

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	229
Land:	Algeriet
Kilde:	Amnesty International
Titel:	Submission to the United Nations Human Rights Committee
Udgivet:	28. maj 2018
Optaget på baggrundsmaterialet:	31. august 2018



ALGERIA

SUBMISSION TO THE UNITED NATIONS HUMAN RIGHTS COMMITTEE
123RD SESSION, 2-27 JULY 2018

**Amnesty International is a global movement of more
than 7 million people who campaign for a world
where human rights are enjoyed by all.**

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

© Amnesty International 2018

Except where otherwise noted, content in this document is licensed under a Creative Commons (attribution, non-commercial, no derivatives, international 4.0) licence.

<https://creativecommons.org/licenses/by-nc-nd/4.0/legalcode>

For more information please visit the permissions page on our website: www.amnesty.org

Where material is attributed to a copyright owner other than Amnesty International this material is not subject to the Creative Commons licence.

First published in 2018

by Amnesty International Ltd

Peter Benenson House, 1 Easton Street

London WC1X 0DW, UK

Index: MDE 28/8455/2018

Original language: English

amnesty.org

AMNESTY
INTERNATIONAL 

CONTENTS

1. INTRODUCTION	4
2. THE NATIONAL HUMAN RIGHTS FRAMEWORK (ARTS. 2 AND 27)	4
2.1 2016 CONSTITUTIONAL REFORMS	4
2.2 THE NEW NATIONAL HUMAN RIGHTS COUNCIL	5
2.3 JUDICIAL SYSTEM REFORMS	5
3. FREEDOM OF EXPRESSION (ART. 19)	5
4. FREEDOM OF PEACEFUL ASSEMBLY (ART. 21)	7
5. FREEDOM OF ASSOCIATION (ART. 22)	8
6. FREEDOM OF RELIGION OR BELIEF (ART. 18)	9
7. SUMMARY EXPULSIONS AND FREEDOM OF MOVEMENT RIGHTS (ART. 13)	10
8. FAIR TRIAL (ART. 14)	11
9. GENDER-BASED DISCRIMINATION AND WOMEN'S RIGHTS (ARTS. 2 AND 3)	12
10. DEATH PENALTY (ART. 6)	13
11. ACCOUNTABILITY FOR PAST ABUSES (ARTS. 6,7 AND 9)	13

1. INTRODUCTION

This submission has been prepared for the review of the fourth periodic report of the People's Democratic Republic of Algeria (hereafter Algeria) by the Human Rights Committee (hereafter the Committee) in July 2018. In it, Amnesty International assesses key aspects of the national human rights framework, evaluates the human rights situation on the ground according to the Covenant and makes relevant recommendations to the authorities.

Algeria's review by the Committee provides an important opportunity for a public examination of the country's human rights record. Since it was last reviewed in 2007, Algeria has taken steps to strengthen human rights guarantees, including by lifting the state of emergency in 2011 and adopting long-awaited constitutional amendments in 2016.

However, the rights protected by the International Covenant on Civil and Political Rights (the Covenant) have not been fully incorporated into domestic legislation and the Covenant has not been disseminated widely enough or included in the training of the judiciary for it to be regularly invoked before the courts and the administrative authorities.

The Algerian authorities regularly undermine rights such as freedom of expression, religion and peaceful assembly, with Algerian courts imprisoning individuals under Penal Code charges solely in relation to their exercise of those rights.

2. THE NATIONAL HUMAN RIGHTS FRAMEWORK (ARTS. 2 AND 27)

2.1 2016 CONSTITUTIONAL REFORMS

In February 2016, the Algerian Parliament adopted a series of constitutional amendments which President Abdelaziz Bouteflika had pledged to deliver since the popular protests in 2011. The amended constitution, which does not refer to the Covenant is a mixed bag for human rights, strengthening some human rights guarantees and introducing new ones while leaving some existing human rights gaps unaddressed and perpetuating the preponderance of the executive over other branches of government.¹

Furthermore, the concrete implications of much new language on human rights remains opaque, due to provisions making rights conditional on compatibility with vague concepts such as "the constants and religious, moral and cultural values of the nation" (article 50 on freedom of expression), instead of clear and unambiguous constitutional safeguards.

In a welcome move, the 2016 amendments made Tamazight an official language and established a National Council for Human Rights to promote, monitor and protect human rights in Algeria.

