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Country Policy and Information Note

Algeria: Actors of protection

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Preface

Purpose

This note provides country of origin information (COI) and analysis of COI for use by Home Office decision makers handling particular types of protection and human rights claims (as set out in the [Introduction](#) section). It is not intended to be an exhaustive survey of a particular subject or theme.

It is split into two main sections: (1) analysis and assessment of COI and other evidence; and (2) COI. These are explained in more detail below.

Assessment

This section analyses the evidence relevant to this note – i.e. the COI section; refugee/human rights laws and policies; and applicable caselaw – by describing this and its inter-relationships, and provides an assessment of, in general, whether one or more of the following applies:

- A person is reasonably likely to face a real risk of persecution or serious harm
- The general humanitarian situation is so severe as to breach Article 15(b) of European Council Directive 2004/83/EC (the Qualification Directive) / Article 3 of the European Convention on Human Rights as transposed in paragraph 339C and 339CA(iii) of the Immigration Rules
- The security situation presents a real risk to a civilian's life or person such that it would breach Article 15(c) of the Qualification Directive as transposed in paragraph 339C and 339CA(iv) of the Immigration Rules
- A person is able to obtain protection from the state (or quasi state bodies)
- A person is reasonably able to relocate within a country or territory
- A claim is likely to justify granting asylum, humanitarian protection or other form of leave, and
- If a claim is refused, it is likely or unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers **must**, however, still consider all claims on an individual basis, taking into account each case's specific facts.

Country of origin information

The country information in this note has been carefully selected in accordance with the general principles of COI research as set out in the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), dated April 2008, and the Austrian Centre for Country of Origin and Asylum Research and Documentation's (ACCORD), [Researching Country Origin Information – Training Manual, 2013](#). Namely, taking into account the COI's relevance, reliability, accuracy, balance, currency, transparency and traceability.

The structure and content of the country information section follows a [terms of reference](#) which sets out the general and specific topics relevant to this note.

All information included in the note was published or made publicly available on or before the 'cut-off' date(s) in the country information section. Any event taking place or report/article published after these date(s) is not included.

All information is publicly accessible or can be made publicly available, and is from generally reliable sources. Sources and the information they provide are carefully considered before inclusion. Factors relevant to the assessment of the reliability of sources and information include:

- the motivation, purpose, knowledge and experience of the source
- how the information was obtained, including specific methodologies used
- the currency and detail of information, and
- whether the COI is consistent with and/or corroborated by other sources.

Multiple sourcing is used to ensure that the information is accurate, balanced and corroborated, so that a comprehensive and up-to-date picture at the time of publication is provided of the issues relevant to this note.

Information is compared and contrasted, whenever possible, to provide a range of views and opinions. The inclusion of a source, however, is not an endorsement of it or any view(s) expressed.

Each piece of information is referenced in a brief footnote; full details of all sources cited and consulted in compiling the note are listed alphabetically in the [bibliography](#).

Feedback

Our goal is to continuously improve our material. Therefore, if you would like to comment on this note, please email the [Country Policy and Information Team](#).

Independent Advisory Group on Country Information

The [Independent Advisory Group on Country Information](#) (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to support him in reviewing the efficiency, effectiveness and consistency of approach of COI produced by the Home Office.

The IAGCI welcomes feedback on the Home Office's COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy. The IAGCI may be contacted at:

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Information about the IAGCI's work and a list of the documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector's pages of the [gov.uk website](#).

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Assessment

Updated: 27 August 2020

1. Introduction

1.1 Scope of this note

- 1.1.1 Whether, in general, a person at risk of persecution and/or serious harm from non-state actors and/or rogue state actors is able to obtain effective state protection.

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2. Consideration of issues

2.1 Credibility

- 2.1.1 For information on assessing credibility, see the instruction on [Assessing Credibility and Refugee Status](#).
- 2.1.2 Decision makers must also check if there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview (see the [Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants](#)).
- 2.1.3 Decision makers should also consider the need to conduct language analysis testing (see the [Asylum Instruction on Language Analysis](#)).

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2.2 Exclusion

- 2.2.1 Decision makers must consider whether one (or more) of the exclusion clauses applies. If the person is excluded from the Refugee Convention, they will also be excluded from a grant of humanitarian protection. Each case must be considered on its individual facts and merits.
- 2.2.2 For further guidance on the exclusion clauses and restricted leave, see the Asylum Instructions on [Exclusion under Articles 1F and 33\(2\) of the Refugee Convention](#), [Humanitarian Protection](#) and [Restricted Leave](#).

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2.3 Protection

- 2.3.1 Algeria has established a legal framework, including the Penal Code, the code of criminal penal procedure and the code of civil procedure, for penalising and handling criminal acts against individuals and groups (see [Rule of law and the judiciary](#)).
- 2.3.2 The National Gendarmerie, which operates in rural areas, and the Directorate General for National Security (DGSN) (the civilian national police force) which operates in urban areas, with a total of over 330,000 personnel are responsible for maintaining law and order. Algeria's armed forces, the Algerian People's National Army, is primarily responsible for the country's external security but is also responsible for some domestic security and is reportedly the most influential political actor in Algeria. The Director of Security Services is responsible for the country's intelligence services and

comprised of the Internal Security Directorate, the Documentation and Security Directorate and the Technical Intelligence Directorate ([see Security apparatus](#)).

- 2.3.3 There is limited information about the effectiveness of the police forces. The USSD noted that the police are generally professional and responsive to calls for assistance. However, sources report that the police have used excessive force on some suspects and protestors. There are also low rates of reporting and prosecution of violence against women owing in part to the existence of forgiveness clauses (see [Security forces' capabilities](#)).
- 2.3.4 The police have been accused of sometimes using excessive force in dispersing protests, as well as arbitrary arrest and detention (most often against protestors) and ill-treating detainees (see [Arrest and detention](#) and [Human rights abuses by security forces](#)). Detainees are allowed to appeal extended detentions, access a lawyer of their choice and the government provides legal counsel to those who are destitute. Detainees also have a legal right to request a medical examination on release (see [Security forces capabilities](#)).
- 2.3.5 The government has committed to improving policing and has implemented mechanisms to tackle this. The police and judges have received training from the International Committee of the Red Cross on human rights standards relating to arrest, detention, and interrogation procedures. The National Council of Human Rights was created by the government to investigate human rights violations within the judiciary and security forces. However, there are reports that its members are not independent (see [Security forces capabilities](#)). A person can file and report a complaint or an offence against public officials. Although corruption and impunity for police and security officials remain problematic, the government have reportedly taken action against officials who have been accused of committing violations and corruption – with a criminal prison sentence of 2 to 10 years. (see [Security forces and capabilities](#)).
- 2.3.6 Algeria has an established legal system, including prosecution, courts, sentencing and imprisonment, while the government has introduced measures in recent years to reform and modernise the justice system. However, the executive continues to exercise broad statutory powers over the judiciary, including appointing by presidential decree, limiting its independence (see [Rule of law and the judiciary](#)).
- 2.3.7 Based on the limited information on Algeria, it appears that the government has taken reasonable steps to establish and operate an effective legal system for the detection, prosecution and punishment of acts constituting persecution, which is generally accessible. Where the person has a well-founded fear of persecution from non-state actors, including 'rogue' state actors, the person is likely, in general, to be able to obtain effective state protection. Decision makers must consider each case on its facts, taking into account the person's background and profile and whether they have previously sought protection and the outcome of this – noting that a person's reluctance to seek protection does not necessarily mean that effective protection is not available. The onus is on the person to demonstrate why the state would not be willing and able to provide effective protection.

