

End of mission statement

Country visit to Algeria, 25 November – 5 December 2023 Ms. Mary Lawlor, Special Rapporteur on the situation of human rights defenders

Today, 5 December 2023, I conclude my official country visit to Algeria at the invitation of the government of Algeria. As Special Rapporteur on the situation of human rights defenders, I am an expert appointed by the UN Human Rights Council to assess the situation of human rights defenders globally. I am an independent Expert of the United Nations, and I am independent from Governments, civil society and all other actors. I came to Algeria without any preconceived ideas of what I might find here, and over the course of the past ten days in Algiers, Tizi Ouzou and Oran, met in good faith with scores of government officials, civil servants and human rights defenders.

I would like at the outset to put on record my sincere thanks to the government both for the invitation to visit and for the extraordinary efforts the authorities made to facilitate a valuable visit. The number of high-level meetings I was afforded demonstrates a commitment by the Algerian government to seriously engage with UN Special Procedures and to work towards better protection of human rights defenders. The overwhelming majority of these meetings were conducted in an atmosphere of mutual respect and constructive engagement. This is fitting for a country which sits on the UN Human Rights Council.

I met with officials from the Ministry of Foreign Affairs and National Community Abroad, the Minister of Communication, the Minister of Interior, Local Assemblies and National Planning, including the General Directorate of Public Liberties and Judicial Affairs and the General Directorate for National Security, the Minister for National Solidarity, Family and Women's Affairs, the Minister of Justice and Keeper of the Seals, and the Minister for Religious Affairs and Wakfs. I also met with the Counsellor to the President of the Republic on NGOs and Human Rights, the Walis of Algiers, Tizi Ouzou and Oran, and the National Council of Human Rights, the National Observatory of Civil Society, the High Authority for Transparency, Prevention and Fight Against Corruption, the National Economic, Social and Environmental Council (CNESE), the High Council for Youth, the Algiers Bar Association, the Constitutional Court and the Mediator of the Republic.

I would like to specifically thank the Ministry of Foreign Affairs for their exceptional cooperation and the Ministry of Justice for accommodating my requests to meet with detained human rights defenders in three different prisons: El Harrache, Kolea and Tiaret. I also requested, and was granted, permission to attend court on the day three human rights defenders, Jamila Loukil, Kaddour Chouicha and Said Boudour in Dar El Baida, were being tried.

I would also like to thank the fifty human rights defenders I met who shared their stories and their challenges with me and who, it must be said, took risks to meet me. It is clear to me that many human rights defenders are carrying out their work without any challenges and are doing so with the support of the Algerian government. As my Mandate charges me to recommend strategies to better protect human rights defenders, I prioritised meeting those in need of better protection. In general, these human rights defenders work on themes considered sensitive by the government, and sometimes, monitoring human rights violations can be considered sensitive, which may help explain the low number of such organisations. As highlighted by my colleague, the UN Special Rapporteur on Freedom of Association and

Assembly, who visited Algeria in September, official statistics state that out of over 137,474 civil society organisations in Algeria, only 25 have a specific focus on human rights.

From the numerous meetings I held with government ministries, public officials and semi-state bodies, it is clear that public consultation and participation play a key role in the vision for a new Algeria which emerged out of the Hirak and the 2020 Constitution. This is perhaps exemplified by the CNESE, a newly established consultative Council with 200 representatives from many walks of society whose task is to advise the Prime Minister on economic, social and environmental issues and to draft laws, with an overall objective of ensuring social cohesion.

I welcome the provisions on gender equality, and freedoms of expression, association and assembly contained in the 2020 Constitutional amendments. Furthermore, I was very glad to hear in multiple meetings that the Algerian government is working to ensure that national law was compliant with both the Constitution and, vitally, international human rights law. The support by the government of Algeria for a number of recommendations relating specifically to human rights defenders during its Universal Periodic Review at the UN Human Rights Council last year was especially welcome. I hope these recommendations will be faithfully implemented.

I note improvements in the ability of women and of youth to participate in public life through various outreach and training programmes which have been established since 2020. I was impressed with the work of the Ministry of National Solidarity, Family and Women's Affairs in ensuring the economic empowerment of women which is a crucial factor in enabling women human rights defenders to operate. Given my next report to the UN Human Rights Council will focus on the theme of youth and child human rights defenders, I was very happy to hear about the work of the High Council for Youth, and I look forward to hearing how their work develops.

