴⁵ One human rights advocate asserted that there is no law that specifically prohibits eating during Ramadan and that the prosecutor improperly used blasphemy law to arrest the citizens.⁴⁶ Freedom House reported in 2010 that “a number of people have been arrested [under Algeria’s blasphemy laws] for not fasting during Ramadan”⁴⁷

SECTION 2: SPECIFIC INSTANCES OF RELIGIOUS PERSECUTION

13. The Open Doors World Watch List 2011 (covering Nov. 2009 through 31 Oct. 2010) ranked countries based on religious intolerance.⁴⁸ Algeria ranked no. 22 out of 50 countries, increasing from no. 25 in the 2010 reporting period.⁴⁹ Although Algerian government officials assert a record of religious tolerance, the government has been cracking down on Christians out of its concern that the number of Christians is growing.⁵⁰ For example, in 2010, churches were attacked by mobs and accused of illegal activity under Ordinance 06-03, the anti-proselytism law.⁵¹ Moreover, Algerian officials have “made public remarks that equate Christian evangelism with terrorism—fueled by the Arabic press campaign—that the Islamic identity of Algeria is under threat.”⁵²

⁴¹ *Id.* at 6.

⁴² FREEDOM HOUSE, *Policing Belief: The Impact of Blasphemy Laws on Human Rights* 13 (Oct. 2010) [hereinafter *Policing Brief: Algeria*], available at http://freedomhouse.org/uploads/special_report/95.pdf.

⁴³ *Id.* at 15 (quoting ALG. PENAL CODE, art. 144 bis 2 (1979) (as amended by Law No. 01-09 June 26, 2001)).

⁴⁴ *Id.*

⁴⁵ See David E. Miller, *Algerian men put to justice for breaking the Ramadan fast*, THE JERUSALEM POST (7 Sept. 2010), <http://www.jpost.com/MiddleEast/Article.aspx?id=187460>.

⁴⁶ *Id.*

⁴⁷ *Policing Brief: Algeria*, *supra* note 42, at 17 (citing incidents of arrest in 2008 and 2009 under insult and blasphemy laws).

⁴⁸ OPEN DOORS, *The Open Doors World Watch List, 2011* 1 (2011) [hereinafter *Open Doors World Watch List, 2011*], <http://www.opendoorsuk.org/resources/documents/WorldWatchList.pdf>.

⁴⁹ *Id.* at 7.

⁵⁰ *Id.*; see also *Rising Restrictions on Religion*, THE PEW FORUM ON RELIGION & PUBLIC LIFE (9 Aug. 2011), <http://pewforum.org/Government/Rising-Restrictions-on-Religion%282%29.aspx>.

⁵¹ *Open Doors World Watch List, 2011*, *supra* note 48, at 7-8.

⁵² Michael Donovan, *Why Algeria Has Begun Clamping Down on Christians*, CROSSWALK.COM (29 May 2008), <http://www.crosswalk.com/news/religion-today/why-algeria-has-begun-clamping-down-on-christians-11576403.html>.

14. As recently as 25 May 2011, Siaghi Krimo was sentenced to five years in prison for insulting Islam under Article 144 of the penal code. Krimo's neighbor filed a complaint after Krimo gave him a Christian CD. The judge issued the maximum sentence in spite of the prosecutor's recommendation for the minimum two-year sentence. The defense lawyer asserted that there was no "material proof" supporting the accusations against Krimo. An appeal is pending.⁵³

15. In May 2011, Police Chief Ben Salma issued a notice stating that *all* churches throughout the country would be closed for non-compliance with Ordinance 06-03, which requires all religious groups to register. Protestant Church of Algeria (EPA) members argued that the notice was implemented to harass churches and that government officials refused to register churches in spite of their efforts to comply.⁵⁴ Although many unregistered churches continued to meet without government interference, this decree evidences the hostility that non-Muslim religious groups endure under Ordinance 06-03's looming enforcement.

