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SUMMARY PREPARED BY THE OFFICE OF THE HIGH COMMISSIONER FOR  
HUMAN RIGHTS, IN ACCORDANCE WITH PARAGRAPH 15(C) OF THE  
ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1\*

**Algeria**

The present report is a summary of nine stakeholders' submissions<sup>1</sup> to the universal periodic review. It follows the structure of the general guidelines adopted by the Human Rights Council. It does not contain any opinions, views or suggestions on the part of the Office of the High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. Lack of information or focus on specific issues may be due to the absence of submissions by stakeholders regarding these particular issues. The full texts of all submissions received are available on the OHCHR website. The periodicity of the review for the first cycle being four years, the information reflected in this report mainly relates to events that occurred after 1 January 2004.

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\* The present document was not edited before being sent to the United Nations translation services.

## **I. BACKGROUND AND FRAMEWORK**

### **A. Constitutional and legislative framework**

1. Al Karama for Human Rights (KHR) notes that, according to the Algerian Constitution, a state of emergency can be decreed only for a specific period of time and can be extended only with parliamentary approval. The state of emergency declared on 9 February 1992 was extended indefinitely one year later. According to the Algerian authorities, it “does not impede the ongoing democratic process, and the exercise of fundamental rights and freedoms continues to be guaranteed”. KHR reports that an eminent jurist in Algeria, who had been appointed by the President of the Republic to conduct an inquiry into the events in Kabylia in 2001, concluded that the arrangements currently in place give sweeping powers to the military authorities so that the state of emergency is sliding towards a full-scale state of siege.<sup>2</sup>

### **B. Institutional and human rights structure**

2. The International Federation for Human Rights (FIDH) notes with surprise that the only national body tasked with the promotion and protection of human rights, the National Consultative Commission for the Promotion and Protection of Human Rights (CNCPPDH), has never published an annual report on its activities. Yet article 7, paragraph 2, of Presidential Decree No. 01-71 of 25 March 2001 establishing the Commission stipulates that it shall publish its “annual report on the human rights situation” two months after communicating the report to the President of the Republic. With regard to the ad hoc grouping set up temporarily within CNCPPDH by Presidential Decree No. 03-299 of 11 September 2003 to “look into the applications for tracing any person reported missing by a family member”, the general report in question was duly submitted to the President of the Republic, according to press statements by the Chairperson of CNCPPDH, but was never made public.<sup>3</sup>

3. With regard to the human rights situation in Algeria, FIDH queries the very limited number of communications before the United Nations Human Rights Committee. According to FIDH, this situation reflects the very limited availability of information regarding international human rights law in Algeria, contrary to what the authorities appear to claim. Again according to FIDH, it is revealing in this connection that CNCPPDH, set up in 2001 as the successor to the National Human Rights Observatory, still has no website or any regular wide-circulation publication.<sup>4</sup>

### **C. Cooperation with Special Procedures**

4. According to Amnesty International (AI), the Algerian authorities have failed to cooperate with UN human rights mechanisms. The Special Rapporteur on torture, the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Working Group on enforced or involuntary disappearances have all been unable to conduct investigations in Algeria since they first requested access to the country, in 1997, 1998 and 2000, respectively.<sup>5</sup>

## **II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND**

### **A. Implementation of international human rights obligations**

#### **1. Equality and non discrimination**

5. Legal discrimination against women, according to AI, remains entrenched, particularly in the Family Code in spite of the recent adoption of amendments, which should increase the level of

equality. AI recommended that Algeria repeal or amend laws which discriminate against women in order to ensure equality between women and men and criminalize offences related to domestic violence, including marital rape.<sup>6</sup>

6. According to the Amazigh World Congress (CMA), the Amazighs account for about one third of the total population, i.e. some ten million people living mainly in the regions of Kabylia, Aurès, Chenoua and M'zab and, in the case of the Tuareg component, in the Sahara. Since the country became independent in 1962, Algerian Constitutions have regularly restated the same definition of the nation, based solely on the Arab and Islamic components and hence excluding the Amazigh component. CMA notes that the present Constitution (in force since 1996) has introduced a reference in its preamble to *Amazighness*, alongside *Islam* and *Arabness*, as basic components of Algerian identity, but characterizes Algeria as a “land of Islam ... and an Arab country”. Articles 2 and 3 stipulate respectively that “Islam is the religion of the State” and that “Arabic is the national and official language”.<sup>7</sup>

