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الدورة السادسة والخمسون

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البند 3 من جدول الأعمال

تعزيز وحماية جميع حقوق الإنسان، المدنية والسياسية والاقتصادية والاجتماعية والثقافية، بما في ذلك الحق في التنمية

زيارة إلى الجزائر

تقرير المقرر الخاص المعني بالحق في حرية التجمع السلمي والحق في حرية تكوين الجمعيات، كليمون نياتسوسي فولتي * *

موجز

أجرى المقرر الخاص المعني بالحق في حرية التجمع السلمي والحق في حرية تكوين الجمعيات زيارة إلى الجزائر في أيلول/سبتمبر 2023، عملاً بقراري مجلس حقوق الإنسان 15/21 و 50/17. وكان أول مقرر خاص للأمم المتحدة يزور الجزائر منذ عام 2016، وبالتالي منذ انطلاق الحراك في شباط/فبراير 2019، الذي خرج خلاله مئات الآلاف من الجزائريين إلى الشارع، مطالبين بالإصلاح السياسي.

وخلال الزيارة، أبلغت الحكومة والجهات الفاعلة في المجتمع المدني المقرر الخاص برغبته الشديدة في بناء "جزائر جديدة" على أساس تطلعات الحراك. ويثني المقرر الخاص على الحكومة لما اتخذته من مبادرات شتى في هذا الصدد، بما في ذلك ضمانات حقوق الإنسان المنصوص عليها في دستور عام 2020 وإنشاء المرصد الوطني للمجتمع المدني والمجلس الأعلى للشباب. ويشير إلى انتخاب الجزائر لعضوية مجلس حقوق الإنسان في عام 2022 واستعدادها الأكبر للمشاركة في حوار بشأن حقوق الإنسان، بما في ذلك الجهود المبذولة لتيسير زيارته وزيارة المقررة الخاصة المعنية بحالة المدافعين عن حقوق الإنسان إلى البلد. بيد أن المقرر الخاص تلقى تقارير متكررة تفيد بأن الحكومة تواصل استخدام القوانين القمعية وغير الدستورية التي تعود إلى حقبة ما قبل الحراك لقمع المعارضة السلمية. ولا يزال نشطاء حقوق الإنسان والصحفيون يتعرضون للاحتجاز التعسفي ولا تزال جمعيات المجتمع المدني عرضة لأن تُحلّ تعسفاً أو يُرفض تسجيلها.

* يعمم موجز هذا التقرير بجميع اللغات الرسمية. أما التقرير نفسه، الوارد في مرفق هذا الموجز، فيعمم باللغة التي قُدم بها وبالفرنسية فقط.

** اتفق على نشر هذه الوثيقة بعد تاريخ النشر المعتاد لظروف خارجة عن سيطرة الجهة التي قدمتها.



الرجاء إعادة الاستعمال

ويسلم المقرر الخاص برغبة حكومة الجزائر في ضمان السلامة والاستقرار. ومع ذلك، لا يمكن تحقيق السلامة والأمن على المدى الطويل دون احترام حقوق الإنسان وضمان أن يتمكن جميع الأشخاص، بمن فيهم منتقدو الحكومة، من ممارسة حقوقهم الأساسية في حرية التجمع السلمي وحرية تكوين الجمعيات. ولتحقيق سلام وأمن حقيقيين ودائمين، على الحكومات أن تتعامل مع المجتمع المدني باعتباره شريكاً قيماً عوضاً عن اعتباره تهديداً. ولا يزال المقرر الخاص ملتزماً بالعمل مع حكومة الجزائر وشعبها في جهودهما الرامية إلى بناء تلك الثقة المتبادلة وضمان وفاء الدولة بالتزاماتها بموجب القانون الدولي لحقوق الإنسان.

تقرير المقرر الخاص المعني بالحقوق في حرية التجمع السلمي والحقوق في حرية تكوين الجمعيات، كليمون نياتسوسي فولبي عن زيارته إلى الجزائر

I. Introduction

1. The Special Rapporteur on the rights to freedom of peaceful assembly and of association visited Algeria, with the agreement of the Government, from 16 to 26 September 2023. The purpose of the visit was to assess the implementation of the rights covered under his mandate, identify challenges and promising practices and offer recommendations to assist compliance with international human rights law and standards.
2. The Special Rapporteur met with the Minister for the Interior, Local Authorities and Land-Use Planning; the Minister for Labour, Employment and Social Security; the Minister for Religious Affairs and Waqfs; the Minister for Justice; the Minister for National Solidarity, the Family and Women; and the Minister for Communication. He met with senior officials from the Ministry of Foreign Affairs and the National Community Abroad and from the General Directorate of National Security; members of the Commission on Legal and Administrative Affairs and Freedoms of the National People's Assembly; members of opposition political parties; the Counsellor to the President of the Republic for the national and non-governmental organizations sector; and the Walis of Algiers, Oran and Bejaia. The Special Rapporteur also met with representatives of the National Human Rights Council; the National Civil Society Observatory; the High Authority for Transparency and to Prevent and Combat Corruption; the Independent National Electoral Authority; and the National Economic, Social and Environmental Council.
3. The Special Rapporteur expresses his appreciation to the Government for its cooperation during the visit. He is grateful to the civil society representatives, lawyers, trade unionists, journalists, members of religious associations and human rights defenders with whom he met in Algiers, Oran and Bejaia and with whom he spoke online. The Special Rapporteur is also grateful for the invaluable support provided by the United Nations country team in Algeria and the regional office of the Office of the United Nations High Commissioner for Human Rights (OHCHR) for the Middle East and North Africa.
4. The Special Rapporteur presents his findings and recommendations in a spirit of cooperation with a view to supporting Algeria to meet its obligations regarding the promotion and protection of human rights.

II. Historical and political context

5. To understand the current context, it is important to consider the recent history of Algeria, including the declaration of independence from France in 1962, the "Black Decade" of violence between the Government and Islamic insurgents from 1991 to 2002 and the Hirak from 2019 to 2021. While some government authorities are working with selected civil society associations, several others expressed the view that, if not adequately controlled, some types of civil society associations could pose a threat to national unity and stability, linking that excessive control with a desire to prevent a resurgence of the violence of the Black Decade.
6. The Hirak (meaning "movement" in Arabic) refers to countrywide pro-democracy demonstrations that began in February 2019, bringing hundreds of thousands of Algerians to the street every week for more than a year. Demonstrators showed remarkable civic spirit and set an example for the world on how to conduct peaceful protests, assisted initially by a generally non-violent response from the police. The Hirak led to the resignation of the President, Abdelaziz Bouteflika, in April 2019, after two decades in power, and to the prosecution of several government officials for corruption. However, those changes were

insufficient to satisfy many protesters that real political change would occur. Many boycotted the December 2019 presidential elections (which had a turnout of 39.8 per cent) and the constitutional referendum of November 2020 (which had a turnout of 23.7 per cent), and the Hirak continued until March 2020, when the President banned all mass protests and gatherings in the name of stopping the spread of the coronavirus disease (COVID-19).

7. In February 2021, protesters attempted to renew the Hirak but were met with a repressive response from government authorities, including excessive use of force against protesters and bans on demonstrations, drawing concern from the international community.¹ During the visit, civil society actors informed the Special Rapporteur that, owing to that crackdown, activists were now too scared to protest. Government officials provided a different view, namely that, owing to improved economic and social conditions, people no longer had reason to protest.

