



ALGERIA

CAPITAL: Algiers

POPULATION: 34.1 million

GNI PER CAPITA: \$3,030

SCORES	2005	2007
ACCOUNTABILITY AND PUBLIC VOICE:	2.90	2.85
CIVIL LIBERTIES:	2.90	3.07
RULE OF LAW:	2.49	2.74
ANTICORRUPTION AND TRANSPARENCY:	2.55	2.65

(scores are based on a scale of 0 to 7, with 0 representing weakest and 7 representing strongest performance)

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INTRODUCTION

Since Abdelaziz Bouteflika was elected president in 1999, Algeria has made considerable progress toward reducing internal violence, improving economic conditions, and reforming some public institutions. However, the government continues to deal with the aftermath of a violent struggle in the 1990s between the military and Islamist groups that left between 150,000 and 200,000 people dead. The conflict left a legacy of major human rights violations by government security forces, unfair multiparty elections, a state of emergency that limits free expression and association, and a widespread breakdown in the rule of law.

Between the end of 2004 and the beginning of 2007 the Algerian government instituted a process of “national reconciliation” designed to end residual violence by Islamists, offer amnesty to government and Islamist forces that had committed atrocities since the war’s start in 1992, and provide compensation to some victims. The most important

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step in this process was a referendum in September 2005, in which voters overwhelmingly approved the Draft Charter for Peace and National Reconciliation, a document issued by Bouteflika in August 2005 that established a set of principles for laying to rest the crimes of the 1990s.

The charter called for granting amnesty to most insurgents, except for those who had committed massacres, rapes, and bombings. It also called for the end of legal proceedings against most insurgents and the release from jail of those already convicted. It offered compensation to the family members of those who had disappeared after arrest by security forces and held out the prospect of financial assistance to families of insurgents. It also praised, however, the actions of the army, security forces, and members of government-supported local militias called Patriots, and explicitly rejected the notion that the state (as distinct from individual agents of the state) was responsible for a deliberate policy of disappearances. It excluded from future political life anyone who had committed acts of terrorism or “instrumentalized” Islam.

The charter revealed that the formula Bouteflika is relying on to move the nation forward is “amnesty and amnesia” as opposed to “truth and reconciliation.” In February 2006, Bouteflika issued several decrees that formally implemented the charter. His government offers immunity from prosecution to almost all of those who committed abuses during the war, an end to investigations of responsibility for human rights abuses, and an end to public discussion about atrocities.

Helped by dramatically higher oil and gas revenues, the state has lowered the unemployment rate and increased social spending and capital investment. Reports of human rights violations have declined sharply. Despite instances of attacks by armed groups, the government in recent years has significantly reduced threats to citizens’ personal safety and property. Recent legal reforms give greater rights to women in the workplace and family.

Bouteflika has been unwilling, however, to spend his political capital on democratizing the political system and moving toward a market-propelled economy. His authoritarian and anti-private sector proclivities are evident in his resistance to political reforms, his crackdown on journalists, and his commitment to a substantially larger role for the state in the economy. Although he certainly faces opposition to some reforms from the military, his own party, and labor unions, his efforts

to make public officials accountable, respect civil liberties, and strengthen the judiciary are inadequate and often half-hearted.

ACCOUNTABILITY AND PUBLIC VOICE

FREE AND FAIR ELECTORAL LAWS AND ELECTIONS:	3.00
EFFECTIVE AND ACCOUNTABLE GOVERNMENT:	2.75
CIVIC ENGAGEMENT AND CIVIC MONITORING:	2.67
MEDIA INDEPENDENCE AND FREEDOM OF EXPRESSION:	3.00
CATEGORY AVERAGE:	2.85

Algeria's elections in the last five years have had varying degrees of fairness and honesty. Turnout for the parliamentary elections in May 2002 was officially only 47 percent, and opposition parties complained of many instances of fraud. The National Liberation Front (FLN) gained 199 of 389 seats and has dominated the National Assembly in alliance with the National Democratic Rally (RND) and the Islamist-leaning Movement of Society of Peace (MSP). According to official figures, which opposition political parties claimed were inflated, 97 percent of voters approved the peace charter and turnout was 80 percent, despite a boycott by the two leading Berber parties.

Current electoral laws create a proportional representation system in which voters choose candidate lists in multimember districts. There is little evidence that campaign spending limits are enforced. Some political parties suggested potential revisions to the electoral code in advance of the May 2007 legislative elections, including quotas for female candidates on each party list and an open-list system whereby each voter could rank the names on the list that they vote for. However, in January 2007, Prime Minister Abdelaziz Belkhadem advocated changes to the electoral code that would likely reduce the competitiveness of elections, proposing that polling for local assemblies be switched to a winner-take-all system. He also suggested that the state cut off financial assistance to political parties that have very little support.¹ Moreover, the government failed to make revisions to the electoral code that would reduce the kinds of fraud and unfairness that characterized past elections.

