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Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21

Algeria*

The present report is a summary of 11 stakeholders' submissions¹ to the universal periodic review. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. As provided for in resolution 16/21 of the Human Rights Council, where appropriate, a separate section is provided for contributions by the national human rights institution of the State under review that is accredited in full compliance with the Paris. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the periodicity of the review and developments during that period.

* The present document was not edited before being sent to United Nations translation services.

I. Information provided by the accredited national human rights institution(s) of the State under review in full compliance with the Paris Principles

N/A

II. Information provided by other stakeholders

A. Background and framework

1. Constitutional and legislative framework

1. Joint Submission 2 (JS2) reported that Order No. 11-01 of 23 February 2011 had repealed Decrees No. 92-44 of 9 February 1992 and No. 93-02 of 30 September 1992, lifting the state of emergency that had been in force for 19 years. JS2 was of the opinion that the measure had not resulted in any positive consequences and that human rights violations persisted.² It pointed out that, under the Code of Military Justice, the army had the same excessive powers as under the state of emergency. It added that the army's powers under the fight against terrorism and subversion had been increased after the lifting of the state of emergency.³ JS2 gave the example of the Ministerial Order of 2 May 2011 establishing the conditions and procedure for the fight against terrorism and subversion and the involvement of the Armée Nationale Populaire (National People's Army) (ANP) therein, particularly its article 2 which stipulated that: "the ANP chief of staff is responsible for the command, the conduct and the coordination of operations in the fight against terrorism and subversion".⁴

2. Similar concerns were expressed by the Mouvement de la Jeunesse Indépendante pour le Changement (Independent Youth for Change Movement) (MJIC), which added that the state of emergency had been lifted in 2011 without anyone having been found responsible for the serious human rights violations committed while it was in force. MJIC also pointed out that, as it lifted the state of emergency, the Government had also undertaken a process of reforms of, primarily, the Information Act, the Political Parties Act, the Associations Act, the Electoral Act, the Communal Code and the Act on the Legal Profession.⁵

3. The Réseau Algérien pour la défense des droits de l'enfant (Algerian Network for Children's Rights) (NADA) recommended carrying out a comprehensive study of national legislation and policy to ensure their compatibility with the principles and provisions of the Convention on the Rights of the Child and its optional protocols and, with the help of civil society, to relaunch the bill on children, intended to improve child welfare and combat child labour and violence against children.⁶

B. Cooperation with human rights mechanisms

4. JS2 stated that, since the Universal Periodic Review (UPR) of Algeria in April 2008, the authorities had implemented practically none of the recommendations made by the various United Nations human rights bodies. In particular, they had not implemented recommendations 4, 5, 10, 12 or 15.⁷

1. Cooperation with treaty bodies

5. MJIC reported that the bills drafted in 2011 clearly indicated the absence of any intention to bring domestic legislation into line with the international human rights conventions that Algeria had ratified. It stated that none of the recommendations made by the Human Rights Committee, the Committee against Torture, the Committee on the Rights of Migrant Workers or the other treaty bodies had been taken into account. MJIC gave the example of the bill on associations, under which the current system of declaration would be replaced by an authorization system; existing associations would have to be reconstituted; and restrictions would be put on international associations and foreign funding for Algerian associations.⁸

6. The Médiateur pour la Démocratie et les Droits de l'Homme (Mediator for Democracy and Human Rights) (MDDH), referring to migrant workers, stated that the Government had decided in its 2010 Finance Act to appropriate abandoned property and order the Land Conservation Office to delete the names of the owners from its lists. MDDH stated that it had a database with the names of victims of deportation and their families, together with papers related to violations of their rights since 1975. MDDH recommended securing material and moral redress for prejudice suffered by workers who had been victims of arbitrary expulsion and their families.⁹

C. Implementation of international human rights obligations, taking into account applicable international humanitarian law

1. Right to life, liberty and security of the person

7. KHR noted that detention in secret was still practised.¹⁰ It recommended ratifying the Optional Protocol to the Convention against Torture and bringing places of detention, including those belonging to the Département du Renseignement de la Sécurité (Intelligence and Security Department) (DRS), under the control of the civilian authorities, allowing an independent body unrestricted access to them to investigate all allegations of torture.¹¹

