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Algeria arbitrarily restricts workers' rights to form labor organizations, Human Rights Watch and the Euro-Mediterranean Human Rights Network (EMHRN) said today. The government punishes peaceful protesters and strikers, including with retaliatory suspensions or dismissals from public service jobs, and arbitrarily arrests and prosecutes union activists on politically motivated charges.

The International Labour Organization (ILO) should urge Algeria to end its repression of independent union activity when it examines Algeria's record during its upcoming session, which opens May 28, 2014 in Geneva, the groups said. Algeria is party to the Freedom of Association and Protection of the Right to Organise Convention (No.87) and the Right to Organise and Collective Bargaining Convention (No. 98), two of the eight ILO Conventions considered fundamental to international labor law.

"Workers in Algeria are stymied at every turn when they try to form independent unions and act collectively," said Sarah Leah Whitson, Middle East and North Africa director at Human Rights Watch. "The ILO should use this opportunity to remind Algeria that respecting labor rights means letting workers organize unions and conduct union business without government

interference." Human Rights Watch and the EMHRN have interviewed workers and union representatives, documented efforts to form and operate unions in Algeria and reviewed laws and regulations governing union activity.

Algerian authorities use administrative maneuvers designed to withhold legal status from independent unions that attempt to operate outside of the General Union of Algerian Workers (Union générale des travailleurs algériens, UGTA), which many view as close to the authorities. The law on unions allows workers to form unions by notifying the authorities in writing, without seeking permission. After 30 days, authorities are supposed to issue the union a final registration receipt.

In many instances, though, authorities have refused to issue a receipt. In other cases, Algerian authorities request additional information or ask unions to modify their statutes. But the authorities have withheld the receipts in some cases even after a union complied. Without a receipt, the union cannot legally represent workers.

The Union of Higher Education Teachers in Solidarity (Syndicat des Enseignants du Supérieur Solidaires), for example, filed its founding papers on January 19, 2012. More than two years later, it has not received its registration receipt. The National Autonomous Union of Postal Workers (Syndicat National Autonome des Postiers, SNAP) submitted its founding documents three times - on July 2, 2012, September 13, 2012, and March 3, 2013 - but the authorities have never issued a registration receipt. In addition, at least 10 members of autonomous unions that have criticized the government's policies on socio-economic issues told Human Rights Watch and the EMHRN that the authorities have subjected them to judicial harassment and summary dismissals in reprisal for peaceful union activities and demonstrations for labor rights.

In April 2012, the National Federation of Justice Sector Workers struck to protest their working conditions. Following the strike, the administration stopped paying the salaries of 57 of the workers and cut their social security and health care benefits without following the legal procedures for disciplinary measures, union representatives said.

The administration has neither reinstated them nor formally dismissed them, putting them in a legal limbo without furnishing a formal decision they can use for a court challenge. Other workers who participated in strikes have also faced prosecution on trumped-up charges. On April 25, 2013, Human Rights Watch sent a letter to the Algerian ministers of justice and interior requesting information about specific incidents and cases in which it appeared that authorities had violated the right of trade unionists and workers. The ministers have not replied.

On June 14, 2013, the EMHRN sent a letter to the Ministry of Labor and Social Protection and the University of Continuing Education to request information about the case of Rachid Malaoui, president of the Autonomous National Union of Public Administration Personnel, who was dismissed from his job at the university in April 2013, in what appears to be retaliation for his union activities. Neither has replied.

Although ILO experts have frequently criticized Algeria for violating workers' rights to strike and to form unions of their own choosing under ILO Conventions 87 and 98, this would be the first time that Algeria undergoes an examination by the Conference Committee on the Application of Standards, an ILO committee composed of government, employer, and worker delegates. The governments selected for examination are invited to respond before the committee on how they are carrying out the ILO conventions and to provide information on the situation in question.

In its report on the application of international labor standards, the Committee of Experts of the ILO asked the Algerian government, among other things, to take specific measures to amend the legislative provisions that prevent workers' organizations, irrespective of the sector to which they belong, from forming federations and confederations of their own choosing. It also requested the

government to respond to allegations relating to acts of intimidation and threats, towards trade union leaders and members.