III. International legal standards

8. Algeria ratified the International Covenant on Civil and Political Rights in 1989, thereby committing to respect, protect and fulfil the right of peaceful assembly (art. 21) and the right to freedom of association (art. 22). Algeria had already committed to protecting those rights by ratifying the African Charter on Human and Peoples' Rights, in 1987. The rights to freedom of peaceful assembly and of association are essential to the enjoyment of other human rights and freedoms and constitute fundamental pillars of a democratic society. They enable the participation and mobilization of all stakeholders in support of the 2030 Agenda for Sustainable Development.

9. The rights to freedom of peaceful assembly and of association can only be restricted in limited circumstances, where necessitated by narrowly defined legitimate aims as set out in the Covenant. Such restrictions must be prescribed by law and necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others. Restrictions must be proportionate to those legitimate aims.

IV. Domestic law

10. As part of the reforms resulting from the Hirak, Algeria adopted a new constitution in 2020.² In the preamble, reference is made to the Hirak and its aspiration for a profound social transformation aimed at building a new Algeria, and the Hirak is placed in the context of the Algerian people's struggle for freedom, social justice and democracy. The Constitution protects the rights to freedom of peaceful assembly and of association and provides that both can be exercised following a simple declaration rather than subject to prior authorization. Moreover, the Constitution establishes protections for related rights, including freedom of worship, freedom of the press, the right to establish political parties, the right to belong to a trade union and the right to strike, and for the promotion of women in politics. The Constitution establishes the Constitutional Court, the High Authority for Transparency and to Prevent and Combat Corruption, the National Civil Society Observatory and the Youth High Council and outlines the mandate of the National Human Rights Council, which was established in 2016. The Constitution states that treaties ratified by the President prevail over acts of parliament.

11. Supporters of the 2020 Constitution assert that it introduced a greater balance of power between the executive and the parliament, while critics argue that it further consolidated presidential power and provides insufficient human rights protections. Many government representatives expressed pride in the new constitutional human rights protections. However,

¹ See communications DZA 3/2021 and DZA 5/2021. All communications mentioned in the present report are available from <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>. See also Office of the United Nations High Commissioner for Human Rights (OHCHR), "Press briefing notes on Algeria", 5 March 2021; and "Press briefing notes on Algeria", 11 May 2021.

² A/HRC/WG.6/41/DZA/1, para. 1.

the Special Rapporteur heard repeatedly from civil society that many domestic laws and repressive practices by the authorities contradicted those constitutional protections.

12. State authorities informed the Special Rapporteur that Algeria was in a transition period, with 44 laws being drafted to align national legislation with the 2020 Constitution and international standards. That was presented as an effort to strengthen democracy and meet the aspirations of the Hirak. The Constitution states that laws must be amended to comply with the Constitution within a “reasonable time”. However, more than three years since the adoption of the 2020 Constitution, several national laws that contradict and undermine constitutional human rights protections remain in force. They include Law No. 12-06 on Associations, Law No. 23-02 on the Exercise of Trade Union Rights, Organic Law No. 12-04 on Political Parties, Law No. 91-19 amending Law No. 89-28 on Public Meetings and Demonstrations, and the Criminal Code, in particular article 87 bis. The Special Rapporteur expressed the view that three years was not a “reasonable time” and urged the authorities to prioritize new laws that strengthened the enjoyment of the public’s freedoms, in compliance with the international obligations of Algeria and the aspirations of the 2020 Constitution.

V. Freedom of association and civil society

13. According to official statistics, Algeria has 137,475 civil society associations. Most operate at the municipality or *wilaya* (provincial) levels, with only 1,977 operating at the national level. Only 25 organizations have an express focus on human rights (11 at the local level and 14 at the national level). However, others may indirectly work on human rights.

14. A vibrant and diverse civil society, which is enabled to function effectively and without undue restrictions, is crucial to ensuring the delivery of vital services and activities, including to making progress on the Sustainable Development Goals, addressing climate change and combating violence against women. This is especially pertinent in remote areas and communities. For example, the Special Rapporteur heard about the vital services that women’s civil society organizations provide to domestic violence survivors.

A. Law on Associations

15. The Special Rapporteur repeatedly heard concerns about the ongoing application of Law No. 12-06 on Associations, which contains restrictive and vague provisions, leaving wide discretion to the authorities. Law No. 12-06 requires government authorization for the creation of an association, as opposed to a notification system as provided for in the 2020 Constitution and recommended by the Special Rapporteur. Law No. 12-06 prohibits associations from going against the vague concept of “national values” and from collaborating with or receiving funding from foreign associations without prior authorization (arts. 8, 23, 30 and 50).

16. The Special Rapporteur has urged the Government to replace Law No. 12-06 to ensure freedom of association, in compliance with the Covenant, which provides that all people should be able to exercise their right to freedom of association without undue interference by the State.³ The right to freely access human, material and financial resources is inherent in the right to freedom of association and essential to the existence and effective operation of any association.⁴ That includes the right to receive funding from domestic, foreign and international entities.⁵ The Special Rapporteur urges all States to ensure that associations – both registered and unregistered – can fully enjoy the right to seek, receive and use funding and other resources from individuals and organizations, whether domestic, foreign or international, without prior authorization or other undue impediments.⁶ If civil society

³ See communications DZA 4/2012, DZA 2/2023 and DZA 3/2023.

⁴ [A/HRC/50/23](#), para. 9. See also Human Rights Council resolution 32/31.

⁵ [A/HRC/50/23](#), paras. 9 and 11.

⁶ *Ibid.*, para. 64.

associations do not enjoy that right, they may be prevented from delivering vital services to communities and victims.

17. Another common concern raised by civil society was the ambiguity of the Government's implementation of Law No. 12-06 and that associations often did not receive a response to requests for registration or for authorization to hold general assemblies or collaborate with partners abroad. Moreover, there are examples of registration being denied without a reason being provided, and of associations being dissolved for minor infractions, such as meeting with partners from abroad without prior authorization. The Special Rapporteur repeatedly heard of differences between the protections established by law and the implementation of those protections by the authorities. There was a lack of clarity on the procedures for applying for registration or authorization (for example, to hold general meetings or enter partnerships with foreign organizations) and on appeal options. In response to the Special Rapporteur's request for clarity on those procedures, the Ministry of the Interior noted that associations needed to file a declaration of a public meeting at least three days beforehand and receive a declaration receipt. The Ministry also noted that, if the authorities did not grant authorization for a meeting, associations had the right to appeal to the competent court. The Ministry further noted that registered associations were exempt from the declaration requirement if they held their general meetings at their headquarters and only members attended.

18. Civil society associations were unsure whether they could receive financial support from foreign embassies and how to seek approval for receiving such support. The Ministry of the Interior noted that associations must obtain prior approval from the authorities before receiving such funding and that the funding must be obtained through a legal partnership, which must itself have been approved by the authorities. The Special Rapporteur heard from foreign and local associations that it was difficult to obtain such approval.

19. Given those issues, the Special Rapporteur welcomes the commitment of Algeria to review Law No. 12-06 and bring it into line with the Constitution.⁷ However, he was concerned to hear from civil society organizations that they had been neither consulted nor informed about the progress of the corresponding bill. The Special Rapporteur requested a copy of the bill. In response, the Ministry of the Interior provided a short summary of some of its features, including that it will set out the terms and conditions for registering a declaration of incorporation of an association. The Special Rapporteur cannot assess the compliance of the bill with international human rights standards without having received a full copy. He urges the Government to ensure that the new law creates a genuine notification system in compliance with the Constitution and the Covenant. Any requirement for the approval of a registration is an authorization system under the guise of a notification system and must be avoided.