- 2.3.8 For further guidance on assessing the availability of state protection, see the instruction on [Assessing Credibility and Refugee Status](#).

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Country information

Section 3 updated: 27 August 2020

3. Security apparatus

3.1 Police and paramilitary forces

3.1.1 According to the US State Department Country Report on Human Rights Practices for 2019 (USSD Country Report for 2019):

'The 130,000-member National Gendarmerie, which performs police functions outside of urban areas under the auspices of the Ministry of National Defence, and the approximately 200,000-member Directorate General for National Security (DGSN) or national police, organised under the Ministry of Interior, share responsibility for maintaining law and order...Civilian authorities generally maintained effective control over the security forces.'¹

3.1.2 The USSD's Overseas Security Advisory Council (OSAC) Algeria 2019 report stated:

'The DGSN is the civilian police force largely responsible for cities and larger urban areas. The DGSN falls under the Ministry of Interior, and is responsible for police activities such as maintaining law and order, conducting criminal investigations, combating terrorism and organised crime, and routine police functions such as traffic control.

'The National Gendarmerie force falls under the Ministry of National Defence and is responsible for maintaining law and order and providing police services in more rural areas. They play an important role in internal security efforts in combating terrorism and organised crime. Algerian Customs works closely with the police and gendarme at border points enforcing import laws and regulations.'²

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3.2 Armed forces

3.2.1 The CIA World Factbook noted that Algeria's armed forces consisted of the Algerian People's National Army (ANP): Land Forces, Naval Forces (includes coast guard); Air Forces; Territorial Air Defense Forces; and the Republican Guard³. The USSD Country Report 2019 noted 'The army is responsible for external security, guarding the country's borders, and has some domestic security responsibilities...'⁴

3.2.2 Freedom House noted in its annual report, covering 2019 events, 'Since President Bouteflika's resignation [April 2019], the military has maintained its longstanding influence on decision-making, with army chief of staff General Ahmed Gaïd Salah playing a key role until his death in December 2019. The

¹ USSD, 'Country Report for 2019' (Executive Summary), 11 March 2020, [url](#)

² USSD, OASC, 'Algeria 2019 Crime & Safety Report' (Police/Security Agencies), 14 March 2019, [url](#)

³ CIA World Factbook, 'Algeria' (Military and Security), updated 2 June 2020, [url](#)

⁴ USSD, 'Country Report for 2019' (Executive Summary), 11 March 2020, [url](#)

military is the most influential political actor in Algeria, thanks to its lack of accountability and vast resources.’⁵

- 3.2.3 Bertelsmann Stiftung’s Transformation Index (BTI), a think-tank which assesses the transformation toward democracy and a market economy as well as the quality of governance in 137 countries, noted in its BTI 2020 Country Report for Algeria, covering the period 1 February 2017 to 31 January 2019, ‘... it is still felt that the “deep state” (i.e., the army and security forces) seems to take all relevant decisions with little democratic control. There is a total opacity as to who really governs the country.’⁶
- 3.2.4 The CIA World Factbook noted in regard to military conscription: ‘18 is the legal minimum age for voluntary military service; 19-30 years of age for compulsory service; conscript service obligation is 18 months (6 months basic training, 12 months civil projects) (2018).’⁷ Further information on National Service, including its definition, exemptions and deferrals, is available on the website of the [Ministry of National Defence](#). Also see the Country Policy and Information Note: [Algeria – Background Information including Internal Relocation](#).
- 3.2.5 According to the 2020 Global Fire Power Index, Algeria’s military strength was ranked 28th in the world out of 138 countries. The same source estimated the total military strength to be 280,000 with 130,000 active personnel and 150,000 reserves⁸.

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3.3 Intelligence services

- 3.3.1 The Department of Intelligence and Security, which was believed to hold the reigns of power for decades⁹ was abolished in January 2016 and a new agency, the Direction of Security Services (DSS), was created under the control of the presidency¹⁰.
- 3.3.2 According to the BTI 2020 Country Report for Algeria: ‘The dissolution of the military intelligence department, widely seen to interfere in the governing of the country, as well as the passage of Constitutional reforms to limit the Presidency and strengthen the legislature in 2016, was seen to indicate a step in the right direction for the separation of powers in Algeria.’¹¹
- 3.3.3 TRT World, the Turkish Radio and Television Corporation, noted in an April 2019 report, ‘According to Saphia Arezki, an Algerian historian, there no longer exists a single and unified intelligence structure in Algeria, but rather one that is composed of ‘three branches under the umbrella of the DSS’, namely the Internal Security Directorate (ISD), the Documentation and Security Directorate (DDSE) and the Technical Intelligence Directorate (TRD).’¹²

⁵ Freedom House, ‘2020 Report’ (Section B3), 4 March 2020, [url](#)

⁶ Bertelsmann Stiftung, ‘BTI 2020 Country Report Algeria’ (page 16), 29 April 2020, [url](#)

⁷ CIA World Factbook, ‘Algeria’ (Military and Security), Updated 28 April 2020, [url](#)

⁸ Global Fire Power, ‘Algeria Military Strength (2020)’ (Manpower), n.d., [url](#).

⁹ TRT World, ‘Algeria unseen: how the secret service kept the country hostage’, 8 April 2019, [url](#)

¹⁰ Reuters, ‘Algeria’s Bouteflika dissolves DRS spy unit, creates new agency’, 25 January 2016, [url](#)

¹¹ Bertelsmann Stiftung, ‘BTI 2020 Country Report Algeria’ (page 13), 29 April 2020, [url](#)

¹² TRT World, ‘Algeria unseen: how the secret service kept the country hostage’, 8 April 2019, [url](#)

4. Security forces' capabilities

4.1 Effectiveness

- 4.1.1 The Overseas Security Advisory Council (OASC) Algeria Report 2019, which provides advice for US officials in Algeria, observed that: 'Police are generally professional and responsive to calls for assistance. A new number for calling the police for service (#1548) is in operation and appears to be successful.'¹³
- 4.1.2 The USSD Country Report for 2019 noted:
- 'The government took steps to investigate, prosecute, or punish public officials who committed violations, especially corruption...
- '...The International Committee of the Red Cross (ICRC) staff visited prisons, and police and gendarme stations under the jurisdiction of the Ministry of Justice, and an administrative detention centre operated by the Ministry of Interior. During [2019] the ICRC hosted training sessions on human rights standards related to arrest, detention, and interrogation procedures for judicial police from the DGSN and National Gendarmerie, as well as for judges.'¹⁴

4.2 Response to violence against women

- 4.2.1 The compilation of information provided by stakeholders to the UN Human Rights Council as part of the 2017 Universal Periodic Review process noted with regards to violence against women:
- 'AI [Amnesty International] regretted that Algeria did not have a law effectively criminalizing violence against women. The Penal Code made rape a crime, without defining it or recognizing marital rape. Even, a provision in the Penal Code allowed a rapist to escape prosecution by marrying the victim, if she was aged under 18. [...] HRW recommended Tunisia to adopt additional legislation enabling survivors of domestic violence to obtain protection orders from the police and from courts; and to support the development of specialized domestic violence units or district-level focal points in the police force in all regions.'¹⁵
- 4.2.2 The UN Human Rights Committee's (UNHRC) concluding observations on the fourth periodic report of Algeria noted in August 2018 that it was:
- '...concerned by the low rates of reporting and of prosecution of perpetrators of violence, owing in particular to the risk of stigmatization and insufficient shelters and protection measures, and by the fact that victims are not aware of their rights. While noting the delegation's explanations regarding forgiveness clauses, which were said to apply only in the context of

