

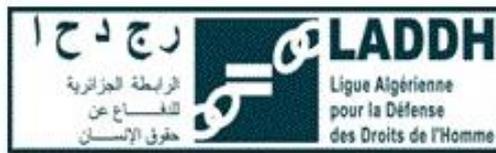
ALGERIAN CIVIL SOCIETY COALITION REPORT FOR THE UNIVERSAL PERIODIC  
REVIEW OF ALGERIA

(Translated from French)

Third cycle

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en  
Algérie

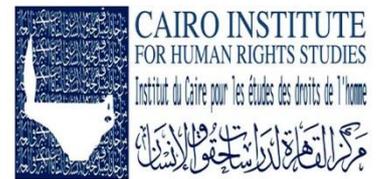
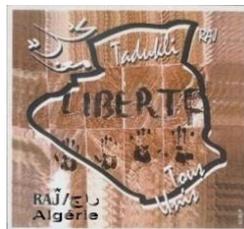
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شبكة المحامين للدفاع عن حقوق الانسان  
The Network of Lawyers for the Human Rights  
Réseau d'Avocats Pour la Défense des Droits de l'Homme



EuroMed Rights  
EuroMed Droits  
الأورو-متوسطة للحقوق



Submitted in September 2016

# ALGERIAN CIVIL SOCIETY COALITION REPORT FOR THE UNIVERSAL PERIODIC REVIEW OF ALGERIA

## Third cycle

**Submitted in September 2016**

1. This joint report has been drafted in cooperation with 5 organisations from Algerian civil society<sup>1</sup> in order to provide an alternative contribution to the third Universal Periodic Review (UPR) of Algeria. Different themes have been identified according to the work priorities of the signatory Algerian organisations. The report is based on work of monitoring, documentation and research carried out in the field by these organisations – either individually or in cooperation with EuroMed Rights.
2. Since the last review of Algeria in 2012, the recommendations accepted by Algeria – particularly with regard to the freedoms of association and assembly and trade union freedoms – have not been implemented effectively. Our organisations have, instead, noted a deterioration in terms of public freedoms. Due to their activities in favour of human rights, certain members of the signatory organisations – including trade unionists, lawyers and young activists – have been subject to judicial harassment, arrests or arbitrary dismissal.
3. Due to the deterioration in purchasing power following the collapse in the prices of oil and the budgetary restrictions planned for 2016, the economic and social context is regressing and dissident voices continue to be stifled. Despite some small steps forward – such as the recognition of the Amazigh language as the second official language – the constitutional text, which was revised in 2016, does not, in fact, initiate a democratic transition in any way. It constitutionalises impunity by embodying in the constitution the principles established in the “Charter for Peace and National Reconciliation,” ruling out once and for all the demands for truth and justice.

### **A. Restrictions on freedoms of association, assembly and expression**

4. In the wake of the revolts known as the “Arab Spring,” in early 2011, the Algerian authorities announced political reforms to meet the expectations of society and, in particular, they announced the lifting of the state of emergency; several acts which affected public freedoms, such as Act 12-06 relating to associations, were adopted in January 2012. Most of these, however, represent a step backwards.
5. The recommendations of the UPR of 2012 which touched on the promotion of freedoms of assembly, of association and of expression (129.12 to 129.18, 129.22, 129.23, 129. 66 to 129.69) have not been implemented effectively.

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<sup>1</sup> Coalition of families of the disappeared in Algeria (CFDA), the Algerian League for the Defense of Human Rights (LADDH), the Network of Lawyers for the Defense of Human Rights (RADDH), the Rally for Youth Actions (RAJ), the National Autonomous Union of Public Administration Staff (SNAPAP), with the coordination of EuroMed Rights and the Cairo Institute for Human Rights (CIHRS).

