

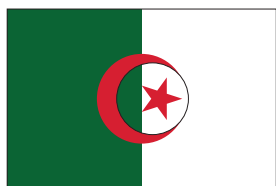
THE DEATH PENALTY IN LAW AND PRACTICE

ALGERIA



EC
PM TOGETHER
AGAINST
THE DEATH
PENALTY

الرابطة
LADDH



STATUS:
MORATORIUM ON EXECUTIONS

DATE OF LAST EXECUTION:
1993

NUMBER OF DEATH SENTENCES PASSED IN 2021:
9

NUMBER OF PRISONERS ON DEATH ROW AT THE END OF 2021:
+ 1,000
[SOURCE: AMNESTY INTERNATIONAL]

IMPLEMENTATION OF THE DEATH PENALTY AND CONDITIONS OF DETENTION FOR DEATH ROW PRISONERS

SITUATION OF DEATH ROW PRISONERS

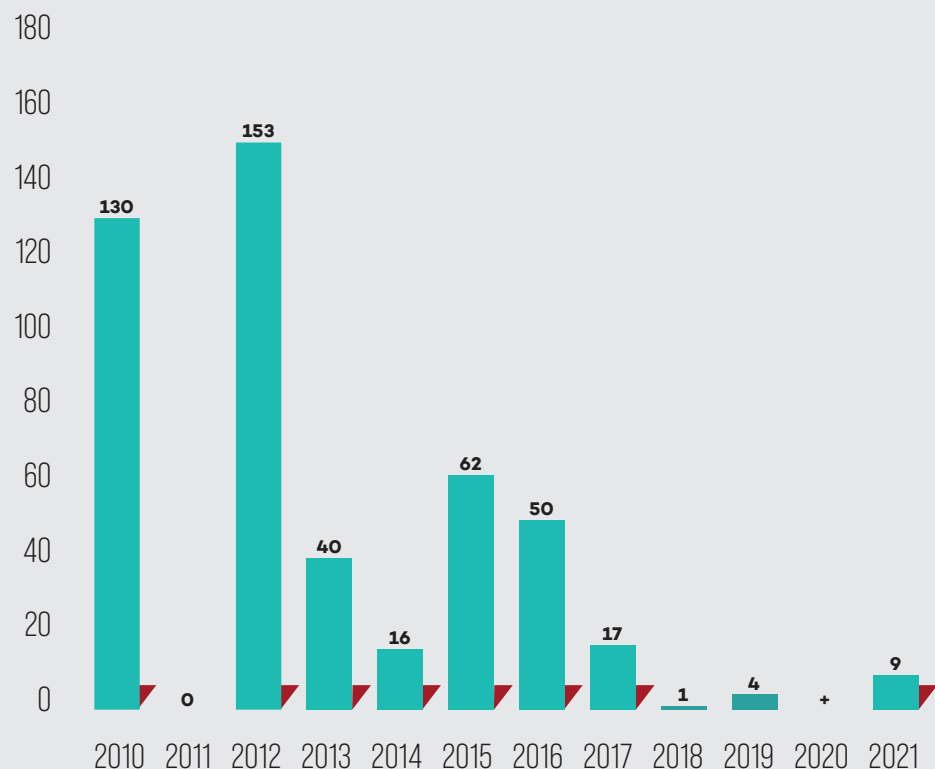
It is particularly difficult to access accurate data on the use of capital punishment in Algeria. There is an almost total lack of transparency. Statistics on the number of death sentences and the number of prisoners on death row are particularly difficult to establish and disaggregated data is almost non-existent. Due to the lack of official information and the difficulty of gaining access to places of detention, the places of detention of death row prisoners are difficult to identify. Article 168 of the Code on the Organisation of Prisons and the Social Reintegration of Prisoners penalises anyone who publishes or contributes to the production of data on the use of the death penalty other than that provided by the Ministry of Justice.

According to the Code on the Organisation of Prisons and the Social Reintegration of Prisoners, prisoners sentenced to death are subject to a special detention regime in that they must be held in individual cells for the first 5 years of detention.

PARDON

Article 91(8) of the revised Constitution of 2020 states that the President has the power to grant pardon, remission or commutation of sentence. Anyone sentenced to death therefore has the right to seek a pardon or reduction of sentence. However, the pardon procedure is very unclear. According to Article 155 of the Code on the Organisation of Prisons and the Social Reintegration of Prisoners, "implementation of the death penalty can only take place after rejection of the petition for pardon." Article 156 adds that "rejection of the petition for pardon may only be notified to the prisoner at the time of implementation of the death penalty." In the early 2000s, when Algeria was taking steps to reduce the scope of the death penalty, the President pardoned 215 death row prisoners in 2001 and 200 in 2006. In July 2022, the President signed a presidential decree pardoning 14 death row prisoners who had their sentences commuted to 20 years' imprisonment.

EVOLUTION OF THE NUMBER OF DEATH SENTENCES OVER THE LAST 11 YEARS



NATIONAL LEGAL FRAMEWORK

CONSTITUTION

The Constitution adopted in March 1996 and revised in 2016 did not address the death penalty or the right to life. However, Article 39 guaranteed the inviolability of the human person and stated that “any form of physical or moral violence or infringement of dignity shall be prohibited.”