By the end of March 2007, the Front of Socialist Forces (FFS) and the El-Islah party (the faction loyal to Islamist politician Abdallah Djaballah) called for a boycott of the May 2007 legislative elections.

Two-thirds of the seats in the upper house of parliament, the National Council, are filled through indirect elections by local assembly members within each of the country's 48 provinces (*wilayas*), and one-third are filled by presidential appointees. In the most recent (partial) elections in December 2006—in which half of the council's elected seats were up for grabs—the FLN won the majority of the seats. No party except the FLN and the RND—already governing allies—gained more than a handful of seats, revealing once again that the chronically lackluster indirect elections are heavily stacked in favor of the parties that dominate the local assemblies.

In the last presidential election in 2004, the government hampered the ability of Bouteflika's rivals to campaign effectively and gain press coverage. Two potentially strong candidates were prevented from running. Four losing candidates claimed, without offering specific evidence, that there was fraud and falsification of election results. In July 2006, Bouteflika announced his intention to revise the constitution, although his timetable for a referendum on constitutional revisions has been pushed back to sometime in 2007. Press reports indicate that he intends to amend the constitution so that he can stand for a third five-year term beginning in 2009. He is also expected to create the position of vice president and reinforce the powers of the president relative to the parliament. He has no apparent interest in letting political parties and civic groups participate in writing amendments.

The president's bid for more power, which contradicts his commitments to democratization of the political system, comes at a time when his health is in question. In November 2005, Bouteflika flew to France for extended treatment of an initially undisclosed medical condition. For more than three weeks the Algerian public did not know what their president was being treated for or how serious his illness was. Only belatedly did officials reveal that he had undergone surgery for a bleeding stomach ulcer. Even more troubling, Bouteflika disappeared from public view for seven weeks in the summer of 2006 with no explanation. This secrecy about his health and whereabouts is symptomatic of the broader lack of transparency in government.

The legislature and judiciary act more like rubber-stamp bodies than effective overseers of the executive branch. For example, Bouteflika presented his 2007 budget to the parliament in September 2006, and lawmakers passed it in November with only minor amendments. In January 2007, MSP leader Abou Djerra Soltani criticized the two legislative chambers for failing to exercise their basic responsibility as lawmakers. While the legislature does compel testimony of high-ranking officials and submit written questions to ministries, the impact on policies is limited. Parliamentary commissions of inquiry do not make their reports public. Most important draft laws are written by the executive. The president in recent years has made a habit of utilizing his constitutional prerogative to issue ordinances when the parliament is not in session. When it reconvenes, parliament must approve or reject the legislation, but there is little debate and no opportunity to introduce amendments. Legislation by decree also severely limits public involvement in policymaking.

The 1996 revised constitution forbids political parties from being formed on the basis of religion, ethnicity, gender, or regionalism. In order to gain legal status—and thus the rights to participate in elections, rent space, and create bank accounts—political parties need approval from the minister of the interior. The government has refused to authorize a number of parties in recent years. More significantly, the government refuses to permit any legal political role for former leading members of the defunct Islamic Salvation Front (FIS), an Islamist party whose victory in the first round of parliamentary elections in 1991 was overturned by a military coup in January 1992. The FIS was formally banned in 1992, and its members engaged in a violent struggle against the government until 1997, when its armed wing signed a truce with the government. Former FIS leaders Ali Benhadj and Abassi Madani were released from prison in June 2003 after 10 years of incarceration, but Benhadj was re-arrested and imprisoned in the summer of 2005 for comments he made to Al-Jazeera television regarding the Iraqi insurgency. He was released in March 2006. The Interior Ministry has refused to authorize a new party—the Movement for Freedom and Social Justice—proposed in January 2007 by Anouar Haddam, a former FIS official who has lived in the United States for more than a decade. In effect, the government has frozen the political party landscape, hindering any effective challenge to the dominance of the FLN-RND-MSP coalition.

Selection, promotion, and dismissal in Algeria's civil service is often not based on open competition and merit. In July 2006, the government issued a new ordinance to govern work conditions in the civil service, but implementing legislation had yet to be issued by early 2007. The Algerian press has reported on the poor qualifications of many civil servants and frequent irregularities in civil-service exams.

Algeria's vocal civic associations and business organizations have a limited influence on legislation. The Interior Ministry refuses formal authorization to a number of nongovernmental organizations (NGOs) that are critical of government policies. The government consults on an ad hoc basis with associations representing private business owners (*le patronat*) and organized labor. Most domestic human rights NGOs have faced harassment, and it is illegal for them to receive funding from abroad. In September 2006, Amine Sidhoum Abderrahmane and Hassiba Boumerdassi, two human rights lawyers representing families of the disappeared, were charged with introducing unauthorized objects into a prison and were scheduled to be tried in February 2007. Similar forms of harassment of lawyers have occurred in the last three years.

