



DUBLIN
Second Floor, Grattan House,
Temple Road, Blackrock,
Co. Dublin, Ireland.
info@frontlinedefenders.org
www.frontlinedefenders.org

BRUSSELS
Square Marie - Louise 72
1000 Brussels, Belgium.
euoffice@frontlinedefenders.org
www.frontlinedefenders.org

phone +353 1 212 3750
fax +353 1 212 1001

phone +32 2 230 9383
fax +32 2 230 0028

Submission by: Front Line Defenders – The International Foundation for the Protection of Human Rights Defenders

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Front Line Defenders (www.frontlinedefenders.org) is an international NGO based in Ireland with special consultative status with the Economic and Social Council of the United Nations (ECOSOC). Founded in 2001, Front Line Defenders has particular expertise on the issue of security and protection of human rights defenders and works to promote the implementation of the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms (UN Declaration on Human Rights Defenders) adopted by General Assembly resolution 53/144 of 9 December 1998

The following submission has been prepared by Front Line Defenders based on research carried out by this organisation and information received from independent human rights defenders in Algeria.

Contact person: Andrea Rocca, Head of Protection
andrea@frontlinedefenders.org,
+353 (0)1 212 3750

Introduction

1. This submission focuses on the situation of human rights defenders (HRDs) in Algeria and covers developments in the years 2012-2016.
2. Civil society in Algeria is endeavouring in a particular restrictive and complex political context. After the state of emergency was lifted in 2011, the government has made several promises for political and legislative reforms but failed to concede more freedom in the work of human rights defenders.
3. HRDs, journalists, lawyers and bloggers have been repeatedly harassed by security forces and subjected to police inquiries, prosecution and false charges as a result of their human rights work. LGBTI rights defenders continue to face systematic stigmatisation and persecution, along with threats which are exacerbated by hate speech in the media. Labour rights defenders as well as HRDs organising protests in solidarity with fellow HRDs in detention have been targeted.

Recommendations from the previous UPR cycle

4. At the end of the previous UPR cycle, in May 2012, Algeria accepted a number of recommendations relevant for the situation of HRDs and related to strengthening freedom of expression, association and peaceful assembly, media freedom and freedom of religion and belief. If implemented, they would result in a more favourable environment for human rights work.
5. Algeria has taken some steps to implement some of these recommendations, notably the revision of the Constitution, which had been announced in 2011. New articles were added guaranteeing the right to freedom of opinion, peaceful assembly, the right to establish associations, freedom of the press and access to information. Furthermore, the presidential limit of two terms, removed in 2008, was reintroduced.
6. However, as this submission shows, human rights defenders continue to face significant restrictions to their work.

Barriers to the right of freedom of assembly

7. Authorities routinely prevent HRDs from participating in peaceful protests. Police has used repressive practices in relation to demonstrations, including dispersing peaceful assemblies, arbitrary bans, preventive detentions, use of excessive force, prosecution of protesters and activists, and intimidation and retaliation against HRDs, merely for exercising or attempting to exercise their right of peaceful assembly.
8. The 2016 constitutional amendments introduced Article 49, which strengthened previous language on the right to freedom of peaceful assembly. According to the new article: "Freedom of peaceful assembly is guaranteed to citizens under the law, which prescribes the modalities for its exercise". Despite the constitutional protection, Law No. 91-19 of 2 December 1991 imposes a number of restrictions and has been used to ban legitimate peaceful protests and prosecute HRDs.
9. Law No. 91-19 requires prior approval for public gatherings which human rights defenders often fail to receive. This request of approval should be addressed to the government at least three days before the gathering, and authorities may refuse permission without formally stating the reason. The law makes a distinction between demonstrations that are held in public roads and all other demonstrations. For the first category, permission must be requested to the governor eight days in advance. The refusal may be appealed before an administrative court; however, on numerous occasions the authorities have notified the refusal immediately before the scheduled time of the demonstration, thus leaving no time to appeal and making the protest illegal.
10. According to Article 23 of the law, HRDs organising or participating in unauthorised gatherings may face imprisonment ranging from three months to a year and/or a fine of between 3,000 and

15,000 DA (approximately €25 - €120). Additionally, according to Articles 99 and 100 of the Algerian Penal Code, any person participating in unauthorised demonstrations may be prosecuted and faces up to five years prison sentence.

11. Freedom of assembly is further restricted by a Presidential Decree issued on 18 June 2001 and still in force, which banned demonstrations in the city of Algiers. The decree includes vague provisions on the ban of protests which “oppose national fundamental principles” or that harm “the symbols of the revolution of November 1, public order or public morals”. On 29 September 2016, security forces prevented a peaceful demonstration organised by *SOS Disparus* and *Collectif des familles de disparus* (CFDA) and the families of victims of enforced disappearance in front of the national parliament. Approximately 20 people were arrested and subsequently released.

