

Algeria UPR Submission October 2016

Algerian authorities increasingly resorted to criminal prosecutions against bloggers, journalists and media figures for peaceful speech, using articles in the penal code criminalizing “offending the president,” “insulting state officials” or “denigrating Islam.” They have also prosecuted labor activists who organized or called for peaceful demonstrations on charges such as “unauthorized gathering.”

Parliament adopted amendments to the Constitution in February 2016 that include a recognition of academic freedom and press freedom without prior censorship or prison as a punishment for press offenses. However, the constitution conditions the exercise of these and other rights to national laws that restrict them significantly.

Freedom of Assembly

Algeria’s 2016 Constitution states that “the right to peaceful assembly is guaranteed within the framework of the law, which sets forth how it is to be exercised” (article 49).

In practice and relying on a range of laws, Algerian authorities routinely violate the right to freedom of assembly. The penal code punishes organizing or participating in an unauthorized demonstration in a public space with up to one year in prison (article 98).

Algeria’s 89-28 Law Governing Public Meetings and Demonstrations, enacted in 1989 during a period of political and legal liberalization, was amended by parliament in 1991, when the country was experiencing massive protests and occasionally violent clashes between anti-government demonstrators and the security forces. The 1991 law significantly reduced the right to assemble and to hold meetings. Under the law, a group planning a public gathering must seek authorization from the governor three days in advance. The law prohibits “any assembly or demonstration to oppose ‘fundamental principles’ [constantes nationales],” or “to cause any harm to the symbols of the revolution of November 1st [the date of the start of Algeria’s war of independence against French colonial rule], the public order or public morals.”

Organizers may appeal a denial of permission for an assembly to an administrative court.

Authorities in Algiers, the capital, banned public demonstrations indefinitely in 2001, when the country was under a state of emergency. Authorities did not rescind the ban when they lifted the state of emergency in 2011.

The ban on demonstrations in Algiers is strictly enforced by the authorities. Police arrested dozens of members of the National Coordination of Contractual Teachers who called for a demonstration in Algiers on March 21 and 22, 2016, held them in detention in police stations for several hours, and then released them without charge.

Authorities have also restricted the right of assembly, even when indoor meetings take place in private places. On February 6, 2016, the National Union of Public Administration Staff (SNAPAP), organized a symposium on the socio-economic situation in Algeria at the House of the Unions, a private hall rented by the SNAPAP. Police encircled the place, prevented people from accessing it and arrested six union leaders who were then held in custody for several hours, before being released without charge.

Recommendations

- Repeal the 2001 Decree that prohibits assemblies and protests in Algiers;

- Promote the exercise of the right of peaceful assembly in public places, lifting the obstacles in law and in practice to peaceful gatherings.
- Ensure that those who are participating in peaceful demonstrations are protected from arbitrary arrests for the peaceful exercise of their right.
- Establish a system of simple notification for public demonstrations to replace the system of prior authorization currently provided for under Act No. 91-19 of 1991.
- Repeal the decision by the Head of Government in June 2001 prohibiting all demonstrations in Algiers, in accordance with the recommendations of the Special Rapporteur of the United Nations on the promotion and protection of the right to the freedom of opinion and expression following his visit to Algeria in 2011.

Freedom of Association and Unions

In 2012, the government enacted Law 12-06, which requires all associations—including those that had already successfully registered—to re-file registration applications and obtain a registration receipt from the Interior Ministry before they can operate legally, in a cumbersome procedure that is akin to a new registration.

To date, human rights organization such as The Algerian League for Human Rights (*Ligue Algérienne des Droits de l'Homme*, LADDH) and Youth Action Rally (*Rassemblement Action Jeunesse*, RAJ,) and the Algerian section of Amnesty International, which submitted compliance applications in January 2014 as provided for by Law 12-06, have still not obtained a receipt certifying their legal existence. The absence of a receipt for new or old associations exposes them to administrative and financial problems, as they are unable to open a bank account or rent an office in their own name, or hire a public hall for a meeting. Moreover, members of an association that is “non-accredited, suspended, or dissolved” risk prison sentences of up to six months for conducting activities in its name.

