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ALGERIA

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Introduction

1. ADF International is a global alliance-building legal organization that advocates for religious freedom, life, and marriage and family before national and international institutions. As well as having ECOSOC consultative status with the United Nations (registered name 'Alliance Defending Freedom'), ADF International has accreditation with the European Commission and Parliament, the Organization for Security and Co-operation in Europe, and the Organization of American States, and is a participant in the FRA Fundamental Rights Platform.
2. This report focuses on the right to freedom of thought, conscience, and religion, and Algeria's failings in promoting and defending this right.

(a) Right to Freedom of Thought, Conscience and Religion

Background

3. The Constitution of the People's Democratic Republic of Algeria 1989 (amended by the constitutional revision of 1996) (the Constitution) does not protect the right to freedom of thought, conscience, and religion.
4. Article 36 of the Constitution indicates, 'Freedom of creed and opinion is inviolable.' The freedom of conscience and the freedom of opinion should be inviolable. Considering the phrasing of Article 36, it is likely that the word 'creed' was meant to refer to a narrowly understood 'set of beliefs' and is not equivalent to conscience or religion. This reading of the provision is further supported by the fact that the anti-discrimination provision does not include 'religion' as a ground for discrimination.
5. The Constitution does not protect from discrimination on religious grounds. The equality and anti-discrimination provision in Article 29 of the Constitution states, 'All citizens are equal before the law. No discrimination shall prevail because of birth, race, sex, opinion or any other personal or social condition or circumstance.'
6. Furthermore, Article 9 prohibits behaviour that is incompatible with Islamic morality:

The institutions shall not indulge in:

 - feudal, regionalist and nepotist practices;
 - the establishments of relations of exploitation and bonds of dependency;
 - practices contrary to Islamic morals and the values of the November Revolution.
7. Lastly, Article 2 indicates that Islam is the religion of the State.
8. Even though the constitutional protection of 'freedom of creed and opinion' is narrow and does not meet international standards, the right to freedom of religion is regulated in other primary sources of law of Algeria.
9. Article 298 bis of Act No. 8204 of 13 February 1982 indicates, 'Any insult levelled against a person or persons because they are members of a specific ethnic group or adhere to a particular philosophy or religion shall be punishable by imprisonment for between five days and six months and/or a fine of between 150 and 1,500 Algerian dinars.'
10. Article 298 bis further states, 'Any insult levelled at one or more members of an ethnic or philosophical grouping or a specific religion shall be punishable by imprisonment for between five days and six months and/or a fine of between 5,000 and 50,000 Algerian dinars'.

11. These are very problematic laws in that they are broad and unclear in relation to what constitutes an 'insult.' Consequently, the laws can be abused to criminalize any behaviour.
12. Article 2 of the Ordinance No. 06-03 of 28 February 2006, states:

The Algerian State guarantees freedom of religious practice consistent with respect for the Constitution, the present Ordinance, the laws and regulations currently in force, public order, and the fundamental freedoms of third parties. The State also guarantees tolerance and respect between the different religions.
13. While the scope of the provision is much broader than the constitutional protection, the right to religious freedom in Article 2 of the Ordinance No. 06-03 is limited by the Constitution. The provision suggests that in the event of a clash between this provision and the Constitution, the Constitution would prevail.
14. Lastly, Article 11 of Law 03/2006 prohibits proselytizing, stating that whoever 'incites, constrains, or utilises means of seduction tending to convert a Muslim to another religion, or using for this purpose the institutions of education, health, social, cultural, or educational institutions, or other establishment, or financial advantage; or (2) makes, stores or distributes printed documents or films or other audio-visual medium or means intended to undermine the faith of a Muslim.' It carries a prison sentence between 2 and 5 years and a fine of 500,000 to 1 million dinars. This infringes the right to freedom of religion.

