

## AMNESTY INTERNATIONAL PUBLIC STATEMENT

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# SUPPRESSING FREE SPEECH AND ASSEMBLY: THE TARGETING OF HIRAK ACTIVISTS IN ALGERIA

On the second anniversary of the Hirak, a peaceful protest movement which started in February 2019 calling for radical political change in Algeria, Amnesty International calls on the Algerian authorities to immediately release all peaceful protesters, journalists and activists arbitrarily arrested, drop all charges against them and ensure their access to an effective remedy.

An investigation by Amnesty International into the cases of 73 individuals has shown how over the past two years, the authorities used arbitrary arrest, prosecution and, in some cases, lengthy prison sentences, to target activists, protesters and journalists for their peaceful political expression on Facebook or for their participation in peaceful protests.

On 22 February 2019, largely peaceful mass demonstrations took place across Algeria, initially opposing a fifth mandate of then-President Abdelaziz Bouteflika. After the former President stepped down, protests shifted to calling for “a complete change of the political system.” Authorities held a presidential election in December 2019, which Abdelmadjid Tebboune, who served as prime minister under Bouteflika, won. Following his election, Tebboune announced that he was “open to a dialogue” with the Hirak movement and publicly stated that his government would “consolidate democracy, rule of law and respect for human rights.” Yet, the authorities continued to clampdown on dissent, and prosecuted dozens of protesters.

According to the National Committee for the Liberation of Detainees (Comité National pour la Libération des Détenus, CNLD), a local watchdog group, as of February 2021, at least 2500 protesters, journalists and activists were arrested in connection with their peaceful activism since the outbreak of the Hirak movement, of which at least 350 were detained for a week or more.

On 18 February, the Algerian President Abdelmadjid Tebboune announced the release of at least 30 detainees including those arbitrarily arrested for expressing their views and protesting peacefully. On 19 and 20 February, several Hirak peaceful protests such as Brahim Laalami, activists like Dalila Taouat and journalist Khaled Drareni were either provisionally released pending their trial or granted presidential pardon. According to CNLD, at least 31 remain detained for expressing their views or for peacefully protesting.

In early March 2020, the Algerian authorities ordered a sweeping ban on protests as part of the measures to tackle COVID-19. Human rights organizations involved in the Hirak movement announced the temporary suspension of protests as the number of confirmed COVID-19 cases in Algeria increased. Following the halting of the protest movement, authorities shifted the pattern of the prosecutions by targeting the online activities of Hirak supporters and figures and cracking down on any protest during the health emergency period. Algerian authorities also intensified their censorship of online media, continuing to block at least 16 independent news websites known for their critical stance towards the authorities.

The authorities took advantage of the health emergency to pass new laws which further curtail the rights to freedom of expression, online and offline, and peaceful assembly. In April 2020, authorities passed an amendment to the Penal Code that criminalizes the spread of “fake news” with up to three years in prison. They also added Article 290 bis Penal Code, which punishes anyone who violates an obligation of prudence or safety which “endangers the safety of others” during a period of confinement with up to five years imprisonment. The judiciary relied on these provisions to prosecute several activists who called for the resumption of the protest movement or who criticized the way the authorities responded to the pandemic of COVID-19.

Amnesty International found that police searched the phones of five peaceful protesters, journalists and online activists. Sometimes, judges used the information found in their private messaging apps to bring charges against them, in addition to prosecuting them for public Facebook posts.

Amnesty International also documented three cases of torture and ill-treatment of activists, including Walid Nekkiche and Brahim Daouadji, during custody in September 2019 and March 2020 at the Antar Security Center and the Bab Jdid Gendarmerie station in Algiers. Investigative judges refused to order medical examinations during their time in custody,

meaning that valuable evidence of any physical scars will be lost as time passes. Algeria must promptly open independent, impartial and effective investigations into these complaints and bring suspected perpetrators to justice in fair trials as per Algeria's obligations under national and international law including the UN Convention against Torture.

In addition, Amnesty International found that between September 2019 and September 2020, at least seven activists and peaceful protesters lost their jobs or were dismissed by their employers because of their detention.

Algeria is party to the International Covenant on Civil and Political Rights (ICCPR). Article 19 of the ICCPR protects everyone's right to hold opinions without interference and to seek, receive and impart information and ideas of all kinds, regardless of frontiers and through any media. It has become customary to emphasize that individuals enjoy the same rights online as they do offline. Article 21 of the ICCPR provides that no restrictions shall be placed on the right to peaceful assembly other than those necessary in a democratic society in the interests of the national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.

