



ALGERIA

PRESENTATION

This review is part of a larger two-part study on **freedom of assembly in the Euro-Mediterranean region**.

Following an overview of the international standards relating to the freedom of assembly, Part I examines the legal frameworks in 11 countries of the Mediterranean and in the European Union and their compliance with international human rights standards. Part II examines the implementation of laws and the exercise of the freedom of assembly and demonstration in practice.

In order to assess the compliance of national legislations with international standards relating to the exercise of freedom of assembly, objective indicators were used as a reference throughout this study. A gender-sensitive approach was incorporated to determine whether women enjoy freedom of assembly to the same extent as men or face more restrictions.

This study was conducted in consultation with members of the Euro-Mediterranean Human Rights Network (EMHRN), which includes 80 human rights organizations in 30 countries. It thus reflects the active involvement of EMHRN's working group members on freedom of association and assembly, as well as other civil society organizations and experts.

The study is meant to provide human rights defenders, civil society organizations, international organizations, and state institutions with an analysis that allows them to compare national laws and policies with those of other countries and assess their conformity with international conventions, with a view to advocating for reforms and guaranteeing freedom of assembly across Euro-Mediterranean area.

The chapters are also available separately: Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco and Western Sahara, Palestine, Syria, Tunisia, Turkey, and the EU.

Introduction

Since 1991, freedom of association and freedom of assembly have been seriously hampered in Algeria by laws and abusive practices which restrict the exercise of these rights. In spite of this, the people of Algeria have not stopped demanding their rights to express their dissatisfaction in public with the deterioration of the political, economic and social situation.

In 2011, in the wake of the 'Arab spring', demonstrations and unrest increased in Algeria. Civil society sought to articulate an opposition strategy through the "National Coordination for Change and Democracy" movement. However thousands of police officers were deployed to put an end to the demonstrations and dozens of legal cases were brought against the demonstrators.

2011 and 2012 were notable for the adoption of legal reforms such as the lifting of the state of emergency but stymied by the approval of various laws further restricting citizens' rights, in particular, the freedoms of association and expression. The retention of restrictive legal provisions makes the organization of demonstrations and public meetings difficult.¹

Since then, the mobilization of socio-professional sectors such as the communal guards,² students, the unemployed, teachers, civil servants, health workers, etc. demanding improvements to working conditions has continued whilst the policy of repression has stiffened. Many of the demonstrations were broken up, involving violence in some cases, and some activists were prosecuted. In towns of the southern part of the country, organisations of unemployed workers and workers with insecure jobs, as well as employees of multinational companies, have considerably increased since 2013.

Human rights organizations, re-echoed in EU reports,³ have widely documented the deterioration of freedom of association and assembly in Algeria.

Between February and March 2014, during the period prior to the presidential election, hundreds of demonstrators, particularly in Algiers, were arrested during meetings convened by civil society groups.⁴ Following brutal repression at the start, the authorities adopted a more subtle strategy in order to safeguard Algeria's international image before recommencing its repressive practices some weeks later.⁵

1 For more details see the studies issued by the EMHRN: *The Right to Freedom of Peaceful Assembly in the Euro-Mediterranean Region - Legislative review*, 2013 (Algeria chapter): http://www.euromedrights.org/eng/wp-content/uploads/2013/11/FOA2013_EN_ALGERIA1.pdf; and *lifting the state of emergency in Algeria : a game of smoke and mirrors*; <http://www.euromedrights.org/eng/2012/02/24/latest-emhrn-report-lifting-the-state-of-emergency-in-algeria-a-game-of-smoke-and-mirrors/>

2 The Communal Guard was established in Algeria during the Algerian Civil War in order to combat Islamist terrorism. For some years, the Communal Guard has been asking for the body not to be disbanded (this was decreed in 2012), a greater recognition of their work, and the approval of a backdated salary increase.

3 EU (2014): *ENP Package Report - Algeria*, dated 27 March 2014 http://europa.eu/rapid/press-release_MEMO-14-219_en.htm. It should be noted that thanks to the work of the many human rights organizations which have condemned the situation in the country over many years, the EU has finally reflected these violations in its European Neighbourhood Policy progress report. See the EMHRN reports and press releases: <http://www.euromedrights.org/eng/emhrn-statements/> and <http://www.euromedrights.org/eng/publications/>; Amnesty International: <http://www.amnesty.org/en/region/algeria>; Human Rights Watch: <http://www.hrw.org/middle-eastn-africa/algeria>; Cairo Institute for Human Rights: <http://www.cihrs.org/?s=Algeria&lang=en>; International Federation of Human Rights: <https://www.fidh.org/International-Federation-for-Human-Rights/north-africa-middle-east/algeria>; among others.

