

# SCORING SHARIA COMPLIANCE OF MUSLIM GOVERNMENTS

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## HUMAN RIGHTS REPORT CARD FOR ALGERIA

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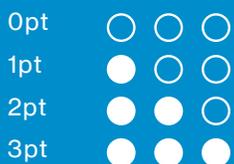
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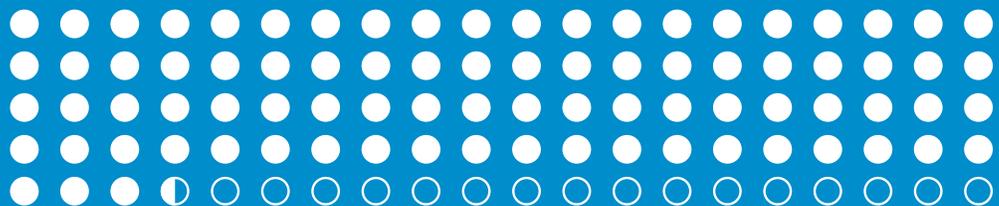
## SCORES FOR ALGERIA AT A GLANCE

### SCORING SYSTEM



### ALGERIA'S TOTAL SCORE

83.5 PTS OUT OF A 100 TOTAL POSSIBLE PTS



		POINTS <sup>‡</sup>	SCORE
1	FOUNDATION/BASIC RIGHTS		
	Popular Sovereignty	1.5pt/3pt	● ● ○
	Written Constitution	3pt/3pt	● ● ●
	Free Elections	2pt/3pt	● ● ○
	Independent Judiciary	0pt/3pt	○ ○ ○
2	CIVIL LIBERTIES		
	Free Speech	2pt/3pt	● ● ○
	Freedom of Conscience/Opinion/to Change Religion	2.5pt/3pt	● ● ●
	Freedom of Association and Assembly	1.5pt/3pt	● ● ○
	Free Press	1.5pt/3pt	● ● ○
	Habeas Corpus (Arbitrary Arrest/Detention and Being Held Without Charge)	2pt/3pt	● ● ○
	Due Process (Right to a Fair Trial)	3pt/3pt	● ● ●
	Torture*	2pt/2pt	● ● —
	Death Penalty*	2pt/2pt	● ● —
	Hudood Punishments	3pt/3pt	● ● ●

\*Highest score possible is 2.

‡Designated as points earned over total possible points.

3	MINORITY RIGHTS	POINTS <sup>‡</sup>	SCORE
	Freedom to Practice Religion	3pt/3pt	● ● ●
	Political Participation	2.5pt/3pt	● ● ◐
	Equal Access to Economic and Business Opportunities and Housing*	2pt/2pt	● ● —
	Citizenship	3pt/3pt	● ● ●
	Linguistic/Cultural Rights	3pt/3pt	● ● ●

4	WOMEN'S RIGHTS	POINTS <sup>‡</sup>	SCORE
	Political Participation	3pt/3pt	● ● ●
	Economic Rights	3pt/3pt	● ● ●
	Movement	3pt/3pt	● ● ●
	Marriage	3pt/3pt	● ● ●
	Right to Pass On Citizenship to Immediate Family Members*	2pt/2pt	● ● —
	Divorce/Alimony/Child Support	2.5pt/3pt	● ● ◐
	Education	3pt/3pt	● ● ●
	Polygamy	2pt/3pt	● ● ○
	Abortion*	2pt/2pt	● ● —

5	SOCIAL RIGHTS	POINTS <sup>‡</sup>	SCORE
	Healthcare	3pt/3pt	● ● ●
	Education	3pt/3pt	● ● ●
	Property Rights	3pt/3pt	● ● ●
	Travel/Movement	2pt/3pt	● ● ○
	Child Labor	2pt/3pt	● ● ○

6	MIGRANT WORKER/REFUGEE/IMMIGRANT RIGHTS	POINTS <sup>‡</sup>	SCORE
	Permanent Residency and Naturalization*	2pt/2pt	● ● —
	Right to Have Family Accompany <sup>†</sup>	1pt/1pt	● — —
	Access to Public Healthcare and Education For Self & Family Members*	2pt/2pt	● ● —
	Business and Property Rights*	0pt/2pt	○ ○ —
	Rights of Redress*	2pt/2pt	● ● —

\*Highest score possible is 2.

†Highest score possible is 1.

‡Designated as points earned over total possible points.

# HUMAN RIGHTS REPORT CARD FOR ALGERIA

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## INTRODUCTION

# INTRODUCTION

*Sharia is based on wisdom and achieving people's welfare in this life and the afterlife. Sharia is all about justice, mercy, wisdom, and good. Thus, any ruling that replaces justice with injustice, mercy with its opposite, common good with mischief, or wisdom with nonsense, is a ruling that does not belong to the Sharia, even if it is claimed to be so according to some interpretation.*

—ISLAMIC JURIST AND THEOLOGIAN, IBN AL-QAYYIM (1292-1350AD)<sup>I</sup>

The MPAC Human Rights Report Card for Muslim Countries was envisioned as a research project assessing the human rights record of nine countries that profess to have Islamic governments, i.e. their constitution and system of governance and law are based on Islamic guidelines. The countries have been chosen both by this initial criterion of self-proclaimed Islamic identity in governance and jurisprudence and by the variety they represent in terms of culture, geography, and ethnicity. The country reports are meant to be comparable in that they examine the same issues in areas such as civil liberties, social rights, minority rights, women's rights, and migrant worker or refugee rights, and the scoring is consistent, as much as possible, across the countries. The final product for each country is a report card based on a total possible score of 100 on compliance to Sharia<sup>II</sup> human rights requirements in these areas. The intent is that this work will be used by think tanks and policy makers to inform their understanding and perspectives. Furthermore, the individual country reports are structured so that they may be used as a resource for both Muslim and non-Muslim audiences. Most importantly, each report is an evaluation based on Islamic principles of the state of human rights in Muslim nations prepared by a Muslim organization (MPAC) that does not have an agenda other than to inform and to educate. The concept of the reports came out of a number of factors.

Islam and Sharia has been and is being used for narrow political and social agendas, especially in Muslim majority countries. Unfortunately, these agendas are using a limited understanding of Sharia to impose fear and authority on the citizenry. The overarching designation of "Sharia" and "Islamic" are being used to give authenticity and authority to authoritarian and violent worldviews, which would generally not be accepted by the masses. As has become blatantly apparent, both nation states and non state actors are using broad terms such as Sharia and Islam to justify outlooks, ideologies, behaviors, acts and laws. The Muslim Public Affairs Council (MPAC) entered in earnest into the discussion of justice, human rights and Sharia in 2006 with the publication of the book *In Pursuit of Justice: The Jurisprudence of Human Rights in Islam*<sup>III</sup> by Dr. Maher Hathout, et.al. *In Pursuit of Justice* develops and lays out our explicit understanding of what constitutes Sharia in the present, and serves as the basis of our project and the choices we made in identifying the human rights issues we evaluate in this project. All human societies develop and change and progress, articulating along the way a deeper and more refined sense of rights and what constitutes justice. It is our view that no ideology, creed or philosophy should be equated with its early formation, or interpreted only through the works produced in the era of its formative development. So too, is it unreasonable to suggest that

<sup>I</sup> Shams al-Din ibn al-Qayyim, *I'lama al Muaqqi'in*, ed.Taha Abdul Rauf Saad. Beirut: Dar al-Jil, 1973, vol. 3, p. 3. Quoted in Auda, Jasser. *Maqasid al-Shariah as Philosophy of Islamic Law A Systems Approach*. 2008. Washington:The International Institute of Islamic Thought.

<sup>II</sup> The term Sharia [شريعة] can be seen written as Sharia, Shariah, Shari'ah, or (the less acceptable) Sha'aria, and Sha'ria. In our reports, we will use the simpler form: Sharia.

<sup>III</sup> Hathout, Maher, with Uzma Jamil, Gasser Hathout, and Nayyer Ali. 2006. *In Pursuit of Justice: The Jurisprudence of Human Rights in Islam*. Los Angeles: Muslim Public Affairs Council.

legal codes or interpretations developed centuries ago should be taken as the final endpoint of Muslim understanding of their religion and their Scripture.

Because the scores are essentially one of Sharia compliance, the question that arises is whose definition of Sharia. Clearly, there are multiple interpretations of Sharia. First, neither the project nor individual country reports enter into this debate because it would take us away from the actual scoring. We use as our starting point the approach developed in [In Pursuit of Justice](#), and we encourage readers to refer to this book for a more detailed discussion. Notwithstanding, there are aspects of Sharia human rights requirements with which the majority of Muslim scholars, past and present, agree. These are foundational tenets of Sharia, generally referred to as *maqasid* (higher objectives and intents)], upon which we have based our scoring system.<sup>IV</sup>

To begin, we understand Sharia as a broad set of principles meant to make humanity a more just, merciful and equitable place for everyone. More specifically, Sharia is based on principles the underlying aim of which is to foster healthy societies within which humans can be nurtured and can work towards reaching their full God-given potential. It should not be surprising that scholars and learned people of all faiths share the notion that the Creator has made it incumbent upon God-conscious people to create societies that have as their underpinnings certain core principles<sup>V</sup> such as the following:

- *Promotion of Life*
- *Right to Earn a Living*
- *Promotion of Education and Intellect*
- *Freedom of Religion*
- *Right to Security and Safety*
- *Protection of Property and Privacy*
- *Promotion of Family*
- *Protection of the Weak*

Thus, Sharia requires that the promotion of these principles and the banning of encumbrances to these principles is what should be the basis and should underlie the interpretation of any and all laws, statutes, policies or edicts of governance and authority.

Many of the Muslim Majority states who claim to be implementing Sharia do not have a good record in implementing or preserving many of the above principles. One reason is that they have reached conclusions that run counter to the spirit of Sharia by basing their interpretations on the letter of classical law which is outdated because it was written for and by the people of a certain historical period and specific set of circumstances and which has not since gone through a rigorous process of *Ijtihad* (Critical Reasoning) or reform. There are also those governments, which may have institutionalized Sharia principles into their legal code, but because of corruption or a desire to preserve power and wealth, fail to enforce the laws.

The Sharia human rights compliance report card is particularly germane to American Muslims today because our faith and the perception of our faith is being impacted by the so-called “Islamic” laws, interpretations, and exhortations that derive from the governments and clerics of these countries. It is imperative for Muslim groups, especially American Muslim groups, to bring these flawed models and interpretations coming from the Muslim countries into the public arena for open discussion and critique, evaluating them against our understanding of the Islamic principles and objectives of Sharia. Islamic governance and a Muslim legal system must by definition be based on the humanistic principles which underlie the rationale for any Sharia law.

It follows then that we ask the question: How well do countries who purport to be based on Islam, or who claim to be implementing Islamic values, meet the basic requirements of Sharia? Our Sharia compliance human rights report card was developed in an attempt to answer this question in some quantifiable way. Based on a total possible score of 100, the report card assesses

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IV For detailed examinations of the historical development of the maqasid theory, see the following and references cited therein:

1. Al-Raysuni, Ahmad. 2005. [Imam al-Shatibi's Theory of the Higher Objectives and Intents of Islamic Law](#). Translated from the Arabic by Nancy Roberts. London/Washington: The International Institute of Islamic Thought.
2. Auda, Jasser. 2008. [Maqasid Al-Shariah as Philosophy of Islamic Law A Systems Approach](#). London/Washington: The International Institute of Islamic Thought.
3. Ibn Ashur, Muhammad al-Tahir. 2006. [Treatise on Maqasid al-Shari'ah](#). Translated from the Arabic and annotated by Mohamed El-Tahir El-Mesawi. London/Washington: The International Institute of Islamic Thought.

V Classical or early treatises identified five universal essential objectives and underpinnings of (Islamic) law. These were the preservation of life, freedom of religion, the preservation of the faculty of reason, right to progeny, and the right to property. Later jurists and philosophers expanded on these to include other principles such as the right to earn a living and right to safety and security, as necessities to ensure the five essentials. The preservation of honor is sometimes also seen as a universal objective and the adoption of this principle necessarily entails that all humans must be treated with dignity.

the constitutions, laws, legal codes, governance, and behavior of public figures in authority on 37 specific data points in the general areas of basic rights, civil liberties, minority rights, women's rights, social rights, and migrant worker, refugee and immigrant rights.

## METHODOLOGY

In devising the report card, it was important to build in objectivity and cross-country comparability as much as possible. For this reason, the scoring was developed as a matrix with fairly clear definitions as to what would constitute a particular score. In addition, the items were delineated in a way to make them narrow, thus avoiding the problem of bleed-over from conflated issues. For example, the score for "Free Speech" is separated and distinct from issues related to freedom of the press or freedom of association. Another example is the right of a woman to marry freely. In scoring this item, we look only at the laws that guarantee this right and the actions of the enforcement and judicial systems in protecting that right. We do not score cultural norms unless they are carried out by actors in violation of the law.

The scope of the research is the examination of the human rights record of nine countries that profess to have Islamic governments, i.e. their constitution and system of governance are based on Islamic guidelines. In addition to this initial criterion of self-proclaimed Islamic identity in governance and jurisprudence, the second criterion was that the countries represent a broad spectrum of Islamic nations. Finally, a chosen country would need to have a fairly significant population size. In attempting to fulfill the requirement of diversity, we considered a nation's ethnicity, culture and language, geography, dominant religious affiliation (different schools of Sunni Islam and the Shia school) and socio-economic circumstances.

The report card is a compilation of scores from 37 different human rights data points within six general categories. Most of the items have a possible total score of 3. Meeting the Sharia human rights requirement in total merits a score of 3, while failing to meet the requirement entirely earns a score of 0, with a score range of .5, 1, 1.5, 2, and 2.5 between those extremes. The score is based on evidence from

a number of sources. These include the nation's constitution and its legal and penal codes, the evidence from their system of governance, governmental sources as well as respected sources within that country such as attorney associations, unions, human rights associations and the press. We also referred to human rights organizations both within the US (Human Rights Watch, Amnesty International, Freedom House, the US Center for International Religious Freedom) as well as international human rights organizations such as those affiliated with the United Nations and others. We consulted World Bank data and data gathered from organizations with an interest in that region. Finally, we looked at press reports from both within the country and abroad. These include al-Jazeera, Agence France Presse (AFP), Reuters, the British press, and smaller media outlets within the region. It was important for us that we have solid evidence for judging an item in a particular manner, and that it be corroborated and justifiable. Moreover, it was important to avoid any assessments by others that may have been made because of a particular bias or agenda. We are aware that some reports appear in several outlets but have, in fact, the same source, and, as much as possible, we tried to avoid that trap.

One of the goals of the project is to encourage transparency so that an open and productive discussion can follow. In that light, we made every attempt to be as transparent as possible and so have been careful with our documentation, which appear in the many footnotes. The footnotes also carry other interesting information about the country, so the reader is encouraged to not ignore these.

## CHOICE OF ALGERIA FOR ASSESSMENT

Algeria was included in this study because the Algerian Constitution states: "Islam shall be the religion of the State".<sup>VI</sup> This edict is made inviolable with the injunction that "[n]one of the following shall be the object of a constitutional amendment ... 3. The role of Islam as the religion of the State".<sup>VII</sup> In addition, Article 8 of Chapter II establishes governmental institutions and defines their purposes,<sup>VIII</sup> while Article 9 states that the "institutions shall not indulge in ... practices contrary to Islamic morals."<sup>IX</sup>

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VI Part One, Chapter I, Article 2 of the Constitution of the People's Democratic Republic of Algeria, 1996, available at <http://corpus.learningpartnership.org/constitution-of-algeria-2008>

VII Part Three, Chapter II, Title IV, Article 178 of the Constitution.

VIII Chapter II Article 8:

The people shall establish institutions which have as their objective:

- the safeguarding and the consolidation of national independence;
- the safeguarding and consolidation of national identity and national unity;
- the protection of fundamental rights and the social and cultural development of the Nation;
- the suppression of the exploitation of man by man;
- the protection of the national economy against all forms of embezzlement or misappropriation, hoarding or illegal confiscation.

IX Chapter II Article 9:

The institutions shall not indulge in:

- feudal, regionalist and nepotistic practices;
- the establishments of relations of exploitation and bonds of dependency;
- practices contrary to Islamic morals and the values of the November Revolution.

# FOUNDATION/BASIC RIGHTS

## SCORING SYSTEM

0pt	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
1pt	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
2pt	<input checked="" type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
3pt	<input checked="" type="radio"/>	<input checked="" type="radio"/>	<input checked="" type="radio"/>

## SCORES FOR ALGERIA AT A GLANCE

Popular Sovereignty	1.5pt/3pt	<input checked="" type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Written Constitution	3pt/3pt	<input checked="" type="radio"/>	<input checked="" type="radio"/>	<input checked="" type="radio"/>
Free Elections	2pt/3pt	<input checked="" type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Independent Judiciary	0pt/3pt	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

# FOUNDATION/BASIC RIGHTS

## POPULAR SOVEREIGNTY

1.5/3

POINTS EARNED



SCORE

0 pt	No popular sovereignty
1 pt	Real power unelected, some elected figureheads
2 pt	Elected leaders with limited power
3 pt	Elected leaders with full power

Algeria's government is a presidential republic whereby the President is head of state and is elected by absolute majority vote through a two-round system to serve a 5-year term. There are no term limits on the presidency.<sup>5</sup> The Prime Minister is the head of government and is appointed by the President.