6. Law n° 12-06 on associations contains provisions which suffocate<sup>2</sup> associative action: it requires prior authorisation for them to function and conditions activity in vague terms (Art. 2: *“the purpose and aims of its activities must fall within the general interest and must not run contrary to constants and national values [...]”*), conditioning any cooperation with international NGOs and the receipt of financing to prior agreement of the authorities (Art. 23 and 30). The members of an association which has not been registered run the risk of prison sentences.
7. Article 39 is an infringement of the right to participate in public affairs: *“it proceeds with the suspension of the association’s activity or its dissolution in the event of interference in the internal affairs of the country or the undermining of national sovereignty.”* In Oran, the Association of Residents of Canastel (ARC) and the Committee of the El Bahia District were suspended in 2013 on the basis of Article 39 but won their case at the Administrative Tribunal.
8. Associations face arbitrary administrative obstacles such as the refusal to issue a receipt for the submission of an application. Thus, the Algerian League for the Defence of Human Rights (LADDH) and the Rally for Youth Action (RAJ) have not yet received confirmation of the “compliance” required by the new act; the RAJ was refused permission to hold its Assembly for Compliance in 2013, whilst SOS-Disappeared Persons has not been able to register since its creation.
9. Article 63 conditions the actions of foreign associations through an inter-governmental cooperation agreement and registration conditions are more drastic than for national associations, and their suspension is even easier.
10. The prohibition and repression of peaceful gatherings has continued. Despite the lifting of the state of emergency, the right to demonstrate is still subject to prior authorization and even peaceful but unauthorised demonstrations are considered to be illegal with demonstrators running the risk of prosecution (Art. 99-100 of the Criminal Code).
11. On April 6<sup>th</sup>, 2016, a gathering of contract teachers in front of the presidential residence was brutally broken up. The gathering against shale gas on February 24<sup>th</sup>, 2015, in In Salah and demonstrations by the National Coordination of Unemployed Graduates (CNDDC) continue to be forbidden; on February 6<sup>th</sup>, 2016, a conference on socio-economic rights was forbidden at the Trade Union Headquarters in Algiers and the venue (private) was encircled by the police<sup>3</sup>. On all of these occasions, activists were arrested and legal action was taken against some of them at a later date.
12. There have also been infringements of activists’ freedom of movement: 96 activists were prevented from leaving Algeria to participate at the World Social Forum in Tunis in March 2013. Nine Maghrebin activists (Moroccans, Tunisians and Mauritians) who were due to participate at a meeting of unemployed graduates in Algiers had been expelled from Algeria a month earlier, in February 2013.
13. Judicial harassment against human rights defenders is getting worse: Rachid Aouine, a CNDDC activist, was prosecuted for unarmed assembly and was sentenced to 4 months in prison (April 7<sup>th</sup>, 2015); Mohamed Reg was sentenced to 18 months in prison for participating at a

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<sup>2</sup> Algeria: the slow asphyxiation of associations. A study of the application of Act n° 12-06 of January 12<sup>th</sup>, 2012 relating to associations. Coalition of families of the disappeared in Algeria (CFDA), June 2015

<sup>3</sup> EuroMed Rights: <http://euromedrights.org/publication/algeria-freedom-to-organise-and-freedom-of-assembly-violated-once-again/>

demonstration by the CNDDC (February 2015); Abdelghani Aloui, a blogger, was sentenced to 6 months in prison for “attacking governing bodies” (March 11<sup>th</sup>, 2016); Hassan Bouras, a journalist and former member of the LADDH, was arrested on October 4<sup>th</sup>, 2015 and freed after 3 months of pre-trial detention – he is still being prosecuted for insulting governing bodies; Kameldine Fekhar, an activist for the independence of Mzab and the rights of the Mozabite people from the south of Algeria, was arrested with 25 activists from his movement after inter-community violence in Ghardaïa in early July 2015. They are accused of numerous crimes which carry the death penalty and are still being detained without trial in conditions which are a cause for concern.

14. The Algerian media is still dominated by public media and access thereto for non-state players is very restricted. Private medias are threatened with closure or censure for programs which are critical of the government<sup>4</sup>.

## **B. Situation of migrants and asylum seekers**

15. During the UPR of 2012, no recommendations were made with regard to the situation of migrant populations in Algeria or with regard to the political and humanitarian management of the situation. On the occasion of the third cycle of the UPR of Algeria, our organisations consider that the issue of protection and the access to fundamental rights for refugees and migrants should no longer be neglected in a country – which is historically one of emigration or transit – but which is gradually becoming a country of destination.
16. The authorities talk of more than 50,000 people who originate from different African countries and 16,000 entries in 2015, with women and children accounting for 50%. There are about 40,000 refugees from Syria, of which 3,000 were registered with the HRC at the end of 2015.
17. Algeria has acceded to international instruments for the protection of the rights of refugees and migrant workers. It has also acceded to the protocol on human trafficking – particularly with regard to women and children – and to the protocol relating to the fight against the illegal trafficking of migrants. A new legal framework for asylum is currently being prepared in Algeria. Pending this law, refugees remain without protection as they are assimilated with people in irregular situations.

