



ALGERIA

CAPITAL: Algiers

POPULATION: 32.3 million

GNI PER CAPITA: \$1,720

SCORES

ACCOUNTABILITY AND PUBLIC VOICE: 2.90

CIVIL LIBERTIES: 2.90

RULE OF LAW: 2.49

ANTICORRUPTION AND TRANSPARENCY: 2.55

(scores are based on a scale of 0 to 7, with 0 representing weakest and 7 representing strongest performance)

Bradford Dillman

INTRODUCTION

Civil violence in Algeria has diminished significantly since Abdelaziz Bouteflika was elected president in April 1999. There are far fewer reports of police and security forces committing arbitrary arrests, torture, “disappearances,” and extrajudicial killings. Nevertheless, the government has failed to reinstate the rule of law since the military coup of 1992, and the military still intervenes in government decision making and remains unaccountable to elected civilian leaders. Multiparty elections are not completely free, and there were credible accusations of pre-election unfairness, irregularities, and fraud in the 2002 parliamentary elections and the 2004 presidential election. Although the Algerian media are among the most open in the Arab world, the government since 2003 has attacked freedom of expression in newspapers through a variety of legal and economic sanctions.

Bradford L. Dillman is assistant professor of international political economy at the University of Puget Sound. He is the author of numerous publications on Algeria, including *State and Private Sector in Algeria: The Politics of Rent-seeking and Failed Development* (Boulder, CO: Westview Press, 2000).

Authorities do not adequately protect citizens from torture, police harassment, and long-term detention without trial. Small armed opposition groups and criminal gangs continue to attack citizens, although the government now has a better ability to prevent non-state actors from threatening people and property. Women face significant discrimination in divorce, marriage, employment, and inheritance despite government steps in 2004 to reform the retrograde 1984 family code. While the constitution recognizes the right to freedom of association, authorities frequently limit civic associations, political parties, and trade unions through bans on demonstrations, police harassment, and rejection of applications for legal recognition.

The executive branch interferes extensively in the operations of the judiciary. The civilian government cannot effectively subject police, military, and internal security forces to regular control and accountability. Although an ad hoc commission appointed by the president in 2003 to investigate thousands of disappearances in the 1990s has proposed compensating families of the disappeared, no perpetrators of these crimes have been brought to justice. Corruption is a growing, systemic problem within the public administration, state enterprises, and the private sector. The pace of economic reforms has slowed significantly since 2001.

Since his reelection in April 2004, President Bouteflika has reshuffled some of the higher ranks of the military in order to reduce their influence in political affairs. He has publicly emphasized the importance of restoring the authority of the state, reforming the judiciary, and strengthening human rights. In addition, he has emphasized a plan for national reconciliation that many believe will result in a general amnesty for any Algerian who committed crimes during the period of civil conflict since 1992. Many of these reforms are positive steps toward strengthening civilian control and rebuilding state institutions. However, it is too soon to predict whether they will be successfully implemented and whether they will expand civil liberties and government accountability to the public.

ACCOUNTABILITY AND PUBLIC VOICE – 2.90

Algeria experienced a period of rapid democratization from 1988 to 1991. During that time, the opposition Islamic Salvation Front (FIS) won more than half of the seats in communal assemblies in 1990 elec-

tions and 188 of the 231 National Assembly seats determined in the first round of 1991 parliamentary elections. However, the military staged a coup in January 1992 to forestall a second round of voting that probably would have given the FIS a two-thirds majority in the Assembly. Since then, senior officers in the armed forces—often referred to as *le pouvoir*—have played an important role in Algerian politics, particularly on security and terrorism issues. Algeria has held local, parliamentary, and presidential elections with varying degrees of fraud and unfairness since 1995. The military and the presidency have circumscribed political competition by banning the FIS, refusing to officially authorize some parties, and limiting the role of legal political parties in government decision making.

During parliamentary elections in May 2002—which determined seats in the current National Assembly—turnout was officially only 47 percent, the lowest in Algeria’s history. Turnout in Algiers was only 32 percent, and most voters in the Berber region boycotted the elections altogether. The National Liberation Front (FLN) emerged as the biggest winner, taking 199 seats in the now 389-seat National Assembly. Opposition parties denounced fraud, including a large discrepancy between the number of valid votes for independents and small parties initially announced by the interior minister and the number later confirmed by the Constitutional Council.¹

Algeria’s current electoral laws create a proportional representation system for the National Assembly in which voters choose candidate lists in multi-member districts. The number of seats in each district corresponds to the district’s percentage of the population. Voting is based on universal suffrage, and the minimum voting age is 18. Campaign spending limits are rarely enforced.

The executive, legislative, and judicial branches of government do not practice effective oversight of one another. A constitutional amendment in 1996 strengthened the powers of the president over the prime minister. The National Assembly has limited powers to hold the executive, security forces, or the judiciary to account. The upper house of parliament, the National Council, has 144 seats, 96 of which are chosen through indirect elections by local assemblies within each of the country’s 48 provinces (*wilayas*). Another 48 members are appointed by the president. In the most recent indirect elections, the National Democratic Rally won 82 percent of the 96 seats and the opposition FLN won

13 percent, demonstrating that opposition parties are effectively shut out of the upper house. Three-fourths of the members of the National Council must approve bills passed by the National Assembly before they can become laws. Elected municipal councils (APCs) and regional assemblies (APWs) have little power in comparison to *walis* (prefects) appointed by the national executive. The Algerian press reported in September 2004 that a technical commission tasked with proposing revisions of the constitution is recommending elimination of the post of prime minister, whose powers would be assumed by the president; elimination of the National Assembly's power to censure the government; and extension of the presidential mandate to seven years with a limitation of two terms.² If adopted, these revisions would significantly strengthen the role of the president.

