



Universal Periodic Review: Algeria

Second Cycle

Submission to the Stakeholders' summary

Alkarama, 21 November 2011

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1. This contribution to the Office of the High Commissioner for Human Rights' summary of stakeholders' information is made in the context of the second cycle of the Universal Periodic Review (UPR) regarding the general situation of human rights in Algeria and in the light of recommendations presented in 2008.

1 Context

2. The report submitted by Alkarama in the context of the Human Rights Council's first Universal Periodic Review of Algeria in 2008 identified a number of serious violations of the State's human rights commitments. Four years later, it is clear that the Algerian authorities have not made any significant changes in this regard, and that many of the points raised in Alkarama's first report are still of concern.
3. Algeria has not experienced upheavals like its neighbours near and far, even if violent riots did take place in January 2011 in Algiers. However, the country has been plagued by near-daily riots for years. Protests generally revolve around social issues, particularly living conditions. The professional unions and independent committees which channel demands relating in particular to wages and professional conditions are increasingly suffering harassment by the authorities.
4. However, the state of quasi-insurrection of much of the population, and especially the youth, sufficiently alarmed the political leadership for it to make promises relating to social, economic and political change. Unfortunately, these promises of democratic reforms have not been followed by concrete actions. If a semblance of consultations, including with some members of civil society and political parties were held, no real reform effort, encompassing the participation of the true opposition and the parliament – which remains a simple recording chamber – has been made.
5. Many observers wonder why Algeria has not experienced the frenzy which has shaken the rest of the region, for which there are numerous explanations. Observers agree that the country's situation is unique because of the events that took place 20 years ago. Revolts in October 1988 pushed the regime into opening up some political space. As a result, in 1990 and 1991, long before other countries of the Maghreb and Mashreq, free and pluralistic communal and legislative elections were held. However, on 11 January 1992, the military command interrupted the democratic process that would have granted the majority of parliamentary seats to members of the Islamic Salvation Front (better known under its French name as the FIS – *Front Islamique du Salut*) and suspended all constitutional institutions.
6. Under emergency rule, the country was plunged into an unprecedented repression for more than ten years, mobilizing all the security forces and some parts of society. Between 100,000 and 200,000 people died, particularly as a result of collective massacres; between 8,000 and 20,000 people disappeared: tens of thousands were tortured, and more than one million citizens were forced to move to escape the violence. While the entire population was affected by the civil war, questions as to who was responsible remain unanswered.
7. The regime, which was set up following the coup of January 1992, has not fundamentally changed since. Algerian society, including the public arena, continue to be under the complete control of the intelligence services (better known under its French name *Département du renseignement et la sécurité*, or DRS); real associative and political interactions are almost impossible, and the work of independent unions is severely restricted. The media, in turn, serve as a sounding board for the various fractions in power, giving the illusion of a plurality of opinions, which, as soon as they transgress their boundaries, are called to order with complaints and sanctions laid against them.

2 Combating Impunity

8. Measures taken to combat impunity are confronted with provisions of legislation which have established a *de facto* amnesty, even though, officially, this expression does not apply. Since the promulgation of the Order implementing the Charter for Peace and National Reconciliation in February 2006, criticisms and protests from Algerian civil society, non-governmental organisations (NGOs) and international institutions have multiplied. The modalities for the implementation of these texts are not transparent. While security forces and 'all its components' enjoy a full amnesty,

the situation of armed groups is not as clear. To date, the public is not aware of what measures have been taken against those who were not granted this 'amnesty'.

9. Various UN agencies, and particularly the Treaty Bodies, have consistently affirmed to the Algerian authorities that this Order is contrary to the principles to which the State has acceded. The Algerian authorities, however, refuse to discuss this, claiming that the Charter for Peace and National Reconciliation was adopted by referendum. The Charter, however, is a general political text that was adopted in a referendum by responding to the question: "Do you agree with the draft Charter for Peace and National Reconciliation?" Despite a particularly low turnout, it was evidently not conceivable that voters could really express their opposition to such a question.
10. Ultimately, it is the application of the Order that embodies the refusal of the Algerian state to shed light on the countless crimes committed during the 1990s. It gives extra legal means to prosecute those who attempt to combat impunity. For example, article 46 of the Order states that any declaration, written, or by any other means which could be construed as harming the image of Algeria, is punishable by a sentence of three to five years' imprisonment.