Algerian authorities continued to use administrative maneuvers designed to withhold legal status from independent unions. The lack of a registration receipt curtails the ability of the unions to function normally. For example without the receipt the union cannot collect membership fees, a major source of income, which allows it to rent an office and organize events. It cannot open a bank account or file cases in court. Several union activists faced retaliation for organizing or participating in strikes; some were suspended from their positions without compensation and never rehired. In 2016, the [ILO](#) issued recommendations to the Algerian authorities to put an end to the practices preventing the registration of autonomous unions and to reinstate all workers suspended or dismissed because of their trade union activities.

Article 2 of Law no. 90-14, says that workers and employers from the same professions, branches or sectors of activity have the right to form unions. Authorities have interpreted that provision as prohibiting the formation of confederations or federations that unite workers from different sectors.

Authorities used this argument to reject the request by the National Autonomous Union of Public Administration Staff (*Syndicat National Autonome des personnels de l'administration publique – SNAPAP*) in 2001 to form the National Autonomous Union of Algerian Workers (*Syndicat national autonome des travailleurs algériens*).

Recommendations

- Repeal Law No. 12-06 on associations and adopt a new association law that complies with international standards by introducing an effective declarative regime for the creation of associations that erects no arbitrary barriers to the exercise by any group of individuals of their right to form an association. For example, the law should be revised to state that an association should be considered as legally constituted beginning on the date it sends its declarative documents to the relevant authorities. It should be able to prove its registration through a receipt showing that it deposited the necessary documents, or a registered-mail stamp to the administration, and should need no further receipt for registration to be able to operate legally;
- Immediately direct all implementing authorities to deliver the deposit receipt to associations upon their submission of founding documents or any other documents required by law.

- Guarantee to independent unions their rights to exist legally and operate freely.
- Act promptly in order to process pending applications from the unions for legal status.
- Reinstate public servants dismissed as a retaliation for their exercise of their union rights.
- Reform Law 90-14 to make clear that the formation of federations and confederations of unions from different sectors is allowed.

Freedom of Speech

Algeria's legislation governing freedom of expression, access to information, and audiovisual production fall short of the international standards. The "information code," adopted on January 12, 2012, contains several articles that constrain freedom of expression and of the press. Article 2 states that news journalism is to be "a freely practiced activity" in keeping, however, with extremely broad concepts such as "national identity, the cultural values of society, national sovereignty and national unity, as well as the requirements of national security, national defense, public order, and the country's economic interests, among others."

The Algerian authorities appear to be increasingly resorting to criminal prosecutions as a means of silencing critics.

On September 6, 2016, an appeals court gave Slimane Bouhafis, a converted Christian, a three-year prison sentence for Facebook posts "insulting Islam." Detained in the wilaya of Sétif since August 1, the court sentenced him under article 144*bis* of the penal code, which provides for a prison term of up to five years and a fine for "offending the prophet" and "for denigrating the dogma or precepts of Islam."

On August 9, 2016, an [Algiers](#) appeals court upheld a two-year prison sentence for Mohamed Tamalt, a freelance journalist with dual Algerian and British nationality for a video he posted on Facebook featuring a poem deemed offensive to [Algeria's](#) president.

On May 25, 2016 the Laghouat First Instance Court sentenced Belkacem Khencha, a labor rights defender, to six months in prison for posting a [video](#) on Facebook criticizing the judiciary for previous sentences against other rights activists. He remained free and his appeal session is scheduled for September 29, 2016.

On March 20, 2016 the First Instance Court of Tlemcen fined Zouleikha Belarbi, a member of Tlemcen's section of the Algerian Human Rights League, 100,000 dinars (US\$924) for defaming the Algerian president under article 144*bis* of the penal code.

On June 24, 2016, authorities placed in pretrial detention two [executives](#) from the privately owned television channel KBC that aired the satirical political talk show *Ki Hna Ki Ness* (Just Like Everybody Else), five days after security forces shut down operations at the studio producing the show and confiscated production materials. *Ki Hna Ki Ness* had begun broadcasting on June 6. The two executives were accused of making false statements under article 223 of the penal code and complicity in the abuse of office under articles 33 and 42 of a 2001 anti-corruption law. They spent three weeks in prison before being sentenced, on July 18, to a suspended prison term of six months, and a fine of 50,000 dinars (\$US457). The show has not resumed and the production materials remain confiscated.