I also welcome the complaints mechanism under the Mediator of the Republic, and public engagement mechanisms set up by the various Wilayas to help address problems faced by citizens and to ensure that they receive a hearing before they are allowed to escalate into something larger. With the issue of corruption being one of the lightning rods for the Hirak, it was encouraging to hear of the whistleblower mechanisms in place and the protections offered to whistleblowers exposing corruption.

I await the adoption and implementation of new Law on Associations whereby non-governmental organisations can be created by declaration, rather than registration and was encouraged to hear of the growth of associations at local level over the past number of years.

All in all, I do not doubt that many people working to defend human rights do so without any problems, and they are helping Algeria meet the aspirations of its citizens and fulfill its international human rights obligations.

However, and despite the repeated assurances I heard from various government figures that Algeria is a country ruled by law, and that everyone is treated equally before that law, it is clear to me that human rights defenders who choose to operate outside of the government designed civil society framework face serious difficulties, which also impact on their families. Furthermore, time and again I heard about the lack of transparency in relation to suppressive actions taken against human rights defenders, where little information was provided about

who gave an order against them, on what authority and for what reason. Numerous individuals made reference to a political police force which would exist in the shadows, and which would not seem accountable to any transparent oversight.

Sadly, some human rights defenders I intended to meet, refused or cancelled at the last minute, for fear of reprisals. My visit was also overshadowed by a number of human rights defenders, members of civil society organisations and victims of human rights violations being prevented from reaching Tizi Ouzou while I was there. As they travelled to the city, they were either stopped at checkpoints, or detained in a police station for over ten hours. Exemplifying the lack of transparency noted above, when the human rights defenders asked why they were being stopped, they were simply told, “you know why, orders have come from above”. I was further informed that those prevented from traveling were under routine surveillance and regularly stopped when attempting to attend meetings, events or on other significant occasions. It must be remembered that following the visit of the Special Rapporteur on Freedom of Association and Assembly in September 2023, a human rights defender, Ahmed Manseri, was arrested. I expect that any human rights defenders I have met with, will be able to work without any restrictions as a result of meeting me.

One of my first reflections from this country visit is that **the term human rights defender is too little understood in Algerian society**. As per the Universal Declaration on Human Rights Defenders, a human rights defender is a person who, individually or in association with others, acts peacefully to protect human rights, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels. This work is legitimate, even if it is critical of the government’s approach to, or protection of, human rights. Given the specific history in Algeria, I want to reiterate that in the execution of my mandate, I do not take up as human rights defenders political activists or persons who advocate, condone or use violence.

The vast majority of human rights defenders I did succeed in meeting told me they had been subjected to some form of state interference with their peaceful activities. This constant monitoring and harassment has created a palpable sense of frustration and fear among those I met. One woman human rights defender who documents human rights violations and observes trials said, “Our dignity is being attacked, because we are losing our credibility; we can’t offer help to other people because we ourselves can’t defend our rights”.

Another individual, in describing the context of fear in which he works, said to me, “As a human rights defender, I expect to be targetted, but I cannot accept the targetting of my family members”. He was not alone in describing how the rights of family members were violated as a consequence of human rights work. And again, let me reiterate, I did not meet with any separatists, terrorists or political agitators. I met with women and men who exposed corruption, who headed trade unions, who promoted cultural and linguistic rights, who provided humanitarian support to migrants and asylum seekers, who protected the environment and who sought justice for the families of those disappeared in the 1990s.

Secondly, despite strong human rights protections in the 2020 Constitution, **legislation remains on the books which is used to limit and sanction the work of human rights defenders**. One of the most commonly cited articles of the Penal Code used to suppress the human rights defenders I met is Article 87 bis which relates to terrorism. As I stated in nearly all of the meetings I had with government ministries, the definition of terrorism in this article is so broad and vaguely worded that it allows huge scope for the security services to arrest human rights defenders. I urged the Minister of Justice to consider amending this

article to ensure that the definition of terrorism and related crimes are accessible, precisely formulated, non-discriminatory and non-retroactive, in line with international best practice. I hope the Minister will revisit this legislation on foot of my visit and in line with the supported UPR recommendation last year, taking into account the opinions issued by various UN experts and bodies over the past number of years, including the Human Rights Committee in 2018.

