

COUNTRIES AT THE CROSSROADS



COUNTRIES AT THE CROSSROADS 2011: ALGERIA

AMEL BOUBEKEUR¹

INTRODUCTION

Algeria gained independence from France in 1962. The military overthrew Algeria's first president in 1965, marking the beginning of authoritarian military-backed rule. When opposition parties were legalized in 1989, lawful Islamism flourished and the Islamic Salvation Front (FIS) quickly rose as the main opposition party. Hoping to prevent an FIS victory in the 1991 parliamentary elections, the military declared a state of emergency, deposed the president, and jailed thousands of FIS members and supporters. The situation quickly deteriorated into civil war between the military government, the state's Department of Intelligence and Security (DRS), and Islamist factions. The violence diminished in the early 2000s, but resulted in extensive human rights abuses committed by all sides and the deaths of more than 200,000 people.

The Charter for Peace and National Reconciliation, adopted by popular referendum in September 2005, was supposed to mark the official end of the war. The charter was intended to reintegrate repentant terrorists and compensate victims but, in practice, it has been used to ensure impunity for the military, and for repentant Islamist factions who agree to return to civilian life. The charter mandates an end to legal proceedings against agents of the state and security forces "for actions undertaken in the protection of persons and goods, in the safeguard of the Nation and the preservation of institutions of the Republic of Algeria." Consequently, public criticism of the security forces is punishable by three to five years' imprisonment and a fine of between \$3,500 and \$7,000.

Elections are held regularly, but fraud is massive and the army and the DRS play a decisive role in the distribution of political and economic power. Alternation of power through elections remains elusive. The current president, Abdelaziz Bouteflika, is serving his third term, supported by the presidential alliance, a parliamentary majority consisting of the president's National Liberation Front (FLN), the National Democratic Rally (RND), led by current Prime Minister Ahmed Ouyahia, and the Islamist-leaning Movement for Society and Peace (MSP).

The FLN manages social and political issues, while the DRS focuses on security-related matters and controls the country's revenue, particularly the oil sector. Upon winning the presidency in 1999, Bouteflika's first mission was to give a civilian, reformer, and reconciliatory face to the authoritarian regime, which had been caught in major social, economic, and security problems after the war. Boosted by oil revenue and post-September 11 U.S. support, Bouteflika has attempted to consolidate his control over the army by launching

¹ Amel Boubekeur is a research fellow at the Ecole des Hautes Etudes en Sciences Sociales and Ecole Normale Supérieure in Paris. Her research focuses on Maghreb politics and Islam in Europe. She has been an associate scholar at the Carnegie Middle East Center in Beirut and the head of the Islam and Europe Programme at the Centre for European Policy Studies in Brussels. Her last book is *Whatever happened to the Islamists?* (with Olivier Roy), Hurst/Columbia, 2011.

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institutional reforms and much-needed development initiatives. Despite some improvements, restructuring has mainly benefited groups close to the president, and has prevented civil society, political parties, and the private sector from acting freely. As a result, the situation deteriorated between mid-2007 and early 2011, prompting the army and the DRS to attempt to eject Bouteflika before the end of his third term. In this context of disorganization and lack of autonomous leadership, human rights abuses have markedly increased, amid the absence of rotation of power, violent repression of social demands, and widespread corruption.

Despite the state's ongoing antiterrorism efforts, terrorist attacks continue to be a problem. President Bouteflika escaped a suicide attack in Batna in September 2007 (suspected to have been led by the DRS), and two kamikaze attacks targeted the UN building and the Constitutional Council in Algiers in April of the same year. The latter attack was perpetrated by a terrorist who had been pardoned under the national reconciliation law, and Al-Qaida in the Islamic Maghreb (AQIM) claimed responsibility for both attacks.

The socioeconomic climate has deteriorated rapidly since 2007. Despite having significant foreign exchange reserves, Algeria's economic growth and industrial development, apart from the oil sector, remain weak. In early 2011, the year-on-year inflation was 5.7 percent and the price of basic commodities increased by over 25 percent.

Faced with intensifying demonstrations, riots, strikes, and protests since the first quarter of 2011, the government lifted the 19-year state of emergency in February 2011 and made temporary cuts in taxes and duties on basic foodstuffs, among other measures. Nevertheless, it continued to repress all forms of social protest and violate trade union freedoms and rights of association, backed by legal provisions in the charter and newly adopted security laws.