¹ Amnesty International, *Algeria: Constitution needs stronger human rights safeguards* (Index: MDE 28/3366/2016)

2.2 THE NEW NATIONAL HUMAN RIGHTS COUNCIL

Established in November 2016 by the Law No. 16-13, the National Council of Human Rights replaced the existing National Advisory Commission for the Promotion and Protection of Human Rights, which had been in place since 2001.² The law which does not refer directly to the Principles relating to the Status of National Institutions (the Paris Principles) tasks the Council with the promotion and protection of human rights as well as submitting opinions, recommendations, proposals and annual reports on human rights to the President, Parliament and Prime Minister. In March 2017, the Council's 38 members and president were appointed.

Since then, the Council published a number of statements addressing human rights violations in Algeria such as violence against women and the treatment of migrants. It has also signed memorandums with official bodies to “promote raising awareness on human rights” and organized training workshops in Algiers on reporting to international and regional intergovernmental organizations.

In May 2017, the Council failed to publish its annual report about human rights which is required to present to the President of the Republic, the Parliament and the Prime Minister, as stipulated by Law No. 16-13. The report is meant to include recommendations on the reinforcement and promotion of human rights.

2.3 JUDICIAL SYSTEM REFORMS

Since 2007, the Algerian authorities have repeatedly used the Penal Code to convict human right defenders, journalists and bloggers as well as lawyers (see below part II).

In July 2015, the authorities adopted amendments to the Code of Criminal Procedure that broaden the range of alternatives to pre-charge and pre-trial detention. The amendments now grant suspects the right of access to a lawyer during pre-charge detention, but not to have their lawyer present during interrogation by judicial police officers.

During the 27th session of the Universal Periodic Review in 2017, Amnesty recommended to the Government of Algeria to amend several articles in the Penal Code as well as the Code of Criminal Procedure to bring them into compliance with international law and standards.³

In March 2018, new amendments were adopted amending provisions on criminal record, rehabilitation and coercion.

3. FREEDOM OF EXPRESSION (ART. 19)

Since 2007, the Algerian authorities have prosecuted independent journalists and bloggers on politically motivated charges. The authorities also relied on the excessively restrictive 2012 Information Law No. 12-05

² Law No. 16-13 of 3 November 2016 establishing the composition and terms of appointment of the CNDH's members and the rules related to its organizations and functioning: http://cndh.org.dz/Conseil-Final-22-01-2018/images/Textes_de_loi/Textes_nationaux_ref/loi%2016-13_du%203-11-2016.pdf

³ Amnesty International, *Suggested recommendations to States considered during the 27th session of the Universal Periodic Review, 1-12 May 2017* (Index: IOR 40/5941/2017)

to challenge the ownership of print media.⁴ Since 2014, the authorities have shut down private channels and TV programmes in apparent reprisals against their independent editorial lines.⁵

Law No. 14-04 on Audio-visual Activity, adopted in February 2014, requires privately-owned television and radio stations to obtain a licence from a government-appointed body before they can begin broadcasting. The law does not specify a timeframe for the authorities to respond to applications and does not explicitly allow for delays to be challenged in court, which has exposed stations to the risk of censorship through unreasonable delays. It also places unduly restrictive and invasive controls on the content of private television and radio programmes.⁶

In addition, the authorities denied visas to many foreign journalists seeking to cover the 2014 presidential elections.⁷

Despite guarantees of the rights to peaceful expression in the 2016 Constitution, Penal Code provisions criminalizing “offending,” “insulting” or “defaming” public officials and institutions are still used to prosecute peaceful critics.⁸

In July 2016, a court sentenced freelance journalist Mohamed Tamalt to two years’ imprisonment after convicting him of “offending” the President and public institutions in comments he published on Facebook and on his blog about corruption and nepotism among leading officials.⁹ An appeal court confirmed his sentence in August, following a hearing at which he accused prison guards of beating him. He began a protest hunger strike at the time of his arrest in June, became comatose in August, and died in hospital in December 2016. The authorities failed to adequately investigate his alleged beating in detention, his treatment in prison and his death.

Since January 2017 blogger Merzoug Touati has been detained in pre-trial detention in relation to his peaceful expression, risking death penalty. The authorities accused him of incitement to violence and espionage in relation to a Facebook post and a video interview he had recorded. On 24 May 2018, the Béjaïa court sentenced the blogger to 10 years in prison and a fine of 50,000 Algerian dinars (approximately USD \$430).