7. CMA reports that after the uprising of the Kabyle people in April 2001, an article 3 *bis* stating that “Tamazight is also a national language” was added to the Algerian Constitution. In 2005, the Government established the Amazigh Language Institute and in 2007 the Higher Council of the Amazigh Language. Yet no tangible progress has been made in, for instance, Amazigh language teaching or promotion of the Amazigh language in the administration and the public media. In practice, according to CMA, Amazigh history and civilization, spanning several millennia, remain eclipsed, denied and rejected.<sup>8</sup> CMA recommends to the members of the Human Rights Council that they call on the Algerian Government to recognize the Amazigh people of Algeria.<sup>9</sup>

## 2. Right to life, liberty and security of the person

8. AI notes that Algeria continues to be affected by the legacy of the internal conflict and an overwhelming lack of investigations into the crimes committed by all parties to the conflict. These include large-scale unlawful killings, including extrajudicial executions, abductions, enforced disappearances, torture, including rape, other ill-treatment, and secret and arbitrary detentions. Some of these crimes may constitute crimes against humanity under international law.<sup>10</sup>

9. AI notes that the level of violence has decreased by comparison with the 1990s, when Algeria was gripped by internal conflict and when as many as 200,000 people are believed to have been killed at the hands of both armed groups and Government security forces. However, there are still reports of unlawful killings, according to AI, which reports that in 2007, civilians were deliberately targeted and killed in bomb attacks for which an armed group, the Salafist Group for Preaching and Combat (renamed as the al-Qa'ida Organization in the Islamic Maghreb in January 2007), claimed responsibility. There have also been killings of alleged armed group members by Algerian military forces, including some carried out in the context of search operations and attacks, which may have been extrajudicial executions, AI stated.<sup>11</sup>

10. According to KHR, in the early 1990s summary executions took place daily in neighbourhoods that were known to support the Islamic Salvation Front (FIS). From 1996 onwards, large-scale massacres began to occur, reaching a climax in 1997-1998 with the killings of Rais, Bentalha, Sidi Youcef, Relizane and other places. According to KHR, the Government has consistently refused to carry out investigations to identify the perpetrators and instigators of these massacres on the ground that they were known to be members of terrorist groups. As a result, responsibility has never been established and serious questions persist as to the role of the Department for Information and Security (DRS) and the army in these mass crimes.<sup>12</sup>

11. KHR adds that the Algerian State is endeavouring, through the legal provisions introduced by the so-called national reconciliation order, to bring to a close the issue of responsibility of the perpetrators of crimes such as forced disappearance by according them a legal amnesty. This order invites the families of victims to apply for compensation but, according to KHR, in order to obtain redress they must endure humiliating administrative and judicial procedures requiring them, for instance, to testify that their relative died while serving in the ranks of terrorist groups. The associations of families of the disappeared, from which the authorities have withheld administrative approval, continue to assert their right to learn the fate of their relatives, despite being periodically targeted by repressive measures.<sup>13</sup>

12. According to the Collectif des familles de disparu(e)s en Algérie (Collective of Families of the Disappeared in Algeria) (CFDA), forced disappearances are still resorted to by law enforcement agencies, DRS officers, the police and the gendarmerie. Since 2004 a number of persons have disappeared for several months before being arraigned before the Public Prosecutor's Office. This year (2007), at least three persons are still reported missing since their arrest several months ago by state officers.<sup>14</sup>

13. It is a well-known fact, according to KHR, that for almost a decade all branches of the Algerian security services, DRS officers, soldiers, the national gendarmerie, the police and paramilitary forces were responsible for massive and systematic arbitrary arrests of civilians followed by their disappearance. Almost a thousand cases were submitted by KHR to the United Nations Working Group on Arbitrary Detention. None of these cases has yet been clarified by the Algerian authorities. According to KHR, the Algerian State has been compelled, after several years of systematic denial, to acknowledge the existence of this phenomenon; it has officially admitted that 6,146 cases were attributable to its officials but places the blame on individual dereliction of duty. The Algerian State refuses to investigate these crimes and to prosecute and punish the perpetrators, resorting, for instance, to the slogan "the State is responsible but not guilty".<sup>15</sup>

