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IRB – Immigration and Refugee Board of Canada

Algeria: Situation of atheists and non-practicing Muslims (2019–January 2021) [DZA200469.E]

Research Directorate, Immigration and Refugee Board of Canada

1. Legislation

According to sources, Islam is the religion of the State in Algeria (Humanists International 9 Sept. 2019; US 28 Apr. 2020, 51; L'Observatoire de la liberté religieuse n.d.). Algeria's constitution provides the following regarding the state religion: [translation] "Sec. 2. — Islam is the religion of the State" (Algeria 1996, emphasis in original).

Sources note that the law grants religious freedom to citizens "if they respect public order and regulations" (US 10 June 2020) or "if exercised within the law" (Bertelsmann Stiftung 2020, 8). Article 42 of Algeria's constitution provides that [translation] "[f]reedom of conscience and freedom of opinion are inviolable. Freedom of worship, within the boundaries of law, is guaranteed" (Algeria 1996). In correspondence with the Research Directorate, a director of research [1], whose research interests include religious minorities and Algerian history, similarly indicated that there are no legal texts that penalize atheism, apostasy, or the non-practice of religion (Director of Research 3 Feb. 2021).

The Bertelsmann Stiftung's Transformation Index (BTI) 2020, which "assesses the transformation toward democracy and a market economy as well as the quality of governance in 137 countries," notes that although the country is a "secular state, religion can be instrumentalized for political purposes in Algeria" (Bertelsmann Stiftung 2020, 2, 8). The US Commission on International Religious Freedom (USCIRF) 2020 annual report states that "the government often penalizes those who do not conform to the state-endorsed interpretation of Islam" (US 28 Apr. 2020, 51).

The USCIRF report also indicates that article 144, section 2 of Algeria's Penal Code (*Code pénal*) and article 77 of the Information Code of 1990 (*Code de l'information de 1990*) "prohibit blasphemy against Islam and other 'heavenly religions'" (US 28 Apr. 2020, 51). A 2019 Humanists International [2] country entry on Algeria indicates that "[b]lasphe[m]y" is prohibited through several legal instruments" and that the Penal Code "prohibits insults against Islam or the Prophet Muhammad" (Humanists International 9 Sept. 2019). Algeria's Penal Code provides the following:

Sec. 144 bis 2. (New) – Any person who offends the Prophet (Peace Be Upon Him) and the emissaries of God or denigrates the dogma or the precepts of Islam, in writing, illustration, declaration or by any other means, shall be punished by a term of imprisonment of three (3) to five (5) years and/or a fine of fifty thousand (50,000) DA [C\$480] to one hundred thousand (100,000) DA.

Criminal proceedings are initiated ex officio by the Public Prosecutor. (Algeria 1966)

The Director of Research indicated that while the constitution, national law, and international conventions ratified by Algeria recognize and guarantee freedom of conscience and opinion, the [translation] "authoritarian and very conservative political and social order do not tolerate expressions of non-religiosity and even less of atheism" (Director of Research 3 Feb. 2021). The same source stated that section 144, subsection 2 of Algeria's Penal Code [translation] "is used to initiate legal proceedings and convict anyone suspected of heteropraxy, [religious] non-practice and religious non-belief" (Director of Research 3 Feb. 2021). The same source noted that legal proceedings under this provision of Algeria's Penal Code [translation] "are therefore in contradiction" with the freedom of worship and of conscience guaranteed by article 18 of the International Covenant on Civil and Political Rights that Algeria has ratified (Director of Research 3 Feb. 2021).

The Director of Research indicated that [translation] "[t]he offence of blasphemy constitutes a formidable ideological tool and it is systematically mobilized in all legal proceedings concerning atheism or religious non-practice" (Director of Research 3 Feb. 2021). Humanists International also indicates that "the 'blasphemy' law is stringent and widely enforced" and that the legislation is "interpreted widely" (Humanists International 9 Sept. 2019). The same source also notes that

"several arrests have been made under the blasphemy laws in the last few years for failure to fast during Ramadan, even though this is not a requirement under Algerian law" (Humanists International 9 Sept. 2019). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

2. Treatment of Atheists

The Director of Research noted that Algeria is a [translation] "deeply" conservative country and that the "vast majority" of the population practices a religion (Director of Research 3 Feb. 2021). The US Department of State's *International Religious Freedom Report for 2019* indicates that more than 99 percent of Algeria's population is Sunni Muslim (US 10 June 2020). However, the Director of Research indicated that 95 percent of Algeria's population is Muslim (Director of Research 3 Feb. 2021).