Human Rights Watch and the EMHRN called upon the Conference Committee to recommend that the Algerian government amend Law 90-14 so that workers, regardless of their sector, can found unions, federations and confederations of their choosing. They also called on the Conference Committee to urge the government to respect union rights, including by releasing the receipt for the unions that have completed their notification procedures and by refraining from any unlawful interference with their activities.

Algeria also has obligations under the African Charter on Human and Peoples' Rights and the International Covenant on Civil and Political Rights (ICCPR), which guarantees the right to freedom of association and assembly, and under the International Covenant on Economic Social and Cultural Rights (ICESCR), which protects specific rights related to freedom of association and trade union membership.

Article 2 of ILO Convention 87 on the right to freedom of association and protection of the right to organize, stipulates that workers and employers, without distinction, shall have the right to establish and join organizations of their own choosing without previous authorization, subject only to the rules of the organization concerned. "Algeria's good record of ratification of ILO and international human rights conventions should correspond to a stronger record when it comes to their practical implementation," said Michel Tubiana, president of the Euro-Mediterranean Human Rights Network. "Algeria especially needs to protect union activists from reprisals for their union activities."

For more information on violations of union rights in Algeria, please see below

Union Rights in Algeria

Until the 1990s, Algeria had only one lawful workers' union, the General Union of Algerian Workers (Union Générale des travailleurs algériens, UGTA), which many historians describe as playing a crucial role during Algeria's war of independence from France, from 1954 to 1962. Following widespread riots and protests in October 1988 that shook the government, Algeria adopted a new constitution, paving the way for legislation that ended the ruling National Liberation Front's monopoly over political life, media, and organized labor, and allowing for greater freedom of expression, assembly, and association.

On June 2, 1990, Algeria adopted Law 90-14, allowing for the establishment of independent unions. Several autonomous unions were created in the public sector, such as the Autonomous National Union of Public Administration Personnel (Syndicat National Autonome des personnels de l'administration publique, SNAPAP), and the National Autonomous Union of Education and Training Workers (Syndicat autonome des travailleurs de l'éducation et de la formation, SATEF).

Law 90-14 allows new unions to form simply by filing a declaration and certain documents with the authorities, including a list of the founding members and the union's administrative committee members, with their signatures, personal status, profession, and home address; two certified copies of the union bylaws and the minutes of its founding general assembly. The law states that the governor or the labor minister must deliver a receipt (récépissé) recognizing the formation of the union within 30 days. The same law prohibits anyone from exerting pressure or threatening workers to thwart union activities. It says that no union representative shall be dismissed, transferred or subjected to disciplinary action of any kind for union activities.

Restrictions on Establishing Unions

In practice, authorities have curtailed the right to form an independent union in various ways. In several cases authorities have arbitrarily withheld the registration receipt. In addition, authorities

have used delaying tactics, obliging the unions to modify their bylaws, and adding new conditions and papers not required under the law. The lack of registration receipt curtails the ability of the unions to function normally. For example without the receipt the union cannot collect membership fees, a major source of income, which allows it to rent an office and organize events. It cannot open a bank account or file cases in court.

Delays in Delivering Registration Receipts

Aziz Arab, a member of the unrecognized Higher Education Teachers' Union (Syndicat des Enseignants du Supérieur Solidaires, SESS), told Human Rights Watch and EMHRN:

We held our constitutive assembly on December 17, 2011 in the Union Hall in Algiers. Our founding documents stated the objectives of our union to be the defense of the material of higher education teachers, of academic freedoms and freedom of expression, the struggle to provide the necessary conditions for the development of scientific research, the defense of democratic values, workers and human rights and enhancing the solidarity with union movements. Our bylaws complied with all the requirements of article 9 of law 90-14. On January 19, 2012, we submitted our declaration of registration to the Ministry of Labor and Social Protection.

On March 5, 2012, we received a letter from the ministry, dated February 16, in which the ministry states that an examination of our statutes shows that they are inconsistent with the provisions of the Algerian law on the exercise of trade union rights." On September 12, 2012 we were invited to a meeting with the head of the social dialogue department at the ministry. He indicated the things we should change in our bylaws, some of which amounted to interference with our activity. For example, he said that among our objectives we should remove the mention of "human rights" and "solidarity with union movements."

