



*Joint Submission to the Office of the High Commissioner for Human Rights*

Universal Periodic Review 41<sup>st</sup> Session: People's Democratic Republic of Algeria

## **The Kabyle People**

Main Submitting Organizations:

**Unrepresented Nations and Peoples Organization (UNPO)**

Other Submitting Organizations:

**Les Amis de la Kabyle (AKA); Aza-Rouge Solidaire; Organisation des Entrepreneurs Kabyle (ODEK); Amitié France Kabylie (AFK); Deutsch Kabylische Freundschaft (DFK); Association Culturelle Imazighen de Bruxelles ; Association Culturelle Berbera (ACB Italia); Amite Quebec Kabylie; La Maison de Amoureux de la Kabylie; Reseau Kabyle Inc; Les Femmes Kabyles Autochtones du Canada; Centre Culturel Kabyle; Izerfan rights International**

### **About Us**

**Unrepresented Nations and Peoples Organization (UNPO)** ([www.unpo.org](http://www.unpo.org)) is a membership-based organization created in 1991 to empower the voice of unrepresented and marginalized peoples around the world and to protect their basic human rights. The peoples represented within the UNPO membership are all united by one shared condition: they are denied equal representation in the institutions of national or international governance. As a consequence, their opportunity to participate on the national or international stage is limited, and they struggle to fully realize their rights to civil and political participation and to control their economic, social and cultural development. In many cases, they are subject to the worst forms of violence and repression. The **Movement for the Self-Determination of Kabylia (MAK)** has been a member of the UNPO since 2017.

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### **Annexes:**

- Information of Submitting Organizations
- UNPO Report
- 2020-2022 timeline of reprisals
- List of Kabylia political detainees
- List of Kabylia detained torture victims
- List of Kabylia victims of the 2021 forest fires

## Summary

1. This report examines the current state of human rights in Kabylia, focused specifically on the criminalization of self-determination movements, restrictions on civil and political rights, transnational reprisals, 2021 forest fires, and response to the Covid-19 pandemic.
2. The Kabyle people are an indigenous people to North Africa, whose common identity has been shaped through thousands of years of shared history, language, and culture. There are approximately 10 million Kabyle people, most of whom reside in the cultural, natural, and historical region of Kabylia, currently under the territorial governance of Algeria. Often through violent means, the Algerian state has consistently and relentlessly suppressed any support for the Kabyle's right to self-determination.
3. Over the past year, the human rights situation facing the Kabyles has gotten significantly worse as the Algerian government has intensified its campaign of repression against anyone critical of the regime. The invocation of terrorism and the demonization of the Kabyle self-determination movement has enabled a new era of political repression, comprising of systematic and targeted persecution, censorship, discrimination, killings, arbitrary arrests and detentions, and continued attempts of erasing and suppressing Kabyle language, culture, and identity.
4. **Criminalization of Self-Determination:** In 2021 the government began to seriously escalate efforts to suppress and criminalize self-determination movements in Algeria including, modifications of the penal code to expand the definition of terrorism, pronouncing the Movement for the Self-Determination of Kabylia (MAK) an illegal terrorist organization, arbitrarily arresting and detaining supporters of Kabyle self-determination, prohibiting free speech and expression, and scapegoating self-determination activists as criminals and terrorists on bogus charges.
5. **Restrictions on Civil and Political Rights:** The government of Algeria have persisted in restricting civil and political rights against anyone critical of the state. The modification and enforcement of vaguely worded laws with disproportionate penalties hamper civil and political liberties, exacerbated by the authorities frequent use of harassment and exertion of pressure on regime critics and human rights activists.
6. **Transnational Reprisals:** During 2021 the Algerian Government deployed accusations of terrorism to suppress resistance both inside and outside of the country. The regime dealt out extraditions and international arrest warrants against refugees and exiles, such as Ferhat Mehenni and Slimane Bouhafs, the latter of whom was force ably returned to Algeria and remains detained.
7. **Kabyle Forest Fires:** The wildfires burned throughout Kabylia in 2021 devastating both environmental and human life. The actions of the Algerian authorities had exacerbated the forest fires and resulting fatalities, including through the refusal and rejection of neighboring countries aid. The scapegoating of activists, including the Movement for the Self-Determination of Kabylia (MAK), of starting the fires, and lack of independent investigation and space to deliberate on the devastation's has exacerbated the climate of mistrust with the government.
8. **Response Towards Covid-19:** The Algerian state's response to Covid-19 in Kabylia in 2020-2021 also demonstrated gross neglect, leading to unnecessarily high fatalities and intensified tension with the authorities. Kabyle health departments received little support from the Algerian government, despite being burdened with disproportionately high numbers of cases.
9. The UNPO, therefore, urges the Government of Algeria, in coordination with international actors and civil society, to recognize the right to self-determination of the Kabyle people in order to ensure the realization of their fundamental rights. Repressive policies and activities must be stopped in the areas of speech, association, and assembly. Excessive force and arbitrary detention cannot be used to curtail freedom of peaceful expression. We urge the Algerian authorities to release all those unfairly prosecuted for exercising their rights to peaceful assembly, association and freedom of expression and to cease its targeting and suspension of peaceful opposition groups and self-determination movements.