In the run-up to the April 2004 presidential election, the government carried out a number of measures that reduced the overall fairness of the process and hampered campaigning by rivals of incumbent Abdelaziz Bouteflika. Using methods such as challenging signatures on candidacy petitions, freezing opposition party accounts, and minimizing opposition press coverage, the government was able to neutralize much of the opposition. Islamist former foreign minister Ahmed Taleb Ibrahimi and secularist former prime minister Sid Ahmed Ghazali were prevented from running, and former prime minister and FLN leader Ali Benflis was forced to run as an independent. Former prime minister Mouloud Hamrouche withdrew his candidacy in protest at fraudulent electoral practices.

Some aspects of the election were an improvement over previous elections. All six legally certified candidates were entitled to state-provided campaign funds and television access in March. The military announced its neutrality. The government amended the electoral law in January 2004 to prevent active-duty soldiers from voting in barracks on election day—a procedure that in the past had been a source of fraud. Candidates were allowed to post representatives in polling stations. Nearly 120 international monitors from the Arab League, the African Union, the European Parliament, and the OSCE observed voting on election day.

Incumbent Abdelaziz Bouteflika was reelected with 85 percent of the vote in universal, secret, direct suffrage. Ali Benflis and Abdallah Djabballah received only 6 and 5 percent of the votes, respectively, which many Algerians believed were suspiciously low figures. International

observers and the National Political Commission for the Supervision of the Presidential Election—a government-appointed body—concluded that the election was transparent and there was no evidence of fraud that would have changed the outcome.³ Despite the apparently clean election, four opposition candidates issued statements after results were announced condemning massive fraud and “falsification.”⁴ Police brutally dispersed several hundred Benflis supporters who gathered in Algiers on the evening of election day. Algerian press reported that many polling stations in Kabylia were wrecked or unable to operate, and abstention in that region was high.

The 1996 revised constitution forbids political parties from being formed on the basis of religion, ethnicity, gender, and regionalism. In order to gain legal status—and thus the right to participate in elections—political parties need approval from the minister of the interior, who determines whether a party’s platform and membership, among other things, are consistent with requirements in the 1997 party law. Since 1997, the FLN, the military-backed National Democratic Rally (RND), and the moderate Islamist Movement of Society for Peace (MSP) have dominated the National Assembly in a loose alliance. The government refuses to formally authorize the Movement for Fidelity and Justice (Wafa), an Islamist-nationalist party headed by Ahmed Taleb Ibrahimi, and the secular Democratic Front. Thus, both these parties have difficulty opening bank accounts, renting space, and recruiting staff. Authorities have repeatedly stated that they have no intention of allowing the FIS—banned in 1992—to regain legal status. Ali Benhadj and Abassi Madani—two leaders of the FIS—were released from prison in June 2003 after 10 years of incarceration. Madani has since been living outside Algeria. Benhadj is barred from making public statements or participating in political activities; he has been subject to constant surveillance and frequent summoning by the police.

Although Algeria has a wide range of vocal civic associations and business organizations, various laws and government policies restrict the ability of these groups to organize and influence legislation. The interior ministry refuses formal authorization to a number of nongovernmental organizations (NGOs) that are critical of government policies. The government consults on an ad hoc basis with a national association representing public sector executives and with several organizations of private

business owners (*le patronat*), but most of these actors complain that officials fail to implement policies that address their demands.

Although the constitution guarantees freedom of expression, journalists face significant restrictions. The 1990 information code states that freedom of speech must respect “individual dignity, the imperatives of foreign policy, and the national defense.” Newspapers are not supposed to print security-related information unless it has been released by the government. The penal code—amended in 2001—mandates large fines and prison terms of up to two years for journalists found guilty of insulting or libeling the president, the National Assembly, the National Popular Army, or other state institutions.

Since early 2003, the government has carried on a campaign of harassment and intimidation against journalists and publishers deemed critical of the regime. A number of journalists have been brought to court, fined, or imprisoned for alleged violations of the information code and other laws. Many repeatedly face harassment from public authorities and questioning by the police.⁵ In June 2004, Mohamed Benchicou—director of the anti-Bouteflika newspaper *Le Matin*—was sentenced to two years in prison for alleged violation of a law governing capital transfers and foreign exchange controls.⁶ Benchicou had accused the minister of the interior of involvement in corruption and had authored a book in early 2004 that accused the president of embezzlement. *Le Matin* was closed in June 2004 and its headquarters was sold. Ahmed Bennaoum, director of *Er-Rai al-Aam*, was jailed on libel charges in June 2004. Hafnaoui Ghoul—a journalist and member of the Algerian League for the Defense of Human Rights—was jailed in May 2004 on defamation charges following his publication of several articles denouncing corruption and misappropriation of funds. Authorities later subjected him to numerous libel suits.