However, Algerian legislation is rife with repressive provisions that are often vaguely worded and overly broad, allowing them to be applied arbitrarily against people criticizing the authorities. Amnesty International found that courts relied on at least 20 such articles, with the most commonly used being "harming national unity", "harming national interest", "demoralizing the army", "incitement to unarmed gathering", "offending public officials", "offending the President" or "harming Islam", under Penal Code Articles 79, 96, 74, 75, 100, 144, 144 bis, and 144 bis 1 respectively.

## CURTAILING FREEDOM OF EXPRESSION ONLINE

Since the start of the Hirak movement, authorities resorted to the arbitrary arrest and detention of peaceful protesters, journalists and online activists in an attempt to intimidate and deter them. When the Hirak was halted due to the COVID-19 emergency, activists moved to social media platforms to voice their demands, and Facebook became one of the few remaining spaces for dissenting voices in Algeria to express themselves. Authorities then shifted their focus to cracking down on online content.

The cases reviewed by Amnesty International involved a broad variety of expression, mostly via Facebook posts, including those which criticized state officials or accused them of corruption, or criticized the judiciary for its repressive stance towards protesters, or made demands for democratic change in Algeria. In one case, the authorities went as far as prosecuting an activist for writing "no to dictatorship."<sup>1</sup> None of the online posts, reviewed by Amnesty International, included calls to violence, discrimination or hatred that would have warranted legitimate prohibition under international human rights standards.

In addition, judicial authorities used the context of COVID-19 sanitary restrictions to charge activists who called for protests during the lockdown period under new vaguely worded amendments to the Penal Code passed in April 2020 criminalizing "endangering the safety of others" and "spreading fake news".

On 3 January 2021, police officers in Mostaganem, a city west of Algeria, arrested workers-rights activist and teacher **Dalila Touat**, 45, and interrogated her about her Facebook posts, including a comment she made on a publication asking "where is (President) Tebboune?" or another one, published on 22 November 2020, where she questioned the circumstances of the death of a man in a police station in Oran the day before.<sup>2</sup> The prosecutor then charged her based on Penal Code Articles 144, 146 and 196 bis of "offending" state officials and "spreading" false news. The Tribunal of Mostaganem convicted her on 19 January 2021 to an 18-month prison sentence. To protest her detention, Touat conducted a first hunger strike between 3 and 18 January. She started a second hunger strike on 2 February and stopped it few days later in the prison of Ain Tadles. Touat was provisionally released on 19 February 2021 pending her appeal trial scheduled on 24 February.

The Mostaganem tribunal also prosecuted Touat on 1st November 2020 for "offending" public officials and "hindering" the right to vote after Touat went to a polling station that day to speak to voters and convince them not to vote in the constitutional referendum in Algeria. She did not attempt in any way to physically obstruct the voting process and the charges against her were in relation to her speech. The first-instance trial in this case is scheduled on 3 March.

On 9 October 2020, police in Tizi Ouzou, a city in the east of Algeria, arrested **Lounes Hamzi**, 39, member of the political Movement for the Auto determination of the Kabylie (MAK), a political movement created in 2001 following the suppression of protests in the Kabylie region and calling for the organization of a referendum for self-determination of the

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<sup>1</sup> *Case of Fodil Boumala*, Verdict number 20/01140, Tribunal of Dar El Beïda, Algiers, 1st March 2020

<sup>2</sup> Telephone interview with lawyer Farid Khemisti, 15 February 2021

Kabylie region. On the next day, he was brought before a prosecutor in Algiers and accused of "structuring a rebellion movement" (Article 90) and "harming national security" (Article 79), according to his lawyer, for posts on his Facebook account, none of which advocated hostility, discrimination or violence. In one of his latest publications online, Hamzi was denouncing police violence against a young activist. He remains detained in Kolea prison.<sup>3</sup>

**Hakim Addad**, founder of civil society organization Youth Action Rally (Rassemblement Action Jeunesse, RAJ), was arrested by the gendarmerie brigade in Algiers in the street on 14 June 2020.<sup>4</sup> At the Bab Jedid station in Algiers, officers interrogated him about his online posts including one in which he wrote "we will come back," referring to the resumption of the Hirkak protests, and another in which he criticized the army. When the gendarmerie searched Addad's house, they found the Amazigh flag and portraits of Hirkak detainees he had at his house and seized them. Two gendarmes searched his desktop for around 40 minutes and questioned him about the people in photos he had on his computer:

**The gendarmes told me that they will do a house search. I was then taken to my house with five gendarmes. They looked everywhere, in books, in the closets, in the drawers and everywhere where there are documents [...] One gendarme told me that I was a problem because I read a lot since that meant they had to open all the books.**

The judge of the Sidi M'hamed Tribunal charged and released Addad and then put him under judicial supervision awaiting his trial meaning that, at the time of the interview, Addad was required to go and sign a document every week at the tribunal to prove that he had not absconded.