B. Civil society organizations

20. The Special Rapporteur observed that some civil society associations were permitted to operate relatively freely, while others faced restrictions and repression. For example, civil society associations operating at the local level appear to be able to do so relatively freely, compared with national associations. There appears to be growing recognition on the part of local authorities of the importance of civil society associations, as reflected in initiatives such as the project to build the capacity of local development actors (CapDeL), which is being piloted in cooperation with the European Union and the United Nations Development Programme and is aimed at promoting the involvement of citizens and civil society in municipal management and sustainable local development. Such initiatives are promising and should be replicated at the national level to ensure participatory and inclusive democracy. Such practices should involve civil society in all its diversity, including civil society actors critical of the Government.

21. However, and concerning, several civil society associations, especially those engaged in advocacy work in areas deemed sensitive, such as human rights, corruption and

⁷ [A/HRC/WG.6/41/DZA/1](#), para. 82.

migration, reported that they faced restrictions and repression. The Special Rapporteur heard from people wishing to establish associations in such areas who had had their requests to register an association rejected or left without a response, and of cases in which existing associations had been dissolved or otherwise prevented from operating. The Ministry of the Interior noted that associations could be prohibited from operating in areas covered by State institutions and bodies in order to avoid any overlap. While the Special Rapporteur welcomes the establishment of the High Authority for Transparency and to Prevent and Combat Corruption, civil society must be enabled to perform its vital role in combating corruption, including monitoring. He notes that the High Authority has set up an interactive network, Naracom (“We are watching you”), which aims, inter alia, to involve civil society in uniting and promoting work against corruption.

1. Examples of dissolutions of human rights organizations

22. Two long-standing and prominent human rights organizations have been dissolved at the request of government authorities: the Ligue algérienne de défense des droits de l’homme (Algerian League for the Defence of Human Rights) and the Rassemblement actions jeunesse (Youth Action Rally). The Ligue played a key role in advocating human rights and democracy and a prominent role in criticizing the authorities’ suppression of the Hirak. Twelve of its members have served prison terms. They include Kamel Eddine Fekhar, who died on 28 May 2019, following a hunger strike in prison.⁸ Other members have faced prosecution and travel bans.⁹ On 28 September 2022, the Ligue was dissolved for carrying out activities considered not to be in accordance with its statutes, including the division of the organization into five branches, failure to notify the authorities of changes and failure to provide them with copies of the minutes of its general assembly or its annual financial reports on time. In addition, the dissolution judgment states that the Ligue breached Law No. 12-06 by failing to obtain prior approval to engage with international organizations. The judgment includes references to the submission of false information to the Human Rights Council and its special procedures and to “suspicious activities” relating to engagement with international human rights organizations.

23. In February 2023, the Special Rapporteur wrote to Algeria to express concern regarding the dissolution of the Ligue and the non-compliance of Law No. 12-06 with international human rights law.¹⁰ The Special Rapporteur discussed the dissolution of the Ligue with officials from the Ministry of the Interior, stating his expert opinion that dissolving an association was a severe step that should not be taken lightly. He reiterated that the suspension and involuntary dissolution of an association were some of the severest restrictions on freedom of association and should occur only when there was a “clear and imminent danger resulting in a flagrant violation of national law, in compliance with international human rights law. It should be strictly proportional to the legitimate aim pursued and used only when softer measures would be insufficient.”¹¹ The Special Rapporteur considered that the alleged infractions by the Ligue did not meet those criteria.

24. Similarly, the Special Rapporteur reiterated to the authorities his concern that the dissolution of the Rassemblement actions jeunesse disproportionately infringed the right to freedom of association.¹² The Rassemblement was created in 1992 for the purpose of engaging young people in civic life, promoting cultural activities and promoting human rights in Algeria.¹³ It was very active during the Hirak and, since 2019, several of its members have been prosecuted and served prison sentences.¹⁴ The organization was purportedly dissolved as a result of the participation of its members in activities different from those provided for in its statutes and the fact that they had received a visit from Tunisian activists in support of the Hirak.

⁸ See communications DZA 1/2017 and DZA 3/2019.

⁹ See communication DZA 3/2023.

¹⁰ See communication DZA 2/2023.

¹¹ [A/HRC/20/27](#), para. 75.

¹² See communications DZA 13/2021 and DZA 2/2023.

¹³ See communication DZA 13/2021.

¹⁴ Ibid.

2. Classification of organizations as terrorist organizations

25. Assertions of regional identities have been perceived as a threat to national unity and safety, notably in the Kabylie region, where there have been calls for greater autonomy. In 2021, the Mouvement pour l'Autodétermination de la Kabylie (Movement for the Autonomy of Kabylie) was classified as a terrorist organization for having called for independence. People have been arbitrarily arrested for waving the Amazigh flag, in contravention of their rights to freedom of peaceful assembly and of association.¹⁵ The Special Rapporteur calls for the immediate release of the co-president of the Amazigh World Congress, Kamira Nait Sid, who has been arbitrarily detained since August 2022 in connection with the exercise of her rights to freedom of peaceful assembly and of association.¹⁶

26. The other civil society association declared a terrorist organization, also in 2021, was the Rachad political movement, which presents itself as promoting political or social change through non-violence and peaceful means, rejecting all forms of extremism.

C. Religious associations

27. The Constitution guarantees freedom of worship and mandates the State to impartially protect places of worship. Algeria has a multitude of religious associations, predominantly representing the Sunni Muslim denomination. However, restrictions on the ability of religious minorities to exercise their rights to freedom of association and peaceful assembly remain a concern.¹⁷ While the Government asserted that the notion of “religious minorities” does not exist in law, the Special Rapporteur notes that some religious associations are facing obstacles in securing registration and operating. Registrations are currently governed by Law No. 12-06 and Presidential Ordinance No. 06-03 on the conditions and rules for the exercise of religions other than Islam, which imposes excessive restrictions on the exercise of religions other than Islam. Several government representatives expressed the view that tight control of religious associations was necessary to avoid terrorism and extremism, especially in view of the Black Decade.

28. The Special Rapporteur heard about obstacles faced by members of the Islamic religious association Ahmadiyya Jamaat, whose requests for registration had been refused by the Ministry of the Interior, without reasons being specified, and who had been criminally prosecuted and imprisoned on charges such as convening or participating in an unauthorized meeting, performing religious rituals in a public place without a licence, denigrating Islam and harming the safety and unity of the country. The authorities informed the Special Rapporteur that, as Muslims, members of Ahmadiyya Jamaat could attend regular mosques, where the preaching of moderation and patriotism was ensured, and that allowing separate places of worship could cause chaos and a risk to safety. While the Special Rapporteur acknowledges the Government's explanation that those severe measures were born of a desire for stability and security, he does not view them as a proportionate or legitimate restriction on the rights to freedom of peaceful assembly and of association. He reminds the Government that, to comply with its international human rights obligations, it must allow all people to exercise their rights to freedom of religion and freedom of peaceful assembly and of association, without discrimination.

29. The Special Rapporteur learned about obstacles faced by the Protestant Church of Algeria, which, since 2018, has had 43 of its 47 churches closed by government authorities.¹⁸ The Government asserts that only 13 of 49 “unauthorized premises and spaces” have been closed following non-compliance with urban planning standards and safety requirements. Members of the Church have faced criminal charges for having convened and practised religious rituals in non-authorized places of worship.

¹⁵ See [A/HRC/WGAD/2020/53](#).

¹⁶ [A/HRC/WGAD/2022/15](#).

¹⁷ See

https://www.ohchr.org/sites/default/files/documents/hrbodies/upr/sessions/session41/HC_letter_Algeria-EN.pdf.

¹⁸ See communications DZA 4/2018 and DZA 5/2020.