As of mid-2011, the question of President Bouteflika's succession and rumors of his ailing health were at the core of speculation about Algeria's political future. In the context of the Arab spring revolutions and upcoming 2012 legislative elections, the Algerian bicephalous model of governance, with the army and the security services on one side and the civilian presidential façade on the other, was collapsing. The army and security forces, fearing they would be held accountable for the crimes of the 1990s, pressured President Bouteflika to resign. In April 2011, President Bouteflika announced a revision of the constitution that would re-establish presidential term limits and improve regulations on political parties, elections, and associations. Members of the Algerian opposition and civil society criticized this proposal, arguing that Algeria's problems will not be resolved with new laws but rather with genuine enforcement of the existing ones.

ACCOUNTABILITY AND PUBLIC VOICE

Algerian elections are marked by varying degrees of pluralism, fraud, and participation. The army has always effectively appointed the president and his staff, but in the last two decades it has allowed a small number of nonthreatening candidates to run in order to give an impression of pluralism. Consequently, elections are largely boycotted by the opposition and ignored by the people.

President Bouteflika was reelected to a third term in April 2009, after moving in November 2008 to abolish the constitutional limit on presidential terms to two five-year mandates. Parliament passed this constitutional amendment by a show of hands in an extraordinary session without public debate or consultation.

Officially, Bouteflika was reelected with 90.24 percent of the popular vote and with a voter participation rate of 74.54 percent. However, estimates by diplomats, opposition parties, and independent observers of the actual rate of participation are closer to 30 percent.¹ A special UN observation mission reported voting irregularities and coercion. Opposition parties such as the Rally for Culture and Democracy (RCD) and the Front of Socialist Forces (FFS)

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boycotted the election. The five candidates on the ballot representing smaller parties unanimously denounced the outcome, claiming generalized election fraud. The two other parties that form the presidential coalition, the National Democratic Rally (RND) and the state-co-opted Islamist Movement of Society of Peace (MSP), supported Bouteflika and did not field candidates.²

A commission supervises elections at the national, regional (wilaya), and local levels. Its reports are not available to the public and any serious offenses, which are submitted to the president, do not lead to follow-up. Vote buying is commonplace; other election fraud includes repeated voting with multiple identity cards, ballot box stuffing, and ballot box theft.

The ruling FLN/RND coalition monopolizes media and financial resources during electoral campaigns. In 2009, coverage of President Bouteflika's speeches and campaign started well before the official three week election period. While an improvement has been noted in press coverage of other candidates, a study by the Algerian League for the Defense of Human Rights (LADDH) showed that 27.6 percent of press coverage and 88.5 percent of broadcast media during the recent presidential election were not neutral.³

Campaign financing is also unequal. The electoral law authorizes candidates to use party and government funds, and personal finances for campaigns. State funds are limited to \$2 million for presidential elections and \$2,000 per candidate for legislative elections, which opposition candidates generally find insufficient. The use of public money and publicity materials is prohibited during the election period. President Bouteflika, however, has benefited from public advertising, as well as the financial support of private businessmen, who in return are privileged in the awarding of public contracts.⁴

The Algerian parliament consists of two chambers: a lower chamber, the National People's Assembly (APN), with 389 members; and an upper chamber, the National Council (CN), with 144 members. APN elections are held every five years, with the most recent in May 2007. The FLN, in power since independence, lost 63 seats but still maintained its plurality with 136 members elected. The two other parties that form the governing political alliance, the RND and the MSP, won 61 and 52 seats respectively. The official abstention rate in the last parliamentary elections was 65 percent. The most recent CN elections were held in December 2009. Senators are elected for a six-year term, with half of the seats up for election every three years. The electoral college—the 7,000 elected members of the Municipal Popular Assembly (APC), which represents the communes, and the People's Provincial Assembly (APWI), which governs the provinces (wilaya)—elects 96 CN members (two per province). The president appoints the other 48 members.

The CN was created in the 1996 constitutional reform in order to maintain executive control over the parliament and prevent a repeat of the 1991 FIS victory. While it neither proposes legislation nor amendments, the CN (particularly the members appointed by the president) can block APN legislation. Senators are immune from prosecution, and businessmen and smugglers have increasingly bought votes to get elected in order to benefit from this provision.⁵ The FLN retained its majority in the 2009 CN elections, followed by the RND.

Algeria is divided into 48 provinces (wilayas). The APWI and the APC are each elected by the local citizens by universal suffrage every five years. The elected members of each body then elect a president. The FLN won a majority in the last provincial and municipal elections in November 2007.

To ensure that local politicians stay under national control, the president appoints a governor (wali) and a subdistrict chief to oversee respectively the APWI and the APC and to make decisions on financial, material, and human resources. A new municipal code adopted in April 2011 has been denounced by more than 600 mayors, who say they were not consulted and that the code does not protect them against lobbies that try to impose decisions upon

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them. Elected representatives remain under the influence of various clientelistic groups close to the executive, and citizens do not consider elections a venue for genuine political change, but rather as an opportunity to protect individual interests.