¹³ USSD, OASC, 'Algeria 2019 Crime & Safety Report' (Police Response), 14 March 2019, [url](#)

¹⁴ USSD, 'Country Report for 2019' (Executive Summary, Section 1), 11 March 2020, [url](#)

¹⁵ UN Human Rights Council, 'Summary of...' (Paragraph 51), 27 February 2017, [url](#)

misdeemeanours, the Committee remains concerned by allegations that such clauses have been invoked in certain courts, including in the context of crimes, and by the social pressure on victims, who are encouraged to grant their pardon rather than to bring a complaint.¹⁶

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4.3 Reporting an offence or complaint

4.3.1 The Research Directorate of the Immigration and Refugee Board of Canada (IRB) noted in a query response (information obtained from a range of sources), dated 19 April 2017, regarding procedures for reporting an incident with the police:

‘In correspondence with the Research Directorate, an Algerian court lawyer licensed to practice in the Supreme Court indicates that any victim of a crime, offence, or contravention may file a verbal complaint with the police and the gendarmerie, or a written complaint with the prosecutor who has territorial authority (lawyer 12 Apr. 2017). The same source reports that the complaint must be filed by the victim or his or her representative ... In this regard, the lawyer refers to Articles 17 and 36 of the Code of Criminal Procedure (Code de procédure pénale)...’ [The IRB response provided a translation of these articles]

‘According to a document entitled The Rights of Victims of Crime in Algeria (Les droits des victimes d’infractions en Algérie), posted in 2013 on the website of the Consulate General of France in Algiers, a victim’s complaint concerning a crime in Algeria must be drafted in Arabic, [translation] “the national and official language” (France 4 Nov. 2013). The same source explains that [translation] “judicial practice does not allow the complaint to be filed in the victim’s mother tongue” (ibid.)...’¹⁷

4.3.2 The Research Directorate of the IRB provided the following information (translated) from the National Gendarmerie website:

‘The National Gendarmerie website has an online service for processing [translation] “pre-complaints” and “online information”...Citizens can file a pre-complaint online and make an appointment with the gendarmerie unit that has territorial jurisdiction...According to the terms of use for the pre-complaint service, the person wishing to file a complaint must report to the unit within 30 days to confirm the pre-complaint, or it will be automatically cancelled...The National Gendarmerie online service also allows citizens to send [translation] “information or to report any type of crime in order to maintain order and public safety”...’

‘Some sources indicate that citizens may remain anonymous and are not required to identify themselves when submitting information online through the National Gendarmerie website (TSA 6 Apr. 2015; Algeria 360 4 Nov. 2015). According to an article published by Dziri, an online Algerian magazine, Colonel Guir Badaoui provided the following explanation of the online pre-complaint system during a press conference held at the National Gendarmerie headquarters: [translation]

¹⁶ UN, ‘Concluding Observations...’ (paragraph 23), 17 August 2018, [url](#)

¹⁷ IRB, ‘Algeria: Requirements and procedure for reporting an incident ...’, 19 April 2017, [url](#)

‘When the complainant accesses the pre-complaint messaging area, he or she must complete the identification form by filling out their first and last names, telephone number, email address, home address, and date of birth in order to file a complaint against a person or party. The complainant must also report the facts of the incident, for example home robbery, and provide the exact location of the crime. Once this has been done, the complainant clicks on the small box “Send” and the message is sent directly to the National Gendarmerie Group that reports to the wilaya [administrative division] where the complainant lives ...’

‘Once all the necessary steps have been taken to file a complaint, the complainant must report to the Gendarmerie unit closest to his or her home to officially file the complaint (standard complaint). He or she will give the reasons for the complaint to the Gendarmerie officers for the purposes of the investigation. (Dziri n.d.)

‘The same source states that an appointment with the National Gendarmerie unit is scheduled and sent to the email or cell phone of any citizen who files a complaint (Dziri n.d.). According to an article published in 2015 by Tout sur l’Algérie (TSA), an online Algerian newspaper, the report is signed and the complaint validated at the meeting with the territorial unit that has jurisdiction (TSA 6 Apr. 2015).

‘An article published in 2015 in Le Quotidien d’Oran, a French-language Algerian newspaper, reports that the online pre-complaint system is for citizens [translation] “in any region of Algeria” (Le Quotidien d’Oran n.d.). In an article published in 2015 by Africa Top Success, an African news website, we read that the pre-complaint website “is not accessible from abroad” (Africa Top Success 8 Apr. 2015).’¹⁸

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4.4 Corruption

- 4.4.1 The USSD Country Report for 2019 has stated that: ‘The law provides for criminal penalties of 2 to 10 years in prison for official corruption, but the government did not fully implement the law. Corruption remained a problem and officials sometimes engaged in corrupt practices with impunity.’¹⁹
- 4.4.2 Freedom House noted in its Freedom in the World 2020 report, ‘Anticorruption laws, a lack of government transparency, low levels of judicial independence, and bloated bureaucracies contribute to widespread corruption at all levels. Moreover, anticorruption investigations are often used to settle scores between factions within the regime.’²⁰
- 4.4.3 The Bertelsmann Stiftung report noted:

‘The 2006 Anti-Corruption Law, the establishment of the national anti-corruption office in 2012, and government declarations to fight corruption do not appear to have brought any change. Parliamentary oversight and the

¹⁸ IRB, ‘Algeria: Requirements and procedure for reporting an incident ...’, 19 April 2017, [url](#)

¹⁹ USSD, ‘Country Report for 2019’ (Section 4), 11 March 2020, [url](#)

²⁰ Freedom House, ‘2020 Report’ (Section C2), 4 March 2020, [url](#)

Court of Auditors have been criticized by local monitoring organizations for their role of auditing and controlling public spending.

‘Created in 1999 by Djilali Hadjadj, among others, the Association Algérienne de lutte contre la corruption (Algerian Association for the Fight Against Corruption) is a civil society organization that aims to raise public awareness of the problem. Despite being highly respected by civil society, it has no bargaining power to enforce its claims on the government.

‘Updated legislation on tackling money laundering, given the context of terrorism financing, has led to improvements. In February 2016, the Financial Action Task Force (FATF, which Algeria is a member of its Middle East and North Africa subregional body) judged Algeria’s plan to combat money laundering as sufficient to those aims and removed Algeria from its position in the gray list.