4 See Amnesty International's press release dated 14 April 2014: <http://www.amnistie.ca/sinformer/communiqués/international/2014/algerie/repression-menee-en-cette-periode-preelectorale>

5 During the demonstration of 16 April (the day before the elections), for example, two young people with no connection to the demonstration were arrested, detained and prosecuted. Joint EMHRN and Amnesty International Press Release dated 9 May 2014 condemning the detention and arbitrary prosecution of two young people: <http://www.amnesty.org/fr/library/asset/MDE28/006/2014/en/df5b8b27-554f-40f0-a768-ef5cc9c638db/mde280062014en.pdf>

1. Restrictions Imposed on Freedom of Assembly

Knowing that permission will be refused at the last minute, many of the organizers do not usually follow the procedure for the prior notification of public meetings nor for authorization of demonstrations.

Whereas, according to the law, public meetings are merely a matter of notification, in practice arbitrary restrictions amount to authorization. Human rights organizations and independent trade unions which give notification of their congress or general assembly often come up against a refusal by the authorities to issue a receipt of the declaration,⁶ yet this receipt is then required to assess the legality of the event, a pretext which serves to prohibit or disband the meeting.

Authorisation requests made to the local authorities (wali) for demonstrations by groups critical of government policies, in particular organisations representing the unemployed and workers with insecure jobs, the families of disappeared persons (during the 1990's internal conflict), human rights activists, and certain political parties and independent trade unions, are usually refused. Refusal is by means of a written notification or, more often than not, by simply a failure to reply. The absence of an acknowledgement that a request has been lodged or of a written notification prohibiting the demonstration prevents the organizers from presenting an appeal to the competent administrative authority. Some political parties have condemned this practice which blocks access by opposition organisations and parties to public areas.⁷

These obstacles make the practical organization of public meetings very difficult. Since the meeting is deemed to be unlawful in the absence of a response from the authorities, how can the event be publicised, participants invited, and assurance obtained that those responsible for hiring out the hall for the meeting will agree to do so?⁸ Organizers often ignore arbitrary prohibition, running the risk of administrative and criminal sanctions and seeing their event interrupted by law enforcement officials.

During the election period, meetings are permitted in closed-off areas for the political parties taking part in the electoral process and public halls are even made available to them. The parties who were involved in boycotting the 2014 presidential election⁹ for the most part saw their requests for the authorization of public meetings refused,¹⁰ even if they were able to carry out their plans on their own premises.

In this repressive environment, a circular from the Ministry of the Interior and Local Government, dated 8 January, announced that a list of 19 associations, including the Algerian League for the Defence of Human Rights (LADDH), would not be able to obtain permission to hold a public meeting prior to the wali consulting with the Ministry. The circular limits itself to invoking the existence of "internal conflicts within these associations"¹¹ without specifying the legal basis that would justify this measure.

6 As was the case of Amnesty International - Algeria section's general assembly in 2014.

7 See the case of the group of 16 political parties which opposed the revision of the Constitution before the presidential election of 2014 and which received no reply to the request to hold a public meeting at a hotel in Algiers on the 1 October 2013.

8 See CFDA (Collectif des Familles de Disparus en Algérie) (2013): *Le régime algérien à l'épreuve des droits de l'Homme - L'illusion du changement*, p. 90. <http://www.algerie-disparus.org/>

9 This is the case of the Coordination Nationale des Partis et des Personnalités (CNPP -National Coordination of parties and personalities) group, which brings together several parties, including the secular party RCD and the Islamist MSP as well as the former prime minister Ahmed Benbitour.

10 See: <http://www.euromedrights.org/eng/2014/04/10/algeria-violations-of-the-freedom-of-peaceful-assembly-during-the-electoral-period/>; some have, however, been permitted, such as the meeting of the "boycott front" on 21 March 2014

11 See LADDH press release dated 30 January 2014: http://www.algeria-watch.org/pdf/pdf_fr/laddh_communique_0614.pdf



2. Facilitation of Assemblies by the Authorities

As regards public or even private meetings (such as the meetings of certain associations on their own premises), the surveillance or harassment of participants by police officers – in civilian clothes or in uniform – is not uncommon.

With unauthorized rallies, law enforcement bodies very often intervene to stop the event taking place or to break it up at the start. Their intervention involves occupying the place where the demonstration should be taking place, blocking access to pedestrians and the means of transport used by the protesters to reach the location, and the preventive arrest of demonstrators in the streets nearby and at bus and railway stations.

