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**Promotion and protection of all human rights,
civil, political, economic, social and cultural,
including the right to development**

Visit to Algeria

Report of the Special Rapporteur on the situation of human rights defenders, Mary Lawlor*

Summary

In the present report on her visit to Algeria, from 25 November to 5 December 2023, the Special Rapporteur on the situation of human rights defenders, Mary Lawlor, assesses the situation of human rights defenders in the country. She highlights some positive steps taken by the Government to improve the environment for the promotion and protection of human rights along with several areas of serious concern and makes recommendations to the State on how the situation could be improved.

* The summary of the report is being circulated in all official languages. The report itself, which is annexed to the summary, is being circulated in the language of submission and English only.



Annex

Report of the Special Rapporteur on the situation of human rights defenders, Mary Lawlor, on her visit to Algeria

I. Introduction

1. The Special Rapporteur on the situation of human rights defenders, Mary Lawlor, visited Algeria from 25 November to 5 December 2023. The objective of the visit was to assess the situation of human rights defenders in the context of the State's obligations under international human rights law, including the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (the Declaration on Human Rights Defenders).

2. During her visit, the Special Rapporteur held meetings in Algiers, Tizi Ouzou and Oran. She met representatives of the Ministry of Foreign Affairs and National Community Abroad, the Minister of Communication, the Minister of the Interior, Local Authorities and Regional Planning, as well as representatives of the Directorate General of Civil Liberties and Judicial Affairs and the Directorate General of National Security, the Minister of National Solidarity, the Family and the Status of Women, the Minister of Justice and Keeper of the Seals and the Minister for Religious Affairs and Waqfs. The Special Rapporteur also met the Presidential Adviser in charge of non-governmental organizations and human rights, the walis of Algiers, Tizi Ouzou and Oran and representatives of the National Human Rights Council, the National Civil Society Observatory, the High Authority for Transparency and to Prevent and Combat Corruption, the National Economic, Social and Environmental Council, the High Council for Youth, the Algiers Bar Association, the Constitutional Court and the Ombudsman.

3. The Special Rapporteur also met with the United Nations country team and over 50 human rights defenders, including representatives of civil society organizations, lawyers, activists, trade unionists, journalists and bloggers. Unfortunately, the Special Rapporteur was unable to meet with some human rights defenders because of their fear of reprisals, their refusal to be associated with the international community or their difficulty in travelling to meet her.

4. The Special Rapporteur also asked to meet three human rights defenders in detention, namely Nouredine Tounsi, at El Harrach Prison; Kamira Nait Sid, at Kolea Prison; and Ahmed Manseri, at Tiaret Prison. She also asked to attend the trial of three human rights defenders, Jamila Loukil, Kaddour Chouicha and Said Boudour, at the Dar El Beïda court. The Algerian Government acceded to all the Special Rapporteur's requests.

5. The Special Rapporteur thanks the Algerian Government, in particular the Ministry of Foreign Affairs and National Community Abroad, for their cooperation, and the Ministry of Justice for acceding to the requests for visits to human rights defenders. She also thanks the staff of the United Nations country team for their invaluable support before, during and after the visit. She expresses her gratitude to everyone who took the time to meet with her.

6. On 5 December 2023, the Special Rapporteur shared her preliminary conclusions. Although she was able to meet many stakeholders and visit three different cities during her visit, the findings of this report are not exhaustive and do not fully address the situation of human rights defenders throughout the country. The Special Rapporteur is ready to continue working with the Government to address the various elements presented in this report.

II. International, regional and national frameworks

A. International framework

7. Algeria is a party to a number of international human rights instruments, including: the International Covenant on Civil and Political Rights, which it ratified on 12 September 1989, without, however, ratifying its Second Optional Protocol, aiming at the abolition of the death penalty; the International Covenant on Economic, Social and Cultural Rights, ratified on 12 September 1989; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified on 12 September 1989, without, however, ratifying its Optional Protocol; the Convention on the Rights of the Child, ratified on 16 April 1993, as well as the Optional Protocol on the involvement of children in armed conflict, to which it acceded on 6 May 2009, and the Optional Protocol on the sale of children, child prostitution and child pornography, to which it acceded on 27 December 2006; the Convention on the Elimination of All Forms of Discrimination against Women, to which it acceded on 22 May 1996; the International Convention on the Elimination of All Forms of Racial Discrimination, ratified on 14 February 1972; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, to which it acceded on 21 April 2005; and the Convention on the Rights of Persons with Disabilities, ratified on 4 December 2009. However, while Algeria signed the International Convention for the Protection of All Persons from Enforced Disappearance on 6 February 2007, it has yet to ratify it.

8. The Committee on the Rights of Persons with Disabilities is the treaty body that most recently examined a report from Algeria, in 2019.¹ In 2018, the Human Rights Committee examined the fourth periodic report of Algeria² and highlighted concerns similar to those raised in the present report, particularly with regard to the excessively broad and vague definition of terrorism in the Criminal Code.

9. Algeria has participated in four cycles of the Human Rights Council's universal periodic review. The most recent review took place in 2022. The Algerian Government received seven recommendations directly related to the situation of human rights defenders and accepted six of them.³ The recommendations also referred to the need to amend article 87 bis of the Criminal Code, defining more precisely the crime of "terrorism" in line with international standards in order to prevent its use against political opponents, journalists and human rights defenders.⁴

10. In 2023, Algeria welcomed two special procedures mandate holders for official visits to the country. The Special Rapporteur on the rights to freedom of peaceful assembly and of association visited Algeria, with the agreement of the Government, from 16 to 26 September 2023.⁵ Prior to this, the last official country visit was in 2016, by the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Dainius Pūras.⁶ The Special Rapporteur on the Situation of Human Rights Defenders congratulates Algeria on its renewed willingness to collaborate more closely with the special procedures mechanisms.

11. In 2022, Algeria was elected as a member of the Human Rights Council for the period from 2023 to 2025, and in 2023, as a non-permanent member of the Security Council, for a two-year term. During these two elections Algeria declared that the situation of young people, women and persons with disabilities was a priority for the country.