Only parties in good standing with the central government are permitted to run in elections, and considerable obstacles ensure that they will not challenge favored candidates. Only parties that obtained 3 percent of the vote in the preceding elections are authorized to field candidates, although certain minority parties are arbitrarily exempt from this requirement.⁶ Candidates must also run in more than 25 provinces to be eligible. As a result, candidates from small or newly created parties face considerable difficulty.

The president's declining health has been a subject of concern in political and military circles, as Bouteflika has disappeared from public life at times for more than six months. To reinforce his position and that of his allies, the president has until recently fully controlled the nomination of political appointees. He named close allies such as Chakib Khalil as the oil minister, Yazid Zerhouni as the interior minister, and Abdelaziz Belkhadem as prime minister from 2006 to 2008 (and then subsequently as minister of state, the personal representative of the president of the republic). However, when Bouteflika began to consider his brother Said as his successor, the army clearly expressed its disapproval. Bouteflika and the army reached a deal in the 2008 revised constitution, which gave the president the possibility to compete for a third term. They backed him for a third term but in return he had to name Ahmed Ouyahia, general secretary of the RND as a prime minister in June 2008.

The constitution establishes parliamentary control of the government and legislation, but this control is lacking in practice. The absentee rate of members of parliament is 65 percent over the course of a legislative session.⁷ In September 2008, just two months before voting to amend the constitution, members of parliament received a 300 percent raise, equal to 30 times the minimum salary. It is rare that a law proposed by the government is rejected. Lack of independence from the government inhibits members from fulfilling their basic responsibilities as lawmakers and acting in their role as mediator between institutions and citizens.

Since 2007, parliament's role has been increasingly reduced and the legislative power of the president strengthened. The use of presidential ordinances to amend and approve important laws, previously used only under exceptional circumstances, has become commonplace. Legislation by decree permits the president to deal with political crisis without parliamentary or public consultation.

The constitution requires that the government submit an annual general statement to parliament. Long neglected, a balance sheet was finally presented to the APN by Prime Minister Ouyahia in October 2010. He also presented to the CN the government's policy statement.

Despite a revamping of the civil service in 2006, all decisions and advancements (e.g., appointments, promotion, wages, overtime pay, the management of social benefits, and subsidized housing allocation) are based on political alliances, rather than merit.

Citizens' political choices are subject to pressure from various interest groups. During the 2009 presidential elections, more than 8,000 associations, including the General Union of Algerian Workers (UGTA, the monopolistic workers' union linked to the FLN), the Sufi orders, tribal leaders, imams, civil servants, and associations of private businessmen (*le patronat*), all publicly supported Bouteflika. Many public workers and officials said they were threatened with dismissal or reprisals if they refused to vote for him.

According to the minister of the interior, the country has more than 91,608 associations, many of which are fictitious, inactive, or created in order to receive grants during election periods.⁸ Despite the high number of associations, civil society's influence on policy making is limited. Article 7 of Law No. 90-31 states that associations, political parties, and trade

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unions must register with the province at the local level, or with the Interior Ministry at the national level in order to operate legally. The authorities, however, often refuse to authorize organizations critical of government policies, prompting most of these organizations to operate underground. Fines and imprisonment are a risk for any person leading an unregistered association, but many illegal associations continue to operate.⁹ No political party has received accreditation from the Interior Ministry since 1999; in April 2011, 42 filed requests. Apolitical groups may also be prevented from operating if their activities are linked to international structures or causes that threaten the economic interests of the governing elite.

Although foreign funding is not officially banned, the interior ministry makes foreign support of nongovernmental organizations (NGOs), political parties, or local unions virtually impossible. Non-Algerian researchers or members of foreign NGOs have difficulty obtaining visas. In 2007, an international workshop on enforced disappearances organized by several Algerian NGOs was prohibited and both Roberto Garretón, a UN expert on human rights, and Anne-Laurence Lacroix, director of the World Organization against Torture, were denied visas.

The government monopolizes broadcast media. Despite the creation in March 2009 of two new channels, one in Tamazight (Berber dialect) and one on Islam, and the launch of Radio Algeria International, there is little plurality. However, the Algerian press is widely seen to be among the most active in the region, with more than 30 privately owned (and more or less independent) daily and weekly newspapers of varying size and distribution.