On 1 November 2020, a referendum was held in which the Algerian population was invited to vote on a revision of the Constitution. This constitutional revision was approved by just over two-thirds of the votes cast, with a very high abstention rate as less than 24% of voters turned out to vote. Article 38 of the new Constitution states: “The right to life is inherent to the human person and must be protected by law. No one may be deprived of it except in cases provided for by law.” Article 39 of the 2020 Constitution adds: “The State guarantees the inviolability of the human person.”

PENAL CODE

Article 5 of the Penal Code provides that the death penalty is one of the main penalties in criminal cases. A large number of offences are punishable by death in Algeria. These include ordinary offences (murder, etc.) and specific military offences (desertion in the presence of the enemy, treason, espionage). Offences under ordinary law are prosecuted before the ordinary courts; offences of a political and military nature are prosecuted before the military courts.

There are thus 35 provisions on the application of the death penalty in the Penal Code.

MILITARY CODE

The provisions of the Military Code apply both in peacetime and in wartime. Military justice is dispensed by military courts, which are under the control of the Supreme Court. This Code applies to military personnel belonging to the “various branches and services”, as well as to persons assimilated to military personnel (Article 3). Crimes punishable by death include espionage, conspiracy, treason, but also desertion and intentional self-injury in the presence of the enemy. Some of these military offences, such as surrender and desertion, do not fall into the category of “most serious crimes” under international law.

There are a total of 24 legislative provisions on the application of the death penalty in the Military Code.

CODE ON THE ORGANISATION OF PRISONS AND THE SOCIAL REINTEGRATION OF PRISONERS

In this text, 10 articles provide for the trial, detention and execution of prisoners sentenced to death.

A total of 69 articles provide for and regulate the application of the death penalty.

LIST OF LEGISLATIVE PROVISIONS ON THE DEATH

PENAL CODE

PART ONE – BOOK 2 – TITLE II – CHAPTER III

Section II: MITIGATING CIRCUMSTANCES

Article 53 The sentence provided for by law against a convicted natural person, in whose favour mitigating circumstances have been recognised, may be reduced to:
1) ten (10) years' imprisonment if the crime is punishable by death; [...]

BOOK 3 – TITLE I – CHAPTER I

Section I: CRIMES OF TREASON AND ESPIONAGE

Article 61 Any Algerian national, any soldier or sailor in the service of Algeria, who:
(1) bears arms against Algeria;
(2) passes intelligence to a foreign power with a view to inciting it to undertake hostilities against Algeria, or provides it with the means to do so, by facilitating the penetration of foreign forces into Algerian territory, or by undermining the loyalty of the land, sea or air armed services, or in any other way;
(3) delivers to a foreign power or its agents Algerian troops or territories, fortress towns, structures, posts, warehouses, arsenals, equipment, ammunition, vessels, ships or air navigation equipment belonging to Algeria or assigned to its defence;
(4) with a view to harming national defence, destroys or damages any ship, air navigation device, equipment, supplies, construction or facility whatsoever, or, for the same purpose, causes, either before or after their completion, defects likely to damage them or to cause an accident;
shall be guilty of treason and shall be punished by death.
The provisions of Article 60 bis shall apply to the crime provided for in this Article.

Article 62 Any Algerian national, any soldier or sailor in the service of Algeria who, in time of war:
1) induces soldiers or sailors to enter the service of a foreign power, facilitates the means for them to do so or enlists them in the service of a power at war with Algeria;
2) passes intelligence to a foreign power or its agents with a view to favouring the endeavours of that power against Algeria;
3) hinders the circulation of military material;
4) knowingly participates in an endeavour to demoralise the army or the nation with the aim of harming national defence;
shall be guilty of treason and shall be punished by death.

Article 63 Any Algerian national who:

- 1) delivers to a foreign power or its agents, in any form and by any means whatsoever, any information, object, document or process which is required to be kept secret in the interests of national defence or the national economy;
- 2) secures, by any means whatsoever, the possession of such information, object, document or process with a view to delivering it to a foreign power or its agents;
- 3) destroys or allows to be destroyed such information, object, document or process with a view to favouring a foreign power;

shall be guilty of treason and shall be punished by death.

Article 64 Any foreign national who commits any of the acts referred to in Article 61(2), Article 61(3), Article 61(4), Article 62 and Article 63 shall be guilty of espionage and punished by death. Incitement to commit or offering to commit one of the crimes referred to in Articles 61, 62 and 63 and in this Article shall be liable to the same penalty as the crime itself.

Section III: ATTACKS, CONSPIRACIES AND OTHER OFFENCES AGAINST THE AUTHORITY OF THE STATE AND THE INTEGRITY OF NATIONAL TERRITORY

Article 77 An attack aimed at destroying or changing the regime, inciting citizens or inhabitants to take up arms against the authority of the state or to take up arms against each other, or undermining the integrity of national territory, shall be punished by death. The action or attempt to do so alone constitutes an attack.

