

UPR of Algeria – 41st session – November 2022

Fact sheet on the situation of minorities and indigenous peoples in Algeria

1. INTRODUCTION

In February 2019, peaceful protests known as *Hirak* (Arabic for 'movement') erupted demanding for President Bouteflika to step down after two decades in power. A presidential election in December 2019, characterized by a low turnout of 40 %, and a new constitution issued in 2020 after a referendum marked by a 24% turnout, did not stop protests throughout Algeria which continue to ask for a more fundamental transformation of the country's power structures and institutions. In this climate, repression against peaceful *Hirak* activists, Human Rights Defenders (HRDs), journalists, bloggers and political opponents has only increased, while laws were passed that violate fundamental rights, particularly targeting minority groups.

I. Rights to Freedom of Expression, Association and Peaceful Assembly

In 2020, a law on the Prevention and Fight against Discrimination and Hate Speech was passed (law n° 20-05 of 28 April 2020), creating new criminal offenses based on vague wording. The law introduced new articles to the Penal Code, including Art. 196-bis criminalising the dissemination of false information "likely to undermine security or public order" and Art. 95-bis foresees up to 7 years of jail and a fine for individuals or organisations receiving foreign funding for several reasons. Amazigh activists are particularly affected by these provisions as in practice it prevents them from receiving financial support from diaspora.

Arbitrary arrests and detentions have significantly increased since *Hirak's* public protests resumed in-person in early 2021, with several peaceful Amazigh activists reportedly arrested. On 24 August 2021, Kamira Nait Sid, Co-President of the Congrès Mondial Amazigh, was abducted from her home by security forces and held incommunicado for three days. Criminal charges brought against her include "membership in a terrorist organisation" and "undermining national unity and state security" under Art. 87-bis of the Penal Code, which provides for penalties ranging from 10 years to life imprisonment and the death penalty. To this day, Ms. Nait Sid remains arbitrarily detained.

RECOMMENDATIONS

- ◇ Immediately and unconditionally release all Amazigh rights activists and other peaceful protesters arbitrarily detained for the sole peaceful exercise of their rights to freedom of expression, association and

peaceful assembly; drop all charges against them, and cease any form of intimidation or harassment;

- ◇ Repeal legislation used to prosecute people who exercise their rights to freedom of expression, association and peaceful assembly, with a view to bringing Algeria's legislative framework in line with its international obligations, notably under Art. 21 of the ICCPR.

II. Right to Freedom of Religion or Belief

1. Ahmadis

In December 2020, 31 Ahmadis were charged in Kabylia for "distribution of leaflets with the aim of undermining the national interest", under Art. 96 of the Penal Code, "occupation of a building to hold a religious service secretly without authorisation", and the "collection of funds and donations without authorisation", in application of Art. 5, 7, 12 and 13 of Ordinance No. 06-03 (28 February 2006), which sets out the conditions and rules for the exercise of religions other than Islam.

Several other provisions of the Algerian Penal Code, in particular Art. 144-bis 2 — which punishes with up to five years' imprisonment and/or a fine whoever "offends the Prophet and God's messengers, denigrates the dogma or precepts of Islam by whatever means" — have been used to criminalise Ahmadi Muslims, considered to practice a version of Islam different from the officially recognised dogma (Sunni Islam).

RECOMMENDATIONS

- ◇ Suspend and revise Ordinance 06-03 from 2006 to bring it in line with Algeria's international human rights obligations, in particular Art. 18 and 27 of the ICCPR, and repeal all blasphemy laws and policies, in particular Art. 144-bis 2, 160 and 160-ter of the Penal Code.

2. Christians

Ordinance 06-03 similarly restricts the free exercise of Christian worship in Algeria and forbids "the use of a place of worship if it is not registered". According to a statement of the World Evangelical Alliance (WEA) submitted in August 2021 for the HRC 48th session, no license has been issued by the National Commission of Religious Organisations since its creation in 2006. In its 2020 annual report, the International Work Group for Indigenous Affairs (IWGIA) indicated that the Algerian authorities had closed down "around a dozen

Christian churches in Kabylia since July 2019” for lack of a license, and that the police had “violently removed” Amazigh worshippers inside. Moreover, multiple reports indicate that members of the Christian community are subjected to arbitrary arrests and detention, notably on the basis of Algeria’s blasphemy laws.