The security forces intervening in the demonstrations are, primarily, the anti-riot brigades, the gendarmerie and, sometimes, officers of the Mobile Brigade of the Judicial Police (BMPJ) and even the “Brigade for Search and Investigation” (BRI) which takes photos and videos. Police officers in civilian clothes also intervene to arrest demonstrators and even to make sure their efforts are frustrated before and after the demonstrations.

After forcibly breaking up dozens of demonstrations in February and at the beginning of March 2014 during the election campaign, the authorities finally allowed several rallies, particularly in the capital. However, law enforcement officers encircled the demonstrators to prevent them from blocking the flow of traffic in the main streets and to deter other citizens from joining in, but without dispersing them. This practice is, moreover, very common.

In addition, law enforcement officers often prevent journalists or observers from doing their work,¹² especially when it comes to the independent press¹³ covering unauthorized demonstrations. It is not uncommon for journalists to be attacked and prevented from getting near the demonstration, sometimes even confiscating or breaking their equipment.¹⁴

With regard to the protection of women at demonstrations, no systematic violence or discriminatory treatment has been reported, but law enforcement officers occasionally engage in acts of harassment or even of degrading treatment during dispersion or interrogation.¹⁵

3. The Use of Force and Detention

Use of force

Resorting to force depends on the message and the identity of the demonstration’s organizers, the place, and political moment. For some demonstrations, law enforcement bodies resort to preventive arrests and for others, to the use of force and violently detaining people during the event. The cases of the movement

12 During the demonstrations organized the day before the April 2014 election, several journalists found it difficult to do their work normally. See Reporters without Borders’ press release dated 17 April 2014: <http://en.rsf.org/algeria-authorities-urged-to-allow-16-04-2014,46157.html>

13 Several journalists from the media such as El Watan and Echorouk TV were detained while they were covering demonstrations against the government during the April 2014 presidential elections. A journalist working for El-Watan was even pursued and harassed along with three other journalists by a car on 17 April 2014 in the town of Khanchla. The individuals wanted to smash the vehicle that was carrying the journalists who were on assignment covering the presidential elections.

14 See the case of Mazian Abane, a journalist working for El Watan, who was arrested the 10 April 2014 whilst he was covering a student march at the University of Boumerdes. Law enforcement officers took away his personal phone and his camera to erase the videos.

15 Case of Amira Bouraoui, one of the initiators of the Barakat movement, whom the police attempted to undress publicly on 1 March 2014, during a demonstration against the Bouteflika’s fourth mandate. <http://lareleve.ma/news7872.html>

for the families of the disappeared, the movement of the unemployed, and political opponents illustrate this dynamic.

As regards spontaneous gatherings, law enforcement bodies almost always resort to force and making arrests, as in the case of the demonstrations in January 2011¹⁶ in Algiers or also the suppression of the 34th anniversary of the Berber Spring at Tizi Ouzou on 20 April 2014.¹⁷

There are differences depending on region. In the regions of the south and the interior regions, the law enforcement bodies suppress almost all demonstrations (the case of the movement for the unemployed is one of the most striking). In Kabylia, social movements are powerful and many demonstrations take place, but the sometimes brutal repression often causes riots which then lead to even more forceful repression. And in Algiers demonstrations are often broken up by force on the pretext of the 18 June 2001 decision which forbids demonstrations in the capital.

The use of force takes several forms: batons, kicking, insults etc. and sometimes use of rubber bullets and tear gas. Often, the use of force by the police is not consistent with the procedures established in the Penal Code and the principles of necessity and proportionality are not observed, resulting in injury among peaceful demonstrators.

This was the case during the demonstration of 23 February 2014 organized by the committee of workers in insecure jobs because of 'pre-employment' conditions, at which 350 people tried to approach the National People's Assembly building in order to peacefully claim improvements to their working conditions. According to the Independent national union of public servants (SNAPAP), participants were beaten and insulted by law enforcement officers, giving rise to approximately 50 injured.

Women enjoy no deference from law enforcement officers, and those taking part in the demonstrations are also mistreated and arrested. The most striking example is that of the mothers of disappeared persons (ill-treated, for example, when rallies on 5 July 2012, 10 December 2012 and 9 March 2013 were broken up).

Arrests

In general, the leaders or the organizers of the rallies are arrested in order to break up the movement. The legal basis invoked is the absence of permission to demonstrate. Arrests generally continue until nightfall, when the demonstration is over and the media have left.

In some cases detention is extended for several days, and some activists have been held for questioning under court supervision, imprisoned and brought before the courts.