Some newspapers critical of the government have been suspended or threatened with shutdown for failure to pay taxes. In August 2003 six newspapers were temporarily closed for failure to make payments owed to five public printing companies. ANEP—a public company that monopolizes all advertising for public companies and the administration—often penalizes outspoken newspapers by withholding advertising placements in them. The government owns a number of important daily newspapers as well as the country’s five main printing companies, and it retains a monopoly over radio and television broadcasting.

Recommendations

- The government should cease its campaign of prosecuting journalists for alleged defamation of officials and state institutions. The penal code should be amended to eliminate onerous penalties such as imprisonment and heavy fines on journalists and newspaper directors who are found to have slandered or insulted public officials.
- The government should grant legal registration to all political parties and civic organizations that meet basic regulatory requirements.
- A truly independent, politically balanced electoral commission needs to be established with broad powers to oversee election campaigns, balloting, and vote tabulation.

CIVIL LIBERTIES – 2.90

Since 1992, an estimated 150,000 people have died as a result of widespread civil violence between armed Islamists and government forces in Algeria. Tens of thousands bear physical and psychological wounds. At least 1 million are thought to have been displaced from their homes since 1992.⁷ At the height of the violence, from 1994 to 1999, anti-government groups committed massacres, rapes, kidnappings, bombings, and thefts against the civilian population. Military and security forces and state-armed militias also engaged in gross human rights violations, including torture, extrajudicial killings, arbitrary arrest, and prolonged detention without trial.

Since 1999, reports of severe human rights abuses have markedly decreased, but violence by state and non-state actors remains significant. The government estimates that in 2003 nearly 900 people died as a result of civil conflict.⁸ Armed opposition groups and criminal gangs continue to operate in parts of the country, and bombings, banditry, assassinations of police officers, and massacres of civilians still take place. State-armed militias—including the Groupe de Légitime Defense and the communal guards—continue to carry out counterinsurgency operations and law-enforcement activities, often without adequate supervision by authorities. The estimated 200,000 members of these self-defense groups—many of whom receive stipends from the ministry of defense—are accused of numerous abuses and extrajudicial killings.⁹ The government has initiated steps to disband some groups and recuperate some

of the tens of thousands of small arms distributed to them in the 1990s, but the process is haphazard and limited.¹⁰

Victims of terrorism accuse the government of failing to punish insurgents who have perpetrated severe human rights violations. President Bouteflika promulgated a Law of Civil Concord in July 1999 offering exemption from prosecution to members of armed groups who had not committed serious crimes and who surrendered to authorities within six months. Militants who had committed serious crimes were offered reduced sentences. In January 2000 Bouteflika signed an amnesty decree exempting militants from prosecution if they voluntarily surrendered to government authorities. Hundreds of members of the Islamic Salvation Army, the armed wing of the FIS, are believed to have benefited from the amnesty, which human rights groups have deplored.

In October 2003, Algeria-Watch—an independent human rights group based in Germany—published a report accusing high-ranking military, police, and security officials of condoning systematic torture and extrajudicial killing. It documented 300 specific cases of torture since 1992—most of which occurred between 1993 and 1997.¹¹ Algeria-Watch also published in April 2003 a detailed—but non-exhaustive—list of more than 1,100 cases of summary executions carried out by government forces since 1992.¹²

Preventive detention is still widely practiced. The code of penal procedure empowers authorities to detain a suspect for up to 48 hours before arraignment by an examining magistrate. Suspected terrorists or subversives can be held in pre-arraignment detention up to 12 days before seeing a magistrate, and those accused of the most serious crimes can be legally held from 20 to 60 months in pretrial detention while a magistrate investigates their case. In 2004 approximately 4,000 people were held in long-term preventive detention, according to the minister of justice.¹³ Algeria has taken steps to amend its laws and penal code to place them in conformity with international human rights conventions. It has not carried out capital punishment since 1994 and has indicated its intention to eliminate the death penalty and to define torture as a crime.

The ministry of defense's Department of Information and Security (DRS)—also known as Military Security—is accused of carrying out many acts of torture in its detention centers. DRS agents function as law-enforcement officers, often arresting citizens without warrants or identification, holding detainees in secret locations, and holding sus-

pects longer than the legal limit. With no apparent accountability to the judiciary or civilian authorities, DRS agents have never been brought to justice for human rights violations perpetrated in the line of duty.¹⁴ Fear of retribution discourages most victims of torture from reporting violations to authorities. While in theory victims of judicial errors are entitled to compensation, no victims have been indemnified.

Poor conditions prevail in Algeria's grossly overcrowded prisons. An administrative investigation into a series of prison uprisings and fires in 2002—in which more than 50 prisoners died—had still not been completed by September 2004. In December 2003 a commission was established to examine prison reform, and by June 2004 the ministry of justice had prepared a draft law that would increase the use of parole and release on bail, expand visitation rights, and allow increased access to prisoners by national and international NGOs.¹⁵

Although serious investigations into past human rights abuses are rare, the government has taken some steps recently to account for thousands of individuals who disappeared in the 1990s and who are presumed to have been killed by security forces. In 2001 President Bouteflika created a nominally independent National Consultative Commission for the Promotion and Protection of Human Rights (CNCPPDH). In September 2003 Bouteflika issued a presidential decree establishing an ad hoc commission within CNCPPDH to identify cases of alleged disappearances and to determine the whereabouts of those who have disappeared. The ad hoc committee has an 18-month mandate and will submit a final report to the president in March 2005.