## Report

1. The Kabyle are one of the several Berber indigenous people to North Africa, mainly present in Algeria, Morocco, and Libya. For thousands of years the Kabyle people's identity was forged in shared common history, language, and culture. They proclaim secular beliefs and mainly speak the Kabyle language (a derivative from Berber/Amazigh language), as well as French and Algerian Arab (imposed by Algeria through schools and all institutions).
2. The population is currently subjected to marginalization and discrimination through repressive laws and policies enacted by the Algerian State. Efforts to defend fundamental human rights are met with violence and intimidation from the government. Despite the constitutional recognition of the right to self-determination, authorities continue to brutalize movements advocating for self-determination.

### A. Criminalization of Self-Determination Movements

3. Over the past year, the government of Algeria has instigated a serious escalation of repression and violence against peaceful dissent. The criminalization of self-determination movements in particular represents an extremely troubling trend. Criminalization of Kabyle self-determination movements in Algeria has taken many forms, including but not limited to, modifications of the penal code to expand definitions of terrorism, pronouncing MAK an illegal terrorist entity, targeted arrests and arbitrary detention of anyone supporting Kabyle self-determination, prohibiting free speech and expression, and broad state propaganda and policy that label self-determination activists as criminals and terrorists.
4. On 18 May 2021, The High-Security Council (HSC) classified Movement for the Self-Determination of Kabyle (MAK) as a terrorist organization, accusing the group of planning violent attacks and promoting separatist circles.<sup>1</sup> The MAK strongly denied the state's allegations and challenged the Algerian Ministry of Defense to provide proof of its accusation.<sup>2</sup>
5. The 18 May decision appears clearly politically motivated, as an effort to de-legitimize and neutralize the Kabyle self-determination movement. Rather than constituting a security measure, MAK representatives have expressed legitimate concerns that the decision provides the Algerian government with a means to commit violent or terrorist acts itself and attribute them to MAK. Indeed the Algerian government has on numerous occasions linked acts of convicted criminals to MAK, despite the absence of any evidence of their relation to the organization. The classification of MAK as a terrorist group has led to significant wave of arrests and detentions of human rights activists, journalists, as well as anyone seen to be associated with the group (**see annex**).

#### i. Penal Code Reforms

6. On 30 May 2021, Président Abdelmadjid Tebboune adopted two ordinances, Ordinance No. 21-08 amending and supplementing Ordinance No. 66-156 of 8 June 1966, which relates to the Penal Code, and Ordinance No. 21-09, which relates to the protection of administrative information and documents. Ordinance No. 21-08 introduces amendments to the Penal Code that broaden the definition of terrorism and establish a national list of terrorist persons and

entities. Ordinance No. 21-09 enables the arbitrary prosecution of individuals for sharing information deemed sensitive by the authorities.