Algeria has a vibrant written press that, nevertheless, is very circumspect when reporting on the military, security operations, and terrorism. The 1990 information code states that freedom of speech must respect "individual dignity, the imperatives of foreign policy, and the national defense." The penal code, amended in 2001, mandates large fines and prison terms of up to two years for journalists found guilty of insulting or libeling the president, the National Assembly, the National Popular Army, or other state institutions. The penal code criminalizes some forms of speech by defining terrorism in very broad terms to include "interfering with public freedoms" and "impeding public authorities and institutions."

The government continues to systematically harass journalists who criticize public officials. In the last three years a large number of journalists have been brought to court, fined, or imprisoned for alleged violations of the information code and other laws. In December 2004, a court sentenced three reporters and the director of publication at *Le Soir D'Algerie* to one year in prison for defaming the president. According to Reporters Without Borders, 114 journalists were prosecuted in 2005 for libel and a variety of press law violations. At least 18 journalists in 2005

were sentenced to prison for defamation, and many others faced heavy fines. Among those facing prosecution were the former editor of *Liberte*, the editor of *Le Soir d'Algerie*, and journalists from *Le Matin*.

In June 2006, the director of *Le Matin*, Mohamed Benchicou, was released from prison after two years, but several defamation charges are still pending against him. In July 2006, Bouteflika issued a pardon to all journalists convicted of defamation and insulting state institutions. However, authorities soon began harassing reporters again. In December 2006, a court in Jijel imposed a fine and three-month prison sentence on the editor of *El Watan*, Omar Belhoucet, and one of his reporters for libeling a local official.²

ANEP, a public company that monopolizes all print and broadcast advertising for public companies and the administration, often penalizes outspoken newspapers by withholding advertising. The government owns five main printing companies, but some private newspaper publishers now own their own printing presses. The government appears to have no interest in allowing the formation of privately owned Algerian stations that could undermine the state's monopoly on television and radio broadcasting. Although internet penetration is low and access is too expensive for many families, the government allows private providers and refrains from imposing controls or filters on content.³ Satellite television is readily available to most households without restrictions.⁴

The government allows a broad range of cultural expression, despite some limitations designed to placate Islamist sensibilities and restrictions on political cartoonists. In the last five years, the government has not imposed significant restrictions on *rai* music or Berber audiovisual material. Algerian cinema and theater have suffered from lack of public funding, and self-censorship remains a significant constraint in many cultural arenas.

Recommendations

- The government and the National Assembly should amend the Charter for Peace and National Reconciliation to allow for open, legal discussion of responsibility for past crimes, prosecution of public agents who have committed serious human rights abuses, and mechanisms for citizens to compel public institutions to release evidence about the fate of their family members.

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- The Parliament should work to strengthen its administrative capacity and increase public awareness of, and participation in, the legislative process.
- The government should cease its campaign of harassment against the private media, eliminate criminal sanctions for defamation, and revise legislation to define much more narrowly what constitutes libel and defamation.
- The government should privatize ANEP and printing companies and actively promote the development of private television and radio stations.
- The government should eliminate restrictions on political activities by former members of the FIS and desist from refusing to authorize new political parties.

CIVIL LIBERTIES

PROTECTION FROM STATE TERROR, UNJUSTIFIED IMPRISONMENT, AND TORTURE:	2.43
GENDER EQUITY:	3.75
RIGHTS OF ETHNIC, RELIGIOUS, AND OTHER DISTINCT GROUPS:	3.75
FREEDOM OF CONSCIENCE AND BELIEF:	2.00
FREEDOM OF ASSOCIATION AND ASSEMBLY:	3.40
CATEGORY AVERAGE:	3.07

In recent years, reports of torture or abuses committed by the gendarmerie and the police have declined, indicating some progress in observance of human rights standards in these two institutions.⁵ However, there is no evidence that police officers or gendarmes investigated for human rights abuses have been prosecuted under more stringent anti-torture provisions in the penal code. In normal criminal cases, the police and gendarmerie generally adhere to the code of penal procedure, which allows them to hold a suspect in pretrial detention (*garde a vue*) for up to forty-eight hours before the suspect must be either released or arraigned by an examining magistrate. In theory, arrested individuals have the right to demand a medical examination at the end of their detention. They

are also supposed to be given the opportunity to communicate with family members while in detention, but in practice this access is often denied. Poor conditions prevail in Algeria's grossly overcrowded prisons. Recognizing this fact, the minister of justice in October 2006 announced plans to build eighty-one new prisons by 2009, provide financial aid to poor prisoners upon their release, and recruit more doctors to treat the prison population.⁶

The Defense Ministry's Department of Information and Security (DRS), also known as Military Security, continues to commit serious human rights abuses. This intelligence agency, responsible for anti-terrorism activities, often holds people in secret detention for longer than the twelve days permitted in cases of suspected terrorism or subversion, subjecting many to torture and other forms of ill-treatment with apparent impunity. Civilian authorities do not appear to exercise any control over the DRS, according to Amnesty International, and complaints of DRS abuse reported to prosecutors are not investigated.⁷ Public prosecutors apparently do not exercise their right to inspect detention facilities under the control of the DRS. While in pretrial detention, detainees do not have a legal right to access to a lawyer.