¹ See [CRPD/C/DZA/CO/1](#).

² [CCPR/C/DZA/CO/4](#).

³ See [A/HRC/52/12](#), [A/HRC/52/12/Corr.1](#) and [A/HRC/52/12/Add.1](#).

⁴ [A/HRC/52/12](#), para. 43.86.

⁵ See [A/HRC/56/50/Add.2](#).

⁶ See [A/HRC/35/21/Add.1](#).

B. Regional framework

12. Algeria ratified the African Charter on Human and Peoples' Rights on 1 March 1987, and the African Commission on Human and Peoples' Rights provides oversight of the country's human rights policies and practices. In addition, Algeria has pledged that the African Court on Human and Peoples' Rights will be empowered to examine complaints lodged by the Commission, African intergovernmental organizations and States that have ratified the African Charter on Human and Peoples' Rights. Algeria also ratified the Arab Charter on Human Rights, on 11 June 2006.

C. National framework

13. The Special Rapporteur fully recognizes that the recent history of Algeria and the Algerian people has been marked by violence and terror. The trauma, fear and chaos of the "black decade" still resonate strongly.

14. The Special Rapporteur understands that strong legislation is needed to enable the State to protect its citizens from such violence and to limit any possibility of terror as early as possible in order to preserve life, peace and security. However, she fears that the new legislative arsenal described below will enable State actors to go beyond the original purpose of these laws and transform order into control.

1. National constitutional framework

15. Following the pro-democracy protests that began in February 2019, a new Constitution was adopted in 2020, despite a low turnout for the referendum and a boycott by a number of actors. The new Constitution includes greater separation of powers and stronger provisions on gender equality and the freedoms of expression, association and assembly.

16. According to the Algerian authorities, ongoing efforts are being made to ensure that national laws comply with both the Constitution and international human rights law. The Constitutional Court was set up in November 2021 with a mandate to verify the constitutionality of contested laws and to ensure the fairness and transparency of the voting process in presidential and legislative elections and referendums. At the time of the Special Rapporteur's visit, a large number of new laws were being drawn up. Since then, only new laws amending the Criminal Code have been adopted.

17. During her visit, the Special Rapporteur noted the recent creation of new government bodies that make possible broader and deeper public consultation and participation, with the long-term aim of fostering social cohesion. The Special Rapporteur particularly welcomes the new mechanisms designed to enable citizens to express their dissatisfaction, including the complaints mechanism set up under the Office of the Ombudsman⁷ and the public engagement mechanisms set up by the various *wilayas* to help resolve problems encountered by citizens and ensure that they are heard as a first step in tackling them. At the same time, women and young people are being offered new opportunities to participate and become involved in public life. The Ministry of National Solidarity, the Family and the Status of Women and the High Council for Youth⁸ are key players in this respect.

18. With regard to the situation of human rights defenders in particular, new spaces and opportunities have been created for dialogue and consultation between the authorities and civil society, notably through the National Human Rights Council⁹ and the National Civil Society Observatory.¹⁰

19. In accordance with article 6 of Act No. 22-08 of 5 May 2022, a whistle-blower protection mechanism has been set up through the High Authority for Transparency and to

⁷ Decree No. 20-103 of 25 April 2020 on the organization and functioning of the Office of the Ombudsman.

⁸ Constitution, arts. 214 and 215.

⁹ Ibid., arts. 211 and 212.

¹⁰ Ibid., art. 213.

Prevent and Combat Corruption. Thanks to this mechanism, the institution can receive alerts or complaints concerning corruption. However, the mechanism remains limited in terms of protection, as the whistle-blower has to be identifiable and no specific protection measures are detailed in the legislation. Moreover, the human rights defenders that the Special Rapporteur met were either unaware of this mechanism or did not trust it enough to use it and feel protected.

20. There is no law on the protection of human rights defenders in Algeria.

2. Legislation limiting the defence of rights

21. Despite improvements in the legislative framework since the adoption of the new Constitution in 2020, specific laws restrict civic space in Algeria, treating human rights defenders as criminals and limiting their freedom of expression, association and peaceful assembly.

(a) Counter-terrorism legislation

22. Certain legal texts relating to the security sector and the fight against terrorism approved in 2021 have raised serious concerns in the human rights community, notably Ordinance No. 21-08 of 8 June 2021 and Act No. 20-06 of 28 April 2020, both of which amended and supplemented Ordinance No. 66-156 of 8 June 1966 on the Criminal Code. In December 2021, special procedures mandate holders expressed their concerns, as well as their comments and suggestions, regarding these two texts.¹¹

23. Although Algeria faces serious challenges in the fight against terrorism, the special procedures mandate holders have raised concerns about the conditions under which these amendments were adopted, the broad definition of terrorism, particularly in article 87 bis of the Criminal Code, and the very wide scope of application of articles 95 and 196 bis of the Code. These appear to undermine the principle of legal certainty and the rights of peaceful assembly and freedom of expression, and they impose disproportionate penalties for acts that should not be covered by anti-terrorist legislation. They have also expressed concern about the establishment of the national list of terrorist persons and entities.

24. Although there is no universal definition of terrorism, a model definition has been drawn up by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, who specifies that the definition must be accessible, formulated with precision, non-discriminatory and non-retroactive.¹² In this respect, three elements must be respected: (a) the means used in the act must be lethal; (b) the intention of the act must be to create fear among the population or to compel a government or international organization to do or refrain from doing something; and (c) the aim must be to promote an ideological objective.

25. While the Algerian Government has responded in detail to the concerns of special procedures mandate holders,¹³ similar concerns have also been expressed by other United Nations human rights mechanisms, notably in the context of the universal periodic review mechanism¹⁴ and the review of Algeria by the Human Rights Committee.¹⁵

26. During her visit, the Special Rapporteur heard, from all the civil society actors, human rights defenders, journalists and lawyers with whom she met, about the extent to which the Criminal Code and its broad definition of terrorism are detrimental to the human rights community. During her meeting with the Minister of Justice, the Minister acknowledged the Special Rapporteur's comments and concerns regarding the Criminal Code.

