



# ALGERIA – IMPUNITY PAST AND PRESENT

AMNESTY INTERNATIONAL SUBMISSION FOR THE UN UNIVERSAL PERIODIC  
REVIEW – 27<sup>TH</sup> SESSION OF THE UPR WORKING GROUP, MAY 2017

AMNESTY  
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# INTRODUCTION

This submission was prepared for the Universal Periodic Review (UPR) of the People's Democratic Republic of Algeria (hereafter Algeria) in May 2017. In it, Amnesty International evaluates the implementation of recommendations made in the previous UPR, assesses the national human rights framework and the human rights situation on the ground, and makes recommendations to the authorities.

Algeria's UPR provides an important opportunity for a public examination of the country's human rights record. Since it was last reviewed in 2012, Algeria has taken steps to strengthen human rights guarantees, including by adopting long-awaited constitutional amendments, yet these have had a limited impact. The authorities continue to threaten and harass human rights defenders, journalists and activists while current legislation restricts the rights to freedom of expression, association and assembly.

Although Algeria has taken positive steps to address sexual and gender-based violence, women and girls continue to face discrimination in both law and practice. The authorities have also failed to investigate past and present abuses and to provide victims, survivors and families with truth, justice and reparations. Migrants remain vulnerable to violence and other abuses and courts continue to hand down death sentences.

## FOLLOW-UP TO THE PREVIOUS REVIEW

During its second UPR in 2012, Algeria accepted 64 recommendations and rejected 32 recommendations. It considered that a further 16 recommendations had already been implemented and did not indicate its position on one recommendation.<sup>1</sup>

While Amnesty International welcomes Algeria's commitment to strengthen laws and policies to protect freedom of expression, association and assembly,<sup>2</sup> it regrets that the authorities considered already implemented a recommendation to release all persons detained solely for having exercised their freedom of expression.<sup>3</sup> Since the 2012 review, the authorities have continued to arrest, prosecute and imprison peaceful protesters, activists and journalists, and regularly ban and forcibly disperse peaceful protests, using an array of repressive laws to quell dissent.

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<sup>1</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review – Algeria (addendum)*, A/HRC/21/13/Add.1, 20 September 2012.

<sup>2</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review – Algeria*, A/HRC/21/13, recommendation 129.13 (Namibia); A/HRC/21/13/Add.1, paragraph 3.

<sup>3</sup> A/HRC/21/13, recommendation 129.21 (Switzerland); A/HRC/21/13/Add.1, paragraph 9. Algeria argued that no one was being detained in the country on that basis despite evidence to the contrary.

In 2012, the authorities accepted several recommendations aimed at strengthening economic, social and cultural rights.<sup>4</sup> However, they have since regularly responded to social and economic grievances by forcibly dispersing demonstrations and arresting and prosecuting independent trade union activists demanding better working conditions and standard of living.<sup>5</sup>

The authorities further dismissed a recommendation to repeal restrictive Law 12-06 on Associations,<sup>6</sup> which, since it came into effect in January 2014, has left associations seeking official registration in a legal limbo.<sup>7</sup>

Algeria accepted recommendations to promote and protect women's rights,<sup>8</sup> but failed to agree to amend discriminatory legislation with regard to divorce, marriage and inheritance, and to withdraw reservations to the Convention on the Elimination of All Forms of Discrimination against Women.<sup>9</sup> Although it has enacted a series of legal reforms since 2014 aimed at protecting women against certain forms of violence, women in Algeria continue to face discrimination in law and practice.<sup>10</sup>

Regrettably, Algeria has also failed to investigate cases of enforced disappearances during the internal conflict which engulfed the country in the 1990s and to end impunity for these crimes.<sup>11</sup>

Amnesty International notes Algeria's commitment in 2012 to combat torture and other ill-treatment,<sup>12</sup> however, the organization is concerned that gaps remain in law and practice which enable abuses.