Legislative powers lay in the two chambers of Parliament. In the Council of the Nation (*Majlis al-Oumma*), 96 members are indirectly elected by an electoral college to serve 6-year terms and 48 members are appointed by the President to serve 6-year terms. In the National People's Assembly (*Al-Majlis Ech-Chaabi Al-Watani*) 462 members are elected through a closed-list proportional representation system to serve 5-year terms.<sup>6</sup>

We gave Algeria a 1.5 on popular sovereignty for three reasons. First, although Algeria's President is chosen by universal suffrage, Algeria has suffered from fraud in past elections which has made the people distrustful of the electoral process resulting in low voter turn-out. It is therefore difficult to say that the president was elected by a "majority". Second, the government does not have a system of checks and balances. The president,

as head of government, holds almost exclusive power and appoints all important civilian and military posts. If the Prime Minister is not able to obtain the approval of the People's National Assembly of the Presidents plan of action, then he must resign, and a new Prime Minister is appointed. If the National Assembly still does not approve of the President's plans, the National Assembly is dissolved. This demonstrates an institutionalized lack of balance against the will of the president. Finally, many analysts feel that real control and influence in Algeria is in the hands of powerful generals known to Algerians as "Le Pouvoir" (the power).<sup>7</sup>

Article 71 of the Algerian Constitution states that the President "shall be elected by universal, direct and secret suffrage" and Articles 10 and 11 stipulate that the "people shall choose their representatives freely" and that the "State derives its legitimacy and its existence from the will of the people ...and shall be at the exclusive service of the People". Although the 2012 parliamentary elections were deemed by many observers as generally "free and transparent",<sup>8</sup> the low numbers of international observers made the pronouncement suspect,<sup>9</sup> while many others pointed

1 Part One, Chapter I, Article 2 of the Constitution of the People's Democratic Republic of Algeria, 1996, available at <http://corpus.learningpartnership.org/constitution-of-algeria-2008>

2 Part Three, Chapter II, Title IV, Article 178 of the Constitution.

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- the suppression of the exploitation of man by man;
- the protection of the national economy against all forms of embezzlement or misappropriation, hoarding or illegal confiscation.

4 Chapter II Article 9:

*The institutions shall not indulge in:*

- feudal, regionalist and nepotistic practices;
- the establishments of relations of exploitation and bonds of dependency;
- practices contrary to Islamic morals and the values of the November Revolution.

5 A 2008 Constitutional Amendment.

6 IFES Election Guide: <http://www.electionguide.org/country.php?ID=4>

7 According to Karim Kebir of AP, "Algeria regularly holds presidential and parliamentary elections, but true power is believed to be held by a shadowy collection of generals working behind the scenes." Available at <http://bigstory.ap.org/article/top-algerian-politician-resigns-party-head>. See also The Economist, "Still Waiting for Democracy", May 12, 2012 at <http://www.economist.com/node/21554565>

8 The opinion of Hanafi Wajih, the head of the Arab League's observer mission, quoted by AlJazeera on 14 May 2012: <http://www.aljazeera.com/programmes/insidestory/2012/05/201251465357500445.html>

9 According to the National Democratic Institute's "Final Report on Algeria's Legislative Elections of May 10, 2012", "the Ministry of Interior reported accrediting slightly more than 500 international observers." In addition, over 500 volunteer observers, equipped with simple forms and rudimentary training, monitored operations in their own polling stations and took testimony from voters, electoral authorities, party activists, and others in 15 of Algeria's 48 wilayas [provinces] on election day. The number of observers is deemed too low to provide effective monitoring of Algeria's 45,000 polling centers on election day. The NDI report is available at <http://www.ndi.org/files/Algeria-Report-Leg-Elections-ENG.pdf>

outright to instances of fraud.<sup>10</sup> In any event, many Algerians feel a sense of apathy and distrust which is reflected in low voter turnout, 20% based on some estimates.<sup>11,12</sup>

## DISCUSSION

We feel the president's powers as provided by the Constitution are too broad and that Parliament has too little power.<sup>13</sup> Furthermore, there is no differentiation of power or ideas within government as almost all key players derive their position from and thus owe their loyalty to the President. The Constitution em-

powers the President to appoint not only the Prime Minister and his cabinet, but also many important civilian and military posts including all judges and prosecutors, the Governors of all 48 provinces, the President and one-third of the members of the Council of the Nation (the Conseil d'Etat, the upper house of parliament) and the Governor of the national bank.<sup>14</sup> More importantly, the president shares power with a military elite which does not operate with either transparency or civilian oversight.<sup>15</sup>

## WRITTEN CONSTITUTION

3/3

POINTS EARNED



SCORE

- 0 pt No constitution.
- 1 pt Written Constitution not followed.
- 2 pt Written Constitution respected/usually followed.
- 3 pt Written Constitution fully respected/enforced.

We feel that Algeria has a system of laws that it generally follows.

<sup>10</sup> See Jeremy Keenan's article of May 15, 2012 in Al Jazeera: <http://www.aljazeera.com/indepth/opinion/2012/05/201251482813133513.html>. See also the NDI report referenced in fn. 9.

<sup>11</sup> [http://www.nytimes.com/2012/05/12/world/africa/algerians-skeptical-of-election-results-favoring-party-in-power.html?\\_r=0](http://www.nytimes.com/2012/05/12/world/africa/algerians-skeptical-of-election-results-favoring-party-in-power.html?_r=0)

<sup>12</sup> According to an article by Paul Schemm "...at least 17 percent of the ballots cast were void – often because voters ripped them up before putting them into the voting envelope and dropping them into the ballot box. A number of independent newspapers also expressed skepticism over the government's final turnout figure, citing a lack of voter interest observed across the country by their reporters in the field. In contrast to the long lines and enthusiastic voters found in other Arab countries during elections brought on by the Arab Spring, most Algerians expressed little interest during the campaign, citing the assembly's lack of power and chronic election fraud." In May 11, 2012 Huffington Post at [http://www.huffingtonpost.com/2012/05/11/algeria-elections-islamists-fraud\\_n\\_1509111.html](http://www.huffingtonpost.com/2012/05/11/algeria-elections-islamists-fraud_n_1509111.html). See also Lahcen Achy, The Price of Stability in Algeria, Carnegie Middle East Center paper dated April 25, 2013. Available at <http://carnegie-mec.org/2013/04/25/price-of-stability-in-algeria/g1cs#>

<sup>13</sup> The Constitution stipulates that when Parliament fails to implement the President's plans, it is dissolved. From the Constitution: Article 80[9]: *The Prime Minister shall submit to the Council of the Nation a statement on his action plan as it has been approved by the People's National Assembly.*

Article 81[10]: *In case of non-approval of his action plan by the People's National Assembly, the Prime Minister shall tender the resignation of his government to the President of the Republic.*

The President of the Republic shall appoint a new Prime Minister under the same procedure.

Article 82: *If the approval of the People's National Assembly is not obtained on a new effort, the People's National Assembly shall be dissolved without further consideration.*

<sup>14</sup> From the Constitution: Article 77 (5): *The President shall appoint the Prime Minister.*

Article 78: *The President of the Republic shall appoint:*

- To posts and commissions (as) specified by the Constitution;*
- 1. to civilian and military posts of the State;*
- 2. to other posts determined by the Council of Ministers;*
- 3. the President of the Conseil d'Etat [upper house of Parliament];*
- 4. the Secretary General of the Government;*
- 5. the Governor of the Bank of Algeria;*
- 6. the judges and prosecutors;*
- 7. those responsible for the security organs;*
- 8. the walis*

<sup>15</sup> "Algeria's political system is dominated by a strong presidency and security apparatus. ... It is unclear whether reforms initiated in 2011 amid the "Arab Spring" have the potential to alter the deeper power dynamics within the opaque politico-military elite networks that Algerians refer to as Le Pouvoir (the powers-that-be)." From Algeria: Current Issues by Alexis Arief, Congressional Research Service, January 18, 2013. See also fn. 7.

## FREE ELECTIONS

2/3

POINTS EARNED



SCORE

0 pt	No free elections
1 pt	Candidates are undemocratically limited and/or significant fraud
2 pt	Open elections, some fraud/irregularity/bias
3 pt	Free and fair elections

We have given Algeria a score of 2 because there is evidence of fraud, irregularity (as evidenced by low voter turnout and empty ballots) and bias in the elections. Algeria's electoral problems are better understood when put into the context of recent history. Algeria suffered a decade of violence when a popularly elected Islamist government was overthrown by the military 1991. 2002 ushered in a new era of an end to violence and more transparency in elections.<sup>16</sup> Still, elections have been

rife with accusations of fraud.<sup>17</sup> Although the 2012 parliamentary elections were seen as an improvement,<sup>18</sup> the Algerian National Independence Commission of Legislative Election Surveillance was critical of government interference in the election.<sup>19</sup> Political parties need to be registered, but in January 2012, the government introduced measures to facilitate in the registration of new political parties.<sup>20</sup>

<sup>16</sup> "In the late 1980s, Algerian authorities began to open the political system in response to economic grievances and growing public frustration with decades of single-party rule. But when Islamists won a landslide victory in elections held in 1991, Algeria's military seized control of all political institutions, triggering a decade of civil war between armed Islamist groups and the government that left hundreds of thousands of civilians dead. Political and military leaders brokered an end to the violence in 2002 and committed themselves to political pluralism, transparent elections and the rule of law.

Legislative and local elections held in 2007 were marked by allegations of fraud and low voter turnout. Those in 2012 also saw modest turnout and many intentionally spoiled ballots, despite changes to the electoral framework intended to encourage participation. President Abdelaziz Bouteflika, in power since 1999, was elected to a third term in 2009 after amending the constitution to abolish term limits. The next presidential election is scheduled for 2014." from the National Democratic Institute at <http://www.ndi.org/algeria>

<sup>17</sup> See Jeremy Keenan's article of May 15, 2012 in Al Jazeera: <http://www.aljazeera.com/indepth/opinion/2012/05/201251482813133513.html>. The 2013 Freedom in the World Report by Freedom House (found at <http://www.freedomhouse.org/report/freedom-world/2013/algeria>) states: "The election commission set up by the Algerian government itself condemned the elections as "not credible," although FLN and RND members on the commission refused to sign the final report". See also Algeria's elections not credible: monitoring commission. Agence France Presse. Jun 2, 2012. At [http://www.google.com/hostednews/afp/article/ALe-qM5iINtIvIhwWvvUlfvxGlp03\\_jNfqA?docId=CNG.45aa828a72fa6e04ac99ea3d19692843.871](http://www.google.com/hostednews/afp/article/ALe-qM5iINtIvIhwWvvUlfvxGlp03_jNfqA?docId=CNG.45aa828a72fa6e04ac99ea3d19692843.871)

<sup>18</sup> <http://english.alarabiya.net/articles/2012/05/13/213759.html>

<sup>19</sup> <http://pomed.org/blog/2012/05/algerian-commission-elections-lack-credibility.html/>

<sup>20</sup> National Democratic Institute, Final Report on Algeria's Democratic Elections, May 10, 2012. Available at <http://www.ndi.org/algeria>

## INDEPENDENT JUDICIARY

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0/3

POINTS EARNED



SCORE

- 0 pt No independence of judiciary
- 1 pt Limited independence in non-political matters  
Significant independence in most cases
- 2 pt Full independence, government accepts Supreme Court rulings
- 3 pt Court rulings
- 

Although its constitution guarantees an independent judiciary,<sup>21</sup> we have given Algeria a score of 0 on this item because all judges and prosecutors are appointed by the President.<sup>22</sup> Furthermore, the “Supreme Court can review lower court decisions only on questions of procedure, not questions of legal dispute. When overruled, lower court decisions are returned to the lower courts for retrial. The Supreme Court issues no legal decisions and lacks jurisdiction over government actions and/or the constitutionality

of government decrees. Traditionally, the Supreme Court has ruled in favor of sharia law over contemporary secular law”.<sup>23</sup> In a paper by the Carnegie Middle East Center, “Algeria’s judicial system ... is subject to interference and influence from members of the executive branch and powerful individuals and companies.”<sup>24</sup> The paper cites a 2012 World Economic Forum survey which ranks Algeria 123 out of 144 countries on judicial independence.

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<sup>21</sup> Chapter III, Article 138: The judicial authority shall be independent. It shall be exercised within the framework of the law, and Article 148: The judge shall be protected against all forms of pressures, interventions or maneuver of any nature that could be harmful to the accomplishment of his mission or to the respect for his free judgment.

<sup>22</sup> See fn. 14.

<sup>23</sup> From the Library of Congress, Government and Politics of Algeria, available at <http://countrystudies.us/algeria/124.htm>

<sup>24</sup> Lahcen Achy, The Price of Stability in Algeria, Carnegie Middle East Center paper dated April 25, 2013. Available at <http://carnegie-mec.org/2013/04/25/price-of-stability-in-algeria/g1cs#>

# 2

## CIVIL LIBERTIES

### SCORING SYSTEM

0pt	○	○	○
1pt	●	○	○
2pt	●	●	○
3pt	●	●	●

### SCORES FOR ALGERIA AT A GLANCE

Free Speech	2pt/3pt	●	●	○
Freedom of Conscience/Opinion/to Change Religion	2.5pt/3pt	●	●	◐
Freedom of Association and Assembly	1.5pt/3pt	●	◐	○
Free Press	1.5pt/3pt	●	◐	○
Habeas Corpus (Arbitrary Arrest/Detention and Being Held Without Charge)	2pt/3pt	●	●	○
Due Process (Right to a Fair Trial)	3pt/3pt	●	●	●
Torture*	2pt/2pt	●	●	—
Death Penalty*	2pt/2pt	●	●	—
Hudood Punishments	3pt/3pt	●	●	●

\*Highest score possible is 2.

# CIVIL LIBERTIES

## FREE SPEECH

2/3

POINTS EARNED



SCORE

- 0 pt Is not protected by law
- 1 pt Is protected by law but not implemented in practice
- 2 pt Freedom of speech is permitted by the government
- 3 pt Freedom of speech is protected by the government against others who may wish to prohibit free speech through intimidation or violence.

We have disambiguated free speech from freedom of the press and freedom of association. We have included political demonstrations under freedom of association. We are including religious speech here.

We gave Algeria a score of 2 because free speech is protected in the Constitution of Algeria (Articles 36 and 41)<sup>25</sup> and there doesn't seem to be any evidence for ordinary people being arrested for openly expressing their opinions with one caveat. While individuals are able to express views critical of their government, criticism of the conduct of security forces during the brutal civil war of the 1990s that took more than 100,000 lives remains politically taboo.<sup>26</sup> Ordinance 06-01<sup>27</sup> on the implementation of the Charter for Peace and National Reconciliation provides immunity from prosecution for security force members and members of armed groups, with certain exceptions, for atrocities they perpetrated during the civil strife of the 1990s.<sup>28</sup> Presidential Decree 06-95 seeks to muzzle continuing debate and scrutiny of the atrocities committed

during that period by providing up to five years in prison for anyone who “exploits the wounds of the national tragedy, with a view to harming Algerian institutions, harming the honor of its agents who served it with dignity, or tarnishing the image of Algeria at the international level.”<sup>29</sup>

In addition, we consider use of the internet as part of free speech and so found the July 2012 arrest of so-called “cyberactivist” Saber Saidi troubling. He was charged with “incitement to terrorism” for posting videos of demonstrations by opposition groups and revolutionary groups in other parts of the Arab world as well as for posting sermons by Ali Belhadj, a leader of the banned Islamic Salvation Front.<sup>30</sup>

According to the 2012 Country Report for Algeria by the U.S. Department of State's Bureau of Democracy, Human Rights and Labor, “[i]ndividuals were not able to criticize the government publicly, and in practice citizens practiced self-restraint in voicing public criticism. The law criminalizing speech about the

<sup>25</sup> Article 36: The freedom of conscience and the freedom of opinion shall be inviolable. Article 41: The freedoms of expression, association and assembly shall be guaranteed to the citizen.

<sup>26</sup> “The authorities took no steps to investigate thousands of enforced disappearances and other human rights abuses committed during the internal conflict of the 1990s. The Charter for Peace and National Reconciliation (Law 06-01), in force since 2006, gave immunity to the security forces and criminalized public criticism of their conduct. Families of those forcibly disappeared were required to accept death certificates in order to receive compensation but were denied information about the fate of their disappeared relatives. Those who continued to call for truth and justice faced harassment. ... [For example] Mohamed Smaïn, ... an advocate of truth and justice for the families of the disappeared, was arrested in June [2012] in connection with a two-month prison sentence and fines imposed on him after he criticized the authorities for moving corpses from a mass grave in Relizane in 2001. His sentence had been confirmed by the Supreme Court in 2011. He was released under a presidential pardon issued in July on health grounds.” From Amnesty International Annual Report: Algeria 2013.

Available at <http://www.amnestyusa.org/research/reports/annual-report-algeria-2013?page=show>

<sup>27</sup> In the Official Journal of the People's Democratic Republic of Algeria, International Conventions and Agreements, Law and Decree Orders, Decisions, Notices, Communications and Announcements. Year 45, No. 11, 29 Moharram 1427 corresponding to 28 February 2006 available at <http://www.joradp.dz/FTP/jo-francais/2006/F2006011.pdf>

<sup>28</sup> Human Right Watch World Report 2012 for Algeria at <http://www.hrw.org/world-report/2013/country-chapters/algeria?page=2>

<sup>29</sup> Chapter Six, Article 46 in the Official Journal of the People's Democratic Republic of Algeria, International Conventions and Agreements, Law and Decree Orders, Decisions, Notices, Communications and Announcements. Year 45, No. 11, 29 Moharram 1427 corresponding to 28 February 2006, p.7. Available at <http://www.joradp.dz/FTP/jo-francais/2006/F2006011.pdf>

<sup>30</sup> U.S. Department of State, Bureau of Democracy, Human Rights and Labor. Country Reports on Human Rights Practices. Algeria 2012 Country Report, p. 8. Available at <http://www.state.gov/documents/organization/204564.pdf>

conduct of the security forces during the internal conflict of the 1990s remained in force, although there were no cases of arrest or prosecution under the law during the year.”<sup>31</sup> Both this report and the Human Rights Watch report attest that individuals are not being prosecuted for public speech, although as we saw above, activity on social media sites is being prosecuted.