Recommendations

- Abolish or revise all provisions of Algerian law that violate the rights to freedom of expression by imposing criminal sentences for nonviolent speech, such as article 46 of the Law on Peace and National Reconciliation and article 144*bis* and other articles of the criminal code that cover defamation, insults, and other speech offenses against the president, other government figures and state institutions and agencies.
- Cease prosecutions based on repressive articles in the legislation arbitrarily restricting free speech.
- Release all persons who are detained solely for having exercised their freedom of expression peacefully.

Women's Rights

Algeria's constitution enshrines the principle of non-discrimination on the basis of sex and requires the state to take positive action to ensure equality of rights and duties of all citizens, men and women. The Algerian Parliament, in February 2016 added an article proclaiming that the "state works to attain parity between women and men in the job market" and "encourages the promotion of women in positions of responsibility in public institutions and in businesses."

Algeria has undertaken a number of legal reforms that promote women's rights. In 2005, following campaigning by women's rights groups, the parliament passed two laws that improved women's rights. The first amended the Nationality Code to allow Algerian women with foreign spouses to pass on their nationality to their children and to their foreign husbands. The second amended the Family Code by increasing women's access to marriage, divorce, and custody of children. Despite these positive steps, many of the Family Code's provisions remain discriminatory.

On December 10, 2015, the Parliament adopted amendments to the penal code specifically criminalizing domestic violence. Assault against a spouse or former spouse can be punished by up to 20 years in prison, depending on the victim's injuries, and the perpetrator can face a life sentence for attacks resulting in death. The amendments also make sexual harassment in public places a criminal offense.

While the law was a welcome step in recognizing and criminalizing domestic violence in various forms, Algeria's legal framework remains weak on the comprehensive legal measures needed to prevent domestic violence, assist survivors, and prosecute offenders. The law contains provisions that heighten the vulnerability of victims, such as one stating that the prosecution shall stop if the victim pardons the assailant. This makes women even more vulnerable to threats or pressure from the offender or from relatives aimed at making them withdraw their complaint.

Recommendations

- Review and eliminate laws that discriminate against women, especially in issues of inheritance, and bring them in line with international standards.
- Amend law 15-19 on domestic violence to eliminate the possibility that an offender will escape punishment or benefit from reduced sentences where the victim pardons him.
- Adopt additional legislation enabling survivors of domestic violence to obtain protection orders from the police and from courts.
- Support the development of specialized domestic violence units or district-level focal points in the police force in all regions.

Accountability for Past Crimes

Perpetrators of human rights crimes and abuses during the internal armed conflict of the 1990s continued to enjoy impunity under the Charter on Peace and National Reconciliation. The charter criminalizes comments deemed to denigrate the security forces or state institutions for their conduct during the civil war of the 1990s, during which state forces committed torture, enforced disappearances, unlawful killings, and other serious abuses.

Authorities regularly prevented families of the disappeared from holding sit-ins or demonstrations calling for the truth on the whereabouts of their relatives. On August 30, 2016, police arrested relatives of the disappeared and several human rights activists as they demonstrated in front of the National Consultative Commission for the Promotion and Protection of Human Rights in Algiers, on the International Day of the Disappeared, and held them for several hours in police stations before releasing them without charge. Associations representing the families of the disappeared continued to face obstacles to legal registration. Families of the disappeared alleged being subject to pressures because they refused to accept compensation from the state in exchange for accepting a death certificate for their still-missing relatives.

Recommendations

- Redouble efforts to shed light on the cases of enforced disappearances that have remained unresolved.

- Cease intimidation of the families of the disappeared and allow them to demonstrate freely and to express their right to truth and justice for their disappeared relatives.

Collaboration with the UN and other human rights organizations

During his country visit to Algeria, in 2011, the Special Rapporteur on the right to the freedom of opinion and expression urged the Algerian government to "authorize the members of the international human rights organizations to enter Algeria to conduct their legitimate activities, in the exercise of their right to the freedom of opinion and expression".

Algeria continued to deny international human rights organizations entry to conduct research missions. It also did not reply to requests, pending since 1997 and 2011, respectively, for visits by the UN special rapporteurs on torture and on freedom of peaceful assembly and of association.

Recommendations

- Cooperate fully with the Human Rights Council, including with its independent experts, in particular by responding promptly and favorably to their requests for a visit, by issuing and honoring standing invitations to the United Nations experts and working groups on human rights, and by promptly implementing their recommendations;
- Promptly issue visas to the representatives of international human rights defense organization requesting to travel to Algeria for field research.