‘A financial office was created in 2019 to enhance the fight against corruption, but this has been criticized by opposition leaders who argue that strong institutions are needed for any real advances against corruption...’²¹

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4.5 Impunity

- 4.5.1 The USSD Country Report for 2019 noted: ‘Impunity for police and security officials remained a problem, but the government provided information on actions taken against officials accused of wrongdoing.’²² The report also noted that ‘officials sometimes engaged in corrupt practices with impunity’²³ and that ‘Local and international non-governmental organisations (NGOs) asserted that police impunity was a problem.’²⁴
- 4.5.2 According to Bertelsmann Stiftung, in their Country Report in Algeria: ‘...Weak financial controls and unimplemented anticorruption legislation, as well as the absence of an independent judiciary, have led to what the Algerian Anti-Corruption Association describes as a “culture of impunity.”’²⁵
- 4.5.3 The compilation of information provided by stakeholders to the UN Human Rights Council as part of the 2017 Universal Periodic Review process noted: ‘[Human Rights Watch] HRW noted that perpetrators of human rights crimes during the internal armed conflict of the 1990s continued to enjoy impunity under the Charter on Peace and National Reconciliation. It added that authorities had regularly prevented families of the disappeared from holding sit-ins or demonstrations, and associations representing them continued to face obstacles to legal registration. HRW recommended that the Government redouble efforts to shed light on the unresolved cases of

²¹ Bertelsmann Stiftung, ‘BTI 2020 Country Report Algeria’ (Section 15), 29 April 2020, [url](#)

²² USSD, ‘Country Report for 2019’ (Executive Summary, Section 1), 11 March 2020, [url](#)

²³ USSD, ‘Country Report for 2019’ (Section 4), 11 March 2020, [url](#)

²⁴ USSD, ‘Country Report for 2019’ (Section 1), 11 March 2020, [url](#)

²⁵ Bertelsmann Stiftung, ‘BTI 2020 Country Report Algeria’ (Section 3, 15), 29 April 2020, [url](#)

enforced disappearances; cease intimidation of the families of the disappeared; and allow them to demonstrate freely.’²⁶

- 4.5.4 In its concluding observations on the fourth periodic report of Algeria, dated August 2018, the UN Human Rights Committee noted that: ‘...article 45 of Ordinance No. 06-01 of 27 February 2006 on the implementation of the Charter for Peace and National Reconciliation... precludes any kind of effective remedy for victims of violations of the Covenant’s provisions committed by law enforcement personnel, including the armed forces and security services, and it fosters impunity.’²⁷

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4.6 Avenues of redress and human rights monitoring

- 4.6.1 The IRB Research Directorate response of April 2017 provided information on the recourse mechanisms with respect to a complaint lodged against the police:

‘The information in the paragraph below is from the website of the National Security Directorate (Direction générale de la sûreté nationale).

‘The mission of the Office of the Inspector General of National Security (Inspection générale de la sûreté nationale) is [translation] “[t]o conduct investigations of serious acts of misconduct committed by senior officials of the National Security Service as instructed by the Director General of National Security” (Algeria n.d.c). The office of the regional inspector is responsible for [translation] “[l]aunched inspections it deems to be appropriate in light of the facts or information received by their units” and “[c]arrying out investigations or counter-investigations following serious incidents brought to their attention and tarnishing the institution’s reputation”...

‘The lawyer confirms the following with respect to recourse available when a complaint is lodged against the police, the gendarmerie or the public prosecutor: [translation]

‘Members of the police and gendarmerie are public officials and, as such, individuals who believe they have been mistreated by these officers have the right to lodge a complaint against them with the public prosecutor and/or with their superiors.

‘Any person who believes that they have been subject to abuse of authority by the public prosecutor has the right to file a complaint against him or her with the Attorney General, Minister of Justice and the Inspector General of the Ministry of Justice. (lawyer 12 Apr. 2017).’²⁸

- 4.6.2 The Foreign and Commonwealth Office (FCO) noted in a letter to the Country Policy and Information Team, dated 5 May 2017, that:

‘...in 2016 Algeria formed a National Council of Human Rights to, among other things, find, and investigate human rights violations. They commission

²⁶ UN Human Rights Council, ‘Summary of other stakeholders’ submissions on Algeria*’ (Paragraph 24-26), 27 February 2017, [url](#)

²⁷ United Nations, ‘Concluding Observations on the Fourth...’, (Paragraph 11), 17 August 2018, [url](#)

²⁸ IRB, ‘Algeria: Requirements and procedure for reporting an incident ...’, 19 April 2017, [url](#)

research, can make recommendations and visit detention centres. Their conclusions are advisory, but the Council demonstrates an administration willing to include civil society in the inspection of places of detention and open to recommendations to improve human rights in practice.

'In recent meetings human rights organisations have told our embassy in Algiers they have no evidence of treatment that breaches Article 3 [of the European Convention of Human Rights]. The ICRC is used by the Algerians to provide independent, confidential reports on places of detention and operating regimes within them.'²⁹

- 4.6.3 The UN Human Rights Committee's (UNHRC) concluding observations on the fourth periodic report of Algeria noted in August 2018, 'The Committee takes note of the assertion that the National Human Rights Council, which has been operational since 9 March 2017, is now provided for in the Constitution and is independent. It takes note of the B status awarded to the Council by the Subcommittee on Accreditation of the Global Alliance of National Human Rights Institutions, but is nevertheless concerned by allegations that its members are not independent...'³⁰

- 4.6.4 The USSD Country Report for 2019 noted:

'In 2016 the government replaced the National Consultative Commission for Promotion and Protection of Human Rights with the National Human Rights Council (CNDH). The CNDH has budget autonomy and the constitutional responsibility to investigate alleged human rights abuses, officially comment on laws proposed by the government, and publish an annual report. The CNDH completed its first annual report in November and presented it to then Interim President Abdelkader Bensalah but has not published the report to the public yet. The previous entity had presented its first draft report to President Bouteflika, but the report had not been made public by year's end. During the year, the CNDH organized seminars and workshops on topics such as penitentiary reform and trafficking in persons. The CNDH reports receiving 687 complaints of human rights abuses during the year, of which it has investigated 638 as of September. A CNDH representative said the organisation viewed the most serious human rights concerns as limits on socioeconomic rights, as well as limits on free speech.'³¹

- 4.6.5 The same source added:

'A variety of domestic human rights groups operated with varying degrees of government restriction and cooperation. The law requires all civil associations to apply for operating permission, and at year's end several major civil associations remained unrecognized but tolerated.

'Amnesty International maintained an office and actively reported on human rights issues, but it did not receive official authorisation to operate from the Ministry of Interior. Amnesty International has received authorisation to open a bank account, although the organisation awaits final documentation from the government to open the account.

²⁹ FCO, Official Correspondence, 5 May 2017. Copy on request.

³⁰ UN, 'Concluding Observations...' (paragraph 15), 17 August 2018, [url](#)

³¹ USSD, 'Country Report for 2019' (Section 5), 11 March 2020, [url](#)

‘Although the government did not renew the accreditation of LADDH [Algerian League for the Defense of Human Rights] the organisation had members countrywide, received independent funding, and was one of the most active independent human rights groups. The Algerian League for Human Rights, a separate but licensed organisation based in Constantine, had members throughout the country monitoring individual cases.’³²

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Section 5 updated: 27 August 2020

5. Arrest and detention

5.1 Legal rights

5.1.1 The USSD Country Report for 2019 described the procedures for arrest and treatment of detainees:

‘According to the law, police must obtain a summons from the prosecutor’s office to require a suspect to appear in a police station for preliminary questioning. With this summons, police may hold a suspect for no more than 48 hours. Authorities also use summonses to notify and require the accused and the victim to attend a court proceeding or hearing. Police may make arrests without a warrant if they witness the offense. Lawyers reported that authorities usually carried out procedures for warrants and summonses properly.

‘If authorities need more than 48 hours to gather additional evidence, they may extend a suspect’s authorized time in police detention with the prosecutor’s authorisation in the following cases. If charges pertain to an attack on data processing systems, they may extend the time in detention once; if charges relate to state security, they may do so twice; for charges concerning drug trafficking, organized and transnational crime, money laundering, and other currency-related crimes, they may do so three times; and for charges related to terrorism and other subversive activities, they may do so five times for a maximum of 12 days. The law stipulates that detainees should immediately be able to contact a family member and receive a visit or to contact an attorney.

