

SUMMARY REPORT FOR THE UNIVERSAL PERIODIC REVIEW OF ALGERIA

The report for the Working Group on the Universal Periodic Review (UPR) presents information and data on the use of the death penalty in Algeria since the last session of the UPR (2017), for the 4th examination cycle (November 2022).

FACTS AND FIGURES

- Algeria has observed a de facto moratorium since 1993, but judges still pronounce death sentences every year.
- The moratorium in Algeria is not official.
- The Algerian government rejected a proposed bill abolishing the death penalty in 2009. The moratorium in Algeria remains unformalised and does not constitute a step towards abolition.
- It is particularly difficult to have access to transparent data on the use of the death penalty in Algeria. This also applies to statistics on the location and reality of the conditions of detention of those sentenced to death.
- Article 168 of the Code of Penitentiary Organisation and Social Reintegration of Prisoners penalises anyone publishing or contributing to the production of data on the application of the death penalty other than those provided by the Ministry of Justice.
- In 2018, the Algerian authorities reported to the Human Rights Committee that 269 people sentenced to death were in detention, but no information was provided on the exact nature of this figure, the period included, the charges, the profile of those sentenced, the places of detention, etc.
- The President granted pardon to 215 prisoners on death row in 2001 and 200 in 2006. Since then, no pardon or commutation of death sentences have been recorded.

Recommendations

- **Continue to maintain the de facto moratorium on executions.**
- **Provide disaggregated data on people sentenced to death, the courts that have pronounced the judgements, the charges, the places of detention of those sentenced to death, their profile, age, sex, etc.**

LEGAL FRAMEWORK

National legal framework

- The Constitution adopted in March 1996 and revised in 2016 did not address the death penalty or the right to life. Article 14 guaranteed the inviolability of the human person and stated that “any form of physical or moral violence or offence to dignity is prohibited”.
- Article 38 of the Constitution revised in 2020 states that: “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 the cases provided for by the law”. Article 39 of this Constitution adds: “The State guarantees the inviolability of the human person.”
- Article 91(8) of the revised Constitution states that the President has the right to grant clemency, remission or commutation of sentence.
- The clemency procedure is unclear: article 155 of the Code of Penitentiary Organisation and Social Reintegration of Prisoners states that “the execution of the death penalty can only take place after the appeal for pardon has been rejected”. Article 156 adds that “the condemned person may only be notified of the rejection of the appeal for pardon at the time of execution of the death sentence”.
- Article 5 of the Criminal Code provides that death is one of the main penalties in criminal cases. A large number of offences are punishable by death. There are ordinary offences and special military offences.
- In 2015, in the context of public debates around child abduction and murder, a new article providing for the death penalty was introduced into the Criminal Code.
- Article 87 bis of the Criminal Code provides the death penalty for terrorist acts but leaves a large margin of interpretation.
- Some crimes punishable by death in the Military Code do not fall into the category of “most serious crimes” under international law.

Recommendations

- **Reduce the number of death sentences, in particular by raising awareness about the *de facto* moratorium among judges.**
- **Reduce the number of crimes punishable by death, including by limiting it to the “most serious crimes”.**
- **Clarify the definition of terrorist and subversive acts in the legislation.**
- **Abrogate Article 87 bis of the Criminal Code defining crimes qualified as terrorist or subversive acts.**
- **Reduce the number of terrorist crimes punishable by death.**
- **Undertake legislative reform and sensitise the judiciary to ensure that evidence obtained under torture is excluded from trials, including trials leading to death sentences.**
- **Clarify the procedure for requesting clemency.**
- **Commute all death sentences.**

International instruments

- Algeria has ratified the majority of international treaties on the protection of human rights, including the following treaties:
 - International Covenant on Civil and Political Rights (ICCPR),
 - Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT),
 - International Convention on the Rights of the Child (CRC),
 - African Charter on Human and Peoples’ Rights (ACHPR),
 - African Charter on the Rights and Welfare of the Child (ACRWC).
- No National Preventive Mechanism for torture exists in Algeria, which has not ratified the Optional Protocol to the Convention against Torture (OPCAT).
- Since 2007, Algeria has voted in favour of and co-sponsored the UN General Assembly Resolution calling for a universal moratorium on the use of the death penalty. However, Algeria votes in favour of the amendment reaffirming the sovereignty of States over their legal systems and the existence of provisions providing for capital punishment in their national legislation.
- During its last UPR in 2017, Algeria partially accepted two recommendations (out of 11) related to the death penalty.

Recommendations

- **Ratify the OPCAT and establish a National Preventive Mechanism.**
- **Continue voting in favour of and co-sponsoring the UN General Assembly resolution calling for a universal moratorium on the use of the death penalty.**

USE OF THE DEATH PENALTY IN ALGERIA

- The Code of Prison Organisation and Social Reintegration of Prisoners provides for the modalities of trial, detention and execution of prisoners sentenced to death.
- Civil society organisations are allowed to visit prisons, but only after authorisation by the chancellery, and under an obligation not to disclose ‘false information’.
- Prisoners sentenced to death are subject to a special detention regime: they must be incarcerated in individual cells for the first 5 years of detention.
- There is no provision in the legislation to exclude evidence obtained under torture in court proceedings.
- Pre-trial detention for people accused of capital crimes can be extended up to twelve months.
- Many death sentences have been handed down in recent years in absentia.

Recommendations

- **Take all measures to ensure that the CNDH conducts prison visits and interviews with prison staff, prisoners and death row prisoners in accordance with its mandate and submits reports, in particular to the authorities following these visits.**
- **Facilitate free and independent access to prisons and death rows for Algerian civil society organisations and allow them to publish their data.**
- **Implement all necessary measures to reduce pre-trial detention periods.**
- **Respect the legal duration of police custody, in particular for persons suspected of crimes punishable by death, and guarantee access to a lawyer at all stages of the procedure, in particular for persons suspected of crimes punishable by death.**