Recommendations:

- Immediately and unconditionally release all individuals, including Merzoug Touati, held solely for the peaceful exercise of their rights to freedom of expression;
- Conduct a prompt, thorough and independent investigation into the events leading to the death in custody of Mohamed Tamalt starting from his arrest, including his allegations of ill-treatment;
- Amend legislation that criminalizes the right to freedom of expression including Article 144 on “offending” public officials, Article 144 bis 2 on “offending the Prophet”, and Article 146 on “offending public bodies”;
- Lift undue restrictions on print media and privately-owned television and radio stations by amending the Law on Information and the Law on Audio-visual Activity.

⁴ Amnesty International, *Algeria: End media restrictions* (Index: MDE 28/4369/2016).

⁵ Amnesty International, *Algeria: National Press Day marred by private TV station shutdown* (Press release, 21 October 2015), www.amnesty.org/en/latest/news/2015/10/algeria-press-day/ and Amnesty International 2016/2017 annual report (Index: POL 10/4800/2017).

⁶ Amnesty International, *Algeria: Lift restrictions on El Watan TV and other private broadcasters* (Index: MDE 28/2696/2015).

⁷ Amnesty International, *Algeria: Key human rights concerns ahead of presidential elections* (Index: MDE 28/004/2014).

⁸ Article 144 bis of the Penal Code punishes causing offence to the President through discourse, drawings or writings, with a fine of up to 500,000 Algerian dinars (over 5,000 US dollars), a prohibitive sum in Algeria. For more information see Amnesty International, *Algeria: End relentless targeting of government critics* (Index: MDE 28/2951/2015).

⁹ Amnesty International, *Algeria: Man arbitrarily detained for Facebook posts: Mohamed Tamalt* (Index: MDE 28/4379/2016)

4. FREEDOM OF PEACEFUL ASSEMBLY (ART. 21)

Prosecutions of peaceful protesters, dissenting voices and human rights defenders through Algeria's courts have increased since 2014, with peaceful demonstrations across the country, often in relation to social issues, routinely forcibly dispersed by security forces and protesters often arrested.¹⁰ Peaceful protesters opposing President Abdelaziz Bouteflika's candidacy in the presidential elections saw their first gatherings in March 2014 forcibly dispersed by security forces, with dozens arrested.¹¹

Peaceful protests subject to repression by the authorities also include those denouncing the lack of adequate local development and job creation in central and southern Algeria, or those denouncing corruption and restrictions on public freedoms. Activists who go a step further and demand regional autonomy, in the Mزاب Valley and Kabylia, have also faced prosecutions and arrests.¹²

Human rights lawyers defending these activists, and more generally those criticizing high-ranking officials, including for corruption and nepotism, were also targeted.¹³

Algeria lifted its 21-year state of emergency in 2011, but Law No. 91-19 amending Law No. 89-28 of 1989 on Public Meetings and Demonstrations still requires prior authorization to hold public gatherings and assemblies. Such authorizations are rarely granted in practice.

The same law prohibits all unauthorized protests, including peaceful assemblies whose organizers have either not sought, or been denied, authorisation. It punishes participation in such "unlawful gatherings" or disobeying dispersal orders by imprisonment and fines (Articles 15, 17, 19, 23).

Moreover, Algeria's Constitution fails to fully guarantee the right to peaceful assembly since it limits it to Algerian citizens and leaves the regulation of the right to the procedures provided for by national law (Article 49). This restriction directly breaches Algeria's obligations under Article 21 of the ICCPR which provides that states have an obligation to respect, protect and fulfil the right to peaceful assembly without discrimination of any kind.

Recommendations:

- Release all individuals held solely for the peaceful exercise of their rights to freedom of assembly;
- Amend legislation that criminalizes the right to freedom of assembly, including Articles 97 and 98 of the Penal Code, and Articles 15, 17, 19 and 23 of Law No. 89-28 on Public Meetings and Demonstrations as amended by Law No. 91-19, to remove the prohibition on unauthorized "unarmed gatherings" and substitute the requirement for prior authorization in these articles with a prior notification.

¹⁰ Amnesty International, *Algeria: Halt repression of fracking and unemployment protesters* (Index: MDE 28/2122/2015); See Algeria entries in Amnesty International 2017/18 annual report, the state of the world's human rights (Index: 10/6700/2018) and previous years.