‘The law provides detainees the right to see an attorney for 30 minutes if the time in detention has been extended beyond the initial 48-hour period. In these cases, authorities permit the arrested person to contact a lawyer after half of the extended time has expired. Prosecutors may apply to a judge to extend the period before arrested individuals can have access to an attorney. The court appearance of suspects in terrorism cases is public. At the end of the period of detention, the detainee has the right to request a medical examination by a physician of choice within the jurisdiction of the court. Otherwise, the judicial police appoint a doctor. Authorities enter the medical certificate into the detainee’s file.

‘In nonfelony cases and in cases of individuals held on charges of terrorism and other subversive activities that exceed a 12-day period plus any authorized extension, the law calls for the release of suspects on provisional liberty, referred to as “judicial control,” or release on own recognizance while

³² USSD, ‘Country Report for 2019’ (Section 5), 11 March 2020, [url](#)

awaiting trial. Under provisional liberty status, authorities subjected suspects to requirements such as reporting periodically to the police station in their district, stopping professional activities related to the alleged offense committed, surrendering all travel documents, and, in some terrorism-related cases, residing at an agreed-upon address. The law provides that foreigners may be required to furnish bail as a condition of release on provisional liberty status, while citizens may be released on provisional liberty without posting bail.

‘Judges rarely refused requests to extend pretrial detention, which by law may be appealed. Should the detention be overturned, the defendant has the right to request compensation. Most detainees had prompt access to a lawyer of their choice as accorded by law, and the government provided legal counsel to indigent detainees. There were reports that authorities held some detainees without access to their lawyers and reportedly abused them physically and mentally.’³³

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Section 6 updated: 27 August 2020

6. Human rights abuses by security forces

6.1 Police abuses

6.1.1 In its concluding observations on the fourth periodic report of Algeria, dated August 2018, the UN Human Rights Committee noted:

‘The Committee notes that the people of Algeria endured difficult circumstances during the conflict in the 1990s and that a strategy for peace and reconciliation was adopted in the wake of those events. It reiterates, however, its deep concern — already expressed several times in the past, in particular in its Views — with regard to article 45 of Ordinance No. 06-01 of 27 February 2006 on the implementation of the Charter for Peace and National Reconciliation, as that article precludes any kind of effective remedy for victims of violations of the Covenant’s provisions committed by law enforcement personnel, including the armed forces and security services, and it fosters impunity. The Committee therefore voices again its concern at the numerous and serious violations that have been reported and have not yet been prosecuted or punished.’³⁴

6.1.2 The UN Compilation on Algeria, as part of the 2017 Universal Periodic Review (UPR), noted that:

‘Since 1 April 2012, the Human Rights Committee has adopted 24 Views concluding that Algeria was in violation of its obligations under the International Covenant on Civil and Political Rights. Twenty-one of these related to cases concerning enforced disappearances, two related to cases concerning extrajudicial or arbitrary executions and one related to a case concerning torture and arbitrary detention. The Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted

³³ USSD, ‘Country Report for 2019’ (Section 1d), 11 March 2020, [url](#)

³⁴ United Nations, ‘Concluding Observations on the Fourth Periodic Report of Algeria’ (Paragraph 11), 17 August 2018, [url](#)

two decisions concluding that Algeria was in violation of its obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.’³⁵

- 6.1.3 The submission of stakeholders as part of the UPR included the observations of Alkarama, a human rights organisation³⁶, which indicated that:

‘... crimes considered to be terrorist or subversive crimes, the 48-hour period of police custody, the maximum legal length, could be extended up to five times, or for a total of 12 days. In practice, the period was routinely extended. Alkarama was of the view that the period was too long, given international standards, and could expose the person in custody to torture...

‘Alkarama noted that the law did not establish that all statements proven to have been obtained under torture were inadmissible as evidence in legal proceedings. Alkarama recommended that the State incorporate a provision excluding evidence obtained under torture in its Code of Criminal Procedure, in accordance with the Convention against Torture.’³⁷

- 6.1.4 The USSD Country Report for 2019 noted that:

‘...Human rights activists said police occasionally used excessive force against suspects, including protestors. The Ministry of Justice did not provide figures about prosecutions of law enforcement officers for abuse during [2019]. Local and international non-governmental organisations (NGOs) asserted that police impunity was a problem.

‘In April [2019], Amnesty International reported that police used unnecessary or excessive force, firing tear gas and rubber bullets at peaceful protesters, and using water cannons and electrical weapons for crowd control. While the majority of protesters were demonstrating peacefully, some had thrown stones at the police.’³⁸

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6.2 Arbitrary arrest and detention

- 6.2.1 According to the Organisation for Economic Co-operation and Development (OECD): ‘...Protection against arbitrary detention is guaranteed by Articles 54-58 of the Constitution (Constitution of the People’s Democratic Republic of Algeria, 2016: Articles 54-58).’³⁹

- 6.2.2 The USSD Country Report 2019 noted:

‘The law prohibits arbitrary arrest and detention. A detainee has the right to appeal a court’s order of pretrial detention, and if released, seek compensation from the government. Nonetheless, overuse of pre-trial detention remained a problem. Security forces routinely detained individuals who participated in unauthorised protests. Arrested individuals reported that

³⁵ UN Human Rights Council, ‘Report of the Office...’ (Paragraph 18), 17 February 2017, [url](#)

³⁶ Alkarama, ‘Who We Are’, n.d., [url](#)

³⁷ UN Human Rights Council, ‘Summary of...’, (Paragraphs 22-23), 20 February 2017, [url](#)

³⁸ USSD, ‘Country Report for 2019’ (Section 1), 11 March 2020, [url](#)

³⁹ OECD, ‘SIGI - 2019 – Algeria’ (Section 4D), December 2018, [url](#)

authorities held them for four to eight hours before releasing them without charges...

‘Although the law prohibits arbitrary arrest and detention, authorities sometimes used vaguely worded provisions, such as “inciting an unarmed gathering” and “insulting a government body,” to arrest and detain individuals considered to be disturbing public order or criticizing the government. Amnesty International and other human rights organisations criticized the law prohibiting unauthorised gatherings and called for its amendment to require only notification as opposed to application for authorisation. These observers, among others, pointed to the law as a significant source of arbitrary arrests intended to suppress political activism. Police arrested protesters throughout the year for violating the law against unregistered public gatherings...