We re-submitted our declaration to the ministry on November 25, 2012, indicating the changes in the bylaws that the ministry had recommended, but heard nothing back. On November 18, 2013 we sent a reminder to the ministry, asking for our registration receipt. However, to date we have not received any answer.

The same obstacles faced the National Autonomous Union for Cleaning and Sanitation Workers (Syndicat National Autonome des Travailleurs du Nettoyage et de l'Assainissement, SNATNA). Sifouane Mahmoud, SNATNA's president, said that the union held its constitutive general assembly in June 2011. On October 5, 2011 it filed its founding declaration with the Ministry of Labor and Social Security via a bailiff. On March 21, 2012 the ministry sent the union a letter saying it could not be registered because the application lacked some information, such as the nationality of the members of the executive bureau and the employers' certificates for some members. On January 9, 2013 the union re-submitted the application with the documents the administration said were missing, but has received no answer.

The National Autonomous Union of Postal Workers (Syndicat National Autonome des Postiers, SNAP) filed its founding declaration and accompanying documents on July 2, 2012, then refiled them on September 13, 2012, and on March 3, 2013, but the union still lacks legal status. Mourad Nekache, the union president, said that since the last notification, members of the national bureau have met several times with Labor Ministry representatives. During the last meeting, on April 22, 2014, the ministry representative assured them that their file was "complete" and that their registration was only a matter of time, two or three days, Nekache said. However, SNAP has still not received its registration receipt.

The National Autonomous Union of Workers of the National Society for Electricity and Gas (Société Nationale de l'Electricité et du Gaz, SONELGAS) submitted its founding papers on June 14, 2012. Abdallah Benkhalfa, the union president, said that the Ministry of Labor and Social Security sent a letter dated September 13, 2012, asking the union to complete its dossier and to

contact the ministry for comments and observations on the statutes submitted, including certificates establishing the nationality of the founders, proof of employment and a legal document confirming the organization's registered address. Benkhalfa said that the union provided the additional documents on October 15, 2012. The union finally received its registration receipt only on December 28, 2013.

Between March and November 2012, four unions submitted complaints to the Committee on Freedom of Association of the ILO. They are the Higher Education Teachers Union (SESS), the National Autonomous Union of Public Administration Staff (SNAPAP), the National Autonomous Union of Postal Workers (SNAP) and the National Autonomous Union of Workers of SONELGAS.

In response, the committee held that: "The principle of freedom of association would often remain a dead letter if workers and employers were required to obtain any kind of previous authorization to enable them to establish an organization. Such authorization could concern the formation of the trade union organization itself, the need to obtain discretionary approval of the constitution or rules of the organization, or, again, authorization for taking steps prior to the establishment of the organization. This does not mean that the founders of an organization are freed from the duty of observing formalities concerning publicity or other similar formalities which may be prescribed by law. However, such requirements must not be such as to be equivalent in practice to previous authorization, or as to constitute such an obstacle to the establishment of an organization that they amount in practice to outright prohibition."

The committee concluded that, "Generally speaking, recalling that the applications for registration were filed more than one year ago in one case, the committee can only express its concerns as regards what clearly constitutes lengthy delays to register trade unions and a violation of the right of workers to establish organizations of their own choosing."

The committee recommended that Algerian authorities expedite registration of these unions, but two of the unions have still not received the receipts from the government.

Obstacles to Forming Federations, Confederations

Article 2 of Law no. 90-14 says that workers and employers from the same professions, branches or sectors of activity have the right to form unions. Authorities have interpreted that provision as prohibiting the formation of confederations or federations that unite workers from different sectors, which appears to constitute an arbitrary restriction on the right to freedom of association. The ILO, in an opinion dated October 17, 2001, stated that Algerian legislation should not be interpreted to prevent unions from forming federations and confederations, and called on Algerian authorities to end restrictions and obstacles to their formation.