On 8 October 2020, the First Instance Tribunal of Khenchla, a city in the east of the country, issued a 10-year prison sentence and a heavy fine against Amazigh and Hirkak activist **Yacine Mebarki**, a verdict later reduced on appeal to one year in prison and a fine.<sup>5</sup> Mebarki remains in prison. The charges were based on several laws such as Article 11-2 of the Ordonnance 06/03 on Modalities to exercise cults other than Islam, which criminalizes inciting a Muslim to change his religion and distributing audio-visual recordings aimed at disturbing the fate of Muslims, Article 144 bis 2 of the Penal Code for "offending" the Prophet of Islam and Article 34 of Law 20/05 on preventing hate speech and discrimination which punishes with up to ten years in prison and a fine anyone who has a website or an electronic account to publish content inciting to "hate and discrimination in the society." The evidence upon which the charges were based were online posts where Mebarki wrote, for example, that "it's an Arabs tradition (...) to spread disorder (...) and steal efforts and the mental, civilizational and architectural accomplishments of the people who were in contact with them." The judge ordered a search on Mebarki's phone and used exchanges of private messages through the Facebook messaging app to convict him, in a clear breach of the right to privacy guaranteed by the Algerian Constitution and international standards. In one of these private messages, Mebarki wrote "I am an Amazigh, not an Arab." The judge used other excerpts from Mebarki's exchanges on Facebook messenger, such as conversations where he is considered to have "insulted" Islam and publicized and disseminated the idea of secularism.<sup>6</sup>

On 27 September 2020, the Tribunal of Akbou, a city in the east of Algeria, sentenced **Khaled Tazaghart**, 50, ex parliamentarian of the party Future Front, to one year in prison and a fine for "harming national security and interest," "inciting an unarmed gathering" and "endangering the life of others and their safety" under Articles 96, 100 and 290 bis of the Penal Code, respectively. Investigative judge submitted as evidence posts Tazaghart published on Facebook that were saying that they contained "expressions calling to take part and demonstrate in (the cities) of Tazmalt and Kherrata where (he) called to march in the streets,"<sup>7</sup> and a video calling for a demonstration in the city of Merouaha in Kherrata, Sadouk and Akbou.<sup>8</sup> The Bejaia appeal Court acquitted Tazaghart on 22 November 2020, after 57 days of detention.

In another case, on 23 September 2020, an appeal Court in Annaba, a city in the east of Algeria, sentenced activist **Zakariya Boussaha**, 25, to an eight-month prison sentence, for online posts in February and March 2020 in which he criticized the judiciary, saying they were subservient to the executive power and Army.<sup>9</sup> He was sentenced under Articles 96, 97, 100, 144 and 146 of the Penal Code related to "harming national interest", forbidding "armed and unarmed

<sup>3</sup> Telephone interview with lawyer Kader Haouali, 4 December 2020

<sup>4</sup> Telephone interview with Hakim Addad on 5 November 2020

<sup>5</sup> *Verdict Number 20/02684 against Yacine Mebarki*, Tribunal of First Instance of Khenchla, 8 October 2020

<sup>6</sup> *Verdict Number 20/02684 against Yacine Mebarki*, Tribunal of First Instance of Khenchla, 8 October 2020

<sup>7</sup> *Verdict Number 20/01631 against Khaled Tazaghart*, Tribunal of Akbou, Béjaïa, 8 October 2020

<sup>8</sup> Telephone interview with lawyer Nouredine Ahmine on 1<sup>st</sup> December 2020

<sup>9</sup> *Verdict Number 20/03788 against Zakariya Boussaha*, Tribunal of Annaba, 13 December 2020

gatherings", "incitement to unarmed gathering", and "offending" public officials." Boussaha was imprisoned between 13 April and 14 December 2020 and has additional ongoing judicial cases against him, according to one of his lawyers.<sup>10</sup>

On 23 August 2020, police arrested poet and prominent Hirak activist **Mohamed Tadjadit**, 27, in the streets of Algiers. He was presented on 27 August to the Prosecutor of the Baignem Tribunal in Algiers and accused based on ten charges related to the Penal Code and on the law against hate speech for online posts, including a video he published online calling for a resumption of Hirak protests in Algiers. He was convicted on 21 January 2021 to a six-month prison sentence and a 200.000 Algerian dinar fine (around 1498USD) and was released that day since he had served his sentence. He had earlier spent almost two months in prison, between 14 November 2019 and 2 January 2020 for "harming the national interest" under Article 96 of the Penal Code for Facebook posts in which he insulted state officials, calling them "the dogs of the corrupted regime", according to the verdict.<sup>11</sup>

On 6 August 2020, the first instance Tribunal of Tamanrasset, a city in southern Algeria, convicted 39 years-old state engineer **Ali Badi** to two years in prison and a 100.000 Algerian dinar fine (around 756USD) for "offending" public officials (Penal Code Article 144) and spreading "fake news"(Article 290) after Ali Badi published an open letter on Facebook addressed to President Tebboune on 21 April 2020. The letter criticized the imposition of the health emergency status without economic measures to protect the population from its adverse effect and accused several local authorities in Tamanrasset of corruption.<sup>12</sup> In another post published on 17 June used as evidence to sentence him, Ali Badi filmed a video in support of the protesters of the city of Tinzaouatine, 550km south of Tamanrasset. Ali Badi remained detained in a prison in Tamanrasset until his release on 19 February 2021.