### **Access to healthcare**

18. Even though progress can be noted with regard to access to emergency care and the management of infectious diseases and childbirth, access to healthcare is still obstructed by discriminatory practices against Sub-Saharan migrants due to stigmatisation of single mothers and the irregular situation of migrants. Police checks carried out in certain health establishments discourage sick migrants from going there, endangering their health – particularly for pregnant women. Moreover, as migrants in an irregular situation are unable to benefit from social security cover, medical treatment is a lot more expensive.

### **Access to education**

19. The fact that several children of parents in an irregular situation have enrolled in public establishments represents progress and this access to education is guaranteed for Syrian children.

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<sup>4</sup> EuroMed Rights: <http://euromedrights.org/publication/jointfree-expression-groups-alarmed-by-attacks-on-independent-media-in-algeria/>

Nevertheless, access to education is still very limited for migrant populations and asylum seekers, and is only made possible thanks to the intervention of associations. This procedure is in contradiction with international standards for the protection of children's rights.

20. Taking criteria such as the child's mother tongue or the legal situation of the parents as justification for restricting access to schooling represents a discrimination and an infringement of fundamental rights. These procedures push children towards the marginality in which their parents find themselves.

#### **Access to work**

21. The right to work for migrants and asylum seekers is not guaranteed in the legislation, and access to work is conditioned by the issuance of a residence permit. This condition throws thousands of migrant workers into informal employment and exposes them to exploitation and human trafficking. Women find themselves in highly vulnerable situations with the risk of being exploited in restricted work or by criminal networks.
22. In 2015, the declarations made by some political leaders expressing the government's willingness to grant work permits for a one-year period in the area of public works for the nationals of certain countries were never followed through. Some Algerian employers take advantage of a workforce which can be exploited at will and undocumented workers are not uncommon in public works.
23. Asylum seekers and refugees are excluded from the formal labour market in contradiction with the Geneva Convention on refugees and its additional protocol.

#### **Access to justice**

24. The right to effective judicial redress is not guaranteed for migrants who are victims of violence or exploitation. This denial of justice prevents victims from coming forwards, increasing their vulnerability, the grip of criminal networks and impunity.
25. When migrants are judged for illegal residence, no translations in the mother tongue are available so that the defendant can be heard.
26. Prosecutions for illegal residence and expulsions are even more illegitimate as the Algerian legal framework does not enable migrants who have entered the country illegally to take steps to regularise their administrative situation.

#### **Anti-migrant violence and xenophobic speech**

27. Some newspapers have carried out violent campaigns which disparage migrants and hold them responsible for illnesses or social strife.
28. Anti-migrant violence is developing in some regions of Algeria, where citizens have violently attacked migrants, chasing them from their places of residence and employment. This violence indiscriminately targets men, women and children. On March 2<sup>nd</sup>, 2016 in Ouargla, after a migrant killed an Algerian citizen, "reprisals" injured 20 people and more than 1,200 migrants were expelled from the town. On March 25<sup>th</sup>, 2016, an attack against migrants in the town of Bechar injured dozens of people, including women and children. Once again, the authorities proceeded to evacuate dozens of migrants towards other towns, without opening an enquiry into the attack

or prosecuting the perpetrators. The migrants had to flee and many of them were unable to take their belongings or their money.

29. Algeria continues to carry out mass expulsions. In December 2014, the authorities rounded up and put on file hundreds of migrants in order to expel them to Niger – arguing this was at the request of the latter’s authorities. These expulsions have given rise to inhuman and degrading treatment by authorities who have used disproportionate force and caused pointless material damage to migrants<sup>5</sup>.

#### **Obstacles to civil society**

30. Faced with this difficult situation, the HRC and NGOs, who have little scope for flexibility, represent the only stopgap, whilst operating in an opaque and poorly adapted legal framework.
31. The authorities limit the initiatives of civil society which support migrants in the same way as they also repress independent associative action: for example, the Wilaya (prefecture) of Oran refuses to accept the file which relates to the organisation of the fourth Maghrebin Social Forum on migration.

### **C. The situation regarding trade union freedoms & labour law**

32. Since the drop in oil prices in 2014 and faced with trade imbalance, the State has used regulatory funds to cushion the shock. However, the crisis can still be felt. The imposition of measures of austerity implies the repression of social and trade union fields, and this has materialised in the current draft to reform the Labour code.
33. The non-application of regulations in the area of social law and trade union law is the main problem.