The other concern we have regarding Algeria is governmental control of the Friday sermon at mosques. According to the 2012 International Religious Freedom Report for Algeria by the U.S. State Department’s Bureau of Democracy, Human Rights and Labor, “[i]mams are hired and trained by the state. Muslim services ... can take place only in state-sanctioned mosques. ... The penal code states that only government-authorized imams can lead prayer in mosques and penalizes anyone other than a government-designated imam who preaches in a mosque with fines of up to 100,000 dinars (\$1,285) and prison sentences

of one to three years. Harsher punishments of fines as high as 200,000 dinars (\$2,570) and prison sentences of three to five years exist for any person, including government-designated imams, who act “against the noble nature of the mosque” or in a manner “likely to offend public cohesion.” The law does not specify which actions would constitute such acts. **The government may prescreen and approve sermons before they are delivered publicly during Friday prayers**, but more often it **provides preapproved sermon topics** prior to Friday prayers. If a ministry inspector suspects an imam’s sermon is inappropriate, he can summon the imam to a “scientific council” composed of Islamic law scholars and other imams who assess the sermon’s correctness. The government can relieve an imam of duty if he is summoned multiple times.<sup>32</sup> We find this kind of governmental control over the person who delivers it and the topic and content of a religious sermon a violation of free speech.<sup>33</sup>

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<sup>31</sup> U.S. Department of State, Bureau of Democracy, Human Rights and Labor. Country Reports on Human Rights Practices. Algeria 2012 Country Report. Available at <http://www.state.gov/documents/organization/204564.pdf>

<sup>32</sup> See: <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper>

<sup>33</sup> One may make the argument control of religious sermons in mosques is a practical necessity given the context of the region and the threat of hate speech or exhortations toward violent extremism in mosques by extremist imams. We feel that shutting down all speech has the outcome that moderate speech which can counteract extremist views is also quashed. The result is that extremism goes underground and an open debate which can mitigate and debunk the extremist views is made impossible. There is, of course, the additional philosophical question of ends justifying means: in order to achieve security and stability, freedom of religious speech is taken away, notwithstanding that there is no evidence that it achieves the result it purports to.

## FREEDOM OF CONSCIENCE/OPINION/TO CHANGE RELIGION

2.5/3

POINTS EARNED



SCORE

- 0 pt No right to change religion or hold views contrary to standard beliefs
- 1 pt Legal right to change religion or hold non-standard views, significant barriers
- 2 pt Legal to change religion or hold minority views, mild barriers
- 3 pt Full right to change religions and hold non-standard opinions and beliefs

This is a broad category in that in addition to the freedom to change one's religion (in practical reality, this means converting from Islam into Christianity), includes holding views that are different from the normative views of society. Furthermore, we once again remind the reader that we are scoring the Algerian system of laws and governmental operations including acts by officials of that government. We are not scoring cultural practices or norms. Societal practices are taken into consideration only when they interfere with individual rights and then we score governmental or official responses to those practices, i.e. do the laws and governmental actors protect people's rights from other people.

With regard to religious conversions, there is no specific wording in the constitution regarding freedom of religion, and there is nothing in the law to prevent conversions. Chapter IV, Article 36 states "The freedom of conscience and the freedom of opinion shall be inviolable." Furthermore, Algeria is a signatory to the U.N. International Covenant on Civil and Political Rights<sup>34</sup> Article 18 of which states:

*1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and*

*freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.*

*2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.*

The Algerian Family Code was modified in 2005 to remove the statement that Muslim women cannot marry non-Muslim men.<sup>35</sup> By extension, in the original wording, a marriage would be legally nullified by the conversion of the husband (presumably from Islam), but this provision in the Family Code was also modified in 2005 and is now the ambiguous statement, "the marriage is declared void if the consent [i.e. pre-nuptial understanding] is vitiated".<sup>36</sup> We consider these domestic and personal issues and not germane to our study. However, Article 138 clearly states that apostates may not inherit, which we do consider a public issue.

Whereas Algerians are highly tolerant of those who practice faiths other than Islam, they do not extend that tolerance to citizens who renounce Islam. In general though, the Government does not interfere with conversions or reactions to them. Ac-

<sup>34</sup> Signed in Dec 1968 and ratified in Sept 1989.

<sup>35</sup> The Family Code (Code de la Famille) Title I, Chapter II, Article 31 (modified). Available in French at [http://www.premier-ministre.gov.dz/images/stories/dossier/Codes/code\\_famille.pdf](http://www.premier-ministre.gov.dz/images/stories/dossier/Codes/code_famille.pdf) See fn. on page 5.

<sup>36</sup> The Family Code, Title I, Chapter III, Article 33 (modified).

ording to the 2013 CIA World Factbook, only 1% of Algerians are Christian or Jewish.<sup>37</sup>

A 2012 Amnesty International (AI) report found that “Christians, including converts, continued to face prosecution for unauthorized religious activity under Ordinance 06-03 regulating faiths other than the state religion, Islam”.<sup>38,39</sup> There is the case of the Karim (or sometimes, Krime) Siaghi, a Christian convert, who was sentenced and fined in May 2011 for “offending the Prophet Mohamed”. However, as of Sept. 5, 2013, this person was still at liberty awaiting appeal.<sup>40</sup> We see these acts as efforts by rogue officials taking their own interpretations beyond the scope of the law or bowing to pressure from non-governmental radical Islamic groups. The fact that these were over-ruled or failed to be pursued and were very few in number prevents us from looking at these incidences as systematic.

On another note, the Freedom House 2013 report for Algeria states that “[a]cademic freedom is largely respected, though debate is somewhat circumscribed”.<sup>41</sup>

We have given Algeria a 2.5 in this category. Although the legal system and the government are generally tolerant of faiths other than Islam and to conversions away from Islam, the law that disinherits apostates is prejudicial. We consider this a “mild barrier” to conversion. Within the broader framework of this category, we feel that there is no systematic repression of freedom of belief or opinion. This score is not meant to reflect the freedom to practice a religion other than Islam. That issue is dealt with in the section on minorities below.

One final note. While there has been an increase in tolerating a more open society in general from the Algerian government since 2011, there has been a surge of Islamization accompanied by increasing intolerance in some quarters of the population. The opening of more democratic freedoms by the government has also allowed people to speak out against reli-

gious intolerance: protests against penalizing Muslims who eat or drink during the fasting month of Ramadhan, for example.<sup>42</sup> Thus, in recent years, there has been a jockeying between protecting civil liberties and urging the government to impose restrictions on religious liberty. One Arabic article put it thus: “The authorities’ monitoring of people during Ramadan and punishing of those who are proven to have broken the fast is the only thing that Algerian Islamists thank their police force and their judges for and the only time they consider the government their guardian. In everything else, they mostly oppose them.”<sup>43</sup>

Again, our score is based on the behavior of Algerian officials, the law, and the actions of the government that either uphold or ignore their duty to protect rights guaranteed by law. Intolerance and pressure on the government by more conservative non-governmental figures, while lamentable, is not relevant to our scoring paradigm.

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<sup>37</sup> <https://www.cia.gov/library/publications/the-world-factbook/geos/ag.html>

<sup>38</sup> From Amnesty International’s 2012 Report on Algeria. Available at <http://www.amnesty.org/en/region/algeria/report-2012>

<sup>39</sup> See discussion in Freedom to Practice Religion under Minority Rights below as well as fn. 100.

<sup>40</sup> See ALGERIA: Christian Convert Facing Prison Time for Defaming Islam. Voice of the Martyrs. Sept. 5, 2013. At <http://www.vom.com.au/news.asp?pid=1&id=1317>. For more information on this case, see Algeria Slow in Ruling on Convert’s Appeal of Prison Sentence. The Morning Star News. Aug. 7, 2013. At <http://morningstarnews.org/2013/08/algeria-slow-in-ruling-on-converts-appeal-of-prison-sentence/>

<sup>41</sup> Ibid.

<sup>42</sup> For example, pressure upon Muslims to observe the fast during Ramadhan, and the reaction that this observance should not be imposed by any quarter. See “Algeria Islamic council berates Ramadan ‘non fasters’”. Morocco World News via AFP. Aug. 7, 2013. At <http://www.morocccoworldnews.com/2013/08/100293/algeria-islamic-council-berates-ramadan-non-fasters/>. See also fn. 105 and 108.

<sup>43</sup> Traboulsi, Mourad. Ramadan in Algeria: The Hefty Sin Tax (translated from the Arabic). Al Akhbar English. Aug. 19, 2012. At <http://english.al-akhbar.com/node/11246>

## FREEDOM OF ASSOCIATION AND ASSEMBLY

1.5/3

POINTS EARNED



SCORE

- 0 pt No right of assembly; it is illegal and violators are punished
- 1 pt Legal under the law, but significant harassment
- 2 pt Mild limitations on association and assembly, and/or government does not protect right of assembly from non-governmental actors
- 3 pt Full right of association and peaceable assembly; government protects the right

We have given Algeria a score of 1.5 on this item because there is a growing trend toward limiting the freedoms of association and assembly, in particular, against the independent trade union movement. There are cases of harassment of individual union activists. One example is Abdelkader Kherba who was eventually sentenced to two months suspended sentence and fined the equivalent of US\$250,<sup>44,45</sup> Yacine Zaid, another union activist, was arrested several times in 2012, typically released shortly after, convicted and received a suspended sentence, arrested again and acquitted.<sup>46</sup> In all, the instances of arrests have been relatively few, with release following shortly thereafter often with suspended sentences and reduced fines.<sup>47</sup> This punitive “restraint” disallowed us from demoting the Algerian situation to a score of 1, while reports of government obstruction of union formation and activities precludes the score of 2.

There are several clear statutes in the Algerian constitution which protect the following:<sup>48</sup>

1. Freedom of assembly and association (Article 41)
2. The right to form associations (Article 43)
3. The right to form political parties, though with caveats (Article 42)

4. The right to establish a trade union (Article 56)
5. The right to strike (Article 57)

Notwithstanding the above guarantees, according to the Human Rights Watch 2013 World Report, the Algerian authorities continued to restrict freedom of assembly, mainly by using preemptive techniques to prevent planned demonstrations and arrests to prevent public protests. They cite as examples:

- the April 20th arrest (and later release) of 10 activists of the Youth Action Rally (a youth movement founded in 1992 around the themes of human rights and democratization) on their way to a meeting with a French journalist.
- the April 26th arrest of several activists trying to demonstrate in front of the court of Sidi Mohamed in Algiers in solidarity with Abdelkader Kherba (member of the National Committee to Defend the Rights of the Unemployed who, arrested on April 18, was on trial for direct incitement to unarmed gathering. He was found guilty of distributing leaflets on unemployment and given a suspended sentence.<sup>49,50</sup>

<sup>44</sup> See Amnesty International News of May 7, 2013 at <http://www.amnestyusa.org/news/news-item/algeria-new-law-on-associations-used-to-stifle-civil-society>

<sup>45</sup> For more details on Kherba's activities, see fn. 50.

<sup>46</sup> U.S. Department of State, Bureau of Democracy, Human Rights and Labor. Country Reports on Human Rights Practices. Algeria 2012 Country Report, pp. 7-8. Available at <http://www.state.gov/documents/organization/204564.pdf>

<sup>47</sup> Amnesty International's 2012 report on Algeria also points out that the consequences for illegal, “unauthorized” demonstrations were minimal: “After the state of emergency was lifted on 24 February [2011], it became lawful to demonstrate anywhere but Algiers if prior authorization was granted. However, such authorization was often denied. Nevertheless, many unauthorized protests were staged in Algiers and elsewhere. The security forces often dispersed these using tear gas and water cannon, and arrested demonstrators. Some of those arrested were charged and tried before criminal courts for “unlawful unarmed gathering” and assaulting the security forces. Most were subsequently acquitted.” Available at <http://www.amnesty.org/en/region/algeria/report-2012>

<sup>48</sup> Article 41: The freedoms of expression, association and assembly shall be guaranteed to the citizen.

Article 43: The right to form associations shall be guaranteed by statute. The State shall encourage the flourishing of the associative movement. Statute shall determine the conditions and the modalities pertaining to the creation of associations.

Article 42: The right to establish political parties shall be recognized and guaranteed. However, this right may not be invoked in order to undermine fundamental liberties, the values and main elements of national identity, national unity, the security and integrity of the national territory, the independence of the country and the sovereignty of the people or the democratic and republican character of the State. In accordance with the provisions of the present Constitution political parties may not be founded on a religious, linguistic, racial, sexual, corporatist or regional basis. Political parties may not have recourse to party political propaganda using the elements referred to in the previous paragraph. Any submission of political parties, under whatever form, to foreign interests or parties shall be forbidden. No political party may resort to violence or constraint, of whatever nature or form. Other obligations and duties shall be determined by statute.

Article 56: The right to establish trade unions shall be recognized for all citizens.

Article 57: The right to strike shall be recognized. It shall be exercised within the framework established by statute.

<sup>49</sup> See fn. 44.

<sup>50</sup> More on Kherba from U.S. Department of State, Bureau of Democracy, Human Rights and Labor. Country Reports on Human Rights Practices. Algeria 2012 Country Report: “In April [2012] police arrested Abdelkader Kherba, a 32-year-old union activist and member of LADDH and the National Committee for the Defense of the Rights of the Unemployed (CNDDC), while he participated in a “sit-down” protest by justice sector workers demanding improvement of work conditions. On May 3, he was convicted of “incitement of a protest” by a court at Sidi Mohamed, in northwestern Algeria. The court pronounced a suspended sentence of one year of imprisonment and a fine of 20,000 dinars (DZD)(approximately \$260). On August 21, he was arrested for “insulting an official” after filming a demonstration by residents of Ksar el-Boukhari against routine water cuts. He began a hunger strike immediately upon his incarceration. On September 11, he was acquitted and released from prison.” Available at <http://www.state.gov/documents/organization/204564.pdf>

As stated above, Article 56 of the constitution guarantees Algerian citizens the right to form unions. Unions may recruit members at the workplace and join federations or confederations. The law prohibits discrimination by employers against union members and organizers and provides mechanisms for resolving trade union complaints of antiunion practices by employers.

Unions may affiliate with international labor bodies and develop relations with foreign labor groups, but it is illegal for unions to associate with political parties or to receive funding from foreign sources.<sup>51</sup> The courts are empowered to dissolve unions that engage in illegal activities.

Algerian law specifically allows for the establishment of independent unions<sup>52</sup> and several autonomous unions do exist in the public sector; however, Human Rights Watch reports “a climate of intimidation and fear that inhibits the development of independent trade unions alongside the existing state-supported unions”.<sup>53</sup> Amnesty International and the U.S. State Department Bureau of Democracy, Human Rights, and Labor also cite instances of obstruction or interference with union activities by the Algerian government.<sup>54, 55</sup> According to Human Rights Watch, the government sought to quell activities by independent professional unions seeking better pay and work conditions mainly by means of a heavy police presence and court injunctions.<sup>56</sup>

In January 2012, the Algerian parliament adopted a new Association Law (Law 12-06<sup>57</sup>) giving sweeping powers to the government to control associations.<sup>58</sup> Under the existing law, new associations required approval of legal status, but now authorities have broader discretion in denying approval.<sup>59</sup> Associations can be dissolved or rejected if they are seen as:

- provisions of existing laws and regulations”
- “interfering with the internal affairs of the country”
- “harming its sovereignty”
- recipient of foreign funding without prior authorization
- engaging in activities outside of those provided for in their statutes.<sup>60</sup>

Articles 46 of the law permits prison terms ranging from three to six months and fines (300,000 Algerian dinar or €2,800/ US\$3,800) for active involvement in a non-recognized, suspended, or dissolved association.<sup>61</sup>

Law No. 12-06 is problematic because of its ambiguous wording. Furthermore, it can be used to deny legitimacy to existing associations already registered under the previous law because all associations not successfully registered under the new law can be considered illegal, exposing their members to the penalties noted above.<sup>62</sup> Finally, Law No. 12-06 violates the right of associations to cooperate with and belong to organizations based in other countries.<sup>63</sup>

<sup>51</sup> This ban on foreign funding is not limited to unions; it applies to all associations, secular and religious. See fn. 102.

<sup>52</sup> Law 90-14 adopted on June 2, 1990.

<sup>53</sup> Algeria: Crackdown on Independent Trade Unions-Unionists Prosecuted, Imprisoned for Peaceful Activities. Human Rights Watch. Oct. 6, 2013. Available at <http://www.hrw.org/news/2013/10/06/algeria-crackdown-independent-trade-unions>.

<sup>54</sup> Amnesty International reports that judicial clerks engaging in a sit-in protest over working conditions were reportedly beaten up and arrested. In Amnesty International Annual Report: Algeria 2013 available at <http://www.amnestyusa.org/research/reports/annual-report-algeria-2013?page=show>

<sup>55</sup> See Section 7.a Worker Rights, Freedom of Association and the Right to Collective Bargaining in U.S. Department of State Bureau of Democracy, Human Rights, and Labor 2012 Country Reports on Human Rights Practices: Algeria at <http://www.state.gov/j/drl/rls/hrrpt/2012/nea/204354.htm>. See also <http://www.ituc-csi.org/algeria-government-repression.html?lang=en>

<sup>56</sup> Human Rights Watch World Report 2013-Events of 2012, pp: 516-17. At [https://www.hrw.org/sites/default/files/wr2013\\_web.pdf](https://www.hrw.org/sites/default/files/wr2013_web.pdf). And more recently, the Human Rights Watch Press Release of Oct. 6, 2013 cited in fn. 53. See also ALGERIA: Waves of repression against labour rights activists. International Federation for Human Rights (FIDH). Feb. 21, 2013. Available at: <http://www.fidh.org/en/north-africa-middle-east/Algeria/ALGERIA-Waves-of-repression-12940>.

<sup>57</sup> For details of this law, see fn. 102.

<sup>58</sup> To be fair, this new Law on Associations is deemed much less restrictive than the first Law on Associations, Act 90-31 of December 4, 1990, available in English at <http://www.icnl.org/research/library/files/Algeria/90-31-En.pdf>. See the International Center for Not-for-Profit Law at <http://www.icnl.org/research/monitor/algeria.html> for this view. See also the Freedom House report, Freedom of Association Under Threat: The New Authoritarians' Offensive Against Civil Society: Algeria, available at [http://www.freedomhouse.org/report/freedom-association-under-threat-new-authoritarians-offensive-against-civil-society/algeria#Uxd\\_TeddXWY](http://www.freedomhouse.org/report/freedom-association-under-threat-new-authoritarians-offensive-against-civil-society/algeria#Uxd_TeddXWY).