Article 80 Those who raise armed troops or cause them to be raised, enlist or conscript soldiers, or cause soldiers to be enlisted or conscripted, or supply them with arms or ammunition, without the order or authorisation of the legitimate authority, shall be punished by death.

Article 81 Those who, without right or lawful reason, take any military command:

- those who, against the order of the government, retain such a command;
- commanders who maintain their army or troop assembled after its dismissal or separation has been ordered, shall be punished by death.

Section IV: CRIMES CAUSING STATE UNREST BY MASSACRE OR DEVASTATION

Article 84 Those who have committed an attack whose aim was to bring massacre or devastation to one or more municipalities shall be punished by death. The action or the attempt to do so alone constitutes an attack.

Article 86 Anyone who, with a view to causing state unrest by one of the crimes provided for in Articles 77 and 84, or by invading, pillaging or dividing up public or private property, or by attacking or resisting the law enforcement services acting against the perpetrators of these crimes, places himself at the head of armed gangs or exercises any function or command in them, shall be punished by death. The same penalty shall be applied to those who direct the association of gangs, form them or cause them to be formed, organise or cause them to be organised or knowingly and wilfully provide or procure for them subsidies, arms, ammunition and instruments of crime or send substances or who in any other way share intelligence with the directors or commanders of such gangs.

Section IV bis: CRIMES CLASSIFIED AS TERRORIST OR SUBVERSIVE ACTS

Article 87 bis Any act aimed at state security, territorial integrity, stability and the normal functioning of institutions by any action with the purpose of:

- sowing fear among the population and creating a climate of insecurity, by morally or physically harming people or endangering their life, freedom or security, or by damaging their property;
- hindering the movement or freedom of movement on the roads and occupying public places by assembling;
- attacking the symbols of the Nation and the Republic and desecrating graves;
- undermining means of communication and transport, public and private property, taking possession of it or occupying it unduly;
- harming the environment or introducing into the atmosphere, on the ground, underground or in the waters, including those of the territorial sea, a substance likely to endanger human or animal health or the natural environment;
- obstructing the action of the public authorities or the free exercise of worship and public freedoms as well as the functioning of establishments contributing to the public service;
- obstructing the operation of public institutions or endangering the lives or property of their agents, or obstructing the application of laws and regulations;
- hijacking of aircraft, ships or any other means of transport;
- damaging air, sea or land navigation facilities;
- destroying or damaging means of communication;
- taking hostages;
- attacks involving the use of explosives or biological, chemical, nuclear or radioactive materials;
- financing a terrorist or terrorist organisation;

shall be considered a terrorist act or sabotage.

Article 87 bis 1. For the acts referred to in Article 87 bis above, the penalty shall be:

- the death penalty where the penalty provided for by law is life imprisonment;
- life imprisonment where the penalty provided for by law is ten (10) to twenty (20) years' imprisonment;
- ten (10) to twenty (20) years' imprisonment when the penalty provided for by law is imprisonment for a term of five (5) to ten (10) years;
- doubled for sentences other than those mentioned above.

The provisions of Article 60 bis shall apply to the offences provided for in this Article.

Article 87 bis 7. Anyone who possesses, conceals, carries, markets, imports, exports, manufactures, repairs or uses prohibited weapons or ammunition without the authorisation of the competent authority shall be punished by a term of imprisonment of between ten (10) and twenty (20) years and a fine of between five hundred thousand (500,000) and one hundred thousand (1,000,000) dinars. Where the acts provided for in the preceding paragraph involve explosive substances or any other material used in their composition or manufacture, the perpetrator shall be liable to the death penalty. Anyone who sells, buys or distributes, imports or manufactures bladed weapons for illicit purposes shall be punished by imprisonment for a term of five (5) to ten (10) years and a fine of one hundred thousand (100,000) to five hundred thousand (500,000) dinars.

Section V: CRIMES COMMITTED THROUGH PARTICIPATION IN AN INSURRECTIONARY MOVEMENT

Article 89 Persons who, in an insurrectional movement:

- 1) seize arms, ammunition or equipment of any kind, by means of violence or threats, or by looting shops or posts, warehouses, arsenals or other public establishments, or by disarming law enforcement officers.
- 2) carry visible or concealed weapons or ammunition, or a uniform or costume, or other civil or military insignia.

shall be punished by life imprisonment.
Individuals who use their weapons shall be punished by death.

Article 90 Those who direct or organise an insurrectional movement or who knowingly and wilfully provide or procure arms, ammunition and instruments of crime, or send supplies, or who in any way pass intelligence to the directors or commanders of the movement, shall be punished by death.

CHAPTER V

Section I: ABUSE AND VIOLENCE AGAINST STATE OFFICIALS AND INSTITUTIONS

Article 148 Anyone who commits violence or assault against a judge or prosecutor, a civil servant, a public officer, a commander or a law enforcement officer in the performance of his duties or in the course of such duties shall be punished by imprisonment for a term of two (2) to five (5) years. [...]
Where the violence results in death and was committed with the intention of causing death, the penalty shall be death.