16. On 12 December 2010, four Christians were issued suspended prison sentences for worshipping without a permit. Three of the men were given two-month suspended prison sentences, while the pastor, Mahmoud Yahou, was given a three-month suspended sentence and fined 10,000 dinars; he had also been convicted of hosting a foreigner without permission.⁵⁵ The Christians are appealing their sentences. If their convictions are overturned, it could assist all Protestant churches that currently have been refused official permission to operate through governmental inaction or otherwise.⁵⁶

17. In August 2010, two Christian men were arrested for eating lunch on a private construction site during Ramadan. After police confronted them and realized they were non-Muslims, police officers arrested the men instead for "insulting Islam," and interrogated them for two hours. Although later acquitted, a prosecutor initially told the men that, "Algeria [is] a Muslim country with no room for Christians," and that they should leave the country.⁵⁷

18. In January 2010, a group of Muslims ransacked a Christian church in Tizi-Ouzou. The attackers burned Bibles and hymn books, and desecrated religious symbols. Commenting to media on the attack, a government official declared that "[Protestant] groups must respect the law" and "[t]hey should not pray underground," meaning, without governmental permission.⁵⁸ The official further asserted that "[t]he general trend is that Christianity is no longer attractive in

⁵³ *Algerian Christian Sentenced Beyond Prosecutor's Request*, COMPASS DIRECT NEWS (30 May 2011), http://www.compassdirect.org/english/country/13314/article_113189.html.

⁵⁴ *Provincial Official in Algeria Orders Churches to Close*, COMPASS DIRECT NEWS (25 May 2011), http://www.compassdirect.org/english/country/13314/article_113076.html.

⁵⁵ *Algerian Christians to Appeal Conviction for Worshipping*, COMPASS DIRECT NEWS (15 Dec. 2010), <http://www.compassdirect.org/english/country/13314/29723>.

⁵⁶ *Id.*

⁵⁷ *Algerian Christians Acquitted of Eating during Ramadan*, COMPASS DIRECT NEWS (5 Oct. 2010), <http://www.compassdirect.org/english/country/13314/26590>.

⁵⁸ Lamine Chikhi, *Protestant church in Algeria ransacked*, REUTERS, 13 Jan. 2010, available at <http://in.reuters.com/article/2010/01/12/idINIndia-45342520100112>.

Algeria.”⁵⁹ Prior to the incident, a half-dozen complaints were filed with the police seeking protection, but they were ignored.⁶⁰ The “authorities failed to investigate.”⁶¹

19. In October 2008, Youssef Ourahmane, Rachid Seghir (or, Rachid Essaghir), and another convert to Christianity were acquitted of blasphemy charges.⁶² Seghir had previously been charged with distributing religious documents to shake the faith of Muslims on two other occasions by two different courts. In July 2008, a court in Tissemsilt gave Seghir a six-month suspended prison sentence and fined 100,000 dinars for “distributing documents to shake the faith of Muslims.”⁶³ In June 2008, Seghir was convicted of the same offense in a separate trial in Tiaret; he received a six-month suspended prison sentence and a fine of 200,000 Algerian dinars.⁶⁴

20. In March 2008, police charged Habiba Kouider, a Muslim convert to Christianity, with “practicing a non-Muslim religion without a permit.” Police stopped and questioned Kouider as she was traveling by bus and found Bibles and other religious materials in her possession. Authorities postponed Kouider’s trial indefinitely.⁶⁵

⁵⁹ *Id.*

⁶⁰ *Algerian Church Continues in Spite of Burnt Building*, COMPASS DIRECT NEWS (21 Jan. 2010), <http://www.compassdirect.org/english/country/13314/14286>.

⁶¹ *Amnesty International Annual Report 2011: Algeria*, AMNESTY INT’L (13 May 2011), <http://www.unhcr.org/refworld/docid/4dce15842.html>.

⁶² *Algerian Christians charged with ‘illegal’ Christian activities*, OPEN DOORS, http://www.opendoorsuk.org/campaign/algeria_individuals.php (last visited 7 Oct. 2011).

⁶³ *Id.*; see also *July-December, 2010 Int’l Religious Freedom Report*, *supra* note 12, § II, at 10-11.

⁶⁴ *Id.*

⁶⁵ *July-December, 2010 Int’l Religious Freedom Report*, *supra* note 12, § II, at 10.