Christians and Other Religious Minorities

15. In July 2014, the population of Algeria was estimated at 38.8 million people with 99% of the population being Sunni Muslim. The remaining 1% of the population consisted of Christians, Jews, and Ibadi Muslims.¹
16. It was reported that Christians and other religious minorities were often discriminated against. Because of the ongoing persecution of Christians, Algeria was rated 37th on the 2016 World Watch List, which ranks the top 50 countries where Christians are persecuted.² The exact size of the Christian population is unknown. However, it is estimated that there are only thousands of Christians in Algeria. Unofficial estimations range between 20,000 to 100,000.³
17. The discrimination against and persecution of Christians and other religious minorities in Algeria have many sources, including government practice, society at large, and Islamic extremism.
18. Some government policies and practices restrict freedom of thought, conscience, and religion. The Ministries of National Education and Religious Affairs imposed a requirement on all schools to include the study of Islam (incorporating some information on Christianity and Judaism).⁴ The government needs to clarify whether the parents' right to choose education for their children in accordance with parents' convictions is preserved.⁵

¹ United States Department of State, International Religious Freedom Report, Algeria 2014, <http://www.refworld.org/docid/562105dfa.html>.

² Open Doors, 2016 World Watch List, available at <https://www.opendoorsusa.org/christian-persecution/world-watch-list/algeria/>.

³ (n 1)

⁴ Ibid.

⁵ Ibid.

19. Proselytizing is a criminal offence and carries a maximum punishment of five years in jail and a fine of one million dinars. This refers to proselytizing conducted by non-Muslims only.⁶ Muslim converts to Christianity seeking legal registration (under the 2012 registration requirement) face long delays. The same difficulties are faced by non-Muslim groups. Many Christian groups meet in private or in business spaces as their application for authorized worship places are rejected or delayed. Often they meet in secret as using unauthorized premises for worship is prohibited by law.⁷
20. On 11 December 2012, Mohamed Ibaouene of Tizi Ouzou was convicted *in absentia*, without notice or summons, for allegedly proselytizing a Muslim to convert or leave his religion. Ibaouene received a two-year prison sentence and a fine of 100,000 dinars. In 2013, the two-year prison sentence was dropped but an appeals judge raised the fine.⁸
21. In May 2011, Abdelkrim Siaghi, a Muslim convert to Christianity, was sentenced to five years' imprisonment for allegedly offending the Prophet Muhammad. Siaghi was accused of refusing to recite the Muslim profession of faith. Furthermore, Siaghi allegedly offered his neighbour a CD with the testimony of a Muslim convert.⁹ In December 2011, the appeal was postponed as the only witness was absent and the relevant evidence was not available.¹⁰
22. Further examples of discrimination and persecution of Christians include four Christians that were sentenced to jail for opening a place for prayers without prior government authorization.¹¹ In another case, a Muslim convert to Christianity was forced to divorce because of his conversion; he lost his wife and children as a result.¹² Six Christians were prosecuted for practising a non-Muslim religion without a licence, facing two-year sentences.¹³ A Christian woman was pressured by an Algerian court to renounce her faith or to face a prison sentence of up to three years.¹⁴ A Christian was detained for five days, fined, and sentenced to one year's imprisonment for carrying a Bible. The sentence was suspended.¹⁵
23. Discrimination against Christians and other religious minorities is conducted not only by the government, but also by society and family members. This discrimination is even more prominent for Muslim converts to Christianity. In February 2016 it was reported that a Christian woman was given 15 days by her family to abandon her

⁶ Ibid.

⁷ Ibid.

⁸ Morning Star News, Algerian Christian Unknowingly Convicted, Sentenced, available at: <http://morningstarnews.org/2012/12/algerian-christian-unknowingly-convicted-sentenced/>.

⁹ (n 1)

¹⁰ Afrik, Algérie: Report du procès d'Abdelkrim Siaghi, converti au christianisme, available at: <http://www.afrik.com/breve37111.html>.

¹¹ Persecution, Four Algerian Christians Sentenced to Prison, available at: <http://www.persecution.org/2010/12/17/four-algerian-christians-sentenced-to-prison/>.

¹² Open Doors, Christian loses children after forced divorce, available at: <https://www.opendoorsusa.org/christian-persecution/stories/tag-blog-post/christian-loses-children-after-forced-divorce/>.

¹³ Jihad Watch, Algeria: Prosecutor demands two years in prison, \$8145 fines for ex-Muslims "practicing non-Muslim religious rites without a license", available at: <http://www.jihadwatch.org/2008/05/algeria-prosecutor-demands-two-years-in-prison-8145-fines-for-ex-muslims-practicing-non-muslim-relig>.

¹⁴ Open Doors, Algerian Court Pressures Woman to Renounce Christ, available at: <http://www.opendoorsca.org/content/view/582/139/>.