CHAPTER VII

Section VII: FALSE TESTIMONY AND FALSE OATH

Article 232 Anyone who gives false testimony in criminal cases, either against the accused or in his favour, shall be punished by imprisonment for five (5) to ten (10) years. If the person giving false testimony has received money, a reward of any kind or promises, the penalty shall be imprisonment for ten (10) to twenty (20) years. If the accused is sentenced to a penalty greater than fixed-term imprisonment, the person giving false testimony against him shall be liable to the same penalty.

Article 237 An interpreter who, in criminal, civil or administrative matters, knowingly distorts the substance of oral statements or documents translated orally, shall be punished by the penalties for forgery according to the distinctions laid down in Articles 232 to 235. [...]

Article 238 An expert who, appointed by the judicial authority, gives, orally or in writing, at any stage of the proceedings, a false opinion or asserts facts which he knows to be untrue, shall be liable to the penalties for giving false testimony in accordance with the distinctions provided for in Articles 232 to 235.

TITLE II - CHAPTER I

Section I: MURDER AND OTHER CAPITAL CRIMES AND WILFUL VIOLENCE

Article 261 Anyone guilty of wilful killing, parricide or poisoning shall be punished by death.

Article 262 All offenders, regardless of their denomination, who, in the execution of their crimes, use torture or commit acts of cruelty, shall be punished as guilty of wilful killing.

Article 263 Murder carries the death penalty when it precedes, accompanies or follows another crime.
Murder is also punishable by death when its purpose is to prepare, facilitate or carry out an offence, or to facilitate the escape or ensure the impunity of the perpetrators or accomplices of such offence. [...]

Article 271 Where the causing of bodily injury, violence, assault or deprivation referred to in Article 269 results in mutilation, amputation, deprivation of the use of a limb, blindness, loss of an eye or other permanent disability. [...]
If the causing of bodily injury, violence, assault or deprivation of property was carried out with the intention of causing death, the perpetrator shall be punished as guilty of wilful killing or of attempting to commit this crime.

Article 272 Where the offenders are the legitimate father or mother, other legitimate ascendants, or any other person with authority over the child or with custody of the child, they shall be punished: [...]
4) in the cases provided for in paragraphs 3 and 4 of Article 271 with the death penalty.

Article 274 Anyone who commits the crime of castration shall be punished by life imprisonment.
If death results, the offender shall be punished by death.

Article 283 Where the defence is proven, the penalty shall be reduced to:
1) imprisonment of one (1) to five (5) years, if the crime is punishable by death or life imprisonment; [...]

Article 293 bis Anyone who, by violence, threats or fraud, abducts or attempts to abduct a person shall be punished by imprisonment for a term of ten (10) to twenty (20) years and a fine of between DA 1,000,000 and DA 2,000,000. If the abducted person was subjected to torture or sexual violence, or if the purpose of the abduction was payment of a ransom or execution of a condition or order, the offender shall be punished by life imprisonment.
If the abducted person dies, the offender shall be liable to the penalty provided for in the first paragraph of Article 263 of this Code. Subject to the provisions of Article 294 below, the guilty party shall not benefit from the mitigating circumstances provided for by this Code.

Article 293 bis 1 Any person who, by violence, threats, fraud or any other means, abducts or attempts to abduct a minor under the age of eighteen (18) shall be punished by life imprisonment. If the abducted person has been subjected to torture or sexual violence or if the purpose of the abduction was the payment of a ransom or if the death of the victim follows, the offender shall be liable to the penalty provided for in the first paragraph of Article 263 of this Code. Subject to the provisions of Article 294 below, the offender shall not benefit from the mitigating circumstances provided for in this Code.

CHAPITRE II

Section II : **NEGLECT OF CHILDREN AND THE INCAPACITATED, THEIR EXPOSURE TO DANGER AND THE SALE OF CHILDREN**

Article 318 If death was caused with the intention of provoking it, the offender shall be punished, depending on circumstances of the case, with the penalties provided for in Articles 261 to 263.

CHAPITRE III

Section VIII: **DESTRUCTION, DEGRADATION AND DAMAGE; HIJACKING MEANS OF TRANSPORT**

Article 399 In all cases provided for in Articles 396 to 398, if the fire that was wilfully caused resulted in the death of one or more persons, the perpetrator of the fire shall be punished by death.

Article 400 The penalties laid down in Articles 395 to 399 are applicable, according to the distinctions provided for in those Articles, to those who wilfully destroy, in whole or in part, or attempt to destroy by means of a mine or any other explosive substance, buildings, dwellings, lodgings, tents, cabins, ships, boats, vehicles of all kinds, carriages, aircraft, warehouses or building sites, or their appurtenances, and, in general, all movable or immovable property of whatever kind.

Article 401 Anyone who wilfully destroys or attempts to destroy by means of a mine or any other explosive substance public roads, dykes, dams or causeways, bridges, commercial, industrial, railway, port or aeronautical plants, a farm or a production facility, or any building of public utility, shall be punished by death.