**Amira Bouraoui**, an activist and gynaecologist, 44, told Amnesty International that on 17 June 2020, at least 30 police officers, both in plainclothes and in uniforms, came to her house to arrest her, after showing her an arrest warrant. On 21 June 2020, a tribunal in Tipaza convicted her to one year in prison. She said she was prosecuted for online publications in which she criticized the way authorities handled COVID-19, writing for example that she did not know of any virus which would only circulate at certain hours, in reference to the imposition of night curfews by the authorities.<sup>13</sup> She was charged based on ten Penal Code provisions including Articles 41, 96, 100, 144 bis, 196 bis and 290 bis. On 2 July, Bouraoui was provisionally released pending the appeal trial. In November 2020, a tribunal in Draria in Algiers convicted Bouraoui *in absentia* to a three-year prison sentence for online posts in which she criticized Abu Hureyra, one of the Prophet's companions. She appealed the decision.<sup>14</sup>

In October 2019, police arrested and detained sociological researcher **Fodil Boumala**, 53 for almost six months in pre-trial detention under Penal Code charges of "harming the national unity" (Article 79) and "harming the national interest of the country through publications" (Article 96), based on Facebook posts he published between August and September 2019. All the posts reviewed in the verdict were protected speech under international human rights law. For example, on 2 August 2019, Boumala published "No to dictatorship," and on 5 September 2019 he published a Facebook post saying "we are the people, you are the gang." On 1 March 2020, the First Instance Tribunal of Dar El Beïda in Algiers acquitted Boumala. He was re-arrested on 14 June 2020, near his house, without an official warrant, for a speech he made in the city of Dellys, in the east of the country, where he talked about the Hirak protest movement and issues related to the country.<sup>15</sup> The video of the speech was shared on social media. He was released on 21 June pending further investigation.

## INTERFERENCE WITH ACCESS TO INFORMATION

In addition to the prosecution of activists, bloggers and human rights defenders for their online expression, the Algerian authorities have clamped down on access to information by arresting journalists who cover protests or write about the Hirak and blocking news websites.

International standards protect the right to freedom of expression which includes the right to seek and impart information. Prosecution of journalists merely for doing their work is therefore not only a violation of their right to impart information,

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<sup>10</sup> Telephone interview with lawyer Leila Bougherara on 24 November 2020

<sup>11</sup> Verdict Number 19/05545 against Mohamed Tadjadit, Tribunal of Sidi M'hamed, 19 December 2019

<sup>12</sup> Verdict Number 20/01321 against Ali Badi, Tribunal of Tamanrasset, 6 June 2020

<sup>13</sup> Telephone interview with Amira Bouraoui on 16 November 2020

<sup>14</sup> Telephone interview with lawyer Moumen Chadi on 16 November 2020

<sup>15</sup> Telephone interview with lawyer Abderrahmane Salah on 23 November 2020

but also undermines the right of individuals and society at large to seek and receive information, both of which are guaranteed under Article 19 of both the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

Amnesty International documented four instances where journalists covering protests were arrested, in a clear breach of the Algerian authorities' obligation to protect the right to freedom of expression, including access to information.

For example, authorities arrested **Jamila Loukil**, journalist at Liberté, on 8 October 2020 in downtown Oran while she was covering a demonstration to denounce gender-based violence in Algeria. Loukil told Amnesty International that she had explained to the police that she was a journalist, but despite that they arrested her, together with dozens of protesters.<sup>16</sup> At the police station, she had to give her phone without the police showing her a judicial order to search it. She spent around four hours at the police station before being released without charge at around 3.30 pm.

Another journalist, **Merzoug Touati**, from online media l'Avant-Garde, described to Amnesty International his arrest on 12 June 2020 while he was about to cover a protest in the city of Béjaïa, in the east of Algeria:

**When I arrived in downtown Béjaïa, around 11am, I was arrested by four police officers and taken to the Central commissariat. They asked me about articles I wrote and my relationships with other activists.<sup>17</sup>**

Touati was presented before the prosecutor the following day and was accused of "incitement to a gathering" along with two other activists, Amr Beri and Yanis Adjilia. On 8 July 2020, they were all sentenced to a fine of 100.000 Algerian dinars (around 749USD) and released.