Cases of ill-treatment were reported by demonstrators who have been detained. For example, on 20 February 2013, a group of unemployed people was taken to the police station in Laghouat where, according to the testimony of the LADDH, they were subjected to ill-treatment by the police in order to make them to sign statements.¹⁸

16 The Ministry of the Interior reported 19 injured and nine arrests during the demonstration of 22 January 2011 but the RCD (opposition party) claimed 49 injured and a score of arrests: http://www.lemonde.fr/afrique/article/2011/01/22/des-blesses-et-des-arrestations-dans-des-heurts-a-alger_1469056_3212.html

17 For example, on 20 April 2014, during the commemoration of the Berber Spring and the Black Spring, the peaceful demonstration of Tizi Ouzou was brutally broken up: <https://www.youtube.com/watch?v=hdu0fYKhZIQ> (in French). A student, Lounis Aliouat, lost his right eye: http://algeria-watch.de/fr/article/pol/kabylie/marche_reprimee.htm. The authorities justified police intervention by saying that the march at Tizi had not been authorised but neither had the demonstrations at Bejaia and Bouira been and they were allowed.

18 See press release issued by the LADDH in Laghouat dated 27 February 2013: <http://www.la-laddh.org/spip.php?article1454>. On 12 March 2013 the court at Laghouat sentenced four of these demonstrators to one month's imprisonment with a further suspended sentence of one month for "gathering together an unarmed crowd and using force against law enforcement officers".

During the March-April 2014 election period, numerous demonstrations organized in Algiers by various opposition groups¹⁹ were followed by arrests.²⁰ The national police admitted arresting 264 demonstrators during the first week of March. Reporters without Borders also drew up a list of a number of journalists arrested on the margins of the demonstrations.²¹ Following the outcry, this wave of arrests then eased off.²²

4. Accountability of Law Enforcement Forces

In spite of several articles in the Penal Code providing for the punishment of officers who restrict rights or freedoms,²³ in practice the authorities deny any infringement and investigations have very rarely been carried out when cases of abuse have been made public (by the broadcast of videos on social networks for example).

Following the suppression of events to commemorate the Berber Spring at Tizi Ouzou in April 2014, the chief of police announced an investigation into police brutality. No result has so far been published, and in similar cases neither the findings of the investigations, nor the perpetrators of the attacks have been made public.

On occasions, citizens have resorted to international human rights mechanisms to condemn cases of violence, considering that domestic remedies are useless or ineffective. A communication has for example been sent to the United Nations Special Rapporteur on the right to peaceful assembly and association, denouncing the violence of law enforcement agencies against activists during a sit-in at the Court of Algiers in April 2013.²⁴

5. Judicial Sanctions against Organisers and Participants in Assemblies

When demonstrators are brought before the courts, they are usually prosecuted under the Code of Criminal Procedure for demonstrating illegally, disruption to normal working, bringing together and inciting a crowd, disturbing public order or even for contempt and violence toward officials and institutions of the State.

On 18 April 2012, Abdelkader Kherba, trade unionist and human rights activist, was arrested during a rally organized by the court clerks' strike movement in Algiers. He was sentenced to one year's imprisonment (suspended) and a fine of 20,000 dinars (200 Euro) for usurpation of duty (as a trade unionist), hampering the work of an institution and direct incitement of a mob.

19 Among them, the Barakat movement, teachers and students, political parties (CNPP), the Communal Guards movement, the Collectif Citoyen contre le Quatrième Mandat (Citizens' group opposing the 4th mandate), the Refd Movement, human rights activists, etc.

20 In Algiers, demonstration on 23 February at Bouzareah University; 1, 6 and 15 March at the Central Faculty (arrest and remand in custody on 6 March of the lawyer Badi Abdelghani, president of LADDH in the Algiers area, released very late the same day); 12 March at the Martyrs Monument; 13 March at Bouzareah University; 15 March to the main Post Office. And elsewhere in the country: 3 March at Laghouat; 10 March at Bejaia and Bouira; 11 March at Djelfa; 12 March at Tizi Ouzou.

21 See the case of Zineb Benzita of Echorouk TV, arrested on 1 March 2014 when she was covering a demonstration in Algiers.

22 <http://elwatan2014.com/component/k2/item/1016-apr%3%a8s-les-arrestations-de-barakat-la-police-dans-lembarras>

23 Article 440a of the Penal Code, which punishes all officers who, in the exercise of their duties, swear at, insult or make injurious comments to any citizen, with a prison term of one to two months and a fine of 500 to 1,000 dinars; and article 107, which punishes any official who orders or commits arbitrary or detrimental acts violating either individual freedom or the civil rights of one or more citizens, with a five to ten year term of imprisonment.