¹¹ Amnesty International, *Algeria: Crackdown on peaceful assembly ahead of presidential elections* (Index: MDE 28/002/2014)

¹² Amnesty International, *Algeria: Ensure Fair Trial for Minority Rights Activists* (Press release, 29 May 2017), www.amnesty.org/en/latest/news/2017/05/algeria-ensure-fair-trial-for-minority-rights-activists-fekhar-and-other-amazigh-rights-advocates-held-since-july-2015/

¹³ See Algeria entries in Amnesty International 2017/18 annual report, the state of the world's human rights (Index: 10/6700/2018).

5. FREEDOM OF ASSOCIATION (ART. 22)

The 2016 constitutional amendments required the government to amend the existing Law No. 12-06 of 2012 on Associations but to date it is yet to produce a draft law.

The existing law restricts freedom of association by imposing wide-ranging and arbitrary restrictions on the purposes, goals and activities of associations, giving the government the power to refuse to register associations deemed to threaten “national values and morality,” and to suspend or dissolve groups considered to “interfere with the internal affairs” of the country or undermine “national sovereignty.” The law includes penalties of imprisonment and fines for membership of unregistered, suspended or dissolved associations.¹⁴

The authorities have left a number of associations seeking registration in legal limbo by failing to respond to registration applications submitted. These include human rights groups and Amnesty International’s branch in Algeria, while others have had their registration refused.¹⁵

In February 2018, the Algerian security forces in Oran sealed off the offices of two local women’s rights NGOs, FARD (Femmes Algériennes Revendiquant leurs Droits) and AFEPEC (Association Féministe pour l’Épanouissement de la Personne et l’Exercice de la Citoyenneté), before lifting the seals few days later. The authorities justified the shutdown by disputing the legal registration of the NGOs, although both organizations had submitted a new registration request to operate legally under the restrictive Associations law, FARD had received the receipt of registration in March 2014 from the Governorate of Oran, while AFEPEC who submitted around the same time has yet to receive a response from local authorities. Both organizations have been in operation since the 1990s.¹⁶

The authorities also regularly denied associations authorization to hold public meetings and gatherings. In 2017, local authorities denied authorization to the Algerian League for the Defence of Human Rights (LADDH) to hold a human rights meeting in October and a public event celebrating the Universal Declaration of Human Rights in December.¹⁷

Moreover, the Labour Code restricts the right to form trade unions by limiting trade union federations and confederations to single occupational sectors; allowing only Algerian-born people or those who had held Algerian nationality for a minimum of 10 years to create trade union organizations and imposing restrictions on foreign funding for trade unions. The authorities continued to deny registration to the independent, cross-sector General Autonomous Confederation for Algerian Workers, since it first filed its application in 2013.

In May 2017, the Ministry of Labour banned the National Autonomous Electricity and Gas Trade Union by withdrawing its recognition.

Recommendations:

- Repeal Law No. 12-06 on Associations and elaborate the new law on associations in conformity with applicable international human rights standards;
- End the practice of withholding registration receipts and other such unlawful obstacles to associations seeking registration;
- Halt arbitrary restrictions on associations’ peaceful activities.

¹⁴ Amnesty International, *Algeria: Associations Law must be repealed before January deadline* (Index: MDE 28/003/2013).

¹⁵ Amnesty International, *Algeria: New Law on associations used to stifle civil society* (Press release, 7 May 2013), www.amnesty.org/en/latest/news/2013/05/algeria-new-law-on-associations-used-to-stifle-civil-society/

¹⁶ Amnesty International, *Algeria: Disturbing clampdown against civil society as two women’s NGOs forced to close* (Press release, 2 March 2018), www.amnesty.org/en/latest/news/2018/03/algeria-disturbing-clampdown-against-civil-society-as-two-womens-ngos-forced-to-close/

¹⁷ See Algeria entries in Amnesty International 2017/18 annual report, the state of the world’s human rights (Index: POL 10/6700/2018).

6. FREEDOM OF RELIGION OR BELIEF (ART. 18)

The Algerian authorities have violated freedom of religion in practice. In 2010, Algerian authorities refused to register new Protestant Christian churches, forcing Algerian Protestants to pray in unauthorized churches.¹⁸

Algeria's 2016 Constitution conditions freedom of religious worship on highly restrictive national legislation.¹⁹ Article 144 bis2 of Algeria's Penal Code carries up to five years in prison and a fine of up to 100,000 Algerian dinars (around 900 US Dollars) for "offending the Prophet and any of the messengers of God, or denigrating the creed and precepts of Islam, whether by writing, drawing, declaration, or any other means."²⁰ Moreover, decree 03-06 of 2006 imposes restrictions on the exercise of religions other than Islam.