Reports of severe human rights abuses have decreased markedly since 2004, but violence by both state and nonstate actors remains significant. The local press periodically reports on antiterrorism operations involving the deaths of suspected terrorists, security forces, and civilians. Much of the information is relayed from official sources without independent verification. Insurgents—many of whom supposedly belong to the Salafist Group for Preaching and Combat (GSPC), a group that since 2006 has claimed affiliation with al-Qaeda—engage in episodic attacks in different parts of the country, but the number of attacks is low compared with levels during the 1992–2000 civil conflict.

Government officials have asserted that only several hundred armed insurgents remain. However, press reports since 2004 have indicated that annual deaths from armed violence by Islamists and government forces still number in the hundreds. Algerian papers reported 400 terrorism-related deaths in 2005 and 140 such deaths in the first four months of 2006. Other attacks followed later in 2006. Bombings of several Algiers police stations in October killed three people. According to an Agence France-Presse review of official reports and press stories, fifty people—including

twenty-six members of the security forces—died in clashes between the government and Islamists in a five-week period starting in November.⁸ The GSPC claimed responsibility for an attack in December 2006 on a convoy of Western oil contractors in Algiers. In February 2007, the GSPC carried out a series of bombings of police stations.

The Charter for Peace and National Reconciliation makes almost impossible any investigation of human rights abuses since 1992, whether those abuses were committed by agents of the state, government-backed militias, or Islamists. A government-controlled National Consultative Commission for the Promotion and Protection of Human Rights (CNCPPDH) stated in March 2005 that 6,146 people who disappeared after being arrested by security forces between 1992 and 2000 still remain unaccounted for. Human rights groups believe that more than 10,000 have disappeared, although the lack of any investigations means an authoritative accounting of the disappeared will likely never occur. A handful of Islamists in exile have voluntarily returned to Algeria or announced their intention to return. These cases suggest that the fear of prosecution or harassment among former FIS members and regime opponents has significantly subsided. In December 2006, Bouteflika issued a decree renewing the mandate of CNCPPDH, after a year during which its operations had ceased. Attorney Farouk Ksentini was renamed as head of the organization, which includes forty-three other appointed members. CNCPPDH, which has a contentious relationship with Algeria's independent human rights groups, has not made any of its reports available to the public.

Although the government has taken significant steps in the past two years to strengthen the legal and civil rights of women, numerous discriminatory laws and practices remain in force. In March 2005, the parliament approved a decree previously issued by Bouteflika that amended the 1984 family code. The revisions represented a positive change, but fell short of what many women's associations had hoped for. Under the revisions, a woman no longer has a legal obligation to obey her husband, a woman's consent is required for marriage, the legal age of marriage for men and women is equalized at nineteen years, and it is slightly easier than before for women to initiate divorce proceedings. After divorce, a former husband is required to provide a place for his ex-wife to live and to pay alimony, and women have equal rights to custody of their children. When ex-husbands fail to pay alimony, the state is supposed to

pay ex-wives out of a special fund, which has not yet been established. Women's groups complain that civil servants and judges have yet to uniformly adhere to and enforce these stronger rights for women.⁹

Polygamy is still legal, although subject to more restrictions. Minors and adult women are still subject to male guardianship, and a man can still repudiate his wife through a form of unilateral divorce. On a more positive note, Muslim Algerian women are now permitted to marry non-Muslim male foreigners as long as the foreigners commit to conversion to Islam. In addition, changes to the nationality code in February 2005 allow Algerians to hold dual citizenship. For the first time, Algerian women married to non-Algerian men have the right to pass on Algerian citizenship to their children.

Autonomous women's groups—many of which have not been granted official status by the Interior Ministry—argue that the government has done little to counter widespread domestic violence and sexual harassment in the workplace, despite the passage of a law in November 2004 that makes sexual harassment a crime punishable by up to two years in prison. Between 2004 and 2005, complaints of domestic violence rose 25 percent.¹⁰ SOS Women in Trouble, a local NGO, believes that local law enforcement officials are now better trained to understand and respond to complaints of violence against women. Algerian officials asserted in 2005 that the government had recently conducted a groundbreaking national survey on domestic violence with the aim of introducing new legislation.¹¹

According to the National Statistical Office, women constituted only 17 percent of the overall workforce in 2006, although women have significant employment opportunities as schoolteachers and lawyers, and nearly 60 percent of workers in the health field are women. A survey of nearly 14,000 women conducted in early 2006 by a national research center on behalf of the government found that only 19 percent of adult women held jobs. Of those, 58 percent worked in the public sector, 19 percent in the private sector, and 21 percent in the informal sector. None of the presidents of local communal assemblies (APCs) are women, and women constitute less than 7 percent of the members of the upper and lower houses of the national legislature. Trafficking in Algerian women is not a significant public policy problem, but the UN Committee on the Rights of the Child in October 2005 noted "deep concern" about the rise

in child prostitution in Algeria.¹² The country is an important point of transit for trafficked persons from sub-Saharan Africa.