30. It is crucial that Algeria enable all religious minorities to peacefully exercise their rights to freedom of association and of assembly, to comply with its international human rights obligations and for the sake of peace and stability. The Special Rapporteur echoes the calls of the Human Rights Committee for Algeria to abolish all legislative provisions that violate freedom of thought, conscience and religion and to ensure that all persons, including atheists and those who have renounced the Muslim faith, are able to fully exercise their freedom of thought, conscience and religion.¹⁹ The Special Rapporteur reminds the Government of its obligation not only to refrain from obstructing the exercise of the rights to freedom of peaceful assembly, association and religion, but also to facilitate the exercise of those rights.

D. Trade unions

31. Effective and independent unions are vital to ensuring that all workers in Algeria can collectively demand fair wages and conditions, thereby combating poverty and inequality. The rights to join a trade union and engage in strikes are safeguarded by the 2020 Constitution, albeit subject to certain restrictions. However, during the visit, the Special Rapporteur was informed that trade unions were facing obstacles in securing registration and unjust judicial harassment. Moreover, those concerns are reflected in several complaints submitted to the International Labour Organization.²⁰

32. Several unions raised concerns regarding the newly enacted Law No. 23-02 on the Exercise of Trade Union Rights. Law No. 23-02 and Law No. 23-08 on the Prevention and Settlement of Collective Labour Disputes and the Exercise of the Right to Strike were introduced without sufficient and effective consultation with unions, including the largest and formerly only labour union in Algeria, namely, the General Union of Algerian Workers. On 22 January 2023, the Secretary-General of the General Union publicly expressed regret that it had not been consulted on the bills, which, he stated, were not in line with the Constitution and international law obligations of Algeria.²¹ Six weeks later, the General Union announced the resignation of its Secretary-General.

33. Law No. 23-02 gives wide discretion to the Government to deny authorization for the formation of a trade union (art. 5) and unjustifiably restrict the right to freedom of association. In addition, Law No. 23-02 can be used by courts to dissolve or suspend unions and, concerning, imprison anyone who challenges such suspensions or dissolutions (arts. 154 and 155).

34. Another concern is that Law No. 23-02 protects “salaried” workers (art. 2), to the exclusion of others. While the Ministry of Labour, Employment and Social Security informed the Special Rapporteur that Law No. 23-02 covered all workers, including those in the informal economy, the Special Rapporteur would welcome an amendment to the law to remove the word “salaried” and thus make clear that it protects all workers, including agricultural and independent workers.

35. Law No. 23-02 prohibits trade unions from conducting political activities and having ties with or receiving support from political parties and prohibits their founding members and leaders from declaring their support for political parties and for any political figure (arts. 12–14). However, there are concerns that that prohibition will be applied only to prevent ties with opposition political parties and that unions established by or with ties to pro-Government political parties, which already exist, will be unaffected. The Special Rapporteur

¹⁹ [CCPR/C/DZA/CO/4](#), para. 42; and [A/HRC/WG.6/41/DZA/2](#), para. 35.

²⁰ See, for example, https://normlex.ilo.org/dyn/normlex/en/f?p=1000:50001:0::NO::P50001_COMPLAINT_FILE_ID:4299321:NO and https://normlex.ilo.org/dyn/normlex/en/f?p=1000:50001:0::NO::P50001_COMPLAINT_FILE_ID:3294371:NO.

²¹ See <https://www.facebook.com/photo.php?fbid=547246557439532&set=pb.100064625781125.-2207520000&type=3> (in Arabic).

reminds the Government that general prohibitions on the involvement of trade unions in political activities are incompatible with freedom of association.²²

36. Law No. 23-02 requires trade unions to be led by Algerian nationals only, and foreigners can constitute at most 30 per cent of a union's members and can be members of the management or administration of a union only if they have resided legally in Algeria for at least three years (art. 55). Law No. 23-02 contains vague restrictions on the right to strike, and only "representative unions" can organize strikes or participate in negotiations with the authorities on labour policies or to settle collective disputes (art. 88). Representative unions are defined as unions that represent at least 25 per cent of the workers in a given sector. As many unions were already struggling to meet the previous requirement of 20 per cent, the higher burden will further marginalize unions in Algeria.

E. Political parties

1. Excessive control over political parties

37. The Constitution protects the right to establish political parties. However, Organic Law No. 12-04 on Political Parties requires prior government authorization to create a political party, allows intrusive government oversight and enables the arbitrary suspension and dissolution of political parties (arts. 16, 66 and 67). Political parties must respect the fundamental values and components of national identity, national unity and security, among other vague requirements (art. 8). They are banned from ties with trade unions and civil society associations (art. 50). Several political parties have had approval withheld based on those restrictive requirements, and others have been subjected to prosecutions, suspensions and the indefinite sealing of their premises. The Ministry of the Interior reported that it had launched an operation in 2021 to ensure that political parties complied with the law. This led to the court suspension of 22 political parties.

2. New law on political parties

38. The development of a new law on political parties is under way as part of reforms to bring national legislation into line with the Constitution and international standards. The Special Rapporteur requested a copy of the text. In response, the Ministry of the Interior provided a short summary of some of its features. While pleased that the new law will include provisions aimed at increasing the participation of young people and women in political parties, the Special Rapporteur would welcome further details about its provisions. The Special Rapporteur cannot make a full assessment of the bill's compliance with international human rights standards without having read it in full. Nevertheless, he is concerned about reports that the new law will further extend the Government's ability to interfere with and control the internal operations of political parties. He urges the Government to ensure that any restrictions on the right to freedom of association are sufficiently clear, necessary and proportionate to the risks identified and stands ready to provide technical assistance to the Government.

3. Female representation in the parliament

39. The Constitution mandates the State to work towards promoting the political rights of women by increasing their chances of access to representation in elected assemblies. Organic Law No. 12-03 introduced compulsory minimum quotas for the representation of women in elections to the National People's Assembly (the lower chamber of the parliament), regional assemblies and municipal assemblies, ranging from 20 to 50 per cent (depending on the size of the constituency).²³ Those quotas initially increased women's participation to over 30 per cent in the National People's Assembly.²⁴ In March 2021, Law No. 21-01 introduced the "list

²² International Labour Organization, *Compilation of Decisions of the Committee on Freedom of Association*, 6th ed. (Geneva, 2018), para. 728.

²³ [A/HRC/WG.6/41/DZA/2](#), para. 61; and [CCPR/C/DZA/CO/4](#), para. 3 (c).

²⁴ United Nations Development Programme, "Les femmes dans la sphère publique en Algérie", 3 October 2021.

system”, resulting in a considerable drop in female representation in the National People’s Assembly, to just 8 per cent of seats, while representation in the indirectly elected Council of the Nation (the upper chamber) has remained extremely low, currently standing at 4.3 per cent. While Law No. 21-01 requires that 50 per cent of individuals on electoral lists be women, it allows voters to choose individual candidates on the list, without establishing a quota for the representation of women among those elected. The Special Rapporteur urges the Government to take specific measures to increase the participation of women in public and political life, including through minimum quotas for representation in elected bodies, leadership training programmes, awareness-raising campaigns on the importance of women’s participation in public and political life, and support for civil society associations promoting women’s involvement in public life. It is necessary to conduct an independent study on the reasons for the low participation of women, including sociocultural factors, and the measures that can be implemented to increase women’s participation in politics.

F. Media associations

40. The Constitution includes protections for press freedom, stating that it includes the right to found newspapers and any other publication following a simple declaration and that “press offences” cannot be punished by a custodial sentence. However, the Constitution places restrictions on freedom of the press, including the right to disseminate information, ideas, images and opinions, stating that such dissemination must be within the framework of the law and respect for the religious, moral and cultural norms and values of the nation. Those vague concepts leave scope for unjustified restrictions on press freedom.