In an unprecedented crackdown in June 2016 onwards, over 280 members of the Ahmadi religious minority were arrested and prosecuted for peacefully practising their faith with many being sentenced to prison terms.²¹ In 2017, courts released 16 Ahmadis after reducing or suspending their sentences, while dozens of others remained under investigation or on trial and five remained in detention. In August 2017, the authorities rearrested Mohamed Fali, head of the Ahmadi community in Ain Safra, Naama province, before trying him before the Ain Tedles Court of First Instance for collecting donations without a licence, "denigrating Islamic dogma" and "membership of an unauthorized association". By the end of the year, he faced six cases pending before different courts arising from the peaceful practice of his faith.

As of 2018, no Ahmadis are in prison. Some of them reported that they are still facing prosecutions, suspensions from their public-sector jobs and difficulties to renew their travel documents.

Recommendations:

- Repeal Article 144 *bis* 2 on "offending the Prophet" and "denigrating the creed and precepts of Islam";
- Protect the right of people of different religious beliefs to manifest that belief in collective worship, to build places of worship, and to collect voluntary financial contributions;
- Lift undue restrictions in Decree 03-06 against the exercise of a religion other than Islam.

¹⁸ See Algeria's entry in Amnesty International 2011 annual report, the state of the world's human rights (Index: POL 10/001/2011)

¹⁹ Amnesty International, *Algeria: Constitution needs stronger human rights safeguards* (Index: MDE 28/3366/2016)

²⁰ Amnesty International, *Algeria: Respect the right of religious minorities to worship* (Index: MDE 28/006/2010)

²¹ Amnesty International, *Algeria: Wave of arrests and prosecutions of hundreds of Ahmadis* (Press release, 19 June 2017), www.amnesty.org/en/latest/news/2017/06/algeria-wave-of-arrests-and-prosecutions-of-hundreds-of-ahmadis/

7. SUMMARY EXPULSIONS AND FREEDOM OF MOVEMENT RIGHTS (ART. 13)

Algeria continues to lack national asylum legislation. Law No. 08.11 of 25 June 2008 on the conditions of entry into, stay and movement of foreign people in Algeria criminalizes irregular entry, stay and exit from Algeria and punishes those who aid irregular migrants with imprisonment.

The authorities summarily expelled migrants, asylum-seekers and refugees during the period under review. In December 2016, security forces arrested an estimated 1,500 sub-Saharan African migrants and refugees in Algiers and arbitrarily expelled hundreds of them to neighbouring Niger within days. Those not expelled were released in the southern city of Tamanrasset and reported public transports barred them, preventing their return to Algiers.²²

Authorities continued to convict Algerians attempting to reach Europe by sea or crossing land borders through locations other than official border exit posts for the crime of “unlawfully exiting the country”. In February 2017, a court in Annaba convicted 27 people, including Algerians, for irregular exit from Algeria after they attempted to leave the country by boat. They were fined 20,000 Algerian dinars (about \$US180) each.²³

From August 2017 onwards, the Algerian authorities’ crackdown on Sub-Saharan migrants intensified, subjecting several thousand to arbitrary arrests, detentions, summary deportations to the far south of the country and expulsions on the basis of racial profiling.²⁴ In some cases documented by Amnesty International, the Algerian authorities used batons and kicked migrants during raids and mass arrests in building sites, private houses and in the streets.

As of April 2018, at least 15,000 Nigeriens and other sub-Saharan African nationals from a range of countries, including documented migrants, asylum seekers and refugees, have been summarily expelled to neighbouring Niger. In parallel, since January 2018 at least 3000 sub-Saharan nationals have been abandoned at the Niger border, while more than 1000 at the Malian border. They had to walk in the desert before being rescued by international organisations.²⁵

Recommendations:

- Protect all migrants, asylum seekers and refugees from violence without discrimination based on their migration status and bring those suspected to be responsible for such violence to justice in fair trials without recourse to the death penalty;
- Stop the practice of arbitrary arrests and summary expulsions of foreign nationals without due process and respect the principle of non-refoulement;
- Amend Law No. 08.11 of 25 June 2008 to decriminalize irregular entry, stay, and exit and ensure they are treated as administrative offences rather than criminal offenses. Under international law, immigration-related detention should always be used as a last resort and for the shortest time possible. It must be legal, necessary and proportional to the objective to be achieved, based on an individualized assessment and migrants and asylum-seekers must be allowed to challenge the

²² See Algeria’s entry in Amnesty International 2016/17 annual report, the state of the world’s human rights (Index: POL 10/4800/2017).

