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Sussex Centre for Migration Research

Commentary on the April 2010 Country of Origin  
(COI) Report on Algeria

Prepared for the Independent Advisory Group on  
Country Information (IAGCI)

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## Summary of Findings

The April 2010 COI report on Algeria is generally comprehensive, well sourced and easy to use. The reduction of almost 90 pages since the 2008 report posed the obvious risk that essential information would be lost in the edit. This commentary has not exhaustively compared the two reports, but the sections that have been examined in detail in both reports have been intelligently slimmed down in the later report, removing older material that could no longer conceivably be material to an asylum claim with the result that the entire report is more readable.

The most common criticism is missing references to recent relevant material. The continued reliance on the 2008 US State Department Algeria report is problematic when the 2009 report was published several weeks before the cut off date for this report. Otherwise, problems with references concern mistakes in documents that are quoted, rather than mistakes in referencing itself.

Findings are considered in seven sections, paying special attention to three areas of special concern arising from recent asylum claims. Methodologically, the commentary is based on an exhaustive examination of all sources for 21 of the 30 sections of the report, which were judged to be most relevant to the key themes, with a summary overview of the remaining nine.

### 1. Diplomatic Assurances

This subject does not relate solely to Algeria and is of more general concern to Country of Origin Information. The Algerian government has been unwilling to negotiate a blanket agreement to cover diplomatic assurances that deported migrants will not be mistreated, as several other governments have done, meaning that Algerian nationals have been the subject of more case by case agreements than others.

Clarity should be introduced to these procedures, to respond to widespread concerns expressed by human rights groups, following guidelines issued by UNHCR and the UN Special Rapporteur on torture. COI reports seem to be the best place to do this or they risk undermining the COI system.

### 2. Background information

This section considers the introductory six sections of the report and the introduction.

The continued state of emergency should be highlighted more clearly in the background section. The importance of this legislation to virtually all aspects of human rights in Algeria justifies a greater consistency in the range of references to it across the report.

The description of the end of conflict in Algeria is contested while the state of emergency is in force and any use of unreferenced assessments of the conflict situation of the country should be supported or removed.

It was also noted that the background section now relies on particularly uncritical sources and uses them in relatively uncritical ways. Suggestions were made to improve this.

### 3. Security issues relating to Al Qaeda in the Islamic Maghreb

The first section of specific focus relates to seven sections of the report. These issues were generally found to reflect the reports cited and other relevant documents reasonably accurately.

There were a few problems found with updating. Although in general the security situation had not changed substantially from 2008, some documents relating to 2009 introduced new material, such as specific references to the relatively small number of attacks that occurred during the year and a new study on the conditions in prisons in Algeria, which were judged to be inadequate.

### 4. Restrictions to press freedom

This section relates to three sections of the report. Restrictions on press freedom overlap with rights associated with political expression and with the protection of human rights activists, which are considered in these three adjacent sections of the report. These overlapping divisions are dealt with effectively in the report.

Journalists, and others, face prosecution under three areas of legislation in Algeria: the 1992 state of emergency, the 2001 revision of the criminal (penal) code and the 2006 National Charter for Peace and Reconciliation. The report requires greater clarity on these three areas, though in practice in the examples of individual prosecution/persecution it is difficult to identify the legal basis.

An article quoted from the Magharebia website apparently misrepresents its source in an Algerian newspaper article and announces that this legislation has been repealed when it has not.

### 5. The policing of the Internet

This section relates to the same three sections of the report as the previous section but focuses particularly on the Internet, which is a rapidly expanding area of public discussion in Algeria.

There have been important legislative developments in this area, particularly the passage of a cybercrime law in 2009, which are not referred to in the report and should be added.

The government has apparently begun blocking opposition websites though there is no evidence of systematic filtering.

## 6. The Tindouf Refugee Camps and issues related to Western Sahara

This section relates to four sections of the report. Saharawi refugees in the Tindouf camps are effectively under a separate administration from the Algerian state. The report does not currently fully acknowledge this.

The issue of most concern raised is the erroneous dismissal to a reference to slavery in the camps by a US State Department report. The Human Rights Watch report it is citing actually goes on to discuss concerns around slavery in the camps.

## 7. Other issues

The longest section in the entire report is the section on women. This has benefited from sustained attention in recent years and presents a good range of authoritative references.

The use of emails from officials at British Embassies is generally problematic unless they can be held to the same standards as any other source in COI reports. The example in the section on Lesbian, Gay, Bisexual and Transgender Persons (paragraph 20.10) does not currently meet this standard.

Given the concerns around the mistakes in Magharebia articles and the significant reliance on Magharebia as a source all Magharebia articles cited were examined for this correct use of sources. No other mistakes were found since all other articles originated in Magharebia's own correspondents.

## Introduction

Compared to the generalized levels of violence of astonishing brutality that the Algerian population endured during the mid to late 1990s, recent years have brought a relative calm to the country. The complicated network of competing terrorist factions of the 1990s, with an active membership of thousands has now fallen to a single organisation, Al-Qaeda in the Islamic Maghreb (AQIM) with no more than 500 active members. The number of attacks has fallen and it is much less frequent for public places to be targeted. The 2010 Amnesty International report cites a figure of 30 civilians and 90 members of the security forces killed in terrorist attacks during 2009. Compared to the full force of the civil conflict, when as many as 20,000 people were killed each year, the change is dramatic,

Nevertheless, as all international sources suggest problems persist and a country where 90 members of the security forces are killed as a result of direct attacks by a non-state organisation is not yet a country at peace. The state of emergency, which is continually justified by this uncertainty, gives state institutions relatively broad powers to restrict, detain and interrogate citizens. Particular concerns are raised by the ongoing restrictions to press freedom, the continued operation of AQIM and the instability associated with the Western Sahara, which has increased substantially since this report was written. All of these provide a particular focus for this report.

The number of asylum claims registered in the UK by Algerians has remained fairly constant at about 250 each year since 2005. The fall from the peak of 1,635 applications received in 2000 reflects this dramatic improvement in conditions in Algeria. Even in a context where the large majority of asylum applications are rejected, applications from Algerians are unusually unsuccessful. Approximately one in a hundred of all asylum applications in the UK are from Algerians, but in recent years they accounted for fewer than one in a thousand individuals recognised as refugees at first instance. Their success does not improve at appeal, in 2009, only four percent of Algerians making an appeal were successful, against 28 percent for all appeals.

This commentary considers the April 2010 COI report on Algeria. It is the first review of a COI on Algeria in the last two years and no review before that time is available online. The overall picture of the report is a positive one, well referenced with appropriate sources that are as recent as possible and are set out in a way that allows key relevant information to be identified efficiently. Yet there are inevitably omissions and errors.

Reviewers of COI reports are asked to perform four tasks:

1. assessing the extent to which information from source documents has been

- appropriately and accurately reflected in the COI Report;
2. identifying additional sources detailing the current human rights situation in the country;
  3. noting and correcting any specific errors or omissions; and
  4. making recommendations for general improvements regarding, for example, the structure of the report, its coverage or its overall approach.

These points are all addressed in the issues and findings section.

## Scope and methodology

Like other COI reports, the Algeria report aims to find a balance in presenting a set of complex, widely contested and frequently conflicting information. This review examines the COI report's presentation of the various sources to ensure it is accurate, easily understandable, representative of the original source material and comprehensive. The Algeria report is 129 pages long and draws on over 200 sources, many of which are themselves very lengthy documents. To check all of the references would therefore be a very lengthy task and in order to make it more manageable some kind of selection has to be made.