Attorney Farouk Ksentini, who now heads the ad hoc commission, estimated in November 2002 that the security forces and their allies are responsible for the disappearance of 7,000 to 12,000 individuals.¹⁶ Ksentini acknowledged in 2004 that the state collectively is responsible for some disappearances but argues that the state itself is not guilty: Offenses by local commanders were not authorized by those higher up in the chain of command.¹⁷ Other government officials assert that many of those who have disappeared were killed by armed insurgents or are evading arrest. The commission has made little progress in identifying the circumstances of the disappearances or holding any officials accountable. It has no statutory power to compel testimony by government officials or force them to release documents.¹⁸ The government has offered compensation to families of the disappeared but shows no willingness

to pursue justice for the victims. The CNCPPDH has been hostile to three autonomous, non-authorized organizations representing families of the disappeared. Police have broken up demonstrations by organizations representing families of the disappeared who demand prosecution of those who killed their relatives.

The government has in the past sporadically allowed representatives of international NGOs such as Amnesty International, Human Rights Watch, and the International Federation for Human Rights (FIDH) to visit the country, but it currently denies access to these organizations. The Algerian League for the Defense of Human Rights (LADDH) and the Algerian League for Human Rights (LADH) actively report on a variety of human rights violations. Several other associations also address their concerns to authorities. Most domestic NGOs have faced harassment, and it is illegal for them to receive funding from abroad. Salah Eddine Sidhoum, an Algeria-Watch leader who had been condemned in absentia in 1997 for membership in a terrorist group, surrendered to authorities and was jailed at Serkhadji prison in September 2003. The criminal court of Algiers acquitted him of the charges in October 2003.

The state of emergency—in effect since the 1992 coup—requires political parties and organizations to seek formal authorization to assemble and to stage demonstrations. Authorities regularly refuse to permit demonstrations or meetings, often without offering justification. There are numerous reports of gendarmes, riot-control police, and security forces using excessive force to break up both legal and unauthorized demonstrations. Public demonstrations in the Algiers region have been banned since 2001. Protesters are regularly detained and then released or sentenced on public order charges. In May 2004, gendarmes put down rioting in the village of T'kout east of Algiers, and some who had demonstrated in support of local autonomy were assaulted or tortured while in custody.¹⁹ Some members of self-styled citizens' groups were charged with membership in criminal associations and sentenced to prison in 2004. In the last several years, the government has introduced more stringent measures in recruitment of police officers and has bolstered training programs. According to authorities, the government now annually expels 300 to 400 police officers from the force for violations of the discipline code or other unspecified shortcomings.²⁰

“Petitioning in the streets” has been most widespread in the Berber region of Kabylia. Berbers demonstrated and rioted in favor of greater

political, cultural, and linguistic rights there in April and May 2001, and security forces killed as many as 100 unarmed civilians. In May 2001 President Bouteflika ordered the creation of an ad hoc National Commission of Inquiry into the Events in Kabylia. A preliminary report in July 2001 found the gendarmerie responsible for using excessive force. The commission's final report in December 2001 noted that many witnesses were afraid to testify.

The constitution was revised in April 2002 to recognize the main Berber language—Tamazight—as a national language. Berbers continue to demand recognition of Tamazight as an official language that can be used in public administration on a par with Arabic. The government has offered to put the issue to a national referendum. Talks with the government over the issue collapsed in early 2004, and many Berbers boycotted the presidential election. Many citizens' movements (*'arush*) are active in Kabylia but are not legally registered as associations. There is no significant discrimination against Berbers on the basis of their identity, even though many express collective economic and political grievances.²¹ Berbers serve in influential positions in the military, media, and political elite.

The constitution guarantees the right of workers to form and join labor unions. However, workers must obtain government approval to establish a union, and unions may not affiliate with political parties or receive funding from foreign sources. Officials regularly consult the largest national labor union—the General Union of Algerian Workers (UGTA). The UGTA has been a prominent critic of privatization of state-owned enterprises and has had some success in slowing down the privatization process. Since 1990 civil servants and public sector workers have formed some 50 autonomous unions, but the ministry of labor has in most cases refused to authorize them formally.

Since 1992, a number of women have faced significant threats to their personal security. In April 2004 the national gendarmerie reported that violent acts against women—including rape, beating, and kidnapping—have increased in recent years.²² In the first quarter of 2004 there were 354 reported abductions of women. According to the gendarmerie, an estimated 4,000 children born of rape have been abandoned by their mothers since 1997. Women's organizations deplore the fact that women raped by men in armed groups are not entitled to compensation from the government because they are not legally defined

as victims of terrorism. In September 2004, a government minister announced that beginning in October the government would make monthly payments of approximately \$35 to all single mothers with children.²³ In August 2004, the government drafted a bill to amend the Code of Algerian Nationality with the intent of allowing Algerian mothers married to non-Algerian fathers to pass their nationality on to their children.