Included in the definition of terrorism, and throughout Algerian national legislation, is the vaguely defined crime of ‘undermining national unity’, a charge which I heard from human rights defenders is being widely applied to them for a host of reasons. Kamira Nait Sid, a woman human rights defender and co-president of the World Amazigh Congress (CMA) who promotes the cultural, economic and linguistic rights of the Amazigh people, was sentenced to three years in prison on such a charge. I visited Kamira in prison where I was told that the specific charge against her relates to her brief attendance at a conference in a university where she was scheduled to conduct a human rights event the following day. Because the exiled president of the Autonomous Movement of Kabilya was making a virtual address to the conference, she was later arrested and tried on charges of “undermining national unity” and “belonging to a terrorist organization”, the latter of which she was acquitted. Her case is currently under appeal and I call for her release. I was also very glad to hear that while in prison Kamira is being well-treated and it was clear to me how fond the prison authorities are of her.

I met another human rights defender, Ahmed Manseri, in pre-trial detention who is being investigated on charges under Article 87 bis relating to interviews he gave to overseas media platforms on protecting human rights. He also told me that when he was arrested by the police in October, a picture of him meeting the Special Rapporteur on Freedom of Association and Assembly was included in his case file. It disturbs me greatly that such a meeting could be used to build a terrorism case against a human rights defender. However, given that this was part of the evidence compiled by the police, I am confident that his case will be thrown out by the investigating judge once he concludes his examination of the facts. Again, I was pleased to hear that Ahmed is being well treated in prison.

Others told me that they routinely self-censor for fear of being charged under Article 87 bis, with one human rights defender telling me that he reviews each post ten times before he publishes anything on social media. The leader of a trade union related how this Article casts a chill over what should be regular trade union activities, including strikes or sit-ins, while those advocating for the families of the disappeared through weekly protests may also be subjected to charges under Article 87 bis.

I also heard how this law, among others, is being used to disconnect human rights defenders from each other, and that the fundamental freedoms guaranteed in the Constitution were not being afforded to all citizens. At one group meeting of human rights defenders, they expressed a deep appreciation for the meeting because it allowed *them* to gather together to discuss issues in a way that is normally not possible. An investigative journalist told me that, “recently we can’t meet, so to have a large group to be able to meet and discuss these topics is extraordinary, and it will help release some stress.”

The isolation of human rights defenders is compounded by Article 95 bis of the Penal Code which allows for five to seven years in jail for the receipt of any form of funding or advantage from a non-Algerian ‘to perform or incite acts likely to undermine State security’. In practice, and given the wide interpretation and vague definition of what acts constitute ‘undermining

State security', this means that human rights defenders are prohibited from accessing resources from outside Algeria to carry out their work. I note this is in contravention of the UN Declaration on Human Rights Defenders, which states that "Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means". At least one organisation with whom I met had had its accounts frozen under this law while another woman human rights defender told me that because they don't know what might be interpreted as undermining national security, using overseas funding to convene a dinner meeting of likeminded human rights defenders could lead to charges. This law has also created a hesitancy among those I met from interacting with foreign interlocutors, including embassies in Algeria whose governments have Guidelines on the Protection of Human Rights Defenders.

As I relayed to the Minister of Justice, I fully recognise that violence and terror have blighted Algeria's recent history and marked the Algerian people. The deeply felt trauma, fear and chaos of that period still resonate strongly. No-one wants to go back to that and it is the duty of the State to ensure that its citizens are protected from such violence. I also understand that strong legislation is necessary to squash any possibility of terror at the earliest possible stages to preserve life. All that being said, I fear that the arsenal of laws designed to do this are permitting State actors to reach beyond the original purpose of these laws to turn order into control. Human rights defenders and civil society organisations need to be able to breathe, to organise, to meet freely and to publish their ideas and criticisms – all of which are protected rights in the UN Declaration on Human Rights Defenders. Preventing them from doing this both builds their sense of frustration and exclusion, and robs Algeria of their energies, capabilities and their service to the community. It also risks building a society on very shaky foundations.