14. AI stated that in most cases, arrests are reportedly carried out by plain-clothes officers of the DRS who do not identify themselves and do not inform the suspects or their families of the reasons for their arrest. Once in custody, detainees are not informed of their right to communicate immediately with their families, or of their right to or submitted to a medical examination at the end of *garde à vue*, which by law can last up to 12 days. In practice, AI notes that detainees are sometimes held in *garde à vue* for months or even years. The families of those arrested are generally not informed of detentions by the DRS, of transfers to DRS custody, or of the place of detention, despite repeated attempts to establish the whereabouts of their loved ones. While detainees are held by the DRS, families are not able to communicate with them or to visit them. These practices violate Article 51 *bis* of the Code of Criminal Procedure, which states that the arresting officers have to inform anyone who is taken into detention of their rights during *garde à vue*. The following article (Article 51 *bis* 1) provides that those held in *garde à vue* must be given all means to communicate immediately with their family and to receive visits from them. Families and lawyers of individuals thought to be held by the DRS who have contacted the public prosecutor to inquire about them, report that they were unable to receive official confirmation that the individuals had been taken into detention, indicating a lack of oversight of detention in terrorism related cases by the public prosecutor.<sup>16</sup>

15. AI stated that the DRS continue to be responsible for secret detentions and to commit torture with impunity. A body of evidence gathered by human rights activists, victims of human rights

violations and their families, points to the responsibility of DRS agents for systematic torture, large-scale extrajudicial executions and enforced disappearances of alleged sympathizers of Islamist groups in the 1990s.<sup>17</sup>

16. Testimonies from ex-DRS detainees suggest that suspects are usually held in army barracks operated by the DRS, such as the Antar barracks in the Hydra district of Algiers, according to information provided by AI. These are not officially recognized places of detention and are not inspected by the public prosecutor, or other bodies independent of the military. It is when detainees are held incommunicado that they are most at risk of torture and ill-treatment. AI has received dozens of allegations of torture and ill-treatment of detainees held by the DRS.<sup>18</sup> AI recommended that the authorities take immediate steps to ensure that officers of the DRS, who routinely violate legal safeguards in arrest and detention, no longer carry out such functions and are no longer allowed to exercise judicial police functions.<sup>19</sup>

17. CFDA notes that the procedure governing arrest and detention is permissive to the point of encouraging the practice of torture. The maximum period of police custody laid down in article 51 of the Code of Criminal Procedure allows the authorities to keep an arrested person in custody for at least 12 days, during which detainees are at the mercy of officials who can act with complete impunity. The risk of torture or ill-treatment is rendered all the greater during the 12-day period by the fact that the person in custody is denied the right to consult a lawyer. CFDA emphasizes that authorization by the Prosecutor, as required by law, is rarely obtained prior to the extension of police custody.<sup>20</sup>

18. In 2004, the Algerian Penal Code was amended to define torture explicitly as a crime. However, AI is not aware of any case where a DRS or other security officer has been prosecuted for alleged acts of torture or other ill-treatment, before or after the 2004 amendment.<sup>21</sup> Moreover, no provision of Algerian legislation precludes the admissibility of evidence obtained by torture. It follows that persons are sentenced on the basis of statements made under torture.<sup>22</sup>

19. According to KHR, confessions extracted by torture are reflected in records that the persons concerned are required to sign without having read them. At the end of the period of incommunicado detention, they are very frequently compelled to sign a statement in which they must pretend to have been well treated. Afterwards, victims rarely have the courage to report torture or ill-treatment, even to the investigating judge. Judicial practice shows that the courts usually take on board the records of preliminary investigations by the security services, even in cases where the accused claim to have been subjected to torture and ill-treatment. Incommunicado detention for extended periods also makes it easier to remove all traces of abuse.<sup>23</sup>