#### **Repression of independent trade unions and trade unionists**

34. Algeria has not implemented recommendation 129.108 of 2012 relating to the free creation of independent trade unions and confederations.
35. Trade unions face obstacles when registering – transforming the declaration procedure into one of approval. The legal deadline of one month to issue the registration is never respected by the administration. The response is usually silence and, sometimes, formal refusal (from complaints filed with the Ministry of Labour).
36. Since Algeria was reviewed before the ILO’s Commission on the Application of Standards in 2014 and 2015, the ministry has issued registration to two trade union organisations from the public sector (the trade union of Electricity and Gas workers and the trade union of Postal workers). At the same time, it has struck off the members of national departments of the two unions.

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<sup>5</sup> Interview with LADDH: [http://www.huffpostmaghreb.com/2014/12/25/migrant-niger-algerie\\_n\\_6379864.html](http://www.huffpostmaghreb.com/2014/12/25/migrant-niger-algerie_n_6379864.html)

37. The authorities interfere in internal affairs and practice the “cloning” of trade unions in order to create confusion and choose the representatives of their choice.
38. Many independent trade unionists have been suspended or arbitrarily revoked without any possibility of effective redress. Even when administrative or social tribunals have ruled in their favour, these decisions have not been applied. Personal consequences are dramatic.
39. Trade union activism is criminalised and activists are regularly prosecuted. SNAPAP’s premises have been closed several times by administrative decision, meetings have been encircled by the police and activists have been arrested – with some of them being subject to a ban on leaving the country (see paragraphs 7, 8 and 9); physical threats have led activists to go into exile and request political asylum.

#### **Draft reform of the Labour code**

40. The draft reform of the Labour code represents a step backwards for many rights and does not comply with international standards – both with regard to the individual and collective rights of workers.
41. Henceforth, the fixed-term contract will be the norm: the employment contract can be changed without the worker’s agreement; the definition of night work has changed to the detriment of the worker; women, workers and apprentices aged less than 18 years old are no longer exempt from this. The reform would allow for the employment of children “outside periods of schooling and only during half of the school holidays,” and in work which is not susceptible to affect their physical and mental integrity or their morality – with a list being determined in the regulations. Issues of hygiene and safety at work have disappeared and only serious accidents and occupational diseases (whose number is limited by regulation) are broached.
42. The draft Labour code integrates elements of the criminal code with regard to sexual harassment but does not go any further, leaving disciplinary sanctions to the company’s rules of procedure.
43. The reform weakens workers’ recourse to industrial tribunals by permitting an appeal (and thus the risk of using up the resources of the worker who is in a labour dispute with his employer). It also suppresses daily fines for companies which do not apply the legal decision.
44. The number of required founder members has increased (25 persons from 16 different wilayas (departments)). Other administrative obstacles have also been implemented: for example, a bailiff must be present at the constituent general assembly and for internal elections.
45. The right to strike is restricted and fettered: notice of the strike must be filed on the same day as its vote; receipt of filing is demanded (but this is never actually handed over); it is forbidden to suspend or postpone a strike; there is an obligation of minimum service decided upon by the employer or the administration after simple consultation with the social partner; there is an extension of the obligatory minimum service in dispensing the educational programs of national examinations, in response to the mobilizations of the education sector in 2015-2016.

46. The sanctions provided for against workers are harsher. On the other hand, a simple fine will be imposed on employers in the event of a refusal to file or the negotiation of a collective agreement – although this is the keystone in employer – social partner relations.

#### **Precarious and informal employment**

47. The Labour ministry indicates an unemployment rate of 10%. However, different forms of precarious work artificially increase the number of employees whilst making it possible to get round legislation on the minimum salary.
48. The share of precarious work increases with the expansion of the sub-contracting sector in the area of recruitment. This began in the oil sector and extends to all the sectors. Social conflicts related to this phenomenon shook the SONATRACH in 2011 and catering and food companies in 2013.
49. Informal work is still very important both with regard to the number of jobs and the amounts of money involved. In 2014, out of a total of 10,239,000 workers, there were 5,972,000 registered at social security and 4,267,000 who were unregistered. In 2012, the informal economy employed almost 3.89 million workers, with almost 45% in the trade and services sector, 37% in the building and public works sector and 17% in the processing industries sector<sup>6</sup>. In February 2015, the minister of trade declared that the amount of trade without invoices had exceeded the amount of 206 billion dinars since 2010. Despite this remark, no measures have been taken.
50. For several years now, taxes have lowered for employers and have increased for workers. A fiscal council was set up in 2013 – this does not have a single worker representative whereas seven employer associations are represented.