Thirdly, and related to the above, I had the opportunity to meet representatives from bodies created since the adoption of the new Constitution: the Observatory for Civil Society, the High Council for Youth, the Mediator of the Republic, the High Authority for Transparency, Prevention and Fight Against Corruption and the National Economic, Social and Environmental Council. They have developed strong mechanisms to provide social services and avenues of complaint to Algerian citizens. Unfortunately, **these bodies are not yet reaching or trusted by all civil society organisations and actors.** It strikes me that there are two parallel realities and two parallel civil societies, with strongly contrasting approaches. One adheres fully to the newly proposed governance structure and methods, while the other remains outside the accepted structure because they operate in a manner not accepted by the government. Trust still needs to be built.

I strongly encourage both those bodies and human rights defenders to meaningfully and in good faith engage in order to allow proper collaboration, consultation and participation of all parts of society, including those parts where views and approaches may be very different. I also encourage human rights defenders to give those new bodies a chance to operate. I am convinced a culture of respect for human rights can be jointly built.

Fourthly, **I have been disturbed to hear from many journalists, bloggers and social media users who publish information on human rights violations that they feel they take great risks each time they make a post or write an article.** I was informed of a number of journalists who have been jailed because of their writing. Because freedom of the press is not guaranteed in practice, many human rights defenders use social media to advocate for their causes. I was told that even commenting or reacting to someone else's

social media post can be dangerous. Although the Constitution protects journalists from criminalisation on account of their writing, there are numerous Articles in the Penal Code, including 144, 144 bis, 144 bis 2, 146 and 147, which criminalise 'contempt' towards the President, public officials, institutions, the parliament, the courts, the army and the judiciary. **Restricting or prohibiting speech on the grounds that it insults or shows contempt contravenes international human rights law on freedom of expression.**

In its General Comment 34, the UN Human Rights Committee noted that "the mere fact that forms of expression are considered to be insulting to a public figure is not sufficient to justify the imposition of penalties" and it expressed concern regarding laws on lese majesty, disrespect for authority, disrespect for flags and symbols, defamation of the head of State and the protection of the honour of public officials. It also stated that States parties should not prohibit criticism of institutions, such as the army or the administration.

I visited in prison a human rights defender and whistleblower, Nouredine Tounsi, who was sentenced last month to two years in prison for posts on social media networks. Nouredine's case is also under appeal and I hope he will be released. I was happy to hear that although he is suffering some health problems, he does appear to be well treated in prison.

Fifth, during my meetings with different human rights defenders over the past ten days **the same patterns of violations used to suppress them were noted in the various meetings.** I will outline four here:

- 1) **Ongoing judicial harassment through multiple criminal cases taken against human rights defenders.** Most people I met had either been imprisoned at least once in their life or were facing criminal charges. On Sunday I visited Dar El Baida Court where three human rights defenders were due to be tried that day on terrorism related charges. Kaddour Chouicha has been arrested eight times since 2019. He was Vice President of LADDH prior to its dissolution and National Coordinator of the Union of University Professors. Jamila Loukil is a retired journalist and photographer, and she has been arrested four times in the same period. Said Boudour is a journalist, a former member of LADDH and has worked to defend the rights of migrants and political prisoners. It appears to me that by straying away from the sanctioned methods of human rights activism and by touching on so-called sensitive issues, these defenders are perceived by the security forces as problematic and so warranting close control. I was also informed that it is increasingly difficult to find lawyers willing to take on cases of human rights defenders for fear that they too will be targeted or will face other professional repercussions.
- 2) **Key human rights organizations have been dissolved,** including LADDH (the Algerian League for Human Rights) and RAJ (Rassemblement Actions Jeunesse). According to the government ministries I met, LADDH was dissolved because it could not satisfy administrative requirements of the government. There appears to have been no effort made to resolve the differences, with confusion on both sides. The League was a long-established and fundamentally important human rights organization. It played a vital role in monitoring human rights violations, conducting outreach to citizens, supporting vulnerable communities and generally raising the level of human rights awareness amongst Algerians. It is clear it was doing all of this outside of the official framework of government supported civil society and leads me to wonder if it was targeted because of this. Notwithstanding the above, I am hopeful

that when the new Law on Associations is adopted, it will be able to retake its place among civil society organisations in defence of human rights.

I hear similarly concerning reports relating to the dissolution of RAJ, which was forced to stop its work under Law 12/06 on associations following the visit of a Tunisian delegation to their offices during the Hirak to express their solidarity. The reasoning given for RAJ's dissolution – that prior authorisation was needed for a partnership with a foreign entity, even though it was simply a solidarity visit – again strikes me as an overly severe sanction.