The Director of Research indicated that atheism and the non-practice of religion [translation] "are the object of almost universal social and political disapproval" (Director of Research 3 Feb. 2021). The same source stated that atheism and the non-practice of religion, when they are [translation] "visible" are "largely considered a direct attack on the political and social order and carry with them a disruptive and immoral transgression strongly condemned by Algerian authorities and society" (Director of Research 3 Feb. 2021). The Director of Research also noted that atheism and the non-practice of religion are interpreted in public opinion and by police and judicial authorities as "blasphemous" acts (Director of Research 3 Feb. 2021).

2.1 Treatment by Authorities

The Director of Research stated that [translation] "the Algerian state, which is authoritarian in its regime and in its governance practices, has made religion a tool of social control and political regulation" and that the non-practice of religion or atheism are "interpreted as a (condemnable) expression of political and social change and a critique of the authoritarian political order" (Director of Research 3 Feb. 2021). The same source indicated that state institutions such as the police, gendarmerie, and justice system [translation] "overwhelmingly" regard the non-practice of religion and atheism as [translation] "manifestations of public disorder and as expressions of subversion to the religious and social order" (Director of Research 3 Feb. 2021).

The Director of Research stated that there has been a [translation] "long series of legal episodes involving Algerian citizens, mainly accused of atheism, recently prosecuted for 'offence' to religion" (Director of Research 3 Feb. 2021).

Sources report that, in October 2020, a Hirak movement [3] activist was sentenced to ten years in prison and fined 10 million dinars (DZD) [C\$95,896] (*Le Monde* with AFP 9 Oct. 2020) or 1 million DZD (Algérie Eco 8 Oct. 2020) for [translation] "inciting atheism" and "offending Islam" (*Le Monde* with AFP 9 Oct. 2020; Algérie Eco 8 Oct. 2020). According to an article by *Le Monde* with Agence France-Presse (AFP), the police found a copy of the Quran during a search of the activist's home with one of its pages ripped, which is considered an insult to Islam (*Le Monde* with AFP 9 Oct. 2020). A November 2020 AFP article reports that, in November 2020, an appeals court reduced the ten year prison term to one year after upholding convictions including "offending the precepts of (Islam)," but overturning other convictions with larger sentences including "profaning the Koran" (AFP 25 Nov. 2020). The same source reports that the accompanying fine was reduced from 10 million DZD to 50,000 DZD (AFP 25 Nov. 2020). An AFP article reports that in January 2021 another supporter of the Hirak movement was sentenced to three years in prison for "insulting President Abdelmadjid Tebboune" and "'offending the precepts'" of Islam "for satirical social media posts mocking the government and religion" (AFP 4 Jan. 2021). Similarly, *Liberté*, a French-language Algerian newspaper, notes that a student and Hirak activist, who was charged with [translation] "'insult of the divine entity,'" "'insult and offense against the President of the Republic,'" and other charges, was sentenced to three years in prison in January 2021 (*Liberté* 5 Jan. 2021).

2.2 Treatment by Society

The US Department of State report notes that

[a]ccording to religious leaders, some individuals who openly engage in any religious practice other than Sunni Islam reported that family, neighbors, or others criticized their religious practice, pressured them to convert, and occasionally insinuated they could be in danger because of their choice. (US 10 June 2020, Sec. 3)

Humanists International reports that advocates of secularism in Algeria "talk of having to hide their non-religious views to avoid being shunned by their families and communities" (Humanists International 9 Sept. 2019). Similarly, the Director of Research indicated that non-practicing individuals and atheists [translation] "rarely" or never make their convictions and their practices public (Director of Research 3 Feb. 2021). The same source indicated that [translation] "it is often through denunciations or for another reason altogether, particularly for public expressions of political and activist stances (via the media, social [media], [etc.]), that legal proceedings are initiated" (Director of Research 3 Feb. 2021).

The Director of Research noted that it is difficult to distinguish atheists and those who do not practice a religion from the rest of the population, but that [translation] "difficulties and discrimination" can occur in private and family spaces (Director of Research 3 Feb. 2021). Media sources indicate that there is a movement of people who do not fast [for Ramadan] (*dé-jeûneurs* or *non-jeûneurs*) in Algeria (*Le Monde* 26 May 2019; *Jeune Afrique* 30 May 2019; *Reporters* 13 May 2019). In an interview with *Le Monde*, a person who does not fast said he hides in order to eat in the daytime during Ramadan [translation] "'because it is dangerous,'" while another does not hide but claims it has led to physical fights (*Le Monde* 26 May 2019). According to May 2019 media articles, a student who was eating in the daytime during Ramadan at the Bouzaréah campus of the Université d'Alger 2 in Algiers was assaulted by a group of people (Algérie Eco 12 May 2019; Algérie1 12 May 2019; *Reporters* 13 May 2019).