8. JS2 expressed concern in respect of the implementation of Order No. 11-02 of 23 February 2011 on judicial supervision, which: (i) authorized secret house arrest for a maximum period of 3 months, renewable twice; (ii) made it an offence to disseminate information on the place of house arrest; and (iii) demonstrated the Government's intention to set up a legal framework restricting the right to defence. JS2 considered that the Order was a first step towards recognition of the practice regularly resorted to by the authorities of secretly detaining individuals suspected of offences against State security. JS2 stated that it was aware of new cases of enforced disappearances and torture that had occurred since the state of emergency had been lifted.¹²

9. MJIC noted that, despite the various recommendations made by the different United Nations treaty bodies and the commitments made by the State under the Universal Periodic Review, torture, ill-treatment and inhuman and cruel treatment were still common practice by the security services. MJIC reported that the Act did not provide for access to a lawyer, and that several persons who had been kidnapped by the DRS services and had gone missing had reappeared in prison after a period of more than 12 days (the maximum permissible period of custody under the Act for offences linked to terrorism). MJIC added that most of them had subsequently been accused of terrorist offences. It noted that they had been tortured and suffered inhuman treatment during their detention. Some had been brought before a court and released, while others were still being held.¹³

10. Global Initiative to End All Corporal Punishment of Children (GIEACPC) noted that the issue of corporal punishment was raised during the UPR first review. In response, the Government stated that corporal punishment was prohibited in schools. GIEACPC added that specifically challenging Algeria in this respect during its second UPR session would reflect the seriousness with which the Human Rights Council views violations of the rights of all persons, including children. In GIEACPC's view there had been no further progress in prohibiting corporal punishment of children in Algeria since the initial UPR in 2008. It added that while it was unlawful in schools and as a sentence of the courts, it was not prohibited in the home, in penal institutions or in alternative care settings. GIEACPC recalled recommendations made by Treaty Bodies in this regard.¹⁴

11. On the subject of violence against children, the Réseau algérien pour la défense des droits de l'enfant (Algerian Network for Children's Rights) (NADA) found that children had suffered violence and ill-treatment from their own parents and teachers. NADA added that the issue of sexual violence against children had not been properly addressed because of the taboos surrounding it, which prevented such incidents being reported. Among others, it recommended reformulating the criminal provisions protecting child victims of ill-treatment and/or sexual violence, referring to the Convention on the Rights of the Child and its optional protocols, as well as introducing regulations to establish a body to care for child victims of ill-treatment and/or sexual violence.¹⁵

2. Administration of justice, including impunity and the rule of law

12. KHR reported that the promulgation in February 2006 of Order No. 06/01 implementing the National Charter for Peace and Reconciliation clearly demonstrated the State's refusal to shed light on the numerous crimes committed in the 1990s, as it moreover gave the Government the legal power to prosecute anyone trying to take action against impunity. KHR noted, for instance, that article 46 of the Order provides that any statement, written declaration or other act interpreted as being detrimental to Algeria's image abroad is liable to a sentence of 3 to 5 years' imprisonment.¹⁶ The Congrès Mondial Amazigh (World Amazigh Congress) (CMA), JS2 and MJIC considered that this was also an attack on freedom of opinion and expression.¹⁷ MJIC added that the opposition political parties and civil society organizations that had denounced the Charter had been banned from national radio and public television.¹⁸

13. In respect of the legal reform, KHR indicated that dozens of legal texts had been revised without any real change being made to the way they worked. The problem with the judicial system was its lack of organizational independence and the fact that it was exploited by the executive authorities. KHR reported that judges are dependent on the executive authorities for their appointment, career development and transfer, and the Higher Council of the Judiciary is itself controlled by the executive branch. KHR recommended that the statutes of the Higher Council of the Judiciary should be amended, and permanent posts and independence be assured for judges.¹⁹

14. JS2 added that the extent of power given to the political authorities and the army in the fight against terrorism had led to them interfering in legal affairs, thus affecting the independence of judges, although that was guaranteed in the Constitution.²⁰