41. Similarly, Organic Law No. 23-14 on Information Activity, which was adopted on 29 August 2023, contains vague requirements, creating scope for unjustified restrictions on the fundamental human rights to freedom of expression and of opinion and to freedom of peaceful assembly and of association.²⁵ Law No. 23-14 requires media activities to respect, among other items in a very long and broad list, the Muslim religion and the national religious framework; other religions; national identity, national norms and the moral, religious and cultural values of the nation; national sovereignty, national unity and territorial unity; the attributes and symbols of the State; and the economic interests of the State (art. 3). In addition, Law No. 23-14 prohibits dual nationals from owning or being shareholders in media outlets and prohibits the receipt of funding from foreign entities. It requires journalists to disclose their sources to the courts and those working for foreign-owned media outlets to receive prior government approval.

42. Law No. 23-14 prohibits journalists from publishing or disseminating false or slanderous information (art. 35). According to a 2017 declaration on freedom of expression and “fake news”, disinformation and propaganda, which was issued jointly by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and mandate holders of various regional organizations: “General prohibitions on the dissemination of information based on vague and ambiguous ideas, including ‘fake news’ or ‘non-objective information’, are incompatible with international standards for restrictions on freedom of expression ... and should be abolished.”²⁶

43. While Law No. 23-14 does not include custodial sentences for press offences, the Criminal Code provides for financial penalties and prison terms of between one and three years for dissemination of false or slanderous information.²⁷ The Minister for Communication emphasized that the laws under which journalists have been charged apply to everyone. That explanation was similar to the comments made by Algeria in its national report submitted in connection with the fourth cycle of the universal periodic review: “Any criminal action taken against offenders is in accordance with the ordinary law and is not influenced by the professional activities of the persons concerned.”²⁸ The Special Rapporteur

²⁵ See https://www.ohchr.org/sites/default/files/documents/hrbodies/upr/sessions/session41/HC_letter_Algeria-EN.pdf.

²⁶ See <https://www.osce.org/fom/302796>.

²⁷ A/HRC/WG.6/41/DZA/2, para. 11.

²⁸ A/HRC/WG.6/41/DZA/1, para. 165.

reminds the Government that laws do not have to expressly target journalists to severely inhibit freedom of press.

44. The Special Rapporteur received repeated and consistent reports of the repression of media associations and criminal prosecutions of journalists. In January 2023, the Special Rapporteur wrote to the Government to express concern about the prosecution of journalist Ihsane El Kadi, the director of Radio M and Maghreb émergent.²⁹ On 18 June 2023, the Algiers Court of Appeal upheld Mr. El Kadi's conviction for receiving foreign funds for "political propaganda" and receiving funds that could undermine the security of the State and increased his sentence from five to seven years' imprisonment. During the visit, the Special Rapporteur reiterated his concerns about Mr. El Kadi's prosecution, which is related to the legitimate exercise of his freedom of peaceful assembly and freedom of opinion.

45. The Special Rapporteur notes with concern reports that the Audiovisual Regulatory Authority has, in recent years, censored programmes commenting on the country's leadership, thus infringing freedom of the press and freedom of expression.³⁰

46. Two additional media laws, one on the written and electronic press and another on audiovisual activity, were adopted on 2 December 2023, after the Special Rapporteur's visit. The Special Rapporteur encourages the Government to request the Special Rapporteur on the right to freedom of opinion and expression to provide her expert assessment to ensure that these laws comply with the right to freedom of opinion and expression, as protected by article 19 of the Covenant.

47. The Special Rapporteur urges the Government to ensure that all laws regulating the media comply with the protections established in the Constitution of Algeria and the country's international obligations to protect and respect the rights to freedom of opinion and of expression, pursuant to article 19 of the Covenant. Journalists must be allowed to publish, in print and online, information, including facts and opinions contrary to those of the Government, without the threat of criminal prosecution.

VI. Freedom of peaceful assembly

A. Law on Public Meetings and Demonstrations

48. The 2020 Constitution states that the right to freedom of peaceful assembly can be exercised "by simple declaration". However, the authorities still require organizers of peaceful assemblies to receive prior authorization pursuant to Law No. 91-19 amending Law No. 89-28 on Public Meetings and Demonstrations. The Special Rapporteur welcomes the introduction of a notification system, as proposed in the Constitution, and encourages Algeria to enact a new law to implement the notification system and replace Law No. 89-28.

49. Law No. 91-19 amending Law No. 89-28 on Public Meetings and Demonstrations remains in force, criminalizes organizing or participating in public gatherings not authorized by the Ministry of the Interior and prohibits meetings or demonstrations aimed at "expressing opposition to national norms" or "undermining the symbols of the revolution of 1 November, public order or morality". The law does not define those vague terms and provides for imprisonment for periods ranging from three months to one year. Law No. 91-19 requires organizers to seek authorization eight days before holding a public demonstration and to make a declaration three days before holding a public meeting.

50. On 9 May 2021, the Ministry of the Interior issued a press release stating that demonstrations across the country would be banned unless they had been given prior authorization, which would be issued only if organizers communicated their identity, the start and end times of the demonstration and the slogans that would be displayed at the event. With the exception of the requirement to disclose the slogans that would be displayed at the event, those restrictions were already provided for in Law No. 91-19.

²⁹ See communication DZA 1/2023.

³⁰ [A/HRC/WG.6/41/DZA/2](#), para. 38.

51. Furthermore, the Special Rapporteur notes that an unpublished decree of 2001, which bans public demonstrations and gatherings in Algiers, remains in force, despite the lifting of the state of emergency in 2011 and the call made by the Human Rights Committee for the repeal of the decree.³¹

52. Law No. 91-19 is inconsistent with the 2020 Constitution and general comment No. 37 (2020) of the Human Rights Committee, which states that any notification regime should not apply to gatherings with minimal impact on others and should not apply to spontaneous assemblies for which there is not enough time to provide notice (para. 72). Where authorization regimes persist in domestic law, they must in practice function as a system of notification, with authorization being granted as a matter of course, in the absence of compelling reasons to do otherwise. Notification regimes, for their part, must not in practice function as authorization systems (para. 73).

53. There have been multiple calls, including by OHCHR and the Human Rights Committee,³² for Algeria to review Law No. 91-19, especially the requirement for prior authorization, to bring it into compliance with the Covenant. All restrictions on peaceful demonstrations that are not necessary and proportionate in terms of article 21 of the Covenant should be removed.³³

54. The Special Rapporteur heard about restrictions on and confusion about the ability of associations to convene internal meetings in accordance with Law 91-19, with a lack of clarity as to what constituted a public gathering, how to apply for authorization for meetings and whether authorization was needed for certain other activities. For example, one human rights organization informed the Special Rapporteur that it had been waiting for years for government authorization to hold internal elections so that it could appoint a new president.

55. The Special Rapporteur requested a copy of the bill on gatherings and public events. In response, the Ministry of the Interior provided a short summary of some of its features. While the Special Rapporteur was pleased to receive confirmation of the plan to implement a notification process for peaceful assemblies and demonstrations (as opposed to the current prior authorization regime), he notes with concern the plan to retain many concerning aspects of the current regime, including broad and vague restrictions based on “national unity and territorial integrity”, “the components of national identity” and “the symbols of the State and institutions”. The Special Rapporteur also notes with concern the planned inclusion of criminal penalties.

56. While the Special Rapporteur cannot assess the bill’s compliance with international human rights standards without having read it in full, he urges the Government to ensure that any restrictions on the right to freedom of peaceful assembly are sufficiently clear, necessary and proportionate to the risks identified. He urges the Government to ensure that the new law creates a genuine notification system in compliance with the 2020 Constitution and the Covenant. Any requirement for the approval of a registration is in fact an authorization system under the guise of a notification system and must be avoided. The Special Rapporteur recalls that any notification system should exclude spontaneous assemblies and assemblies for which the impact on others can reasonably be expected to be minimal, for example because of the nature, location or limited size or duration of the assembly.³⁴ He also recalls that any failure to notify the authorities should not render an assembly unlawful and not be used as a basis for dispersing it.³⁵ Moreover, any such failure should not lead to fines or imprisonment for organizers or participants.

