

briefing

Algeria

Increasing persecution of Christians in Algeria and the application of legislation defining 'conditions and rules for the exercise of religious worship other than Islam'

FOR PUBLIC USE

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Table of contents:

1. Executive Summary.....	3
2. Recommendations.....	3
3. Recent Developments.....	3
4. Analysis of the 2006 Legislation defining Conditions and Rules for the Exercise of Religious Worship other than Islam	4
4.1. Background.....	4
4.2. Rights of Assembly and Association.....	4
4.3. Freedom to Manifest and Propagate Faith, and Penalties for Proselytism	4
4.4. Further Limitations on Freedom of Religion.....	5
4.5. Legal Ramifications of the New Legislation	5
5. Conclusion.....	7

1. Executive Summary

During 2006 and 2007, Christian Solidarity Worldwide (CSW) raised concerns over a new Algerian law entitled “The conditions and rules for the exercise of religious worship other than Islam”. This law was adopted in September 2006. In May 2007, two Presidential decrees were issued which established the government committees required to enforce the law. The new law effectively criminalizes the basic, internationally recognised rights of freedom of assembly, association, and the freedom to manifest a religion. It also has negative implications for the right of religious minorities engaged in propagating their faith amongst Muslims.

CSW has been concerned over the potential misuse of this law to suppress the rights of the small Christian population in the country. Sadly, these initial reservations have proven justified. The new law has opened the way for Christian leaders to be accused of proselytism and blasphemy, and they have been threatened with imprisonment and monetary fines. It has also led to the closure of ten churches by local authorities. CSW calls upon the international community to press the Algerian government to repeal this law, which contravenes international human right standards; to ensure a fair trial for those currently accused under the new law and to re-open closed churches.

2. Recommendations

CSW urges the international community to press the Algerian Government to:

- Guarantee fair trials for Christian leaders accused under the new law.
- Ensure the physical safety of these individuals, who have been receiving death threats from various groups.
- Take steps to address wide-spread 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 Ait Amar, Ait Djemaa, Bachloul, Boughni, Ouargla, Tiaret and Tizi Ouzou and to guarantee that no further churches and congregations will be closed.
- Provide for the official recognition of the Christian community in Algeria and to facilitate direct interaction with them in order to address concerns.
- Repeal the new law on grounds that it is incompatible with international human rights standards.

3. Recent Developments

At the start of 2008, the issue of the growing numbers of Muslim converts to Christianity in Algeria became a widely debated and reported topic in the Algerian media. The reports alleged that Christians had been inducing conversions by providing money and foreign visas and that these actions posed a grave danger to the nation. Various Muslim groups, politicians and intellectuals have formed committees to ‘uncover’ Christian activities and have called on the government to respond with strong measures against the Christian churches. This has led to a number of worrying human rights abuses perpetrated against the small Christian population in Algeria.

Over the last few months, a total of ten Protestant churches have been ordered to stop their activities and cease their meetings¹. Local authorities have cited registration requirements under this new law to support the closures. At least seven Christian church leaders and ministers have been summoned to court and told that they will be sentenced to a monetary fine and imprisonment under the provisions of this law. They have been accused of proselytising to Muslims a religion other than Islam and blaspheming against the Prophet Muhammad. To date, three men have been acquitted. The remainder await an official decision from the courts.²

4. Analysis of the 2006 Legislation defining Conditions and Rules for the Exercise of Religious Worship other than Islam

4.1. Background

Algeria has a population of 33 million people, 99 per cent of whom are Muslim.³ The situation of the remaining religious minorities took a negative turn on 28 February 2006, when the Algerian parliament introduced new legislation defining “the conditions and rules for the exercise of religious worship other than Islam”. The law was published on 1 March 2006 in the Official Journal of the Algerian Republic and came into force in September 2006. In May 2007, two Presidential Decrees were issued to establish government committees required to enforce the law.

The legislation begins by emphasising Algeria’s responsibility to guarantee tolerance and respect between different religious traditions, and underlines the importance of non-discrimination in matters of religion. However, the new law then goes on to effectively criminalize the basic, internationally recognised rights of freedom of assembly, association, and the freedom to manifest a religion. It also has negative implications for the right of religious minorities engaged in propagating their faith amongst Muslims.

4.2. Rights of Assembly and Association

In Articles 6 to 9, the new legislation limits any meeting of a religious nature to a recognised building that has been approved and registered by a new organisation, the National Commission on Religious Worship, which is to be created by the Ministry of Religious Affairs and of Wakfs. In addition, all such religious gathering should hence forth be open to the public and announced in advance. According to Article 13 the punishment for conducting a religious gathering outside officially recognised buildings, for example in ‘house churches’, is a term of imprisonment ranging from one to three years, and a monetary fine of between US\$1,400 to 4,200.