20. CMA recommends to the members of the Human Rights Council that they call on the Algerian Government to recognize the State's responsibility for violations committed by law enforcement officers and to award compensation for all injuries suffered by victims of abuse by State agents.<sup>24</sup> According to CMA, the climate of terror created by the State's law enforcement agencies, especially in Kabylia, and the fear of reprisals, especially since the declaration of a state of emergency in 1992, deters citizens from filing complaints and speaking out about the violence they have suffered.<sup>25</sup> CMA recommends, in particular, to the members of the Human Rights Council that they call on the Algerian Government to take legislative and administrative steps to bring to justice and punish the perpetrators and instigators of crimes committed in Kabylia in spring 2001, and to ensure adequate medical, psychological and social care for persons who were seriously wounded by gendarme gunfire in the same region in 2001/2002.<sup>26</sup>

21. AI notes that women remain vulnerable to violence by non-state actors, including domestic violence. The National Institute for Public Health has initiated major studies on violence against women in Algeria since December 2002, which shows that acts of violence by husbands against their wife remain prevalent. There are no specific legal provisions criminalizing domestic violence, including marital rape.<sup>27</sup> Moreover, victims of sexual violence at the hands of armed groups have suffered in particular from a lack of specific measures of rehabilitation, the social stigma attached to rape and other forms of sexual violence, and a lack of information regarding prosecution of armed group members on sexual violence charges.<sup>28</sup>

22. According to the Global Initiative to End All Corporal Punishment of Children (GIECPC), in the home corporal punishment is not prohibited by law. Children have limited protection from violence and abuse under the Family Code (1984), the Penal Code, the Code of Criminal Procedure (1966, amended 2004) and the Code of Civil Procedure (1975, amended 1990). Corporal punishment is prohibited in schools. In the penal system, it is unlawful as a sentence for crime, but there appears to be no explicit prohibition of its use as a disciplinary measure in penal institutions. Applicable law includes Law No. 05-04 on the structural code of the penitentiary organization and the social rehabilitation of convicts (2005) and Ordinance No. 73-3 relating to the protection of children and young persons. There is no explicit prohibition of corporal punishment in alternative care settings.<sup>29</sup>

### **3. Administration of justice and the rule of law**

23. FIDH takes note of the adoption of Judiciary Organization Act No. 04-11 of 6 September 2004. Apart from some tangible improvements, the Act has been heavily criticized by judges, in particular by the National Judges Association. Article 49 of Act No. 04-11 provides that the highest judicial offices shall be filled by presidential decree. FIDH is concerned that the President of the Republic is not under any obligation to consult the Higher Judiciary Council. This flaw is likely to cast doubt on the independence of judges who are so appointed, according to FIDH. Article 288 of the Code of Criminal Procedure allows the prosecutor, during judicial proceedings, to direct questions directly to witnesses or the accused, whereas the defence is required to address the judge, who then questions the witnesses. The judge may refuse to ask a question raised orally by the defence, which constitutes a breach of the principle of equality of arms and undermines the impartiality of the judge.<sup>30</sup> FIDH is also concerned about the jurisdiction of military courts to deal with certain offences committed by civilians in peacetime, for instance offences against State security. Article 68 of the Code of Military Justice stipulates that “the authority to institute criminal proceedings is vested, in all cases, in the Ministry of National Defence”.<sup>31</sup>

24. AI noted that the authorities introduced blanket amnesty measures in 2006, as part of their policy of “peace and national reconciliation”, with the stated aim of turning the page on the conflict. The Decree Implementing the Charter for Peace and National Reconciliation (Law 06-01), adopted on 28 February 2006, declared that any complaint against the security forces, and those who acted in conjunction with them, would be inadmissible in courts, so conferring complete immunity for the perpetrators of thousands of extrajudicial executions, enforced disappearances and widespread torture. Moreover, the same Decree threatened with imprisonment those who speak out about abuses by the security forces.<sup>32</sup>

25. AI recommended that Algeria repeal legal provisions introduced in Law 06-01 of February 2006, which prevent courts from investigating complaints against the security forces and those who act in concert with them, and which criminalizes free expression and debate about the conduct of the security forces. AI also recommended that Algeria should also open full, independent

and impartial investigations into all cases of enforced disappearance, secret detention and torture, which are brought to their attention, and should bring to justice those responsible for such human rights violations. Finally, AI suggests that Algerian authorities should ensure that any statement, which is established to have been made as a result of torture or ill-treatment, is not invoked as evidence in any proceedings, except against a person accused of torture or ill-treatment. It recommends that legal safeguards be introduced to this effect.<sup>33</sup>

26. CFDA reports that, after the enactment of the Civil Concord Act in 1999 and the granting of an amnesty by President Bouteflika on 10 January 2000, members of armed groups whose actions had claimed thousands of victims benefited yet again from the pardon prescribed by the regulations governing implementation of the Charter for Peace and National Reconciliation. While acknowledging the responsibility of the armed groups for serious human rights violations, Decree No. 06-01 implementing the Charter provides for the termination of criminal proceedings or the release of any individual sought, convicted or detained for terrorist acts.