Algeria passed legislation in 2002 to protect the rights of persons with disabilities. Approximately 500,000 Algerians are officially registered as disabled, granting them access to some social assistance and disability payments. However, many public buildings and government services are not easily accessible to people with disabilities, and more than 35,000 children with disabilities are still unable to benefit from the special-education schools and services that the government operates.¹³

The Ministry of Religious Affairs exercises significant control over religious personnel, institutions, and practices. It appoints imams to mosques, pays their salaries, and exercises disciplinary oversight. The government monitors Friday sermons, vigorously tries to restrict political activity within mosques, and sets the educational curriculum and hiring standards for Koranic schools. Imams can be imprisoned for three to five years for engaging in any activity that is contrary to the mission of the mosque or that undermines national cohesion. Religious organizations must register with the government.

In February 2006, Bouteflika issued an ordinance (later adopted by parliament with only one dissenting vote) that regulates conditions for the religious practice of non-Muslim groups. Although there is little evidence to date suggesting that the government has prevented non-Muslims from exercising their faith, the new law discriminates against non-Muslims, who were not consulted when it was drafted. It enhances the government's ability to regulate religious fundraising, to prevent the formation of autonomous religious groups, and to limit how non-Muslims can discuss their faith with Muslims. Non-Muslim religious associations must be approved by a newly created National Commission of Religious Worship. The ordinance—which went into effect in September 2006—requires non-Muslim worship services to be open to the public, to occur in registered buildings, and to take place at previously declared times. The ordinance essentially criminalizes proselytizing by non-Muslims. It provides for imprisonment of up to five years for individuals who engage in activities “tending to convert a Muslim to another religion” or who distribute documents designed to “shake the faith of a Muslim.” The law also imposes criminal sanctions on anyone who organizes unauthorized religious gatherings or preaches in a house of worship without prior approval from Algerian authorities.

While many Berbers, who form Algeria's largest ethnic minority, express social and political grievances, they do not face significant discrimination on the basis of their ethnicity. Many have demanded that Tamazight be recognized as an official language that can be used in public administration. Following riots in 2001, the national gendarmerie withdrew from many parts of Kabylia. Because the gendarmerie does not have an effective presence in the region, there has been an increase in petty and organized crime. In July 2005, Bouteflika dissolved most of the municipal and local councils in the Kabylia region and ordered new, partial elections in November 2005—a decision that grew out of government negotiations with Berber leaders. Although turnout was only 30 percent, all of the Berber-based political parties participated, and the opposition parties FFS and Rally for Culture and Democracy (RCD) won most of the contested seats.

The constitution guarantees the right of workers to form and join labor unions. Since 1990, civil servants and public sector workers have formed dozens of autonomous unions, but the Ministry of Labor has in most cases refused to authorize them formally, even though they meet legal criteria. By law, unions may not affiliate with political parties or receive funding from foreign sources. Important autonomous unions include the National Autonomous Syndicate of Public Administration Personnel (SNAPAP) and the National Teachers Council (CNES), which represents professors. Grievances over salaries and work conditions are common in these independent unions, which regularly stage work stoppages and strikes that the government considers illegal. The autonomous unions report that public officials often subject union members to administrative sanctions, firing, police intimidation, and judicial proceedings.¹⁴

The General Union of Algerian Workers (UGTA) is Algeria's only large, authorized union. It has close ties to the government. Officials regularly consult with the UGTA, which in 2006 engaged in collective bargaining with the government and employers' associations to produce a multiyear "economic and social pact." Autonomous unions were not allowed to participate in these negotiations.

The state of emergency, in effect since the 1992 coup, requires political parties and organizations to seek formal authorization to assemble and to stage demonstrations. Authorities regularly refuse to permit demonstrations or meetings, often without offering justification. For

example, in December 2004 and January 2005, authorities refused to approve a request by the human rights group LADDH (Algerian League for the Defense of Human Rights) to hold a conference in Tizi Ouzou. In December 2006, the Interior Ministry and local authorities refused to authorize a congress of the Democratic and Social Movement (MDS), an ex-Communist party experiencing internal divisions. In February 2007, police blocked five associations that represented families of the disappeared from holding an international conference at an Algiers hotel.