12. Dozens of HRDs have faced judicial proceedings under the above legislation:

- Human rights defender [Taher Belabes](#) received a one-month prison sentence and a fine of 50,000 DA (approximately €475) on charges of participating in an ‘unarmed demonstration’ on 3 February 2013 as he and others gathered to protest in front of the Employment Agency in Warkala.
- In March 2015, human rights defenders [Khencha Belkacem](#), [Brahimi Belelmi](#), [Mazouzi Benallal](#), [Azzouzi Boubakeur](#), [Korini Belkacem](#), [Bekouider Faouzi](#), [Bensarkha Tahar](#) and [Djaballah Abdelkader](#), all members of the National Committee for the Defence of the Rights of Unemployed Workers, were charged with participating in an ‘unauthorised gathering’ and ‘exercising pressure on the judiciary’. They organised a protest in solidarity with a fellow human rights defender, Mohamed Rag, who was on trial at the time.

Impediments to the right to freedom of association

13. The Algerian Constitution guarantees the right to create an association in Articles 48 as well as Article 54, which was introduced in the 2016 constitutional reform. The current Law on Associations (Law No. 12-06 of 12 January 2012) replaced the more restrictive law of 1990, but failed to meaningfully address the extensive limitations of the previous law. It contains a number of provisions which are used to limit the work of human rights groups, in particular in relation to their establishment and operations.

14. The law grants the authorities broad discretionary power to refuse the registration of an organisation which does not comply with “national values, public order, public decency and the provisions of existing legislation” and to order the suspension of its activities. Registration is mandatory and the operation of unregistered groups is criminalised. The law provides for a penalty of three to six months imprisonment or a fine ranging from 100,000 to 300,000 DA (approximately €810 - €2440) for failure to register.

15. Further to the adoption of Law 12-06, 2014 was set as a deadline for all organisations to re-register under the new law. Organisations that failed to do so were considered illegal.

16. Authorities are required to issue a “*récépissé*”, a receipt acknowledging that the documents for registration have been submitted. If no objection is made within the time the law provides for administrative review, the organisation may begin to function legally. However, human rights groups have reported that authorities fail to provide the receipt, which in fact allows them to block the registration of an organisation without providing the reasons. In the absence of such receipt, organisations cannot open a bank account, rent an office in their own name or rent a space for a public meeting, etc.

17. The law provides for the dissolution of an organisation if it engages in activities deemed to fall outside the purposes and goals defined in its statute or deemed to be against public order and morality, or representing a threat to national sovereignty. Such broad terms, which are not further defined in the law, provide a means to influence and restrain the activities of human rights groups through the threat of dissolution.

18. Although the authorities are required by law to issue a warning before proceeding to a dissolution, there are reports that this often does not occur.

19. In order to establish any cooperation agreement with foreign and international entities, Algerian associations are required to obtain a prior ministerial approval. This requirement hinders the establishment of effective collaboration with international organisations and limits the ability of local groups to receive funding. However, the law allows the receipt of foreign funding from limited and predefined sources, such as private donations and membership fees. Foreign embassies and international NGOs are excluded and need to establish a formal cooperation agreement subject to ministerial approval.

Restrictions on the right to freedom of expression and the media

20. The 2016 constitutional reform introduced guarantees for media freedom, the prohibition of prior censorship and the abolition of prison terms for press offences (Article 50).

21. The Law on Information (Organic Law 12-05 of 12 January 2012) established a new media regulatory authority responsible for the registration of media outlets. The law was presented by government as guaranteeing media freedom. However, it contains a number of provisions which limit the ability of HRDs and journalists to disseminate and publish information and that can be used to stifle dissent. The law excluded prison sentences against journalists and bloggers over offences including defamation; however, it has increased applicable fines up to 500,000 DA (approximately €4100) and prison sentences for offences related to the exercise of freedom of expression remain applicable under the Penal Code.

22. The law also contains broadly defined clauses requiring respect for the Islamic faith, national identity and cultural values, national sovereignty and unity, state security and defense, public order as well as economic interests.

23. Journalists and media outlets report that they operate in a very restrictive environment and are forced to exercise self-censorship. Some media outlets have been suspended or closed down. In March 2014, the authorities proceeded to the closure of media outlet Atlas TV channel in relation to their coverage of peaceful demonstrations held against the fourth term of President Abdelaziz Bouteflika. Reportedly no official reasons were given for the closure order.

24. Human rights defender and journalist [Hassan Bouras](#), member of the Algerian League of Human Rights, has extensively reported on corruption and the practice of torture in Algeria including several testimonies on the involvement of leading generals of the Algerian army. He was arrested in October 2015 on charges of insulting state institutions and spent three months in El Bayadh prison.

25. Charges of insulting state institutions were also used against those denouncing prison conditions. Human rights defender and lawyer [Salah Dabbouz](#), president of the Algerian League for the Defence of Human Rights, was placed under judicial supervision on 13 July 2016. He was accused of insulting a state constituent body by smuggling a computer with a camera into prison, and documenting grave human rights abuses committed inside Mnea and Ghardaïa prisons in southern Algeria. It was alleged that in these prisons ill prisoners have not been receiving appropriate medical treatment, and others were subjected to sexual assaults.