¹¹ See communication DZA 12/2021. All the communications mentioned in this report and the corresponding replies are available at <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>.

¹² [A/HRC/16/51](#), para. 27.

¹³ See the Algerian Government's response to communication DZA 12/2021 dated 2 March 2022.

¹⁴ See [A/HRC/52/12](#) and [A/HRC/52/12/Corr.1](#).

¹⁵ See [CCPR/C/DZA/CO/4](#).

(b) Laws concerning freedom of association and assembly

27. Echoing the comments of the Special Rapporteur on the rights to freedom of peaceful assembly and of association following his visit to Algeria,¹⁶ the Special Rapporteur too is very concerned about Act No. 12-06 of 12 January 2012 on associations. This law has a serious impact on human rights defenders, as anyone wishing to set up an association must request authorization from the authorities to do so. It prohibits going against “national values”, without defining what such values are, thus leaving interpretation to the discretion of the competent authorities.

28. Furthermore, Act No. 12-06 does not allow Algerian associations to receive foreign funds without authorization,¹⁷ in contradiction with article 13 of the Declaration on Human Rights Defenders, which states that everyone has the right, individually or in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms by peaceful means, in accordance with article 3 of the Declaration.

29. The current legislation is also detrimental to foreign associations, since they can be prevented from operating or can be dissolved if their activities are interpreted by the competent authorities as “blatant interference in the affairs of the host country or ... of such a nature as to undermine national sovereignty, the established institutional order, national unity or territorial integrity, public order and morality or the civilizational values of the Algerian people”.¹⁸

30. During her meeting with the Minister of the Interior, the issues raised by the Special Rapporteur were acknowledged, and she was informed that a revision of the law on associations was under way. It addressed some of the above-mentioned concerns, including the possibility of creating an association by means of a declaration rather than an authorization. The Special Rapporteur looks forward to the adoption and implementation of this new law, as it would have a significant positive impact on human rights defenders and their freedom to carry out their work.

31. Act No. 23-02 of 25 April 2023 on the exercise of trade union rights too is very worrying when it comes to the freedom of association of trade unionists. As pointed out by the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the law’s terminology is excessively broad, giving the Government leeway to prohibit the establishment of a trade union and to restrict freedom of association.¹⁹

32. The Special Rapporteur is particularly concerned about Act No. 23-02, as it contradicts the freedom of association defined in the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) of the International Labour Organization, as well as articles 53 and 72 of the Algerian Constitution.

(c) Laws concerning freedom of expression

33. The Special Rapporteur is alarmed about the high and growing level of repression against journalists and bloggers in Algeria in recent years.

34. Although the Constitution protects journalists against criminal prosecution for what they write, numerous articles of the Criminal Code – notably articles 144, 144 bis, 144 bis (2), 146 and 147 – criminalize “contempt” of the President, officials, institutions, the parliament, the courts, the army and the judiciary. Article 196 bis of the Criminal Code also criminalizes the actions of “anyone who by any means deliberately disseminates or propagates to the public false or slanderous information or news that is likely to undermine public security or order”.²⁰

¹⁶ See [A/HRC/56/50/Add.2](#).

¹⁷ Act No. 12-06 of 12 January 2012 on associations, arts. 8, 23, 30 and 50.

¹⁸ *Ibid.*, art. 65.

¹⁹ Act No. 23-02 of 25 April 2023 on the exercise of trade union rights, art. 5.

²⁰ Act No. 20-06 of 28 April 2020 amending and supplementing Ordinance No. 66-156 of 8 June 1966 on the Criminal Code, art. 4.

35. Furthermore, since the Special Rapporteur's visit, new amendments to the Criminal Code were introduced in April 2024,²¹ which could adversely affect human rights defenders, particularly journalists and bloggers. Indeed, anyone who discloses confidential information and documents relating to national security or the national economy on social networks, or to foreign countries or one of their agents, can face a prison sentence ranging from 5 years to life.

36. On 27 August 2023, Organic Act No. 23-14 on information was adopted. Although it has simplified the process of establishing certain media by allowing for use of a declaration,²² the law also contains vague concepts, the interpretation of which is left to the discretion of the competent authorities. This allows unjustified restrictions on freedom of opinion and expression and, in the worst case, the criminalization of the actions of independent journalists, bloggers and media outlets.

37. Act No. 23-14 also applies to foreign media, as journalists need specific accreditation to work for or with foreign media.²³ Under article 44 of this law, any media receiving funding or material assistance from a foreign organization without authorization is liable to a fine of between 1 million and 2 million Algerian dinars.

38. The Special Rapporteur is concerned that the current national legislation governing freedom of opinion and expression is in contradiction with article 19 of the Universal Declaration of Human Rights, as well as article 6 (b) and (c) of the Declaration on Human Rights Defenders, which provides for the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, as well as to study, discuss and hold opinions on the observance of these rights.

39. The Special Rapporteur recalls that Human Rights Council resolution 12/16 calls on States to recognize the exercise of the right to freedom of opinion and expression as one of the essential foundations of a democratic society. This right applies both online and offline.

III. Specific situation of human rights defenders

A. General remarks

40. Civil society organizations and human rights defenders have a space to work on certain human rights issues in Algeria. Since the Hirak movement and the drafting of the new Constitution in 2020, major efforts have been made to better meet the needs of Algerian citizens through the provision of social services and the development of complaint mechanisms that better respond to everyday demands. In this context, civil society organizations and human rights defenders working on economic and social rights with a focus on service delivery can operate with peace of mind, in close partnership with the Government as well as with United Nations agencies. The Special Rapporteur heard, for example, the wali of Tizi Ouzou state that there were 3,300 associations in the city, with which he maintained a regular dialogue.