Local public disturbances such as spontaneous protest gatherings, roadblocks, sit-ins, and unauthorized marches are relatively common occurrences, often sparked by grievances against the quality of public services and the administration of public institutions. The police reported a significant increase in the number of disturbances to which they responded in 2006.¹⁵ Protests over housing conditions, lack of public transport, and university policies, among many other things, reflect anger over lack of transparency in public institutions and the lack of public involvement in local governance. Protesters frequently accuse the police of harassment and excessive use of force.

Recommendations

- The state of emergency declared in 1992 should be officially repealed.
- The government should revise legislation and exercise more effective oversight over the police and gendarmerie to ensure that individuals held in custody and/or charged with crimes are always guaranteed access to a lawyer during detention, interrogation, appearance before an examining judge, and throughout all judicial proceedings.
- The government must subject the DRS to civilian oversight and strip it of law enforcement powers and the ability to run detention centers.
- The judiciary should compel the Interior Ministry to respond in a timely fashion to requests for legal authorization by unions and civic organizations. In cases of denial of authorization, the ministry should provide explicit reasons that those organizations can fairly challenge in a court of law.
- The penal code should be amended to make spousal abuse a crime, and the government should invest significantly more money in offering assistance to victims of domestic violence.

RULE OF LAW

INDEPENDENT JUDICIARY:	2.20
PRIMACY OF RULE OF LAW IN CIVIL AND CRIMINAL MATTERS:	2.67
ACCOUNTABILITY OF SECURITY FORCES AND MILITARY TO CIVILIAN AUTHORITIES:	1.50
PROTECTION OF PROPERTY RIGHTS:	4.00
EQUAL TREATMENT UNDER THE LAW:	3.33
CATEGORY AVERAGE:	2.74

Algeria's judiciary is not independent from the executive branch. The lack of impartiality and independence of judicial authorities is widely criticized, even by the government itself. The Supreme Judicial Council (CSM), which is constitutionally responsible for assigning, promoting, and transferring judges, is headed by the president of the republic, who has undue influence over the composition of the judiciary. Judges, prosecutors, and magistrates are averse to making judicial decisions contrary to government expectations.

The CSM meets on a regular basis to impose sanctions on individual judicial officials who abuse their power. In an early 2005 crackdown, the government removed more than thirty judges who were accused of corruption. The Statute of the Magistrate does not guarantee the independence of judges, whose promotions are subject to background checks by the security services. As noted by the minister of justice, magistrates in Algeria still lack adequate training, including in areas such as organized crime, intellectual property rights, and financial affairs.¹⁶

Article 45 of the 2006 ordinance implementing the Charter for Peace and National Reconciliation compels judicial authorities to dismiss complaints or accusations of human rights abuses against security forces. Article 46 provides for imprisonment of up to five years for anyone publicly criticizing the conduct of the forces. Together these provisions prevent the judiciary from exercising authority over the security forces. Instead, they turn the judiciary into an instrument to suppress free speech about human rights violations.

The public perception of corruption and bribery in the judicial system is widespread. In a speech to magistrates in September 2006,

Bouteflika condemned the “harmful” practices and “excesses” of some judges and lawyers.¹⁷ Magistrates typically overlook procedural irregularities such as summary investigations or suspects’ statements made under duress.

The presumption of innocence until proven guilty is recognized by the constitution. Suspects are supposed to have the right to a lawyer in penal matters, but defendants often lack representation at their first appearance before an examining judge, and examining judges usually fail to inform them of their right to be represented by a lawyer. Detainees suspected of serious crimes are sometimes denied access to a lawyer and held incommunicado, in violation of the penal code. The right to a fair trial is frequently undermined by the use of coerced confessions. While in DRS custody, detainees are often forced to sign interrogation reports they have not read before they appear before a magistrate. There is little evidence that judges order investigations when defendants complain of torture or ill-treatment. However, according to Algerian lawyers who have communicated with Amnesty International, the police and the gendarmerie have made improvements in their adherence to the law, more frequently informing arrested suspects of their rights and permitting many of those in custody to communicate with their families.¹⁸

In November 2006, the Council of Ministers approved a draft law that would revise the codes of civil and administrative procedure. A new code would strengthen the ability of judges to speed up judicial proceedings and limit supposedly specious appeals and delaying tactics by defendants. It would encourage greater use of arbitration and mediation. The impetus of this effort seems to be a desire to weaken the rights of defendants in the courts. The changes in administrative procedures would grant greater powers to judges to temporarily suspend some decisions of government agencies, suspend government contracts and purchases that do not follow prescribed legal procedures, and issue injunctions against administrative agencies.¹⁹ The requirements of the new code would probably not take effect until a year after its enactment, so the impact on the rule of law will not be immediately measurable.