²³ See Algeria’s entry in Amnesty International 2017/18 annual report, the state of the world’s human rights (Index: POL 10/6700/2018)

²⁴ Amnesty International, *Algeria: Mass racial profiling used to deport more than 2,000 sub-Saharan migrants* (Press Release, 23 October 2017), www.amnesty.org/en/latest/news/2017/10/algeria-mass-racial-profiling-used-to-deport-more-than-2000-sub-saharan-migrants/

²⁵ International Organisation for Migration, *UN Migration Agency in Mali Assists Over 1,100 Sub-Saharan Migrants at Algerian Border*, 8 May 2018, www.iom.int/news/un-migration-agency-mali-assists-over-1100-sub-saharan-migrants-algerian-border

lawfulness of their detention. Recognized refugees should never be detained for migration-related purposes;

- Adopt national legislation implementing the 1951 Convention relating to the Status of Refugees and its 1967 Optional Protocol, as well as other international laws and standards for the protection of persons in need of international protection;
- Grant protection to refugees determined and recognized as such by UNHCR.

8. FAIR TRIAL (ART. 14)

Despite its recent amendment, the Code of Criminal Procedure still fails to guarantee due process rights and allows for arbitrary pre-trial detention. Under Article 51 of the Code of Criminal Procedure, detainees suspected of terrorism-related offenses can be held legally for a period of up to 12 days without access to legal counsel or charge.

In May 2017, a court in Medea unfairly convicted Kamaledidine Fekhar, the founder of the Movement for the Autonomy of the Mزاب (MAM) and 21 of his 41 co-defendants of murder, terrorism and other serious offences, for their alleged role in communal violence in Ghardaia province between 2013 and 2015 which left an estimated 25 people dead.²⁶ The court sentenced them to prison terms of between three and five years, partially suspended; they were all then released between May and July 2017 after having served their sentence. Among the 41 defendants, 37, who were all acquitted in the trial, had been held for long periods, many for as long as two years, in pre-trial detention.

In January 2016, the Department for Information and Security (known as DRS), which wielded wide powers of arrest and detention, including incommunicado detention of terrorism suspects, was dissolved by an unpublished presidential decree.²⁷ It has been replaced by a new body, the Direction of Security Services, which reports directly to the President.

Recommendations:

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

²⁶ Amnesty International, *Algeria: Ensure Fair Trial for Minority Rights Activists* (Press release, 29 May 2017), www.amnesty.org/en/latest/news/2017/05/algeria-ensure-fair-trial-for-minority-rights-activists-fekhar-and-other-amazigh-rights-advocates-held-since-july-2015/

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

9. GENDER-BASED DISCRIMINATION AND WOMEN'S RIGHTS (ARTS. 2 AND 3)

Algeria's Family Code discriminates against women in relation to marriage, divorce, child custody and guardianship and inheritance.

Article 11 of the Algerian Family Code provides that a woman of legal age should conclude her marriage contract in the presence of her *wali*, who can be her father or a male relative or any other person of her choice.

According to Article 66 of the Family Code, a mother who remarries loses custody of her children. A husband can freely divorce his wife without justification, but a wife must meet specific conditions set out in articles 53 and 54 of the Family Code in order to initiate a divorce.

Inheritance remains weighted in favour of sons compared to daughters. The law entrenches a simple mathematic formula with a severely discriminatory effect: the share for one son is equal to that of two or more daughters.²⁸

Domestic violence and sexual harassment have been punishable by the Penal Code since 2015, but Article 266bis continues to allow for domestic violence charges to be dropped if the victim declares her "forgiveness". Moreover, Article 326 of the Penal Code continues to allow anyone who kidnaps without violence or threat a minor (under the age of 19) to avoid prosecution if they marry the victim and the girl's family doesn't file a complaint.