According to a briefing letter received from Richard Lederle there are three main areas of human rights issues raised in claims made by Algerians and it was suggested that the report should pay particular attention to these:

- Restrictions to press freedom
- The Tindouf refugee camps and issues related to Western Sahara
- Security issues relating to Al Qaeda in the Islamic Maghreb

These three areas are not only the most common basis for asylum claims in the UK, but also the principal concerns to emerge from current annual reports by Amnesty International and Human Rights Watch as well as information from Algerian civil society sources over the last year. They therefore form an important focus of this report. A sub-section of this report is devoted to each of these three themes, concentrating on all relevant sections of the COI report as follows:

- Security issues relating to Al Qaeda in the Islamic Maghreb: Sections 8-14: 8. Security forces; 9. Non-government armed forces; 10. Military service; 11. Judiciary; 12. Arrest and detention: legal rights; 13. Prison conditions and 14. Death penalty.
- Restrictions to press freedom: Sections 15-17: 15. Political affiliation; 16. Freedom and speech and media and 17. Human rights institutions organisations and activists.
- The Tindouf refugee camps and issues related to Western Sahara: Sections 26-29: 26. Freedom of movement; 27. Foreign refugees; 28. Citizenship and nationality and 29. Exit and return.

Every reference cited in these 14 sections was identified and double checked against the original source for consistency. Where material appeared to be inconsistent or was based on uncertain sources, further sources were identified to clarify the issue. A range of additional sources is highlighted and possible missing themes referenced. A further –sub-section considers the general background information presented in

the first six sections of the report and the introduction and a final section considers information in the remaining nine sections in less detail.

## Issues and findings

### 1. Diplomatic assurances

The issue of diplomatic assurances is considered here as it has raised such widespread concern from human rights groups.<sup>1</sup> Many of the outstanding concerns have been directed at the UK's relationship with Algeria. This issue goes well beyond the context of an individual COI report but it is relevant as it has clear implications for how COI reports are used, or ignored. To the extent that it is more relevant to one country than others, it is appropriate to consider in the Algeria report, as more Algerians have been subject to diplomatic assurances than any other nationality. For certain individuals suspected of terrorist offences the weight of evidence in this report is swept aside to allow deportation on the understanding that they will be considered as an exception to general patterns of torture and ill treatment.

Evidence is increasing that such diplomatic assurances have little impact on the mistreatment of individuals once they are returned to Algeria.<sup>2</sup> The report should incorporate such evidence for two reasons. First, it may have an impact on judge's willingness to countenance the removal of terrorist suspects based on such assurances. Second, it may reduce the possibility of 'diplomatic assurances' being introduced in other tricky deportation cases involving asylum seekers who are not suspected of terrorist offences, or even incorporated into asylum determination procedures, which would seriously undermine the point of COI.

Although the Special Rapporteur of the UN Commission on Human Rights on torture and other cruel, inhuman or degrading treatment or punishment did not rule out diplomatic assurances in all situations, he made it clear that

in circumstances where there is a consistent pattern of gross, flagrant or mass violations of human rights, or of systematic practice of torture, the principle of *nonrefoulement* must be strictly observed and diplomatic assurances should not be resorted to.”<sup>3</sup>

UNHCR has issued clarification of the role of diplomatic assurances in the asylum process:

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<sup>1</sup> Human Rights Watch (2005) 'Still at Risk: diplomatic assurances no safeguard against torture' April 14<sup>th</sup> 2005; Human Rights Watch (2008) 'Not the Way Forward: the UK's dangerous reliance on diplomatic assurances' October 22<sup>nd</sup> 2008.

<sup>2</sup> Amnesty International (2010) *Dangerous Deals: Europe's reliance on 'diplomatic assurances' against torture*, Amnesty International, London, Index EUR01/012/2010

<sup>3</sup> Special Rapporteur of the UN Commission on Human Rights on torture and other cruel, inhuman or degrading treatment or punishment, *Report submitted pursuant to General Assembly resolution 58/164*, UN document A/59/324, 1 September 2004

From an international protection perspective, it is necessary to ensure that the use of diplomatic assurances in the context of asylum procedures does not result in restrictions of essential procedural safeguards and/or jeopardize the substantive examination of asylum claims.<sup>4</sup>

A recent Amnesty report cited the UK as

the most influential and aggressive promoter in Europe of the use of diplomatic assurances to forcibly return people it considers threats to national security to countries where they would face a real risk of serious human rights violations<sup>5</sup>

'Deportation with assurances' became a key part of the UK government's strategy for dealing with the return of suspected terrorists after *A (FC) and others (FC) (Appellants) v. Secretary of State for the Home Department (Respondent)*, [2005] UKHL 71, in which the House of Lords held that the indefinite detention of foreign terrorism suspects violated the UK's international human rights obligations. Since then they have been commonly used to deport Algerians, though the report makes no mention of the British government's use of diplomatic assurances with Algeria.

While countries such as Libya, Lebanon and Jordan have signed 'memoranda of understanding' with the UK government, agreeing not to torture returnees, the Algerian government has been willing only to provide diplomatic assurances on a case-by-case basis.<sup>6</sup> During a 2006 visit to the UK, Algerian President Abdelaziz Bouteflika was alleged to have provided guarantees of respect for the human rights of Algerian nationals returned by the UK.

The issue of diplomatic assurances has attracted a great deal of attention and there is now a substantial policy and academic literature. As noted, the essential questions are broader than a single country report. Nevertheless, the inclusion of information or guidance from any of the sources cited in this section may help to inform decisions on return with diplomatic assurances, or asylum applications in which diplomatic assurances play a role, as seems increasingly likely to be the case. The remainder of this commentary turns to substantial issues with the Algeria report itself.

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<sup>4</sup> UNHCR (2006) 'UNHCR note on Diplomatic Assurances and International Refugee Protection' UNHCR, Geneva.

<sup>5</sup> Amnesty International (2010) op cit.

<sup>6</sup> Letter from Prime Minister Tony Blair to President Abdelaziz Bouteflika, July 11, 2006, <http://www.fco.gov.uk/resources/en/pdf/pm-letter-to-algerianpres>; Letter from President Abdelaziz Bouteflika to Prime Minister Tony Blair, July 11, 2006, <http://www.fco.gov.uk/resources/en/pdf/algerian-pm-letter>. See also *Hansard's*, vol. 696, part no. 18, column WA 181, "Terrorism: Repatriation of Suspects," December 4, 2007, <http://www.publications.parliament.uk/pa/ld200708/ldhansrd/text/71204w0002.htm#0712046100021>

COIS: The FCO produced a Human Rights Assessment of Algeria in August 2010, part of which addresses the issue of the UK's Deportations with Assurances agenda for Algeria. The 2006 exchange of letters between the then British Prime Minister, Tony Blair, and President Bouteflika and subsequent returns are discussed. This report is widely referenced in a draft of the next COIS report on Algeria.

## **2. Background information**

This section examines the first part of the report, sub-sections 1-6. The 2010 report is substantially slimmer than the previous, September 2008 version: 129 pages rather than 218. This is potentially a good thing and a lot of unnecessary material has been cut, significantly from this section. The history section of the 2010 report is half the length of the 2008 report as it has been focused more clearly on recent events and lengthy discussions of the cancellation of the 1992 elections have been cut to short historical mentions. This is a positive change as it is no longer likely that those events would be material to any asylum claim.

Sources used in the remainder of the section are all accurately cited and appropriate. The Library of Congress Country Profile on Algeria, from May 2008 is still the most recent. This is updated with Freedom House's Freedom in the World 2009 report – there is now a 2010 report, published since the cut off date for this report but the information on the Charter for Peace and National Reconciliation has not changed in that report. The FCO country profile and Europa World online are both the most recent available. Sections on geography, economy and constitution are all informative, concise and uncontroversial.