The 1984 Family Code prevents women from enjoying equal rights with men. Some of its discriminatory stipulations include: that a woman has a legal obligation to obey her husband, an adult woman is under the legal guardianship of her husband or a male relative, women have weaker rights than men to initiate divorce, and women inherit less than men. In August 2004, the government approved a long-overdue draft bill to amend the Family Code. Although still subject to approval by the National Assembly, the draft bill would, among other things, establish equal rights and obligations between spouses, make it easier for women to initiate divorce proceedings, and strengthen custody and financial rights of women following divorce.²⁴

By international standards, a relatively low percentage of women work outside the home. According to the National Economic and Social Council (CNES), women constituted 55 percent of all university students but only 14 percent of the workforce—not counting the informal sector. Of the women in the workforce, 43 percent have jobs in the public sector, and of these, the vast majority are employed in the education and health sectors.²⁵ In 2004 the government indicated it would seek to amend the penal code to make sexual harassment in the workplace a crime. Few women have reached positions of influence within political institutions, although in 2002 women won 6 percent of the seats in the National Assembly.

Algeria passed legislation in 2002 to protect the rights of persons with disabilities. The government provides them social assistance, prosthetic centers, and vocational training. Companies that employ people with disabilities are eligible for a 50 percent reduction in social security payments. There is a National Council for Disabled Persons within the ministry of social protection. However, public buildings and government services are not easily accessible to the disabled.

Islamic movements played an important role in Algeria's war of liberation from French rule, and post-independence governments have

catered to conservative Muslims by vigorously promoting Arabization in education and public administration and by passing a Family Code based on conservative Islamic principles, among other things. However, since the rise of the FIS and the resort to violence by Islamist groups calling for an Islamic republic, government officials have sought to restrict the use of religion for partisan purposes and to prevent all political activities within mosques. The constitution declares Islam the state religion. Although there are few de facto restrictions on the practice of religion by Algeria's small population of non-Muslims, proselytizing by non-Muslim groups is illegal. Religious organizations must register with the government. Most imams in mosques are appointed by the government and paid by the ministry of religious affairs. The government has a legal right to pre-screen public sermons. The government keeps close watch on sermons during Friday prayers and monitors mosques for potential security-related offenses. Imams can be imprisoned for three to five years for engaging in any activity that is contrary to the mission of the mosque or that undermines national cohesion. The penal code also allows for imprisonment of three to five years for anyone denigrating Islam or insulting the Prophet Mohammed.

Recommendations

- The state of emergency declared in 1992 should be officially repealed.
- The government should amend the 2001 penal code to reduce the length of time during which citizens can be held in pre-arraignment and long-term preventive detention and sanction police and judicial officials who flout detention procedures.
- An independent truth-and-reconciliation commission should be established with the power to investigate and publicly disclose human rights abuses committed since 1992.
- The government should provide a full accounting of disappearances and compensation to family members of the disappeared, while imposing criminal sanctions on those responsible for these killings.
- The government should take steps to ensure that women receive equal protection under the law. The Family Code should be amended to create equal divorce and inheritance rights, better protect women from domestic violence and marital rape, eliminate male guardianship over adult women, and suppress polygamy.

RULE OF LAW – 2.49

Algeria has no Sharia courts. A Constitutional Council—three of whose nine members are appointed by the president—rules on the constitutionality of laws adopted by the National Assembly. A Council of State—created in 1998 under the auspices of the president—regulates administrative courts. A Supreme Court handles appeals cases. The president of the Supreme Court stated that in 2003 the Supreme Court was able to deal with only 17,100 of the 32,700 appeals cases brought before it, and in the first nine months of 2004 the court was overwhelmed with more than 70,000 appeals cases.²⁶

Algeria's judiciary is not independent from the executive branch. The lack of impartiality and independence of judicial authorities is widely criticized—even by the government itself. The Supreme Judicial Council (CSM), headed by the president, is constitutionally responsible for assigning, promoting, and transferring judges. In practice, the ministry of justice plays a leading role in determining the career paths of judges. Thus, judges, prosecutors, and magistrates are averse to making judicial decisions contrary to government expectations for fear of imperiling their careers. Judges who criticize political manipulation of the judiciary have in some cases been sanctioned, suspended, or transferred. The CSM meets on a regular basis to impose sanctions on individual judicial officials who abuse their power.

The judiciary's serious deficiencies weaken the rule of law. Public perception of corruption and bribery in the judicial system is widespread. Examining judges liberally use—and abuse—their power to commit suspects to prison pending trial. Magistrates typically overlook judicial irregularities such as summary investigations or suspects' statements made under duress. Magistrates are overwhelmed by large caseloads. New judges receive adequate general training at the National Judicial Institute, but they frequently lack specialized training, particularly in the rising body of international agreements to which Algeria is a signatory.

President Bouteflika announced his intention to reform the system of justice after he was first elected in 1999. The National Assembly approved a bill in 1999 to redefine the statutes governing judges, but for three years the upper house refused to approve the bill. The Constitutional Council in 2002 rejected as unconstitutional a revised judicial reform bill, and the government in June 2004 introduced two draft bills

to reorganize the judiciary that addressed the technical concerns of the court. Among other things, the bills reportedly would strengthen the independence of the CSM, allow judges the right to form unions, and require magistrates to submit financial disclosure statements every five years.²⁷ President Bouteflika has stressed his goal of expanding the number of well-trained magistrates.