³¹ See [CCPR/C/136/2/Add.1](#).

³² See https://www.ohchr.org/sites/default/files/documents/hrbodies/upr/sessions/session41/HC_letter_Algeria-EN.pdf; OHCHR, “Press briefing notes on Algeria”, 11 May 2021; and [A/HRC/WG.6/41/DZA/2](#), para. 33. See also [CCPR/C/136/2/Add.1](#).

³³ See [CCPR/C/136/2/Add.1](#).

³⁴ [A/HRC/31/66](#), para. 21.

³⁵ *Ibid.*, para. 23.

B. Repression of protests

57. The Special Rapporteur heard that the Ministry of the Interior rarely approves gatherings critical of the Government. Since 2019, several protesters and supporters of the Hirak have been charged with participating in or inciting unauthorized gatherings,³⁶ which can result in up to one year's imprisonment. According to reports from civil society organizations, the Hirak marches were tolerated only for the first few months, began to be restricted after the resignation of the President and were met with increased violence and recourse to criminal prosecution from June 2019.

58. The Special Rapporteur wrote to the Government on 21 May 2019 regarding reported incidents of excessive use of force³⁷ and has repeatedly raised concerns with Algeria regarding arrests and prosecutions in the context of the Hirak.³⁸ For example, on 30 March 2020, the Special Rapporteur wrote to the Government about the violent arrest and arbitrary detention of Slimane Hamitouche following his participation in a peaceful protest in Algiers on 7 March 2020.³⁹ The Government replied on 20 April 2020 that Mr. Hamitouche had refused to comply with police orders.

59. The National Human Rights Council reported that, between 22 February and 31 December 2019, 1,572 people had been arrested and detained during Hirak marches.⁴⁰ For example, in June 2019, Messaoud Leftissi was arrested for taking part in demonstrations promoting the Amazigh identity, waving an Amazigh flag and carrying an Amazigh flag. The Working Group on Arbitrary Detention found the deprivation of Mr. Leftissi's liberty to be arbitrary and in contravention of the rights to freedom of peaceful assembly and of association.⁴¹

60. The Special Rapporteur heard about concerning government responses to other attempts to exercise the right of peaceful assembly. For example, in May 2021, the Ministry of the Interior announced the suspension and prosecution of 230 firefighters.⁴² They had been protesting for better working conditions, and the police had responded with tear gas. In October 2023, the authorities suppressed a demonstration in front of the Directorate of Education in Bejaia by members of the Independent National Union of Teachers of Secondary and Technical Education and arrested a number of teachers.

61. OHCHR has repeatedly raised similar concerns in response to reports of the unnecessary and disproportionate use of force against peaceful protesters and ongoing arrests and arbitrary detentions, as well as reports that some protesters have been released after being forced to sign a document promising to cease participating in protests.⁴³ On 5 March 2021, OHCHR reported that at least 2,500 people had been arrested or detained in connection with their peaceful activism in 2019 and 2020, and some 1,000 individuals had been prosecuted for participating in the Hirak or for posting social media messages critical of the Government.⁴⁴

62. In a meeting with representatives of the Ministry of the Interior, the Special Rapporteur asked whether there had been any public protests in Algiers since the Hirak, noting the importance of the capital city and the importance of demonstrations in ensuring that people were heard. The Ministry's response was that it had not recently received any requests for public assemblies. Civil society representatives, on the other hand, told the Special Rapporteur that many of those who had participated in the Hirak no longer dared to go out on the streets or express themselves on social media for fear of criminal prosecution.

³⁶ See [CCPR/C/136/2/Add.1](#).

³⁷ See communication DZA 1/2019.

³⁸ See communications DZA 3/2021, DZA 4/2021, DZA 5/2021, DZA 6/2021, DZA 13/2021, DZA 2/2022, DZA 3/2022 and DZA 2/2023.

³⁹ See communication DZA 1/2020.

⁴⁰ See <https://cndh.org.dz/wp-content/uploads/2023/01/RAnnuel2019.pdf> (in Arabic).

⁴¹ [A/HRC/WGAD/2020/53](#).

⁴² See <https://www.facebook.com/interieur.dz/posts/1059457934457724> (in Arabic).

⁴³ OHCHR, "Press briefing notes on Algeria", 11 May 2021; and [A/HRC/WG.6/41/DZA/2](#), para. 32.

⁴⁴ OHCHR, "Press briefing notes on Algeria", 5 March 2021.

63. Protesting is an exercise of the right of peaceful assembly. In any democratic society, protest is a tool for expressing grievances, asking for political and social change and participating in the public sphere. Protests offer the authorities an opportunity to foster dialogue with communities and to acknowledge and address challenges. Consequently, protests represent an essential component of any democratic society. The Human Rights Committee has reiterated its recommendations that Algeria guarantee that demonstrators and meeting organizers are not prosecuted for exercising their right of assembly and take effective measures to ensure that law enforcement personnel do not use excessive force during crowd dispersal operations.⁴⁵

C. Use of criminal legislation

64. Criminal prosecutions continue to be brought against human rights defenders, civil society representatives, journalists and members of religious minorities. According to estimates provided by lawyers and civil society organizations, more than 200 people are currently serving prison sentences related to infractions under pre-2020 legislation, such as overly restrictive provisions making it an offence to participate in a meeting or public demonstration held without prior authorization and overly broad definitions of terrorism. The Ministry of Justice suggested that the actual figure was lower. The Special Rapporteur and other special procedure mandate holders have long urged the Government of Algeria to review its use of criminal legislation against those exercising their rights to freedom of peaceful assembly and of association.⁴⁶

65. In almost every conversation that the Special Rapporteur had with civil society representatives, concerns were raised about article 87 bis of the Criminal Code. Article 87 bis contains an overly broad and vague definition of terrorism, which was further broadened by Presidential Ordinance No. 21-08 of 30 May 2021. Article 87 bis has been used to prosecute individuals for exercising their right of peaceful assembly⁴⁷ and has received criticism from OHCHR, the Human Rights Committee and several special procedure mandate holders.⁴⁸

66. Article 87 bis is inconsistent with the principle of legal certainty under international law, which requires that criminal legislation be sufficiently precise to make clear what behaviours and conduct constitute a criminal offence and the consequences of committing such an offence. That principle recognizes that ill-defined and/or overly broad laws are open to arbitrary application and abuse. Furthermore, laws must be formulated with sufficient precision to enable individuals to regulate their conduct accordingly.

67. Also of concern are articles 87 bis 13 and 87 bis 14, which establish a national list of persons and entities classified as “terrorist”, resulting in a ban on their activities, including travel, and a confiscation or freeze of their funds. Contrary to the obligation to respect the presumption of innocence as protected by article 14 of the Covenant, persons or entities can be placed on the list by a non-judicial commission (composed of government representatives) after a preliminary investigation. Updates to the list are published in the Official Gazette without the persons and entities concerned being directly informed.

68. The Special Rapporteur acknowledges the Government’s desire to implement effective counter-terrorism measures, especially given the historical context. However, any restrictions on the fundamental rights to freedom of peaceful assembly and of association must be necessary and proportionate to the risk envisioned as opposed to being merely reasonable or expedient.

69. Several other articles of the Criminal Code that contain vague and broad language continue to be used to restrict the rights to freedom of peaceful assembly and of association.