Overall, there are four points which emerge from this section as in need of some attention or change:

### **2.1 Current conflict status of country**

The description of the period from 1999 to 2009 as comprising the 'end of civil conflict' in the title of the most recent history section is not sourced (before paragraph 3.03, p12). This appears as an unproblematic description of a historical period but the 'end of conflict' status is contested, strongly based on claims made by the current administration and does not seem to be supported by the facts. Since this will create an impression that asylum claims originate in a country where there is no conflict, it may have a disproportionate influence on decisions. Reference to the end of the conflict should be removed or associated with a particular source.

The most obvious evidence that the conflict has not come to a definitive end is the continued state of emergency, which was first introduced immediately after the results of the 1992 elections were cancelled and remains in force. Although Algeria's political leaders regularly cite the end of terrorism, on the 18<sup>th</sup> anniversary of the state of emergency, in February 2010 a spokesman for the Front de Liberation

National (FLN) which forms part of the ruling coalition, described plans to end it as 'suicide, while these crimes continue to terrorise our citizens.'<sup>7</sup>

COIS: The heading will be amended in the next report to read "Events between 1999 and 2010: Presidential Elections and the 2005 Charter for Peace and National Reconciliation".

## 2.2 State of emergency

The state of emergency is equivalent to a state of war in terms of the powers it gives to security forces to detain individuals, ban demonstrations and curtail individual freedoms and to the government to curb freedom of expression. Controls on these powers are very limited and they contribute significantly to the unstable human rights situation which is discussed in many sections of this report. It has been the focus of intense protests from Algerian civil society and the anniversary of the initial declaration each February is always a focus of campaigns for its end. In short, this is one of the most significant facts about contemporary Algeria, yet the report currently deals inconsistently with it.

The state of emergency is referenced 11 times, in nine of the report's 30 sections (twice in 3.02, 7.01, 10.09, 11.01, 15.05 and 15.08, 16.04, 17.03, 26.01 and 29.01) in reference to the state of war, military courts assuming judicial functions, restrictions to freedom of assembly, restrictions on freedom of the press, restrictions on public demonstrations, denial of freedom of movement and restrictions on where people can live and work. This legislation affects virtually all aspects of life in Algeria. While this is generally well reflected throughout the report it receives the worst coverage at the very beginning, in the history section.

Section 3.02, quoting from the Library of Congress Country Profile of May 2008, simply states that 'a state of emergency was declared and several paragraphs later that, 'The government declared a one-year state of emergency'. This is an accurate quote from the source and the Library of Congress Country Profile does not mention that 'a state of emergency continues' until 10 pages later (p17) but it is misleading. The state of emergency was initially temporary, for a period of one year, but at the end of that year it was extended indefinitely and it has not been lifted since.

The first paragraph of the introduction (7.01) begins with a clearer statement, from the Human Rights Watch 2010 report:

'Under a state of emergency imposed in 1992, and with President Abdelaziz Bouteflika easily winning reelection to a third term, Algeria continued to experience widespread human rights violations.' (at 7.01)

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<sup>7</sup> cited in Lamia Tagzout, Etat d'urgence : l'Algérie hors la loi depuis 18 ans El Watan 5.2.2010

This suggests a close connection between the state of emergency (and President Bouteflika's re-election) and continued human rights violations. A similar statement clarifying that Algeria has been under a permanent state of emergency for almost 19 years. The US State Department 2009 report (published March 11<sup>th</sup> 2010) which is referenced but not widely cited in the COI report has a clear quote which could be incorporated here:

A state of emergency implemented in 1992 remained in effect during the year, although the government mostly enforced provisions restricting assembly and association. (USSD 2009 report)

It may also be worth including a link to the original legislation, published in the Algerian Official Journal on August 11<sup>th</sup> 1992, which is available online.<sup>8</sup>

COIS: This is useful, and the suggestions will be incorporated into the next report.

### 2.3 Over reliance on non-critical sources

The resources used in the Background section present a very non-critical picture of the last few decades in Algeria. The first paragraph of the Political System section (6.01) cites the Algeria report of Europa World online that '.....there is no limit on the number of terms [the President]..may serve' while failing to add the information, included in the original source, that there was a limit of two terms until 2008 when it was removed by President Bouteflika as he reached the end of his second term. In the history section (paragraph 3.05) the Foreign and Commonwealth Office Algeria report offers no more insight into the intense controversy that the removal of presidential term limits provoked in Algeria and amongst human rights organisations everywhere: 'In November 2008, the Algerian constitution was amended following a vote in Parliament, which removed the two term limit on Presidential incumbents' (3.05).

COIS: The information in Section 6 explains the political system without making a critical analysis of it. The changes the president has made to the system are explained in para 3.05 of the history section. A link will be added in Section 6 to para 3.05.

The Freedom House, Freedom in the World 2009 report, which is relied on for the overview of the similarly controversial Charter for Peace and National Reconciliation, notes the large margin by which it was voted in, but also acknowledges the criticisms that this legislation provoked. Still, it does not capture the criticism as effectively as the Human Rights Watch report on this Charter: 'Impunity in the name of

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<sup>8</sup>[http://staging2.ilo.org/dyn/natlex/natlex\\_browse.details?p\\_lang=fr&p\\_classification=01&p\\_origin=COUNTRY&p\\_sortby=SORTBY\\_COUNTRY&p\\_country=DZA&p\\_country\\_all\\_any=ALL&p\\_keyword\\_all\\_any=ALL&p\\_start=51&p\\_increment=50](http://staging2.ilo.org/dyn/natlex/natlex_browse.details?p_lang=fr&p_classification=01&p_origin=COUNTRY&p_sortby=SORTBY_COUNTRY&p_country=DZA&p_country_all_any=ALL&p_keyword_all_any=ALL&p_start=51&p_increment=50)

reconciliation'<sup>9</sup> Overall, this section does not provide a satisfactory explanation for the statistics it cites of at least 150,000 people killed during a decade. The report does not need to dwell on this, but an insight into the horror of life for many people in Algeria throughout the 1990s would provide a valuable context for those people who decide to leave a decade later.

COIS: The history section should be seen as a brief overview, however consideration will be given to extending the section on the 1990s in the next report.

#### 2.4 Recent Developments

A valuable source, which is no longer cited at all in the report (though it was several times in the 2008 report) is the International Crisis Group. They have not produced a substantial report since the 2004 report on 'Islamism, Violence and Reform in Algeria', though their Crisis Watch database<sup>10</sup> produces short monthly reports on human rights related issues. These are mostly accounts of conflicts between members of security forces and Al Qaeda in the Islamic Maghreb (AQIM). They could provide a useful supplement to the Recent Developments section.

COIS: Thank you for this. The 2004 report is a little old now, but the monthly updates are useful

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<sup>9</sup> Human Rights Watch (2005) 'Impunity in the name of reconciliation: Algerian President's Peace Plan faces national vote', HRW, New York.

<sup>10</sup> <http://www.crisisgroup.org/en/publication-type/crisiswatch/crisiswatch-database.aspx?CountryIDs={72ACB80C-2CDB-47C5-BBB3-BFD9E126923D}#results>

### 3. Security issues relating to Al Qaeda in the Islamic Maghreb

This sub-section covers seven inter-related sub-sections of the COI report. Section 8, on security forces, Section 9, on non-state armed groups, Section 10, on Military Service, Section 11, on the Judiciary, Section 12, on Arrest and Detention, Section 13 on Prison Conditions and Section 14, on the Death Penalty. These sections are well laid out and easy to navigate, the divisions between sections are clear and help to identify relevant information easily. In general, important points are appropriately referenced and the references generally represent the sources well. All references in these sections have been checked and most were found to be accurate.