15. JS2 reported that the military courts and prisons are very remiss in respecting human rights, particularly the right to defence. JS2 found that, despite the lifting of the state of emergency, civilians were still being judged by military courts.²¹

16. NADA noted that, although the current legal framework protected the rights of minors who were victims or perpetrators (juvenile delinquents), legal provisions still needed to be strengthened, particularly in respect of prevention and education.²²

3. Right to marriage and family life

17. CMA reported that the Family Code, which had been in force since 1984, was a serious infringement on the freedoms of Algerian women. CMA stated that it had a religious base (the sharia), which deliberately puts women in a position of inferiority, dependence and submission in respect of men.²³

4. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life

18. KHR reported that the state of emergency had been formally lifted on 24 February 2011 but the Presidential Decree of 23 February 2011 on the fight against terrorism and subversion and the involvement of the Armée Nationale Populaire (National People's Army) therein had been enacted, extending the Army's powers in the context of the fight against terrorism and subversion. KHR added that demonstrations were indeed still banned in Algiers, roadblocks were still in place, national media had been shut down and all association, trade union and party activity was controlled and often subject to repression.²⁴

19. KHR added that, with the increasingly widespread social protests, there was increased harassment of trade union officials, journalists and human rights defenders. It quoted some examples.²⁵ JS2 stated that the army had attacked the freedom of expression, demonstration and peaceful meetings.²⁶ On the same lines, MJIC also expressed concern at the systematic banning of rallies. It quoted the examples of LADDH, SOS disparus (SOS disappeared), SNAPAP and CNCD.²⁷

20. MJIC reported that many human rights defenders had been persecuted since the state of emergency had been lifted. It added that, in addition to police harassment, arrests, the general bans on peaceful public demonstrations and meetings decreed by the Government without any legal basis, unfair dismissals, salary deductions and legal proceedings had all been used as means of repression. MJIC stated that there had been continual legal proceedings for several years against human rights defenders, trade unionists, journalists, demonstrators, migrants, asylum-seekers and even refugees.²⁸

21. CMA pointed out that the activities of several political and civil society organizations had been hampered or banned and their activists had been harassed. It added that, even though the state of emergency had been lifted in February 2011, the same restrictions on freedoms remained. Even cultural and scientific activities organized by independent associations were banned.²⁹

22. JS2 was also concerned that the adoption of the bill on associations would be a step backwards. JS2 said that associations would only be legally constituted if they had prior authorization from the administration, which would be able to refuse to grant them registration if it considered that the association, its objective or its aim went against public order or morals, or existing laws and regulations. JS2 added that the legislation would sanction an already common illegal practice and would reintroduce the system of prior authorization. JS2 pointed out that, among others, the bill would place significant restrictions on associations' funding, allowing the authorities to prevent them accessing the funds they needed for their programmes and putting an additional control on their resources, activities and partners.³⁰

23. JS2 was also concerned by the information bill that had been approved by the Council of Ministers, particularly in respect of the restrictions it would impose on authors of information; the formalities that would considerably limit freedom of the press; the powers of the press regulation authority; the restrictions on the audio-visual sector; the automatic obligation to rectify; restrictions on foreigners; increased fines; and the continuation of provisions restricting freedom of expression. JS2 also gave other examples of violations of the freedom of assembly, demonstration and information.³¹

24. MJIC indicated that the country's media were not open, despite recent statements by the authorities mentioning supporting the idea of opening them up to private operators. MJIC was of the opinion that the current Government kept close guards on the audio-visual media, which remained a public monopoly, using them as a propaganda tool. MJIC also stated that a law on cybercrime had been adopted in July 2009, giving the authorities the legal means to order sites to be blocked without appeal.³²

25. MJIC noted moreover that activists and representatives of foreign human rights NGOs who wanted to make visits were regularly refused entry into Algeria.³³

26. CMA reported that article 2 of the Constitution stipulated that Islam is the State religion which, it claimed, banned any Algerian from having a different religion, changing religion or not having a religion. CMA therefore considered that the freedoms of conscience and belief were flouted.³⁴