27. Persons charged with or convicted of having “*committed or (...) aided and abetted or instigated mass killings, rape or the use of explosives in public places*” are barred by the provisions from being granted a pardon. However, they may benefit from measures of clemency (commutation or remission of sentence), in accordance with the terms of article 19 of the above-mentioned Decree. In practice, however, persons in these categories also benefit from amnesty measures.<sup>34</sup>

28. According to CFDA, the measures prescribed by the Charter and its implementing regulations, just like those previously prescribed by the Civil Concord Act, have been implemented without transparency or information, for instance regarding the procedure whereby the beneficiaries of the termination of criminal proceedings are designated. It is therefore feared that such measures may be applied in a discretionary manner, especially since the exclusion criteria are not sufficiently precise to ensure that the perpetrators of certain serious human rights violations will be prosecuted. Moreover, the authorities have not published the names of individuals who have benefited from the termination of criminal proceedings or have been granted an amnesty.<sup>35</sup>

29. AI reports that according to the Algerian delegation to the UN Human Rights Committee session in October 2007, some 2,500 detainees benefited from amnesty measures under the Decree Implementing the Charter for Peace and National Reconciliation.<sup>36</sup> According to CFDA, they included known leaders of armed groups, who had been imprisoned for several years, and individuals convicted of terrorist acts committed in Algeria or abroad. It follows that members of armed groups who have not yet been tried and are suspected of having committed serious violations of international human rights law may be exempt from prosecution.<sup>37</sup>

30. CFDA reports that the conditions of those legally detained are disastrous. Convicted prisoners are not segregated from remand prisoners or minors. Each detainee has, on average, 1.89 m<sup>2</sup> of space. This overcrowding is compounded by other forms of inhuman treatment in prison such as solitary confinement and lack of medical care. Regular hunger strikes and prisoner deaths are symptomatic of these conditions of detention.<sup>38</sup>

#### **4. Right to privacy, marriage and family life**

31. According to AI, Article 30 of the new Family Code prohibits marriage between a Muslim female and a non-Muslim male, whereas a Muslim man may marry a non-Muslim woman. The 2005 amendments have brought further restrictions on the practice of polygamy, although the right of a man to marry more than one woman has been maintained in law. A woman still needs the presence of a *wali* (matrimonial tutor or guardian) at her marriage, although the *wali* can now be a

person of her choice. Furthermore, under the new Family Code, the custody of children, in case of divorce, now falls first to the mother with a view to ensuring the best interests of the child. However, if the mother remarries, she loses the custody of her children. The new Code also gives women more grounds to demand a divorce, for instance disagreement between the spouses or violation of the clauses of the marriage contract. A woman may now obtain a divorce without the consent of her husband by paying financial reparation (*khol'a*). Men are not obliged to pay financial reparation when requesting a divorce. Inheritance has been left untouched by the 2005 amendments to the Family Code and daughters receive one part for every two parts received by sons.<sup>39</sup>

32. The International Lesbian and Gay Association (ILGA), in a joint submission with others, noted that Algeria maintains criminal sanctions against consensual same-sex activity. Article 338 of Algeria's Penal Code (Ordinance 66-156 of June 8, 1966) provides that: "Anyone found guilty of a homosexual act shall be punished with imprisonment for two months to two years and a fine of 500 to 2,000 Algerian dinars. If one of the perpetrators is a minor of less than 18 years of age, the penalty applicable to the adult may be increased to imprisonment for up to three years and a fine of up to 10,000 Algerian dinars."<sup>40</sup>