41. Despite these efforts to create a space for dialogue, exchange and protection for civil society actors, the Special Rapporteur noted that the notion of human rights defender was little understood in Algeria. She recalls that a human rights defender is a person who, individually or in association with others, acts peacefully to protect human rights and promote the protection and realization of human rights and fundamental freedoms at the national and international levels.²⁴ Women play an important role in the promotion and protection of human rights and fundamental freedoms. They may face additional risks in comparison with their male counterparts, such as gender-based violence, rape and other forms of sexual

²¹ Act No. 20-06 of 28 April 2020 amending and supplementing Ordinance No. 66-156 of 8 June 1966 on the Criminal Code.

²² Organic Act No. 23-14 of 27 August 2023 on information, art. 6.

²³ *Ibid.*, art. 22.

²⁴ Declaration on Human Rights Defenders, art. 1.

violence, harassment, verbal abuse and reputational damage, both online and offline.²⁵ In her meeting with the Minister of National Solidarity, the Family and the Status of Women, the Special Rapporteur also expressed concern about the additional and differentiated risks that human rights defenders from the LGBTIQ+ community may face. The Minister assured the Special Rapporteur that all people could work freely and safely regardless of their sexual orientation and gender identity, as long as this was in line with the current national legislation.

42. The work of human rights defenders is legitimate, even if such activities criticize the government's approach or protection of human rights. With the recent history of Algeria marked by social movements in the context of the Hirak in 2020, many of the country's human rights defenders who worked at the time for the promotion and protection of human rights in Algeria and continue to do so are seen as threats to the country's stability rather than allies in advancing the cause of human rights.

43. "Our dignity is under attack, because we are losing our credibility; we cannot help others because we cannot defend our rights", said one human rights defender. Of those whom the Special Rapporteur was able to meet, the vast majority stated that they had been subjected to some form of State interference in their peaceful activities. Labelled as "terrorists" or "separatists", they operate in a constant atmosphere of fear and surveillance and have no confidence in the post-Hirak Government or its newly-established bodies. Regarded as enemies or troublemakers, these human rights defenders are often treated as criminals. Many of the ones that the Special Rapporteur met had already been detained. As a result, a palpable sense of frustration, fear and lack of confidence hangs over them.

B. Challenges faced by human rights defenders in Algeria

1. Limited freedom of association and peaceful assembly

(a) Freedom of peaceful assembly

44. According to the information received, restrictions on the freedom of peaceful assembly are at the root of most of the difficulties encountered by human rights defenders and human rights organizations at risk in Algeria. Indeed, since the Hirak movement, the human rights defenders the Special Rapporteur met consider that their situation has worsened and their ability to work in complete safety has diminished.

45. As highlighted in the report of the Special Rapporteur on the rights to freedom of peaceful assembly and association following his visit to the country, since 2019, several Hirak demonstrators and sympathizers have been charged with participating in or inciting the organization of unauthorized gatherings,²⁶ offences punishable by up to 1 year's imprisonment.²⁷ The repression that took place during the Hirak movement affected the human rights community as a whole – including human rights defenders and their civil society organizations, journalists, human rights lawyers, trade unionists, young people and whistle-blowers. While the special procedures mandate holders expressed their concerns in a communication to the Algerian Government regarding repression during demonstrations,²⁸ the Special Rapporteur learned during her visit that repression continues in various forms, including through the aforementioned legislation on freedom of association, freedom of expression and counter-terrorism, as well as through individual and institutional targeting, which contributes to increased isolation and fear and makes it more difficult for some members of the human rights community to operate.

46. As a result, the Special Rapporteur has learned that human rights defenders and civil society in general do not dare to protest.

²⁵ General Assembly resolution 68/1, eighth preambular paragraph.

²⁶ CCPR/C/136/2/Add.1, p. 5.

²⁷ A/HRC/56/50/Add.2, para. 57.

²⁸ See communication DZA 5/2021.

(b) Freedom of association

47. Algerian civil society is highly diversified, with a large number of registered associations, many of which focus on the provision of services and on social and economic rights, and which operate without fear, in close collaboration with public bodies.

48. At the same time, people in civil society organizations focusing on civil, political and cultural rights feel restricted in their work, particularly since two key human rights organizations, the Ligue algérienne pour la défense des droits de l'homme (Algerian League for the Defence of Human Rights) and the Rassemblement actions jeunesse (Youth Action Rally), were dissolved.²⁹ The Ligue algérienne pour la défense des droits de l'homme was a long-established human rights organization of fundamental importance. It played an essential role in monitoring human rights violations, raising citizens' awareness, supporting vulnerable communities and generally raising awareness of human rights among Algerians. It was dissolved because it could not meet the Government's administrative requirements. Created in 1992, the objectives of the Rassemblement actions jeunesse were to implement youth-led campaigns to raise awareness of the concept of citizenship, promote cultural activities, advocate for human rights and ensure that all Algerians had the opportunity to express their views. It was forced to suspend its activities in application of Act No. 12-06 on associations after a Tunisian delegation visited its offices to express its solidarity at the time of the HIRAK movement. The reason given for the dissolution of Rassemblement actions jeunesse was that authorization was required for a partnership with a foreign entity.

49. Although the Algerian Government had provided full answers concerning these two dissolutions³⁰ and the administrative requirements had not been followed to the letter by these civil society organizations, the Special Rapporteur was able to observe during her visit that no effort had been made to resolve these problems, with confusion reigning on both sides. The Special Rapporteur is concerned about the authorities' ambiguous implementation of Act No. 12-06 on associations, a concern shared by the Special Rapporteur on the rights to freedom of peaceful assembly and of association. Civil society actors have reported delays in registration or authorization that prevent them from pursuing their human rights activities.

50. The National Civil Society Observatory acted as mediator between the Ligue algérienne pour la défense des droits de l'homme and the authorities. The Special Rapporteur welcomes this role played by newly-created institutions, as they are essential initiatives to begin building trust through open channels and dialogue between the various stakeholders.

51. In this context, trade unions and their members have also felt limited in their legitimate work to promote and protect human rights.