On the other hand, harassment of journalists is increasing, especially of those that investigate corruption, military involvement in terrorism, or bad governance. The crackdown on journalists is evident in the increase of criminal libel suits and preventive arrests. The 1990 Law on Defamation outlaws remarks against Islam and against national unity. Amendments to the penal code made in 2001 established a prison sentence of up to five years for drawings, writings, or speeches that insult the president, parliament, courts, or the military. Furthermore, anyone who publicly questions the role of the army and the rulers can be convicted of advocating terrorism under the state of emergency and the Charter for Peace and National Reconciliation. Joint criminal and civil lawsuits can be brought against a newspaper's publisher, editor, and reporters, which can result in fines, jail sentences, and civil liability. Prison sentences are rarely carried out, but are costly for newspapers and journalists. One of the most striking examples is that of *El Watan*, a newspaper whose editor was brought in for questioning by the police 14 times during the first quarter of 2009. The DRS also harasses and intimidates journalists to encourage self-censorship.

In April 2011, the government prepared a draft amendment to the penal code to decriminalize press offenses. However, the amendment emphasizes the responsibility of journalists to pay fines, and establishes prison sentences for nonpayment.

In addition to directly and indirectly censoring publications, state agencies control press coverage with economic pressure. The state controls the National Agency for Advertising and Publishing (ANEP), and frequently blocks advertising as a means to intimidate the press. Most newspapers are printed on state printing presses, and six of these were placed under the direct control of the communications ministry in January 2008, a shift that threatened the editorial independence of half of Algeria's independent newspapers. The government also consistently harasses private printing companies, including by bringing against them dubious charges of failure to pay taxes. Shortly before the presidential elections in 2009, the magazines *L'Express*, *Marianne*, and the *Journal du Dimanche* were banned from publication.

It is very difficult for Algerian journalists to obtain official accreditation from the minister of the interior, which is required when working for foreign newspapers; likewise, foreign journalists have difficulties obtaining visas. Two Moroccan journalists, technically exempt

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from visa requirements, were expelled and prevented from covering the presidential elections in 2009.¹⁰ The Algerian office of Al-Jazeera, which the government shut down in 2004, remained closed through the end of 2010.

Until 2010, the internet was relatively free from censorship, although the government did regularly monitor email and internet traffic and hacked Facebook accounts of known activists. An anti-cybercrime law adopted in June 2009 requires service providers to censor certain content (e.g., pornography and terrorism-related material) and mandates the creation of a national center to monitor all internet connections. In 2010, the government began censoring the few existing opposition websites. The website of the Islamist opposition Rachad was blocked at various points throughout the year, as was the website of Algeria's only independent radio station, Radio Kalima.

CIVIL LIBERTIES

The state of emergency in place from 1992 until February 2011 severely restricted civil liberties. Military barricades, the prohibition to meet in groups, requisition by military authority, and night searches by security forces are only a few examples of the restrictions put on citizens in the name of security. Despite the lifting of the state of emergency, however, the impunity granted to security forces, terrorist groups, and Islamists in the Charter for Peace and National Reconciliation continues to restrict civil liberties. The charter requires that the families of the more than 8,000 people¹¹ who went missing during the war to recognize the death of their family members in order to receive compensation. Despite physical assaults from the police, groups of mothers of the missing, such as SOS Missing (*SOS Disparus*) and the Family Collective of the Missing in Algeria, have organized sit-ins for the past few years to protest the charter's provisions.¹²

Algeria signed the International Convention for the Protection of all Persons from Enforced Disappearance in February 2007. However, the government refuses visit requests from UN working groups on enforced or involuntary disappearances, from representatives of a UN special report on torture, and from the UN special envoy on extrajudicial executions. FIS sympathizers and ordinary citizens held in jail and in secret camps in the south without trial in the 1990s are routinely ignored when they request compensation.

The Charter for Peace and National Reconciliation also allows ongoing abuses under the guise of the fight against terrorism. The UN Committee against Torture criticized Algeria for such abuses in its May 2008 periodic report. In 2011, it condemned the country for failing to investigate the death of Djilali Hanafi after he was arrested and beaten by the police in 1998. The UN Committee also reprimanded Algerian security services for pressuring the Hanafi family to withdraw their complaint. According to one organization, some 15 additional complaints are pending.¹³

In February 2011, the minister of the interior recognized the existence of secret prisons that operate outside of the control of the judiciary,¹⁴ but the DRS officially maintains that these prisons have not been in operation since 1996.¹⁵ The UN Commission of Human Rights classifies Algeria as a country that practices secret detention. On June 9, 2009, members of parliament proposed the abolition of the death penalty (which had been under a moratorium since 1993), but the government rejected the proposal.

The state of emergency also permitted administrative arrests and secret detention. The constitution stipulates that a suspect can be detained for a maximum of 48 hours without charge (or 12 days in the case of suspected terrorists), and that the detainee must be allowed access to his or her family, legal counsel, and medical care. Persons suspected of betrayal of national security or of terrorism can be kept in preventive detention for up to 20 months.