Article 402 Anyone who wilfully deposits an explosive device on a public or private road, [...] if the device is deposited with the intention of causing death, such deposit shall constitute an attempt to commit wilful killing and shall be punished as such.

Article 403 If the offences provided for in Article 401 result in the death of one or more persons, the offender shall be punished by death.

Article 417 bis Anyone who, by violence or threat of violence, seizes or takes control of an aircraft carrying persons shall be punished by death

MILITARY CODE

BOOK II - TITLE I - CHAPTER III - PUBLIC PROCEEDINGS AND PROSECUTIONS

Article 74 Upon the issuance of an order to prosecute a named person, he shall be placed at the disposal of the competent military prosecutor of the Republic. [...] In time of war, the military prosecutor of the Republic shall have the power to bring directly before the court any person, with the exception of minors, for any offence, unless it is punishable by death.

TITLE III - CHAPTER II

Section VIII: **CONCLUSION OF PROCEEDINGS AND READING OF QUESTIONS**

Article 162 The same shall apply in the case of direct translation; however, if it emerges from the proceedings that the acts prosecuted involve, in time of peace, a criminal offence or are punishable, in time of war, by the death penalty, the court shall, on the application of the Public Prosecutor, order the case to be referred back to be dealt with in accordance with Articles 75 et seq.

TITLE VI - CHAPTER VI - ENFORCEMENT OF SENTENCES

Article 221 The Minister of National Defence shall notify the Minister of Justice, Keeper of the Seals, of any death sentence pronounced by a military court that has become final.

Persons subject to the military courts sentenced to death shall be shot in a place designated by the military authority.

Article 222 The provisions of Decrees Nos. 64-193 of 3 July 1964 and 64-201 of 7 July 1964 shall apply to the enforcement of judgments of military courts imposing the death penalty, except as regards the composition of the firing squad.

Only the president or a member of the court, a representative of the public prosecutor, the investigating judge and the registrar of the military court of the place of execution, the advocates of the sentenced person, a religious minister, a physician designated by the military authority, and the members of the security service required by the military authority for this purpose, shall be permitted to attend the execution.

Except in time of war, no death sentence may be carried out on national or religious holidays, or on Fridays.

BOOK III - TITLE II - CHAPITRE I

Section II: **DESERTION**

Article 265 Any soldier who deserts with an armed group shall be punished by a term of ten (10) to twenty (20) years' imprisonment. [...] The offenders shall be punished by death if they carry weapons or ammunition.

Article 266 Any soldier or non-military person who is a member of the crew of a naval vessel or an aircraft or an escorted merchant ship who is guilty of desertion to the enemy shall be punished by death.

Article 267 Any deserter in the presence of the enemy shall be punished by a term of imprisonment of between ten (10) and twenty (20) years. If he is an officer, the penalty is life imprisonment. If the desertion in the presence of the enemy is carried out in the context of a conspiracy, the penalty shall be death.

Section IV: INTENTIONAL SELF-INJURY

Article 273 Any soldier found to have intentionally rendered himself unfit for service, either temporarily or permanently, with the aim of evading his military obligations, shall be punished: [...]
He shall be punished by death if he was in the presence of the enemy.
The attempt is punishable as the offence itself.

CHAPTER II**Section I: SURRENDER**

Article 275 Any commander of a formation, naval or air force, naval vessel or military aircraft who, when brought to trial, after the opinion of a board of enquiry, is found guilty of surrendering to the enemy or ordering the cessation of combat or raising the flag without having exhausted all the means of defence available to him and without having done all that duty and honour dictate, shall be punished by death.

Section II: TREASON, ESPIONAGE AND MILITARY CONSPIRACY

Article 277 Any soldier in the service of Algeria who bears arms against it shall be punished by death with demotion. [...]

Article 278 Anyone found to have incited soldiers to join the enemy, to have knowingly facilitated the means for them to do so, or to have enlisted individuals on behalf of a power at war with Algeria, shall be considered as a recruiter and punished by death. [...]

Article 279 Any soldier who:

- 1° delivers to the enemy or in the interest of the enemy, either the troops he commands, or the place assigned to him, or the supplies of the army, or the maps of the places of war or of the naval arsenals, of the ports or roadsteads, or the watchword or secret of an operation, an expedition or a negotiation;
- 2° passes intelligence to the enemy with the aim of favouring its endeavours;
- 3° participates in conspiracies with the aim of influencing the decision of the responsible military leader;
- 4° instigates flight or prevents rallying in the presence of the enemy;

shall be punished by death with demotion.

Article 280 The following shall be considered as spies and shall be punished by death, with demotion:

- any soldier who enters a place of war, a military post or facility, an army's works, camps, bivouacs or billets, in order to obtain documents or information in the interest of the enemy,
- any soldier who procures for the enemy documents or information likely to prejudice army operations or to compromise the security of places, posts or other military facilities,
- any soldier who knowingly conceals, or causes to be concealed, spies or enemy agents sent to collect information.

Article 281 Any enemy who enters the places designated in the preceding article in disguise shall be punished by death.