52. Faleh Hammoudi³¹ is a human rights defender and trade unionist who works to protect migrants' rights and to monitor and document migration flows from Algeria to the European Union. On 20 February 2022, the Tlemcen Correctional Court sentenced him to 3 years' imprisonment and a fine of 100,000 dinars for directing and managing an organization not approved under article 45 of Act No. 12-06 on associations, for "insulting a statutory body" under articles 144 and 146 of the Criminal Code and for "deliberately publishing or deliberately promoting by any means false news or news likely to undermine public safety" under article 196 bis of the Criminal Code. He was subsequently released on bail on 30 March 2022. On appeal, he was given a 1-year suspended prison sentence, on 15 May 2022.

2. Criminalization, arbitrary detention

53. Among the persecuted human rights defenders whose situation has been brought to the Special Rapporteur's attention since she took office in 2020, as well as those she met during her visit to Algeria, most had been imprisoned at least once in their lives or were the subject of criminal proceedings. Because these human rights defenders work on issues

²⁹ See communications DZA 2/2023 and DZA 13/2021.

³⁰ See the Government's responses to communication DZA 13/2021, dated 25 March 2022, and communication DZA 2/2023, dated 14 April 2023.

³¹ See communication DZA 2/2022.

perceived as sensitive, they are seen by the security forces as problematic and, consequently, as a threat to the country's stability.

54. One of the articles of the Criminal Code most often cited to repress human rights defenders is article 87 bis, which concerns terrorism. As mentioned above, the definition of terrorism in this article is so broad and vague that it makes it possible for human rights defenders to be arrested on a large scale.³² Specifically, the vaguely defined crime of "undermining national unity" is of great concern to the Special Rapporteur, as it is a charge widely invoked against human rights defenders for a whole series of reasons.

55. Kaddour Chouicha, vice-president of the Ligue algérienne pour la défense des droits de l'homme before its dissolution and national coordinator of the University Professors' Union, has been arrested eight times since 2019. Jamila Loukil, a retired journalist and photographer, was arrested four times during the same period.³³

56. Whistle-blower and human rights defender Noureddine Tounsi,³⁴ known for exposing major cases of corruption in the public and private sectors, has been arrested and detained twice in less than three years. The Special Rapporteur visited him at El Harrach prison during her official visit.

57. The high level of criminalization of the activities of human rights defenders working on civil and political rights in Algeria is extremely worrying for the Special Rapporteur. In this context, the special procedures mandate holders have on several occasions expressed their concerns to Algeria about the people arrested and prosecuted in connection with the Hirak movement.³⁵

58. The Special Rapporteur notes with concern that, despite a formal communication from the special procedures mandate holders in 2021 and her official visit to the country in 2023, the work of human rights defenders continues to be criminalized under the terrorism legislation. These defenders include Ahmed Manseri,³⁶ the journalist Merzoug Touati,³⁷ Zakaria Hannache,³⁸ the journalist Ihsane El Kadi,³⁹ Kaddour Chouicha, Jamila Loukil,⁴⁰ Kamira Nait Sid and human rights lawyers Toufik Belala, Soufiane Ouali and Omar Boussag.⁴¹

3. Isolation, invisibility and lack of trust

59. The human rights defenders that the Special Rapporteur met in Algeria feel isolated and invisible. Due to the current national legislation and the high risk of criminalization of public expression or action involving anything perceived as critical, human rights defenders feel that any visibility, partnership or collaboration with other entities is an additional risk for them to take.

60. Because of this fear, they tend to work in the shadows, and not always publicly or in an organized manner. This trend makes it difficult for them to be recognized and perceived as legitimate human rights actors. While acquiring greater visibility and recognition is generally part of the protection strategy for human rights defenders, it can be a risk in Algeria, as they can be accused of threatening the country's stability and unity.

61. The Special Rapporteur was particularly struck by the impact of this situation on the people she met. The accumulation of years of stress, insecurity and fear is clearly visible in their behaviour and in the consequences for their mental health. The Special Rapporteur was also informed of the impact of these stressful circumstances on their family members, as well

³² See communication DZA 12/2021.

³³ See communication DZA 3/2023.

³⁴ See communication DZA 11/2021.

³⁵ See communications DZA 3/2021, DZA 4/2021, DZA 5/2021, DZA 6/2021, DZA 13/2021, DZA 2/2022, DZA 3/2022, DZA 2/2023 and DZA 3/2023.

³⁶ See communications DZA 3/2022 and DZA 5/2023.

³⁷ See communications DZA 4/2022 and DZA 3/2024.

³⁸ See communication DZA 5/2022.

³⁹ See communication DZA 1/2023.

⁴⁰ See communication DZA 3/2023.

⁴¹ See communication DZA 3/2024.

as on the new generation of human rights defenders, who see them as models of failure due to the relentless pressure and persecution they face.

62. With new institutions being established to open up dialogue and exchange with civil society on the one hand, and an atmosphere of fear among some human rights defenders on the other, trust is still lacking. The Special Rapporteur points out that the new bodies that have been set up are not yet recognized by all civil society organizations and human rights defenders and that they have not gained their trust. She believes that these contrasting approaches are dangerous, as they have created two parallel realities that do not allow the newly proposed governance structures and critical human rights defenders to talk and work together.

(a) *Reprisals for cooperation with the United Nations*

63. Cases of reprisals for cooperating with the United Nations have unfortunately arisen several times in recent years, notably in 2020, 2023 and 2024.⁴² Many of the human rights defenders with whom the Special Rapporteur intended to meet refused, or cancelled at the last minute, out of fear of reprisals. The visit was also marred by the fact that a number of human rights defenders, members of civil society organizations and victims of human rights violations were prevented from visiting Tizi Ouzou while the Special Rapporteur was there. On their way into the city, they were either stopped at checkpoints or detained in a police station for over 10 hours. The Special Rapporteur was also informed that the persons who were prevented from travelling were subject to routine surveillance and were regularly arrested when they attempted to attend meetings, events or other important functions.