#### **D Enforced disappearances and impunity**

51. During the 1990s, Algeria experienced an internal conflict which was marked by numerous infringements of human rights. Trapped in a vice by both sides, the civilian population was simultaneously subjected to the violence of armed groups and the repression of the State's security forces. This conflict, which resulted in almost 200,000 victims, led to the disappearance of thousands of persons.
52. In 2008, the Algerian government officially recognised the existence of 7,200 cases of enforced disappearances between 1992 and 1998<sup>7</sup>. Despite this recognition, no political will to deal with the issue in a satisfactory manner has yet been noted. Institutional laws and mechanisms which claim to deal with the issue, particularly the Charter for National Peace and Reconciliation (hereafter called "*the Charter*") and its implementing provisions, have merely been the means to guarantee the impunity of presumed perpetrators of infringements and to settle the issue through a compensation procedure which establishes the denial of the right to Truth and Justice.
53. Since the UPR of Algeria in May 2012, the Algerian authorities have not implemented any of the recommendations made by the members of the Human Rights Council with regard to enforced disappearances, particularly recommendations n° 5, 6, 93 and 94.

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<sup>6</sup> According to the study carried out by the CGATA for the Arabic International Trade Union Confederation, Tunis, 27-03-2015 (in Arabic).

<sup>7</sup> CNCPPDH, Annual Report 2013, page 22, accessible on: [bit.ly/1WUOML9](http://bit.ly/1WUOML9)

### **Non-cooperation with mechanisms relating to human rights**

54. Algeria has continued its non-cooperation with experts in special procedures and the United Nations' mechanisms for the protection of human rights. Although the Algerian authorities sent an official invitation to the Working Group on Enforced and Involuntary Disappearances (GTDFI) in February 2014, they did not accept the different dates which the GTDFI proposed to them. Moreover, Algeria has not sent an invitation to the Special Rapporteur on the promotion of truth, justice, reparation and the guarantees of non-recurrence.
55. Algeria still has not ratified the International Convention for the protection of all persons against enforced disappearances and has not recognised the competence of the Committee of Enforced Disappearances to receive and examine individual communications.

### **Absence of investigation into cases of enforced disappearance**

56. Although Algeria has been condemned on twenty-nine occasions by the Human Rights Committee in affairs of enforced disappearances, no investigation has ever been carried out to elucidate the cases of disappearances signalled by victims' families. The Algerian authorities consider that the file is closed and consider that families have obtained redress within the framework of the procedure implemented by the Charter.
57. However, this procedure is far from ensuring proper settlement in the file of disappeared persons. In fact, it prevents any investigations into the fate of disappeared persons from being opened and declares that any complaint or allegation is inadmissible, thus depriving families of the right to effective redress.<sup>8</sup> Moreover, the procedure proposes compensation in exchange for the establishment of a disappearance report followed by a verdict of death – this represents a very painful procedure for the families.
58. In their declarations, the Algerian authorities contend that 95% of the families of disappeared persons have accepted to definitively close the issue by accepting the compensation offered. However, the Algerian authorities have always guarded against specifying the modalities for establishing this data, and there are many doubts as to its reliability. The conclusions of the Charter's application unit have never been made public. No list containing the names of the disappeared persons has ever been published and the official figures for the number of disappeared persons diverge. Despite the demands for Justice and Truth by the families of disappeared persons, on February 7<sup>th</sup>, 2016, Algeria adopted a new Constitution which refers to the "*national tragedy*" and "*national reconciliation*" in its preamble, thus attributing a constitutional value to the principles established in the "*Charter*."
59. Our organisations dispute the figures put forward and denounce the measures taken by the authorities. They consider that the number of disappeared persons could go beyond official estimations – between 10,000 and 20,000 people. The CFDA and SOS Disappeared alone have gathered several thousand testimonies (4,635)<sup>9</sup> giving details about the circumstances and perpetrators of disappeared persons. This mainly involves men, most of whom are aged between 20 and 35 years old, who were arbitrarily arrested during the conflict and kept in secret detention by the agents of the State under the pretext of the fight against terrorism.