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<sup>4</sup> A/HRC/21/13, recommendations 129.56 (Egypt), 129.57 (Palestine, Republic of Moldova), 129.58 (Iraq), 129.59 (Russian Federation), 129.60 (Islamic Republic of Iran), 129.61 (Russian Federation), 129.62 (Senegal), 129.63 (Democratic People's Republic of Korea, Singapore), 129.64 (Zimbabwe, Islamic Republic of Iran), 129.65 (Angola), 129.66 (Timor-Leste, Turkey), 129.67 (Djibouti), 129.70 (Thailand, Oman), 129.71 (Palestine, Russian Federation), 129.72 (Egypt, Bolivarian Republic of Venezuela, Cuba), 129.73 (Bolivarian Republic of Venezuela), 129.74 (Côte d'Ivoire, Togo), 129.75 (Ecuador, Saudi Arabia), 129.76 (Bangladesh), 129.77 (Qatar), 129.78 (Ecuador), 129.79 (Saudi Arabia, Malaysia), 129.80 (Senegal), 129.81 Djibouti, Islamic Republic of Iran, Sudan, China, Viet Nam) and 129.109 (Djibouti); A/HRC/21/13/Add.1, paragraph 4.

<sup>5</sup> See: Amnesty International, *Repression on the rise in Algeria as peaceful protesters face imprisonment*, 18 May 2016, available at: [www.amnesty.org/en/latest/news/2016/05/repression-on-the-rise-in-algeria-as-peaceful-protesters-face-imprisonment/](http://www.amnesty.org/en/latest/news/2016/05/repression-on-the-rise-in-algeria-as-peaceful-protesters-face-imprisonment/).

<sup>6</sup> A/HRC/21/13, recommendation 129.19 (Belgium); A/HRC/21/13/Add.1, paragraph 32.

<sup>7</sup> See Amnesty International, *Algeria: Associations law must be repealed before January deadline* (Index: MDE 28/003/2013).

<sup>8</sup> A/HRC/21/13, recommendations 129.26 (Spain, Switzerland), 129.27 (Uganda), 129.29 (Côte d'Ivoire), 129.33 (Egypt), 129.34 (Turkey), 129.35 (Pakistan), 129.36 (Palestine), 129.37 (Moldova, Singapore), 129.39 (Thailand), 129.40 (Lebanon, Brazil), 129.41 (Italy, Uganda), 129.44 (Sweden, United Arab Emirates), 129.45 (United States of America), 129.46 (Bahrain), 129.47 (Malaysia), 129.48 (Indonesia, Islamic Republic of Iran), 129.49 (Kuwait); A/HRC/21/13/Add.1, paragraphs 3 and 4.

<sup>9</sup> A/HRC/21/13, recommendations 129.30 (Mexico), 129.43 (Togo), 129.83 (Germany), 129.84 (Norway, Slovenia, France), 129.85 (Australia); A/HRC/21/13/Add.1, paragraphs 34, 35 and 36.

<sup>10</sup> In February 2014, the authorities adopted Decree 14-26, providing for state financial compensation for women victims of rape by armed groups during the 1990s internal conflict. In December 2015, Algeria's upper house of Parliament approved amendments to the Penal Code aimed at improving women's protection from some forms of violence. For more information, see Amnesty International, *Algeria: A comprehensive approach is needed to end sexual and gender-based violence* (Index: MDE 28/011/2014).

<sup>11</sup> A/HRC/21/13, recommendations 129.93 (Spain) and 129.94 (France, Argentina); A/HRC/21/13/Add.1, paragraphs 43 and 50.

<sup>12</sup> A/HRC/21/13, recommendation 129.106 (Greece); A/HRC/21/13/Add.1, paragraph 4.

Algeria failed to agree to long-requested visits by key UN Special Procedures,<sup>13</sup> despite pledging to cooperate with regional and international human rights organizations as well as UN bodies and experts prior to being elected to the UN Human Rights Council in 2014.<sup>14</sup> The authorities have not granted visas to international human rights NGOs seeking access to the country for fact-finding purposes, including Amnesty International, thereby hindering independent monitoring of the human rights situation in the country.

Although no executions have been carried out in Algeria since 1993, the authorities did not support recommendations aimed at abolishing the death penalty.<sup>15</sup> Since 2012, Algerian courts have continued to issue death sentences, mostly on murder and terrorism charges.