A large number of references, particularly in sections 8 and 9 come from Jane's Sentinel Country Risk Assessments. These are particularly difficult to find as subscriptions are unusually expensive; they are not generally carried by University libraries and it is unlikely that any law firm would have a subscription. The British Library keeps up to date copies on site, and since it is one of the only publicly accessible sources for this document (whereas all other sources cited in the COI report are either freely or very widely available), this may be worth mentioning in a note in the references. It is also updated twice a year, though the most recent update (April 2010) did not present any significantly different information from that cited in the report.

[COIS: A reference to the copies of Jane's available at the British Library will be included in Annex E \(References to source material\).](#)

#### 3.1 Updating of reports

The overall security situation in Algeria in 2009 was not dramatically different from 2008. The citation from the Amnesty International 2009 report (covering 2008) cited at paragraph 8.17 is not substantially changed in the Amnesty International 2010 report. Human Rights Watch similarly gives an impression of more general calm that is continually punctured by regular attacks by AQIM focused mostly on military targets.

Many uses of the USSD Human Rights Report 2008 do not vary at all or only in very minor details in the 2009 report. This is the case for paragraphs 8.04, 8.06, 8.07, 8.16, 8.19 and 8.22; 10.05; 11.05 and 11.06; 12.01 and 12.02. However in section 9 (non-government armed groups) the USSD report provides greater detail on a range of specific attacks throughout the year 2009 which should be included in the COI report. These details are repeated in the most recent USSD Country report on terrorism, which is also widely cited in Section 9 of the COI report.

[COIS: The draft of the new Algeria report includes more details of recent terrorist attacks.](#)

The extensive quote from the War Resisters International (WRI) report on Algeria (paragraph 10.09) dates from 1998 and stands out as one of the oldest sources cited in the entire COI Report. However, WRI is very much an ongoing concern and produces a range of much more recent reports. The Algeria report forms part of a larger global report that has been progressively updated since 2005. The fact that the Algeria report remains suggests that WRI understands it still to be valid in its essential aspects. An internet search for the key elements of the research did not highlight any evidence that any aspects of it have changed. The author of this commentary discussed this issue with a range of individuals in Algeria in October 2010 and confirmed that this report remains valid in all its essential aspects. The continued use of this reference therefore appears to be justified.

### 3.2 Disappearances

The COI report reflects the general picture of a significant decline in disappearances, with some ongoing concerns, which is common to most human rights reports covering 2009. However, it does not cite any reports of the government's ongoing failure to investigate disappearances from the 1990s. While this is unlikely to be directly relevant to current asylum claims it does illustrate ongoing concerns around impunity for acts of terrorism which are widely voiced in recent reports (particularly Amnesty International) and may be relevant to ongoing claims.

COIS: We feel that the report contains sufficient detail relating to issues that occurred two decades ago. However we will extend the history section on the 1990s in the next report.

### 3.3 Prison conditions

The section on prison conditions relies significantly on the USSD 2008 report. The 2009 report contains much the same information but begins the section with a new paragraph, as follows:

Prison conditions generally did not meet international standards. Overcrowding was a problem in many prisons. According to human rights lawyers, the problem of overpopulation was partially explained by an abusive recourse to pretrial detention. In 2008 the CNCPPDH conducted 34 prison visits and highlighted concerns with overcrowding, insufficient bed space, as well as poor lighting, ventilation, nutrition, and hygiene.

The CNCPPDH is the Commission Nationale Consultative de Promotion et de Protection des Droits de l'Homme, the official government human rights commission. The report may be downloaded directly.<sup>11</sup> This information should be

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<sup>11</sup> From [http://www.cncppdh-algerie.org/php\\_VF/index.php?option=com\\_content&task=view&id=21&Itemid=41](http://www.cncppdh-algerie.org/php_VF/index.php?option=com_content&task=view&id=21&Itemid=41)

added to the relevant section (paragraph 13.01) without waiting for the next update of the report.

COIS: Thank you. [A link to this report \(which is in French\) is included in the next report.](#)

#### 4. Restrictions to press freedom.

This is the second section that called for specific attention. Three sub-sections are considered under this heading: 15. Political Affiliation; 16. Freedom of Speech and Media and 17. Human Rights Institutions Organisations and Activists. There is significant overlap between these three sections as individuals writing for private or independent newspapers are likely to have sympathies with opposition parties and/or be active in human rights institutions. The independent press is an important voice for opposition politics and human rights movements, which is one reason why the government has been keen to exert a similar level of control as they do on government papers.

These sections are well set out in the COI report and the divisions between them are clear, despite the obvious overlap of the subject matter. The sub-sections to these sections are logically set out and information can be found quickly and easily. All three sections have also been substantially updated since the 2008 COI report, section 17 very significantly so and it is one of the only sections in the entire 2010 report to be longer than the corresponding section in the 2008 report.

The Political Affiliation section relies on only two main sources, the USSD Country Report on Human Rights and Freedom House's Freedom in the World, though the material discussed is clear and comprehensive. Both sources have since been updated but citations from the older reports remain in the newer versions as points remain relevant.

The Freedom of Speech and Media is the exception amongst these three sections, 12 sources are cited, double the number of sources in the other two sections combined. This presents a more complex picture and though it is again well set out, it is the most difficult of the three to follow and the contradictions between different sources come across more clearly. This is because, unlike in the other two sections, there is substantial disagreement between sources.

The final section of the three (17. 'Human rights institutions...') also relies on only three sources, the USSD Report, the International Federation for Human Rights (FIDH), annual 2009 report, and another Freedom House Report, 'Freedom of Association Under Threat' a special report dated November 2008. The 2010 FIDH report, covering events in 2009, was released in July 2010, after the cut off date for the COI report, though strangely there was no section on Algeria, so this is still the most up to date FIDH report on Algeria.

Despite the overall clarity of presentation, this section contains some serious omissions and errors. Some of these affect all three sections but most are concentrated in the more complex section on Freedom of Speech.

#### 4.1 2009 election issues

The Presidential election, in April 2009, receives relatively few mentions in the entire report. This is significantly because one of its principle sources is the USSD Country Report on Human Rights 2009, which covers 2008. The 2010 USSD report, which came out before the cut off date for this report, but is not widely referenced, has half a page on the elections (p10) which could be incorporated into relevant sections of the COI report.

The section on Freedom of Speech and Media is one of the only sections outside a very brief mention in the background section in which the 2009 election is referenced, in relation to a 'Reporters without Borders' report of two Moroccan journalists who were banned from covering the election. There is, however much more which could be cited. There is also considerable evidence that the crackdown around the elections had impacts well beyond the minor harassment of journalists that is currently mentioned.

The 2010 Freedom House report, published in July 2010 (after the cut off date for the COI report) states that:

Press freedom was severely curtailed prior to the April 2009 presidential elections, which President Abdelaziz Bouteflika won with over 90 percent of the vote amid protests of fraud by his opponents. The government consolidated its internet monitoring power during the year, and international observers reported that the authorities began blocking websites. (Freedom House 2010, no page numbers)

COIS: The FH report (published 3 May 2010) is quoted in the draft of the next report, as is the information about the 2009 election contained in the USSD 2009 Country Report on Human Rights.