⁴⁵ See [CCPR/C/136/2/Add.1](#).

⁴⁶ See communication DZA 8/2021.

⁴⁷ See [CCPR/C/136/2/Add.1](#).

⁴⁸ See https://www.ohchr.org/sites/default/files/documents/hrbodies/upr/sessions/session41/HC_letter_Algeria-EN.pdf; [CCPR/C/DZA/CO/4](#), para. 18; [A/HRC/WG.6/41/DZA/2](#), para. 30; and communications DZA 12/2021 and DZA 5/2023.

For example, the Criminal Code makes it an offence to undermine the morale of the army (5–10 years’ imprisonment); violate the integrity of the national territory (up to 10 years’ imprisonment); receive funds, a donation or an advantage, by any means, from a State, institution or any other public or private body or any legal or natural person, inside or outside the country, in order to perform or incite acts likely to undermine the security of the State, the stability and normal functioning of its institutions, national unity, territory integrity, the fundamental interests of Algeria or public security and order (five to seven years’ imprisonment, and the penalty is doubled when funds are received in connection with an association, group, organization or agreement); harm the national interest through the distribution, sale or display to the public of publications (up to three years’ imprisonment); participate in or organize an “unarmed gathering” (up to one year’s imprisonment); incite an unarmed gathering, either by public speeches or by written or printed matter displayed or distributed (up to one year’s imprisonment); “offend” public officials (up to three years’ imprisonment); and wilfully disseminate or propagate among the public, by any means, false or slanderous information or news likely to undermine public security or order (one to three years’ imprisonment, and the penalty is doubled for a repeat offence) (arts. 75, 79, 95 bis, 96–98, 100, 144 and 196 bis).

70. The vague and broad terms of those articles leave scope for their use to suppress voices critical of the Government, creating a chilling effect on the rest of civil society. The Special Rapporteur echoes calls for Algeria to decriminalize defamation and address it under the civil law.⁴⁹ Furthermore, in its general comment No. 34 (2011), the Human Rights Committee states that laws should not provide for more severe penalties solely on the basis of the identity of the person that may have been impugned. States parties should not prohibit criticism of institutions, such as the army or the administration (para. 39).

71. In 2021, the Public Prosecutor of Oran accused 15 Hirak activists of committing several offences under the Criminal Code, including violating the integrity of the national territory and belonging to a terrorist organization. The Special Rapporteur and other special procedure mandate holders wrote to the Government to express concern that the accusations of terrorist activities appeared to be directly related to the activists’ peaceful commitment to human rights in Algeria and, in particular, to the exercise of their rights to freedom of peaceful assembly and of expression.⁵⁰ The Special Rapporteur welcomes the news that the activists were acquitted on 3 December 2023.

VII. Shrinking civic space and distrust

72. A high level of distrust was evident in meetings with both civil society representatives and government officials, and reference was made to two separate categories of civil society actors: those who were seen to be constructive or to have been co-opted by the Government and those seen to be troublemakers or critical voices. In meetings with the Special Rapporteur, public authorities referred to the threat of violent extremism and terrorism as justifications for controlling civic space. The written response of the Ministry of the Interior to the Special Rapporteur states that the Hirak had already achieved its objectives with the resignation of the former President and that the movement had been “infiltrated by separatists manipulated by foreign agencies, radical pseudo-leftists who rejected any political solution by advocating revolution and violence, and Islamists advocating Islamic State, as well as anarchists acting in the pay of lobbying and interest groups”.

73. The large number of civil society actors facing terrorism-related charges under article 87 bis of the Criminal Code is evidence of the current climate of suspicion towards civil society actors, as are the criminal charges brought against individuals, associations, trade unions and political parties for having held meetings with partners from other countries or having received funding from foreign sources. Such criminalization of civil society work negates fundamental human rights and cannot be justified as a necessary and proportionate means of combating money-laundering and violent extremism. It has had a chilling effect and has created a climate of fear, resulting in a severe shrinking of civic space. The closure

⁴⁹ [A/HRC/WG.6/41/DZA/2](#), para. 38.

⁵⁰ See communication DZA 4/2021.

of independent media outlets and institution of criminal charges against journalists in recent years have also made a contribution in that regard.

74. While concern about public security and stability is understandable, especially given the regional and historical context, the Special Rapporteur saw no evidence for the fear that opening up civic space would lead to violence. Rather, the peaceful and civic spirit of the Hirak protests was evidence of the opposite. Similarly, the common message of all civil society actors was that their sole aim was to be recognized as partners so that they could work alongside the public authorities for the advancement of the country. They told the Special Rapporteur to inform the Government that they loved their country, wanted to be valued and trusted and wanted the Government to see them as a partner and not as an enemy.

75. To overcome that trust gap, it is essential for government authorities to loosen the current tight restrictions on associations by bringing laws into conformity with the Constitution and international human rights standards. Restrictions on the human rights to freedom of association and of assembly need to be necessary and proportionate and must not put in jeopardy the rights themselves. Opening up civic space means allowing diverse voices, including those more critical of the Government's policies, to make themselves heard.

VIII. Institutions

76. Independent institutions play a vital role in holding Governments to account and bridging the divide between government and civil society. They can do so only if they are adequately resourced and truly independent. The 2020 Constitution provided for the establishment of two consultative organs under the Office of the President: the National Civil Society Observatory and the Youth High Council. The Constitution also mandates the National Human Rights Council, which was established in 2016, to carry out monitoring, early warning activities and evaluation in connection with human rights issues. The establishment of those institutions is to be welcomed, as they provide mechanisms through which civil society can voice concerns to the Government.

77. The National Civil Society Observatory launched a programme in January 2023, entitled "Forum for Dialogue, Citizenship and Local Development", as part of which it held forums with thousands of associations. The Observatory also created a digital platform through which civil society actors can provide their opinions and recommendations. The Special Rapporteur also learned about efforts to facilitate consultations on draft legislation, including on the bill on associations. However, several interlocutors expressed concern that there had been limited consultations with civil society actors in the context of legislative processes, including the bill on associations. The consultations were perceived by some to have been unbalanced, involving only those associations that were considered supportive of the Government. The Special Rapporteur hopes that the Observatory will be able to build trust and work in a transparent and inclusive manner to demonstrate that its mission is not to control but to facilitate consultation and meaningful civil society engagement. The Observatory reiterated to the Special Rapporteur its commitment to work towards building that trust and promoting civic space.

78. Some civil society representatives expressed distrust of the National Human Rights Council, stating that its members were appointed by the President of Algeria. According to the Government, 4 of the 38 members of the Council are appointed by the President and the remaining members are appointed in compliance with Law No. 16-13. In a meeting with representatives of the Council, the president of the Council explained that it received very few complaints because it was thought of as a government institution. The Council also noted that, in its view, it could not intervene in matters before the judiciary or in protests about "illegal subjects" and did not have the resources to review all draft legislation. The Special Rapporteur recalls that the mandate of the Council, as stipulated in the Constitution, is to examine any situation of infringement of human rights that it has noted or that has been brought to its attention and to provide its assessment to the relevant authorities or competent courts. Consequently, the Constitution pre-empts the possibility that the Council may need to assess situations already before the courts, which can be done in a way that does not prejudice judicial proceedings.

79. The Special Rapporteur echoes the call of the Human Rights Committee that Algeria should bring the National Human Rights Council into line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles)⁵¹ and welcomes the commitment made by Algeria to do so.⁵² Algeria should ensure that the Council is adequately funded to perform its functions and that the selection and election of Council members is transparent and fully independent and grant the Council sufficient resources and capacity and the full autonomy and freedom to carry out its mandate effectively.⁵³ As stated in the Marrakech Declaration of the Global Alliance of National Human Rights Institutions, national human rights institutions should interact regularly with civil society.⁵⁴ At such a critical moment for Algeria, the National Human Rights Council should work towards building a comprehensive civic space, where all members of civil society, in their full diversity, can contribute to achieving progress on civil, political, economic, social and cultural rights for all.