<sup>59</sup> For example, according to the Amnesty International 2013 Annual Report on Algeria, “in October 2012, the authorities rejected an application for registration from the National Association for the fight against corruption (ANLC), giving no specific reasons.” Available at <http://www.amnestyusa.org/research/reports/annual-report-algeria-2013?page=show>

<sup>60</sup> Human Rights Watch 2013 World Report, p. 517. Available at [https://www.hrw.org/sites/default/files/wr2013\\_web.pdf](https://www.hrw.org/sites/default/files/wr2013_web.pdf)

<sup>61</sup> For a detailed discussion of Law No. 12-06 on Associations, see Information Sheet 5 (pp. 63-69) in “Political Reforms” or Additional Lock on Society and Politics in Algeria? A Critical Analysis. Study conducted jointly by the Coalition of Families of the Disappeared in Algeria (Collectif des familles des disparu(es) en Algérie, CFDA), the Algerian Human Rights Defence League (Ligue algérienne pour la défense des droits de l'Homme, LADDH) and the National Union of Independent Public Servants (Syndicat national du personnel autonome de l'administration publique, SNAPAP), with support from the Euro-Mediterranean Human Rights Network (EMHRN). Euro-Mediterranean Human Rights Network. Copenhagen: April 2012. Available at <http://www.euromedrights.org/eng/wp-content/uploads/2014/02/Fiches-Algerie-EN.pdf>

<sup>62</sup> On 12 January 2014, all existing associations not successfully registered under the law will be considered illegal and their members may be liable for prosecution. See Algeria: Associations law must be repealed before January deadline. Amnesty International Public Statement. Dec. 18, 2013. Available at <http://www.amnesty.org/fr/library/asset/MDE28/003/2013/fr/472fca63-9441-47f4-8935-81a423445fdd/mde280032013en.html>

<sup>63</sup> Algeria: Allow Rights Groups to Visit: No Response from Algiers to Requests from UN Bodies. Joint Statement by Amnesty International, Euro-Mediterranean Human Rights Network, Human Rights Watch, the International Federation for Human Rights and the World Organization Against Torture. 11 February 2014. Available at <http://www.amnesty.org/en/library/asset/MDE28/001/2014/en/b133a918-9371-4c9c-9266-bf34b9d7bb3f/mde280012014en.pdf>. Also at FIDH (International Federation for Human Rights) website at <http://www.fidh.org/en/north-africa-middle-east/Algeria/14629-algeria-allow-rights-groups-to-visit>

1.5/3

POINTS EARNED



SCORE

0 pt	All press government controlled
1 pt	Private press with significant censorship
2 pt	Private press mild censorship
3 pt	Free press

We have given Algeria a score of 1.5 on freedom of the press. Article 41 of the Algerian constitution guarantees freedom of expression, and Algeria does have many private daily and weekly newspapers<sup>64</sup> which act as a check on official power. On a promising note, at the end of 2011, parliament approved Law No. 12-05 of the penal code to decriminalize press offenses. Freedom House states that Algeria's "vibrant but fragile independent press ... often acts as a more effective check on official power than opposition parties themselves."<sup>65</sup> However, the state has a monopoly on all broadcast media which is the reason for the relatively low score.

Although there is an abundance of private print media,<sup>66</sup> Reporters Without Borders asserts that many newspapers are published by businessmen linked to the government and intelligence services. They cite a 12 June [2012] report by the United Nations rapporteur on the promotion and protection of the right to freedom of opinion and expression that states that fewer than six newspapers are really independent in Algeria.<sup>67</sup>

All television and radio is state-owned, and according to Freedom House's 2011 Freedom of the Press-Algeria report, they "broadcast biased information, display favoritism toward the president and generally refrain from covering dissenting views"<sup>68</sup> although some attempt is made to grant equal access time to opposing views, particularly during elections.<sup>69</sup> On the other hand, both satellite dishes (owned by more than 60

percent of households) and the internet (which has generally not been censored<sup>70</sup>) provide access to alternate sources of information.

The feeling is that while official harassment of journalists is infrequent,<sup>71</sup> journalists do self-censor. While the Algerian press is widely seen to be among the most active in the region, state agencies are said to control press coverage with economic pressure through the state-controlled National Agency for Advertising and Publishing (ANEP) which can block advertising as a means to put pressure on the press.

There have been a few instances of journalists being arrested. For example, Manseur Si Mohamed was fined and sentenced to two months' imprisonment in June 2012 for making "defamatory comments" in reporting that a state official had failed to implement a judicial decision. According to Amnesty International, he was still at liberty pending an appeal.<sup>72</sup>

Other infrequent recent examples of journalists being arrested have all resulted in suspended sentences, or are currently under appeal. Thus, while the situation is not perfect, Algeria's record of harassing journalists is relatively mild.

<sup>64</sup> According to Reporters Without Borders at <http://en.rsf.org/algeria.html>, "more than 80 newspapers, mainly Arabic-language ones, are available on the streets of the capital."

<sup>65</sup> Freedom House, Freedom of the Press 2011 - Algeria, 1 September 2011, available at: <http://www.unhcr.org/refworld/docid/4e5f71c32.html>

<sup>66</sup> More than 100 private daily and weekly newspapers, 29 of which print over 10,000 copies for each edition, according to Freedom House, Freedom of the Press, 2011 Algeria. Available at <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=4e5f71c32>.

<sup>67</sup> Reporters Without Borders. Prison Sentence Quashed but Journalist's Libel Conviction Stands. 9 July 2012 at <http://en.rsf.org/algeria-freedom-of-information-still-a-04-07-2012,42956.html>.

<sup>68</sup> Available at <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=4e5f71c32>

<sup>69</sup> The U.S. Department of State Bureau of Democracy, Human Rights and Labor Country Report for Human Rights Practices for 2011 notes that "political parties and independent candidates received the same amount of radio access time during the three-week campaign period prior to the 2009 presidential election." Available at <http://www.state.gov/documents/organization/186630.pdf>, page 10.

<sup>70</sup> According to the U.S. Department of State Bureau of Democracy, Human Rights and Labor Country Report for Human Rights Practices for 2011, "Access to the Internet generally was unimpeded, although the government monitored e-mail and Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by e-mail. Individuals posted on YouTube thousands of videos of the early January protests and their aftermath. In addition to reporting information and showing actual events, several videos presented political opinions and popular reactions, expressing in some cases support for protesters and criticism of government policies, while others condemned acts of violence. Some media reports indicated that Facebook was blocked by the government's attempt to stifle communication among protesters during the early months of the year. Other users reported no difficulty accessing Facebook throughout the riots. Facebook administrators reported that they were investigating the complaints but did not release official findings. The minister of information and communication denied that the government blocked Facebook." Available at <http://www.state.gov/documents/organization/186630.pdf>, page 10.

<sup>71</sup> See Reporters Without Borders at <http://en.rsf.org/algeria.html>.

<sup>72</sup> Amnesty International Annual Report: Algeria 2013 available at <http://www.amnestyusa.org/research/reports/annual-report-algeria-2013?page=show>. Also in Reporters Without Borders. Journalist Given Two-month Sentence for Defamation in Algeria. June 20, 2012. <http://en.rsf.org/algeria-journalist-given-two-month-20-06-2012,42826.html>

## HABEAS CORPUS (ARBITRARY ARREST/ DETENTION AND BEING HELD WITHOUT CHARGE)

2/3

POINTS EARNED



SCORE

- 0 pt Indefinite detentions without charge
- 1 pt Narrow legal basis for detention without charge
- 2 pt No legal basis for detention without charge, but some prisoners still held
- 3 pt Habeas Corpus fully enforced by courts

We have given Algeria score of 2 in this regard because of its record of detention of suspected terrorists, although as of 2011, the situation has vastly improved. Habeas Corpus is upheld in Article 47 of the Algerian Constitution: "Every person shall be presumed innocent until he or she has been found guilty by a regular court in accordance with all guarantees required by statute".<sup>73</sup>

The Algerian authorities ended the decades-long state of emergency on February 23, 2011, as a fall-out of the Arab Spring in neighboring Tunisia and Libya and after weeks of rioting and small pro-reform street demonstrations in the capital. Detainees, mainly terrorist suspects, who had been held in secret custody outside of the prison system, some for years, were immediately brought before a judge. Some were sent to pretrial detention in an Algiers prison and others to "protected residence" (a new form of custody created by a presidential decree).<sup>74</sup>

A June 2012 Human Rights Watch report argues that the situation as far as extra-judicial imprisonment has significantly improved, but they cite cases where the defendant is awaiting trial even a year later.<sup>75</sup> Pre-trial detention remains a problem because of the overuse of the constitutional statute (Article 48) permitting extension of detention pending criminal investigation. According

to Farouk Ksentini, 90% of the applications for release pending pre-trial investigations were denied.<sup>76</sup>

An example of a lengthy pre-trial detentions is Hassan Hattab, who surrendered to authorities in Sept 2007, and as of June 2011 still had not appeared in court in any trials where he was a defendant or in trials where defendants sought his testimony as a witness.<sup>77</sup> On the other hand, is the case of Khalouf Feres who was held in "assigned residence", denied access to a lawyer and his family, and then charged in 2008. In May 2011, after the end of the state of emergency, an Algiers court convicted him of membership in a terrorist organization and possession of explosives, and sentenced him to five years in prison.<sup>78</sup> Further examples of recent improvements are Abdelhakim Chenoui and Malik Medjnoun, who had been imprisoned for 12 years before their trial in 2011 and who were subsequently released in March and May 2012 respectively.<sup>79</sup>

<sup>73</sup> There are a number of additional constitutional guarantees of the rights of the accused:

Article 46: *No one may be considered guilty except by virtue of a statute duly promulgated before the commission of the incriminating act.*

Article 47: *No one may be pursued, arrested or detained except in the cases determined by statute and in accordance with the forms prescribed by it.*

Article 48: *In the case of a criminal investigation detention shall be subject to judicial control and may not exceed forty-eight hours. The person detained shall have the right to get in touch with his family immediately. An extension of the detention may take place only exceptionally and in accordance with the conditions specified by statute. At the end of the detention a medical examination shall be performed on the detained person if the latter so requests; in any case he or she has to be informed of this right.*

Article 151: *The right to defense shall be recognized. In criminal matters it shall be guaranteed.*

<sup>74</sup> "[O]n February 24 [2011], Bouteflika promulgated article 125 bis of the code of criminal procedure, allowing judges to place suspects in "protected residence." The law allows this form of custody to take place in a secret location and authorizes prosecution for revealing its whereabouts. "Protected residence" replaced "assigned residence," practiced during the state of emergency against a small number of suspected terrorists. "Assigned residence" involved removing these individuals from the judicial system and detaining them indefinitely in an undisclosed location, cut off from contact with families and lawyers." From Human Rights Watch Country Summary for Algeria January 2012.

<sup>75</sup> For a detailed view, see <http://www.hrw.org/news/2012/06/18/algeria-long-delays-tainting-terrorism-trials>

<sup>76</sup> "Although the constitution prohibits arbitrary arrest and detention, there were reports of overuse of pretrial detention. The government-appointed head of the National Consultative Commission for the Promotion and Protection of Human Rights (CNCPPDH), Farouk Ksentini, noted that pretrial detention often was seen as an "implicit sign" of guilt, and also pointed to the concern that judges refused 90 percent of detainees' applications for "judicial control," a type of pretrial liberty utilized in lieu of a bail system." From U.S. Department of State, Bureau of Democracy, Human Rights and Labor. Country Reports on Human Rights Practices. Algeria 2012 Country Report, p. 5. Available at <http://www.state.gov/documents/organization/204564.pdf>

<sup>77</sup> See [http://en.lemag.ma/Hassan-Hattab-put-on-probation\\_a427.html](http://en.lemag.ma/Hassan-Hattab-put-on-probation_a427.html)

<sup>78</sup> <http://www.hrw.org/news/2012/06/18/algeria-long-delays-tainting-terrorism-trials>

<sup>79</sup> See Amnesty International Annual Report: Algeria 2013 available at <http://www.amnestyusa.org/research/reports/annual-report-algeria-2013?page=show>

## DUE PROCESS (RIGHT TO A FAIR TRIAL)

3/3

POINTS EARNED



SCORE

0 pt	No significant rights for accused
1 pt	Limited rights to lawyer/cross-examine/evidence
2 pt	Significant due process rights in most cases
3 pt	Full rights to fair trial in all cases

The Algerian constitution provides for the right to a fair trial.<sup>80</sup> Defendants are guaranteed legal representation, at public expense, if necessary. They have the right to question witnesses and to bring in witnesses in their behalf, and the testimony of men and women has equal weight under the law. Defendants have the right to appeal. There is no jury, but trials are generally public. In a break with the past, attorneys are no longer prevented from having access to government-held evidence. The problem in trials is not the procedure but rather the impartiality of the judges. The independence of the judiciary is scored in a separate item so we keep that distinct from the item here. We thus give Algeria a score of 3.

At first glance, one may be rightfully surprised at the high score given to Algeria in this category. The questions regarding due process primarily occur with cases involving suspected terrorists. With regards to this, we ask the following questions: Is there evidence that the arrests are numerous? Is there evidence of “disappearances” to avoid the court system? Are there accusations or suspicions that the terms “terrorist” or

“security risk” are being applied too loosely or arbitrarily? Given the current political climate, we are willing to “tolerate” a few cases of suspects being held without formal and open judicial proceedings, “tolerate” in the sense that we do not feel we can incorporate the issue of real terrorism or violent extremism into our scoring matrix. We do, however, want to be sensitive to the overuse of the word “terrorism” in order to quell dissent or opposing opinions. In perusing a number of reports issued by human rights organizations both American and international, we do not feel that Algeria suffers from this, particularly since 2011.

In examining the instances of arrests that we have come across in our research and those documented in this report, we can conclude that generally cases do go to trial in a reasonable manner and there is little evidence of people being denied their right to a trial,<sup>81</sup> repeating the caveat that this excludes the issue of impartiality of judges.

<sup>80</sup> See constitutional provisions in fn. 73.

<sup>81</sup> In fact, we did find one case, that of 24-year-old Algerian blogger Abdelghani Aloui who (as of Feb. 4, 2014) had been in jail since Sep. 25, 2013, for posting caricatures of Algerian President Abdelaziz Bouteflika and Prime Minister Abdelmalek Sellal on Facebook. First charged with insulting the president, Aloui was later charged with glorifying terrorism. See *Four Months in Jail and Counting for Algerian Blogger Who Criticized President*. Global Voices Advocacy. Original in French Feb. 3, 2014. At <https://advocacy.globalvoicesonline.org/2014/02/05/four-months-in-jail-and-counting-for-algerian-blogger-who-criticized-president/>

## TORTURE

2/2

POINTS EARNED



SCORE

0 pt Legal and practiced  
1 pt Illegal, widely practiced  
2 pt Illegal, never or very rarely used

Although Algeria had used torture in order to obtain confessions in the past, there seems to have been much improvement in recent years. We give Algeria a score of 2.

Algeria has clear laws against the use of torture. Officials can face 10-20 years imprisonment for the use of torture or “enhanced interrogation methods” in order to obtain confessions. Individuals have been convicted for these practices in the past. We find that Algeria has a two-tiered system: one for ordinary citizens which generally operates under constitutional guidelines and another system of “unrecognized detention centers where detainees were at risk of torture or other ill treatment” operated by security forces for suspected terrorists.<sup>82, 83</sup> Though there have been citations of torture in the past, we have not been able to document complaints of abuses that have occurred in the past few years.

Ordinarily, a suspect may be held in detention for up to 48 hours without charge. Individuals suspected of terrorism or subversion may be held for 12 days without charge or access to an attorney. Prosecutors may ask a judge to extend this period. At the end of the 12-day period, the detainee must receive a medical examination which is entered into the detainee’s file.

Thus, there is a procedure in place to prevent egregious abuse. Though persons of “special interest” may be held in facilities outside the realm of international observers or local human rights activists, being “at risk” of torture does not equate to occurrence. There are statements such as the “Geneva-based NGO Alkarama reported plainclothes officers often inflicted

abusive treatment upon those arrested on ‘security grounds’.<sup>84</sup> However, we have not seen concrete incidences of torture, particularly since 2011.

Another issue is whether Algeria participates in the torture of suspected terrorists in so-called CIA “black sites”.<sup>85</sup> A 2013 report by the Open Society Foundations on human rights abuses associated with the CIA’s post-September 11, 2001, secret detention and extraordinary rendition operations describes the various ways in which 54 foreign governments reportedly participated in these abuses.<sup>86</sup> According to this report, “Algeria likely received at least one extraordinary rendition victim from CIA custody [in January 2004] and also permitted use of its airspace and airports for CIA extraordinary rendition operations.”<sup>87</sup> Furthermore, it is likely that another former CIA detainee (until at least July 2006) was transferred to Algeria. Both these individuals were Algerian nationals and these instances occurred several years ago. The Open Society Foundations 2013 report states that “there are no known judicial cases or investigations in Algeria regarding its participation in CIA secret detention and extraordinary rendition operations.” To allay questions of credibility, the authors of the report aver that the “factual contents of this report are derived from credible public sources and information provided by reputable human rights organizations.” Thus, while we cannot be certain these sites do not exist in Algeria, there does not seem to be any evidence that they do.

<sup>82</sup> See fn. 74.

<sup>83</sup> According to Amnesty International Annual Report: Algeria 2013: The Department of Information and Security (DRS) retained wide powers of arrest and detention, including incommunicado detention of terrorism suspects, facilitating torture and other ill-treatment.”

<sup>84</sup> U.S. Department of State, Bureau of Democracy, Human Rights and Labor. Country Reports on Human Rights Practices. Algeria 2012 Country Report, p. 4. Available at <http://www.state.gov/documents/organization/204564.pdf>.