### **5. Freedom of religion and belief, expression, association and peaceful assembly**

33. The European Centre for Law and Justice (ECLJ) draws attention to Act No. 06-09 of 17 April 2006 adopting Order No. 06-03 of 28 February 2006, which lays down the conditions and rules applicable to religious worship by non-Muslims. The Act subjects persons who profess a religion other than Islam to a general regime of prior administrative authorization and to strict prohibitions on pain of imprisonment for one to five years and payment of a fine of between 100,000 and 1,000,000 Algerian dinars. The Act breaches Algeria's international obligations and its own Constitution, which guarantees, inter alia, freedom of conscience, non-discrimination, and freedom of expression, association and assembly.<sup>41</sup>

34. Reporters sans Frontières (Reporters without Borders) (RSF) notes that the Press Code still provides for custodial penalties, for instance for any "injurious, insulting or defamatory criticism of the President of the Republic". Moreover, the Decree adopted in February 2006 Implementing the Charter for Peace and National Reconciliation stipulates that penalties of five years' imprisonment and fines shall be imposed on any individual who, "by statements, writings or any other act, uses or exploits the wounds inflicted by the national tragedy to attack the institutions of the People's Democratic Republic of Algeria, to sully the honour of the officials who have served it with dignity, or to tarnish Algeria's international image".<sup>42</sup>

35. FIDH notes that since 2001 innumerable Algerian journalists have been charged with defamation and convicted by the courts.<sup>43</sup> In 2005 at least 114 press-related cases were recorded. They resulted in about one hundred affirmative or suspended prison sentences and fines. Although the President of the Republic of Algeria, Abdelaziz Bouteflika, pardoned journalists convicted of "defamation" and "insulting institutions and bodies corporate" in May 2006, this step did not put an end to repressive action against the Algerian press. The media continued to be prosecuted in 2006 and 2007 and still fear that they may be closed down by a court decision.<sup>44</sup>

36. According to RSF, journalists who write articles dealing with corrupt practices in the regions or with President Bouteflika's state of health may still end up in the police station. Self-censorship has become the general rule in the Algerian press, which had previously been rated as among the freest in the Arab world. Faced with the cumbersome prospect of multiple court cases, press chiefs censor their own journalists to avoid further legal disputes. Moreover, the State controls 80 per cent

of advertising expenditure, which is vital for the survival of any media company. Only newspapers that are close to the authorities or that at least adopt a conciliatory approach to them are granted shares of this market.<sup>45</sup>

37. RSF recommends to the Algerian authorities that they decriminalize press offences and amend the Press Code so that media professionals are guaranteed the necessary protection. RSF also recommends to the Algerian authorities that they take steps to protect regional correspondents who are threatened by local criminal organizations.<sup>46</sup>

38. FIDH notes that the audiovisual media remain a public monopoly and serve as a propaganda tool for the ruling regime. There is only one Algerian television channel, which as a matter of course severely restricts pluralism of information. The authorities do not allow those who are critical of them to air their views on the radio stations or the single television channel, except when they are required by law to provide airtime to political parties and/or candidates in the case of certain elections. The seriousness of this restriction is compounded by the fact that a significant proportion of the population is still illiterate and is therefore without access to the print media.<sup>47</sup>

39. RSF notes that the Internet is almost completely unregulated and serves as an effective means of circumventing Government censorship. However, journalists suspect that their electronic correspondence may be monitored. Article 14 of a Telecommunications Decree promulgated in 1998 stipulates that Internet service providers “must assume responsibility for the content of the websites and data servers that they administer or host”. They are required, in particular, “to take all necessary measures to ensure constant surveillance of the content and of the servers to which their subscribers have access”, the aim being “to prevent access to servers containing information that is contrary to public order (*ordre public*) and morals”. However, no case of Internet censorship has been reported since the adoption of this Decree.<sup>48</sup>

40. According to FIDH, many associations and trade unions have encountered major difficulties since the declaration of the state of emergency in terms of both securing recognition at the local, regional and national level and implementing their activities. While article 7 of Act No. 90-31 on associations makes the establishment of an association, except in the case of foreign associations, subject only to a declaratory regime, the practice introduced by the authorities has turned approval into an obligation. Although the law makes no mention of approval as such, it seems that in practice such approval is demanded at each stage and, in particular, for the opening of a bank account. Moreover, associations quite frequently fail to obtain acknowledgement of registration, even after the legally prescribed period of 60 days. Lastly, administrative and legal impediments hamper operational capacity and preclude access to any subsidy within Algeria. With regard to funding, article 28, paragraph 2, of Act No. 90-31 of 4 December 1990 stipulates that only the Minister of the Interior has authority to decide whether subsidies from abroad are admissible.<sup>49</sup>