27. MJIC reported that, although the freedoms of thought, conscience and religion were guaranteed in the International Covenant on Civil and Political Rights, which Algeria had ratified, there had been arrests and trials of Christians and churches had been closed.³⁵

28. In this same sense, European Centre for Law and Justice (ECLJ) added that Algeria had failed to fulfil its obligations under the International Covenant on Civil and Political Rights (ICCPR), because it often abrogated freedom of minority religious groups. It noted that Algeria's anti-proselytism and blasphemy laws had prohibited public expression concerning non-Islamic religions.³⁶ Jubilee Campaign (JC) called on Algeria to repeal the blasphemy law, which violates the Algerian Constitution and international human rights standards on freedom of religion.³⁷

29. Regarding registration for religious organizations, ECLJ expressed that all requests to register non-Muslim associations since 2008 were « deferred », with no action taken by the end of 2010. Only one application by the Jewish community was approved. ECLJ stated that although Algerian government officials assert a record of religious tolerance, the government had been cracking down on Christians out of its concern that the number of Christians was growing.³⁸ Open Doors International (ODI) expressed similar concerns and presented the case of Bejaïa Province where the Governor ordered in 2011 the closure of churches.³⁹

30. ODI further deplored the refusal of the recommendation during the first cycle, to repeal Ordinance 06-03 as this ordinance was severely limiting the freedom of religion or belief for all non-Muslims. ODI would therefore appreciate if Algeria would reconsider its position and review all its legislation to guarantee full freedom of religion or belief for all its citizens, as laid down in the various international human rights treaties.⁴⁰

5. Right to social security and to an adequate standard of living

31. MJIC reported that protest movements, strikes and riots occurred on a daily basis in Algeria. MJIC stated that, in general, persons demanding their social rights suffered violence from the police and harassment from the administration. MJIC reported that violent riots had erupted on 5 January 2011 in several parts of the country and the security forces had made multiple arrests. It added that many of the demonstrators arrested had suffered ill-treatment in police stations. MJIC noted that the Government had decided to raise salaries in several of the sectors affected by the strike movements, but such an uncoordinated approach had been inadequate.⁴¹

6. Persons with disabilities

32. Joint Submission 1 (JS1) reported that persons with disabilities faced many obstacles, which caused their exclusion from society. JS1 noted that, although there was an

Act (2002) to promote and protect persons with disabilities, some of the articles it contained were not consistent with a rights-based approach, and only exacerbated the situation of persons with disabilities. JS1 added that the Act included a definition of disability that did not correspond to the one given in the Convention on the Rights of Persons with Disabilities. JS1 stated that persons with disabilities continue to be underrepresented on national bodies. It also noted, among others, that public places are not adapted and standards of accessibility are not respected. JS1 recommended, among others, that the definition of disability and the conditions specified in the 2002 Act for disability cards to be issued should be revised, in particular, on the basis of the definition given in the Convention on the Rights of Persons with Disabilities.⁴²

7. Minorities and indigenous peoples

33. CMA considered that the fundamental rights of the Amazigh, notably the rights to self-determination and to fashion their own social, economic and cultural development and model their cultural identity had been flouted. CMA thus believed that the 2002 recognition of national language status for the Amazigh (Berber) language and the establishment of a Higher Council of the Amazigh Language were simply cosmetic, as they had brought no actual change in terms of respect for the cultural and linguistic rights of the Amazigh. CMA also expressed concern at the socio-economic marginalization of the Amazigh regions and recommended, among others, that Kabyl farmers whose fields had been burned by the Algerian army should receive compensation, and that the Kabyl populations should be given fair access to their natural resources, particularly water.⁴³

8. Human rights and counter-terrorism

34. MJIC indicated that no report had ever been published to review the results of the fight against terrorism. Persons accused of supporting or belonging to terrorist groups had disappeared, or been tortured or ill-treated. MJIC stated that, despite the Human Rights Committee's comments and recommendations, the definition of terrorist acts remained very broad.⁴⁴

Notes

¹ The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org. (One asterisk denotes a national human rights institution with "A" status):