Article 283 Any soldier, any person on board a naval vessel or aircraft or on an escorted merchant ship:

- who instigates flight or prevents rallying in the presence of the enemy or armed gang or raises the flag,
- who, without orders from the commander, causes the cessation of combat,
- who wilfully causes the enemy to capture the formation, vessel or aircraft under his command or on board which he is present, shall be punished by death.

Article 284 Any person guilty of conspiracy to undermine the authority of the commander of a military formation, vessel or aircraft, or the discipline or security of the formation, vessel or aircraft, shall be punished by a term of imprisonment of five (5) to ten (10) years.

A conspiracy exists as soon as the resolve to act is agreed and determined between two or more individuals. The maximum penalty is applied to the highest-ranking military personnel and to the instigators of the conspiracy. If the conspiracy takes place in time of war, or in a territory under siege or in a state of emergency, or in any circumstances that may jeopardise the safety of the formation, vessel or aircraft, or is intended to influence the decision of the military commander in charge, the offender shall be punished by death.

Section III: PILLAGE

Article 287 Any person, whether military or non-military, who, in the area of operation of a force or formation: [...]

- (b) with a view to stealing from a wounded, sick or shipwrecked person, commits any violence that worsens his condition, shall be punished by death.

Section IV: DESTRUCTION

Article 290 Any soldier, any person on board, any pilot of a naval vessel, of an escorted merchant ship, found guilty of having, wilfully, caused the destruction, loss or permanent or temporary disablement of any building, structure, naval vessel, aircraft, supplies, armaments, materials or any facility whatsoever for the use of the armed forces or contributing to national defence shall be punished by imprisonment of a term of between ten (10) and twenty (20) years. If the destruction is of such a nature as to cause the death of a person or to harm national defence, the penalty shall be life imprisonment. If there is loss of life or if, by its extent or effects, the destruction has seriously harmed national defence, the penalty shall be death.

Article 291 Any commander of a naval force or aircraft, any commander or deputy commander, any watch commander, any member of the crew of a naval vessel or military aircraft, any pilot of a naval vessel or of an escorted merchant ship who wilfully causes the loss of a vessel or aircraft under his command or on which he has embarked shall be punished by death. If the acts were committed in time of war or in the course of war operations, by the commander of an escorted merchant ship, the death penalty shall also be incurred.

CHAPTER III - Section I: INSUBORDINATION

Article 304 If the revolt takes place in time of war or in a territory declared to be in a state of siege or emergency, or on board a naval vessel, in a fire, collision, grounding or manoeuvre affecting the safety of the vessel, or on board a military aircraft, life imprisonment may be imposed.
The instigators shall be punished by death.
In the cases provided for in Article 302, paragraph 3, above, the penalty shall be death, if the revolt took place in the presence of the enemy or an armed gang..

Article 308 Any soldier or person on board who refuses to obey when ordered to march against the enemy or to carry out any other service ordered by his commander, in the presence of the enemy or an armed gang, shall be punished by death.

CHAPTER IV - BREACHES OF INSTRUCTIONS

Article 325 In time of war, any commander of a formation, naval vessel or military aircraft, any soldier or any individual on board who wilfully fails to carry out the mission with which he was charged, if that mission was related to war operations, shall be punished by death.

Article 331 Any commander of a naval vessel or pilot of a military aircraft in flight who, wilfully and in violation of the instructions received, in the event of the loss of his vessel or aircraft, is not the last to abandon it, shall be punished by death. The same penalty shall be imposed on the non-pilot commander of a military aircraft who, under the same conditions, abandons his aircraft before the evacuation of the other persons on board, with the exception of the pilot.

Article 332 Any soldier who abandons his post in the presence of the enemy or an armed group shall be punished by death.

CODE ON THE ORGANISATION OF PRISONS AND THE SOCIAL REINTEGRATION OF PRISONERS**TITLE III - CHAPTER I****Section II: CLASSIFICATION OF SECURE FACILITIES**

Article 28 Rehabilitation facilities intended to receive prisoners definitively sentenced to terms of imprisonment exceeding five (5) years, those who have been definitively sentenced to a term of imprisonment and non-first-time and dangerous offenders, regardless of the length of their sentence and those sentenced to death.

TITLE III - CHAPTER II**Section I: DETENTION REGIMES**

Article 46 The individual detention regime is one in which the detainee is isolated from the rest of the detainees during the day and night. It is applicable to the following categories:
1° those sentenced to death, subject to the provisions of Article 155 of this law; [...]

TITLE VII - SPECIFIC PROVISIONS APPLICABLE TO PERSONS SENTENCED TO DEATH

Article 151 For the purposes of this law, a prisoner sentenced to death shall refer to:
(1) any prisoner who has been sentenced to death by a decision that has become final;
(2) any prisoner sentenced to death by a decision which has not yet become final.

Article 152 Article 152 Any person sentenced to death shall be transferred to one of the penitentiary establishments determined by decision of the Minister of Justice, Keeper of the Seals, and shall be placed in a high-security block.

Article 153 All prisoners sentenced to death are subject to solitary confinement by day and night.
However, such prisoners may be held together during the day with prisoners of the same category, but their number shall not be less than three (3) or more than five (5), if they have served five (5) years of solitary confinement.