The Penal Code also still criminalizes same-sex sexual relations in Article 338 which carries prison sentences ranging from two months to two years. Anti-LGBTIQ discourse is continuously increasing leading on several occasions to harassment and violence, leaving targeted individuals without any protection. In recent years, 'Trans Homos DZ', a local NGO working on LGBTIQ rights, has documented cases of violence based on sexual orientation and gender identity in public spaces, in universities, at work and in prisons.²⁹

Recommendations:

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

²⁸ Amnesty International, *Algeria – Impunity Past and Present: Amnesty International submission for the UN Periodic Universal Review 27th session* (Index: MDE 28/5468/2016).

²⁹ Trans Homos DZ, *Violence in everyday life against LGBTIQ in Algeria*, 27 November 2016, www.transhomosdz.org/2016/11/27/violence-in-everyday-life-against-lgbtqi-in-algeria/

10. DEATH PENALTY (ART. 6)

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

At least 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.³⁰

Recommendations:

- Commute all death sentences and reduce the number of crimes punishable by death, with a view to abolishing capital punishment;
- Ratify the Second Optional Protocol to the Covenant.

11. ACCOUNTABILITY FOR PAST ABUSES (ARTS. 6, 7 AND 9)

According to the information available to Amnesty International, the authorities have taken no steps during the period under review to investigate grave human rights violations committed by security forces during the internal conflict of the 1990s, including thousands of enforced disappearances, secret and arbitrary detention and extrajudicial executions.³¹

Amendments to the Preamble to the Constitution adopted in February 2016 endorse the legacy of the “national peace and reconciliation” process, ignoring the plight of victims and their families who continue to oppose amnesty measures for security forces and members of armed groups adopted since 1999.³²

³⁰ Amnesty International, Global Report: Death Sentences and Executions 2017 (Index: ACT 50/7955/2018)

³¹ Armed groups also committed widespread human rights abuses included unlawful killings, collective massacres, abductions, torture and rape during the conflict. The lack of transparency and public disclosure by the authorities on the investigations they had carried out into abuses by armed groups and the basis on which amnesties were granted to members of armed groups who surrendered, also effectively translated into a denial of truth to victims and their families. See Amnesty International, *A legacy of impunity: a threat to Algeria's future* (Index: MDE 28/001/2009).

³² The Charter for Peace and National Reconciliation, adopted by national referendum on 29 September 2005, exempted current and former armed group members from prosecution or offered them clemency. It absolved security forces and state-armed militias from responsibility and specifically denied that the security forces had been responsible for enforced disappearances. Ordinance No. 06-01 implementing the Charter for Peace and National Reconciliation, adopted on 27 February 2006, broadened the terms of a previous set of amnesty measures in 1999-2000 by granting immunity from prosecution for members of armed groups who had not committed abuses of a collective nature or rape, but also provided blanket immunity from prosecution for security forces and state-armed militias and allowed for the imprisonment of any individual criticizing the conduct of security forces.

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

Recommendations:

- Repeal the provisions of Law No. 06-01 of 2006 that provide impunity from prosecution to the security forces and members of armed groups and that criminalize public criticism of the conduct of the security forces;
- Conduct full, impartial and independent investigations into all allegations of crimes under international law and, where sufficient admissible evidence exists, prosecute those responsible in fair trials without recourse to the death penalty;
- Ratify the International Convention for the Protection of All Persons from Enforced Disappearance.
- Ratify the Rome Statute of the International Criminal Court.

**AMNESTY INTERNATIONAL
IS A GLOBAL MOVEMENT
FOR HUMAN RIGHTS.
WHEN INJUSTICE HAPPENS
TO ONE PERSON, IT
MATTERS TO US ALL.**

CONTACT US



info@amnesty.org



+44 (0)20 7413 5500

JOIN THE CONVERSATION



www.facebook.com/AmnestyGlobal



[@Amnesty](https://twitter.com/Amnesty)

ALGERIA

SUBMISSION TO THE UNITED NATIONS HUMAN RIGHTS COMMITTEE 123RD SESSION, 2-27 JULY 2018

Amnesty International welcomes the opportunity to submit this document to the United Nations (UN) Human Rights Committee (The Committee). This submission focuses on the key civil and political rights in Algeria, including the national human rights framework, freedom of expression, freedom of peaceful assembly, freedom of association, freedom of religion or belief, summary expulsions and freedom of movement rights, fair trial, gender-based discrimination and women's rights, death penalty, and accountability for past abuses. It is not an exhaustive analysis of Algeria's compliance with its obligations under the International Covenant on Civil and Political Rights (the Covenant).