

INCREASING RESTRICTIONS ON THE FREEDOM OF RELIGION OR BELIEF OF THE CHRISTIAN COMMUNITY

EXECUTIVE SUMMARY

In September 2006 Algeria adopted a law entitled 'Conditions and Rules for the Exercise of Religious Worship other than Islam', and in May 2007 two presidential decrees were issued, establishing the government committees required to enforce this law. The 2006 law effectively criminalises the internationally recognised freedoms of association and of religion or belief – specifically, the right to adopt a religion or belief of one's choice and the freedom to manifest one's religion. It also has negative implications for religious minorities who seek to propagate their faith peaceably.

During 2006 and 2007 CSW expressed concerns that the law could be misused to suppress the rights of the country's Christian minority, which makes up less than 1% of the population. Unfortunately, these reservations have been proven correct. Since then multiple Christian leaders have been accused of proselytism and blasphemy under the new law, and threatened with imprisonment and monetary fines. In addition, local authorities have closed at least 35 churches since 2006.

Algeria is party to the International Covenant on Civil and Political Rights (ICCPR), which protects the freedoms of religion or belief, assembly and association. Algeria has also adopted the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, which reaffirms the right of an individual to choose their faith and manifest it alone or with others, both in public and in private. The country's own constitution protects freedom of worship under Article 42.

RECOMMENDATIONS

To the international community:

- Urge the government of Algeria to:
- Repeal the 2006 law, which violates international human rights standards to which the country is party.
- Guarantee due process for Christian leaders accused under this law.
- Ensure the physical safety of Christian leaders who have been receiving threats from various groups.
- Take steps to address the widespread propaganda and disinformation against Christians in the media, without compromising the independence of the press.
- Take immediate steps to ensure the reopening of churches in Oran, Ouargla, Tizi Ouzou and Bejaia, and to guarantee that no more churches and congregations are closed.
- Facilitate direct interaction with credible Christian leaders in order to address the community's concerns.

RECENT DEVELOPMENTS

Over the last two decades the growth in the number of Muslim converts to Christianity has become a widely reported and regularly debated topic in the Algerian media. Anti-Christian attitudes are common in media outlets, particularly those linked with Islamist and Arab nationalist movements. Reports allege that Christians are inducing conversions by providing money and foreign visas, and that these actions pose a grave danger to the country. Christians are commonly portrayed as part of a wider western conspiracy against Arabs and Muslims, and as attempting to shake the faith of the nation by using visas and financial incentives to encourage conversions. Similar views are expressed against the Shi'a, linking them to an alleged Iranian conspiracy.

Various Muslim groups, politicians and intellectuals have formed committees to 'uncover' Christian activities, and have called on the government to respond with strong measures targeting churches.

These sentiments are creating an environment hostile towards religious minorities. Many Christians and church leaders have been attacked verbally and threatened by members of the public. They have been intimidated and regularly summoned by the police for interrogation, and on many occasions stones and refuse have been thrown at churches.

Over the last few months the authorities have closed down a number of churches and Christian bookshops in Oran, Tiaret and Ouargla. On 18 January 2018 the National Commission responsible for overseeing places of worship for non-Muslims inspected all Christian places of worship in Tizi Ouzou. Subsequently several churches received notices demanding they cease activities because they had been found by the commission to be 'illegal'. Some of these churches had existed for over 17 years. The most recent wave resulted in the closures of three formal churches and two house churches, and notices of closure being sent to seven other churches. The local authorities cited registration requirements under the 2006 law to support their claims.¹

¹ Details of these closures have been withheld in this report for security reasons.

Other legal provisions have been used to harass the Christian community, including Ordinance 6-3 of 2006 (proselytism), Article 144(2) of the penal code (the blasphemy law) and laws pertaining to personal status (civil and marriage issues). This has caused an increase in the arrests of Christians.² In January 2018 Pastor Nouredine Belabed, the pastor of a church in Tiaret Province that had been ordered to cease its activities, was charged with proselytism and sentenced to two years' imprisonment. He is appealing the sentence.