The constitution states that anyone charged with a crime is presumed innocent until proven guilty. It also recognizes the right of the accused to a lawyer and guarantees the right to defense in penal matters. However, the right to a fair trial is frequently undermined by the use of confessions under duress to produce convictions. Detainees suspected of serious crimes are routinely denied access to a lawyer, often held incommunicado, and prevented from contacting family members—all in violation of the penal code. Many lawyers are loath to accept cases involving accused terrorists for fear of retribution. Large caseloads give strong incentives for magistrates to accept the state's version of events in order to avoid long trials.

Since his reelection in April 2004 President Bouteflika has sought to reassert the power of the civilian presidency over the military, but current and retired officers—often referred to as *le pouvoir*—remain important decision makers. Major-General Larbi Belkheir, a former interior minister and organizer of the 1992 coup, has been Bouteflika's cabinet director since 1999. Major General Smail Lamari has been head of the Direction of Counter-Espionage since 1990. Another important decision maker for more than a decade is Major-General Mohamed "Tewfik" Médiène—head of military security. General Muhammad Lamari—a coup ringleader and army chief of staff since 1993—resigned in July 2004, a move some observers believe may allow Bouteflika to assert some control over the largely autonomous military. In August 2004 Bouteflika—who retains the post of minister of defense—nominated new commanders for military regions. He also issued a presidential decree creating the position of general secretary within the ministry of defense.

The Algerian constitution guarantees the right to own private property. However, poorly defined land-ownership statutes make it difficult for many citizens to enforce their property rights and to gain access to property. The most valuable land in Algeria is considered property of the state, which has controlled it since abandonment by French colonists during the independence movement. A 1987 law grants collectivized

groups of farmers long-term usufruct rights on state-owned land—and ownership of buildings and machinery—but it bars farmers from selling the land.

In the face of a proliferation of illegal transactions and illegal housing construction on this state-owned land, President Bouteflika in September 2004 indicated his government would press for a new law granting long-term land concessions to newly created farming enterprises. Concession shares could be bought by outside investors, but the state would still own the land and ensure it is only used for agricultural purposes.²⁸ While the government is reluctant to privatize agricultural land and industrial real estate fully, it issued an executive decree in August 2003 that allows the occupants of more than 600,000 state-owned apartments and 44,000 state-owned commercial properties to purchase their units from the state.

Recommendations

- To ensure the protection of judicial officials from executive interference, the Supreme Judicial Council should be composed of a majority of magistrates who are elected by their peers, granted financial autonomy from executive control, and empowered to nominate and assign judges free from executive interference.
- A new statute should be enacted to permit judges and lawyers to form autonomous trade unions with the legal right to negotiate professional matters with officials in the executive branch.
- Steps must be taken to reassert civilian authority over the military, including by the appointment of a civilian minister of defense and sanctioning of officers who interfere in judicial proceedings.

ANTICORRUPTION AND TRANSPARENCY – 2.55

Despite nearly 15 years of economic reform, Algeria has yet to make the transition to a stable market economy. The state maintains a leading role in the economy as an employer, investor, and regulator. Although the private sector has significantly increased its contribution to gross domestic product, particularly in the retail, construction, and transportation sectors, it still accounts for less than one-fourth of total industrial production (excluding the oil sector).²⁹ Bureaucratic regulations pose a major impediment to the efficiency of the market, and laws governing

economic activities are piecemeal, poorly implemented, and largely inconsistent with the demands of a market economy.

The government does a poor job of disseminating economic information and has a weak statistical collection capability. Public access to information involving legal proceedings is limited. Citizens face serious impediments when seeking information about government operations, and petitions to gain access to information from agencies rarely succeed. Budget formation is largely monopolized by the executive branch with little formal input from civic groups. The annual budget law is subject to review by the National Assembly—which typically presses for amendments—but legislators have little ability to oversee executive spending once a budget is passed. An audit court is responsible for controlling a posteriori the finances of the state and the public services. Its reports—sent annually to the president—are not published.

The International Monetary Fund (IMF) reports that the pace of reforms in Algeria has slowed markedly since 2001.³⁰ Dramatically higher oil revenues in the past two years—permitting an accumulation of more than US\$37 billion in foreign exchange reserves by September 2004—have dampened enthusiasm for structural economic reforms.³¹ The government's current emphasis on expansionary fiscal policies will complicate efforts to increase transparency in the budget process and to enhance parliamentary oversight of government accounts.