KHR	Alkarama Human Rights, Genève
CMA	Congrès Mondial Amazigh, Genève
ECLJ	European Centre for Law and Justice, Strasbourg/France
GIEACPC	Global Initiative to End All Corporal Punishment of Children
JS1	Joint Submission 1 by la Plateforme des ONG algériennes pour la mise en œuvre de la RDPH – FAPH Organisations et Comités membres de la Plateforme Fédération Algérienne des Personnes Handicapées (FAPH); Groupement Algérien des paraplégiques (GAP); Groupement Algérien des Myopathes (GAM); Comité des Parents d'enfants handicapés; Comité pour l'égalité Hommes / Femmes; Coordination nationale des associations de personnes handicapées; Fédération Nationale des Sourds d'Algérie (FNSEA); Fédération Nationale des Parents d'Enfants Inadaptés mentaux (FNPEI); Association Nationale des Educateurs et Enseignants spécialisés pour aveugles ; Association des Parents d'enfants Infirmes Moteurs d'origine Cérébrale (APIMC) de Béchar représentant les associations de parents d'enfants IMC ; Entraide Populaire Familiale pour Inadaptés Mentaux (EPFIM) ; Association de l'Enfant Autiste (AEA) représentant les

- associations de parents d'enfants autistes ; Comité pour la protection des droits des personnes atteintes de maladies mentales représenté par l'association d'aide aux malades mentaux de la Wilaya de Ghardaïa.
- JS2 Joint Submission 2 by le Collectif des Familles de Disparus en Algérie (CFDA) et le Cairo Institute for Human Rights Studies (CIHRS)
- JC Jubilee Campaign, USA
- MDDH Le Médiateur Pour la Démocratie et les Droits de l'Homme
- MJIC Mouvement de la Jeunesse Indépendante pour le Changement, Algérie
- ODI Open Doors, Serving persecuted Christians worldwide, Netherlands
- NADA Réseau Algérien « NADA » pour la défense des droits de l'enfant, Algérie
- 2 JS 2, p. 2.
- 3 Ibidem.
- 4 JS2, p. 2 et p. 3.
- 5 MJIC, point 1.
- 6 NADA p. 2.
- 7 See JS2 p. 1.
- 8 MJIC, p. 2. Voir aussi liste des projets de loi, Annexe III.
- 9 MDDH, p. 3.
- 10 KHR para. 16, p. 4. See submission for cases reported.
- 11 KHR para. 18–21, p. 4. Voir recommandation 2, 3 et 5 p. 6.
- 12 JS2 p. 3.
- 13 MJIC point 3.
- 14 GIEACPC, p. 2.
- 15 NADA pp. 3 et 4.
- 16 KHR para. 10, p. 3.
- 17 CMA para.17, p. 7, JS2 p. 9, MJIC point 5.
- 18 MJIC, point 5.
- 19 KHR para.11, p. 11. Voir recommandation 7. See submission for cases reported.
- 20 JS2 p. 3.
- 21 JS2 p. 2 et 3. See submission for cases reported.
- 22 NADA p. 5.
- 23 CMA para. 16, p. 7.
- 24 KHR para. 23, p. 5.
- 25 KHR paras 23–28, p. 5.
- 26 JS2 p. 4 et p. 7.
- 27 MJIC point 1.
- 28 MJIC points 1 et 4.
- 29 CMA, para. 13, p. 6.
- 30 JS2 pp. 6 et 7. Voir aussi MJIC point 1.
- 31 JS2 pp 8 et 9.
- 32 MJIC point 5.
- 33 MJIC point 5.
- 34 CMA para 15, p. 6.
- 35 MJIC point 6.
- 36 ECLJ paras. 2 and 3, p. 1.
- 37 JC para. 5.
- 38 ECLJ paras. 11 and 13, pp. 3 and 4.
- 39 ODI, p. 2.
- 40 Idem.
- 41 MJIC points 6.1.
- 42 JS1, pp.1 et 2 et para 45, p. 9.
- 43 CMA paras 7–8, pp. 3 et 4.
- 44 MJIC point 7.