Authorities used this provision to reject the request by the National Autonomous Union of Public Administration Staff (SNAPAP) in 2001 to form the National Autonomous Union of Algerian Workers (Syndicat national autonome des travailleurs algériens, SNATA). More recently, the SNAPAP made another attempt to form a confederation including autonomous trade unions from the private sector, the General Autonomous Confederation for Algerian Workers (Confédération générale autonome des travailleurs algériens - CGATA). On June 9, 2013, a bailiff hired by the SNAPAP submitted the bylaws and all the other papers required by law 90-14 to the Ministry of Labor and Social Protection. However, the confederation has received no answer from the government. On November 26, 2013, it filed a new complaint to the ILO Committee on Freedom of Association. On March 29, 2014, it held a general assembly meeting in the Union Hall in Algiers. Observers from some international confederations and trade unions attended the general assembly as to assess the CGATA-Confederation's democratic union credentials.

Harassment, Intimidation of Union Leaders

Members of autonomous unions told Human Rights Watch and EMHRN that the authorities have subjected them to judicial harassment and arbitrary arrests in reprisal for their peaceful union activities and demonstrations for labor rights.

The ILO's Committee on Freedom of Association, which examines complaints about violations of freedom of association, has affirmed in its case law that the right to strike "is a right that workers and their organizations (trade unions, federations, and confederations) are entitled to enjoy," that any restrictions on this right "should not be excessive," and that the "legitimate exercise of the right to strike should not entail prejudicial penalties of any sort, which would imply acts of anti-union discrimination."

Several union activists told Human Rights Watch and EMHRN that they faced retaliation for organizing or participating in strikes. They said they complied with laws outlining the steps required before calling a strike. These include exhausting mechanisms for mediation and conciliation under Article 24 of the labor union law, notifying the employer eight days in advance and ensuring a minimum level of service during the strike. Article 33 of the law prohibits sanctions against workers for participating in a legal strike.

Mourad Tchiko, a member of the national bureau of the SNAPAP and former vice president of the National Union of Civil Protection Personnel (Union nationale des agents de la protection civile), described intimidation and judicial harassment against him, beginning in 2004.

On December 18, 2004, Tchiko organized and participated in a sit-in in front of the National Direction of Civil Protection in Algiers to demand an investigation of corruption in this administration and to seek improvements in working conditions. Civil Protection suspended him from his job without pay the same day. In April 2005, Tchiko said, the court of Bir Mourad Rais in Algiers charged him with "hampering the services of a public administration" and organizing an "unauthorized gathering."

After six years, the Court of Bir Mourad Rais decided on January 2, 2011 to acquit him of all charges. Tchiko has notified the Civil Administration of his acquittal but said in April 2014 that he has not been allowed to return to his job.

In April 2012, the National Federation of Justice Sector Workers organized a strike to protest working conditions. Following the strike, the administration stopped paying 57 justice sector workers and cut off their social security and health care benefits. The administration provided no written notification of dismissal to the affected workers, said members of the federation's executive bureau. Two years later, these workers remain in limbo, unable to return to work or file a case in the administrative court for arbitrary dismissal because they lack an official notification that they can challenge. On September 17, 2013, the federation sent a letter to the justice minister asking him to "take all necessary measures to end the arbitrary dismissal and reintegrate the workers into their jobs." However, as of April 2014, the minister has not responded and the workers have not been rehired.

Mourad Ghedia, president of the National Federation of Justice Sector Workers, said that during the strike in April 2012, the national bureau adhered to the legislation on strikes and sent a prior notice to the authorities on March 31, 2012, 11 days before the strike, scheduled for April 10, as required by law n.90-02 of February 6, 1990. He also said that the union conformed to article 38 of the same law, which requires certain categories of workers, such as law clerks, to maintain a minimum level of service during a strike. Ghedia said that the workers ensured coverage for holding emergency trials, issuing burial permits, and the handling of people under arrest or in detention or in the appeals phase of their trial.

Nevertheless, the administration summarily dismissed the 57 workers, including 6 from the executive bureau of the federation. Ghedia said that the administration did not dismiss the workers

through an official and legal procedure or inform them about their dismissal, but just stopped paying them.

Zahia Boutaoui and Aziza Haddadi, both members of the executive bureau of the federation, confirmed that in April 2012, the administration stopped paying them without prior notice and cut off their health care and social security benefits. Haddadi, who had been a law clerk at the first instance court of Harrache, near Algiers, told Human Rights Watch and EMHRN that the president of the court called her to inform her that she could not return to work.