7. Ordinances No. 21-08 and No. 21-09 entered into force on 9 June 2021, just three days before national parliamentary elections were held. As the People's National Assembly was dissolved by Tebboune on 1 March 2021, these texts were not subject to any debate in parliament. Civil society was also barred from any discussion or involvement in the promulgation of these Ordinances.
8. **Article 2 of Ordinance No. 21-08** introduces two additional paragraphs to Article 87bis of the Algerian Penal Code, which defined the crime of terrorism. The amendments, which include an expansion to acts "undermining the integrity of national territory" and acts "attempting to gain power or change the system of governance by unconstitutional means".
9. The introduction of these two new paragraphs aggravates the already broad and imprecise character of Article 87bis definition of terrorism. The focus on 'territorial integrity' in the said paragraph in particular shows a clear impetus to target self-determination activists. The resorting to concepts of "territorial integrity" or "national unity" to justify repressive actions against minorities, indigenous populations and self-determination movements are increasingly being used by states.<sup>3</sup> However, state sovereignty cannot allow the integrity of national territory to be used as a basis to repress the rights of minorities and indigenous communities. To the contrary, Algeria has an obligation to ensure the rights of all of their peoples, including indigenous peoples such as the Kabyle, including their right to meaningful self-determination.
10. The term "to gain power or to change the system of governance" in the first paragraph is similarly troubling and arbitrarily wide. The provision ensures the states ability to prosecute essentially any opposition to the current system of governance. The term "non-constitutional" raises concern for pro-reform or pro-democracy activists who wish to register their movement in a non-violent manner outside the institutional framework set by the authorities. appear to demonstrate a clear impetus to target opposition political parties and self-determination movements in Algeria.
11. **Article 3 of Ordinance No. 21-08** introduces Article 87 bis 13 into the Penal Code, which provides the establishment of a national list of terrorist persons and entities. The phrasing of the article implies that it is possible to be classified a terrorist even without a final judgment, running contrary to the principle of presumption of innocence. This added provision also creates a commission in charge of the list of terrorist persons and entities, however does not provide details on it's composition, it's responsibilities, the sanctions it can impose or its means of action. Article 3 also provides that "the publication in the Official Journal of the decision to register on the list, constitutes notification" and that the execution of the corresponding sanctions can follow immediately. From the date of publication, the person or entity concerned has 30 days to request their removal from the commission. The right of individuals and entities to an effective remedy is thus seriously limited by the tightness of the time limits, by the absence of individual notification and by the fact that any complaints will be lodged before the same body from which the contested decisions emanate. Article 3 also introduces into the Penal Code article 87bis 14, which specifies that the registration of a person or an entity in the national list implies "the prohibition of the activity of the person or the entity concerned and the seizure and/or freezing of its funds" and "the travel ban for the persons concerned, by court order, at the request of the commission". Additionally, no judicial authorization is required to implement these severe sanctions. Moreover, the public prosecutor is only informed of these measures after the fact.