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Numerous abuses have been reported with regards to kidnapping by security forces; furthermore, there are reports that disappearances and torture have been committed under the guise of preventive detention.¹⁶ For example, Malik Medjnoune, accused of the murder of the Berber singer and activist Matoub Lounes in 1998, has been held in preventive detention for 11 years. He was finally released in 2011.

The lifting of the state of emergency signals a shift in the strategy of the security services and the army. Fearing Bouteflika's attempts to hold them accountable for crimes committed in the 1990s, they used the change to deprive political rulers of their control over the fight against terrorism. In June 2011, an intra-ministry decree officially put all the security and police services under the army's authority.

Prison overcrowding is a problem, with 56,000 inmates filling 133 prisons intended for a total capacity of 25,000. In April 2010, prisoners in El Harrach held a hunger strike to protest prison conditions. The government is however currently building 80 new prisons and EU-financed legal reform has made reintegration programs more readily available for prisoners.

The problem of *harragas* (Algerians who emigrate illegally, mostly to Europe) is increasing. In 2009, there were an estimated 40,000 *harragas*. According to the Collective for Families of *Harragas* Missing at Sea, more than 300 have been secretly jailed in Tunisia and Libya. A new amendment, approved on February 25, 2009,¹⁷ establishes sentences of two to six years for Algerians who emigrate illegally. In September 2008, parents of *harragas* protesting about their detained children were themselves arrested and sentenced to three-year prison terms for "inciting to violence and unauthorized crowd assembly." They were pardoned one month later.

Algeria is also a transit country for sub-Saharan African immigrants headed to Europe. There were an estimated 9,000 victims of trafficking and exploitation in 2007.¹⁸ The government does not have a clear policy with regards to human trafficking and refuses refugee status to illegal sub-Saharan immigrants. Most are expelled without a hearing.

The president created the National Consultative Commission for the Promotion and Protection of Human Rights (CNCPPDH) in 2001 to investigate human rights abuses. The president sets the organization's budget and appoints all members, including the group's leader, currently attorney Farouk Ksentini. Although the CNCPPDH publishes an annual report on the state of human rights in the country, that report is not always available to the public.¹⁹ Selection and dismissal processes within the organization are not transparent and the CNCPPDH does not interact with civil society. Considered ineffective by independent human rights associations, the CNCPPDH was downgraded to a B status in March 2009 by the International Coordinating Committee of National Human Rights Institutions (ICC).

The constitution recognizes the equality of men and women before the law and condemns all forms of discrimination. Algeria ratified the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1996 and amended its family code in 2005 to establishing rights for women, including keeping their house in case of divorce, the right to refuse a polygamous marriage, and the ability to transmit citizenship to their children. However, many women remain unaware of their new rights.

Invited by the Algerian government in November 2010, Rashida Manjoo, UN Special Rapporteur on violence against women, recognized the government's efforts to promote the role of women in the economy and in politics. She also underlined that violence against women persists in both public places and in the home, and criticized the lack of efficient cooperation between the state and civil society.²⁰

In 2008, the Center for Information and Documentation on Children's and Women's Rights (CIDDEF), started "Balsam," a national network of 13 call centers for violence against women. Balsam is lobbying for penalties for domestic violence and raising awareness of the issue of women in religious marriages (*fatiha*) who cannot claim their legal rights.²¹ An

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investigation in 2007 by a delegate from the women's ministry suggested that violence against women is widespread.²² In 2008, the ministry established a national program to fight violence against women. Women who were kidnapped and raped by terrorists in the 1990s, are excluded from compensation measures mandated by the Charter of National Reconciliation.

Women represent 15 percent of the active work force. Despite some recent improvements in prevention lobbied for by female members of workers' unions, sexual harassment, punishable by up to two years imprisonment, generally goes unpunished. In November 2008, two female employees of La Banque d'Algérie who informed the *Djazair News* newspaper that their boss sexually harassed them were sentenced to a two-month suspended prison sentence after the boss accused them of defamation. The journalist and the editor of the newspaper were also sentenced.

Article 31 of the constitution, amended in 2008, dictates that "the state will work to reinforce women's political rights by increasing their chances to be elected to Assembly." In this framework, a national commission to develop a draft organic law on the representation of women in elected assemblies proposed in March 2009 a quota of 30 percent female candidates on each party list. To date, this draft law has not been adopted. However, a recent tally of election results of the FLN and the Workers' Party shows 30 women elected in the APN, or 7.5 percent; 130 or 7.7 percent in the APWI; and 102 or 0.73 percent in the APC. Only one woman is a minister (of culture), and two are secretaries of state (in charge of the family and women's condition and scientific research).