International Freedom of Expression Exchange (IFEX) also published a report focused on the elections, which came out on April 22<sup>nd</sup> 2009, immediately after the elections.<sup>12</sup>The Ligue Algerienne pour la Defense des Droits de l'Homme (LADDH) also produced a report on the context of media during the elections, which they took the somewhat unusual step of translating into English.<sup>13</sup>

The LADDH is not cited at all in the COI report, though its reports are referred to indirectly through the USSD reports. It is a widely respected organisation, usually critical of the government but not without substantial evidence and a member of the FIDH. It produces regular reports which would be worth incorporating into future COI revisions.

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<sup>12</sup> IFEX 'press freedom abuses rise during elections'  
[http://www.ifex.org/algeria/2009/04/22/elections\\_abuse/](http://www.ifex.org/algeria/2009/04/22/elections_abuse/)

<sup>13</sup> LADDH (2009) 'Monitoring of Media in the Algerian Presidential Elections' along with a range of other influential publications available at <http://www.la-laddh.org/spip.php?rubrique9&lang=fr>

COIS: Thank you. More focus will be applied to LADDH.

#### 4.2 Punishment for defamation

The most significant area of concern relates to the criminalisation of various forms of defamation. This information is currently not clear or not complete in the report. The Algerian penal code was changed in 2001 to allow punishment of between two and 24 months in prison for journalists who are critical of public institutions or individuals. The COI report currently contains several references to criminalisation of these activities (16.01, 16.02, 16.03 and 16.04) but only an indication of the potential punishment (16.02) and only partial references to the legal basis for these punishments.

There are three areas of law which allow journalists to be imprisoned:

- The state of emergency legislation (1992) (discussed above): this is currently referenced in the Freedom House report (16.04)
- The Penal Code (2001): this is the punishment that is referred to in the Human Rights Watch report (16.03) which states that there is a maximum prison term of two years, but that report offers no details (such as article no.).
- The Charter for Peace and National Reconciliation (2006): punishes any attempt to investigate the role of the armed forces in 're-establishing security'. This is referred to in the previous section, with the quote from FIDH (17.04) and in the background section (3.03 and 3.04) but is also relevant here.

The COI report should clarify these three separate areas of law with additional references for clarity of these points. It currently cites two examples of individual journalists who have recently been punished (paragraphs 16.16 and 16.17). The legislation used to punish these journalists is not clear from these extracts and it is not mentioned in the reports cited, from the International Federation of Journalists (IFJ) and the Committee to Protect Journalists (CPJ), respectively. It is likely that this information is not known as Algerian jurisprudence is not always public. This suggests that some account of all three. This commentary has already recommended adding a paragraph on the state of emergency to the Background section, though it is referred to beyond that section. The further reference to it here serve as further reminder of the pervasive nature of that law.

COIS: The 'Treatment of Journalists' section 16.12 mentions the defamation laws, and the draft of the new report contains more information on punishment.

One of the most obvious sources of further information on the impact on journalists is the Reporters without Borders annual report. The 2010 report, covering all of

2009, was published on January 6<sup>th</sup> 2010. It is not currently cited in the COI report, and with good reason, since there is a serious error in the report, yet it is worth drawing on as it provides the best overview of the situation:

Article 144a of the Algerian criminal code, in force since 2001, provides for *jail sentences of two to 12 years* and fines for any comments seen as defamatory. The criminalisation of such offences constitutes a veritable Sword of Damocles hanging over Algerian journalists. The courts are kept busy by countless legal proceedings against journalists and their editors. The first quarter of 2009, ahead of presidential elections, saw an upsurge in such cases, with numerous proceedings launched against independent publications  
RSF World Report 2010 – Algeria, published January 6<sup>th</sup> 2010 (page 1) – emphasis added to highlight erroneous information.

This quote links the context of the 2001 penal code with the widely recognised impact of the 2009 elections on the treatment of journalists, though the information on the punishment is mistaken, rather than two to 12 years it is for two months to two years. The same mistake occurs in the original French report. The original law is available online at [lexalgerie](http://lexalgerie), the first part of the relevant article reads as follows (author’s translation):

Art. 144 (law no. 88-26 of July 12<sup>th</sup> 1988) Anyone who seriously offends a magistrate, a civil servant, a public representative or a officer or agent of the law with the intention of compromising their honour, integrity or the respect owed to their authority, be it either through words, gestures, threats or sending any object or by writings or drawings which are not made public, will be punished to between two months and two years prison and a fine of 500 to 5,000 DA.<sup>14</sup>

COIS: [A web link to the Penal Code will be included in the next report.](#)

The third and final area of potential punishment for journalists arises from the 2006 National Charter for Peace and Reconciliation. This is mentioned in the report in the background section. Its potential consequences on the right of assembly are noted in section 15.08, which cites a USSD report:

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<sup>14</sup> Author’s translation of the original French, which reads as follows: Art. 144 - (loi n°88-26 du 12 juillet 1988) Est puni d’emprisonnement de deux mois à deux ans et d’une amende de 500 DA à 5000 DA, quiconque, dans l’intention de porter atteinte à leur honneur, à leur délicatesse ou au respect dû à leur autorité, outrage dans l’exercice de leurs fonctions ou à l’occasion de cet exercice, un magistrat, un fonctionnaire, un officier public, un commandant, ou un agent de la force publique, soit par parole, gestes, menaces, envoi ou remise d’objet quelconque, soit par écrit ou dessin non rendu public. <http://lexalgeria.free.fr/penal3.htm>

The LADDH [The Algerian League for the Defence of Human Rights] reported continuing difficulties in obtaining permission to hold outdoor meetings and seminars. Groups opposing the Charter on Peace and Reconciliation had difficulty securing permission to hold public gatherings. (15.08)

A more extensive consideration of the details of the National Charter appears in an International Federation for Human Rights report, cited at 17.04, which quotes the passage of concern (Art 46) in some detail and considers its impact, though it notes (correctly) that it has never been used.

A further source which may be worth citing appeared soon after the passage of the law, on February 27<sup>th</sup> 2006, in the form of a joint statement by Amnesty International, Human Rights Watch, the International Centre for Transitional Justice and the International Federation for Human Rights March 1<sup>st</sup> 2006 called the law 'a major set back for human rights in Algeria.'<sup>15</sup> They also reference its potential impact on journalists and it should therefore also be referenced (or a cross reference to the extensive quote in 17.04 inserted) somewhere in section 16.

COIS: If, in the next report, quotes from the FIDH 2009 report are retained in section 17 a link will be added from section 16.

A more recent source concerning the impact on journalists is a letter to President Bouteflika from the Committee to protect journalists expressing their concern about the increasing rate of intimidation around the 2009 election. The CPJ do not link the start of such intimidations to the elections, however, but argue that it has been going on ever since the Charter was approved in 2006 :

The Committee to Protect Journalists is writing to protest the rising incidence of press freedom violations, many of which occurred during the recent electoral campaign that resulted in your re-election to a third term. CPJ research shows that the rate of abuses began to increase in February 2006, after your government issued a draconian decree restricting free expression and placing sharp limits on discussion of the conflict that ravaged Algeria in the 1990s. In a letter we sent to you at the time, CPJ pointed out that the decree prohibits further investigation into the serious human rights abuses perpetrated in the 1990s, including the murder of dozens of journalists and the disappearances of at least two. This decree has prompted greater self-censorship in the Algerian media, has served as a new prescription for the harassment and imprisonment of

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<sup>15</sup> [http://www.algeria-watch.org/en/hr/statement\\_amnesty\\_law.htm](http://www.algeria-watch.org/en/hr/statement_amnesty_law.htm) -

critical journalists, and has widened the gap between Algerian policies and international standards for free expression.<sup>16</sup>

Overall then, in improving its coverage of potential punishments for journalists, the COI report should provide more detail of the 1992 state of emergency and about the 2001 change to the penal code, both of which are used increasingly widely against journalists and introduce additional references to the measures against journalists in the 2006 Charter, though the FIDH 2009 reference (at 17.04) is valuable for its confirmation that these have not been used.