On 7 March 2020, authorities arrested journalist **Khaled Drareni**. A judge ordered his placement under judicial supervision and released him. He was detained again on 29 March for his coverage of the Hirak. On 15 September, the Ruisseau Appeals Court in Algiers sentenced Drareni to two years in prison and a fine for his participation at a protest in Algiers as well as for his work with foreign media channels such as TV5, and France 24, and his publications on social media. On 19 February 2021, Drareni was provisionally released from El Kolea prison pending a hearing before the Supreme Court to overturn the appeal verdict.

Since the start of the Hirak in February 2019, journalist **Mustapha Bendjama**, editor in chief of newspaper Le Provincial, has been summoned between twenty and thirty times and prosecuted four times. On 23 October 2019, police in Annaba, a city in the east of Algeria, arrested Bendjama after he shared a leaked police report published on Facebook which described Le Provincial as "subversive." Bendjama told Amnesty International:

**I was arrested by four police officers at my office. Police did a search of the office and seized my phones and laptops. I was interrogated for several hours in the police station about who gave me the document which was already published on social media before I commented on it. They asked about my password on my phone after showing me an order from the prosecutor. They wanted to know who published the report. They used my Facebook account to do whatever they wanted (block people, suppress, speak with other people). They deleted this account.<sup>18</sup>**

Bendjama was later released. He told Amnesty International about the effect of the constant harassment:

**The fact that I was summoned so often is stressful and I never got used to it even though it happened often. It also affects my work. The last time I went to cover a trial, I had my mission order and all my papers and, at the end, I wanted to take a picture outside of the tribunal for the illustration of the article, but I ended up not taking the picture. That happened in September. Also, now when I want to cover something, I ask for help from other colleagues. Since every time I try to take a picture, I find myself in a police station.**

Since June 2019, the Algerian authorities arbitrarily blocked access to at least 18 online news websites covering the

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<sup>16</sup> Telephone interview with Jamila Loukil on 2 November 2020

<sup>17</sup> Telephone interview with Merzoug Touati on 16 November 2020

<sup>18</sup> Telephone interview with Mustapha Bendjama on 12 November 2020

COVID-19 pandemic and the Hirak protests, and 16 remained unavailable on Algerian websites as of December 2020<sup>19</sup>. Two of them, Maghreb Emergent and RadioMPost, were blocked in April 2020, four days after the editor-in-chief of both websites published an op-ed criticizing President Abdelmadjid Tebboune's first 100 days in office. That same month, the Minister of Communication Amar Belhimer admitted that the authorities, without prior notification, had blocked them pending "further legal proceedings" against the director for "defamation and insult" against President Tebboune, a clear case of censorship of online media.<sup>20</sup>

Between 30 November and 11 December 2020, Amnesty International conducted connectivity tests from an Algeria Telecom ADSL connection on 18 websites which activists had reported were blocked in Algeria. The tests confirmed that 16 of these sites were still blocked in Algeria and the two remaining were blocked in the summer of 2020 but are now accessible thanks to countermeasures put in place by the website administrators.

While these connectivity tests could not allow Amnesty International to definitively attribute their blocking to the authorities, the fact that the provider Algeria Telecommunications Corporation is state-owned and these websites were all accessible outside of Algeria but not from within the country, coupled with the critical stance of those websites towards the authorities, strongly suggests that it was the authorities that implemented this measure.

## **SWEEPING BAN ON PROTESTS SINCE THE OUTBREAK OF COVID**

Since the start of the Hirak protests, authorities arbitrarily arrested and detained dozens of demonstrators for exercising their right to peaceful assembly. Authorities used the COVID context to further curtail the right to freedom of peaceful assembly, by conducting sweeping arrests of peaceful protesters participating in the few protests held during the health crisis.

For example, on 8 October 2020, police arrested human rights defender and president of the local branch of the League of Defence of Human Rights (Ligue Algérienne pour la Défense des Droits de l'Homme, LADDH) **Kaddour Chouicha** in Oran, a city in the west of Algeria, while he was participating in a peaceful protest denouncing the femicide of a young woman called Chaima. At the police station, officers told Chouicha that he was arrested due to the ban on protests. He was later released without prosecution. He told Amnesty International, that there were no COVID-19 related protection measures in place at the police station.<sup>21</sup>

On 5 October 2020, Algerian authorities arrested at least 17 peaceful protesters who were marching in Algiers to commemorate the repression of social-economic protests in October 1988. Eleven members of the group were convicted to a six-month suspended sentence and six were acquitted. In the verdict, reviewed by Amnesty International, the judge argued that the arrests were due to group breaching the COVID-19 measures.<sup>22</sup>