12. **Article 4 of Ordinance No. 21-08** provides a list of bodies to oversee the Commission mentioned above, which for the most part consist of security organs of the State. No representatives of the judiciary, of the legislative power or of the national human rights commission appear part of it. Indeed there is no provision of the decree referring to judicial or legislative control over the activities of the commission. In the absence of a change in the legislation, there would therefore be no possible judicial appeal against the decisions of this body. Moreover the decree does not grant a role to the legislative power in the procedures for appointing the president and the other members of the commission whose appointment is limited to the executive power.
13. In December 2021 UN Special Rapporteurs and the Working Group on Arbitrary Detention addressed a letter to the Algerian government regarding concerns over the abuse of anti-terrorism legislation.<sup>4</sup> They noted with concern that Article 87bis remained unclear on defining what a terrorist act constitutes, thus allowing the prosecution of a wide range of actors, including peaceful activists and critical voices. Such wide definitions are warned to “collide with the principle of legal certainty, undermine rights to peaceful assembly and freedom of expression, and also impose disproportionate penalties for acts that should not be addressed by counter-terrorism legislation”. The letter raised ‘deep concern’ over the fact that Ordinance 21-08 lacks the necessary precision to ensure that the measures taken thereunder are necessary and proportionate. The letter, therefore, calls upon Algeria to follow the approach used in the United Nations Security Council resolution and the definition proposed by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms in the fight against terrorism, in order to ensure that only behavior of a truly terrorist nature is designated and prosecuted as such under Algerian law.
14. In the Human Rights Committee’s Concluding observations on the fourth periodic report of Algeria (CCPR/C/DZA/4) held on 4 and 5 July 2018, it stated that: “*While the Committee acknowledges the exigencies involved in combating terrorism, it reiterates its concern with regard to article 87 bis of the Criminal Code as that article defines the crime of terrorism in overly broad and vague terms that would allow for the prosecution of actions that might constitute exercise of the freedom of expression or peaceful assembly. It is concerned as well by claims of inappropriate use of counter-terrorism measures against human rights defenders and journalists.*”<sup>5</sup>
15. Accordingly, it was recommended that “*The State party should amend article 87 bis of the Criminal Code so that it clearly defines what constitutes an act of terrorism, and it should ensure that counter-terrorism measures are not used to restrict rights that are enshrined in the Covenant, in particular with regard to human rights defenders and journalists. It should also limit the period of initial police custody to a maximum of 48 hours, including in cases of suspected terrorism, and allow access to counsel as from the time the person is detained.*”<sup>6</sup> The UNPO concurs with the Human Rights Committee and notes an overall stark deterioration in the situation since the fourth periodic report of Algeria.

## **ii. Arbitrary Arrest and Detentions**

16. From May 2021, Algerian forces enforced near-total closures of public spaces through mass arrests and unlawful uses of force against protesters, human rights defenders, and journalists. Confirming the fears of human rights groups that the overly broad definition could lead to the further criminalization of peaceful dissent, hundreds of arrests have since taken place against

individuals exercising their rights to peaceful assembly and expression, including many MAK activists.

17. From May 2021 until December 2021, UNPO received information of at least 190 cases of Kabyle political activists being detained (**see Annex**). The National Committee for the Liberation of Detainees, a group tracking political detainees, in November 2021 listed 231 persons, including human rights defenders, journalists, politicians and civil society activists as behind bars for expressing dissent.<sup>7</sup> Those affiliated with the MAK and the Kabyle self-determination movement were specifically targeted under the statewide crackdown through arbitrary arrests and detentions.
18. The adoption of Ordinance No. 21-08 has allowed for activists to be arrested on unfounded charges. Notable cases include: Lounes Hamiz, President of the West coordination of the MAK-Aanavad for supporting and supervising the MAK.<sup>8</sup> Karima Nait Sid, co-president of the World Amazigh Congress, her location remained unknown for three days before she appeared before court and was charged for undermining state security.<sup>9</sup> Radio M's director Ihsane EL Kadi for undermining national interest, after he published an article criticizing the government labeling the MAK and others as terrorist organizations.<sup>10</sup>
19. On 2 December 2021 Kabyle activists pleaded to the UN Minority Issues Commissioner requesting protection.<sup>11</sup> The letter sent with Les Amis de la Kabylie issues that "more than three hundred Kabyle activists are imprisoned and tortured, some raped in detention and unjustly accused of terrorism". The plea calls for the immediate involvement of the International Criminal Court (ICC) to determine sanctions against Algeria to halt further human rights violations.<sup>12</sup>
20. The Committee for the Defense of Liberties (CDL) has issued an appeal against the hunting of self-determination activists from the Algerian security forces, as this is the second time activists have been subjected to brutal acts of repression by the police since attending the trial of nine fellow activists on 28 January 2021.<sup>13</sup> The CDL further claimed that 30 activists were beaten and arrested, while others fled and were hunted by police. The committee condemned the violence from police and that the repression held one objective to prevent any solidarity among activists who have been persecuted since 2016.<sup>14</sup>
21. On 1 February 2021 25-year-old Walid Neckiche suffered from torture and rape by Algerian forces while in custody. Neckiche had been arrested on 26 November 2019 during a student demonstration before reappearing in January 2020 in prison. He was sentenced to serve six months in prison for "possession of leaflets" after being accused of being a member of a Kabyle separatist movement and "conspiracy against the state".<sup>15</sup> The MAK noted that 10 out of 300 of those detained in 2021 suffered from torture and sexual abuse.
22. The MAK reported that on 2 March and 4 March 2021 Moussa Albour and Aderrahmane Si Zid were detained in the village of Toursal and were taken to Tidjelabine-Libere. The MAK also noted that while in custody the two were raped by Algerian forces.<sup>16</sup>
23. On 27 January 2022 MAK Paris Île de France coordination launched a call for a rally at the Place de la Bastille (Paris) to march against the 230 Kabyle activists who are still held in prisons throughout Algeria without being tried. The MAK urged for support and to challenge the international opinion on the repression against Kabyle, which they claim the servile Algerian media being silent over.<sup>17</sup>