ANALYSIS OF THE 2006 LEGISLATION

BACKGROUND

Algeria has a population of 40 million people (July 2016 estimates), 99% of whom are Muslim.³ In September 2006 new legislation came into effect defining 'the conditions and rules for the exercise of religious worship other than Islam'.

The legislation begins by emphasising the country's responsibility to guarantee tolerance and respect between different religious traditions, and underlines the importance of non-discrimination in matters of religion. It goes on to effectively criminalise the internationally recognised freedoms of assembly, association, and religion or belief, in particular the right to adopt a religion or belief of one's choice and the freedom to manifest one's religion. It also has negative implications for religious minorities who seek to propagate their faith peaceably.

RIGHTS OF ASSEMBLY AND ASSOCIATION

Articles 6 to 9 limit any meeting of a religious nature to a building that has been approved and registered by a new organisation, the National Commission on Religious Worship, created by the Ministry of Religious Affairs and of Waqfs. All such religious gatherings must be open to the public and announced in advance. According to Article 13, the sentence for conducting a religious gathering outside officially recognised buildings, for example in 'house churches', is a prison term of between one and three years, and a monetary fine of 20,000-60,000 Dinars (approximately USD1,400-4,200).

RIGHT TO MANIFEST RELIGION AND PENALTIES FOR PROSELYTISM

Article 11 stipulates a prison term ranging from two to five years and a fine of 500,000-1 million Dinars (approximately USD7,000-14,000) for anyone who 'incites, constrains or uses any seductive means aimed at converting a Muslim to another religion, or uses to this end establishments for teaching, education or health; organisations of a social or cultural nature; training institutions, or any other establishment, or any financial means'. It also penalises anyone who 'makes, stores, or distributes printed documents or audio-visual productions or who makes use of any other support or means that aim to shake the faith of a Muslim.' The punishment is increased if such 'crimes' are committed by a clergyman or a leader of the community.

Vague phrases such as 'seductive means' or 'aim to shake the faith of a Muslim' are of great concern, as this ambiguity could facilitate malicious prosecutions against members of minority faiths.

FURTHER LIMITATIONS ON FREEDOM OF RELIGION OR BELIEF

The legislation also limits the ability of churches to collect tithes, gifts or offerings from their congregations. Article 12 states that anyone found to have access to money collected from the public, or who accepts gifts without official authorisation, will be sentenced to a prison term of between one and three years and a fine of between USD1,400-4,200.

In an apparent attempt to forestall any opposition to this legislation, Article 10 stipulates a prison sentence of between one and three years and a fine of between USD3,500-7,000 for anyone who incites resistance to the execution of this law or any decision of the authorities. If the incitement results in action the punishment will be even more severe, although the law does not specify what this will entail.

Finally, a foreigner who falls foul of this legislation will face imprisonment and will subsequently be denied residency in Algeria, either indefinitely or for a period of no less than ten years. If the law is violated by a legal entity, Article 15 stipulates a fine, which cannot be less than four times the maximum of a fine levied against an individual who has contravened the law in a similar manner. The 'means and the material utilised' during this breach of the law can be confiscated, the legal entity may be banned from 'observing any religious activity', and it may even face dissolution.

LEGAL RAMIFICATIONS

While the legislation opens with an affirmation of the guarantees of religious freedom contained within the constitution, it severely limits the freedoms of conscience and opinion, contradicting Article 36 of the constitution, which describes these rights as inviolable. Article 41 guarantees the freedoms of expression, association and assembly. In addition, Algeria has ratified several international human rights instruments (see

² Personal details have been withheld in this report for security reasons.

³ United States Department of State, *Algeria 2016 International Religious Freedom Report* www.state.gov/documents/organization/269128.pdf

below), and according to Article 132 of the constitution these international commitments take precedence over domestic law.