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<sup>8</sup> Order n° 06-01 of February 27<sup>th</sup>, 2006

<sup>9</sup> Collective of the Families of Disappeared Persons in Algeria (CFDA), *Enforced Disappearances in Algeria: a crime against humanity?*, March 2016, accessible on: [bit.ly/1YVD0yH](http://bit.ly/1YVD0yH)

60. Out of the 3,132 cases of disappeared persons signalled by victims' families at the GTDFI, 21 involve women. Besides being amongst the direct victims of disappearances, women also suffer from the consequences resulting from the disappearance of their loved ones. Today, most families with a member who is reported as missing are made up of women and children who not only live in a psychologically trying situation but are also unable to mourn properly. Moreover, some of them have to face a precarious material situation after the disappearance of the family breadwinner. No measures have been taken to deal with their traumatism.

#### **Refusal of verdict and identification of bodies**

61. Due to the judicial immunity guaranteed by the Charter, Algeria has not adopted measures to pursue, judge and punish the alleged perpetrators of enforced disappearances. In practice, this means that prosecutors refuse to investigate complaints relating to an enforced disappearance, whether they are directed by name against a State agent or request the opening of an investigation into the fate of the disappeared person. These complaints are automatically closed without any follow-up.

62. The refusal to carry out investigations into cases of enforced disappearances is even more worrying at a time when it is estimated that there are about 3,000 tombs under X in the El Alia cemetery in Algiers and mass graves in Oued El Harrach, Tizi Ouzou, Laghouat and Batna.<sup>10</sup> Moreover, it has been noted that no measures have been taken to open these mass graves which could contain the remains of disappeared persons. Despite demands made by the families, prosecutors refuse any exhumation of bodies in order to identify the victims of enforced disappearances. Although families have declared that they are prepared to provide DNA samples, no forensic science studies have been undertaken by the Algerian authorities in order to identify the bodies found in the mass graves.

#### **Interdiction to demonstrate for victims' families**

63. All of the measures which are mentioned above are bolstered by a general ban on using freedom of expression to call into question the official version of history ratified by the Charter. There are many cases in which the forces of order have prevented family members from meeting together and have repressed their peaceful gatherings. The weekly demonstrations which have been held by the families of disappeared persons every Wednesday in Algiers since August 1998 are systematically forbidden.

#### **Exploitation of magistrates by the executive power in the processing of requests relating to enforced disappearances**

64. Since the adoption of the Charter for Peace and National Reconciliation, the legal authorities have refused to open investigations into the fate of disappeared persons and into the identity of perpetrators of forced disappearances. To do so, they have relied on Article 45 of Order 06-01 and the directives of the Algerian government.

65. The prosecutors of the Republic, for example, cite obstructions by the executive power in order to refuse to comply with requests for the exhumation of bodies. In the affair of the missing person, Mourad Bendjael, the prosecutor of the Republic at Sidi M'Hamed tribunal informed the family

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<sup>10</sup> The Young Independent, *Discovery of ten mass graves from the 90s*, January 19<sup>th</sup>, 2015, available on: [bit.ly/1pKvCKG](http://bit.ly/1pKvCKG)

that the opening of a tomb which might contain the remains of the disappeared person could not be carried out because he had not obtained authorisation from the “holders of high office.”

66. If ever the family’s requests are accepted, they will have to face other obstacles which prevent them from succeeding. Our organisations have witnessed several situations in which, after hearing the members of victims’ families, the prosecutors have added elements to the text of the minutes in order to invalidate requests. Ms. Roumili was summonsed after requesting, on March 25<sup>th</sup>, 2015, the opening of an investigation into the fate of her missing son, Farid Roumili. She declared before the prosecutor of the Sidi M’hamed tribunal that her son had been arrested by the agents of military security (DRS) in official uniform and carrying arms. Once the hearing had finished, and unable to read Arabic, she asked her lawyer to read the minutes of the hearing before she signed them. The latter then noticed that the transcription by the registrar mentioned that the disappeared person had been “kidnapped by unknown persons.” The lawyer asked for the text to be modified, and Ms. Roumili finally accepted to sign it. The request was eventually closed without any follow up.
67. Instead of replying to requests, prosecutors enjoin families to turn to the judge of family affairs in order to commence the compensation procedure provided for in Articles 27 to 39 of Order n° 06-01. This procedure makes provision for the family of the disappeared person to have a disappearance report established by the legal police at the end of a search which has remained unsuccessful<sup>11</sup>. According to legal provisions, these disappearance reports are supposed to be issued after investigations have been carried out. In practice, however, the families are simply heard by the police force and the reports are issued without any effective investigation having been carried out.