## **B. Restrictions on Civil and Political Rights**

24. The latest Freedom House Annual Report scored Algeria 10 out of 40 on political rights, and 22 out of 60 on civil rights, demonstrating an overall deterioration from the previous year.<sup>18</sup> Despite the emergence of a new President with promises to instill rule of law and respect human rights following the Hirak protests in 2019, serious encumbrances remain on the exercise of civil and political rights in Algeria. The months preceding the legislative elections held on 12 June 2021 in particular saw a marked increase in suppression of civil and political liberties. As seen in the preceding section, Algerian authorities are increasingly resorting to national security laws to prosecute people who exercise their rights to freedoms of opinion and expression, and peaceful assembly and association. Algeria is a State Party to the 1966 ICCPR.
25. The 2021 Presidential and Parliamentary elections were largely rejected and boycotted by activists and opposition parties in protest of Algeria's repressive climate and lack of opportunity for real democratic transition.

### **i. Freedom of expression**

26. The right to freedom of expression for human rights defenders, journalists, and activists has become increasingly limited when it comes to openly criticizing the government, particularly as it relates to religion and self-determination, which has been viewed as damaging the national unity and sovereignty of Algeria.
27. Within Algeria's legislative framework, penalties for insulting or undermining "public security or order" have intensified with last year's Penal Code reforms. Ordinance No. 20-06 Article 196 bis imposes a punishment of "one to three years and a fine of DA 100,000 to DA 300,000, [for] anyone who willfully disseminates or propagates, by any means, to the public false or slanderous information or news likely to undermine public security or order. In the event of a repeat offense, the penalty shall be doubled".<sup>19</sup> The ambiguity and lack of definition of "false information" provides Algerian authorities with disproportionate and discretionary power, allowing them to suppress critical content, particularly as it relates to any kind of 'separatist' movements.
28. Similarly, those found criticizing the authorities are liable to be arrested and prosecuted through Article 144, which criminalizes defamation and imposes a punishment of imprisonment from six months to three years, or a fine of 100,000 DA to 500,000 DA, or both, for whoever "with the intention of damaging their honor, delicacy or the respect due to their authority," holds in contempt a magistrate, commander or law enforcement officer, "either by words, gestures, threats, sending or handing over of any object, either in writing or drawing not made public."<sup>20</sup>
29. These provisions present significant difficulties for political opponents, regime critics and human rights defenders, as well as victims' families, and the general public, to speak out or report about the serious human rights violations committed.

### **ii. Media Freedom**

30. The Algerian authorities exert significant control over the press, with recent reforms on digital media significantly exacerbating the lack of freedom in the media. In Algeria, state media comes under strict control and censorship, delivering information that must first be approved by the authorities. Independent platforms such as private media, social media, and other overseas media represent critical roles, yet even they are becoming incredibly restricted.