64. Following the visit of the Special Rapporteur on the rights to freedom of peaceful assembly and of association too, cases of alleged reprisals against human rights defenders were reported, including the alleged arrest and detention of human rights defender Ahmed Manser, and the alleged intimidation of Malik Riahi, Qasim Saeed and Chahrazad Ben Fryawa.⁴³

(b) *Limited interaction with the international community*

65. In addition to the fear of reprisals for cooperating with the United Nations, human rights defenders in Algeria are unable to interact with the broader international community for fear of being accused of “treason against the homeland”. As a result, very few diplomatic representations in Algiers have direct contact with human rights defenders, as they are afraid of placing them in danger.

66. Moreover, articles 8, 23, 30 and 50 of Act No. 12-06 do not allow Algerian associations to receive foreign funds without authorization. This legislation further limits interaction between human rights organizations and regional or international partners.

67. Contact with family members abroad can also prove problematic for human rights defenders in Algeria, as they can be prosecuted for receiving financial support, in accordance with Act No. 12-06.

68. Despite these challenges, the Special Rapporteur invites the international community, in particular countries with guidelines on the protection of human rights defenders, to find creative ways of staying in touch with the human rights community in Algeria. The Special Rapporteur also wishes to remind them that the human rights defenders must be consulted on appropriate measures or actions that can be taken to increase their security and protection. The “do no harm” principle can be dangerous when it paralyzes everyone’s action rather than recognizing that human rights defenders must themselves choose the level of risk that they are willing to assume.

⁴² See [A/HRC/45/36 \(2020\)](#), [A/HRC/54/61 \(2023\)](#) and [A/HRC/57/60 \(2024\)](#).

⁴³ See communication DZA 5/2023.

(c) Surveillance and limited freedom of movement

69. The Special Rapporteur's visit to the country revealed the extent to which human rights defenders working on sensitive issues are under surveillance and restricted in their freedom of movement.

70. During the visit, human rights defenders insisted on meeting in hotels, as they ran the risk of eavesdropping or surveillance at their homes or offices. They reported that their photos had been taken by plainclothes men with walkie-talkies as they entered venues where meetings were due to take place. Some decided not to meet in person, cancelled at the last minute or requested security measures to limit opportunities for surveillance.

71. The freedom of movement of some human rights defenders is also reportedly controlled by travel bans or exit bans which prevent them from leaving the country. During her visit, in several cases the Special Rapporteur heard that human rights defenders were not allowed to travel. They received no formal notification of such a ban, which they only found out about when they arrived at the airport.

72. Once outside the country, some human rights defenders have also been the subject of international arrest warrants. This is the case of Ghilas Aïnouche, a 35-year-old cartoonist who on 30 November 2022 was sentenced in absentia by the Sidi-Aich court to 10 years' imprisonment on the basis of Ordinance No. 21-08, for his caricatures. While Mr. Aïnouche had no intention of leaving his country, he did so in 2020 under pressure, and he has since applied for political asylum in France. The Algerian authorities have issued an international arrest warrant for him.

73. Raouf Mellal⁴⁴ is a human rights defender and trade unionist, and president of the Confédération syndicale des forces productives (Trade Union Confederation of Productive Forces). He and his family members have been subjected to intense repression since 2017. On 23 April 2019, Mr. Mellal was manhandled and arrested during a peaceful protest and taken to police headquarters, where he was stripped naked, abused and forced to sit on an iron chair during his interrogation. In May 2019, he was sentenced to 6 months' imprisonment by the Algiers court, following a complaint lodged by the Ministry of Labour, which accused him of defamation before the International Labour Organization (ILO) for having lodged a complaint against his country before the ILO monitoring bodies. His actions were interpreted as an act of treason. Due to increasing repression and legal proceedings against him, Mr. Mellal could no longer work from the headquarters of the Syndicat national autonome des travailleurs de l'électricité et du gaz (Independent Trade Union of Electricity and Gas Workers). He had to remain in hiding, which prompted him to go into exile in 2020.

74. This high level of surveillance applies not only to human rights defenders, but also to their family members. This is particularly the case when human rights defenders have been forced into exile while their families have remained in the country. The Special Rapporteur heard on several occasions that family members had been intimidated by local police officers who had visited their homes and warned them that they could be the next to be arrested. Such intimidation involves different and additional risks for female family members. The Special Rapporteur has heard of incidents in which the wives of human rights defenders have been verbally threatened and physically assaulted. This leads many human rights defenders to stop their work, out of fear for the safety of their families back home.

C. Categories of human rights defenders particularly at risk

1. Human rights defenders exercising their freedom of opinion and expression

75. During her visit to the country, the Special Rapporteur was told by journalists, bloggers and social media users that they felt they were taking great risks every time they published a message or wrote an article. She was also informed that, as the job of journalist had become so dangerous and freedom of the press was not guaranteed in practice, many human rights defenders were using social networks to defend their causes. However, commenting on or reacting to someone else's social media posts too had become dangerous.

⁴⁴ See communication DZA 3/2024.

With the new Act No. 23-14 on information, journalists and bloggers no longer knew where the “red line” was and could be attacked or treated as criminals for writing on almost any subject.

76. The Special Rapporteur noted that the media coverage of her visit was a good illustration of the variety and contradiction of public accounts of the human rights situation in Algeria. Her meetings with government representatives and her press conference at the end of the visit were widely covered by the government media, most of which highlighted the current Government’s efforts to improve the human rights situation and stated that the Government was ready to work towards further improvement. Very few of the concerns she raised at her end-of-mission press conference were reported by the government media. On the other hand, the independent media highlighted the Special Rapporteur’s main concerns regarding the situation of human rights defenders in the country.

77. Journalist and blogger Merzoug Touati runs a social media page as well as the blog *alhogra.com*, mainly to express himself on subjects related to the political situation and human rights in Algeria. He has specifically denounced alleged acts and practices of corruption by local elected officials, abuse of power and tribalism. The special procedures mandate holders have sent several communications⁴⁵ to the Algerian authorities expressing their concerns about his case. At the end of October 2021, Mr. Touati published a report on the conditions of incarceration of a prisoner serving a long sentence. On 29 December 2021, Mr. Touati was charged with “contempt of court” and “dissemination of false information”. On 3 January 2022, the Ghardaïa court sentenced him to 1 year’s imprisonment and a fine of 100,000 dinars for contempt of court and dissemination of false information. In 2024, Mr. Touati was stopped and detained three times. He was the victim of ill-treatment during his detention in August 2024 and is currently under judicial supervision.