RECOMMENDATIONS

- ◇ Immediately and unconditionally release all those arbitrarily arrested or imprisoned under blasphemy laws’ provisions from the Penal Code.
- ◇ Review the composition of the National Commission of Religious Organisations to guarantee meaningful and equal representation of all minority religious groups.
- ◇ Repeal the current system requiring prior authorisation from the State for any religious activity or use of a place of worship, and, pending abolition of the system, take interim measures to ensure that the National Commission of Religious Organisations urgently considers pending registration applications from churches and other non-Muslim religious organisations.

III. Right to Equality and Non-Discrimination

Art. 37 of the 2020 Constitution guarantees the principle of equality among all Algerian citizens, prohibiting any discrimination on the grounds of “birth, race, gender, opinion or any other personal or social condition or situation”. Art. 295-bis of the Penal Code punishes with up to three years’ imprisonment “anyone who publicly incites hatred or discrimination against a person or a group of people because of their racial or ethnic affiliation [...]”, while Art. 298-bis of the Penal Code makes it a punishable offense with up to six months’ imprisonment to “insult one or more persons belonging to an ethnic group or a particular religion”. Finally, Law n°20-05 on the Prevention and Fight Against Discrimination and Hate Speech adopted in April 2020, provides a definition of discrimination under Art. 2, which includes race and ethnic origin as prohibited grounds for discrimination.

1. Tamazight speakers

Tamazight speakers in Algeria represent between 17% to 45-55% of the total population depending on estimates. The language was granted official status in 2016, alongside Arabic, by Art. 4 of Algeria’s Constitution, which also provides several measures to support the promotion and development of Tamazight. However, defenders of the Amazigh language deplore the Algerian government’s failure to provide a clear deadline for the practical implementation of the official status of their language, denouncing “a lack of goodwill”, and a continued marginalisation and “folklorization” of the Amazigh identity by state institutions.

While there has been some progress in the rollout of official Tamazight education in several governorates (*wilaya*) since 1995, significant gaps remain as the teaching of Tamazight is mostly restricted to Kabylia. Several factors hamper its

generalisation throughout the country: from limited funding allocations, necessary for the training of Tamazight teachers and the development and acquisition of educational resources, to insufficient language planning, as well as a different level of interest for, and social acceptance of, the language by people in each *wilaya*. Furthermore, under the 2008 Education Act, Tamazight remains optional. Art. 4 of the Constitution foresees the drafting of an organic law for the implementation of a Tamazight language policy, which is however not yet in place..

RECOMMENDATIONS

- ◇ Ensure that the official status afforded to Tamazight under Algeria’s Constitution is practically implemented, and accelerate its use in education, administration and public services, legislation, courts of justice, and public media.

2. Black Algerians

Black Algerians, indigenous to southern Algeria, might account for an estimated 10% of the country’s total population, however, no official statistics exist. They suffer from racial discrimination largely considered to be imputable to the state institutionalisation of a “white” Arab-Muslim identity only.

Continuously marginalised, Black Algerians suffer from endemic day-to-day racism, which includes ethnic profiling when claiming their national identity in northern Algeria at police roadblocks or airports, despite presenting their national ID, or being victims of racial slurs, such as “abd” (slave), “babay” or “kahlouche” (derogative terms for “black”).

RECOMMENDATIONS

- ◇ Adopt a comprehensive legal and policy anti-discrimination framework, as well as a national action plan to combat racism, racial discrimination, xenophobia and related intolerance.
- ◇ Take measures to ensure effective access to justice and adequate remedies for all victims of racial and xenophobic discrimination, guaranteeing prosecution and punishment of all perpetrators of such acts.