Only a small portion of the largest public enterprises have been privatized in the past decade. Full or partial sales of state-owned enterprises ground to a halt in 2003. Poorly managed public banks continue to dominate the financial system, holding 90 percent of long-term loans and more than 80 percent of banking deposits. The treasury has repeatedly recapitalized these banks, which continue to provide huge lines of credit to unprofitable state enterprises. Auditing and accounting practices for public banks and state enterprises are generally poor and non-transparent.³²

Data from the World Bank's Investment Climate Surveys reveal broad governance problems in the economy. One 2003 survey of more than 500 Algerian enterprises revealed that nearly 45 percent of respondents indicated that interpretation of regulations is unpredictable, and one-fourth lacked confidence that courts would uphold property rights.³³ More than one-third of the businesses indicated that tax administration was a major constraint. A separate World Bank database, the

Doing Business Project, indicates that Algerian businesses face significant barriers to starting up, hiring and firing workers, getting credit, and enforcing contracts.³⁴

Corruption is pervasive in Algeria. International reports and newspaper accounts point to a systemic problem that stems from ineffective enforcement of laws, over-bureaucratization, and the breakdown of some government controls during civil conflict in the 1990s. Algeria's score in Transparency International's 2004 Corruption Perceptions Index, 2.7 out of 10, puts it among the five most corrupt countries in the Middle East and North Africa.³⁵ Algerian businesspeople acknowledge the necessity of bribing officials to obtain licenses and administrative approvals. They frequently accuse the judiciary of failing to protect their legal rights.

It is widely believed that military officers have abused their authority by controlling a wide range of economic activities. They are accused of forming alliances with civilians to control the importing and distribution of foodstuffs and medicine, to siphon off the output of public enterprises, and to steal public funds. The expression "political-administrative mafia" is often used to describe officials who utilize their public offices for private economic gain. Government officials and military officers are believed to use sanitary inspections, customs regulations, and their influence with magistrates to harass private companies that compete with their clientelistic economic networks.³⁶

The Algerian media regularly report on alleged corruption. The private Association to Fight Corruption has been active in calling for investigations of corruption and the strengthening of laws against it. However, whistle-blowers in the public sector face harassment, and several journalists who reported on corruption in 2004 were put on trial for libel and defamation (see "Accountability and Public Voice"). Ex-government officials sometimes raise allegations of malfeasance, but they have little power to compel investigation of the charges. In the face of widespread accusations of favoritism in the granting of public contracts, the president in 2002 issued a decree requiring the government to publish provisional awards of contracts so that unsuccessful bidders may appeal government decisions.

The belief is widespread that those convicted of economic and administrative crimes are low-level operatives and that truly guilty high-ranking officials are immune from prosecution. In the past 15 years, the government has formed a number of commissions of inquiry to inves-

tigate a variety of administrative and financial scandals, but reports of these commissions are almost never released to the public, and few people are found guilty. For example, no indictments have resulted from an inquiry launched in 2003 into official responsibility for damage and loss of life during an earthquake that year, even though a commission appointed by the housing ministry found that the state had failed to enforce building codes.³⁷

Since 2003 the government has shown some dynamism in investigating one of the worst financial scandals in Algerian history. Investigators in that year found that the privately owned Khalifa Group had committed serious financial irregularities and fraudulent practices that may have resulted in the transfer of several billion dollars out of the country. There are accusations that government officials illegally bestowed favors on the group in exchange for bribes and kickbacks. A number of officers and employees of Khalifa Bank and the Khalifa Group have been charged, and the government continues to pursue indictments and convictions in the affair.³⁸ In September 2004, Algerian newspapers reported that an Algerian court had charged Abdelouhab Keramane, a former governor of the Central Bank, with involvement in the Khalifa affair.³⁹ He is the first high-ranking government official to be charged. In another response to the scandal, Prime Minister Ouyahia in August 2004 issued instructions stipulating that public funds could be held only in public banks.⁴⁰

Recommendations

- The government should accelerate privatization of public banks and state enterprises with full public disclosure of sales and with provision of a social safety net for displaced workers.
- Increased enforcement of anticorruption provisions in existing laws should proceed in tandem with enhancement of judicial independence, protection of freedom of expression for civic organizations, and creation of an independent anticorruption office capable of monitoring the performance of the executive branch.
- The government should consult more systematically with private sector associations during drafting of economic laws and administrative decrees. Commercial laws and real estate laws should be streamlined to enhance property rights and reduce bureaucratic impediments to private investment.

- The government should take steps to enhance its data-collection capacity and significantly expand public access to economic and administrative data.