‘Prolonged pretrial detention remained a problem. Nongovernmental observers believed pretrial detainees comprised a significant portion of the total detainee and prisoner population but did not have specific statistics. According to the Ministry of Justice, approximately 12 percent of the prison population was in pretrial detention.’⁴⁰

- 6.2.3 The United Nations Human Rights Committee (UNHRC), in its Concluding observations on the fourth periodic report of Algeria in 2018, noted that:

‘While noting the delegation’s assertion that there are no secret detention sites in the territory of the State party, the Committee is concerned by reports documenting the existence of such centres. It is also concerned by cases of arbitrary detention that seem not to have been investigated or prosecuted. The Committee finds it regrettable that no information was provided on the situation of Djameleddine Laskri, who has been in detention for 24 years, and of Ali Attar, who has been in custody since February 2015 without an arrest warrant ever having been issued. The Committee is concerned as well by (a) reports that Article 51 bis of the Criminal Code is being invoked systematically, even for prisoners being held on charges of crimes other than terrorism; (b) the fact that prisoners may only meet with their counsel in the presence of a criminal investigation police officer; and (c) the high percentage of prisoners who are being held in pretrial detention (Article 7 and 9).’⁴¹

- 6.2.4 Amnesty International, in its Annual Report for 2019, referred to the security forces response to the mass Hirak protest movement, which began in February 2019, when protests took place calling for the ‘removal of everyone’ linked to the ruling power. Amnesty International noted ‘Police and gendarmerie officers, often in plain clothes, arbitrarily arrested hundreds of peaceful protesters, often seizing their phones to limit coverage of the protests. From June onwards, courts prosecuted over 100 protesters on charges related to peaceful views they expressed about or during the Hirak protests; dozens were sentenced to prison terms.’⁴²

⁴⁰ USSD, ‘Country Report for 2019’ (Section 1D), 11 March 2020, [url](#).

⁴¹ United Nations, ‘Concluding Observations...’ (paragraph 35), 17 August 2018, [url](#)

⁴² Amnesty International, ‘2019 Annual Report’ (Freedom of expression), 18 February 2020, [url](#)

6.2.5 In April 2020, Article 19, a human rights organisation defending the right of freedom of expression, listed a number of human rights activists and journalists who were arrested and detained for their involvement in the Hirak protests⁴³.

6.2.6 Amnesty International reported in June 2020 that:

‘On Friday 19 June, Hirak protests resumed, with police officers arresting at least 500 protesters in 23 cities, according to the Algerian League for the Defense of Human Rights. Many were released without charge, but at least 70 were prosecuted under Penal Code provisions such as "incitement to unarmed gathering" and "exposure of the life of others to danger" during a pandemic, which could lead to five years in prison. Out of the 70 at least 12 were put on pre-trial detention by various courts in Algeria.

‘On 21 June, a court in Cheraga convicted Amira Bouraoui - doctor, activist and leader of the Barakat protest movement, which opposed in 2014 then president Bouteflika's bid for a fourth term, - to a year in prison for online posts which criticized President Tebboune.

‘As of 21 June, at least 69 activists, among them Hirak political and civil society figures such as Karim Tabbou and Samir Belarbi, remain in detention solely for expressing their views online or for participating in peaceful protests.’⁴⁴

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6.3 Enforced disappearances

6.3.1 Amnesty International Annual Report 2017/8 stated that:

‘In February [2017], the UN Human Rights Committee found that the Algerian authorities had violated the right to remedy, the right to life, and the prohibition against torture with regard to Mohamed Belamrania, who was forcibly disappeared and extrajudicially executed in 1995. Days after the UN finding was published, police detained his son, Rafik Belamrania, and charged him with “advocating terrorism on Facebook”. He had filed his father’s case before the UN body and documented other cases of enforced disappearance, arbitrary detention and extrajudicial executions by Algeria’s security forces against suspected supporters of the Islamic Salvation Front (FIS) party during the 1990s. In November [2017] he was sentenced to five years’ imprisonment and fined 100,000 Algerian dinars (around USD870).’⁴⁵

6.3.2 The USSD Country Report 2019 noted, however, that in 2019 ‘There were no reports of disappearances by or on behalf of government authorities.’⁴⁶

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⁴³ Article 19, ‘Algeria: Human rights organisations call for immediate release ...’, 2 April 2020, [url](#)

⁴⁴ Amnesty International, ‘Constitutional reform process undermined by crackdown’, 25 June 2020, [url](#)

⁴⁵ Amnesty, ‘2017/18 Report’ (Impunity), 22 February 2018, [url](#)

⁴⁶ USSD, ‘Country Report for 2019’ (Section 1B), 11 March 2020, [url](#).

6.4 Extra-judicial killings

6.4.1 The submission of stakeholders of February 2017 as part of the UPR noted that: ‘JS5⁴⁷ recommended that the Government investigate all instances of extra-judicial killing and excessive force committed by security forces while monitoring protests and demonstrations; and review existing human rights training for police and security forces with the assistance of civil society to foster more consistent application of international human rights standards, including the UN Basic Principles on the Use of Force and Firearms.’⁴⁸

6.4.2 According to the USSD Country Report for 2019:

‘There were no reports that the government or its agents routinely committed arbitrary or unlawful killings. Nonetheless, on April 12 [2019], police allegedly beat Ramzi Yettou while he was walking home from an antigovernment protest in Algiers. Yettou died April 19 with the cause of death being reported as “undetermined,” prompting authorities to order an investigation into the circumstances of his death, according to Amnesty International. The investigation was ongoing at year’s end.’⁴⁹

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6.5 Torture and ill-treatment

6.5.1 The UNHRC of August 2018 noted in its concluding observations on the fourth periodic report of Algeria:

‘The Committee takes note of the delegation’s explanation that, inasmuch as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment takes precedence over domestic legislation, the definition contained in the Convention is directly applicable by the Algerian courts. The Committee is concerned, however, that the definition provided in Article 263 bis of the Criminal Code is incomplete and it is inconsistent with the provisions of the Covenant and other international standards. The Committee in addition finds it regrettable that the use of confessions obtained under torture is not expressly prohibited by law and is left to the discretion of the judges.’⁵⁰

6.5.2 The UNHRC also expressed its concern in August 2018 at:

‘... claims that torture and ill-treatment continue to be used in counter-terrorism operations, in particular by personnel of the Department of Surveillance and Security. Those officers, who enjoy the prerogatives of the criminal investigation police, do not, in practice, come under the supervision of the State Prosecutor. The Committee is also concerned that so few of the officers who committed acts of torture and ill-treatment have been prosecuted and punished and that article 45 of Ordinance No. 06-01 of 27 February 2006, although it applies to a period in the past, in fact fosters to this day a climate of impunity for law enforcement personnel.’⁵¹

⁴⁷ UN Human Rights Council, ‘Summary of...’, (Page 10), 20 February 2017, [url](#)

⁴⁸ UN Human Rights Council, ‘Summary of...’, (Paragraph 19), 20 February 2017, [url](#)

⁴⁹ USSD, ‘Country Report for 2019’ (Section 1A), 11 March 2020, [url](#).

⁵⁰ United Nations, ‘Concluding Observations on...’, (Paragraph 31), 17 August 2018, [url](#)

⁵¹ United Nations, ‘Concluding Observations on...’, (Paragraph 33), 17 August 2018, [url](#)

- 6.5.3 According to the Freedom House, in its report covering events in 2019: 'Allegations of torture have decreased since the end of the war, but human rights activists still accuse the police of using excessive force and abusing detainees.'⁵²
- 6.5.4 Amnesty International's Annual Report 2019, covering events in 2019, stated that:
- 'Security forces tortured and otherwise ill-treated activists, particularly by beating them and holding them in solitary confinement. In January [2019], journalist Adlène Mellah told Amnesty International that, following arrest, gendarmerie officers beat him, subjected him to waterboarding and forced a cloth doused in bleach into his mouth. The authorities failed to order an investigation into his torture allegations.
- 'In November [2019], detained Hirak activists Chems Eddine Brahim Lalami, Sofiane Babaci and Younes Rejal were beaten in custody, according to credible sources. At the end of the year, Karim Tabbou, a leader of the Democratic and Social Union party, was being held in prolonged solitary confinement following his arrest in September [2019] after publicly criticizing the head of the army.'⁵³
- 6.5.5 Amnesty International reported on the arrest of journalist, Adlène Mellah, for covering a peaceful protest in December 2018, noting that:
- 'Since his arrest, Adlène has been detained in solitary confinement, according to two of his lawyers. He is currently held alone in his cell and even during his courtyard breaks, he is alone apart from prison staff. Lack of meaningful contact with other detainees for at least 22 hours a day for more than 15 days constitutes prolonged solitary confinement, which amounts to torture or other cruel, inhuman or degrading treatment, under the UN Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules).'
- ⁵⁴
- 6.5.6 The Committee to Protect Journalists (CPJ) reported that Adlène was sentenced to a year in prison for 'incitement of armed assembly', which was overturned at appeal to a 6-month suspended sentence⁵⁵.