¹⁵ Jihad Watch, Algeria: \$460 fine, one-year suspended sentence for carrying Bible, study materials, available at: <http://www.jihadwatch.org/2008/05/algeria-460-fine-one-year-suspended-sentence-for-carrying-bible-study-materials>.

faith.¹⁶ It has been reported that Christians would be buried by the family members in accordance with Muslim burial rites and not with Catholic tradition.¹⁷ Christians are often not allowed to be buried alongside Muslims.¹⁸

24. Christians and other religious minorities are subject to violence and persecution at the hands of violent extremists, especially al-Qaeda in the Islamic Maghreb (AQIM).¹⁹ AQIM is a jihadist terrorist group that has been active in North Algeria since 2007.²⁰ AQIM has committed kidnapping, extortion, torture, and murder. Churches and places of worship often become targets of Islamic extremists. On 7 January 2016, a church in Tizi-Ouzou was looted.²¹

Freedom of Thought, Conscience and Religion in International Law

25. Algeria ratified the International Covenant on Civil and Political Rights (ICCPR) on 12 September 1989.
26. The right to freedom of thought, conscience, and religion is affirmed in Article 18 of the ICCPR. Also, the Human Rights Committee further confirmed this right in its General Comment No.22:

The right to freedom of thought, conscience and religion (which includes the freedom to hold beliefs) in article 18.1 is far-reaching and profound; it encompasses freedom of thought on all matters, personal conviction and the commitment to religion or belief, whether manifested individually or in community with others. The Committee draws the attention of States parties to the fact that the freedom of thought and the freedom of conscience are protected equally with the freedom of religion and belief.²²

27. The Constitution, in breach of Algeria's international law obligations, does not guarantee or protect the right to thought, conscience, and religion. Furthermore, some of the government's practices prevent people from professing and practicing their faith freely, as guaranteed under international law in Article 18 of the ICCPR. This further violates Articles 2 and 26 of the ICCPR, namely, the guarantee of equal rights and freedom from discrimination on the basis of religion, and Article 27, guaranteeing the rights of religious minorities to profess and practise their faith.
28. Algeria must ensure that government practice does not limit the scope of the right to thought, conscience, and religion, and instead is in accordance with international standards. Algeria must ensure that Christians and other religious minorities can freely exercise their right to freedom of thought, conscience, and religion, in their worship, observance, practice, and teaching. Algeria must ensure that all allegations of violations of domestic criminal law are duly investigated and prosecuted in

¹⁶ Open Doors, Algerian woman given fifteen days to renounce her faith, available at: <https://www.opendoorsusa.org/christian-persecution/stories/tag-blog-post/algerian-woman-given-fifteen-days-to-renounce-her-faith/>.

¹⁷ (n 1)

¹⁸ Ibid.

¹⁹ Open Doors, Algeria, available at: <https://www.opendoorsusa.org/christian-persecution/world-watch-list/algeria/>.

²⁰ Counter Extremisms Project, Al-Qaeda in the Islamic Maghreb, available at: http://www.counterextremism.com/sites/default/files/threat_pdf/Al-Qaeda%20in%20the%20Islamic%20Maghreb%20%28AQIM%29-01192016.pdf.

²¹ Morning Star News, Church Building in Algeria Looted, Vandalized, available at: <http://morningstarnews.org/2016/01/church-building-in-algeria-looted-vandalized/>.

²² UN Human Rights Committee, CCPR General Comment No. 22. 1, available at: <http://www.refworld.org/docid/453883fb22.html>.

accordance with due process. Algeria must protect Christians and other religious minorities from persecution. Algeria must take steps to combat the Islamic extremism on its soil.

(b) Recommendations

29. In view of the above, ADF International recommends the following:

- Take steps to recognize and honour the international obligations to protect the right to freedom of thought, conscience, and religion;
- Ensure that the protections of the right to freedom of thought, conscience, and religion meets the international law standards in Article 18 of the ICCPR;
- Revise the Constitution;
- Repeal Article 11 of Law 03/2006 and allow people of all faiths to share their faith with other people;
- Ensure that all cases of religious discrimination, violence, and persecution, including by family members, are investigated and prosecuted in accordance to due process and the rule of law;
- Protect Christians and other religious minorities from persecution, in part by promoting interreligious dialogue;
- Take steps to combat Islamic extremism.



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