41. Peaceful demonstrations and meetings have always been controlled by the authorities. According to FIDH, they have been severely repressed since the declaration of the state of emergency. This policy culminated in 2001 in the repressive action taken against demonstrators following the events organized in support of Kabylia that year. Since then, according to FIDH, there has been a tacit legal ban on demonstrations. FIDH adds that the authorities have assumed unfettered control of the media as well as of the streets and meeting halls. CFDA and SOS Disparus (SOS Disappeared), which had launched a counter-campaign to air their fears of serious violations of the fundamental rights set forth in the Charter, were rapidly prevented by the authorities from taking action.<sup>50</sup>

42. FIDH notes that when Algeria was elected to the new United Nations Human Rights Council on 9 May 2006, it publicly committed itself to taking diverse measures in support of the protection and promotion of human rights, in particular “by advocating equal treatment of human rights [...] and [by fostering] dialogue and consultation”. Although article 33 of the Algerian Constitution of 28 November 1996 guarantees the right to defend basic human rights and individual and collective freedoms, the Algerian authorities take unremitting repressive action against human rights defenders, whether they act collectively (associations, political parties) or individually (lawyers, journalists, etc.).<sup>51</sup>

43. According to CMA, the revised Criminal Code (May 2001) seriously undermines freedom of expression since heavy fines and harsh prison sentences will henceforth be imposed on “any person found guilty of abusing, insulting or defaming the President of the Republic and State institutions”, terms which are not clearly and precisely defined.<sup>52</sup> Moreover, the state of emergency decree grants considerable powers to the Minister of the Interior and the *walis* (governors of regions) which allow them to ban any demonstration. Even cultural and scientific activities are prohibited when they are organized by independent associations.<sup>53</sup> CMA recommends to the members of the Human Rights Council that they call on the Algerian Government to accord every Algerian genuine freedom of belief and conscience under the Constitution.<sup>54</sup>

### **6. Right to an adequate standard of living**

44. CMA adds that Kabylia, as a mountainous and wooded region close to Algiers (50 km), serves as a place of refuge for the Armed Islamic Group (GIA). According to numerous witness accounts from local people, the military deliberately sets fire to the region’s forests in order to dislodge them. In 2007, thousands of hectares were burnt, especially in the Yakouren and Sidi-Ali-Bounab regions, destroying plantations of olive, fig and chestnut trees and other resources.<sup>55</sup> CMA recommends to the members of the Human Rights Council that they call on the Algerian Government to compensate Kabyle farmers whose fields have been burnt by the Algerian army and to allow Kabyle communities equitable access to their natural resources, particularly water.<sup>56</sup>

### **7. Human rights and counter terrorism**

45. According to AI, the definition of terrorist offences is so broad as to allow for the criminalization of the peaceful exercise of certain civil and political rights. According to Article 87 *bis* of the Penal Code, the definition of terrorism includes offences liable, inter alia, to threaten state security, territorial integrity and the normal functioning of institutions by acts such as endangering life or property. These vague provisions have been interpreted to include the peaceful exercise of civil and political rights.<sup>57</sup>

## **III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS**

46. [n/a]

## **IV. KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS**

47. AI reported that the authorities have taken encouraging steps to end discrimination against women, by amending the Family Code and the Nationality Code in 2005. Under the Family Code, women are no longer legally required to obey their husbands and there is now an equal set of duties for both spouses.<sup>58</sup>

48. AI welcomes the positive steps taken towards the abolition of the death penalty by reducing in 2006 the scope of offences punishable by death in the Penal Code.<sup>59</sup>

## V. CAPACITY BUILDING AND TECHNICAL ASSISTANCE

49. [n/a]

### Notes

<sup>1</sup> The following stakeholders have made a submission (all original submissions are available in full text on: [www.ohchr.org](http://www.ohchr.org)):

#### Civil Society:

AI:	Amnesty International*;
AW:	Algeria Watch;
CFDA:	Collectif des familles de disparu(e)s en Algérie;
CMA:	Congrès Mondial Amazigh;
ECLJ:	European Centre for Law and Justice*;
FIDH:	Fédération internationale des ligues des droits de l'homme*;
GIECPC:	Global Initiative to End All Corporal Punishment of Children;
ILGA:	(Abu Nawas, International Lesbian and Gay Association, ILGA-Europe,* Pan African ILGA, Coalition of African Lesbians, The Rainbow Project, International Gay and Lesbian Human Rights Commission and ARC International);
KHR	Al Karama for Human Rights*;
RSF	Reporters sans Frontières*.