International human rights law, notably the International Covenant on Civil and Political Rights (ICCPR), recognizes that in the context of a serious public health threat, such as COVID-19, restrictions on some rights can be justified. But such restrictions must have a legal basis, be strictly necessary, neither arbitrary nor discriminatory in application, of limited duration, respectful of human dignity, subject to review, and proportionate to achieve the objective. The de facto total ban on demonstrations imposed by the Algerian authorities does not meet those criteria and according to international standards, law enforcement officers should avoid arresting protesters at demonstrations to avoid COVID-19 contagion and ensure that any dispersal to protect public health should be subjected to a careful balancing exercise and considered as a last resort.

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<sup>19</sup>The list of websites analysed for this research are: [www.amnestyalgerie.org](http://www.amnestyalgerie.org), [www.maghrebemergent.info](http://www.maghrebemergent.info), [www.tsa-algerie.com](http://www.tsa-algerie.com), [www.radiom.info](http://www.radiom.info), [www.inter-lignes.com](http://www.inter-lignes.com), [www.algeriepartplus.com](http://www.algeriepartplus.com), [www.lavantgarde-algerie.com](http://www.lavantgarde-algerie.com), [www.lematindalgerie.com](http://www.lematindalgerie.com), [www.algeriepatriotique.com](http://www.algeriepatriotique.com), [www.dzvid.com](http://www.dzvid.com), [www.siwel.info](http://www.siwel.info), [www.tamurt.info](http://www.tamurt.info), [www.kabyle.com](http://www.kabyle.com), [www.marevuedepressedz.com](http://www.marevuedepressedz.com), [www.twala.info](http://www.twala.info), [www.casbah-tribune.com](http://www.casbah-tribune.com), [www.maroc-diplomatique.net](http://www.maroc-diplomatique.net), [www.telquel.ma](http://www.telquel.ma).

<sup>20</sup> <https://www.elkhabar.com/press/article/166393/%D9%86%D8%AD%D8%A7%D8%B1%D8%A8-%D8%A7%D9%84%D8%A5%D8%B4%D8%A7%D8%B9%D8%A9-%D8%A8%D8%A8%D8%AB-%D8%A7%D9%84%D8%AD%D9%82%D9%8A%D9%82%D8%A9-%D9%8A%D9%88%D9%85%D9%8A%D8%A7-%D9%88%D8%A8%D8%A7%D9%86%D8%AA%D8%B8%D8%A7%D9%85/>

<sup>21</sup> Telephone interview with Kaddour Chouicha on 3 November 2020

<sup>22</sup> *Verdict Number 20/03243*, Tribunal of Sidi M'hamed, Algiers, 20 October 2021

## PHONE SEARCHES

At least five of the individuals whose cases were documented for this report arbitrarily had their phone searched after their arrest without being presented with a search warrant. According to Article 44 of the Algerian Code of Criminal Procedures, house searches and searches linked to criminal investigations must be authorized beforehand by the Prosecutor of the Republic.

The right to privacy is granted in the Algerian Constitution in its article 47.

On 21 February 2020, police arrested activist **Yasmine Hadj Mohand**, who lives in France, while she was walking in the street in Algiers:<sup>23</sup>

**I was walking in the streets of Algiers when I answered my phone. Someone snatched my phone, I realized it was a police officer in plain clothes who told me "we will show you what it means to take videos in the streets. After that, I was taken to the police station. I asked for my phone, police refused to give it back. They told me that if I did not give my password, I would be taken to a security centre run by the intelligence services. They asked me about discussions with a famous blogger and also interrogated me about my presence in Algeria and filming police officers.**

Hadj Mohand said she was interrogated for hours. She was not granted the right to call her family and was asked to sign police reports which were written in classical Arabic:

**I did not understand everything. I asked for a translator and to call a lawyer, but they said you cannot call a lawyer and that there was nothing problematic in the statements. I was tired of fighting with them and so I signed. I did not want to negotiate anymore. I asked to call my family, but I was not allowed to.**

That same day, the police kept her phone and she was released. On the following day, police asked her to come back. She was then arrested and detained for participating in "unarmed gatherings" for a tweet she published about HIRAK in December 2019. Hadj Mohand was convicted to a two-month suspended sentence and was released on 8 March 2020.

## TORTURE AND OTHER ILL-TREATMENT

Amnesty International documented the cases of three activists arrested and detained for expressing their views or for peacefully protesting who reported that they were subjected to torture or other ill-treatment.