Berbers are the larger ethnic group in Algeria, long mixed with a minority of Arab populations. Discrimination tends to be based on the linguistic divide between Arab- and Berber-speaking populations, rather than on ethnicity. The Berber language (Amazigh), spoken by 14 percent of the population, was recognized as an official (but not a national) language by a 2002 constitutional amendment. In June 2007, a presidential decree established an academy and a Superior Commissionership for the Amazigh language to promote its use. In schools, however, the language is rarely taught, nor is it used in public offices. Particularly in the judicial system, Arabic remains the main and often only language.

Medical coverage and social assistance for 2 million disabled Algerians has improved their living conditions, but the \$60 payment they receive is insufficient. The 2002 law for the protection of persons with disabilities sets a 1 percent minimum quota of handicapped workers for state-owned enterprises, which is not enforced except at Algérie Télécom and Algérie Poste. Associations for the handicapped regularly denounce the lack of access to public buildings, schooling, and services.

According to the constitution, Islam is the Algerian state religion. 99 percent of the population is Muslim and less than 1 percent Christian. The ministry of religious affairs controls and constrains the practice of Islam, mainly to maintain political control over Islamist groups and civil society. Religious speeches are closely regulated and mosques and Sufi congregations are often used as a political venue to praise the government's actions.

A National Commission on Religious Worship, created in 2007, is responsible for recording, approving, and monitoring non-Muslim religions. Faced with a growing minority of Muslims who convert to evangelical Christian churches, the government issued Ordinance No. 06-03 on February 28, 2006, which criminalizes proselytizing by non-Muslims to Muslims. Since 2007, Muslims who convert to Christianity have been convicted "of religious practice without authorization." In June 2010, Abdelhamid Bouamama, a Christian, was sentenced to a one-year suspended sentence for "attempted conversion." In October 2010, Hocine Hocini and Salem Fellak, two Muslims whose conversion to Christianity was not considered valid, were accused of eating lunch during Ramadan and sentenced to three years in prison for "insulting Islam," but subsequently discharged. Non-Algerian Christians also

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face difficulties in practicing their religion. Local authorities often refuse to register applications for approval of such groups, and many unauthorized churches have been forced to close. The LADDH considers the “unauthorized practice of a non-Muslim worship” charged in these cases a violation of both the right to freedom of religion guaranteed by Article 18 of the International Covenant on Civil and Political Rights (ratified by Algeria in 1989) and the Algerian constitution, which guarantees freedom of conscience.

The “freedoms of expression, association and assembly are guaranteed to citizens” under Article 41 of the constitution. However, since 2007 the right of assembly has been severely restricted through repressive judicial measures elaborated under the rubric of the fight against terrorism. The state of emergency allowed “the provisional closing of concert halls and places of assembly of any nature, and to outlaw any demonstration that might trouble public order and peace.” Public demonstrations are considered a subversive act under Article 87 bis of the penal code. Public demonstrations have also been outlawed in Algiers since 2001 (Law 91-19 regarding public meetings and demonstrations). Law 91-19 also prohibits access to rooms for the purpose of assembly.

Law 89-28 requires that organizers of public demonstrations request authorization eight days prior to the event. The Directorates General of Regulatory Affairs in each province rarely distribute authorization receipts for these requests however, and officials often prevent organizations from gathering. The governor of Algiers, for example, frequently prohibits the LADDH from holding public meetings. The Maison des syndicats (Union House) a gathering place run by the independent union for public administration personnel (SNAPAP), was shut down in May 2010 to prevent it from holding the Maghreb Union Forum. After it reopened, it was the target of numerous break-ins and attacks in April 2011.

The UGTA is the only trade union recognized by the state and the only union to take part in tripartite negotiations with the government and business unions. Independent trade unions are prohibited in the private sector, though they may be tolerated in the public sector. All independent union activity is excluded from consultation with the UGTA. Several multinational corporations, in particular those related to the exploitation of hydrocarbons in the south, prohibit their employees from forming (even UGTA) trade union branches. Yacine Zaid, who in June 2007 tried to establish a union branch of the UGTA, was legally harassed and then fired by Eurest Support Services, a subsidiary of the British group Compass. Members of independent trade unions are often arrested and brought before the courts without any charges registered against them.