3 A Subdued Justice System

11. As part of the process of judicial reform, dozens of legislative texts have indeed been revised, but without their actual application changing. The problem of the Algerian justice system is not legislative, but rather its inherent lack of independence and its instrumentalisation by the Executive. Magistrates depend on the Executive branch for their appointment, the management of their careers and when they seek to change positions, and the Supreme Council of the Judiciary is itself controlled by the Executive. A former magistrate stated that "[E]ven if investigating judge does not receive precise instructions, he will attempt to please his hierarchy. It is self-censorship. In any case, no judge will tell you that he received instructions. Given the importance of these cases, the magistrate does not play his role. These cases, under surveillance, have a political connotation and as soon as politics intervene, everything is distorted."¹
12. A former senator explained that "investigating prosecutors cannot prosecute if it goes against what their superiors want. The case of Prosecutor Ali Chemlal is significant: having initiated proceedings against 'well-placed' individuals and against the will of the General Prosecutor, he found himself suspended and removed from his position by the Supreme Council of the Judiciary. Despite a 2002 ruling from the Council of the State cancelling his removal from his position, the Department of Justice continues to refuse to reinstate him."²
13. One of the most iconic cases concerned the assassination of famous singer Lounes Matoub in June 1998. Medjnoun Malik was arrested in 1999 for complicity in the case, held incommunicado, tortured for eight months, and detained without trial for a number of years. It was only 18 July 2011, following a number of hunger strikes, that he was tried and convicted to 12 years in prison in a so-called 'trial'. The justice system showed that when it comes to political cases, verdicts are dictated by the Executive in order to close embarrassing cases. In Malik Medjnoun's case, the lack of justice to which he was exposed had been regularly denounced in UN reports on Algeria. However, to date, the question of the singer's assassination has still not been resolved.
14. The justice system has been exploited in many other cases involving assassinations, including that of former State President Boudiaf, the political leader Abdelkader Hachani, journalist Tahar Djaout Said Mekbel, and the union worker Abderrezak Benhamouda. Convictions were all made on the basis of confessions obtained under torture, leading to men being convicted for these crimes without their legal responsibility for the crime being clearly established.
15. Countless cases continue to be ignored. For example, in 2003, 32 foreign tourists were abducted by the Salafist Group for Preaching and Combat (better known by its French name *Groupe salafiste pour la prédication et le combat* or GSPC); in 2007 there was a suicide attack against the headquarters of

¹ Nissa Hammadi, *Comment la justice traite la corruption* (How the Justice System deals with Corruption), Liberté, 1 July 2010.

² Nissa Hammadi, *l'avocat Mokrane Ait Larbi à Liberté: «Le parquet dépend du pouvoir politique»* (Interview with Lawyer Mokrane Ait Larbi: "The Prosecution is Dependent on those in Power"), Liberté, 1 July 2010.

the Governmental Palace; and on 16 December 2010 Kamel Toufouti died while in police custody at the police's headquarters in Constantine.