31. The government has blocked the disruption of independent news both aboard and online, and those who wish to initiate regular publications must do so with permission from the government.<sup>21</sup> Shareholders and managers of any television or radio channels to citizens must follow regulations and are prohibited from broadcasting content that offends the values of the Algerian society.
32. Article 2 of the 2012 Information Code maintains that the activities of the press must be conducted within the constraints of respect for “national unity and sovereignty, the demands of state security and national defense, [and] the country’s economic interests,” among others.<sup>22</sup>
33. While Article 96 of the Penal Code criminalizes the distribution, sale or exhibition of leaflets or bulletins of “such a nature as to harm the national interest,” and Article 100 criminalizes and punishes, through a sentence of a minimum of two years in prison, “any direct provocation to an unarmed gathering either by speeches uttered publicly, either by written or printed material displayed or distributed.”<sup>23</sup>
34. In December 2020 Algeria adopted the state's first decree governing electronic media.<sup>24</sup> The strict regulations pose concern for foreign online content. Almost all opposition sites are registered outside of the country to preserve the safety of their contributors who often use false names to protect themselves from reprisals and harassment.
35. Additionally, authorities have stepped up prosecutions of social media users. Postings on social media are increasingly resulting in arrests and questioning as it relates to critical comments that center on the government or religion. Intelligence services are reported to closely monitor the activities of political and human rights activists on social media sites, such as Facebook.
36. Authorities use these and other legal mechanisms to harass the media and censor or punish controversial reporting. Journalists and bloggers are frequently subjected to brief detentions, short jail terms, suspended sentences, or fines for offenses including defamation and “undermining national unity”.

### **iii. Freedom of Assembly**

37. Law No. 91-19 on public meetings and demonstrations drastically restricts the right to freedom of peaceful assembly.<sup>25</sup> As the law defines “public gatherings” as “temporary rallies of people, agreed upon beforehand and organized outside public roads in a closed place that is easy for people to join. Its purpose is the exchange of ideas or the defense of joint interests.” Authorities may prohibit the gathering without being required to explain their decision. The Law also requires that organizers of “public demonstrations” request approval from the governor eight days before the demonstration’s planned date.
38. Public demonstrations are defined as “processions, parades, or gatherings of people in a public manner, and all demonstrations that go through public roads”. The governor is required to decide whether to approve or refuse the request at least five days before the proposed holding of the demonstration. Law 91-19 prohibits in any gathering or demonstration "any prejudice towards national constants, or to the symbols of the November 1 Revolution, public order, or public morals”. These terms are not defined, and a sentence of imprisonment ranging from three months to a year and fines for participation in an illegal assembly can be imposed.
39. Articles 97 and 98 of the Penal Code further punishes organizing or participating in an unauthorized demonstration, known as “unarmed gathering”, in a public place with up to one year in prison. The penalty is up to three years in prison if “the unarmed person continued to be part of an armed gathering that dissipated only when force was used.



40. A blanket ban on demonstrations in Algiers, put in place in 2001, continues. This legal framework has been repeatedly used to prevent and suppress associations of activists and human rights defenders from organizing peaceful protests.