IX. Developments since the visit

A. Gaza protests

80. In mid-October 2023, people gathered in the streets of Algeria to show support for the people of Gaza. The Special Rapporteur was pleased to see that the authorities allowed the exercise of the right of peaceful assembly in Algeria once again. However, the Special Rapporteur received reports that, while some such assemblies had initially been tolerated, only one assembly had officially been authorized, and others had been prevented from being held, with some participants arrested.

B. Reprisals

81. Algeria was included in five of the Secretary-General's previous seven reports on reprisals.⁵⁵ Before the visit, civil society groups from the diaspora had advised the Special Rapporteur that many civil society representatives in Algeria would be unwilling to meet with him owing to the high risk of reprisals from the authorities. Indeed, some civil society representatives declined requests to meet with the Special Rapporteur, citing safety concerns, while others were willing to communicate only online or in a safe space. The Special Rapporteur is deeply concerned about reports of alleged reprisals resulting from his meetings with some civil society representatives. In October 2023, the Special Rapporteur issued a communication in relation to some of those reports⁵⁶ and received a response from the Government in January 2024.

82. In January 2024, Ahmed Manseri was sentenced to six months' imprisonment (three months of which is suspended) and a fine of 50,000 Algerian dinars for the offences of engaging in actions that undermine national unity and security; inciting an unarmed gathering; and intentionally disseminating and promoting misleading news and information to the public through social media, undermining public security and public order. One of the stated reasons for the conviction was Mr. Manseri's intervention on Almagharibia TV, during which he spoke about the Special Rapporteur's visit and stated that respect for freedoms and rights, including civil and political rights, in Algeria was declining in all areas, that political parties and associations were being dissolved, that security had been significantly tightened, with over 350 prisoners of conscience, that independent actors remained under pressure and that violations were ongoing. The Special Rapporteur strongly urges the Government to stop

⁵¹ A/HRC/WG.6/41/DZA/2, para. 14; and CCPR/C/DZA/CO/4, para. 16.

⁵² A/HRC/WG.6/41/DZA/1, para. 140.

⁵³ A/HRC/WG.6/41/DZA/2, para. 14; and CCPR/C/DZA/CO/4, para. 16.

⁵⁴ See https://ganhri.org/wp-content/uploads/2019/11/Marrakech-Declaration_ENG_-12102018-FINAL.pdf.

⁵⁵ A/HRC/36/31, A/HRC/39/41, A/HRC/42/30, A/HRC/45/36 and A/HRC/54/61.

⁵⁶ See communication DZA 5/2023.

prosecuting people for expressing criticism of it or expressing views and facts with which it disagrees.

X. Conclusions and recommendations

83. The Special Rapporteur commends Algeria on its increasing openness to dialogue and cooperation on human rights. However, he remains concerned about the continued repression and intimidation of individuals and associations critical of the Government and the continued use of unconstitutional laws and practices from the pre-Hirak era to severely limit the exercise of the rights to freedom of peaceful assembly and of association. Algeria must recognize that respecting fundamental human rights strengthens, not weakens, security and stability. Long-term safety and security cannot be achieved without respecting human rights and ensuring that all persons, including those critical of the Government, can exercise their rights to freedom of peaceful assembly and association. For long-standing peace and security, Governments must treat civil society as a valued partner and not as a threat. Criticism is a complement to democracy and evidence that democracy exists. Allowing and consulting critical voices is also essential to improved governance and policymaking. The Special Rapporteur acknowledges and understands the caution of Algeria in response to threats to stability. However, he echoes the words of another special procedure mandate holder who visited Algeria over 12 years ago: “The logic of the past can no longer be used to ignore the expectations of the people, in particular the young, and to limit their freedoms. The Government should heed such voices. Freedom of expression, together with freedoms of peaceful assembly and association, allow society to ease tensions.”⁵⁷

84. Much remains to be done to fulfil the aspirations of the hundreds of thousands of people who marched in the streets for over a year. Building trust is the main challenge that needs to be overcome in order to achieve genuine progress and consolidate a social contract grounded in human rights, where people can participate in and contribute to the development of a new Algeria and all human rights can be fully realized. The Special Rapporteur is committed to working with the Government and the people of Algeria in their efforts to fulfil those aspirations, build mutual trust and meet the State’s obligations under international human rights law. In that spirit, the Special Rapporteur offers the recommendations set out below.

85. To build mutual trust with civil society, for the benefit of Algeria and all Algerians, the Government should:

- (a) Publicly recognize the important work of civil society associations and avoid statements, especially by senior officials, portraying civil society negatively or that put civil society at risk;
- (b) Consult broadly, and as early as possible, with civil society and other stakeholders and beneficiaries on draft laws and policies, especially those that have an impact on civil society;
- (c) Engage with civil society in all its diversity, including civil society actors critical of the Government;
- (d) Take effective measures to increase the participation of women in public and political life;
- (e) Support the re-establishment of dissolved associations, including civil society organizations, religious associations, political parties, trade unions and media organizations;
- (f) Remove travel bans imposed on civil society actors;
- (g) Bring the National Human Rights Council into conformity with the Paris Principles.

⁵⁷ [A/HRC/20/17/Add.1](#), para. 91.

86. To meet the promise of the Hirak, and in the spirit of building a new Algeria, the Government should:

(a) Investigate all allegations of excessive use of force against and violent arrests and ill-treatment of protesters and activists in custody and ensure justice and accountability;

(b) Drop charges against those who have exercised their right to freedom of peaceful assembly, of association or of expression, offline or online, and pardon those convicted for their involvement in the Hirak;

(c) Introduce a protocol based on the Special Rapporteur's Model Protocol for Law Enforcement Officials to Promote and Protect Human Rights in the Context of Peaceful Protests;⁵⁸

(d) Provide clear online and offline guidance for any government policies and procedures that apply to associations or peaceful assemblies. That is especially important for those policies and procedures that implement rights newly provided for in the 2020 Constitution, so that they can be fully enjoyed by all and without discrimination;

(e) Institute measures to increase women's participation in public life, including their political representation.

87. To comply with the Constitution and international human rights obligations of Algeria, the Government should:

(a) Review the compliance of existing laws with the Constitution and international human rights obligations of Algeria;

(b) Prioritize the adoption of new laws that strengthen the enjoyment of the public's freedoms and ensure that new laws do not contain restrictions that undermine the rights provided for in the Constitution. Any restrictions must be proportionate and necessary, aiming to facilitate the enjoyment, rather than the suppression, of rights. That includes:

(i) Repealing and replacing Law No. 12-06 on Associations, Law No. 91-19 on Public Meetings and Demonstrations and Organic Law No. 12-04 on Political Parties;

(ii) Repealing Presidential Ordinance No. 06-03 on the conditions and rules for the exercise of religions other than Islam;

(iii) Repealing article 87 bis of the Criminal Code and ensuring that any counter-terrorism legislation is sufficiently clear and narrow;

(iv) Amending Law No. 23-02 on the Exercise of Trade Union Rights, including to ensure that it covers all workers in Algeria and that unions can be created easily and operate without fear of dissolution or other forms of repression;

(v) Amending articles 75, 79, 95 bis, 96–98, 100, 144 and 196 bis of the Criminal Code to ensure that those provisions are sufficiently narrow and cannot be used to deny the rights to freedom of peaceful assembly, association, opinion and expression, whether offline or online.

⁵⁸ [A/HRC/55/60](#).