4 Secret and Arbitrary Detention Facilitates Use of Torture

16. Secret detention continues to be practiced in Algeria. For a long time, the authorities denied the practice, a position which was supported by the Algerian national human rights institution (NHRI), charged with attacking human rights defenders who denounced the practice. The NHRI's Chairperson, Mr Ksentini even went as far as to challenge the conclusions of the Committee against Torture's experts, by stating publicly that "no place in Algeria is used for secret detention and torture, neither for ordinary citizens nor terrorists." He described the findings of the UN Human Rights Committee on the situation in Algeria as "fables that are nothing more than buffoonery."³ However, four years later, the Interior Minister, Daho Ould Kablia, speaking on public radio, recognized the practice of secret detention, stating that "the intelligence services, particularly those belonging to the military, have often been blamed for detaining people for indeterminate periods of time without this being known by any authority, their families or lawyers".⁴
17. After the first Universal Periodic Review (UPR) of Algeria, a certain number of Special Procedures were invited to visit Algeria. However other Special Procedures dealing with issues which were of most concern in relation to Algeria were denied access: the Special Rapporteur on Torture, the Working Groups on Enforced Disappearances and Arbitrary Detention, and the Special Rapporteur on Summary, Arbitrary or Extrajudicial Executions. This is despite the statement of Mr Medelci, Minister of Foreign Affairs, who chaired the delegation to the Human Rights Council during the initial UPR, on 1 March 2010, that Algeria had never objected to the visits of Special Procedures to deal with "real problems", rather than "exceptional" or "anecdotal problems»⁵.
18. There are numerous testimonies from victims about their torture and secret detention, and their lawyers and human rights NGOs also systematically denounce these serious violations. The President of the Algerian League for the Defence of Human Rights (*Ligue Algérienne pour la défense des droits de l'homme* - LADDH) said at a press conference that "it is with great regret that we note the persistence in 2011 of the practice of torture to extract confessions in Algeria (...) Two weeks ago, managerial staff brought before a judge said they had been tortured to force them to confess (...) And what's worse is that the prosecutor's office does not think it necessary to open an investigation about torture allegations when they are made by defendants".
19. Mr Bachir Belharchaoui, former member of the intelligence services who lives in France, visited Algeria on 18 August 2011. Upon his arrival at the airport in Algiers he was immediately arrested and disappeared. On 21 August, his family learned that he would be referred to the Blida military tribunal charged with "treason, providing intelligence to enemies and disclosure of military secrets." The family attended the trial and observed that he had been severely tortured. He had a swollen face, difficulty walking and could barely greet them.⁶
20. Mr Omar Farouk Slimani, student and Vice-Chairperson of the LADDH in Laghouat was arrested 7 January 2011. He was taken to the headquarters of the local brigade of the National Gendarmerie (*Gendarmerie Nationale*), where he was severely beaten and detained for two days.⁷
21. Mr Rachid Kebli, living in the *wilaya* (district) of Tlemcen, was abducted by four agents of the DRS in civilian clothing at his place of work in Maghnia on 18 October 2010 at 11:00 am. The armed officers threatened him with their weapons, handcuffed him and forcibly placed him in an unmarked

³ Djamel B., *Farouk Ksentini : Il y'a a pas de prisons secrètes en Algérie* (Farouk Ksentini : There are No Secret Prisons in Algeria), *Le Quotidien d'Oran*, 4 November 2007

⁴ Adlène Meddi, *l'existence de centres de détention secrets reconnue* (Existence of Secret Detention Centres Recognised), *El Watan*, 25 February 2011.

⁵ Hacene Ouali, *Mustapha Bouchachi, président de la Laddh, «La torture sévit toujours en Algérie»* (Mustapha Bouchachi, LADDH President, "Torture Continues in Algeria"), *El Watan*, 31 July 2011.

⁶ Algeria-Watch, *Algérie : Inquiétude concernant l'arrestation du Franco-Algérien Bachir Belharchaoui à Alger* (Algeria: Concerns Regarding the Arrest of Franco-Belgian Bachir Belharchaoui), 4 September 2011, http://www.algeria-watch.org/fr/aw/belharchaoui_disparu.htm

⁷ Alkarama press release, *Algérie : Persécution de M. Slimani, militant des droits humains* (Algeria: Prosecution of Mr Slimani, Human Rights Defender), 26 May 2011, http://fr.alkarama.org/index.php?option=com_content&view=article&id=946

vehicle registered in Algiers, which is approximately 600km away. He reappeared more than a month later at El-Harrach prison in Algiers.⁸