24 Communication sent by the lawyer Sid-Ali Boudiaf on 17 April 2013 in respect of 14 human rights activists arrested on 26 March 2013 at a sit-in in front of the Court of Algiers in support of a detainee prosecuted for being an apologist for acts of terrorism. Law enforcement officers hit the activists in the lobby of the Hussein Dey District Court while they were waiting to go into the court room.

On 16 April 2014, the court of appeal in Ouargla sentenced Mr Houari Djelouli, who at the time was a member of the National Committee for the Defence of the Rights of the Unemployed (CNDDC), to one year's imprisonment (suspended) and a fine of 50,000 dinars (about 500 Euro), for distributing "*tracts or notices of a kind that undermines the national interest*" (art. 96 of the Penal Code). Mr Djelouli had been arrested on 8 April 2013 with CNDDC leaflets calling for a sit-in whose aim was to demand the right to work.

6. Civil Society Initiatives and Good Practices

Civil society organizations in Algeria, weakened by harassment and interference by the authorities, are struggling to put in place joint strategies to promote the freedoms of assembly and association. However, there are a number of laudable initiatives:

- ▶ Demonstrations condemning the abuse by the security forces of demonstrators (14 March 2013 in Ouargla; 31 December 2013 in El Biar Algiers; 23 February 2014 at the main Post Office in Algiers); rallies at the court during the trial of activists or people arrested during demonstrations;
- ▶ Creation of human rights lawyers' groups to defend, amongst others, those prosecuted for having exercised their right of assembly;
- ▶ Use of social networks to organize and document rallies and abuse by the security forces. This increasingly common practice has allowed a considerable increase in the information about the arbitrary practices of the authorities and violations of the right of association and assembly. However, these networks are also closely monitored by the authorities and represent a risk to the activists who find themselves exposed to prosecution and reprisals;
- ▶ Despite the repression, civil society continues to demand its right to public areas by holding rallies, which are substantial in number. For many years, some groups, such as the families of the disappeared, have been demonstrating every week. For example, the movement for the unemployed, founded in 2012 in the south of Algeria, has become a player in the organisation of significant rallies and organized, amongst others, the 'Milioniya' in March 2013, which brought together more than 3000 people. 'Barakat' is a citizens' movement launched on 1 March 2014 by journalists, bloggers and human rights activists demanding the right to political participation, freedom of expression and assembly.²⁵ The movement was able to insist upon its right to demonstrate in Algiers during the 2014 election campaign.

25 See the Barakat movement's Charter: <https://www.facebook.com/50snabarakat?fref=ts>.

Recommendations

1. Guarantee that the freedoms of assembly, expression and association can be exercised by any individual or group without any discrimination based on opinions, origins, sex, religion etc.;
2. Pass legislation in respect of meetings, rallies and demonstrations which conforms with international law and the commitments made by Algeria, and in particular repeal the head of the government's decision dated 18 June 2001 which prohibits marches or any form of public demonstration in Algiers; and amend the articles of the Criminal Code which provide for disproportionate penalties against peaceful demonstrators; (see the first part of the Study);
3. Establish a notification procedure (instead of an authorisation procedure) for all public meetings and demonstrations which could interfere with the rights and freedoms of others; ensure that the procedure is indeed transparent, accessible, and not unduly onerous, and that the administrative authorities do comply with the law when it is implemented;
4. Make sure that restrictions applied comply with the law, respect the principles of necessity and proportionality and are communicated in writing to the organizers within a time frame that allows for an appeal before an independent tribunal or court before the scheduled date of the event;
5. Ensure that the authorities are always open to dialogue with the organisers (before and during the gatherings), and when this dialogue takes place, that its purpose is to better facilitate the right of peaceful assembly;
6. Put an end to arbitrary arrests during peaceful demonstrations and also the judicial harassment of citizens demanding their right to demonstrate peacefully;
7. Guarantee the security of journalists and facilitate their access to peaceful gatherings;
8. Adopt clear, detailed, and binding rules for the use of force against demonstrators, in compliance with the United Nations Basic Principles on the use of force and firearms by law enforcement officials; train the law enforcement bodies in the use of force and anti-riot weapons accordingly;
9. Act upon the State's responsibility to protect peaceful demonstrators; ensure that any use of force by law enforcement officers follows the principles of last resort, necessity, progressiveness and proportionality; ensure that lethal force is only a last resort and used as a defence against an imminent threat endangering human lives;
10. Expedite prompt, independent and impartial investigations in the event of a complaint or information about possible breaches or violations of human rights committed by law enforcement authorities during any operations to maintain order; punish those responsible and enable victims to obtain redress as well as be given guarantees of non-repetition; to this end, establish an independent mechanism for monitoring and investigating the behaviour of the security forces.