#### **iv. Freedom of Association**

41. The 2012 Law on Associations (Law No. 12-06) significantly restricts the formation, funding, and activities of nongovernmental organizations.<sup>26</sup> Most notably, the law allows the executive to refuse to register any association whose purpose would be contrary to “national constants and values, public order, good morals and the provisions of the laws in force. The law also allowed the government to suspend an association’s activities or dissolve it on vague grounds. The law also places restrictions on associations’ founders, makes it difficult for associations to receive foreign funds, and imposes heavy fines and criminal penalties for members or leaders of informal associations.
42. Furthermore, Law No. 12-06 required all associations including those already registered – to re-file registration applications and obtain a registration receipt from the Ministry of Interior before they can operate legally. Rejected applications have reportedly faced difficulty in appealing. Since the law’s adoption, a number of associations faced new obstacles in carrying out their activities, with some organizations opting to close down voluntarily rather than confront administrative and legal hurdles.
43. In 2018 the UN Human Rights Committee raised concerns that Law No. 12-06 contained provisions that were restrictive and subjected organizations’ stated objectives to vague, imprecise, and general criteria, such as the “public interest” and “respect for national values and principles”.<sup>27</sup>
44. Moreover, Article 95 bis of the Penal Code, as amended in 2020, subjects individuals to five to seven years of imprisonment, in addition to a fine that ranges from 500,000 to 700,000 DA, if they receive: “funds, a gift or an advantage, by any means, from a State, an institution or any other public or private body or from any legal or natural person, inside or outside the country, to carry out or incite to carry out acts likely to undermine the security of the State, the stability and normal functioning of its institutions, national unity, territorial integrity, the fundamental interests of Algeria or public security and order” The provision states that the “penalty shall be doubled when the funds are received within the framework of an association, group, organization or agreement, regardless of its form or name.”
45. The criminalization of foreign funding, particularly when the recipient is an association, as provided for in article 95 bis runs counter to Human Rights Council Resolution No. 22/6 calling on states to ensure “that no legislative provision criminalizes or discredits activities for the defense of human rights on the grounds of the geographical origin of their source of funding.” In its 2018 Concluding Observations on Algeria, the HR Committee had already expressed concern that “cooperation with foreign organizations and the receipt of funds from abroad are subject to prior clearance by the authorities.”<sup>28</sup>
46. The above legal framework severely impedes human rights defenders from conducting their legitimate activities, as protected under article 22 of the ICCPR.
47. Additionally, the MAK has submitted a memorandum for self-determination of Kabylia on 28 September 2017 to the UN Secretary-General in New York Antonio Guterres. The MAK plans to pair the memorandum with another book for educational purposes that explains why self-determination and independence of Kabylia is the solution for the country and not the issue

### **C. Transnational Reprisals**

48. After the wave of mass protests in 2021, the Algerian Government used accusations of terrorism to suppress resistance both inside and outside of the country through transnational reprisals. The regime dealt out international arrest warrants against refugees and exiles who were perceived as a threat. In August 2021, the Algerian judiciary issued an international arrest warrant for MAK leader, Ferhat Mehenni. The state accused Mehenni and the MAK of setting fires that destroyed large areas of the mountainous region, as well as for the murder of Jamal Ben Ismail. Mehenni was exiled to France as a political refugee in 2010, and despite pressures from Algeria France has refused to respond to extradition requests.
49. In other cases, foreign authorities have not abided by the Geneva Convention which prohibits the returning of a refugee to a country they might suffer persecution in. As seen with Silmane Bouhafs, a political refugee in Tunisia, who was abducted and returned to Algeria in 2021. Bouhafs was sentenced previously to three years in prison on charges of “offending the Prophet” and “denigrating the creed and precepts of Islam” under Article 144 bis 2 of Algeria’s Penal Code. The charges were in connection with comments, exercised within his legitimate right to freedom of expression, posted on Facebook, and deemed offensive to Islam. On 25 August 2021 in Tunis, Bouhafs was reported to have been kidnapped by a group of men in plain clothes who did not disclose their identity after a raid on his home.<sup>29</sup> Bouhafs was then forcibly expelled and handed over to the Algerian authorities. He is accused of being an activist of the Movement for the Self-Determination of Kabylia (MAK) and having had contact with Ferhat Mehenni, the president of the Movement. On 1 September 2021 in front of an investigative judge Sidi M’hamed tribunal in Algiers, he was remanded in prison on six charges, which had not been disclosed. Neither the Tunisian nor the Algerian authorities had commented if he had been expelled or extradited to Algeria on behalf of the Algerian government. In an official response, UNHCR said it was “gravely concerned about reports of the forced removal to his country of origin of a refugee recognized by UNHCR in Tunisia”.<sup>30</sup> His current status and whereabouts are currently unknown.