<sup>85</sup> “Following the terrorist attacks of September 11, 2001, the U.S. Central Intelligence Agency (CIA) commenced a secret detention program under which suspected terrorists were held in CIA prisons, also known as “black sites,” outside the United States, where they were subjected to “enhanced interrogation techniques” that involved torture and other abuse. At about the same time, the CIA gained expansive authority to engage in “extraordinary rendition,” defined here as the transfer—without legal process—of a detainee to the custody of a foreign government for purposes of detention and interrogation. Both the secret detention program and the extraordinary rendition program were highly classified, conducted outside the United States, and designed to place detainee interrogations beyond the reach of the law. Torture was a hallmark of both. The two programs entailed the abduction and disappearance of detainees and their extra-legal transfer on secret flights to undisclosed locations around the world, followed by their incommunicado detention, interrogation, torture, and abuse.” From *Globalizing Torture: CIA Secret Detention and Extraordinary Rendition*. Open Society Foundations. 2013. Available at <http://www.opensocietyfoundations.org/sites/default/files/globalizing-torture-20120205.pdf>.

<sup>86</sup> Ibid.

<sup>87</sup> Ibid.

## DEATH PENALTY

2/2

POINTS EARNED



SCORE

0 pt	Not a rarity
1 pt	Rarely used, extreme cases only
2 pt	Never used/banned

The death penalty exists in the penal code, but there has been a moratorium on its application since 1993.<sup>88,89</sup> Thus, the score of 2.

## HUDDOD PUNISHMENTS

3/3

POINTS EARNED



SCORE

0 pt	Legal and used
1 pt	Legal, rarely used
2 pt	Legal, never used
3 pt	Not in the legal system

Hudood (alternatively spelled hadood, haddood, huddood) crimes are defined as legally prohibited acts that have fixed, predetermined punishments.<sup>90</sup> As throughout this work, it is not possible for us to engage in a discussion of why we consider the existence of hudood punishments in the legal, judicial or governmental codes of a country as noncompliance to Sharia' human rights requirements. We refer the reader to *In Pursuit of Justice* by Maher Hathout on which the bulk of the individual categories of this report is based. We also refer the reader to *Abusing Women, Abusing Islam: Re-Examining Sharia Court Rulings in Contemporary Times*, a special report by the Muslim

Public Affairs Council which sums up our view as follows:

*The superseding Qur'anic principle of adl, or justice, ... requires that the rights of each individual be protected, even if it be in direct contrast to an individual's views, or for our purpose, or to that of an entire society. Clearly, ...[these types of] punishment cannot be applied without taking into account the context of each case, and more importantly in cases of hudood, they should not be applied when there is such a severe lack of evidence or betrayal of justice. Therefore, the literal and non-contextualized*

<sup>88</sup> See Human Rights Watch World Report 2012: Algeria. Available at <http://www.hrw.org/world-report-2012/world-report-2012-algeria>.

<sup>89</sup> According to Amnesty International, at least 153 death sentences were reported during 2012, but there were no executions. From <http://www.amnestyusa.org/research/reports/annual-report-algeria-2013?page=show>

<sup>90</sup> Crimes that fall under this category are defined as legally prohibited acts that have fixed, predetermined punishments with the following specifications:

a) *The punishment can neither be increased nor decreased.*

b) *The punishment cannot be waived by a judge, political authority, or the victim once the crime has been brought to the attention of the governing body. Pardoning by the victim is possible, but only if the crime was of a personal nature and prior to the crime being brought before the state.*

c) *The punishments are considered the 'right of God', which means they operate under considerations of the general good of society.*

*interpretations of Islam are counterintuitive and also counterproductive to the enjoinder of justice, as demanded in the Qur'an.*<sup>91</sup>

The overarching flaw of hudood punishments is that they are “literal” and “non-contextualized” which makes them inherently unjust in Qu’ranic terms.

Algeria scores a 3 because there are no hudood punishments in its statutes nor does it apply these punishments. Looking at the hudood crimes individually,

1. Consumption of Alcohol Bars operate and people drink in public,<sup>92</sup> evidence that hudood laws are not applied.
2. Adultery Although adultery is a punishable offense in Algeria, the penalties are not in accordance with traditional Islamic hudood punishments which treat men and women differently. Furthermore, adultery in Algeria applies only to unfaithful married persons

and their extra-marital partner; the Islamic term “zinnah” refers more broadly to extra-marital sexual relations in general. According to the Algerian Penal Code, married women convicted of adultery can receive prison sentences of one to two years. The same punishment applies to a man who (knowingly) commits adultery with a married woman. In the original law, a married man convicted of adultery was punishable by one to two years imprisonment and his co-partner received the same penalty. This was amended in 1982 such that the penalty for a married man convicted of adultery and his co-partner was reduced to six months to one year. In all cases, prosecution can only be initiated after a complaint by the injured spouse.<sup>93</sup>

3. Blasphemy Laws against blasphemy exist, but the penalties are different from hudood punishments.<sup>94</sup>

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<sup>91</sup> Chehata, Dina, Ghori-Ahmed, Safiya, and Hasan, Aziza. Abusing Women, Abusing Islam: Re-Examining Sharia Court Rulings in Contemporary Times. Muslim Public Affairs Council. Nov. 2009. Available at <http://www.mpac.org/assets/docs/publications/abusing-women-abusing-islam.pdf>

<sup>92</sup> See <http://www.guardian.co.uk/world/2012/feb/07/algeria-slides-into-prohibition-alcohol-bars>

<sup>93</sup> Algerian Penal Code, Part Two, Title II, Chapter 2, Section VI, Article 339, dated 08 June 1966. The provision that prosecution can be halted upon forgiveness by the spouse was removed from the modified language. Available at [http://www.wipo.int/wipolex/en/text.jsp?file\\_id=228301#LinkTarget\\_53714](http://www.wipo.int/wipolex/en/text.jsp?file_id=228301#LinkTarget_53714)

<sup>94</sup> Algerian Penal Code Part Two, Title I, Chapter 5, Section I, Article 144 bis 2 (added in 2001): Anyone who offends the Prophet ... and the messengers of God or denigrates the dogma or precepts of Islam, whether by writing, drawing, declaration or any other means is punishable by imprisonment of three to five years and/or a fine of 50,000 Dinars (US\$630) to 100,000 Dinars (UD\$1,260). Available at [http://www.wipo.int/wipolex/en/text.jsp?file\\_id=228301#LinkTarget\\_53714](http://www.wipo.int/wipolex/en/text.jsp?file_id=228301#LinkTarget_53714)

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# MINORITY RIGHTS

## SCORING SYSTEM

0pt	○	○	○
1pt	●	○	○
2pt	●	●	○
3pt	●	●	●

## SCORES FOR ALGERIA AT A GLANCE

Freedom to Practice Religion	3pt/3pt	●	●	●
Political Participation	2.5pt/3pt	●	●	◐
Equal Access to Economic and Business Opportunities and Housing*	2pt/2pt	●	●	—
Citizenship	3pt/3pt	●	●	●
Linguistic/Cultural Rights	3pt/3pt	●	●	●

\*Highest score possible is 2.

# MINORITY RIGHTS

The rights of minorities in Algeria are protected in the Constitution<sup>95</sup> and given muscle by Article 298 of the Algerian Penal Code Article which imposes a penalty of one month to one year imprisonment and/or a fine from 10,000 to 100,000 Algerian dinars for an act of defamation committed against one

or more members of an ethnic, philosophical, or ethnic group, when the act has the goal of inciting hatred towards citizens or residents. The maximum penalty for an act of defamation that is not intended to incite hatred is 50,000 Algerian dinars and/or six months imprisonment.<sup>96</sup>

## FREEDOM TO PRACTICE RELIGION

3/3

POINTS EARNED



SCORE

0 pt	Illegal, harsh persecution
1 pt	Legal, significant harassment/limitations
2 pt	Legal, mild limitations
3 pt	Legal, equality with Muslims

As we saw above, only 1% of Algerians are Christian or Jewish.<sup>97</sup>

<sup>98</sup> A 2012 Amnesty International report found that “Christians, including converts, continued to face prosecution for unauthorized religious activity under Ordinance 06-03 regulating faiths other than the state religion, Islam”.<sup>99</sup> Christians require government approval to build or maintain churches. According to the report, in May of 2011, one provincial governor ordered the closure of all churches on the basis of the law, an order that was countermanded by the Minister of Interior. The country’s Jewish population is fewer than 1,000 persons. There were no reports of derogatory political cartoons or articles directed at the Jewish community.<sup>100</sup>

Ordinance 06-03 which was enacted in 2006 specifically for the practice of faiths other than Islam prohibits discrimination on the basis of religion and guarantees state protection for non-Muslims and for the “toleration and respect of different religions.”<sup>101</sup>

While Ordinance 06-03 does indeed include a number of restrictive injunctions dealing with religious practice, other than the prohibition of proselytizing to Muslims, we have found no restrictions or legal requirements faced by non-Muslims that would not also apply to Muslims in other legal codes. For example, the requirement that churches be registered, or that religious groups be registered, falls under the laws regulating associations: all

<sup>95</sup> Chapter IV Article 29: The citizens shall be equal before the law without any discrimination on the basis of birth, race, gender, opinion or any other personal or social condition or circumstances.

Article 31: The institutions shall seek to ensure the equality of rights and duties of all citizens in suppressing the obstacles which obstruct the development of the human personality and impede the effective participation of all in the political, economic, social and cultural life. From the Algerian Constitution, available at <http://corpus.learningpartnership.org/wp-content/uploads/2012/12/Algeria-Constitution-2008-English.pdf>

<sup>96</sup> The 2007 Penal Code is available in French at [http://www.premier-ministre.gov.dz/images/stories/dossier/Codes/code\\_p%29nal.pdf](http://www.premier-ministre.gov.dz/images/stories/dossier/Codes/code_p%29nal.pdf). Article 298 is as follows: [French] **Art. 298. (Modifié)** - Toute diffamation commise envers des particuliers est punie d'un emprisonnement de deux (2) à six (6) mois et d'une amende de vingt cinq mille (25.000) DA à cinquante mille (50.000) DA ou de l'une de ces deux peines seulement. Le pardon de la victime met fin aux poursuites pénales. Toute diffamation commise envers une ou plusieurs personnes qui appartiennent à un groupe ethnique ou philosophique, ou à une religion déterminée est punie d'un emprisonnement d'un (1) mois à un (1) an et d'une amende de dix mille (10.000) DA cent mille (100.000) DA ou de l'une de ces deux peines seulement, lorsqu'elle a pour but d'inciter à la haine entre les citoyens ou habitants. **Art. 298 bis. (Modifié)** - Toute injure commise envers une ou plusieurs personnes qui appartiennent à un groupe ethnique ou philosophique, ou à une religion déterminée est punie d'un emprisonnement de cinq (5) jours à six (6) mois et d'une amende de cinq mille (5.000) DA à cinquante mille (50.000) DA ou de l'une de ces deux peines seulement. [English] **Art. 298. (Amended)** - Any defamation of individuals shall be punished by imprisonment of two (2) to six (6) months and a fine of twenty-five thousand (25,000) Algerian Dinars (AD) to fifty thousand (50,000) AD or only one of these two penalties. Forgiveness by the victim will serve to terminate the criminal proceedings. Any defamation of one or more persons belonging to an ethnic or philosophical group, or a specific religion when intended to incite hatred among citizens or residents is punishable by imprisonment of one (1) month to one (1) year and a fine of ten thousand (10,000) DA to hundred thousand (100,000) DA or only one of these penalties. **Art. 298 bis. (Amended)** - Any injury committed against one or more persons belonging to an ethnic or philosophical group, or a specific religion is punishable by imprisonment for five (5) days to six (6) months and a fine of five thousand (5,000) DA to fifty thousand (50,000) DA or only one of these penalties.

<sup>97</sup> From the 2013 CIA World Factbook at <https://www.cia.gov/library/publications/the-world-factbook/geos/ag.html>.

<sup>98</sup> For detailed religious demography of Algeria, see International Religious Freedom Report for 2012: Algeria by U.S. Department of State Bureau of Democracy, Human Rights and Labor, at <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper>

<sup>99</sup> From Amnesty International's 2012 Report on Algeria available at <http://www.amnesty.org/en/region/algeria/report-2012>

<sup>100</sup> 2012 Human Rights Reports: Algeria. U.S. Department of State, Bureau of Democracy, Human Rights and Labor 2012 Country Reports on Human Rights Practices, April 19, 2013, at <http://www.state.gov/j/drl/rls/hrrpt/2012/nea/204354.htm>

<sup>101</sup> In French: Ordonnance No. 06-03 du 29 Moharram 1427 correspondant au 28 février 2006 fixant les conditions et règles d'exercice des cultes autres que musulman. [Ordinance No. 06-03 of 29 Moharram 1427 corresponding to 28 February 2006 laying down the conditions and rules for the exercise of religions other than Islam.] Available in French at: [http://www.droit.mjustice.dz/legis\\_fr\\_de\\_06\\_a06\\_juil\\_08/ord\\_ex\\_cult\\_autr\\_q\\_musulman\\_fr.pdf](http://www.droit.mjustice.dz/legis_fr_de_06_a06_juil_08/ord_ex_cult_autr_q_musulman_fr.pdf)

associations must be registered, religious or secular, Muslim or non-Muslim.<sup>102</sup> The January 2012 Associations Law prohibits all associations, religious or otherwise, from accepting monies from political parties or foreign entities.<sup>103</sup>

We thus give Algeria a score of 3 because the restrictions faced by Christians and other non Muslims are similar to those faced by all Algerians equally.

## DISCUSSION

One criticism of Algeria regarding its minority Christian population is that Christians require government approval to build or maintain churches. With respect to this scorecard, we do not view this requirement as being specifically targeted for Christians or other religious minorities. Recall that Muslim parishioners do not have the right to build a mosque at all. Indeed, any worship by Muslims outside of officially-run institutions is illegal.

According to the Freedom House 2013 report on Algeria, the “small non-Muslim communities do not face systematic harassment ... but Muslims are also sometimes harassed for a perceived lack of piety.”<sup>104</sup> Thus, there seems to be harassment across the board, not specifically against one group, and by and large not from government officials as part of official policy. There was one report of a provincial governor who in May 2011 ordered the closure of all churches on the basis of the law.<sup>105</sup> This order was countermanded by the Minister of Interior. We do not see this as governmental policy. In another instance, in early August 2013, 200-500 people (accounts differ on the number of “fast-breakers”) ate together at a public lunch in the town of Tizi Ouzou during the Islamic fasting month of Ramadhan.<sup>106</sup> The public picnic held near law enforcement headquarters was a protest against the the intimidation or persecution of (mainly Muslim)

non-fasters, but there was no reaction from local law enforcement agencies who looked on as people openly ate, drank and smoked.<sup>107, 108</sup> Furthermore, the state news agency APS reported that the protesters (mostly non-Christian) were “not attacking Islam” but asking for “freedom of worship and conscience guaranteed by the Algerian law”.<sup>109</sup>

We do want to post a caveat here; we find the potential of increasing the restrictions on Christians on the practice of their faith under the aegis of Ordinance 06-03 troubling. If more cases of governmental harassment occur, the score for Algeria in this category should be lowered. It is important to differentiate, however, where pressure against religious freedom is coming from. While there has been an increase in tolerating a more open society in general from the Algerian government since 2011, there has been a surge of Islamization and an accompanying intolerance (aimed at Muslims and non-Muslims alike) in some quarters of the population. The opening of more democratic freedoms by the government has also allowed people to speak out against religious intolerance. Again, our scoring can only consider the behavior of Algerian officials, the law, and the actions of the government that either uphold or ignore their duty to protect rights guaranteed by law.

The European Centre for Law and Justice (ECLJ) cites a number of troubling examples of difficulties faced by Christian Algerians. Below is an overview of their report:

*Christians compose a majority of the [non-Muslim] 1 percent [of the population]. ... [E]stimates of the number of Christians and Jewish citizens in Algeria [range] between 12,000 and 50,000 people. These non-Islamic religious minorities are subject to institutional and societal discrimination. ... While the Algerian constitution provides that the “[f]*

<sup>102</sup> According to the U.S. Department of State Bureau of Democracy, Human Rights and Labor: “Difficulties faced by religious groups in obtaining legal status were similar to those faced by nonreligious civil society groups, nongovernmental organizations, and others, whose petitions to the MOI [Ministry of Interior] generally were met with silence rather than documented refusal.” From International Religious Freedom Report for 2012: Algeria at: <http://www.state.gov/j/drl/rls/irf/religious-freedom/index.htm#wrapper>

<sup>103</sup> Law No. 12-06 of 18 Safar 1433 corresponding to 12 January 2012 on associations:

Chapter II Art. 13. Les associations sont distinctes par leur objet, leur dénomination et leur fonctionnement des partis politiques et ne peuvent entretenir avec eux aucune relation qu'elle soit organique ou structurelle, ni recevoir de subventions, dons ou legs sous quelque forme que ce soit de leur part, ni participer à leur financement. *Associations are distinct from political parties in purpose, name and function and cannot maintain any relationship with them whether organic or structural nor receive grants, gifts or bequests in any form whatsoever from them, nor participate in their financing.*

Art. 23. Les associations peuvent coopérer dans un cadre de partenariat avec des associations étrangères et organisations non gouvernementales internationales, poursuivant les memes buts, dans le respect des valeurs et des constantes nationales et des dispositions législatives et réglementaires en vigueur. Cette coopération entre parties concernées est subordonnée à l'accord préalable des autorités compétentes. *Associations can cooperate within a framework of partnership with foreign associations and international nongovernmental organizations, pursuing the same goals, in keeping with the national values and constants and the nation's laws and regulations. This cooperation between parties is subject to prior approval by the competent authorities.*

Art. 30. Sous réserve des dispositions de l'article 23 ci-dessus, en dehors des relations de coopération dûment établies, il est interdit à toute association de recevoir des fonds provenant des légations et organisations non gouvernementales étrangères. Ce financement est soumis à l'accord préalable de l'autorité compétente. *Subject to the provisions of Article 23 above, except for duly established cooperative relations, all associations are prohibited from receiving funds originating from foreign legations and non-governmental organizations. This funding is subject to the prior approval of the competent authority.*

From Official Journal of the People's Democratic Republic of Algeria, International Conventions and Agreements, Law and Decree Orders, Decisions, Notices, Communications and Announcements. Year 51, No. 2, 21 Safar 1433 corresponding to 15 January 2012. p. 28. Available at <http://www.icnl.org/research/library/files/Algeria/F2012002.pdf>. See fn. 61.