HIRAK activist "**Mohamed**," 30, told Amnesty International that on 30 April 2020, police came to arrest him at his house in Ain Temouchent, a city in the west of Algeria:<sup>24</sup>

**I could see the police from the window. One policeman asked me to come out so he could give me a summons, so I went out. Outside, I found four men and another man, the driver. One guy from the Investigation and Research Brigade hit me with a Taser. He asked me if I knew what it was and then said that if I didn't leave my house to meet them, he would kill me. I asked what I had done, they did not answer.**

After that, Mohamed was taken to the police station. On 3 May 2020, Mohamed was presented before the judge and convicted to an 18-month prison sentence before he was released on 3 July via presidential pardon.

On 6 March 2020, plain clothes law enforcement officers arrested **Brahim Daouadji**, 37, activist and member of the political movement Rachad, at a restaurant while he was having lunch with other activists after a students' protest in Algiers. He was taken to the gendarmerie station in Bab Jdid. He told Amnesty International:

**One of the officers had a baton in his hand and threatened me with it saying that he would "put it in my ass."<sup>25</sup>**

During the first part of his interrogation, gendarmes asked him about his whereabouts in Algiers and his relationships with other activists. Daouadji told Amnesty International that when he would not answer, officers beat him. After his release at around 9pm that night, Daouadji published a video denouncing his conditions of detention. Ten days later, on 16 March,

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<sup>23</sup> Telephone interview with Yasmine Hadj Mohand, 26 November 2020

<sup>24</sup> Telephone interview with "Mohamed", 2 November 2020 (Name has been changed to respect the interviewee's anonymity.)

<sup>25</sup> Telephone interview with Brahim Daouadji, 6 November 2020

police followed Daouadji while he was driving his car in Mostaganem, a city west of Algeria. He told Amnesty International that he was surrounded by police cars, and police officers asked him to step out of the car. When he refused, they broke the window and pulled him out. Daouadji said that police put a hood on his head and interrogated him in the police car about the video he had published on 6 March. He was not permitted to contact his family. Daouadji was later transported from Mostaganem to Oran and then from Oran to Algiers:

**The conditions of transportation were bad. At some point, I was transferred from Oran to Algiers in another car. Between the two cars, there were five minutes where the police forced me to kneel on the floor. I thought I was going to die. On the road to Algiers, police threatened me with rape and body mutilation.**

Daouadji was then transferred to the Antar Security Center, under the supervision of the Counterespionage direction which is part of the Algerian Department of Intelligence and Security. At some point, he was asked to unlock his phone which he refused:

**All officers went out of the room where I was. One stayed. He took me out to a courtyard, took off all my clothes except for my underwear and said you will stay like this. He told me that since I did not want to cooperate with them, they would mistreat me. I was then left in the courtyard naked. After a while, I was given back my clothes. Then, police officers interrogated me again. They hit me on my neck.**

Daouadji was interrogated again the next day. On 18 March, Daouadji was finally allowed to call his family. His lawyers asked the judge to authorize a medical examination to check for evidence of torture or other ill-treatment, but the judge refused the request.<sup>26</sup> Daouadji was accused of "insulting the army" (Article 74 of the Penal Code) and "harming the national unity" (Article 79 of the Penal Code). On 9 April, the Sidi M'hamed Tribunal in Algiers convicted Daouadji to a six-month prison sentence, reduced on appeal to three months, for the video he published on 6 March.

On 26 November 2019, activist **Walid Nekkiche**, 25, was arrested during the 40th Hirak students' March. According to Nacera Haddouche, one of his lawyers, he was detained in custody in the Antar Security Center for six days.<sup>27</sup> His phone was seized. Nekkiche told the judge that he had been "exposed to physical and verbal torture" during his time in custody. The complaint filed by his lawyer, which Amnesty International reviewed, says that Nekkiche was subjected to several sessions of torture between 26 November and 2 December 2019, and that the judge refused to order a medical examination despite requests made by his lawyers. During one of his hearings, on 30 March 2020, Nekkiche again said that he was subjected to torture.<sup>28</sup> On 2 February 2021, the Tribunal of Dar El Beida convicted Nekkiche to a six-month prison sentence and a fine. He was released that day. During the hearing, Nekkiche confirmed that he was abused physically, sexually and verbally while in detention. On 8 February 2021, the Public Ministry in Algiers ordered the opening of an investigation on the allegations of torture against Walid Nekkiche.

## RESTRICTIONS ON THE LIVELIHOOD OF EX-DETAINEES

In addition to the violation of their rights to freedom of expression and assembly and protection against arbitrary detention, Amnesty International found that seven activists were either fired or suspended from their jobs due to their arbitrary detention. In two cases, the employers justified their decisions for the dismissals as related to the ongoing legal proceedings against activists Hmimi Bouider and Brahim Daouadji.