# THE NATIONAL HUMAN RIGHTS FRAMEWORK

In February 2016, the Algerian Parliament adopted a series of constitutional amendments which President Abdelaziz Bouteflika had pledged to deliver since the popular protests in 2011. With regard to human rights, the amendments contained both positive and negative elements. Amnesty International is concerned that the reforms perpetuate the control by the executive over other branches of government.<sup>16</sup> New organic laws are expected to set out procedures and details. The drafting of a new law on associations has been announced, however, the draft has yet to be made public.<sup>17</sup> In a welcome move, the amendments have made Tamazight an official language and established a National Council for Human Rights to promote, monitor and protect human rights in Algeria. The new Council is set to replace the existing National Advisory Commission for the Promotion and Protection of Human Rights, which has been in place since 2001.

The authorities have taken encouraging steps to address sexual and gender-based violence. In February 2014, Algeria's Prime Minister signed Decree 14-26 into law, which aims at providing financial compensation for the victims of sexual violence by armed groups during the internal conflict in the 1990s, when hundreds – if not thousands – of women were abducted and raped.<sup>18</sup> In December 2015, amendments to the Penal Code were approved to criminalize physical and

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<sup>13</sup> A/HRC/21/13, recommendations 129.86 (Slovenia, Latvia), 129.87 (United Kingdom of Great Britain and Northern Ireland), 129.88 (Norway), 129.104 (Sweden) and 129.112 (Mexico); A/HRC/21/13/Add.1, paragraphs 37, 38, 52 and 53.

<sup>14</sup> United Nations General Assembly, *Note verbale dated 2 July 2013 from the Permanent Mission of Algeria to the United Nations addressed to the Secretariat*, A/68/153, paragraph 1.

<sup>15</sup> A/HRC/21/13, recommendations 129.90 (Norway, Belgium), 129.91 (France), 129.92 (Switzerland, Argentina, Hungary); A/HRC/21/13/Add.1, Paragraphs 39-42.

<sup>16</sup> See Amnesty International, *Constitution needs stronger human rights safeguards* (Index: MDE 28/3366/2016).

<sup>17</sup> Algeria Press Service, "Revision of Constitution: Seven bills scheduled for Parliament's spring session", 1 March 2016, available at: <http://www.aps.dz/en/algeria/11175-revision-of-the-constitution-seven-bills-scheduled-for-parliament%E2%80%99s-spring-session>.

<sup>18</sup> See Amnesty International, *Comprehensive reforms needed to end sexual and gender-based violence against women and girls* (Index: MDE 28/010/2014).

psychological violence against a spouse as specific offences and broaden the current provisions on sexual harassment.<sup>19</sup> However, the amendments still allow spouses responsible for violence – unless causing permanent disability or death – to escape prosecution if the victim forgives him or her, and fail to introduce orders against offenders to protect victims from being pressured into withdrawing complaints.<sup>20</sup>

In July 2015, the authorities adopted Law 15-12 on child protection,<sup>21</sup> as well as amendments to the Code of Criminal Procedure that broaden the range of alternatives to pre-charge and pre-trial detention. The amendments now grant suspects right of access to a lawyer during pre-charge detention, but not during interrogation by judicial police officers.

The Law on Audio-visual Activity, adopted in February 2014, requires privately-owned television and radio stations to obtain a licence from a government-appointed body before they can begin broadcasting. The law does not specify a timeframe for the authorities to respond to applications and does not explicitly allow for delays to be challenged in court, thereby exposing stations to the risk of censorship through unreasonable delays. It also places unduly restrictive and invasive controls on the content of private television and radio programmes.<sup>22</sup>

The authorities expanded the scope of the death penalty in February 2014, extending it to anyone who abducts and kills a child.<sup>23</sup>

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<sup>19</sup> Sexual harassment within the workplace based on abuse of authority became a criminal offence under Article 341bis when the Algerian government amended the Penal Code in 2004. Amendments approved in December 2015 extended the definition of sexual harassment to anyone who harasses another person by any acts or remarks of a sexual nature or innuendo. They also increased the prison penalty to a maximum of three years compared to one.

<sup>20</sup> See Amnesty International, *Algeria: global reform needed to combat gender-based violence* (Index: MDE 28/3044/2015).

<sup>21</sup> Law 15-12 on child protection is available at: <http://www.joradp.dz/FTP/jo-francais/2015/F2015039.pdf>.

<sup>22</sup> See Amnesty International, *Algeria: Lift restrictions on El Watan TV and other private broadcasters* (Index: MDE 28/2696/2015).