Strikes and demonstrations critical of the government are generally repressed by the police. In March 2011, police intervened in more than 520 protests.²³ The law recognizes the right to strike and to assembly, but the state of emergency requires workers from both the public and private sectors to obtain government authorization. In October 2010, a regional coordinator of the National Council of Teachers (affiliated with the independent union SNAPAP) was sentenced to six months in prison for carrying a sign and protesting in front of the local offices of the education ministry.²⁴ Despite this type of legal harassment, strikes and hunger strikes are multiplying to denounce the ban on trade unions, systematic late payment, bad work conditions, and poor management. In April 2010, 320 workers of the National Society of Road Works (SONATRO), including 22 union activists from the local chapter of the UGTA, were dismissed for “dereliction of duty,” as spontaneous strikes are considered illegal.²⁵

RULE OF LAW

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Although the constitution establishes judicial independence, the judiciary does not in practice enjoy independence from the executive branch. The president of the judiciary is the head of the High Council of Magistracy, which is constitutionally responsible for the appointment and promotion of judges. Appointments and dismissals are based on politics rather than merit, so judges, prosecutors, and magistrates are influenced by the expectations of the government, and most notably, by those of the ministry of justice.

The Constitutional Council, whose members the president appoints, rules on the constitutionality of treaties, laws, referendums, and regulations passed by the APN, and ultimately approves or rejects these laws. It also accepts or rejects the resignation of the president and manages any power vacuum. Since its inception in 1989, however, these roles have never been put into practice. Only the presidents of the country, of the APN, and of the CN can resort to the Constitutional Council.

In 1996, the revision of the constitution doubled the administrative court's jurisdiction. This was reinforced in 2008 by the new code of civil and administrative procedure, which transferred to the administrative courts the common law cases against the government or the state. Criminal law violations are regulated by the courts of general jurisdiction under the supervision of the Supreme Court, whose president is appointed by the president of the country and the cabinet chief by the ministry of justice. Appointed to use mediation as a new form of dispute resolution, administrative court judges often find themselves merely relaying decisions of the executive and security forces. Furthermore, the new code of civil and administrative procedure requires the translation into Arabic of all court documents (which are still for the most part published in French), and the related fees often deter citizens from taking legal action. Appeals of administrative tribunal decisions are the responsibility of the State Council, established in 1998. At the end of the first semester of 2011, new laws aimed at reinforcing the government's control over the Supreme Court and the State Council were under discussion. In April 2011, lawyers joined street protesters, denouncing increasing interference by the ministry of justice in the organization of their association.

Prisoners typically have access to counsel, including the provision of free counsel for those unable to pay. The constitution guarantees the presumption of innocence, although that right is sometimes undermined by the use of coerced confessions, in particular during investigations by the DRS into acts prejudicial to state security. Due process is not always respected in practice, particularly in political cases, as the president holds the ultimate authority over judicial proceedings. For example, Mohamed Rahmouni, a civilian, was arrested in 2007 and his family has not been advised of the charges against him. He disappeared for six months and was finally located in the Blida military prison. His lawyer has been denied access to his client.²⁶

The Charter for Peace and National Reconciliation exempts state officials and security forces from prosecution, forcing judicial authorities to dismiss past and current complaints or accusations of human rights abuses made by citizens against their leaders. Adequate investigation of reports from parliamentary commissions of inquiry into cases of corruption or abuses by security forces is rare.²⁷ Complaints of torture or kidnapping are typically either not registered or are filed without further follow-up. Consequently, complaints against the authorities are often filed in international or foreign courts. In March 2011, for example, nine Algerians living in Paris filed a complaint against General Khaled Nezzar, former Algerian defense minister, for his role in the deportations, massacres, and extrajudicial executions committed in the early 1990s. Since 2000, the families of the missing have lodged complaints with the UN Committee against Torture, which has asked the Algerian government to investigate each case of enforced disappearance and to amend the exemption from prosecution. In response, the Algerian government has denied all involvement.

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When such cases are referred to the courts, the Algerian judicial system does not provide public information on procedures. In 2009, the RCD filed suits against President Bouteflika, accusing him of illegal use of funds and property of the state while running for president, and also against Prime Minister Ouyahia for libel for his attacks against those who opposed the revision of the constitution in 2008. Since 2008, several policemen have been convicted for torture, weapons smuggling, and embezzlement but no high-level officials have been held accountable for allegations of human rights abuses. A lack of transparency prevails among the police, where 5,670 cases of arbitrary layoffs occurred from 2007 to 2011.²⁸

The right to property is enshrined in the constitution for all citizens. Citizen complaints against senior bureaucrats or military officials for plunder of private property are numerous. The more than 1.5 million people who were displaced, sometimes forcibly, by the army while fleeing terrorism in the 1990s have not received compensation from the state.²⁹

ANTICORRUPTION AND TRANSPARENCY

Corruption is endemic in Algeria, in particular in the public administration. In 2011, Transparency International ranked Algeria 105 out of 178 countries evaluated.³⁰ Despite official public statements, petty bureaucratic corruption and illegal enrichment by public officials is tolerated and rarely brought to justice.