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Section 7 updated: 27 August 2020

7. Rule of law and the judiciary

7.1 Criminal code and procedure

- 7.1.1 The Encyclopaedia Britannica observed that the legal codes are 'the Penal Code, the code of penal procedure, and the code of civil procedure'.⁵⁶
- 7.1.2 The UN Office of the High Commissioner on Human Rights observed in the UN compilation report as part of the UPR process that: 'Revised legislation adapted to reflect the country's regional and international commitments had

⁵² Freedom House, '2020 Report' (Section F), 4 March 2020, [url](#)

⁵³ Amnesty, '2019 Report' (Torture and other Ill-Treatment), 18 February 2020, [url](#)

⁵⁴ Amnesty International, 'Algeria: Absurd conviction of journalist...', 22 January 2019, [url](#)

⁵⁵ CPJ, 'Algerian journalist handed six-month suspended prison sentence', 6 February 2019, [url](#)

⁵⁶ Encyclopaedia Britannica, 'Algeria' (Justice), n.d., [url](#)

provided grounds for the promulgation of texts that had contributed to strengthening the fundamental rights and liberties of citizens, including the Code of Criminal Procedure, amended on July 2015, and the Penal Code which came into force in January 2016.’⁵⁷

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7.2 Organisation

7.2.1 The CIA World Factbook noted that the legal system is a mixture ‘of French civil law and Islamic law; judicial review of legislative acts in ad hoc Constitutional Council composed of various public officials including several Supreme Court justices.’⁵⁸

7.2.2 The Encyclopaedia Britannica observed that the judiciary is comprised of 3 levels:

- ‘... [T]he first level is the tribunal, to which civil and commercial litigation is submitted and which takes action in penal cases of the first instance.
- ‘...[T]he second level is the provincial court, which consists of a three-judge panel that hears all cases and that functions as a court of appeal for the tribunals and for the administrative jurisdictions of the first instance.
- ‘... [T]he third and highest level is the Supreme Court, which is the final court of appeal and of appeals against the decisions of the lower courts.’⁵⁹

7.2.3 The same source also stated that:

‘At independence Algeria inherited colonial judicial institutions that were widely held by Muslim Algerians to have been established to maintain colonial authority. Judicial organisation was based on two separate foundations: Muslim jurisdiction – practicing Shari‘ah (Islamic law) – and French Civil Courts; the latter were primarily located in the larger towns where the Europeans were concentrated. Shari‘ah Courts were the first – and all too frequently the final – recourse for Muslims seeking judicial redress.

‘Post-independence governments were quick to take steps to eliminate the French colonial judicial legacy. In 1965 the entire system was reformed by a decree that instituted a new judicial organisation. This decree was followed a year later by the promulgation of new legal codes – the Penal Code, the code of penal procedure, and the code of civil procedure. A provincial Court in each province and nearly 200 widely distributed tribunals were eventually created.’⁶⁰

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⁵⁷ UN Human Rights Council, ‘Report of the Office of...’, (Paragraph 21), 17 February 2017, [url](#)

⁵⁸ CIA World Factbook, ‘Algeria’ (Government – Legal System), Updated 28 April 2020, [url](#)

⁵⁹ Encyclopaedia Britannica, ‘Algeria’ (Justice), n.d., [url](#)

⁶⁰ Encyclopaedia Britannica, ‘Algeria’ (Justice), n.d., [url](#)

7.3 Independence

- 7.3.1 The compilation of information provided by stakeholders to the UN Human Rights Council as part of the Universal Periodic Review process noted:

‘According to the National Advisory Commission for the Promotion and Protection of Human Rights [now renamed the National Human Rights Council], the Constitutional reform had resulted in considerable changes to the justice system, including legal assistance for impoverished persons, pretrial detention as a measure to be taken in exceptional circumstances, the regulation of police custody, the independence of the judiciary, the protection of judges and lawyers from all forms of pressure and legal safeguards against all forms of pressure.

‘Alkarama indicated that despite the reforms, the executive was still playing a leading role in the appointment of judges. Alkarama recommended that Algeria ensure the independence of the Supreme Council of the Judiciary by providing for the election of the majority of its members.’⁶¹

- 7.3.2 The UN Office of the High Commissioner on Human Rights observed in the UN compilation report as part of the UPR process that: ‘... Algeria had set in place a number of judicial mechanisms intended to protect the rights of citizens, on the one hand, and to ensure self-reliance in decision-making by the justice system, on the other.’⁶²

- 7.3.3 The UNHCR’s concluding observations on Algeria, dated August 2018, noted:

‘The Committee welcomes the State party’s efforts in the area of reform and modernization of the justice system. It notes with concern, however, that the independence of the judiciary is not sufficiently guaranteed and that the executive plays a significant role in the organisation of the judicial branch. The Committee is concerned that, pursuant to Organic Act No. 04-11 of 6 September 2004 on the organisation of the judiciary, (a) senior judges can only be appointed by presidential decree; (b) judges are appointed by presidential decree on the recommendation of the Minister of Justice after deliberation in the High Council of the Judiciary; (c) judges become tenured only after serving for 10 years; (d) the judges serving in the prosecution service are entirely under the authority of the Minister of Justice, who may reassign them; and (e) dismissals and compulsory retirements are effected by presidential decree and all other disciplinary measures are ordered by the Minister of Justice. It is equally concerned by allegations of outside interference in decisions of judges and public prosecutors and by reports of collective and mass compulsory retirements of judges and public prosecutors.’⁶³

- 7.3.4 The USSD Country Report for 2019 noted:

‘While the Constitution provides for the separation of powers between the executive and judicial branches of government, the executive branch’s broad statutory authorities limited judicial independence. The Constitution grants

⁶¹ UN Human Rights Council, ‘Summary of other...’ (Paragraph 24-26), 27 February 2017, [url](#)

⁶² UN Human Rights Council, ‘Report of the Office...’ (Paragraph 21), 17 February 2017, [url](#)

⁶³ United Nations, ‘Concluding Observations on...’ (Paragraph 39), 17 August 2018, [url](#)

the President authority to appoint all prosecutors and judges. These Presidential appointments are not subject to legislative oversight but are reviewed by the High Judicial Council, which consists of the President, Minister of Justice, Chief Prosecutor of the Supreme Court, 10 judges, and six individuals outside the judiciary chosen by the President. The President serves as the President of the High Judicial Council, which is responsible for the appointment, transfer, promotion, and discipline of judges...'⁶⁴

7.3.5 The USSD Report for 2019 further observed that: '...The judiciary was not impartial and was perceived by some observers to be subject to influence and corruption.'⁶⁵

7.3.6 The Freedom House report covering events in 2019 noted that:

'The judiciary is susceptible to pressure from the civilian government and the military. Judges are appointed by the High Council of the Judiciary, which is led by the President and the Justice Minister. Between October and November 2019, the vast majority of judges went on strike, objecting to a decision by the government to reshuffle around 3,000 judges and prosecutors. Judges protested for ten days against the government's interference in the judiciary, but eventually agreed to a compromise with the Justice Ministry in early November [2019].