<sup>23</sup> Law 14-01 of 4 February 2014 is available at: <http://www.joradp.dz/FTP/JO-FRANCAIS/2014/F2014007.pdf>.

# THE HUMAN RIGHTS SITUATION ON THE GROUND

## FREEDOM OF EXPRESSION AND ASSEMBLY

The authorities continue to threaten and harass government critics, including activists, human rights defenders, journalists and others, and to use the courts to silence dissent.<sup>24</sup>

Despite guarantees of the rights to peaceful expression being enshrined in the Constitution, Penal Code provisions criminalize “offending”, “insulting” or “defaming” public officials and other institutions and are used to prosecute peaceful critics.<sup>25</sup> Independent journalists and media outlets also face increasing restrictions. In 2014, 2015 and 2016 the authorities shut down private channels and TV programmes in apparent reprisals against their independent editorial lines. Since 2012, they have also been prosecuting journalists on politically motivated charges and have relied on the excessively restrictive Law on Information to challenge the ownership of print press publications.<sup>26</sup> Several foreign journalists were denied visas to cover the 2014 presidential elections.<sup>27</sup>

The Constitution guarantees freedom of religion, but makes Islam the state religion. Article 144 bis 2 of the Penal Code was used in 2016 to prosecute an individual for the peaceful exercise of his rights to freedom of expression, religion and belief.<sup>28</sup>

The authorities often respond to social and economic grievances by forcibly dispersing demonstrations. They also continue to arrest and prosecute peaceful activists demanding better

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<sup>24</sup> See Amnesty International, *Algeria: Halt repression of fracking and unemployment protesters* (Index: MDE 28/2122/2015).

<sup>25</sup> Article 144 bis of the Penal Code punishes causing offence to the President through discourse, drawings or writings, with a fine of up to 500,000 Algerian dinars (over 5,000 US dollars), a prohibitive sum in Algeria. For more information see Amnesty International, *Algeria: End relentless targeting of government critics* (Index: MDE 28/2951/2015).

<sup>26</sup> See Amnesty International, *Algeria: End media restrictions* (Index: MDE 28/4369/2016).

<sup>27</sup> See Amnesty International, *Algeria: Key human rights concerns ahead of presidential elections* (Index: MDE 28/004/2014).

<sup>28</sup> See Amnesty International, *Algeria: Prisoner of conscience remains in prison: Slimane Bouhafs* (Index: MDE 28/4783/2016), Article 144 bis 2 of Algeria’s Penal Code carries up to five years in prison and a fine of up to 100,000 Algerian dinars (over 900 US dollars) for “offending the Prophet and any of the messengers of God, or denigrating the creed and precepts of Islam, whether by writing, drawing, declaration, or any other means”.



working conditions and standard of living,<sup>29</sup> as well environmental activists protesting against the use of hydraulic fracturing for the extraction of shale gas.<sup>30</sup>

Peaceful protesters opposing President Abdelaziz Bouteflika's candidacy in the presidential elections saw their first gatherings in March 2014 forcibly dispersed by security forces, with dozens arrested.<sup>31</sup> Demonstrations held regularly by families demanding truth about the fate of their relatives, who were subjected to enforced disappearance during the 1990s, are routinely dispersed.

Despite lifting the state of emergency in 2011, the authorities continue to prohibit demonstrations in Algiers under a 2001 decree. National law still requires prior authorization to hold public gatherings and assemblies, including Law No. 91-19 on Governing Public Meetings and Demonstrations which requires organizers to request authorization eight days before the event.<sup>32</sup> However, in practice such authorization is rarely granted.

## FREEDOM OF ASSOCIATION

Law 12-06 on Associations, promulgated in 2012, further restricts civil society in Algeria. It imposes wide-ranging and arbitrary restrictions on associations and penalties of imprisonment for up to six months plus a fine for membership of unregistered, suspended or dissolved associations.<sup>33</sup>

Although several associations have had their registration confirmed, some associations critical of the government have been refused registration while others have been left in legal limbo.