4.3. Freedom to Manifest and Propagate Faith, and Penalties for Proselytism

Article 11 of the new legislation stipulates a prison term ranging from two to five years and a fine of between US\$7,000 -14,000 for anyone who “incites, constrains or uses any seductive

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

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

³ <https://www.cia.gov/cia/publications/factbook/geos/ag.html>

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 audiovisual productions or who makes use of any other support or means that aims 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.

Elusive terms such as "seductive means" or "aims to shake the faith of a Muslim" are of great concern, and many fear that this vagueness will facilitate malicious prosecutions against religious minorities.

4.4. Further Limitations on Freedom of Religion

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 authorisation from the legally approved authorities will be sentenced to a prison term of between one and three years and will face a fine ranging from US\$1,400- 4,200.

In an apparent attempt to forestall any opposition to the provisions of this legislation, Article 10 stipulates a prison sentence of between one and three years and a fine of between US\$3,500-7,000 for anyone who incites resistance to the execution of this law or any decision of the public authorities". If the incitement results in action, then 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. However, if the law is broken by a legal entity, Article 15 of the legislation 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. In addition "the means and the materials utilized" during this breach of the law can be confiscated, the "legal entity" could be banned from "observing any religious activity", and it may even face dissolution.

4.5. Legal Ramifications of the New Legislation

The new law severely impinges on the rights of Algeria's religious minorities and appears to be at odds with provisions within the Algerian Constitution and also with several human rights treaties to which the nation is party.

While it opens with an affirmation of the guarantees of religious freedom contained within the 1996 Algerian Constitution, the new legislation severely limits the freedoms of conscience and opinion, thereby contradicting Article 36 of the Constitution, which describes these rights as inviolable. Moreover, Article 41 of the Constitution guarantees the freedoms of expression, association and assembly. In addition, Algeria has ratified several international human rights instruments and according to Article 132 of the Constitution, these international undertakings are superior to Algerian law if they have been ratified by the President of the Republic in accordance with the conditions provided for by the Constitution.

In a report submitted in 2003 following a visit to Algeria⁴, the former United Nations Special Rapporteur on Freedom of Religion or Belief stressed that “international law guarantees the freedom to believe or not believe, just as it guarantees the freedom to adopt the religion or belief of one’s choosing”. Moreover, Algeria is a state party to the International Covenant on Civil and Political Rights (ICCPR). The new legislation violates Articles 21 and 22 of the ICCPR, which stipulate the right of assembly and association respectively. Article 18 of the Covenant reads:

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.

Consequently, the new legislation is also in violation of Algeria’s obligations under Article 18 of the ICCPR. Furthermore, Article 18.3 of the ICCPR permits restrictions on the freedom to manifest religion or belief only if 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, is the authoritative reflection of the requirements of Article 18 of the ICCPR issued by the Human Rights Committee at the forty-eighth session of the UNCHR in 1993. This document, which lends substantive content to Article 18, stipulates that:

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 new legislation in Algeria appears to vitiate the rights guaranteed in Article 18 of the ICCPR. Restrictions are also applied in a discriminatory manner as they apply only to religious minorities. It appears that the limitations on the freedom to manifest a religion or belief are for the purpose of protecting morals (since the legislation seeks to discourage conversion from Islam) and are based on principles deriving from a single tradition (Islam) which is contrary to General Comment 22, cited above.

Algeria was party to the adoption of 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. Amongst other things, Article 2 of Declaration describes any “restriction” based on religion and 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

⁴ ‘Civil and Political Rights, Including The Question of Religious Tolerance’, Mr. Abdelfattah Amor, Special Rapporteur on freedom of Religion or Belief, 9 January, 2003

discrimination as “an affront to human dignity”, a “disavowal of the Charter of the United Nations” and a “violation of the human rights and fundamental freedoms proclaimed within the Universal Declaration of Human Rights and enunciated in detail in the International Covenants on Human Rights”. Finally, Article 6 articulates the freedom to worship and assemble and maintain places for these purposes; to make, acquire and use necessary articles and materials related to rites or customs of a given belief, and to write, issue and disseminate relevant publications. Clearly, the restrictions imposed by the new legislation on the freedom to assemble in connection with a religion, the freedom to write, issue and disseminate relevant publications and the freedom to solicit and receive voluntary financial contributions are a clear violation of the explicit rights outlined within this Declaration. Moreover, Article 27 of the ICCPR states that “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 pending legislation constitutes an unequivocal violation of this binding article.

5. Conclusion

In summary, the new legislation in Algeria appears to be designed to limit and control the religious activities of non-Muslims and to legislate against any conversion of Muslims.

As the US State Department commented in its 2005 Religious Freedom report, Algeria has traditionally shown tolerance to religious minorities. This new law, and its current implementation, is a backward step for Algeria.

As well as amounting to a possible violation of Algeria’s constitutional and international obligations, this unfortunate act, propagated by a government that has sought to work for reconciliation following the wounds of the Civil War, serves to further alienate a sector of its own population and to incite persecution of non-Muslim citizens of Algeria.