78. Ihsane El Kadi⁴⁶ is an Algerian journalist and the founder and director of Radio M and Maghreb Émergent, two independent media outlets based in Algiers. He has been questioned and prosecuted four times in three years for publishing articles critical of the Government.

2. Human rights defenders providing legal defence in sensitive cases

79. While lawyers handling ordinary cases on non-sensitive issues can practise their profession freely and safely, human rights lawyers providing legal defence for HIRAK movement protesters, human rights defenders or persons working on sensitive issues run a particularly high risk. Since 2019, this has been the case when they have mobilized to provide legal assistance to the HIRAK movement protesters. A number of human rights lawyers have formalized this support by creating the *Collectif de défense des détenus d’opinion* (Collective for the Defence of Prisoners of Conscience), and they have organized across the country to guarantee the integrity of judicial proceedings and the rule of law.

80. Many human rights lawyers have been targeted for denouncing unfair trials and other rights violations in connection with the sentencing of their clients. Recently, Soufiane Ouali, Omar Boussag and Toufik Belala,⁴⁷ all members of the *Collectif de défense des détenus d’opinion*, were intimidated and interrogated. They are facing legal proceedings.

81. In April 2024 Toufik Belala was summoned several times to the National Gendarmerie in Algiers. He was questioned about some of his social media posts and asked to hand his phone over to the authorities, which he refused to do, as no warrant had been issued by a court. In July 2024, he was presented to the Prosecutor’s Office, and he is still facing judicial proceedings.

82. Soufiane Ouali was arrested on 10 July 2024, along with eight other people. Members of his family were subjected to a brutal search of the family home, and Mr. Ouali’s computer was reportedly confiscated. He was subsequently taken to Algiers and appeared before the Sidi M’Hamed court on 18 July 2024. His provisional release was ordered by the specialized judicial division and confirmed on 29 July 2024.

⁴⁵ See communications DZA 4/2022 and DZA 2/2018.

⁴⁶ See communication DZA 1/2023.

⁴⁷ See communication DZA 3/2024.

83. Omar Boussag was found guilty of “contempt of an established body” and “incitement of an unarmed gathering” under articles 100 and 146 of the Criminal Code following a publication on social media on 7 May 2021 concerning a social movement. He was sentenced to a fine of 50,000 dinars.

84. These cases illustrate the challenges faced by some lawyers in Algeria in exercising their professional duties and freedom of expression. The Special Rapporteur reminds the Algerian Government of the Basic Principles on the Role of Lawyers. Under principle 16, lawyers must be able to carry out their professional duties without intimidation, hindrance, harassment or improper interference, and they must not suffer or be threatened with prosecution or administrative, economic or other sanctions for any action taken in accordance with the recognized professional duties, standards and ethics of their profession.

3. Human rights defenders working on cultural rights

85. As mentioned by the Special Rapporteur on the rights to freedom of peaceful assembly and of association following his visit to Algeria, the assertion of regional identities has also been perceived as a threat to national unity and security, particularly in the Kabylia region, where there have been calls for greater autonomy.⁴⁸ As a result, the defenders of Amazigh cultural rights in Kabylia are in danger, and they act with discretion. The level of surveillance to which they are subjected is clearly illustrated by the above-mentioned incident that human rights defenders faced when they went to Tizi Ouzou to meet the Special Rapporteur on 29 November 2023.

86. On the basis of Act No. 12-06 on associations, numerous requests for the creation of cultural, social, women’s, youth and environmental protection associations, particularly among the Amazigh population of Kabylia, have gone unanswered by the *wilaya* authorities. Other associations have seen their activities curtailed because of the prohibitions, often expressed verbally.

87. On 30 January 2023, the authorities ordered the closure of the Maison des droits de l’homme et du citoyen (Human and Citizens’ Rights House) in Tizi Ouzou, which housed a library and documentation centre and hosted human rights awareness conferences. On 23 January 2023, the authorities also proceeded with the administrative closure of the Human Rights Documentation Centre in the town of Béjaïa, by order of the wali.

88. Kamira Nait Sid, a human rights defender and the co-president of the Amazigh World Congress, which promotes the cultural, economic and linguistic rights of the Amazigh people, was arbitrarily detained beginning in August 2021 in connection with the exercise of her rights to freedom of peaceful assembly and association.⁴⁹ The Special Rapporteur thanks the Algerian authorities for allowing her to visit Ms. Nait Sid in prison. She recalls that Ms. Nait Sid was deprived of her liberty for three years because of her legitimate peaceful activities in support of human rights, on discriminatory grounds – namely, her national, ethnic or social origin and her status as a human rights defender – in violation of articles 2 and 7 of the Universal Declaration of Human Rights and articles 2 and 26 of the International Covenant on Civil and Political Rights.

4. Human rights defenders working to protect the environment

89. During her visit, the Special Rapporteur learned that, despite working for environmental protection and a prosperous future for the country, environmental human rights defenders are subject to pressure, intimidation and even criminal prosecution. This seems to happen specifically when these people protect the environment in the context of economic projects carried out by public or private entities.

90. Karim Khima, a human rights and environmental defender in Béjaïa, has been sued several times by private companies while working to protect human rights and the environment in his region. In 2020 and 2021, he mobilized several dozen people and led protests to call for the “protection” and listing of Lake Mezaïa, in Aamriw, on the site of the

⁴⁸ A/HRC/56/50/Add.2, para. 25.

⁴⁹ See A/HRC/WGAD/2022/15.

Ali Baba theme park. He was subsequently sued by the theme park manager for “defamation”. In March 2021, Karim Khima was fined 30,000 dinars and given a 6-month suspended prison sentence.⁵⁰

91. Despite the existence of the newly-created National Economic, Social and Environmental Council, human rights and environmental defenders working on sensitive issues are apparently not included in discussions in this area.