COIS: These sources have been included in the next report.

### 4.3 Incorrect reference to repeal of legislation

One of the most serious errors in the entire report concerns the reference to the removal of a law which is very much still in existence. Paragraph 16.14 cites Maghrebica, as follows:

On 28 April 2008 Maghrebica reported that an executive decree was adopted by the government on 22 April 2008 on the special status of journalists. The new decree abolished criminal punishments for offensive articles. The decree also guaranteed certain basic rights to journalists, including copyrights, insurance coverage when reporting dangerous events, protection from violence whilst searching for information and the freedom of political views. (16.14)

The original Maghrebica article references El Watan and Liberté, both independent, French language Algerian newspapers, though it gives no dates. El Watan has excellent archives on line with complete editions available. These were searched for the period 22<sup>nd</sup> to 28<sup>th</sup> of April, but no source for this story could be identified, through either the paper's search engine, or manually scanning the entire edition of every paper for this week. Liberté does not have complete print editions available online but scanning its online articles for the same week produced only one that could have provided the source of the Maghrebica story and it appears to be seriously misrepresented in the Maghrebica story.<sup>17</sup>

The Liberté article is quite long and deals mostly with the 'special status' of journalists, introducing a new press card, reserving certain housing for journalists and various other economic or social rights. In a passage at the end, punishments for journalists are addressed, as follows:

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<sup>16</sup> <http://cpj.org/2009/04/bouteflika-urged-to-reverse-algerian-press-freedom.php#more>

<sup>17</sup> Hamid Saidani 'adopte par le gouvernement: un statut spécifique pour les journalistes' Liberté 23.4.2008

The minister was also asked about the possibility of moving towards a decriminalisation of press crimes. He simply replied that it was ‘a subject of debate within the services put in place to respond to the various questions relating to the press and the representatives of the corporation’ he was careful to add that ‘97% of cases against journalists are brought by individual citizens who think they have been libelled’ [...] ‘there are very few cases of cases brought by institutions’ he explained.<sup>18</sup>

It is clear from this passage that the minister is specifically *not* discussing abolishing punishments for offensive articles. In fact the Liberté article describes the decree as under discussion, rather than already approved and no further reference to it or any similar decree could be found in the online version of Algeria’s *Official Journal*, so it seems that it has still not been passed, even to grant the limited social rights to journalists discussed here.

Reference to the potential repeal of the array of legislation used to punish journalists for criticising figures of authority is clearly prejudicial to any claim based on any of this legislation. As the previous section of this commentary made clear, this legislation is very much in force and during 2009 it was used to greater effect. Reference to the Magharebia article should be removed. In fact, the mistake is so serious as to undermine usage of any Magharebia source, which are used frequently in the report.

COIS: This reference has already been removed from the draft of the next report.

The final section of this commentary examines sources for the other seven Magharebia articles cited in the report and the three cited in the latest news section at the beginning of the COI report, but in future Magharebia source should be used with care and double checked where it appears contentious.

COIS: Noted, thank you.

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<sup>18</sup> The original French is as follows: ‘Interrogé, également, sur la possibilité d’aller vers la dépenalisation des délits de presse, le ministre s’est contenté de dire qu’il s’agit là “d’un sujet de débat au sein des ateliers mis en place pour traiter des différentes questions en rapport avec la presse et les représentants de la corporation”, tout en tenant à ajouter que “97% des poursuites contre des journalistes sont engagées par des citoyens qui s’estiment diffamés ou calomniés”. “Il y a peu de cas de plaintes déposées par les institutions”, se défend-il.” Hamid Saidani In Liberté, 22.4.2008 ‘adopte par le gouvernement: un statut spécifique pour les journalistes’ <http://www.liberte-algerie.com/edit.php?id=93509&titre=Un%20statut%20sp%E9cifique%20pour%20les%20journalistes>

## 5. The policing of the Internet

Internet usage is generally recognised as being much lower in Algeria than other countries in the region, though it is increasingly rapidly and the government has taken steps to control it, which is already leading to some punishments for bloggers and online journalists under the same legislation used to punish other journalists. The COI report currently has very limited information on this, much of which relies on old reports, which in such a fast changing area means they are rapidly out of date. There are also some new sources which could be added to the report to reflect the specialist interests of groups such as Internet users, bloggers or cybercafé owners.

As the boundary between production and consumption of information on the Internet is far more blurred than in print media or TV, this requires special attention. The interests and concerns of these groups do not always overlap with journalists or are not fully reflected in the existing advocacy groups for journalists (such as RSF, CPJ, IFJ). If the Internet is considered as public space, controls on Internet activities may have more in common with restrictions on the right of assembly than with freedom of expression.

The COI report's information on the Internet is located in three paragraphs (16.09, 16.10 and 16.11) all of which need updating. The first paragraph contains a quote from the USSD report 2008. The USSD 2009 report (March 11th 2010) retains this entire quote but inserts the following within this text (following 'personal Web sites.')

On August 16, the government enacted a new law on cybercrimes that establishes procedures for using electronic data in prosecutions and the responsibilities of service providers to cooperate with authorities. On November 9, Minister of Post and Information Technology Hamid Bessalah announced that his ministry was creating a National Center for Internet Data Exchange to protect Internet users from inappropriate content, cybercrime, and hackers.

The following paragraph (16.10) cites Freedom House's Freedom of the Press 2009 report, though it is actually the 2008 Freedom of the Press report (covering 2007); it is listed correctly in the references but the fact that it is out of date is not apparent from the main text of the report. The 2009 report is not substantially different from the 2008 report (the figure of 10.4 percent of Algeria's population with access to the Internet is revised to 'about 10.4 percent') but the section was entirely re-written in the 2010 Freedom of the Press report. This was published on October 6th 2010, well after the cut off date for the COI report but it should be inserted without waiting for the next update of the COI report. The relevant paragraph from the 2010 report reads as follows:

About 13.5 percent of the population accessed the internet during 2009. While access is generally unrestricted, the government does monitor e-mail and internet chat rooms, and internet-service providers are legally liable for the content they host. Bloggers, like traditional journalists, face potential defamation suits, and several have been fined for posting “defamatory material.” However, there were no reported cases of legal or physical harassment against bloggers or online journalists during 2009. Freedom House, Freedom of the Press 2010 report

The third paragraph on the Internet is from the BBC Country profile on Algeria. The current BBC profile, updated on October 6th 2010 (again, after the cut off date for the COI report) adds the following:

No widespread filtering is reported, but the blocking of a political website in January 2010 was said to be the first known instance of online censorship.

COIS: These three quotes have already been included in the draft of the next report.

In such a fast changing and increasingly significant context this section should be fully updated. It is also worth expanding, with the following information.

### 5.1 New Cybercrime Act

The cybercrime act, mentioned in the USSD report (cited above), is an important development that should be further elaborated. It was first introduced as a Bill and its impacts, even in draft form, were noted as having an impact on the political climate of the Internet in Algeria by the following year.