VIOLATIONS OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

Algeria is party to the International Covenant on Civil and Political Rights (ICCPR). The 2006 legislation violates Articles 21 and 22 of the ICCPR, which stipulate the rights of assembly and association respectively; and Article 18, which states:

Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

In Article 18(3) the ICCPR permits restrictions on the freedom to manifest religion or belief only if these limitations are prescribed by law and are necessary to protect public safety, order, health, morals, or the fundamental rights and freedoms of others. General Comment 22 – the authoritative interpretation of Article 18 of the ICCPR, issued by the Human Rights Committee at the forty-eighth session of the UNCHR in 1993 – lends substantive content to Article 18:

In interpreting the scope of permissible limitation clauses, States parties should proceed from the need to protect the rights guaranteed under the Covenant, including the right to equality and non-discrimination on all grounds specified in Articles 2, 3 and 26. Limitations imposed must be established by law and must not be applied in a manner that would vitiate the rights guaranteed in Article 18. The Committee observes that paragraph 3 of Article 18 is to be strictly interpreted: restrictions are not allowed on grounds not specified there, even if they would be allowed as restrictions to other rights protected in the Covenant, such as national security. Limitations may be applied only for those purposes for which they were prescribed and must be directly related and proportionate to the specific need on which they are predicated. Restrictions may not be imposed for discriminatory purposes or applied in a discriminatory manner. The Committee observes that the concept of morals derives from many social, philosophical and religious traditions; consequently, limitations on the freedom to manifest a religion or belief for the purpose of protecting morals must be based on principles not deriving exclusively from a single tradition.

The 2006 legislation appears to vitiate the rights guaranteed in Article 18 of the ICCPR: restrictions are applied in a discriminatory manner, as they apply only to religious minorities. It would appear that the limitations on the freedom to manifest a religion or belief are aimed at discouraging conversion from Islam, and are based

on principles deriving from a single religious tradition (Islam).

Article 27 of the ICCPR states: 'In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.' The 2006 legislation constitutes an unequivocal violation of this binding article.

VIOLATIONS OF THE DECLARATION ON THE ELIMINATION OF ALL FORMS OF INTOLERANCE BASED ON RELIGION OR BELIEF

Algeria is also party to the Declaration on the Elimination of All Forms of Intolerance Based on Religion or Belief, which reaffirms the right of an individual to choose their faith and manifest it alone or with others, both in public and in private. Among other things, Article 2 of the Declaration describes any restriction based on religion or belief that nullifies or impairs the enjoyment of the rights enshrined within it as 'intolerance and discrimination based on religion or belief', while Article 3 strongly condemns such discrimination as an 'affront to human dignity', a 'disavowal of the principles of the Charter of the United Nations' and a 'violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and enunciated in detail in the International Covenants on Human Rights'.

Article 6 articulates the freedom to worship and assemble, and maintain places for these purposes; to make, acquire and use necessary articles and material related to the rites or customs of a given belief; and to write, issue and disseminate relevant publications. The 2006 legislation is in clear violation of these freedoms.

CONCLUSION

The 2006 legislation entitled 'Conditions and Rules for the Exercise of Religious Worship other than Islam' appears to be designed to limit and control the religious activities of non-Muslim communities, and to legislate against the conversion of Muslims. As well as violating Algeria's constitutional and international obligations, and despite having been propagated by a government that has sought to promote reconciliation following the wounds of civil war, the Act alienates sectors of the population, facilitating the harassment of non-Muslim citizens.

Algeria has traditionally shown tolerance towards religious minorities. However, this law, and its current implementation, represent a backward step. If the problems created by the Act are not addressed, and the increasing denigration of the Christian community in national media and threats against Christians and their leaders continues unchecked, the situation for freedom of religion or belief will continue to deteriorate, and could eventually lead to persecution as defined in the Rome Statute.⁴

⁴ The Rome Statute defines 'persecution' as 'the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity'.