### **D. Kabyle Forest Fires**

50. Wildfires during the summer are a common occurrence in Algeria, however the 2021 wildfires, situated predominately within the region of Kabylia, were the most wide-spread, devastating and fatal that the country has seen in many decades. According to the General Directorate of the Civil Protection, there were a total of 100 active fires in Algeria.<sup>31</sup> The mountainous province of Tizi Ouzou, the largest in Kabylia, was the worst hit. Many people lost their homes and livestock, with many families finding themselves on the street with little or no possessions. The unprecedented death toll of at least 80 people was significantly higher than the ones recorded in other countries in the region who were experiencing similar fires (see Annex).
51. The actions of the Algerian authorities had exacerbated the forest fires and resulting fatalities, including through the refusal and rejection of neighboring countries aid. The MAK contend that the forest fires were constructed by the Algerian Government with the use of drones and aircrafts, and last year has made a submission to the International Criminal Court alleging government's involvement.

52. On 18 August 2021 Algerian High-Security Council (HCS) placed blame on MAK, claiming the group was responsible for setting the fires, resulting in over 36 suspects including the issuance of an arrest warrant for MAK president, Ferhat Mehenni.<sup>32</sup>
53. The scapegoating of activists, including the Movement for the Self-Determination of Kabylia (MAK), of starting the fires, and the prosecutions which followed it can be seen as another tactic in the Algerian authorities' ongoing repression of rights defenders and targeting of Kabyle self-determination activists.
54. The lack of independent investigation into the wildfires and absence of space to deliberate on the devastation's has exacerbated the climate of mistrust with the government.

### **E. Response Toward Covid-19**

55. The Algerian state's response to Covid-19 in Kabylia in 2020-2021 also demonstrated gross neglect, leading to unnecessarily high fatalities and intensified tension with the authorities. Kabyle health departments received little support from the Algerian government, despite being burdened with disproportionately high numbers of cases. International aid was donated from fellow Kabyle in the diaspora, however the government was reported to have allocated all supplies amongst themselves.<sup>33</sup> The Kabyle people took action into their own hands and elected their own leaders who organized supply delivery,<sup>34</sup> While also raising funds themselves to try to get needed oxygen tanks for the hospitals as supplies were running out.<sup>35</sup>

### **Recommendations**

In view of the above mentioned human rights situation in the Peoples' Democratic Republic of Algeria, the Unrepresented Nations and Peoples Organization (UNPO) and the Movement for the self-determination of Kabylie (MAK) urge the Government of Algeria to:

- Cease all arbitrary arrests and prosecutions and release all individuals arbitrarily detained.
- Amend or repeal overly broad provisions of the Penal Code and other legislation used to repress fundamental rights and freedoms in line with ICCPR and ACHPR.
- End the criminalization of the MAK organization and self-determination defenders.
- Ensure freedom of expression and assembly is respected, in particular, by refraining from use of force against peaceful protesters, enabling peaceful demonstrations, terminating arbitrary detentions of activists, journalists, and human right defenders, revoking the 2001 blanket ban on demonstrations in Algiers, and revising domestic law.
- Demand prompt, independent, impartial and effective investigations into allegations of torture and other ill-treatment in detention and physical assault during protests - to ensure that suspected perpetrators are held accountable in fair, civilian trials.
- Implement a full and independent investigation into the forest fires in the Kabylia region.
- Ensure fair and responsible handling of the coronavirus health crisis by allocating medical supplies from the international community to the Kabyle population.
- Ratify the International Convention for the Protection of all Persons from Enforced Disappearances and recognise the competence of the Committee on Enforced Disappearance to receive individual complaints as per article 30 and 31 of the ICPPED.
- Ratify the Rome Statute of the International Criminal Court.
- Recognize officially the Kabyle people as a "people."
- Support the organization of the referendum to self-determination.

## ENDNOTES

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