Amnesty International's branch in Algeria has yet to obtain confirmation of its registration, despite submitting its new statutes in November 2013 as required by Law 12-06. The authorities announced in May 2016 that they would withhold recognizing new associations until a new law on associations, provided in the constitutional amendments of February 2016 and set to replace Law 12-06, is adopted.<sup>34</sup>

Associations also face difficulties obtaining authorization to hold meetings. In December 2015, local authorities banned a training event in Algiers for members of the Maghreb Co-ordination of Human Rights Organizations, in which human rights defenders from Algeria, Mauritania, Morocco and Tunisia were due to participate.<sup>35</sup>

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<sup>29</sup> See: Amnesty International, *Repression on the rise in Algeria as peaceful protesters face imprisonment*, 18 May 2016, available at: [www.amnesty.org/en/latest/news/2016/05/repression-on-the-rise-in-algeria-as-peaceful-protesters-face-imprisonment/](http://www.amnesty.org/en/latest/news/2016/05/repression-on-the-rise-in-algeria-as-peaceful-protesters-face-imprisonment/).

<sup>30</sup> Articles 97 and 98 of the Algerian Penal Code prohibit "unarmed gatherings" and disobeying orders to disperse and carry up to 12-months in prison.

<sup>31</sup> See Amnesty International, *Algeria: Crackdown on peaceful assembly ahead of presidential elections* (Index: MDE 28/002/2014).

<sup>32</sup> Law No. 91-19 on Governing Public Meetings and Demonstrations, Article 17, available at: <http://www.icnl.org/research/library/files/Algeria/Algeria%20Assembly%20Law%201991.pdf>.

<sup>33</sup> See Amnesty International, *Algeria: Associations law must be repealed before January deadline* (Index: MDE 28/003/2013).

<sup>34</sup> Algeria Watch, "Le ministre de l'Intérieur dans la wilaya de Khenchela: Les ennemis de l'Algérie à l'extérieur et à l'intérieur", 23 May 2016, available at : [http://www.algeria-watch.org/fr/article/pol/administration/ministre\\_interieur\\_khenchela.htm](http://www.algeria-watch.org/fr/article/pol/administration/ministre_interieur_khenchela.htm)

<sup>35</sup> See Algeria entry in *Amnesty International report 2015/2016, the state of the world's human rights* (Index: POL 10/2552/2016).

## WOMEN'S RIGHTS AND GENDER-BASED DISCRIMINATION

Despite the introduction of a number of long-overdue positive measures to support victims of sexual and gender-based violence, discrimination against women still exists both in law and practice.<sup>36</sup>

Algeria does not have a law that effectively criminalizes violence against women. The Penal Code makes rape a crime, however, it does not define rape nor does it recognize marital rape. Other forms of sexual violence are dealt with as “indecent assaults”, reflecting a focus on morality rather than the bodily integrity of the victim. A provision in the Penal Code allows a rapist to escape prosecution by marrying the victim, if she is aged under 18.<sup>37</sup>

The Family Code still discriminates against women in relation to marriage, divorce, child custody and guardianship, and inheritance.<sup>38</sup>

Certain aspects of consensual sexual relations between adults are criminalized. Article 339 of the Penal Code criminalizes “adultery” while Article 338 criminalizes acts of “homosexuality”.<sup>39</sup>

## IMPUNITY FOR PAST HUMAN RIGHTS VIOLATIONS AND ABUSES

According to the information available to Amnesty International, the authorities have taken no steps during the period under review to investigate grave human rights violations committed by security forces during the internal conflict of the 1990s, including thousands of enforced disappearances, secret and arbitrary detention and extrajudicial executions.<sup>40</sup>

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<sup>36</sup> See Amnesty International, *Algeria: A comprehensive approach is needed to end sexual and gender-based violence* (Index: MDE 28/011/2014).

<sup>37</sup> Article 336 of the Algerian Penal Code makes rape a crime punishable by five to 10 years' imprisonment but does not provide a definition of the crime of rape. The Penal Code does not define other forms of sexual violence, such as sexual assault, aggravated sexual assault and inappropriate touching, but such acts may be prosecuted under Penal Code Articles 334 and 335 covering indecent assaults (“attentat à la pudeur”). Article 326 of the Penal Code makes it an offence punishable by imprisonment for between one and five years if any person “abducts or corrupts” a child under 18 years without using violence, threats or deception, or attempts to do so. However, if the perpetrator marries the child, he is not liable to prosecution or conviction under Article 326 unless the marriage is annulled. In effect this provision grants impunity to some rapists and may facilitate both rape and the forced marriage of girls.