5. Human rights defenders working on enforced disappearance

92. The Collectif des familles de disparu(e)s en Algérie (Collective of Families of the Disappeared in Algeria) (CFDA) is a long-standing association working for transitional justice, shedding light on the fate of all persons who were forcibly disappeared during the Algerian conflict of the 1990s. Since 1998, families of disappeared persons in Algeria have organized a weekly gathering on Wednesday mornings outside the offices of the National Advisory Commission for the Promotion and Protection of Human Rights in Algiers. However, over time, human rights defenders who continue to work on these issues have encountered difficulties in carrying out their legitimate human rights work. According to the information received, members of the Collective have been intimidated during their traditional weekly demonstrations.

93. More recently, a conference on transitional justice and a screening-debate on women’s rights had to be cancelled due to the heavy police presence at the venue, as well as the intimidation and interrogation of some staff and members of the association.⁵¹

6. Human rights defenders working on migration-related issues

94. As the Special Rapporteur has pointed out throughout this report, human rights defenders working on migration-related issues have encountered difficulties in working freely and safely as lawyers, trade unionists or employees of non-governmental organizations.

95. Such is the case of the human rights defender Said Boudour,⁵² a journalist and member of the dissolved Ligue algérienne pour la défense des droits de l’homme. He has done extensive work monitoring migrants’ rights in Algeria. He has investigated human rights violations such as mass detention, mistreatment and the deportation of migrants from sub-Saharan Africa. At the time of the Special Rapporteur’s visit, Mr. Boudour was accused of terrorism. The Special Rapporteur welcomes his acquittal, along with that of Jamila Loukil and Kaddour Chouicha, before the Dar El Beïda court, on 3 December 2023.

IV. Conclusions and recommendations

96. **The Special Rapporteur invites the international community, in particular United Nations agencies working specifically on migration-related issues, to establish links and collaborate with national actors working on similar thematic issues. This would help strengthen their legitimacy and recognition as important players in the promotion and protection of human rights in the field of migration.**

97. **The Special Rapporteur congratulates the Algerian Government on its openness and willingness to engage with the special procedures, in particular with the mandate on the situation of human rights defenders. The high-level meetings and willingness to respond to last-minute requests were much appreciated. All the changes that have taken place at the legal and political levels testify to the Government’s commitment to working towards greater openness, dialogue and inclusion of all parts of society. Human rights defenders working in this field and providing social services are well integrated and can work freely.**

⁵⁰ See communication DZA 3/2024.

⁵¹ Ibid.

⁵² See communication DZA 4/2021.

98. Although these positive institutional developments have taken place since the emergence of the Hirak movement in 2019, the Special Rapporteur remains concerned that repression has increased since then. Legislative changes, particularly in the definition of terrorism in the Criminal Code, and the practices of the authorities, have had a negative impact on the situation of human rights defenders, on their right to defend human rights and on their freedom of opinion, expression, association and peaceful assembly. This is particularly true for the human rights defenders who continue to denounce the Government's human rights failings. They are considered a threat to the country's unity and stability and are therefore excluded and repressed.

99. The Special Rapporteur calls on all parts of Algerian society to remain open and to give confidence-building a chance so that human rights defenders can work freely and safely, and to give them the opportunity to contribute fully to a just and equitable society, respectful of human rights, in accordance with international legislation in this field. In that spirit, the Special Rapporteur offers the recommendations set out below.

100. The Special Rapporteur makes the following recommendations to the Algerian Government:

(a) Release all human rights defenders imprisoned for crimes where the evidence against them relates to their legitimate and peaceful right to defend rights;

(b) Ensure that private actors do not intimidate or target human rights defenders because of their environmental or anti-corruption work, in line with the Guiding Principles on Business and Human Rights;

(c) Amend the articles of the Criminal Code relating to terrorism and the undermining of national unity, in particular articles 79, 87 bis, 95 bis and 96, to bring them into line with international standards, according to which the definition of terrorism and related crimes must be accessible, formulated with precision, non-discriminatory and non-retroactive;

(d) Amend the articles of the Criminal Code that provide for criminal penalties for "insult or contempt" of persons, bodies or institutions, in particular articles 144, 144 bis, 144 bis (2), 146 and 149, insofar as restricting or prohibiting expression on the grounds that it is insulting or contemptuous is contrary to international human rights law and freedom of expression;

(e) Adopt the Act on associations that allows for registration by declaration;

(f) Ensure widespread and ongoing consultation and dialogue with all of the country's civil society organizations, including those working specifically on sensitive human rights issues;

(g) Consider human rights defenders as allies who can make a significant contribution to public life in Algeria, and publicly recognize their legitimate work;

(h) Refrain from restricting, specifically through routine surveillance of human rights defenders and interference with their activities, their freedom of movement;

(i) Abolish the use of bans on foreign travel that are implemented to restrict the movement of human rights defenders abroad;

(j) Implement the recommendations supported by the Algerian Government during the fourth cycle of the universal periodic review and draw on the support offered by the United Nations country team and human rights defenders in Algeria to contribute to implementing them;

(k) Ensure that the National Human Rights Council is fully independent, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles);

(l) Develop, in partnership with civil society organizations, statistics on human rights in Algeria, in order to improve monitoring;

(m) **Organize training on the Declaration on Human Rights Defenders for civil servants, the police and the security services.**

101. **To the United Nations country team in Algeria, the Special Rapporteur makes the following recommendations:**

(a) **In line with the Secretary-General's call for action on human rights, develop new partnerships and show solidarity with human rights defenders and civil society organizations, including those under threat, in order to contribute to the creation of an environment favourable to civic space;**

(b) **Include and consult and collaborate with leading human rights organizations and human rights defenders in work on issues relevant to the United Nations agencies concerned.**

102. **The Special Rapporteur makes the following recommendations to human rights defenders and civil society organizations:**

(a) **Remain open to the idea of meaningful engagement with the newly-created advisory bodies and the various authorities;**

(b) **Foster a wide range of alliances to engage constructively on human rights issues.**