In February 2006, Law 06-01 on the prevention of corruption was established by presidential decree in the wake of the country's 2004 ratification, with reservations, of the United Nations Convention against Corruption. The National Commission for the Prevention and Fight against Corruption was established in 2006 as the primary means to implement the national anticorruption strategy and develop appropriate policies to curb the phenomenon. It is responsible for gathering information in cases of suspected public corruption and transmitting its findings to the ministry of justice. However, the president did not appoint the commission's seven members until 2010 and no action has been accomplished since. Uncovering official corruption remains the responsibility of the DRS, members of which mainly focus their investigations on their political and economic rivals.

The Audit Court is responsible for auditing state finances (including public enterprises) and must submit an annual report to the president, to be published in the *Journal Officiel*. From 1995 to 2009, these annual reports were not published and no expenditure information was provided to the public.

There is no real monitoring of corruption among public officials. Article 36 of Law 06-01 requires public agents to declare their assets and requires that this declaration be published in the Official Gazette under penalty of imprisonment from six months to one year. However, neither the reporting requirement nor the sanctions have ever been enforced.

The government does not cooperate with civil society in the fight against corruption. In particular, it does not work with the Algerian Association to Fight Corruption (AACC), an affiliate of Transparency International. In October 2009, the government prevented AACC president Djilali Hadjadj, a journalist and physician, from participating in the third session of the Conference of States Parties to the UN Convention against Corruption.³¹ Hadjadj was taken into custody and detained at Serkadji prison in Algiers in September 2010.

The process of privatization of state-owned enterprises is subject to approval by the State Participation Council, but details are not available to the public.³² Most state-owned enterprises were privatized between 1995 and 2003; however, they were purchased by those in the ruling elite's circle. The remaining public enterprises (with the exception of the state oil company) are bankrupt despite the billions that the government is spending for their modernization, because of the paralysis that results from intense state pressure on public

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managers. The judicial system is used to punish managers for government elites consider bad performance. Since 2007, many state officials and directors of public companies close to Bouteflika and his circles have been prosecuted. This includes Algeria Telecom for squandering public funds in 2007, the Department of Fish and Fisheries for fishing illegally and influence peddling in 2009, the National Bank of Algeria for granting loans without collateral, and the Department of Public Works for procurement fraud during the completion of the east-west highway. However, ministers and other politicians involved are rarely convicted and, when applied,, penalties are minor.

The CEO of Sonatrach, Mohamed Meziane, was convicted of embezzlement and corruption of public funds in the awarding of oil and gas contracts to companies based on direct agreements rather than a bidding process. He was sentenced to one year in prison and a fine of \$6,500 in April 2011. Sonatrach still does not make public its financial reports; Transparency International gave it a score of 0 for its anticorruption reporting.³³

Public construction projects are a major source of corruption. The National Fund of Equipment for Development (CNED), responsible for the assessment of public infrastructure projects, has reported unnecessarily inflated costs on over 30 major ongoing projects. For example, work on the Algiers subway started in 1982 and is still not complete.

Article 160 of the constitution states that the two houses of parliament control how the budget will be spent. However, since 1982, financial laws have been enacted without parliamentary scrutiny. In 2010, an audit of the regulation 2008 budget was presented, but the exercise was deemed irregular. Parliamentary requests to eliminate special government funds maintained to finance different projects have not been granted. The Open Budget Index in 2010 once again gave Algeria the minimum score of 1 out of 100 because of the lack of transparency of the government with regards to public finances.³⁴ The oil tax, which represents 62 percent of budget revenues, is not controlled by the Audit Court but rather was assigned to the National Agency for the Valorization of Hydrocarbon Resources (Alnaft), created in 2005 following new legislation for hydrocarbons.

There is no law establishing access to government information. The government frequently restricts access to information, although it has recently established a system to manage its judicial records, which has allowed citizens much faster access to their personal legal records.

RECOMMENDATIONS

- The parliament should be empowered as an independent check on executive authority, including through fairly administered elections free of fraud and intimidation in which all candidates and parties are allowed to run.
- Following the lifting of the state of emergency, the government should immediately comply with legislative requirements regarding the freedom of association and assembly. The organization of public events and creation of independent political parties, associations, and workers' unions should be permitted. These groups should be allowed to operate without government interference.
- The security sector should be reformed, including clarification of the DRS' mandate and the end of impunity for military and security officials.
- The independence of the judicial system should be institutionalized and protected and full technical training opportunities provided to members of the judiciary.
- The government should take measures to institutionalize budgetary transparency and accountability and to effectively distribute oil and other revenue according to national development priorities.

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