<sup>38</sup> Article 11 of the Algerian Family Code provides that a woman of legal age should conclude her marriage contract in the presence of her *wali*, who can be her father or a male relative or any other person of her choice. According to Article 66 of the Family Code, a mother who remarries loses custody of her children. A husband can freely divorce his wife without justification, but a wife must meet specific conditions in order to initiate a divorce, as set out in articles 53 and 54 of the Family Code. Inheritance remains weighted in favour of sons compared to daughters. The law entrenches a simple mathematic formula with a severely discriminatory effect: one son is equal to two or more daughters.

<sup>39</sup> Article 338 of the Penal Code carries up to three years in prison and a fine; Article 339 of the Penal Code carries up to two years in prison. In June 2016, Algeria was one of 18 members of the UN Human Rights Council to vote against the appointment of an Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity.

<sup>40</sup> Armed groups also committed widespread human rights abuses included unlawful killings, collective massacres, abductions, torture and rape during the conflict. The lack of transparency and public disclosure by the authorities on the investigations they had carried out into abuses by armed groups and the basis on which amnesties were granted to members of armed groups who surrendered, also effectively translated into a denial of truth to victims and their families. See Amnesty International, *A legacy of impunity: a threat to Algeria's future* (Index: MDE 28/001/2009).

Amendments to the Preamble to the Constitution adopted in February 2016 endorse the legacy of the “national peace and reconciliation” process, ignoring the plight of victims and their families who continue to oppose amnesty measures for security forces and members of armed groups adopted since 1999.<sup>41</sup>

Ordinance No.06-01 of 2006 grants immunity to members of armed groups and security forces who committed grave human rights abuses. It continues to threaten individuals critical of the conduct of security forces with imprisonment. The authorities have yet to ratify the International Convention for the Protection of All Persons from Enforced Disappearance, which they signed in 2007.

Amnesty International is concerned that these measures entrench impunity and deny victims and their families the right to truth, justice and reparation.<sup>42</sup>

## COUNTER-TERROR AND SECURITY

The authorities and media regularly report scores of killings of members of armed groups by the security forces, but disclosing only few details, prompting concerns that some may have been extra-judicially executed.

Under Article 51 of the Code of Criminal Procedure, detainees suspected of terrorism-related offenses can be held legally for a period of up to 12 days without charge or access to legal counsel. In January 2016, the Department for Information and Security (known as DRS),<sup>43</sup> which wielded wide powers of arrest and detention, including incommunicado detention of terrorism suspects, was dissolved by an unpublished presidential decree. It has been replaced by a new body, the Direction of Security Services, which reports directly to the President.

Former prisoners have reported ill-treatment by prison staff and harsh prison conditions, including overcrowding and poor hygiene.

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<sup>41</sup> The Charter for Peace and National Reconciliation, adopted by national referendum on 29 September 2005, exempted current and former armed group members from prosecution or offered them clemency. It absolved security forces and state-armed militias from responsibility and specifically denied that the security forces had been responsible for enforced disappearances. Ordinance No. 06-01 implementing the Charter for Peace and National Reconciliation, adopted on 27 February 2006, broadened the terms of a previous set of amnesty measures in 1999-2000 by granting immunity from prosecution for members of armed groups who had not committed abuses of a collective nature or rape, but also provided blanket immunity from prosecution for security forces and state-armed militias and allowed for the imprisonment of any individual criticizing the conduct of security forces.

<sup>42</sup> See Amnesty International, *Algeria: Time to end impunity for past and present abuses* (Index: MDE 28/3521/2016).

<sup>43</sup> On 27 April 2016, the UN Human Rights Committee found that Algeria had breached Articles 7 and 9 of the International Covenant on Civil and Political Rights in relation to Mejdoub Chani, a dual Algerian-Luxembourgish national who reported being held incommunicado and tortured by the DRS in September 2009. He said he was forced to sign a statement incriminating him for corruption. He was sentenced to a 15-year prison term and a fine of four million Algerian dinars (over 36,000 US dollars) on appeal in December 2012. See Comité des droits de l'homme, *Constatations adoptées par le Comité au titre du paragraphe 4 de l'article 5 du Protocole facultatif concernant communication no 2297/2013*, CCPR/C/116/D/2297/2013.