NOTES

- ¹ “Diminishing Returns: Algeria’s 2002 Legislative Elections” (Brussels: International Crisis Group, 24 June 2002).
- ² Youcef Brahimi, “Fin des travaux de la commission technique de revision de la Constitution,” *Le Jeune Indépendant*, 19 September 2004.
- ³ Olivier Pierre-Louveaux, “The Presidential Elections of the 8th April 2004 in Algeria,” in *Security in the Mediterranean and Beyond: A Collection of Essays*, ed. Bruce George, 2004, <http://www.rthonbrucegeorgemp.co.uk>.
- ⁴ Ibid.
- ⁵ “Algeria – Annual Report 2004” (Paris: Reporters without Borders, 2004), http://www.rsf.org/article.php3?id_article=9921.
- ⁶ “Mohamed Benchicou, Le Matin; Legal Action, Imprisoned” (New York: Committee to Protect Journalists [CPJ], 14 June 2004), http://www.cpj.org/cases04/mideast_cases04/algeria.html.
- ⁷ “Profile of Internal Displacement: Algeria” (Geneva: Norwegian Refugee Council/Global IDP Project, 2004).
- ⁸ “Algeria” (New York: Amnesty International [AI], 2004), <http://web.amnesty.org/web/web.nsf/print/2004-dza-summary-eng>.
- ⁹ Jeanne Kervyn and François Gèze, “L’organisation des forces de répression” (Paris: Comité Justice pour l’Algérie, September 2004), http://www.algerie-tpp.org/tpp/pdf/dossier_16_forces_repression.pdf.
- ¹⁰ Souhila Hamadi, “L’Etat veut disarmer les Patriotes en Algérie,” *Liberté*, 17 May 2004.
- ¹¹ “Algérie: La machine de mort” (Paris and Berlin: Algeria-Watch [AW], October 2003), http://www.algeria-watch.org/fr/mrv/mrvtort/machine_mort/machine_mort.htm.
- ¹² “1100 Exécutions Sommaires” (AW, April 2003), http://www.algeria-watch.org/mrv/2002/1100_executions/1100_executions_A.htm.
- ¹³ “L’appareil judiciaire mis en cause,” *L’Expression*, 9 December 2004.
- ¹⁴ “Algeria: Steps Toward Change or Empty Promises?” (AI, 16 September 2003), <http://web.amnesty.org/library/Index/ENGMDE280052003?open&of=ENG-DZA>.
- ¹⁵ Samia Lokmane and Souhila Hammadi, “La liberté conditionnelle favorisée,” *Liberté*, 6 September 2004.
- ¹⁶ “Time for Reckoning: Enforced Disappearances in Algeria” (New York: Human Rights Watch [HRW], February 2003).
- ¹⁷ Mohamed Abdoun, “À coeur ouvert avec L’Expression: Farouk Ksentini,” *L’Expression*, 6 September 2004.
- ¹⁸ “Truth and Justice on Hold: The New State Commission on ‘Disappearances’” (HRW, December 2003), <http://www.hrw.org/reports/2003/algeria1203/algeria1203.pdf>.

- ¹⁹ “T”Kout, Tizi-Ouzou, Serkadji, Châteauneuf . . . La torture au coeur du système de pouvoir en Algérie” (AW, 5 June 2004), http://www.algeria-watch.de/fr/aw/aw_tkout.htm.
- ²⁰ “Le directeur général de la police dresse le bilan de la situation sécuritaire,” *La Tribune*, 18 December 2004.
- ²¹ “Algeria: Unrest and Impasse in Kabylia” (Brussels: International Crisis Group, 10 June 2003).
- ²² Samar Smati, “À l’épreuve des violences contre la femme,” *Le Quotidien d’Oran*, 20 September 2004.
- ²³ “Algerian single mothers get aid,” BBC News, 28 September 2004, <http://news.bbc.co.uk/go/pr/fr/-/1/hi/world/africa/3697836.stm>.
- ²⁴ “Communiqué du Conseil de Gouvernement,” 18 August 2004, <http://www.cg.gov.dz/dossiers/communiques/Conseil%20GVT/com-cg-18-08-2004.htm>.
- ²⁵ Younes Hamidouche, “La femme algérienne et le marché du travail,” *La Tribune*, 7 December 2004.
- ²⁶ “Bouteflika favorable à la révision du code de la famille,” *El Watan*, 11 October 2004.
- ²⁷ “Le statut des magistrats et le Conseil supérieur de la magistrature débattus hier à l’APN,” *La Tribune d’Algérie*, 28 June 2004.
- ²⁸ Boudedja Nora, “Avant projet de loi sur le foncier relevant du domaine privé de l’état,” *El Watan*, 12 October 2004.
- ²⁹ “Algeria: Financial System Stability Assessment, Including Reports on the Observance of Standards and Codes on the Following Topics: Monetary and Financial Policy, Transparency and Banking Supervision” (Washington, D.C.: International Monetary Fund [IMF], May 2004), 9.
- ³⁰ “Algeria: 2003 Article IV Consultation—Staff Report; Staff Statement; Public Information Notice on the Executive Board Discussion; and Statement by the Executive Director for Algeria” (IMF, February 2004), 26.
- ³¹ “Benachenhou: “40 milliards de dollars à fin 2004,” *Liberté*, 30 October 2004.
- ³² “Algeria: Financial System Stability Assessment” (IMF, May 2004), 10.
- ³³ *World Development Report 2005: A Better Investment Climate for Everyone* (Washington, D.C.: World Bank, 2004), 246–47.
- ³⁴ *Ibid.*, 248–49.
- ³⁵ “Corruption Perceptions Index” (Berlin: Transparency International [TI], 2004).
- ³⁶ Omar Benderra and Ghazi Hidouci, “Algérie: économie, prédation et Etat policier” (Comité Justice pour l’Algérie, May 2004), http://www.algerie-tpp.org/tpp/pdf/dossier_14_economie.pdf.
- ³⁷ “Conclusions de l’enquête sur le séisme du 21 mai 2003,” *Liberté*, 23 March 2004.
- ³⁸ Salima Tlemçani, “L’affaire Khalifa en déballage,” *El Watan*, 5 September 2004.
- ³⁹ “Affaire Khalifa Bank,” *Le Quotidien d’Oran*, 7 September 2004.
- ⁴⁰ “Ahmed Ouyahia justifie l’instruction sur les banques publiques,” *Le Quotidien d’Oran*, 5 September 2004.