The Cairo based Initiative for an open Arab internet, published a study ‘One social network with a rebellious message’ on December 23<sup>rd</sup> 2009, which assesses the state of Internet controls in 20 countries.<sup>19</sup> It appears in English translation and the odd English language mistake in the translation should not undermine its authority or the quality of the research exercise. The Algeria chapter discusses the impact of the Bill:

Since, the Cyber Crime Bill was introduced in December 2008, the temporary truce between the Algerian government and internet cafés’ owners and managers ended. The truce disregard the security regulations imposed on internet cafés owners, like registry with names of the customers, their national identification numbers or a copy of it. The new bill now restores the control of the security forces over internet cafés, especially with conservatives and Islamists calling for control over these cafés. Now, it is mandatory to fix surveillance cameras to monitor

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<sup>19</sup> <http://www.openarab.net/en/node/1612>

customers, especially after the government had succeeded in arresting some young people who have been recruited through the internet in these cafés.

The report goes on to cite the first example of prosecution of bloggers under the laws to restrict journalists:

Abdul Salam Baroudi, writer of the blog Bilad Tilmisan, was the first Algerian blogger to be prosecuted and tried in Algeria in June 2007. This is after he posted an article criticizing the Director of Religious Affairs and Endowments, in Tlemcan state, for issuing a decision prohibiting imams of Tlemcan from dealing with the local radio station.

The new Cybercrime law, appeared in the Official Journal on August 5<sup>th</sup> 2009, the official announcement that it had been approved.<sup>20</sup> Although the official target of the law is internet fraud and terrorist organisation and recruitment, there was widespread concern about the possible implications for the freedom of speech on the Internet. A New York Times article summarises this position:

The measure ostensibly aims at cyberterrorism and cybercrime, but critics say that it is vague and could be used to muzzle free speech.

“They’ve realized that the Internet could be used as a tool for social dissent,” El Mouhtarem [An Algerian blogger close to the opposition FFS] said.

The proposed law allows for the surveillance of Internet users suspected of terrorist or “subversive” activities, or for breaching national security. Authorization for the surveillance must come from the “relevant judicial authorities,” according to the proposal. It also calls for the creation of an Internet police force charged with investigating online criminal and terrorist activities.<sup>21</sup>

It is also discussed in detail in the excellent, English language Algerian Review blog.<sup>22</sup>

COIS: The section on the internet is being expanded in the next report and several of these useful sources will be included.

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<sup>20</sup> The relevant issue of the Official Journal is available online at [http://www.joradp.dz/JO2000/2009/047/A\\_Pag.htm](http://www.joradp.dz/JO2000/2009/047/A_Pag.htm)

<sup>21</sup> Yasmine Ryan ‘Algerian Bloggers feel threatened by proposed law’ New York Times 21.11.2009 <http://www.nytimes.com/2009/09/21/technology/21iht-censor.html? r=2>

<sup>22</sup> <http://algerianreview.wordpress.com/2010/01/09/algeria-cybercrime-law/>

## 5.2 Blocking of Websites

The cybercrime law and its associated 'National Centre for Internet Data Exchange' provide the technical basis for the Algerian government to block websites. There is increasing evidence that this is now happening. A Reporters Without Borders report cites the blocking of the internet format of Radio-Kalima Algerie, Algeria's only independent radio station as the possible start of Internet censorship in Algeria.<sup>23</sup> A further recent case is the website and TV station of the anti-government (and mostly diaspora based) website Rachad, which has been blocked in Algeria since January 1<sup>st</sup> 2010. Rachad addressed a complaint to the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, on the Algerian government's censorship of its website, on May 28<sup>th</sup> 2010.<sup>24</sup>

A final source which should be cited is the The OpenNet Initiative report on Algeria published on August 6<sup>th</sup> 2009.<sup>25</sup> The OpenNet initiative uses specially programmed crawlers to examine the operation of the internet and measure levels of blocking or filtering of different styles of sites in national systems. The 2009 reports no evidence of filtering in any area of the internet in Algeria, but it goes on to cite a wide range of examples of police raiding internet cafes, certain sites that are blocked and the increasing capacity of government to investigate individual users. It concludes that:

Although Algeria does not at present filter Internet content, legislation that criminalizes peaceful criticism of the government and requires ISPs to police online content, together with a highly centralized network, could facilitate the filtering of online content in the future.

Given the expansion of activities in this area and the increasing power of the government to control them, this seems to be an important area of the COI Report to develop.

COIS: Thank you for this useful information and sources. All will be considered for inclusion in the next report.

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<sup>23</sup> RSF report 'Does blocking of independent radio station's website herald start of Internet censorship by Algeria? <http://en.rsf.org/algeria-does-blocking-of-independent-radio-19-03-2010,36790>

<sup>24</sup> [http://www.rachad.org/index.php?option=com\\_content&view=article&id=513:rachad-addresses-a-complaint-to-the-un-on-the-algerian-governments-censorship-of-its-website&catid=59:rachad](http://www.rachad.org/index.php?option=com_content&view=article&id=513:rachad-addresses-a-complaint-to-the-un-on-the-algerian-governments-censorship-of-its-website&catid=59:rachad)

<sup>25</sup> <http://opennet.net/research/profiles/algeria> published on 6.8.2009.

## 6. The Tindouf refugee camps and issues related to Western Sahara

The COI report provides the legal and institutional context relating to foreign refugees in Algeria at paragraphs 27.01-27.03. This is not problematic and citations appear to reflect the source documents accurately. The political history of Western Sahara is also clear and concise (paragraphs 27.04-27.06). Discussion of the particular situation of Sahrawi refugees in the Tindouf camps rounds out this section (paragraphs 27.07-27.14) and it is here that issues emerge.

### 6.1 Sahrawi refugees

Citing Human Rights Watch (HRW-Tindouf)<sup>26</sup> and the US Committee for Refugees and Immigrants (USCRI Algeria 2009)<sup>27</sup>, the COI report notes that Algeria has ceded de facto administrative control of the Tindouf camps to the Popular Front for the Liberation of Saguia el-Hamra and Rio de Oro (Polisario), the Sahrawi independence organization. The Polisario operates its own police, courts, detention centres and border guards, and applies its own penal code within the camps with the tacit agreement of the Algerian government.

This lacuna creates particular problems for Sahrawi refugees, which are unfortunately not adequately addressed in the COI report despite use of documents which do address it. The COI report cites only the three paragraph introduction to the HRW-Tindouf report noted above, though it contains over 40 pages detailing the situation of Sahrawi refugees in the Tindouf camps, including allegations of slavery. Given recent concerns around this group, this information should be expanded.

### 6.2 Slavery

The issue of slavery in the Tindouf camps is discussed briefly at paragraph 27.10 but its existence is erroneously dismissed in paragraph 27.11 via a citation from the US State Department Report 2008 on Western Sahara, which states that Human Rights Watch 'could find no conclusive proof of the allegations.' In fact HRW-Tindouf – the report in question – discusses allegations of slavery in pages 142-151. It should be stated that the error originates in the State Department report, but is propagated in the COI report. This is a serious matter not only because this error misrepresents the content of a report cited elsewhere in its own right (in paragraphs 27.08 and 27.12), but also because the dismissal of the continued existence of slavery or slavery-like practices in the Tindouf camps might create questions around the credibility of an asylum seeker making a claim on this basis.

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<sup>26</sup> Human Rights Watch, *Human Rights in Western Sahara and in the Tindouf Refugee Camps*, December 2008

<sup>27</sup> US Committee for Refugees and Immigrants Algeria report 2009

COIS: The reference from the USSD 2008 Western Sahara report has been removed from the draft of the next report.

HRW-Tindouf states that while the Polisario ‘firmly [opposes] slavery in all its manifestations’ it ‘*must do more to eradicate residual slavery practices that continue to affect some black residents of the Tindouf camps*’ (emphasis added). Both HRW-Tindouf and USCRI Algeria 2009 reports mention marriage restrictions on black Sahrawi women, who allege that local personal status judges (*qad’i*) will not officiate in their marriage ceremonies without the consent of Arab Sahrawis who they call ‘owners’.