For example, detained activist Oussama Taifour was working as a nurse in a public hospital in Mostaganem, a city in the west of Algeria, before he was suspended in June 2020 after he was prosecuted for online publications. In the letter explaining the reason for his suspension, the hospital cited the fact that he had been prosecuted.<sup>29</sup> Activist and RAJ member Kamel Ould Ali was working as a fiscal officer when he was detained for his activism in the Hirak movement between September 2019 and January 2020. On 5 January 2020 his employer told him that he would not be reintegrated as long as the legal proceedings against him were ongoing.<sup>30</sup> Political activist and other RAJ member Hmimi Bouider, lost his job at a national company because of his absence from work while he was detained between September 2019 and

<sup>26</sup> Telephone interview with lawyer Aicha Zemmit, 15 February 2021

<sup>27</sup> Telephone interview with lawyer Nacera Haddouche, 24 November 2020

<sup>28</sup> *Complaint presented to the Public Ministry by lawyer Nacera Haddouche*, 21 July 2020

<sup>29</sup> Ministry of Health and Habitat, *Official document number 1534/2020*, 28 June 2020

<sup>30</sup> Telephone interview with Kamel Ould Ali, 11 November 2020

January 2020.<sup>31</sup> On 29 October 2019, the Ministry of Education in Oran suspended activist Brahim Daouadji from his job as an English teacher, stating in the official letter that the reason invoked for his suspension was the fact that he had been “arrested by the police”.<sup>32</sup>

## Conclusion and Recommendations

As Algerians mark the second anniversary of the Hirak protest movement, targeted prosecutions of Hirak activists, journalists and protesters for their peaceful expression and assembly continues to take place under a legal framework that includes provisions which criminalize the legitimate exercise of those rights.

Although international law allows the exercise of the right to freedom of expression to be subject to certain limitations, these must meet all elements of a stringent three-part test: they must be provided by law (which must be formulated with sufficient precision to enable an individual to regulate their conduct accordingly); and demonstrably necessary and proportionate (the least restrictive measure to achieve the specified purpose) for the purpose of protecting specified public interests (national security, public order, or public health or morals) or the rights or reputations of others. There must be procedural safeguards against abusive imposition of restrictions, including provision for appeal to an independent body with some form of judicial review. The UN Human Rights Committee states in General Comment 34 that “when a state party imposes restrictions on the exercise of freedom of expression, these may not put in jeopardy the right itself.” Restrictions which do not comply with this test violate freedom of expression even where there is no resulting penalty. They violate not only the right to freedom of expression of those people on whom the restriction is imposed, but also the right of others to receive information and ideas.

Such restrictions must never include the censorship of criticism of public figures and state officials. In fact, as regard the rights and reputation of others, international human rights law and standards require that public officials tolerate a higher degree of scrutiny and criticism than private individuals. And there should not be more severe penalties for insult or defamation of public officials. In this regard, the UN Human Rights Committee states in General Comment 34 that all public figures are legitimately subject to public criticism, and that there should be no prohibition of criticism of public institutions. According to International law, defamation should be treated as a civil, not a criminal, issue and never punished with a prison term. Public officials or others that seek redress on issues relating to defamation, should do so in a civil court not criminal court. The only purpose of defamation, libel, slander and insult laws must be to protect reputations and not to prevent criticism of governments. The use of defamation laws with the purpose or effect of inhibiting peaceful criticism of government or public officials violates the right to freedom of expression.

To uphold their obligations under international human rights law to respect the rights to freedom of expression, assembly, freedom from arbitrary detention, the right to work and privacy, the Algerian authorities should:

- Immediately and unconditionally release and drop the charges against journalists, human rights defenders, civil society activists and peaceful protesters prosecuted or detained solely for expressing their views or for protesting peacefully.
- Protect the exercise of the right of peaceful assembly in public places, lifting the obstacles in law and in practice to peaceful gatherings. They should in particular ensure that those who participate in peaceful demonstrations are protected from arbitrary arrest. They must also avoid the use of unnecessary or excessive force.
- Provide an effective remedy to peaceful protesters, journalists and activists who have been arrested or detained for exercising their human rights.
- Amend or repeal all provisions of Algerian law, and particularly in the Penal Code, that violate the right to freedom of expression, including those that impose criminal sentences for peaceful expression, such as articles criminalizing defamation, “insult”, and other expression offenses against the president, other government figures and state institutions and agencies or those leading to heavy prison sentences for harming national security, interest and unity.
- Ensure prompt, impartial, independent and effective investigations into all allegations of torture and other ill-treatment, make the results of the investigations public and ensure that perpetrators are held to account.

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<sup>31</sup> Telephone interview with Hmimi Bouider, 6 November 2020

<sup>32</sup> Direction of Education of Oran, *Official document number 05/2019*, 29 October 2019