<sup>104</sup> Freedom House. Freedom in the World 2013: Algeria. Available at <http://www.freedomhouse.org/report/freedom-world/2013/algeria#.UtWrZmRDv6V>

<sup>105</sup> From Amnesty International's 2012 Report on Algeria, available at <http://www.amnesty.org/en/region/algeria/report-2012>

<sup>106</sup> “Algeria Islamic council berates Ramadan ‘non fasters’.” Morocco World News via AFP. Aug. 7, 2013. At <http://www.moroccoworldnews.com/2013/08/100293/algeria-islamic-council-berates-ramadan-non-fasters/>

<sup>107</sup> Algeria: Public lunch protests mandatory fasting. USA Today via AP. Aug. 3, 2013. At <http://www.usatoday.com/story/news/world/2013/08/03/algeria-public-lunch-protests-mandatory-fasting/2615263/>

<sup>108</sup> In another incident during Ramadhan in 2011, someone in Akbou in the Kabylie region reported a group of young men who were eating (during fasting hours) inside a home. The police broke into the house and arrested them. This event created an uproar in the region such that that some people suggested engaging in “a collective violation of the sanctity of Ramadan” so that the authorities would stop going after people who do not fast. See Traboulsi, Mourad. Ramadan in Algeria: The Hefty Sin Tax (translated from the Arabic). Al Akhbar English. Aug. 19, 2012. At <http://english.al-akhbar.com/node/11246>.

<sup>109</sup> Protest Picnic Defends Ramadan Rights of Algerian Christians--Non-Christians make unusual stand for religious freedom in North African country. Christianity Today from World Watch Monitor. Posted Aug. 8, 2013. At <http://www.christianitytoday.com/gleanings/2013/august/algeria-ramadan-protest-picnic-religious-freedom.html>

freedom of creed and opinion is inviolable” and the “[f]reedom of expression, association and meeting are guaranteed to the citizen[s],” it firmly entrenches Islam as the state religion. ... [A]ny institutional conduct that is adverse to Islam is prohibited. ... In 2006, President Abdelaziz Bouteflika issued Ordinance 06-03, which regulates non-Muslim religious worship. The ordinance permits non-Muslims to practice religious rights, but such practice must not violate public order, morality, and the rights of others. However, Ordinance 06-03 forbids attempting to proselytize Muslims, or even to “shake the faith of a Muslim.” ... Algerian authorities have used these laws to harass and persecute minority religious groups. Under Ordinance 06 03, printing, storing, or distributing materials for converting Muslims carries heavy penalties: up to five years in jail and up to one million Algerian dinars. As such, Christians do not carry religious materials with them out of fear. Likewise, proselytism carries heavy punishments: lay persons can receive one to three years in jail and fines up to 500,000 dinars; religious leaders can receive three to five years in prison and may be fined up to one million dinars. Further, conduct that incites, constrains, or seduces with a tendency to convert a Muslim, or using “education, health, social, culture, training . . . or any financial means” to convert a Muslim is punishable by five years in jail and fines up to 500,000 dinars. Although government officials stated that the ordinance does not impose any extraordinary burdens on non-Muslims that are not faced by Muslims as well, no reciprocal legislation banning Muslim proselytism of non-Muslims exists.<sup>110</sup>

While we do not debate the facts, we take with caution the tone of this report. By its own admission the “ECLJ is a Christian-inspired organization and bases its action on “the spiritual and moral values which are the common heritage of European peoples and the true source of individual freedom, political liberty and the rule of law, principles which form the basis of all genuine democracy.”<sup>111</sup> Thus, it is both Christian-centered and Euro-centered in its outlook. ECLJ was founded by Jay Alan Sekulow.<sup>112</sup> Though not wanting to detract from Sekulow’s efforts on behalf of religious liberty, the ECLJ website hails Sekulow’s religio-political biases which, unfortunately, puts to question ECLJ’s objectivity.<sup>113</sup> The U.S. State Department’s Bureau of Democracy, Human Rights

and Labor in its 2012 International Religious Freedom Report for Algeria paints quite a different picture.<sup>114</sup> According to the report “...many Algerian Christian converts openly practiced their new religion. In July a group of Muslims in the province of Tizi Ouzou demanded the closure of a church operating without government approval. Local Muslim residents expressed solidarity with their Christian neighbors and told the press they respect freedom of religion. Jewish leaders felt comfortable socially among their Muslim neighbors...” The report states that conversion and apostasy are not illegal, and goes on to point out that the “government permits missionary groups to conduct humanitarian activities as long as they do not proselytize.” Furthermore, information from the report demonstrates that Christians (and other non-Muslims) and Muslims face official support and difficulty equally. For example, the Ministry of Religious Affairs provides financial support to mosques and pays the salaries of imams. Although few non-Muslim religious leaders take advantage of it, salaries are also provided for non-Muslim religious leaders. Except for daily prayers, Muslim services can only take place in state-sanctioned mosques. Anyone other than a government-designated imam who preaches in a mosque is penalized with fines and a prison sentence. Mosques are under governmental scrutiny for possible security-related offenses and the use of mosques as public meeting places outside of regular prayer hours is prohibited.

On a final note, the issue of problems faced by religious minorities was absent among the human rights concerns highlighted in both Amnesty International’s 2013 report on Algeria and in Human Rights Watch World Report 2013: Algeria. Only Freedom House’s Algeria 2013 Country Report made mention of religious minorities. While citing the laws, they conclude that “... small non-Muslim communities do not face systematic harassment.” The independent U.S. Commission on International Religious Freedom 2013 Annual Report – which categorizes select countries as Tier 1, Tier 2 and “other countries” based on the degree of religious persecution and intolerance with Tier 1 countries being the most egregious – does not include Algeria because it does not fall within the scale of problems faced by minority religious communities.

<sup>110</sup> See full report in Universal Periodic Review, May-June 2012, Religious Freedom in Algeria available at <http://eclj.org/PDF/ECLJ-UPR-Algeria-November-2011.pdf>.

<sup>111</sup> <http://eclj.org/About/>

<sup>112</sup> Sekulow is a frequent guest on the Sean Hannity Show which describes him thus: “[Sekulow] currently serves as Chief Counsel for the American Center for Law and Justice (ACLJ), a conservative religious organization founded by evangelist Pat Robertson to oppose the American Civil Liberties Union, as well as serving as Chief Counsel of the European Centre for Law and Justice. See <http://www.hannity.com/guest/sekulow-jay/10451>.

<sup>113</sup> The following information appears on the “About Jay Sekulow” page of the ECLJ website: *When Israel attempted to defend itself during a 2009 conflict in Gaza, the world community expressed outrage. Israel was falsely accused of committing war crimes. Jay Sekulow assembled an international legal team, which included former U.S. Attorney General John Ashcroft, and presented critical arguments protecting Israel’s national security interests before the International Criminal Court at the Hague. “Jay Sekulow is a true friend of Israel who has fought with us hand-in-hand in some of Israel’s most strategic, international battles,” said Danny Ayalon, Deputy Foreign Minister, State of Israel, who also served as Israeli Ambassador to the U.S. “Jay was instrumentally-involved in projects that the President of Israel and the Prime Minister put on our national agenda.”* [Emphasis ours.]

<sup>114</sup> See: <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper>

## POLITICAL PARTICIPATION

2.5/3

POINTS EARNED



SCORE

- 0 pt Banned from politics
- 1 pt Legally permitted, very limited role
- 2 pt Legally permitted, significant role in political life
- 3pt Full equality

With the exception of the office of the President which must be held by a Muslim,<sup>115</sup> all other political offices are legally open to members of other faiths and ethnicities.<sup>116</sup> Christian women in

governmental positions may wear a cross and are not required to wear Islamic dress. It is because of the restriction against a non-Muslim president that we give Algeria a 2.5 out of 3.

## EQUAL ACCESS TO ECONOMIC AND BUSINESS OPPORTUNITIES AND HOUSING

2/2

POINTS EARNED



SCORE

- 0 pt Severe legal or social discrimination
- 1 pt Moderate discrimination including “glass ceiling”
- 2 pt No significant discrimination

We did not encounter any record of instances of unequal access to housing and economic opportunities. Algerians across the board suffer from unemployment and a shortage of housing, but

Muslims and non-Muslims suffer alike. The Algerian Constitution guarantees all citizens the right to work.<sup>117</sup> Algeria scores a 2 out of a possible 2 here.

## CITIZENSHIP

3/3

POINTS EARNED



SCORE

- 0 pt Legally barred from citizenship
- 1 pt Legally impaired citizenship (“second class”)
- 2 pt Formally equal, culturally second class
- 3pt Full equality

Algerian citizenship is endowed to its citizens without regard to faith. Algerian law and its protections apply to all citizens

irrespective of their religious background.<sup>118</sup> We give Algeria a score of 3 on this item.

<sup>115</sup> Title II Chapter I Article 73 of the Algerian constitution. Available at <http://corpus.learningpartnership.org/wp-content/uploads/2012/12/Algeria-Constitution-2008-English.pdf>

<sup>116</sup> Title I Chapter IV Article 51 of the Algerian Constitution: Equal access to functions and employment in the State shall be guaranteed to all citizens, without conditions other than those established by statute. Ibid.

<sup>117</sup> Ibid.

<sup>118</sup> Law No. 1970-86, 15 December 1970, Nationality Law [Algeria], 18 December 1970, available at: <http://www.refworld.org/docid/3ae6b4d714.html> [accessed 28 June 2013]

## LINGUISTIC/CULTURAL RIGHTS

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3/3

POINTS EARNED



SCORE

0 pt	Language/culture actively suppressed
1 pt	Significant public limitations on language/culture
2 pt	Mild limitations
3pt	Full rights to preserve language and culture

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The scoring for this category is based on whether a minority of a different cultural and/or linguistic background than the majority has the right and ability to maintain their cultural traditions and language. In scoring, we take into consideration whether the minority has access and the legal right to radio and TV programming, newspapers and/or education in their own language.

In this category, Algeria scores a 3. The country is 99% Arab-Berber. Approximately 37% of the population speaks a Berber dialect. One major dialect Tamazight is also a national language and all Berber dialects are protected in the Constitution.<sup>119</sup>

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<sup>119</sup> Chapter 1, Art. 3: Arabic shall be the national and official language.

Article 3bis: Tamazight is also a national language. The **State shall work for its promotion** and its development **in all its linguistic varieties** in use throughout the national territory [Bold is ours.] From the Algerian Constitution, available at <http://corpus.learningpartnership.org/wp-content/uploads/2012/12/Algeria-Constitution-2008-English.pdf>

# 4

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## WOMEN'S RIGHTS

### SCORING SYSTEM

0pt	○ ○ ○
1pt	● ○ ○
2pt	● ● ○
3pt	● ● ●

### SCORES FOR ALGERIA AT A GLANCE

Political Participation	3pt/3pt	● ● ●
Economic Rights	3pt/3pt	● ● ●
Movement	3pt/3pt	● ● ●
Marriage	3pt/3pt	● ● ●
Right to Pass On Citizenship to Immediate Family Members*	2pt/2pt	● ● —
Divorce/Alimony/Child Support	2.5pt/3pt	● ● ◐
Education	3pt/3pt	● ● ●
Polygamy	2pt/3pt	● ● ○
Abortion*	2pt/2pt	● ● —

\*Highest score possible is 2.

# WOMEN'S RIGHTS

## POLITICAL PARTICIPATION

3/3

POINTS EARNED



SCORE

- 0 pt No voting rights for women
- 1 pt Voting rights, but no significant political roles
- 2 pt Significant political participation with glass ceiling
- 3 pt Unlimited political participation

Algerian women and men are aware of the vital role played by women in the country's struggle for independence from French colonial rule in the 1960s.<sup>120</sup> Their active participation is grounded in the history and culture of that country. In order to ensure a substantial role for women in government and politics, the Algerian constitution legislates that steps be taken to encourage and guarantee that women be elected into representational assemblies.<sup>121</sup> More recently, a legal opinion was issued in December 2011 "relating to monitoring compliance with the Organic [Fundamental] Law and the Constitution in fixing the terms for increasing the representation of women in the elected assemblies"<sup>122</sup> ushering in a 30% quota for women. The consequences were immediately realized in the May 2012 election. There are currently 146 women serving in the National People's Assembly (the lower chamber of the Algerian parliament) comprising 31.6% of the total 462 representatives.<sup>123</sup> This is the highest proportion of women legislators in the Arab world. The Council of the Nation (the upper chamber) has 10 women making up 7% of the current 142 members.<sup>124</sup>

We want to add in this category the ability of a woman to testify in legal proceedings which we feel is an indication of the possible extent of her political power. As was noted above, in Algeria, the testimony of men and women has equal weight under the law.

We give Algeria a 3 in this category because neither the laws nor the activities of government officials or actions hinder the full participation of women in the political process. On the contrary, since 2012, there has been a steep increase due to legislative and governmental actions.

<sup>120</sup> See Evans, Martin. *Algeria: France's Undeclared War*. (New York: Oxford University Press, 2012). Another well-respected source is Alistair Horne's, *A Savage War of Peace: Algeria 1954-1962* (New York: Viking Press, 1977).

<sup>121</sup> Article 31bis [3]: The State shall work for the promotion of political rights of women by increasing their chances of access to representation in elected assemblies.

<sup>122</sup> Opinion No. 05/A.CC/11 of 27 Moharram 1433 corresponding to 22 December 2011 (on the regulation of conformity with the Constitution of the organic law establishing the terms of increasing the representation of women in elected bodies) and Organic Law No. 12-03 of 18 Safar 1433 corresponding to 12 January 2012 (laying down the procedures for increasing the access of opportunities for women's representation in elected assemblies) in the Official Journal of the People's Democratic Republic of Algeria, International Conventions and Agreements, Laws and Decrees, Decisions, Notices Communications and Announcements. 14 January 2012. Year 51, No. 1. pp. 36-39.

<sup>123</sup> [http://www.ipu.org/parline-e/reports/2003\\_A.htm](http://www.ipu.org/parline-e/reports/2003_A.htm)

<sup>124</sup> Ibid.

## ECONOMIC RIGHTS

3/3

POINTS EARNED



SCORE

- 0 pt Very minimal right to work or own property
- 1 pt Limited right to work, strong cultural barriers; disposition of property under guardian control
- 2 pt Significant workforce and business role, “glass ceiling”; full property rights
- 3pt Full economic participation

A reminder here, we are not referring to economic rights in general, where it would behoove us to enter into a discussion of corruption and the inequitable distribution of wealth and thus, privilege and entitlement. The scoring in this section is based on whether women specifically are denied economic rights that men, by virtue of their gender, receive.

A New York Time article written in 2007 pointed out that women made up only 20 percent of the work force but that this was more than twice their share a generation ago. According to the article the majority of Algeria’s lawyers, judges and physicians are women.<sup>125</sup> In 2008, over half of university staff, 60 percent of hospital employees, 30 percent of judges and over 55 percent of journalists were women.<sup>126</sup> Working women contribute more to household income than men. In 2011, the ratio of females to males in labor force participation was 21%, but in the upper middle income bracket that ratio was 77%.<sup>127</sup>

Article 38 of the Family Code provides that “the wife has the right to full freedom in the disposition of her property”. The Commercial Code establishes no discrimination between men and women merchants. Together these two codes provide that women shall enjoy full use of their property, and that they may dispose of it freely without the consent of their husbands.<sup>128</sup> Married women can take out business loans. In all, women

may own businesses, enter into contracts, and pursue careers similar to those of men.<sup>129</sup>

Algeria has suffered from economic woes. Half the population is under 25 and 70% under 30. According to UNDP and ILO statistics the unemployment rate went from 20.6% in 1991 to 29.6% in 2000 then down to 11.4% in 2010.<sup>130</sup> While the current unemployment rate is 10%,<sup>131</sup> youth unemployment rate stands at 20.5%.<sup>132</sup> But as the facts above show, there is no “glass ceiling” for women and no discrimination against women merchants. Any inability for women to enter the work force derives from general economic factors which affect the nation as a whole and societal factors in the rural areas which themselves are also heavily influenced by economic pressures. Algeria scores a 3.

<sup>125</sup> Algeria’s quiet revolution: Gains by women by Michael Slackman, May 26, 2007. The New York Times. <http://www.nytimes.com/2007/05/26/world/africa/26iht-algeria.1.5876681.html?pagewanted=all>

<sup>126</sup> The Arab World’s Exception: Women Are on the Rise in Algeria By Amira El Ahl Spiegel Online International January 31, 2008. <http://www.spiegel.de/international/world/the-arab-world-s-exception-women-are-on-the-rise-in-algeria-a-532307.html>

<sup>127</sup> World Bank Gender Equality Data and Statistics, 2013. Available at <http://datatopics.worldbank.org/gender/country/algeria>

<sup>128</sup> Rural Women’s Access to Land and Property in Selected Countries: Progress Towards Achieving the Aims of Articles 14, 15 and 16 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). 2004. Report undertaken jointly by the Food and Agriculture Organization of the United Nations (FAO), the International Fund for Agricultural Development (IFAD) and the International Land Coalition (ILC). Available at <http://www.landcoalition.org/sites/default/files/legacy/legacypdf/cedawrpt.pdf?q=pdf/cedawrpt.pdf>

<sup>129</sup> U.S. Department of State Bureau of Democracy, Human Rights and Labor, Country Reports on Human Rights Practices for 2011: Algeria at <http://www.state.gov/documents/organization/186630.pdf>.