An article by *Liberté* indicates that a high school in the *wilaya* [province] of Tamanrasset was closed for one day in December 2020 by parents because a teacher talked about atheism and disclosed being a non-believer; the teacher was suspended while a discipline committee studied his case (*Liberté* 5 Dec. 2020). Further and corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

3. State Protection

The Director of Research noted that there is no legislation that explicitly protects the rights and freedoms of atheists and individuals who do not practice a religion (Director of Research 3 Feb. 2021). The same source notes that constitutional provisions protect the fundamental liberties of citizens, but that [translation] "there is a disconnect between the constitutional laws and social and political practices that condemn freedom of conscience. This is condemned using the Penal Code" (Director of Research 3 Feb. 2021).

The US *International Religious Freedom Report for 2019* indicates that the National Human Rights Council (Conseil national des droits de l'homme, CNDH) is a governmental body that can conduct investigations on alleged abuses, including cases related to religion, and "may address religious concerns to appropriate government offices on behalf of individuals or groups it believes are not being treated fairly. The CNDH does not have the authority to enforce its decisions but may refer matters to the relevant administrative or criminal court" (US 10 June 2020, Sect. 2). Information on the CNDH could not be found among Algerian governmental sources and additional information on state protection of atheists and non-practicing Muslims could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Notes

[1] Director of Research at France's Centre national de la recherche scientifique (CNRS) at the Temps, Espaces, Langages, Europe Méridionale – Méditerranée (TELEMMe) laboratory on the Maison méditerranéenne des sciences de l'homme (MMSH) research campus (Director of Research 3 Feb. 2021).

[2] Humanists International is a London-based NGO that "work[s] to build, support and represent the global humanist movement, defending human rights, particularly those of non-religious people, and promoting humanist values world-wide" (Humanists International n.d.).

[3] According to sources, *hirak* is an Arabic word meaning "mobilization" (BBC 11 Dec. 2019) or "movement" (Davis, Cheurfa and Serres 13 June 2019). Sources report that Hirak was a mass protest movement in Algeria that began in February 2019 when President Abdelaziz Bouteflika attempted to run for a fifth presidential term (Sotoudeh 3 June 2020; Davis, Cheurfa and Serres 13 June 2019; Amnesty International n.d.). Amnesty International notes that while the protests initially opposed "a fifth mandate of then-President Bouteflika, the protests have since been calling for '**a complete change of the political system**'" (Amnesty International n.d., emphasis in original). In a Middle East Institute article, Mahpari Sotoudeh, a senior program officer for the Middle East and North Africa at the National Democratic Institute, indicates that the protests drove Bouteflika to step down in April 2019 but continued until March 2020, when they were halted by the COVID-19 pandemic, "with protesters' demands expanding to encompass broad-based democratic reform" (Sotoudeh 3 June 2020).

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Oral sources: Carnegie Middle East Center; Centre d'études maghrébines en Algérie; Institut de recherche sur le Maghreb contemporain; lecturer at a university in the UK who studies the politics and modern history of the Maghreb states; Ligue algérienne pour la défense des droits de l'homme;

postdoctoral associate at a university in the US who studies the politics of Islam in North Africa; professor at a university in the UK who studies the international relations and geopolitics of the Middle East and North Africa; researcher who studies Maghreb politics.

Internet sites, including: Algeria – Conseil national des droits de l'homme, ministère de la Justice; Algeria Press Service; Algérie Focus; Al Jazeera; Arab Barometer; *Arab News*; *The Atlantic*; Australia – Department of Foreign Affairs and Trade; Belgium – Commissariat général aux réfugiés et aux apatrides, Centre de documentation et de recherches; Carnegie Middle East Center; CNews; Deutsche Welle; *Echorouk*; ecoi.net; Egyptian Streets; *El Moudjahid*; *El Watan*; EU – European Asylum Support Office; Factiva; Fédération internationale pour les droits humains; *Le Figaro*; Foreign Policy Research Institute; France 24; Freedom House; Front Line Defenders; Georgetown University – Berkley Center for Religion, Peace, and World Affairs; Hudson Institute; Human Rights Watch; Institut du pluralisme religieux et de l'athéisme; International Crisis Group; Ireland – Refugee Documentation Centre; *Jeune Afrique*; Ligue algérienne pour la défense des droits de l'homme; Middle East Concern; Middle East Eye; Norway – Landinfo; openDemocracy; Open Doors; Pew Research Center; *Le Quotidien d'Oran*; Radio France internationale; Sciences Po – Centre de recherches internationales; *Le Soir d'Algérie*; Tout sur l'Algérie; *La Tribune*; UK – Home Office; UN – Human Rights Council, Refworld; US – Embassy in Algeria, Library of Congress.

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