5 Continuous Flaunting of Public Freedoms

22. The state of emergency was formally lifted on 24 February 2011 due to the pressure of regional events, but a decree was issued renewing the powers of the military given that "units and regiments of the People's National Army are operating and engaged in operations against terrorism and subversion", adding that "the Chief of Staff is responsible for command, leadership and coordination of operations against terrorism and subversion throughout the national territory."⁹
23. In fact, demonstrations continue to be banned in Algeria. Roadblocks remain, the national media is ineffective and all activities by civil society, trade unions and political parties are tightly controlled and often repressed. Police and judicial harassment is common, with the aim of intimidating activists and pushing them to abandon their activities.
24. In recent months, with the generalization of calls for social justice, the harassment of union leaders, journalists, and human rights activists has increased. One example is the case of Mr Slimani, who was arrested and questioned about his political views and activities as a human rights defender. He was brought to trial on charges of "organising unarmed gatherings and violent assault on law enforcement agents."
25. On 4 September 2011, Mr Yacine Zaid, Chairman of the board of the LADDH's Laghouat branch, was summoned by the crime squad of the city of Batna, located about 500 km from Laghouat. He was questioned about his activities within the LADDH, his commitment to the National Coordination for Change and Democracy (*Coordination Nationale pour le Changement et la Démocratie* - CNCDD) and his activities on his blog and social networks.¹⁰
26. On Sunday 25 September, an officer from the DRS visited the owner of the premises leased to the independent union SNAPAP (National Autonomous Union for Algerian Civil Servants – or *Syndicat National autonome des personnels de l'administration algérienne*), and asked him to cancel the lease. The agent alluded to a possible assassination of Mr Rachid Malaoui, president of SNAPAP, who had already survived a first assassination attempt on 15 July 2011.¹¹ Mr Mourad Tchiko, a member of SNAPAP who has been a victim of judicial harassment since 2004 was called the same day and questioned about his union activities. On 20 September, Ms Malika Fallil - President of the National Committee for Workers of the Social Safety Net (*Comité national des travailleurs du filet social* – for those working in precarious jobs), was arrested during a sit-in outside the Ministry of Labour, held for several hours and then fired because of her involvement with the union.
27. Another example is the harassment of Mr Nouredine Belmouhoub, spokesperson for the Defense Committee of the Former Internment Security Camp (*Comité de défense des ex-internés des camps de sûreté* - CDICS) in the 1990s. On 23 October 2001, he was abducted by three DRS agents, in downtown Algiers, in relation to a complaint about "war crimes" filed against the former regime's strong man, General Khaled Nezzar in Switzerland and his hearing by the Swiss judicial authorities on 20 October 2011. Mr Belmouhoub had in fact also filed a complaint against the former Defence Minister in August 2001.¹²
28. These examples show that the Algerian authorities, and in particular the DRS, contrary to their statements, continue to interfere in the political life of the country, violating the basic rights of expression and association.

⁸ Alkarama press release, *Algeria: Kidnapped Rachid Kebli reappears in El-Harrach prison*, 25 Novembre 2010, http://en.alkarama.org/index.php?option=com_content&view=article&id=620

⁹ Presidential Decree No. 11-90 of 20 Rabie El Aouel 1432 (corresponding to 23 February 2011) regarding the operation and engagement of the People's National Army in the context of counter-terrorism measures and subversion. Official Gazette No. 12 of 23 February 2011.

¹⁰ Frontline, *Algeria: Human rights defender Yacine Zaid summoned and interrogated*, 6 September 2011.

¹¹ CISA, *Solidaires avec les syndicalistes autonomes d'Algérie !* (Solidarity with the Algerian Autonomous Unionists!), 29 September 2011, <http://www.cisa-solidaritesyndicats-algerie.org/spip.php?article61>

¹² Alkarama, *Algérie : Enlèvement de M. Nouredine Belmouhoub, défenseur des droits de l'homme* (Algeria: Abduction of Mr Nouredine Belmouhoub, Human Rights Defender), 24 October 2011, http://fr.alkarama.org/index.php?option=com_content&view=article&id=1058

6 Recommendations

1. Repeal Order No. 06/01 implementing the Charter for Peace and National Reconciliation.
2. Ratify the Optional Protocol to the Convention against Torture of 18 December 2002.
3. Place all places of detention, including institutions under the authority of the DRS, under the control of the civilian authorities and allow an independent body to visit these places without restriction.
4. Reduce the period of police custody to 48 hours in all cases, and ensure strict enforcement of the provisions of the law and procedures relating to arrest and detention, and ensure the rights of persons held in custody to promptly access legal counsel.
5. Conduct investigations into all allegations of torture and publish the results of these investigations, with details relating to the crimes committed, including the authors' names, dates, places and circumstances of incidents, sanctioning of eventual perpetrators and compensation of victims.
6. Amend the relevant legislation to ensure that no statement obtained by torture is used in legal proceedings.
7. Change the status of the Supreme Council of the Judiciary and ensure security of tenure and judicial independence.