<sup>130</sup> Algeria unemployment rate records biggest drop in the Arab world. Algeria Press Service. 6 February 2013. <http://www.aps.dz/Algeria-unemployment-rate-records.html>

<sup>131</sup> Algerian unemployment to drop to 9.3% in 2013, says IMF. ANSAMed. 15 April 2013. [http://www.ansamed.info/ansamed/en/news/nations/algeria/2013/04/15/Algerian-unemployment-drop-9-3-2013-says-IMF\\_8555319.html](http://www.ansamed.info/ansamed/en/news/nations/algeria/2013/04/15/Algerian-unemployment-drop-9-3-2013-says-IMF_8555319.html)

<sup>132</sup> Algeria unemployment rate records biggest drop in the Arab world. Algeria Press Service. 6 February 2013. <http://www.aps.dz/Algeria-unemployment-rate-records.html>

## MOVEMENT

3/3

POINTS EARNED



SCORE

- 0 pt Harsh limits on travel/driving
- 1 pt Limited rights to travel
- 2 pt Free domestic travel, right to drive
- 3pt Full freedom of movement domestic and international

Women in Algeria have the same rights of movement as men. The family code requires parental permission to travel abroad for minors under the age of 18. For a married woman under 18,

this permission must be given by the husband. In any event, minors require some form of “adult guardian” approval to travel abroad, whether male or female. We give Algeria a 3.

## MARRIAGE

3/3

POINTS EARNED



SCORE

- 0 pt Forced marriages common/accepted
- 1 pt Legal right to marriage by choice, not enforced
- 2 pt Accepted legal right to marry by choice, strong cultural pressures
- 3pt Free choice in marriage

We gave Algeria a 3 in this category because although a woman still needs a male sponsor to consent to her marriage, she may choose any man to be her sponsor.<sup>133</sup> According to the amended Family Code (of 2005), women cannot marry without the consent of their guardians (who are always male), however guardians cannot force a woman to marry against her will, nor can they oppose a marriage. A marriage is only recognized as valid when both spouses have given their free consent. The

minimum legal age of marriage in Algeria is 19 years for men and women. The average age of marriage for women is now 29.9, and is increasing annually in both urban and rural areas, according to the 2010 CEDAW report. Early marriages, women between the ages of 15-19, is 4%.<sup>134</sup> The modified code has removed stipulations that prohibited women from marrying non-Algerian men.<sup>135</sup>

<sup>133</sup> From the U.S. Department of State Bureau of Democracy, Human Rights and Labor Country Report for Human Rights Practices for 2011: “Amendments to the family code supersede the Sharia requirement that a male sponsor consent to the marriage of a woman. Although this requirement has been formally retained and the sponsor continues to contract the marriage, the woman may choose any man that she wishes to be the sponsor. The sponsor represents the woman during the religious or civil ceremony. Some families subject women to virginity tests before marriage.”

<sup>134</sup> The Global Gender Gap Report 2011. Ricardo Hausmann, Laura D. Tyson, and Saadi Zahidi. For the World Economic Forum. p. 91. Available at [http://www3.weforum.org/docs/WEF\\_GenderGap\\_Report\\_2011.pdf](http://www3.weforum.org/docs/WEF_GenderGap_Report_2011.pdf)

<sup>135</sup> Tamzali, Wassyla (2005) 'Rapport Alternatif L'Algérie et la Convention des Nations Unies de 1979 sur l'Élimination de toutes les formes de discriminations à l'égard des femmes', Collectif 95 Maghreb Égalité, Algiers, p.16

## RIGHT TO PASS ON CITIZENSHIP TO IMMEDIATE FAMILY MEMBERS

2/2

POINTS EARNED



SCORE

- 0 pt No right to citizenship for either non-citizen husband or for children
- 1 pt Legal right to obtain citizenship for non-citizen husband
- 2 pt Women have right to obtain citizenship for offspring

The Nationality Law of Dec 15, 1970: Law No. 1970-86 gives Algerian women complete right to pass on citizenship to their offspring regardless of the status of the father.<sup>136</sup> Algeria scores a 2 out of a possible 2.

## DIVORCE/ALIMONY/CHILD SUPPORT

2.5/3

POINTS EARNED



SCORE

- 0 pt No right to D/A/C
- 1 pt Very limited rights, law strongly favors men
- 2 pt Reasonably equal rights to men, law provides for alimony and child support
- 3pt Full rights to D/A/C, courts respect these rights and government enforces them

The 1984 Family Code was revised in 2005 to remove many of the discriminatory and restrictive clauses against women.<sup>137</sup> The role of a male guardian has been rendered largely symbolic.

Women can seek divorce for irreconcilable differences and violation of a prenuptial agreement. In a divorce, the law provides for the wife to retain the family's home until children reach 18 years of age. Custody of children normally is awarded to the mother, but she may not make decisions on education or take the children out of the country without the father's authorization. In practice, more women retained the family's home if they had

custody of the children.<sup>138</sup> According to the family code, the father is held legally responsible for the maintenance of the children, deemed as "food, clothing, medical care, housing or rent and all that is deemed necessary based on use and custom".<sup>139</sup>

We give Algeria a score of 2.5 because custody of children is usually awarded to women in the case of divorce and she retains the family home until her children reach 18, and the state awards child support as long as the father is able.

<sup>136</sup> English translation of the Nationality Law No. 1970-86 is available at <http://www.refworld.org/docid/3ae6b4d714.html>. See especially Articles 6, 7 and 9.

<sup>137</sup> Loi n°84-11 du 09 juin 1984 portant code de la famille, modifiée et complétée. Modifié par l'ordonnance n° 05-02 du 27 février 2005. [http://www.premier-ministre.gov.dz/images/stories/dossier/Codes/code\\_famille.pdf](http://www.premier-ministre.gov.dz/images/stories/dossier/Codes/code_famille.pdf)

<sup>138</sup> 2012 Human Rights Reports: Algeria. U.S. Department of State, Bureau of Democracy, Human Rights and Labor 2012 Country Reports on Human Rights Practices, April 19, 2013, at <http://www.state.gov/j/drl/rls/hrrpt/2012/nea/204354.htm>

<sup>139</sup> Articles 75-80 of the Algerian Family Code. Available at [http://www.premierministre.gov.dz/images/stories/dossier/Codes/code\\_famille.pdf](http://www.premierministre.gov.dz/images/stories/dossier/Codes/code_famille.pdf)

## EDUCATION

3/3

POINTS EARNED



SCORE

- 0 pt Female education underfunded/discouraged
- 1 pt Good access to primary education
- 2 pt Good access to secondary education
- 3pt Good access to university education

The Algerian constitution guarantees education without reference to gender<sup>140</sup> and throughout the education system the treatment and attendance of girls is equal to that of boys. Education is free, compulsory (to age 17), and universal through the secondary level and girls and boys have equal access.<sup>141</sup> Algerian girls and boys complete primary school on the same

par at 96%.<sup>142</sup> Furthermore, there are more girls enrolled in high school than boys and more than sixty percent of university students are women.<sup>143</sup> As can be seen from the table below from the World Bank Data Base, women graduates outnumber men in a number of fields, and the trend is increasing.<sup>144</sup>

PERCENTAGE OF WOMEN COLLEGE GRADUATES BY FIELD	2010	2011
Female share of graduates in agriculture (% ,tertiary)	50.8	55.9
Female share of graduates in education (% ,tertiary)	72.3	78.4
Female share of graduates in health (% ,tertiary)	62.8	64.9
Female share of graduates in humanities and arts (% ,tertiary)	76.6	80.4
Female share of graduates in services (% ,tertiary)	31.0	51.9
Female share of graduates in social science, business and law (% ,tertiary)	64.0	66.8

Any restrictions against girls and women having access to education derive from cultural norms, specifically in rural areas,

and economic hardship, neither of which are encouraged by the laws or the authorities. We give Algeria a score of 3.

<sup>140</sup> Article 53 of the Constitution: The right to education shall be guaranteed. Instruction shall be free within the conditions fixed by statute. Primary education shall be compulsory. The State shall organize the educational system. The State shall **protect equal access** to schooling and professional training. [Emphasis ours.]

<sup>141</sup> The National. May 14, 2013. <http://www.thenational.ae/news/world/africa/algerian-women-get-down-to-business>

<sup>142</sup> World Bank Gender Equality Data and Statistics, 2013. Available at <http://datatopics.worldbank.org/gender/country/algeria>

<sup>143</sup> The Arab World's Exception: Women Are on the Rise in Algeria by Amira El Ahl in Speigel Online International. Jan. 31, 2008. Available at <http://www.spiegel.de/international/world/the-arab-world-s-exception-women-are-on-the-rise-in-algeria-a-532307.html>

<sup>144</sup> Available at [www.databank.worldbank.org/data/Data-on-Algeria/id/d00bae88](http://www.databank.worldbank.org/data/Data-on-Algeria/id/d00bae88)

## POLYGAMY

2/3

POINTS EARNED



SCORE

0 pt	Legal, openly practiced
1 pt	Legal, rare
2 pt	Legal, almost never practiced
3pt	Illegal

Algeria scores a 2.<sup>145</sup> Polygamy in Algeria is very rare but “Marriage to more than one wife is permitted” is in the Family Code. However, legislative changes to the Family Code introduced in 2005 have curtailed the ability of a man to take a second wife: he must obtain the consent of both the first and the proposed second wife and then apply to the Family Court for

permission. The Court decides whether the husband’s reason for wanting to take a second wife is justifiable, and whether or not he is in a position to provide for both wives. The code also stipulates that the couple’s pre-nuptial decisions regarding issues such as polygamy and the wife working may be included in the marriage contract.<sup>146</sup>

## ABORTION

2/2

POINTS EARNED



SCORE

0 pt	Never permitted
1 pt	Permitted for physical health or rape
2 pt	Permitted for mental health reasons

Algeria receives a score of 2. According to the Algerian Penal Code, there is no penalty for performing an abortion when committed to “save the mother’s life”.<sup>147</sup> Furthermore, the legal phrase “abortion for therapeutic reasons is considered an

indispensable measure to save the life of the mother when in danger, or to preserve her psychological or mental equilibrium when seriously threatened” permits an abortion when the mental health of the mother is threatened.<sup>148</sup>

<sup>145</sup> 1984 Family Code, Title 1, Chapter I, Section II, Article 8 (amended).

<sup>146</sup> In Title 1, Chapter I, Section III, Art. 19 of the Family Code.

<sup>147</sup> Title II, Chapter II, Section 1, Article 308 of the Penal Code.

<sup>148</sup> Algerian Act No. 85-05 of Feb 16, 1985 on “the protection and the promotion of health”: Title II, Chapter V (“Measures protecting mother and child”), Article 72.

# 5

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## SOCIAL RIGHTS

### SCORING SYSTEM

0pt	○	○	○
1pt	●	○	○
2pt	●	●	○
3pt	●	●	●

### SCORES FOR ALGERIA AT A GLANCE

Healthcare	3pt/3pt	●	●	●
Education	3pt/3pt	●	●	●
Property Rights	3pt/3pt	●	●	●
Travel/Movement	2pt/3pt	●	●	○
Child Labor	2pt/3pt	●	●	○

# SOCIAL RIGHTS

## HEALTHCARE

3/3

POINTS EARNED



SCORE



- 0 pt No significant public health care
- 1 pt Basic public health measures
- 2 pt Widespread availability of hospitals/doctors
- 3 pt Universal health care access

According to Article 54 of the constitution: “All citizens shall have the right to the protection of their health.” Life expectancy is 73.<sup>149</sup> In 2011, Algeria spent 3.9% of its GDP on health expenditures and public health expenditure accounted for almost 81% of all health expenditure.<sup>150</sup> The government provides free health care

for the poor, but those who can afford it are expected to pay. Employers pay 26 percent of gross salaries in social security taxes, including provisions for both retirement and health/accident insurance. We give Algeria a 3 because everyone has access to health care.

<sup>149</sup> World Data Bank. 2013 World Development Indicators at <http://databank.worldbank.org/data/views/reports/tableview.aspx>

<sup>150</sup> These figures are from the World Data Bank: “Public health expenditure consists of recurrent and capital spending from government (central and local) budgets, external borrowings and grants (including donations from international agencies and nongovernmental organizations), and social (or compulsory) health insurance funds. Total health expenditure is the sum of public and private health expenditure. It covers the provision of health services (preventive and curative), family planning activities, nutrition activities, and emergency aid designated for health but does not include provision of water and sanitation.” See <http://data.worldbank.org/indicator/SH.XPD.PUBL/countries/DZ-XQ-XT?display=graph>

## EDUCATION

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3/3

POINTS EARNED



SCORE

0 pt	Extremely poor availability
1 pt	Widespread primary and secondary education
2 pt	Universal primary and secondary education
3 pt	Widespread tertiary education

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According to Article 53 of the Algerian constitution:

- *The right to education shall be guaranteed.*
- *Instruction shall be free within the conditions fixed by statute.*
- *Primary education shall be compulsory.*
- *The State shall organize the educational system.*
- *The State shall protect equal access to schooling and professional training.*

In Algeria, education was free, compulsory, and universal through the secondary level to age 17.<sup>151</sup> Statistics from the World Bank Data Base show that all Algerian children enroll in primary school with a completion rate of over 94%, and about 92% go on to secondary school. The gross enrollment ratio in tertiary education is 32%.<sup>152, 153</sup> We consider this a healthy enrollment rate in tertiary education particularly because the rates have been steadily increasing. We give Algeria a 3.

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<sup>151</sup> 2012 Human Rights Reports: Algeria. U.S. Department of State, Bureau of Democracy, Human Rights and Labor 2012 Country Reports on Human Rights Practices, April 19, 2013, at <http://www.state.gov/j/drl/rls/hrrpt/2012/nea/204354.htm>

<sup>152</sup> The World Bank Data Base at <http://data.worldbank.org/indicator/SE.SEC.PROG.MA.ZS/countries/DZ-XQ-XT?display=graph>. Figures are for 2011. Tertiary gross enrollment ratio is the total enrollment in tertiary education, regardless of age, expressed as a percentage of the total population of the five-year age group following completion of secondary school.

<sup>153</sup> Compare with the U.S. where, according to the Census Bureau, in 2009, 85% of the population aged 25 and over reported they had a high school diploma or equivalent, 7.5% reported they had an associate's degree and 28% reported they had a bachelor's degree or higher. From: Educational Attainment in the United States: 2009 Current Population Reports by Camille L. Ryan and Julie Siebens. U.S. Census Bureau. Issued February 2012. Available at <http://www.census.gov/prod/2012pubs/p20-566.pdf>

## PROPERTY RIGHTS

2/3

POINTS EARNED



SCORE

- 0 pt Government ownership/control of economy
- 1 pt Predominant government role in economy, some private business
- 2 pt Widespread private business, some government interference/control
- 3pt Widespread private business, government respects private property rights

Article 52 of the constitution guarantees private property.<sup>154</sup> The problem in Algeria is not government interference with private business but lack of government planning and incentives. It is true that the Algeria's hydrocarbon industry accounts for more than one-third of its gross domestic product (GDP), two-thirds of government revenues, and nearly 98 percent of exports;<sup>155</sup> however we do not consider state-ownership of the energy sector as necessarily bad or undue interference in private property rights. The feeling is that private enterprise in Algeria is not thriving because the government has failed "to create a policy and regulatory environment that encourages entrepreneurship, private investment, and economic diversification" although it did "inject huge sums of money into infrastructure and housing projects."<sup>156</sup> Notwithstanding these criticisms,

there are reports of government investment initiatives both from domestic and international sources.<sup>157</sup>

The consideration in this category is limited to government ownership or interference in private business. We feel that failure of the government in encouraging private business is not the same as governmental constraints on private business. Furthermore, even though Algeria suffers from corruption both at large-scale and petty levels,<sup>158</sup> we are not taking this into consideration here because it is not exactly government interference in property ownership and business enterprise. We give Algeria a 3 out of 3.

<sup>154</sup> <http://corpus.learningpartnership.org/wp-content/uploads/2012/12/Algeria-Constitution-2008-English.pdf>

<sup>155</sup> Lahcen Achy, The Price of Stability in Algeria, Carnegie Middle East Center paper dated April 25, 2013. Available at <http://carnegie-mec.org/2013/04/25/price-of-stability-in-algeria/g1cs#>

<sup>156</sup> Lahcen Achy, The Price of Stability in Algeria, Carnegie Middle East Center paper dated April 25, 2013. Available at <http://carnegie-mec.org/2013/04/25/price-of-stability-in-algeria/g1cs#>

<sup>157</sup> Reuters feature article: Algeria's frosty business climate may thaw. April 11, 2012. Available at <http://www.reuters.com/article/2012/04/11/algeria-investment-djezzy-idUSL6E8F80PX20120411>

<sup>158</sup> "Algeria suffers from "grand corruption," in which leaders at high levels of government, such as high-ranking public officials and top management of state-owned enterprises, abuse their power to benefit themselves at the public's expense. It also faces "petty corruption," or everyday abuse of power, by low- and mid-level bureaucrats among both the central administration and local authorities. ... Accusations are rife in the Algerian media that foreign companies have been paying massive bribes to political figures and highly ranked bureaucrats to secure contracts. ... [I]n 2010, ... [t]he Algerian president ordered Sonatrach to freeze all 275 contracts signed by or awarded to [the state-owned oil company] Sonatrach between December 2009 and February 2010 due to suspected fraud. In May 2011, Sonatrach's chief executive officer was sentenced to two years in prison for the corrupt use of public funds; he awarded oil and gas contracts to companies through direct agreements instead of a bidding process. Another Sonatrach scandal emerged in February 2013, when the head of Eni, a state-owned Italian oil and gas company and the leading foreign energy operator in Algeria, came under investigation for his alleged involvement in a \$265 million bribery case to win contracts assigned by Sonatrach." From Lahcen Achy, The Price of Stability in Algeria, Carnegie Middle East Center paper dated April 25, 2013. Available at <http://carnegie-mec.org/2013/04/25/price-of-stability-in-algeria/g1cs#>

## TRAVEL/MOVEMENT

2/3

POINTS EARNED



SCORE

0 pt	Extremely limited domestic and international travel
1 pt	Free domestic travel, some limits
2 pt	Free international travel, some limits
3 pt	Full freedom to travel

We give Algeria a 2 in this category because whereas we find the restrictions imposed on travel reasonable, they do exist. While Algerians generally enjoy freedom of movement both domestically and going abroad, there are restrictions against travel to a few southern areas for security reasons There is also a restriction against foreign travel for young men of draft age who need to obtain special authorization to travel.<sup>159</sup>

Although the issue of refugees is covered elsewhere in this report card, it is worth mentioning that the Sahrawi refugees<sup>160</sup> who number between 90,000 and 165,000 face severe restrictions with respect to movement.<sup>161, 162</sup>

<sup>159</sup> "The government maintained restrictions for security reasons on travel into the southern locales of El-Oued and Illizi, near hydrocarbon industry installations and the Libyan border, respectively. The government also prevented overland tourist travel between the southern cities of Djanet and Tamanrasset, citing the threat of terrorism. The government did not permit young men eligible for the draft who had not yet completed their military service to leave the country without special authorization, although the government granted such authorization to students and persons with special family circumstances, notably those individuals with family members residing in Western Sahara." From: 2012 Human Rights Reports: Algeria. U.S. Department of State, Bureau of Democracy, Human Rights and Labor 2012 Country Reports on Human Rights Practices, April 19, 2013, at <http://www.state.gov/j/drl/rls/hrrpt/2012/nea/204354.htm>

<sup>160</sup> See fn. 165.