NB: \* NGOs with ECOSOC status.

<sup>2</sup> KHR, UPR Submission, November 2007, p. 3. See also Algeria Watch, UPR Submission, 20 November 2007, p. 1.

<sup>3</sup> FIDH, UPR Submission, November 2007, p. 3.

<sup>4</sup> FIDH, p. 3.

<sup>5</sup> AI, UPR Submission, November 2007, p. 2.

<sup>6</sup> AI, p. 5.

<sup>7</sup> CMA, p. 1.

<sup>8</sup> CMA, p. 1.

<sup>9</sup> CMA, p. 6.

<sup>10</sup> AI, p. 1.

<sup>11</sup> AI, p. 3.

<sup>12</sup> KHR, p. 5-6.

<sup>13</sup> KHR, p. 5.

<sup>14</sup> CFDA, UPR Submission January 2008, p. 4. For information on individual cases see KHR, p. 6.

<sup>15</sup> KHR, p. 5; see also CFDA, , p. 6.

<sup>16</sup> AI, p. 3; see also CFDA, p. 6.

<sup>17</sup> AI, p. 3; see also CFDA, p. 5. For information on individual cases see KHR, p. 4; CFDA, p. 5.

<sup>18</sup> AI, p. 4.

<sup>19</sup> AI, p. 5

<sup>20</sup> CFDA, p. 5.

<sup>21</sup> AI, p. 4.

<sup>22</sup> CFDA, p. 6; see also KHR, p. 4.

- <sup>23</sup> KHR, p. 4.
- <sup>24</sup> CMA, p. 6.
- <sup>25</sup> CMA, p. 2.
- <sup>26</sup> CMA, p. 6.
- <sup>27</sup> AI, p. 5.
- <sup>28</sup> AI, p. 2; see also CFDA, p. 5.
- <sup>29</sup> GIECPC, UPR Submission, November 2007, p. 2.
- <sup>30</sup> FIDH, p. 2.
- <sup>31</sup> FIDH, p. 3.
- <sup>32</sup> AI, p. 2; see also CFDA, p. 3; CMA, p. 3.
- <sup>33</sup> AI, p. 5
- <sup>34</sup> CFDA, p. 4.
- <sup>35</sup> CFDA, p. 4.
- <sup>36</sup> AI, p. 2.
- <sup>37</sup> CFDA, p. 4.
- <sup>38</sup> CFDA, p. 6.
- <sup>39</sup> AI, p. 1; see also CMA, p. 3.
- <sup>40</sup> ILGA, UPR Submission, p. 1.
- <sup>41</sup> ECLJ, UPR Submission, November 2007, p. 1-2.
- <sup>42</sup> RSF, UPR Submission, November 2007, p. 1.
- <sup>43</sup> FIDH, p. 4; see also AI, p. 4, as well as for information on individual cases.
- <sup>44</sup> FIDH, p. 4-5.
- <sup>45</sup> RSF, p. 1.
- <sup>46</sup> RSF, p. 2.
- <sup>47</sup> FIDH, p. 4.
- <sup>48</sup> RSF, p. 2.
- <sup>49</sup> FIDH, p. 5.
- <sup>50</sup> FIDH, p. 5-6; see also Algeria Watch, p. 5 and CFDA, p. 3; as well as for information on individual cases.
- <sup>51</sup> FIDH, p. 6; see also for information on individual cases.
- <sup>52</sup> CMA, p. 3.
- <sup>53</sup> CMA, p. 2.
- <sup>54</sup> CMA, p. 6.
- <sup>55</sup> CMA, p. 3.
- <sup>56</sup> CMA, p. 6.
- <sup>57</sup> AI, p. 3.
- <sup>58</sup> AI, p. 1.
- <sup>59</sup> AI, p. 1.