Senior officers in the armed forces (including retired officers)—often referred to as *le pouvoir*—continue to play an important role in Algerian politics. Although Bouteflika has for several years tried to assert more civilian control over the military, the army and security services have rel-

actively free rein in antiterrorism operations and internal security issues. In July 2006, Bouteflika promoted Ahmed Gaid Salah, Benabbes Ghaieziel, and Mohamed Mediene to the rank of lieutenant general; all three had helped organize the 1992 coup and are powerful figures with ties to prominent retired generals. The DRS has since 1990 remained under the control of Mediene, a powerful, autonomous officer. The former head of the LADDH, Ali-Yahia Abdennour, contends that the DRS has considerable influence over seven government ministers and maintains surveillance of all ministries and their personnel.²⁰

The Algerian constitution guarantees the right to own private property. In recent years the government has made efforts to provide families with access to credits that allow them to purchase their existing, government-owned apartments or finance the purchase of new apartments. However, the right to own private property is limited by the government's unwillingness for many years to definitively sell off significant amounts of public land and property. Instead, the government has sought to retain *de jure* ownership of land and property while granting legal use of it to private actors through long-term concessions and other arrangements.

Poorly defined land-ownership statutes make it difficult for many citizens to enforce their property rights and to gain access to property. The private sector's access to state-owned land for investments in industry and tourism is still limited. The most valuable land in Algeria is considered property of the state, which has controlled it since its abandonment by French colonists during the independence movement. Farmers now have long-term leases on publicly owned land, but they are technically barred from selling their leases or diverting use of land from agricultural purposes. In practice, farmers have been selling their lease rights to buyers who often use agricultural land to build illegal lodgings or set up unauthorized commercial facilities. The gendarmerie announced in January 2007 that—on the instructions of judicial officials—it had questioned more than 16,000 people over an eighteen-month period about misuse of rural property for nonagricultural purposes.²¹

In January 2007, Finance Minister Mourad Medelci said that a long-term survey of land boundaries, ownership, and values (completed in 64 percent of rural territory and only 33 percent of urban areas) found that 33 percent of properties lack certificates of ownership.²² The government has yet to resolve the problem of access to industrial real estate,

despite years of complaints from investors who find it difficult to buy or lease land for their projects. Although indications are few that the government is taking effective steps to reform this system, in February 2007 the government announced plans to establish a new agency to regulate state-owned real estate and make more industrial real estate available to private companies by ceding property to investors or establishing land-use concessions.²³

Recommendations

- Magistrates, judges, and public prosecutors must be empowered to sanction security forces and public officials for violations of the law.
- The government should take steps to grant full property rights—via complete privatization of significant segments of public land and property instead of leases and concessions—to farmers, private investors, and inhabitants of public housing.
- The government should create a more independent Supreme Judicial Council (CSM), a majority of whose members are not appointed by or subject to oversight by the executive. The CSM must be empowered to conduct autonomous investigations of judicial officials, publish results of disciplinary proceedings against judicial officials, and monitor the judiciary’s professional standards without executive interference.
- Public institutions should implement an extensive public relations campaign to inform women of their legal rights under new laws relating to family relations, nationality, and harassment in the workplace.

ANTICORRUPTION AND TRANSPARENCY

ENVIRONMENT TO PROTECT AGAINST CORRUPTION:	2.20
EXISTENCE OF LAWS AND ETHICAL STANDARDS BETWEEN PRIVATE AND PUBLIC SECTORS:	2.75
ENFORCEMENT OF ANTICORRUPTION LAWS:	2.50
GOVERNMENTAL TRANSPARENCY:	3.14
CATEGORY AVERAGE:	2.65

Despite passage of an anticorruption law in February 2006 that establishes a code of conduct for public workers and protects whistle-blowers, corruption remains pervasive in Algeria. Implementing legislation for the anticorruption measures was not issued until November 2006, so their practical effects have yet to be seen. Algeria's score in Transparency International's 2006 Corruption Perceptions Index was 3.1 out of 10, placing the country among the six worst performers in the Middle East and North Africa.²⁴

The February law requires public agents—defined as officials in legislative, executive, administrative, and judicial bodies—to make asset declarations at the time they start their jobs and when they leave, expanding on rudimentary asset-declaration requirements set out in a 1997 presidential decree. The asset declarations of high-ranking officials, including the president, members of parliament, and ministers, are to be published in the *Journal Officiel*. Moreover, asset declarations of local elected officials are to be posted for one month at the headquarters of communal and regional legislative bodies. There are no provisions for public disclosure of the asset declarations of other public agents. In October 2006, the Algerian press reported that a majority of public officials, including legislators, did not issue the legally mandated asset declarations, and that none had faced punishment for failing to do so. There was no mechanism to determine whether asset declarations that were turned in by public officials were accurate or complete.²⁵

Article 8 of the February 2006 anticorruption legislation obliges public agents to inform their superiors if they have a conflict of interest that may affect their public duties. The law also holds public institutions responsible for establishing procedures to make information publicly available on decision making within those institutions, simplifying administrative procedures, and responding to citizens' complaints. Transparency International reports, however, that government agencies usually deny the public and press access to information.²⁶

The decrees implementing the Charter for Peace and National Reconciliation established the National Commission for Prevention of and Struggle against Corruption, composed of seven presidential appointees who are charged with gathering information on suspected public corruption (which they are to forward to the Ministry of Justice) and issuing an annual report on anticorruption activities to the president.