## **E. Recommendations**

### **Freedoms of association, of assembly and of expression**

68. Repeal Act 12-06 relating to associations by adopting a new act which fully upholds freedom of association in accordance with the international covenant relating to civil and political rights.
69. Lift all fetters and restrictions in law and practice relating to the freedom of assembly and peaceful demonstration and effectively implement a notification procedure; bring an end to police repression of demonstrations as well as legal proceedings against peaceful demonstrators.
70. Free human rights defenders and activists from civil society who are in prison for having exercised their right to the freedom of expression, assembly and association, guarantee their freedom of movement and cease judicial harassment against them.
71. Repeal legal provisions which criminalise peaceful activities that fall under freedoms of expression, assembly and of the press, particularly Articles 99-100 of the Criminal Code and articles 2, 5, 6bis, 17 of Law n°91-19 of 1991 on meetings and public gatherings.

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<sup>11</sup> Article 27 of Order 06-01: “The status of the victim of the national tragedy arises from a disappearance report established by the legal police at the end of a search which has remained unsuccessful.”

72. Cooperate fully with the Human Rights Council and Special Procedures by replying favourably and without delay to their requests to visit; grant visas without delay to representatives of international human rights organizations who ask to visit Algeria.

#### **Rights of migrants and asylum seekers**

73. Adopt a legislative framework in accordance with international conventions, particularly the Geneva Convention relating to the status of refugees and its additional protocol, and the Convention for the protection of migrant workers and their families. Repeal Act 08/11 relating to the entry and residence of foreigners in Algeria as well as Act 09/06 which criminalises leaving the national territory without travel documentation.
74. Harmonise the Algerian criminal code with the international convention against racial discrimination and introduce therein the offences of racism and xenophobia.
75. Ensure effective access of the HRC, lawyers, interpreters and national and international observers from civil society to migrants and refugees throughout the whole of the Algerian territory, particularly in boarder areas, places where there is deprivation of freedom and the Sahrawi refugee camps.
76. Guarantee access to education and health care for all migrants and refugees irrespective of their legal status.
77. Guarantee access to work for refugees and asylum seekers under the same conditions as for Algerian nationals and regularise the situation of migrant workers so that they are able to benefit from the protection of the Labour code and thus fight against exploitation.
78. Guarantee effective access to justice for any migrant or refugee irrespective of his / her legal status, and penalise any obstructions to this access by civil servants.

#### **Labour law and trade union freedoms**

79. Guarantee in law and in practice the right to set up trade unions, including trade unions for migrant workers.
80. Cease the harassment of independent trade unionists and reintegrate trade unionists that have been suspended or laid off due to their trade union activities.
81. Guarantee the effective exercise of the right to strike and cease reprisals against the strikers.
82. Ensure that the draft reform of the Labour code, particularly the provisions relating to the right to strike and the right to organise and bargain collectively, and the provisions relating to the health and safety of workers comply with ILO Conventions n° 6, 81, 87, 89, 98, 111, 122, 155, 167 and 181.
83. Implement effective measures to fight against informal work, particularly by improving inspections in sectors which are the most affected in order to improve working conditions and protect male and female workers, especially migrants, against exploitation.

84. Take effective measures to fight against discrimination against women in access to work, remuneration and social protection and protect women from violence and harassment in professional environments.

#### **Enforced disappearances and impunity**

85. Ratify the international convention for the protection of any person against enforced disappearances and accept requests to visit and cooperate with the United Nations' experts of special procedures;
86. Implement the recommendations of the Human Rights Committee and the Working Group on enforced and involuntary disappearances of the United Nations;
87. Repeal the Charter for National Peace and Reconciliation and its implementing provisions;
88. Publish the conclusions of the report on the activities of the Judicial Assistance Unit for the application of the Charter for National Peace and Reconciliation;
89. Conduct impartial and independent investigations into cases of enforced disappearances, open the mass graves and proceed with the identification of bodies, and judge and punish the perpetrators;
90. Guarantee access to the right to truth, justice and effective reparation of victims and cease intimidation against families of disappeared persons;
91. Take charge of the treatment of psychological traumatism suffered by the loved ones of victims of enforced disappearances.