26. The UN Special Rapporteur on the right to freedom of expression visited the country in 2011 and made a number of recommendations which remain outstanding, including in relation to: the use of defamation charges to stifle criticism of State institutions; the repeal of the 2001 decree banning marches in Algiers; the need to amend Law No. 12-06 and fully ensure the right to freedom of association.

HRDs working on minorities

27. There are reports of intimidation and targeting of HRDs working on ethnic, religious and sexual minorities, as well as indigenous rights, including HRDs belonging to Mozabite and Kabyle groups. [Kamal Eddin Fekhar](#) , who works on the rights of the Ibadite religious minority, has been targeted over many years for his human rights work and his activism for the recognition of the rights of Mozabite citizens. He has been detained since 9 July 2015 and accused of plotting to create, with 24 individuals arrested with him, a ‘harmful’ organisation. He is the founder of *Tifawt*, a foundation that works to protect and promote the human rights of the Amazigh people.

28. Human rights defender [Slimane Bouhafs](#) received a five year prison sentence and a fine by the Court of First Instance of Beni Warthilane on 7 August 2016. The charges were related to expressing his beliefs in Christianity on social media. He was convicted, under Article 144 bis 2 of the Penal Code, of insulting the religion of the State and the prophet, which is a charge punishable with up to five years imprisonment and a fine from 50.000 DA to 100.000 DA (approximately €410 - €810). His sentence was thereafter reduced by the Appeal Court to three years. Slimane Bouhafs is a member of the Movement for Self-Determination of Kabylia (MAK) which supports the right to self-determination of the Kabyle people. He is also the Chairman of the St. Augustine Coordination of Christians in Algeria which defends minority rights and freedom of religion in the country.

29. Accusations related to being anti-Islam are also used against HRDs addressing LGBTI rights, who face stigmatisation and persecution and are forced to work maintaining a very low profile. Throughout May 2016, human rights defender and blogger [Anouar Rahmani](#) was the subject of a defamation campaign from religious leaders and university students, accusing him of blasphemy, apostasy and atheism over blog posts he published on freedom of expression, freedom of conscience, environmental rights, minority and LGBT rights. He was threatened with death, abduction and expulsion from university. He also received anonymous death threats demanding that he refrain from filing a complaint against Alchorouk newspaper, which published an article accusing him of blasphemy.

Limitations on outside scrutiny

30. A number of international human rights groups have attempted to visit the country on numerous occasions, but were refused, or otherwise did not obtain, entry visas. Foreign journalists also face difficulty in obtaining visas to visit the country. Following an official visit in 2011, the UN Special Rapporteur on the right to freedom of expression recommended that international NGOs and foreign journalists be allowed entry.

31. A number of requests for a country visit by United Nations special procedure mandate holders remain pending. These include the Special Rapporteur on the rights to freedom of peaceful assembly and of association, who requested a visit in 2011 and 2013, and the Working Group on Arbitrary Detention, which requested a visit in 2009 and 2011.

Recommendations

32. Front Line calls upon the UN Human Rights Council to urge the authorities in Algeria to prioritise the protection of human rights defenders and in doing so to:

- (a) Guarantee in all circumstances that all human rights defenders in Algeria are able to carry out their legitimate human rights activities without fear of reprisals and free of all undue restrictions;
- (b) Repeal Presidential Decree of 18 June 2001 and proceed to a review of Law No. 91-19 of 2 December 1991, with a view to give full implementation to the Constitutional guarantee of the right to freedom of assembly and ensure compliance with international human rights law;

- (c) Proceed to a review of Law No. 12-06 of 12 January 2012, with a view to give full implementation to the Constitutional guarantee of the right to freedom of association and ensure compliance with international human rights law;
- (d) Amend provisions of the Penal Code mandating prison terms for offences related to the exercise of the right to freedom of expression, including related to insulting state institutions;
- (e) Ensure that independent media outlets are free to operate and do not suffer any form of reprisals for their critical reporting;
- (f) Complete the accession to the International Convention on the protection of all persons from enforced disappearances and ensure that the fate and whereabouts of all those disappeared due to their criticism of the governments are disclosed;
- (g) Publicly recognise the positive and legitimate role played by human rights defenders in Algeria;
- (h) Review and quash the conviction of, and release all human rights defenders who have been sentenced on grounds of their human rights work and who remain in detention, including all the cases mentioned in this submission;
- (i) Fully implement the adopted UPR recommendations on human rights defenders in a transparent and participatory manner with full involvement of human rights defenders at all levels.
- (j) Respond positively to the pending request for country visits by the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association and the UN Working Group on Arbitrary Detention, and ensure full cooperation with the UN Special Rapporteur on the situation of Human Rights Defenders;
- (k) Fully implement the recommendations made by UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression following his visit to Algeria in 2011.