Article 154 In accordance with the conditions laid down in the prison's internal regulations, persons sentenced to death shall be allowed time to rest and to walk in the areas reserved for them, either individually or in the company of other prisoners.

Article 155 The death penalty may be carried out only after the appeal for clemency has been rejected.
The death penalty may not be carried out on a pregnant woman or a woman breastfeeding a child under 24 months of age, nor on a seriously ill person or a person who has become insane. Furthermore, the execution may not be carried out on national or religious holidays, nor on Fridays, nor during the month of Ramadhan.

Article 156 The sentenced person can only be notified of the rejection of the appeal for clemency at the time of execution of the death penalty.

Article 157 The implementing arrangements for the provisions under this Title shall be specified by regulation.

TITLE IX - PENAL PROVISIONS

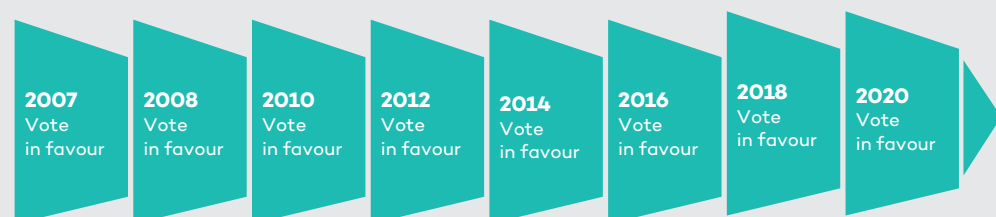
Article 168 Anyone who publishes or participates in the publication of information or documents relating to the implementation of the death penalty, other than the record and the statement issued by the Ministry of Justice, shall be punished by imprisonment of between two (2) months and two (2) years and a fine of between DA 5,000 and DA 20,000.
The same penalties shall be imposed on those who, before the record of execution has been displayed or the decree of pardon has been notified to the sentenced person and transcribed on the minutes of the sentencing judgement, disclose or publish by any means whatsoever information relating to the decision of the President of the Republic.

INTERNATIONAL LEGAL FRAMEWORK

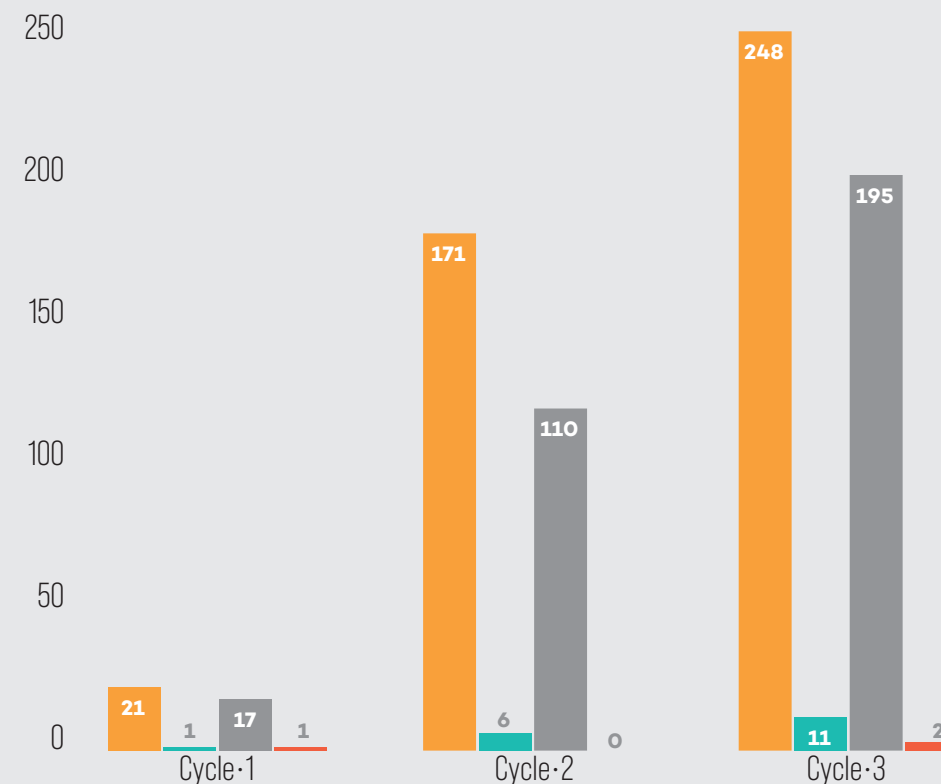
MAIN INTERNATIONAL TEXTS ON THE ABOLITION OF THE DEATH PENALTY

TEXT	DATE OF RATIFICATION OR ACCESSION
International Covenant on Civil and Political Rights, 1966	12 September 1989
Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, 1989	X
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984	12 September 1989
Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 2002	X
International Convention on the Rights of the Child, 1989	16 April 1993
African Charter on Human and Peoples' Rights	1 March 1987
African Charter on the Rights and Welfare of the Child	8 July 2003

VOTE ON THE UNITED NATIONS GENERAL ASSEMBLY RESOLUTION CALLING FOR A UNIVERSAL MORATORIUM ON THE USE OF THE DEATH PENALTY



UNIVERSAL PERIODIC REVIEWS



- Total number of recommendations
- Number of recommendations on the death penalty
- Total number of accepted recommendations
- Number of accepted recommendations on the death penalty

Of the 110 recommendations accepted in Cycle 2 in 2012, three were only partially accepted. In Cycle 3 in 2017, of the 195 recommendations accepted, 18 were only partially accepted, including two on the death penalty (see next page).