<sup>161</sup> "Although refugees reportedly can go to the nearby garrison town of Tindouf with nothing more than their Polisario-issued identity cards, to travel elsewhere in Algeria requires a permit called an ordre de mission bearing the stamps of both Algerian and Polisario authorities. ... Sahrawi refugees can travel to and enter neighboring Mauritania with nothing more than their Polisario identity cards. Nevertheless, every refugee USCRI spoke to that had returned to the Western Sahara declared that they could not have done so had they let the Polisario know or even suspect that they intended to continue on from Mauritania around to the Moroccan-held territory or they would stop them. Every one left family members or substantial assets ... behind in order to allay any such suspicion." From Stonewalling on Refugee Rights: Algeria and the Sahrawi by Merrill Smith, U.S. Committee for Refugees and Immigrants, 2009. Available at <http://reliefweb.int/report/algeria/stonewalling-refugee-rights-algeria-and-sahrawi>

<sup>162</sup> For a succinct description of restrictions and deprivations faced by the Sahrawi see <http://www.policymic.com/articles/6229/polisario-is-stealing-humanitarian-aid-to-the-saharawi-refugees-in-algeria>

## CHILD LABOR

2/3

POINTS EARNED



SCORE

- 0 pt No laws in the penal code that protect children or minors from exploitative labor, **OR** no government protection for children even when laws are in place
- 1 pt Some laws that protect very young children, **OR** very little application of existing labor laws
- 2 pt Fairly good labor laws for children under 12 that are fairly well enforced. Some exceptions in the labor laws, i.e. agricultural workers and domestics
- 3pt Strong labor laws that protect all children under 16, include all sectors of employment, fairly well enforced.

Figures from UNICEF show that 5% of children aged 5-14 are involved in labor defined as economic activity or domestic labor or both.<sup>163</sup> The law prohibits minors from engaging in work that is dangerous, unhealthy, or harmful, or socially or religiously inappropriate. The minimum legal age for employment is 16, but children that are younger may work as apprentices with permission from their parents or legal guardian.<sup>164</sup> The law does not establish a list of hazardous occupations prohibited to minors, nor does it cover work in the informal sector. In June 2012, the UNICEF representative in Algiers stated that 340,000 children worked in various sectors in the country, adding that the phenomenon was taking on alarming proportions. Though specific data is unavailable, it is assumed that child labor is found primarily in agriculture and construction. In the informal sector children

work as domestic servants. The Algerian Ministry of Labor conducts and in some cases investigates companies suspected of hiring underage workers but monitoring and enforcement are hampered by an insufficient number of inspectors.<sup>165</sup> Recently, the government's Commission for the Prevention and Fight against Child labor has organized hundreds of open-door seminars on child labor and education programs affecting 400,000 children and apprentices, as well as strengthened the labor inspection services. The Ministry of National Solidarity provides grants and school supplies to low-income families to encourage school attendance. Because the main issues regarding child labor exist in the agriculture, street worker and domestic worker sectors, we give Algeria a score of 2.

<sup>163</sup> UNICEF, "Algeria Statistics-Child Protection." 2011. Available at [http://www.unicef.org/infobycountry/algeria\\_statistics.html#107](http://www.unicef.org/infobycountry/algeria_statistics.html#107). Definition of 'child labour': Percentage of children aged 5 to 14 years of age involved in child labour activities at the moment of the survey. A child is considered to be involved in child labour activities under the following classification: (a) children 5 to 11 years of age that during the week preceding the survey did at least one hour of economic activity or at least 28 hours of domestic work, and (b) children 12 to 14 years of age that during the week preceding the survey did at least 14 hours of economic activity or at least 42 hours of economic activity and domestic work combined.

<sup>164</sup> Loi n° 90-11 du 21 avril 1990 relative aux relations de Travail (modifiée et complétée au 11 janvier 1997), Title III, Chapter 2, Art 15. - L'âge minimum requis pour un recrutement ne peut, en aucun cas, être inférieur à seize ans, sauf dans le cadre de contrats d'apprentissage établis conformément à la législation et à la réglementation en vigueur. Available at <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/9557/64805/F97DZA01.htm>

<sup>165</sup> 2012 Human Rights Reports: Algeria. U.S. Department of State, Bureau of Democracy, Human Rights and Labor 2012 Country Reports on Human Rights Practices, April 19, 2013, at <http://www.state.gov/j/drl/rls/hrrpt/2012/nea/204354.htm>

# MIGRANT WORKER/REFUGEE/ IMMIGRANT RIGHTS

## SCORING SYSTEM

0pt	○ ○ ○
1pt	● ○ ○
2pt	● ● ○

## SCORES FOR ALGERIA AT A GLANCE

Permanent Residency and Naturalization*	2pt/2pt	● ● —
Right to Have Family Accompany <sup>†</sup>	1pt/1pt	● — —
Access to Public Health Care and Education for Self and Family Members*	2pt/2pt	● ● —
Business and Property Rights*	0pt/2pt	○ ○ —
Rights of Redress*	2pt/2pt	● ● —

\*Highest score possible is 2.

†Highest score possible is 1.

# MIGRANT WORKER/REFUGEE/ IMMIGRANT RIGHTS

The two largest groups of refugees in Algeria are the Palestinians which number from between 4,000 to 6,000 and the Sahrawi<sup>166</sup> which number between 90,000 and 165,000. As can be seen in the chart below from the UN High Commissioner for Refugees

2013 Country Operations Profile for Algeria<sup>167</sup>, there is now also a substantial number of Syrian refugees created by the conflict in that country.

## UNHCR 2013 PLANNING FIGURES FOR ALGERIA

TYPE OF POPULATION	ORIGIN	JAN 2013	OF WHOM ASSISTED BY UNHCR	DEC 2013	OF WHOM ASSISTED BY UNHCR
		TOTAL IN COUNTRY		TOTAL IN COUNTRY	
<b>Total</b>		<b>107,060</b>	<b>91,650</b>	<b>112,120</b>	<b>92,110</b>
Refugees*	DRC	40	40	40	40
	Palestinian	4,030	20	4,030	30
	Western Sahara [1]	90,000	90,000	90,000	90,000
	Various	80	80	80	80
	Cameroon	600	600	850	850
	Mali	1,500	40	1,500	90
Asylum-seekers	Syrian Arab Republic	10,000	60	15,000	400
	Various	810	810	620	620

\*According to the Government of Algeria, there are an estimated of 165,000 Sahrawi refugees in the Tindouf camps.

In determining Algerian refugee policy, we are considering mainly the Palestinian and the Sahrawi populations.

According to Merrill Smith in a 2009 report for the U.S. Committee for Refugees and Immigrants, "Algeria fails to live up to its commitments under the 1951 Convention relating to the Status of Refugees and its 1967 Protocol with respect to the Sahrawi refugees from the Western Sahara. Perhaps worse, it fails even to acknowledge its responsibility for their treatment on its territory, pretending they are actually under the jurisdiction of a state-in-exile, the "Sahrawi Arab Democratic Republic (SADR)."<sup>168</sup>

Smith's report also describes the plight of the Palestinians living in Algeria: "Although it does not grant them formal refugee status,

Algeria does appear to be honoring de facto its commitments under the 1951 Convention with respect to the 4,000 to 6,000 Palestinian refugees on its territory, some of whom had been there since the early 1960s. There are no restrictions on their movement or economic activity and many appear to be thriving without international humanitarian aid. There is no evidence or reports of any poverty or dependence among this population distinct from that of nationals."

That the Palestinians are well-integrated is evidenced by the fact that unlike other refugees, mostly from Sub-Saharan African countries and Syria, Palestinians in Algeria have not approached the UNHCR for asylum.<sup>169</sup>

<sup>166</sup> For detailed information on the Sahrawi, see Human Rights Watch Report "Human Rights in Western Sahara and in the Tindouf Refugee Camps" of December 19, 2008, according to who: "The Sahrawi refugee situation is one of the most protracted refugee situations worldwide. Sahrawi refugees [fleeing from Moroccan forces advancing through Western Sahara during the Western Sahara War] arrived to Algeria in 1975-76 ...Ever since, they have been residing in four refugee camps ... and one settlement ... in the Algerian south-western province of Tindouf." Available at <http://www.hrw.org/en/reports/2008/12/19/human-rights-western-sahara-and-tindouf-refugee-camps-0>

<sup>167</sup> Available at <http://www.unhcr.org/pages/49e485e16.html>

<sup>168</sup> Stonewalling on Refugee Rights: Algeria and the Sahrawi by Merrill Smith, U.S. Committee for Refugees and Immigrants, 2009. Available at <http://reliefweb.int/report/algeria/stonewalling-refugee-rights-algeria-and-sahrawi>

<sup>169</sup> In UNHCR Global Appeal 2013 Update at <http://www.unhcr.org/50a9f8260.html>

## PERMANENT RESIDENCY AND NATURALIZATION

2/2

POINTS EARNED



SCORE

- 0 pt Legally barred from permanent residency and naturalization
- 1 pt Restricted applications for permanent residency and/or naturalization accepted and approved
- 2 pt Open to application for permanent residency and naturalization under legal guidelines
- 3 pt

Algeria scores a 2 out of a possible 2 in this category. According to Article 10 of the Algerian Nationality Law of 15 December 1970 anyone who has legally resided in Algeria at least seven years may apply for and become a naturalized citizen. The seven year residency period is reduced for

a number of factors including service to the state, illness incurred during service, and for the children of Algerian women born overseas to non-citizen fathers and the wives and children of a petitioner who died during his petition.<sup>171</sup>

## PERMANENT RESIDENCY AND NATURALIZATION

1/1

POINTS EARNED



SCORE

- 0 pt No or very restricted right to have family accompany worker to country
- 1 pt Generous rights to have visa extend to dependents

Anyone working in Algeria must first obtain a work permit after which he must apply for a Residency Card. Once the residency permit is obtained, that person may apply for residency for his/her family. The family can come to Algeria prior to obtaining residency (with a tourist visa, if it is required for their nationality).

Obtaining residency permits can take up to three months. We do not feel any of these conditions impose undue hardship as they are equivalent (and in many case, milder) than those in most countries of the world. We give Algeria a 1.

<sup>170</sup> Available at <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=country&category=LEGAL&publisher=&type=LEGISLATION&coi=DZA&rid=&docid=3ae6b4d714&skip=0>

<sup>171</sup> Algerian Nationality Law Article 11: The Government may not take into consideration a sentence resulting in loss of civil rights which was taken abroad. The seven year term provided for in Article 10(1) above is reduced to eighteen months for a child born abroad to an Algerian mother and an alien father. Notwithstanding the provisions of Article 10(6) above, the alien whose infirmity or illness has been contracted as a result of service to or in the interest of Algeria, may be naturalized (sic). Notwithstanding the provisions of the preceding Article, the alien who has rendered exceptional service to Algeria or whose naturalisation is of exceptional interest for Algeria, may be naturalised. The wife and children of a deceased alien who, but for his death, would have come under the category mentioned in this Article, can apply for his posthumous naturalisation while applying for their own naturalisation.

## PERMANENT RESIDENCY AND NATURALIZATION

2/2

POINTS EARNED



SCORE

- 0 pt No access to public health care or education
- 1 pt Residency or Work visa guarantees access to
- 2pt Public Health Care for self and dependents but not public education.
- 3pt Residency or Work Visa guarantees access to Public Education and Health Care for self and dependents.

Putting aside the 90,000-165,000 Sahrawi, refugees in Algeria fall into two categories: while the 4,000-6,000 Palestinians are well-assimilated and have access to the public health and education, newly arriving refugees from Mali, Cameroon and Syria are facing difficulties due to their lack of a legal status. The Algerian government is in the process of drafting and adopting a national asylum law but until that law takes effect, persons without legal papers find it difficult to access state benefits. According to the 2013 UNHCR Country Profile for Algeria, “the lack of legal status and residence are difficulties which urban refugees and asylum-seekers continue to face in Algeria. These challenges result in limited access to economic, social and civil rights and the risk of detention and expulsion. [On a much larger scale], [i]n the absence of a political solution to the Western Sahara issue, Sahrawi refugees remain dependent on international assistance. Income-generation and livelihood

activities are difficult to implement in the desert, reinforcing the refugees’ reliance on international aid.”<sup>172</sup>

Free health care is provided to all persons who are in Algeria legally. This means that health services are available only to “recognized” refugees (i.e. those registered with UNHCR) and to those identified by UNHCR as “persons of concern”.<sup>173</sup> Free primary education is granted to all refugee children.<sup>174</sup>

We give Algeria a 2 out of a possible 2 in this category with the caveat that we find the “black hole” of the Sahrawi camps troubling and have not included the lack of official Algerian involvement in the education and health, indeed, all social services, including access to proper nutrition, clean water and housing to the people confined to the camps, in our calculus.

## BUSINESS AND PROPERTY RIGHTS

0/2

POINTS EARNED



SCORE

- 0 pt No rights to own property or business
- 1 pt Can own a business as long as it is with partnered with/sponsored by a citizen
- 2 pt Able to own private business and property

We have given Algeria a score of 0 on this item. The reason is specifically the Algerian attitude toward the Sahrawi. Sahrawi cannot own property.<sup>175</sup>

“Sahrawi refugees can work in informal businesses in the remote southwest garrison town of Tindouf, near the camps. They cannot, however, own property. If caught driving cars registered outside the camps, they are subject to imprisonment by the Algerian authorities as are Algerians driving cars registered in

the camps. ... Even if Sahrawi refugees receive permission to leave the camps, it is virtually impossible for them or any other refugee (other than Palestinians ...) to work legally in Algeria. Although Algerian law provides for authorities to issue residence permits and employment authorization valid for three years’ to recognized refugees, authorities do not formally recognize any refugees, and de facto refugees therefore have no more rights than foreigners generally.”<sup>176</sup>

<sup>172</sup> See <http://www.unhcr.org/pages/49e485e16.html>

<sup>173</sup> UNHCR Global Report 2012 on Algeria at <http://www.unhcr.org/51b1d638b.html>

<sup>174</sup> See UNHCR Global Report 2012 on Algeria, available at <http://www.unhcr.org/51b1d638b.html>

<sup>175</sup> Stonewalling on Refugee Rights: Algeria and the Sahrawi by Merrill Smith, U.S. Committee for Refugees and Immigrants, 2009. PDF p. 9. Available at <http://reliefweb.int/report/algeria/stonewalling-refugee-rights-algeria-and-sahrawi>

<sup>176</sup> Stonewalling on Refugee Rights: Algeria and the Sahrawi by Merrill Smith, U.S. Committee for Refugees and Immigrants, 2009. Available at <http://reliefweb.int/report/algeria/stonewalling-refugee-rights-algeria-and-sahrawi>

## RIGHTS OF REDRESS

2/2

POINTS EARNED



SCORE

- 0 pt Extremely limited access to court or legal system, abuse of workers often cited
- 1 pt Some access to legal system for redress, but difficult to maneuver and judgments are often biased
- 2 pt Full and fair access to legal system

Article 67 of the Algerian Constitution guarantees access to the law: "Every foreigner who resides legally on the national territory shall enjoy for his person and his goods the protection of the law."<sup>177</sup>

The Consular Section of the British Government prepares "arrest information" documents for British citizens. Their document, The Criminal Justice system of Algeria, contains the following information:

*Algerian law requires that you be charged in front of a judge ... within 24 hours of being detained. This can be extended to 48 hours on approval of the Prosecutor, and up to a maximum of 96 hours in cases of national security. ... After the first appearance you have the right to see a lawyer. ... At this stage, the Examining Magistrate may grant provisional remand. ... In law the remand period should not exceed 60 days. In practice it can be just a few days, or it may be extended five times, but you do have the right to challenge each extension. Any time served on remand will count as part of your sentence. Certain restrictions can be imposed on remand prisoners, such as no contact with family or other detainees, but this rarely applies to foreigners. You will be able to wear your own clothes and will not be expected to work. Remand and sentenced prisoners are not segregated.*<sup>178</sup>

The document also lists these rights of foreigners taken into custody in Algeria:

- *the right to an interpreter*
- *the right to consult a lawyer*
- *the right to appeal against a charge*
- *the right to be visited at a reasonable time by consular staff and by family members*
- *if unwell, the right to be examined by a doctor.*

None of the major human rights organizations listed Algeria as a nation of concern in terms of foreign prisoners being held in custody. The U.S. Consular Office of the Department of State also makes no mention of caution in dealing with the Algerian justice system. The British NGO, Prisoner Abroad, maintains records of Britons held in foreign jails; Algeria is not mentioned in any of their annual reports dating from 2005.<sup>179</sup> A review of press reports failed to show up evidence of foreigners being detained and charged, fairly or unfairly. These facts lead us to give Algeria a score of 2 out of a possible 2 in rights to redress for non-citizens.

<sup>177</sup> Algerian Constitution available in English at: <http://corpus.learningpartnership.org/wp-content/uploads/2012/12/Algeria-Constitution-2008-English.pdf>

<sup>178</sup> Available at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/142113/Algeria\\_Prison\\_Pack.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/142113/Algeria_Prison_Pack.pdf)

<sup>179</sup> See <http://www.prisonersabroad.org.uk/what-we-do/news-and-downloads/annual-reviews.html>