She went to the financial department of the tribunal to request her salary. Employees there told her she was no longer on the employee list and that her April 2012 salary payment would be her last. Her health care card was also cancelled, she said.

Saad Bourekba, a member of the federation who was a leader of the same strike in the city of Setif was prosecuted and sentenced by the first instance court of Setif to a year in prison, of which 10 months were suspended on a charge of disrupting the internet network of the court where he worked. But he said it was his union activities that led to his prosecution. On December 22, 2013, the Appeals court of Setif confirmed the sentence. He applied for a cassation review of his case and is provisionally free pending its ruling.

In April 2013, Rachid Malaoui, the president of SNAPAP, was fired from his position at the University of Continuing Education (Université de formation continue) in Oran. Malaoui was elected secretary general of SNAPAP in 2001, then president in 2005, and re-elected as president at the most recent congress, in December, 2011.

Since 2001, SNAPAP has submitted several complaints to the ILO about violations of human and trade union rights by the Algerian government. Malaoui has lobbied for Algeria to be held accountable before the ILO Conference Committee for the Application of Standards.

Algerian law 90-14 says that a member of the executive structures of a union may be excused from work for a certain period of time to fulfill union responsibilities, with the guarantee to be reinstated in his job. Under article 47 bis of the law, the employer must engage with representative trade unions in his institution, and negotiate conditions under which their members can get a fixed-term detachment to exercise permanent functions in the service of the union to which they belong with guaranteed reinstatement to their jobs or to an equivalent position. Malaoui had previously exercised this option as president of the SNAPAP. On January 26, 2012, following his re-election as president of SNAPAP, Malaoui renewed his request to the University for a "Detachment". The university never replied, he said.

On April 22, 2013, the University removed him for "unlawful absence from his position" and summarily stopped paying his salary. He could obtain a copy of the letter of his dismissal only in June 2013 through a referee procedure before the administrative tribunal. On April 1, 2014, Malaoui filed a request to annul his removal before the administrative tribunal of Algiers, and he is awaiting a decision.

In November 2013, the EMHRN took part in a joint initiative along with international confederations and trade unions aimed at showing solidarity with Rachid Malaoui. More than 4,300 letters were sent to the Algerian presidency which never replied.

Yassine Zaid, a human rights and activist member of SNAPAP, has faced intimidation and harassment since he became involved in the activities of independent unions, including the SNAPAP. Zaid said that on October 1, 2012, he was on a bus to Hassi Messaoud to meet with oil company workers. At a checkpoint 20 kilometers away, the police stopped the bus and checked the passengers' papers. The oil center is surrounded by a military zone.

Zaid said the police took him off the bus and to the central police station of Ouargla, where they slapped him in the face several times. Two people in civilian clothing then took him away and detained him until the following day, when he went before the prosecutor of Ouargla, who ordered him held in pre-trial detention.

On October 8, he appeared before Ouargla's Court of first instance on charges of assaulting, physically harming and insulting a police officer under articles 144 and 148 of the Penal Code. The court sentenced him to six months in prison, suspended. He appealed the decision on October 16, 2012. On May 7, 2014, the public prosecutor of the appeals court of Ouargla sent Zaid a summons to appear at the first appeals session on May 21, but the court adjourned the hearing to June 4.

Amine Sidhoum, Zaid's lawyer, said that a witness to Zaid's questioning by police told Sidhoum that three policemen had questioned Zaid for about two hours, striking him on the face and neck, while he was handcuffed. Zaid said he filed a complaint after his release before the public prosecutor of the first instance Tribunal of Ouargla for mistreatment, but that the prosecution office did not initiate any case against the police officers.

The Appeals Court of Ouargla on April 16, 2014 sentenced Houari Djelouli to a one-year prison sentence, suspended, and a fine of 50,000 dinars (about €500), for distributing "leaflets likely to undermine national interest," under article 96 of the Algerian criminal code. Djelouli was arrested on April 8, 2013 in the city center of Ouargla when he was about to distribute CNDDC leaflets calling for a sit-in before the wilaya of Ouargla on April 11, 2013 in support of the right to work. Djelouli was at the time a member of the National Committee for the Defense of the Rights of the Unemployed (CNDDC), whose creation has been supported by the SNAPAP among others.

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