- 3) A commonly cited violation against human rights defenders is **the limitation of their freedom of movement**. Many also reported routine surveillance. In addition to the incident in Tizi Ouzou above where a number of individuals were prevented from travelling to the city, I was also informed by human rights defenders elsewhere that their photographs were taken by men in civilian clothing with walkie-talkies as they entered the venue where the meeting was to take place. Some further told me that after they met with the Special Rapporteur on Freedom of Association and Assembly in September, they were followed and harassed for a number of days.

The freedom of movement of certain human rights defenders is also controlled through the use of travel bans or ISDNs (*Interdiction de sortie du territoire national*) which prevent them from leaving the country. Multiple human rights defenders informed me that they were not permitted to travel, nor were they given any formal notification of such an order. They only discovered that they were banned from travelling when they attempted to leave the country.

- 4) I was particularly struck by how ground down many of those I met appeared, with the **impact of years of stress, insecurity and fear** clearly evident in their manner and the toll it has taken on their mental health. One human rights defender told me the new generation sees them as failed models, due to the relentless pressure and persecution they face.

Despite the openness afforded to me by multiple government ministries and the repeated assurances I received from them on the situation of human rights defenders, I leave the country disappointed by the opportunities being missed to embed full respect for the work and legitimacy of human rights defenders in Algeria. I encourage the Government to view human rights defenders as allies rather than a potential threat to the stability of the country.

I do see cause for hope. In extending an invitation to my mandate to conduct a visit in the first place, the Government is clearly indicating its openness to properly engage on human rights defenders issues. It would have been much easier to not respond to my request, as so many other States have done. The prison visits granted to me were unexpected and greatly appreciated, both by me and by the imprisoned human rights defenders. I am also encouraged by the acceptance by the Ministry of Justice of numerous recommendations relating to human rights defenders in Algeria's Universal Periodic Review Process last year.

As we mark the 75th anniversary of the Universal Declaration of Human Rights and the 25th anniversary of the UN Declaration on Human Rights Defenders, the Government must choose whether it wishes to fully commit to the values contained in these two seminal documents. There is a clear path forward if the political will exists. I believe much progress

can be made and I stand ready to support the Government in this. I offer the below recommendations as a first step in this process.

To the government of Algeria:

- Release all human rights defenders imprisoned for the exercise of their freedom of expression, opinion and association;
- Ensure that non state actors do not intimidate or target human rights defenders for their work in connection with the environment or corruption, as per the UN Guiding Principles on Business and Human Rights
- Amend Articles in the Penal Code which relate to terrorism and undermining national unity (including articles 79, 87bis, 95bis, 96) to ensure they conform with international standards, which hold that the definition of terrorism and related crimes should be "accessible, precisely formulated, non-discriminatory and non-retroactive";
- Amend Articles in the Penal Code which allow for criminal sanction for 'insult or contempt' of individuals, bodies or institutions (including articles 144, 144bis, 144bis2, 146, 149). Restricting or prohibiting speech on the grounds that it insults or shows contempt contravenes international human rights law and freedom of expression;
- Adopt the Law on Associations to enable registration by declaration;
- Ensure widespread and ongoing consultation and dialogue with all civil society organisations in the country, including those which work specifically on sensitive human rights issues;
- Embrace human rights defenders as allies who can meaningfully contribute to the public life in Algeria and publicly recognize their legitimate work;
- Refrain from limiting human rights defenders' freedom of movement, including through the use of routine surveillance and interference with their activities;
- Abolish the use of ISDNs to limit the travel of human rights defenders abroad;
- Implement the recommendations supported by the Government of Algeria during its Universal Periodic Review last year and draw on the support offered by the UN Office and human rights defenders in Algeria to assist with their implementation;
- Ensure that the National Human Rights Council is fully independent in line with the Paris Principles;
- Conduct training on the United Nations Declaration on Human Rights Defenders for government officials, the police and security services.

To the United Nations Office in Algeria

- As per the Secretary General's Call to Action for Human Rights, develop further partnerships with and show solidarity to human rights defenders and civil society

organisations, including those at risk, to contribute to a supportive environment for civic space.

To human rights defenders and civil society organisations

- Remain open to meaningful engagement with the newly created consultative bodies;
- Foster a broad range of alliances to constructively engage on human rights issues;