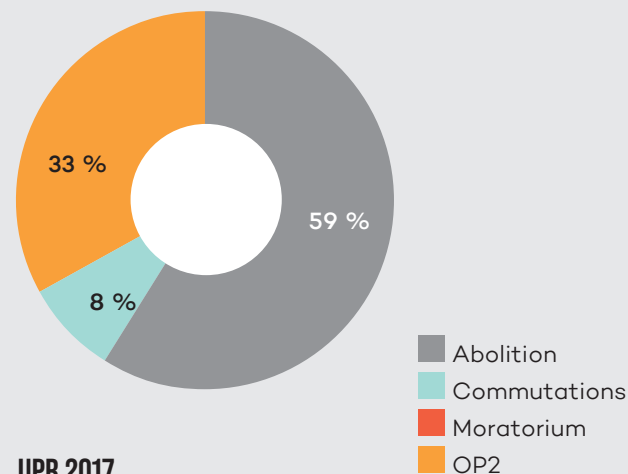
RECOMMENDATIONS ON THE DEATH PENALTY MADE TO ALGERIA IN 2017

No.	RECOMMENDATION	Number	Accepted	Noted
4	Formally abolish the death penalty, and ratify OP2 aiming at the abolition of the death penalty (Australia); Move towards definitive abolition of the death penalty and ratify OP2 (Luxembourg)	2		2
5	Take all necessary measures to formally abolish the death penalty, including ratification of OP2 aiming at the abolition of the death penalty (Ireland); Adopt the necessary legal measures to ensure that the death penalty is not applied as a sentence in judgements and consider acceding to OP2 (Uruguay)	2		2
6	Take all the necessary measures to ratify OP2 (Brazil)	1		1
7	Ratify OP2 aiming at the abolition of the death penalty (Montenegro) (Portugal)	2		2
72	Take measures to abolish the death penalty (Togo)	1		1
73	Declare a moratorium on the application of death penalty as a first step towards its abolition (France)	1	1	1
74	Commute all death penalty sentences with a view to abolishing capital punishment (Italy)	1		1
75	Continue commuting death sentences and continue the de facto moratorium on the application of the death penalty, maintained since 1993, with a view to abolishing it (Namibia)	1	1	1
TOTAL		11	2	11

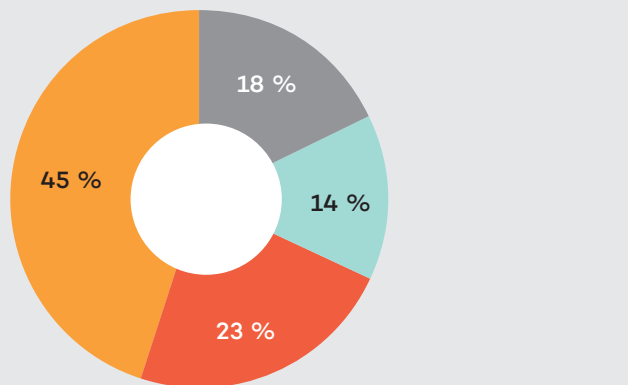
Recommendations No. 73 and No. 75 were partially accepted: in both cases, the parts on commutation and moratorium were accepted and those calling for a first step towards abolition were noted.

EVOLUTION OF THEMES OF RECOMMENDATIONS MADE TO ALGERIA BETWEEN 2012 AND 2017

UPR 2012



UPR 2017



Whereas in 2012 the focus was on the abolition of the death penalty, in 2017 recommendations on the ratification of OP2 predominated. It is possible that states chose to support Algeria towards the abolition of the death penalty by pursuing means such as ratification of the Second Protocol to the International Covenant on Civil and Political Rights and maintaining or formalising the moratorium. Moreover, the global abolitionist trend has favoured increasing adherence to the OP2, which could explain the increase in the number of recommendations calling on Algeria to ratify this instrument.



55 MEMBERS OF THE AFRICAN UNION

22 ABOLITIONIST STATES FOR ALL CRIMES

States or territories where the death penalty has been completely abolished.

1 ABOLITIONIST STATE FOR ORDINARY CRIMES

States or territories where the death penalty has been abolished except in exceptional circumstances.

22 STATES WITH A MORATORIUM ON EXECUTIONS

States or territories where the death penalty is in force but where no executions have taken place for ten years and which did not oppose the most recent UN resolution for a universal moratorium on the use of the death penalty and/or which have ratified OP2*.

10 RETENTIONIST STATES

States or territories which apply the death penalty.

* Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty.

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