'As part of the agreement, judges were allowed to appeal their transfers and received retroactive pay increases; the Ministry also committed to hold a workshop aimed at increasing judicial independence. However, Algeria's National Union of Judges threatened to resume its strike later in late November 2019, accusing the Justice Minister of reneging on their agreement.'⁶⁶

7.3.7 According to Bertelsmann Stiftung, in their Country Report in Algeria:

'The independence of the judiciary provided for in the Constitution was reaffirmed in the Constitutional revision of 2016. Judges and lawyers are selected by competitive examinations and recruited according to merit. While the Constitution establishes the independence of judiciary power, certain legal provisions allow for the executive branch to interfere with the judiciary and, for instance, dismiss judges. Citizens can appeal existing verdicts in one of 48 courts of appeal.

'Practical decisions about judicial competence are made by the Conseil National de la Magistrature (supreme judicial council), but this is under the influence of the executive. The most recent Afrobarometer indicates little trust in courts and even less in judges in their household surveys.'⁶⁷

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7.4 Fair trial

7.4.1 The USSD Report for 2019 stated that:

⁶⁴ USSD, 'Country Report for 2019' (Section 1), 11 March 2020, [url](#)

⁶⁵ USSD, 'Country Report for 2019' (Section 1), 11 March 2020, [url](#)

⁶⁶ Freedom House, '2020 Report' (Section F), 4 March 2020, [url](#)

⁶⁷ Bertelsmann Stiftung, 'BTI 2020 Country Report Algeria' (Section 3, 15), 29 April 2020, [url](#)

'The Constitution provides for the right to a fair trial, but authorities did not always respect legal provisions that protect defendants' rights. The law presumes defendants are innocent and have the right to be present and to consult with an attorney provided at public expense if necessary. Most trials are public, except when the judge determines the proceedings to be a threat to public order or "morals." The penal code guarantees defendants the right to free interpretation as necessary. Defendants have the right to be present during their trial but may be tried in absentia if they do not respond to a summons ordering their appearance.

'Defendants may confront or question witnesses against them and present witnesses and evidence on their behalf. Defendants have the right not to be compelled to testify or confess guilt, and they have the right to appeal. The testimony of men and women has equal weight under the law...

'The judiciary was not always independent or impartial in civil matters and lacked independence in some human rights cases. Family connections and status of the parties involved influenced decisions.'⁶⁸

- 7.4.2 The USSD report 2019 further noted '...Most detainees had prompt access to a lawyer of their choice as accorded by law, and the government provided legal counsel to indigent detainees... There were reports that authorities held some detainees without access to their lawyers and reportedly abused them physically and mentally.'⁶⁹
- 7.4.3 Human Rights Watch (HRW) noted in February 2020 that, a year after the Hirak protests began, over 170 protestors, including prominent leaders of the movement, remained in jail awaiting trial on charges stemming from their peaceful participation in the protests of their activism. According to HRW, one prominent prosecutor was transferred away from the trials after urging the Algiers court to acquit 16 protestors, stating their prosecution was based solely on their right to free assembly. HRW noted that the transfer appeared to go against the 'Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, adopted by the African Commission on Human and People's Rights.'⁷⁰
- 7.4.4 According to the Freedom House report covering events in 2019: 'The lack of independence on the part of judges and prosecutors often erodes the due process rights of defendants, particularly in politically fraught trials. Lengthy delays in bringing cases to trial are common. Prosecutors' requests to extend pretrial detention periods are typically granted. Security forces frequently conduct warrantless searches and engage in arbitrary arrests and short-term detentions.'⁷¹

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⁶⁸ USSD, 'Country Report for 2019' (Section 1), 11 March 2020, [url](#)

⁶⁹ USSD, 'Country Report for 2019' (Section 1), 11 March 2020, [url](#)

⁷⁰ HRW, 'Algeria: One Year On, Activists Languish in Jail', 24 February 2020, [url](#)

⁷¹ Freedom House, '2020 Report' (Section F2), 4 March 2020, [url](#)

7.5 Death penalty

- 7.5.1 According to Amnesty International, in its Annual Report 2019: ‘Courts continued to hand down death sentences. No executions had been carried out since 1993.’⁷²
- 7.5.2 The UNHRC , in its Concluding observations on the fourth periodic report of Algeria of August 2018 has observed that:
‘The Committee takes note of the de facto moratorium observed by the State party since 1993. It is concerned, however, about the number of crimes, including some that are not among those classified as very serious crimes, which involve murders, for which the death penalty may still be applied, and it deplores the inclusion in 2013 of Article 293 bis in the Criminal Code, whereby an additional crime is now punishable with the death penalty. While noting the explanation that the death penalty is ordered in cases of a conviction in absentia, the Committee is concerned at the high number of death sentences that continue to be handed down each year and the fact that those sentences are not automatically commuted...’⁷³
- 7.5.3 According to Amnesty International in its report, Algeria; Submission to the United Nations Human Rights Committee; 123rd Session, 2-27 July 2018 [MDE 28/8455/2018], May 2018: ‘Although no executions have been carried out in Algeria since 1993, the courts continue to hand down death sentences, mostly against people tried in their absence for terrorism-related offences.
- 7.5.4 ‘At least 50 people were sentenced to death in 2016 and a further 27 at least in 2017. But the true extent of the imposition of death sentence in Algeria is unknown as official data has not been disclosed by the authorities.’⁷⁴
- 7.5.5 The same source documented that in 2019, 4 death sentences were recorded with no recorded executions. ‘Three of the four death sentences recorded in Algeria were imposed in June by a military tribunal on intelligence officers for “disclosure of state secrets” and “communicating with foreign parties”.’⁷⁵

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⁷² Amnesty, ‘2019 Report’ (Death penalty), 18 February 2020, [url](#)

⁷³ United Nations, ‘Concluding Observations on...’, (Paragraph 27, 28), 17 August 2018, [url](#)

⁷⁴ Amnesty International, ‘Algeria; Submission to the United Nations...(Section 10), May 2018, [url](#)

⁷⁵ Amnesty International, ‘Death Sentences and Executions 2019’ (p.34 & 36, 21 April 2020

Terms of Reference

A 'Terms of Reference' (ToR) is a broad outline of what the CPIN seeks to cover. They form the basis for the [country information section](#). The Home Office's Country Policy and Information Team uses some standardised ToRs, depending on the subject, and these are then adapted depending on the country concerned.

For this particular CPIN, the following topics were identified prior to drafting as relevant and on which research was undertaken:

- Security apparatus
 - Police and paramilitary forces
 - Armed forces
 - Intelligence services
- Security forces' capabilities
 - Effectiveness
 - Response to violence against women
 - Reporting an offence or complaint
 - Corruption
 - Impunity
 - Avenues of redress and human rights monitoring
- Arrest and detention
 - Legal rights
- Human rights abuses by security forces
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Version control

Clearance

Below is information on when this note was cleared:

- version **1.0**
- valid from **27 August 2020**

Changes from last version of this note

First version of discrete CPIN on actors of protection.

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