In February 2007, the Council of Ministers approved a draft ordinance that, if enacted, would discourage government workers from accruing private gains from their public positions. The ordinance would prevent civil servants and public-sector managers from having any direct or indirect interest in companies that they regulated or contracted with. Moreover, for two years after leaving their jobs, public administrators would be barred from working or consulting for any private company they had previously regulated. This ordinance is an important step in preventing conflicts of interest among public officials and barring former officials from exploiting their ties to government institutions once in the private sector.²⁷

The Algerian Association to Fight Corruption (AACC), an affiliate of Transparency International, has criticized the new anticorruption law for a number of weaknesses: high-ranking military officers are not required to submit asset declarations; the anticorruption commission is subject to presidential influence; and protections for whistle-blowers are insufficient.²⁸ AACC reports on a recent case in which an official in the National Group for Aerial Navigation (ENNA) who made public allegations of embezzlement and bad management against high-ranking members of ENNA was arrested and brought before a military court—which eventually dismissed charges against him.²⁹

Since 2005, the government has begun to revive its moribund privatization program, but the pace of sell-offs of state-owned enterprises and businesses is very slow. The most noticeable advance has been in preparations to sell a 51 percent stake in Credit Populaire d'Algerie—one of the biggest state-owned banks—to a group of private foreign investors. All partial or wholesale privatizations must be approved by the Conseil de Participation de l'Etat, an institution that generally does not release detailed information to the public about the conditions under which privatization occurs. State oil company Sonatrach, Air Algerie, and some other public companies are considered strategic assets that are exempt from privatization.

In cooperation with the World Bank, Algeria in 2006 completed a Public Expenditure Review for the first time in ten years; the results have not yet been made public. The World Bank, the International Monetary Fund, and the AACC are concerned that current massive capital expenditures may be leading to poor-quality public investments and in-

sufficient oversight of projects. Auditing and accounting practices for state enterprises are generally poor and nontransparent.

The Algerian media regularly report on alleged corruption. For example, the local press reported in early 2006 that a crackdown on corruption in the customs office led to the firing of at least 100 agents, some of whom were high-ranking customs officials. Prefects in Oran and Blida were targets of a government corruption probe that led to their removal from office in 2005.

Since 2004, the government has shown some dynamism in investigating two of the worst financial scandals in Algerian history. In January 2007, a criminal tribunal in Blida began proceedings in the Khalifa Bank scandal, in which more than 100 people have been implicated, including senior bank management and a former central bank governor, Abdelwahab Keramane. At the same time, a trial opened in Oran in a scandal involving another private bank, the Banque Commerciale et Industrielle d'Algerie (BCIA), whose directors are accused of embezzling funds. Both of these high-profile cases include accusations that public bank officials and overseers were complicit in financial crimes or negligent in their oversight of the banking system. The local press has given extensive coverage to testimony in the Khalifa trial.

Public access to government information is limited, and there are no effective mechanisms for citizens to compel government agencies to release information about government operations and legal proceedings. The executive branch formulates the annual budget with little involvement from civic groups. Although the National Assembly does make amendments to the annual budget law, it does not effectively oversee executive spending.

The government does not publish audits of state enterprises. An audit court (Cours de Comptes) is supposed to send an annual report to the president on the finances of the state and the public services. In August 2005, some officers of the Cours de Comptes held a press conference to criticize restrictions on their ability to conduct audits.³⁰ The court has made public only two annual reports since 1995. Sonatrach, the most important state enterprise, does not publish detailed accounting data.

A Law on Public Tenders specifies procedures that government agencies must follow when they procure goods and services, but in practice these procedures are not always adhered to. State-owned enterprises are

not obliged to issue tenders when they purchase goods and services. The AACC has strongly condemned the trend in public procurement procedures toward private agreements between government agencies and private contractors.

Recommendations

- The government should accelerate privatization, including of all state banks and many public enterprises, with full public disclosure of terms and conditions of sale by the National Investment Council.
- The government should enact a comprehensive freedom of information law that defines the obligations of public institutions to release information and that provides strong legal mechanisms by which citizens can compel public agencies to release information that is necessary for the exercise of citizens' rights and public oversight.
- The legislature must dramatically strengthen the protections for whistleblowers and establish public agencies with the power to investigate the asset declarations of public officials and refer suspected violations to the courts.
- The government should significantly increase cooperation with non-governmental organizations, such as the AACC, that are committed to fighting corruption and expanding government transparency.

NOTES

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