## REFUGEES, ASYLUM-SEEKERS AND MIGRANTS' RIGHTS

Irregular migrants are vulnerable to physical assaults, sexual violence, xenophobia and theft. The authorities often respond to clashes involving migrants by transporting them by bus towards the southern borders of the country, maintaining that this will ensure their safety. According to Algerian state media, more than 7,000 migrants from Niger were returned in 2015 as part of an agreement between the two countries. The compliance of such repatriations with international law remains difficult to assess.

Although Algeria is a state party to the 1951 Convention relating to the Status of Refugees and its 1967 Optional Protocol, it still lacks national asylum legislation.<sup>44</sup> Refugee status determinations are carried out by UNHCR. However, the authorities do not recognize the refugees who have been determined as such by UNHCR under its mandate, thereby depriving them of the rights afforded to refugees, such as the right to documentation and the right to work.

Thousands of Algerians who plan to migrate, known as “harragas”, as well as foreign nationals, continue to attempt the hazardous sea crossing from Algeria to Europe, including in defiance of a 2009 law that criminalizes “illicit” exit from Algeria using forged documents or through locations other than official border exit ports.

Foreign nationals travelling irregularly to and from Libya remain vulnerable to abuses by smugglers, including abduction and extortion.<sup>45</sup>

## THE DEATH PENALTY

Although no executions have been carried out in Algeria since 1993, the courts continue to hand down death sentences, mostly against people tried in their absence for terrorism-related offences.

At least 40 people were sentenced to death in 2015. Amnesty International documented 271 death sentences between 2012 and 2015.<sup>46</sup>

## COOPERATION WITH INTERNATIONAL HUMAN RIGHTS EXPERTS

The authorities continue to deny long-standing requests to visit Algeria by UN Special Procedures, including the Special Rapporteurs on torture, on counter-terrorism and human rights, and on freedom of association, as well as the Working Group on enforced or involuntary disappearances.<sup>47</sup>

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<sup>44</sup> The Algerian Office for Refugees and Stateless Persons, established through Decree No. 63-274 of 25 July 1963 on the application of the 1951 Refugee Convention, has yet to develop into a functioning asylum structure.

<sup>45</sup> For more information see Amnesty International, *'Libya is full of cruelty': stories of abduction, sexual violence and abuse from migrants and refugees* (Index: MDE 19/1578/2015).

<sup>46</sup> See Amnesty International, *Death sentences and executions report 2015* (Index: ACT 50/3487/2016); Amnesty International, *Death sentences and executions in 2014* (Index: ACT 50/0001/2015); Amnesty International, *Death sentences and executions in 2013* (Index: ACT 50/001/2014); and Amnesty International, *Death sentences and executions in 2012* (Index: ACT 50/001/2013).

<sup>47</sup> See Amnesty International, *Algeria: allow rights groups to visit: no response from Algiers to requests from UN bodies, joint statement* (Index: MDE 28/001/2014).

Algeria continues to refuse to grant visas to international human rights organizations, including Amnesty International. The organization has not had access to Algeria for fact-finding purposes since 2005, despite repeated requests.<sup>48</sup>

# RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

## AMNESTY INTERNATIONAL CALLS ON THE GOVERNMENT OF ALGERIA TO:

### FREEDOM OF EXPRESSION, ASSOCIATION AND ASSEMBLY

- Release all individuals held solely for the peaceful exercise of their rights to freedom of expression, assembly and association;
- Amend legislation that criminalizes the rights to freedom of expression and peaceful assembly, including Article 97 of the Penal Code prohibiting “unarmed gatherings”, Article 144 on “offending” public officials, Article 144 bis 2 on “offending the Prophet” and “denigrating the creed and precepts of Islam”, and Article 146 on “offending public bodies”;
- Lift undue restrictions on print media and privately owned television and radio stations by amending the Law on Information and the Law on Audio-visual Activity;
- Repeal Law 12-06 on Associations and elaborate the new organic law on associations in conformity with applicable international human rights standards.

### WOMEN’S RIGHTS AND GENDER-BASED DISCRIMINATION

- Amend provisions in the Penal Code and Family Code that discriminate on the basis of gender and abrogate Articles 326 and 338 of the Penal Code;
- Decriminalize same-sex sexual relations by repealing Article 339 of the Penal Code;
- Adopt a comprehensive law to combat gender-based violence, in close cooperation with national human rights organizations;
- Strengthen access to health and support services for survivors of sexual violence.