HRW-Tindouf also cites the existence of ‘manumission’ documents and the case of ‘Saltana’, a then nine year old Sahrawi girl who arrived in Spain as part of a youth exchange program but refused to return to Tindouf, stating that she was a slave there. Polisario camp authorities had appeared to take an interest in the case and attempted to make representations on behalf of the girl’s mother.<sup>28</sup>

The responsibility for ensuring respect for the human rights of all persons within the territory of Algeria should rest with the Algerian government, but within the Tindouf camps Algeria appears to cede to the Polisario. In the case of Saltana and others like her, the Algerian state seems neither willing nor able to protect fundamental rights. In terms of the COI report this could easily be flagged by adding a headed subsection within ‘Sahrawi refugees’ (paragraphs 27.04 – 27.14) on ‘Slavery and slavery-type practices’ which references information in the HRW-Tindouf report noted above.

Women who are pregnant or have given birth out of wedlock may be detained by the Polisario in a facility called the Centre for Maternity Assistance<sup>29</sup>. This detention was variously characterised by Polisario authorities as ‘preventive’ or ‘rehabilitative’ (preventing the mother from harming her child) and ‘protective’ (protecting mother and child from revenge attacks). This detention not only criminalises consensual sex but it also leaves the door open for arbitrary detention where a woman is not released after serving her sentence unless her family is willing to adopt her child or a man is willing to marry her.<sup>30</sup>

Given the problems faced by Sahrawi women and specifically by black Sahrawi women and girls, this section could usefully be cross-referenced via with the section on women (Section 22) and child labour (Section 23, paragraph 17) and possibly trafficking (Section 24).

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<sup>28</sup> HRW (Dec. 2008) op. cit., p 149-150

<sup>29</sup> Ibid, p 140

<sup>30</sup> Ibid, p 141

COIS: This section will be expanded in the next report and the suggested cross-referencing links will be added.

### 6.3 Freedom of movement, exit and return

Neither the section on the Tindouf camps, nor the section on freedom of movement considers the question of freedom of movement for camp residents, though the HRW report recognises that this is one of the most controversial aspects of the camps as the Moroccan government refers to camp residents as ‘captive’. The HRW report is based on original research and found the following, which would be worth quoting in the COI report:

The Polisario does not prevent camp residents from leaving the camps on trips of limited duration or to settle elsewhere permanently. Sahrawis who seek to leave generally find a way to do so.

Nevertheless, former camp residents now living in Moroccan-controlled Western Sahara told us that when they left the camps they concealed their ultimate destination, fearing that the Polisario would block their departure if it became known. But no current or former camp residents provided us with specific, verifiable information about any camp resident whom the Polisario had prevented from resettling in the Moroccan-controlled area. Some speculated that there were types of high-level persons whose departure the Polisario might seek to prevent, but they could cite no example by name.<sup>31</sup>

The citation from the Country of Return Information Project (CRIP) May 2009 *Country Sheet for Algeria* used in the COI report suggests that a failed asylum seeker will not be treated differently from any other Algerian national returning to Algeria. Paragraph 1.4.1 of the CRIP report is (paragraph 29.05 of the COI report). However the following paragraph of the CRIP report (paragraph 1.4.2) is not cited, though it goes on to refer to a December 2004 UNHCR position paper on failed Algerian asylum seekers as follows:

UNHCR is concerned that asylum seekers found not to be in need of international protection, who are returned to Algeria (El Jazā'ir) may face hostile treatment due to the Algerian Government's perception that such persons may have been involved in international terrorism.

The COI report should report this apparently contradictory material even with a caution about the age of the report since there is nothing systematic that is more recent. The 2008 COI Algeria report cited the UNHCR source in full (at paragraph

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<sup>31</sup> Human Rights Watch, (2008) *Human Rights in the Western Sahara and in the Tindouf Refugee Camps, Morocco/Western Sahara/Algeria*, HRW, New York, p124

33.10). This is a rare example of a loss of usable detail between the two reports.

COIS: UNHCR sources have been referenced in the draft of the next report.

## 7. Other issues

### 7.1 Section on women

The section on women is the most substantial and significant of the nine sections which have not been examined in full. Indeed it is the longest section of the entire COI report. It's current form is the result of sustained attention to the importance of these issues in Algeria from a wide range of authoritative sources. These sources are well reflected. The whole section presents an impressive diversity of very authoritative yet critical sources. The only critical comment is the age of some of these sources, which are mostly from 2008 referring to events in 2007. There is little that can be done about this however as Algeria continues to refuse visits from UN Special Rapporteurs. No more up to date reports of similar authority could be found.

### 7.2 Use of correspondence with Embassy officials

The section on Lesbian, Gay, Bisexual and Transgender persons (section 20) is relevant to a number of recent asylum claims. It is one of the very few sections which have increased in length since the 2008 COI report, despite the overall substantial reduction in material between the two reports. This reflects the up to date nature of the material and the variety of sources used.

Yet this section is also the only one in the entire report to make use of email correspondence with the British Embassy in Algeria (paragraph 20.10). In its current format this is problematic as unlike all other sources there is no broader source cited and so no way of judging the basis on which the material was acquired. Presumably the official at the Embassy was not making these observations in the course of a more general report but was responding to specific questions from the Home Office with the aim of informing ongoing asylum procedures.

There is no reason why such material cannot be incorporated into general Country of Origin Information, but it cannot be included in its current form. If such material is to be used, it should be presented with the questions that the official was asked and with some indication of the basis on which these judgements are made. Such information would be likely to carry significant weight in any determination procedure.

If the official has been in Algeria for a number of years and has a in depth knowledge of the subject they are discussing such weight would clearly be justified, but if they have recently arrived or had no contact with the themes they are asked to address this should be made clear so that their comments can be given proportionately less weight. Comments such as:

We aren't aware of any social 'persecution' as such, but I imagine most homosexuals would choose to be incredibly discreet in their relationships.

Indeed, it seems that provided individuals aren't actively flouting their homosexuality there is a reasonable level of social tolerance

Indicate limited or uncertain familiarity with Algerian society and with homosexuality (most homosexuals would presumably question any understanding of what 'flouting their homosexuality' involved). Yet if we knew that the official in question had been based in Algiers for the last decade this would give their views more weight.

In general communications from British Embassies should be held to the same evidence requirements that any other piece of information in COI reports has to meet. At present this information does not meet those standards and should be removed or reinforced.

COIS: The LGBT section in the draft of the new report has been expanded, and the FCO's comments have been removed.

### 7.3 Final issues

Given the concerns raised by the poor referencing of the Magharebia article (paragraph 16.14) all other Magharebia articles were checked for referencing. This includes seven other articles throughout the main report and a further three in the Latest News section. All other Magharebia articles were from their own correspondents around Algeria and were generally much longer, more detailed and fully supported. Care should be taken in future using any Magharebia article based on other sources.

COIS: Noted, thank you.

There is some inconsistency in referencing USSD reports. Six different types of USSD report are referenced, sometimes more than one in the same section, so care should be taken to label the particular type of report referred to, rather than simply 'USSD report' or a general comment at the beginning could indicate that simply 'USSD report' refers to the Country Report on Human Rights Practices and any other report will be named.

COIS: Some of the USSD referencing is below standard and it will be addressed in the next report.

COIS: This report is currently being revised and a new report should be published in the early part of 2011.

Thank you for your suggestions and helpful links – many of which will be incorporated into the next report.