### IMPUNITY FOR HUMAN RIGHTS VIOLATIONS AND ABUSES

- Repeal the provisions of Law No. 06-01 of 2006 that provide impunity from prosecution to the security forces and members of armed groups and that criminalize public criticism of the conduct of the security forces;

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<sup>48</sup> See Amnesty International, *Algeria: Allow rights groups to visit: no response from Algiers to requests from UN bodies, joint statement* (Index: MDE 28/001/2014).

- Conduct full, impartial and independent investigations into all allegations of crimes under international law and, where sufficient admissible evidence exists, prosecute those responsible in fair trials without recourse to the death penalty;
- Ratify the International Convention for the Protection of All Persons from Enforced Disappearance.

#### **COUNTER-TERROR AND SECURITY**

- Amend the Code of Criminal Procedure to ensure its compliance with international law and standards on the administration of justice and the protection of detainees, particularly with regard to detainees' access to their lawyers, families and independent medical practitioners;
- Ensure that existing legal safeguards are respected in practice and that no detainee is held incommunicado;
- Grant independent human rights groups unhindered access to detention centres and prisons.

#### **REFUGEE AND MIGRANT RIGHTS**

- Protect all migrants and refugees from violence without distinction based on their migration status and bring those responsible for any such violence to justice;
- Abolish or amend Article 175 bis of the Penal Code, which criminalizes "illicit" exit from Algeria using forged documents or through locations other than official border exit ports, and ensure that any violations of migration legislation is treated as administrative offences rather than criminal offences;
- Adopt national legislation implementing the 1951 Convention relating to the Status of Refugees and its 1967 Optional Protocol, as well as other international law and standards for the protection of persons in need of international protection;
- Grant protection to refugees determined and recognized as such by UNHCR.

#### **THE DEATH PENALTY**

- Commute all death sentences and reduce the number of crimes punishable by death, with a view to abolishing capital punishment.

#### **COOPERATION WITH INTERNATIONAL HUMAN RIGHTS EXPERTS**

- Issue and honour a standing invitation to the UN Special Procedures and act promptly on their recommendations and communications;
- Grant visas without delay to representatives of international human rights organizations seeking to visit Algeria.

# ANNEX

## AMNESTY INTERNATIONAL DOCUMENTS FOR FURTHER REFERENCE<sup>49</sup>

### NEWS

- Algeria: Prisoner of conscience remains in prison: Slimane Bouhafs*, 7 September 2016
- Algeria: End media restrictions*, 1 July 2016
- Repression on the rise in Algeria as peaceful protesters face imprisonment*, 18 May 2016
- Algeria: Time to end impunity for past and present abuses*, 25 February 2016
- Algeria: Global reform needed to combat gender-based violence*, 9 December 2015
- Algeria: End relentless targeting of government critics*, 4 December 2015
- Algeria: Lift restrictions on El Watan TV and other private broadcasters*, 21 October 2015
- Algeria: Halt repression of fracking and unemployment protesters*, 27 July 2015
- Comprehensive reforms needed to end sexual and gender-based violence against women and girls*, 25 November 2014
- Algeria: Crackdown on peaceful assembly ahead of presidential elections*, 4 March 2014
- Algeria: Allow rights groups to visit: no response from Algiers to requests from UN bodies*, 11 February 2014
- Algeria: Associations law must be repealed before January deadline*, 18 December 2013

### REPORTS AND BRIEFINGS

- Death sentences and executions report 2015* (Index: ACT 50/3487/2016)
- Amnesty International report 2015/2016, the state of the world's human rights* (Index: POL 10/2552/2016)
- Constitution needs stronger human rights safeguards* (Index: MDE 28/3366/2016)
- 'Libya is full of cruelty': stories of abduction, sexual violence and abuse from migrants and refugees* (Index: MDE 19/1578/2015)
- Algeria: A comprehensive approach is needed to end sexual and gender-based violence* (Index: MDE 28/011/2014)
- Algeria: Key human rights concerns ahead of presidential elections* (Index: MDE 28/004/2014)

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<sup>49</sup> All these documents are available on Amnesty International's website:  
<https://www.amnesty.org/en/countries/middle-east-and-north-africa/algeria/>

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