

Convention on the Elimination of Racial Discrimination
Alternative Report Submission
Indigenous Rights Violations in Algeria

Prepared for:
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Discrimination

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I. Reporting Organization

Cultural Survival is an international Indigenous rights organization with a global Indigenous leadership and consultative status with ECOSOC since 2005. Cultural Survival is located in Cambridge, Massachusetts, and is registered as a 501(c)(3) non-profit organization in the United States. Cultural Survival monitors the protection of Indigenous Peoples' rights in countries throughout the world and publishes its findings in its magazine, the Cultural Survival Quarterly, and on its website: www.cs.org. Cultural Survival also produces and distributes quality radio programs that strengthen and sustain Indigenous languages, cultures, and civil participation.

II. Background Information: History, Population and Regions

The total population of Algeria is estimated to be just over 41 million.¹ The majority of the population — about 90% — are the Arab people living in the northern coastal regions.² In addition, Algeria also has a nomadic or semi-nomadic population of about 1.5 million.³ Generally, the Indigenous People of Algeria are called Berbers; however, the term is regarded as a pejorative, as it comes from the word “barbarian.”⁴ As a result, although not officially recognized as Indigenous,⁵ Algeria's Indigenous Peoples self-identity as the Imazighen (plural) or Amazigh (singular).⁶ Due to lack of recognition, there is no official statistics or disaggregated data available on Algeria's Indigenous population. It is estimated that the Tamazight-speaking population is around 11 million, about a third of the total population.⁷

The Amazigh are several groups such as the Kabyle (living in Northern Algeria and are about two-thirds of the population),⁸ the Chaouia of the Aurès Mountains (are agriculturalists living in the east), the Mozabite living in the M'zab region south of Algiers (are estimated to be about 300,000 people who are predominantly Ibadi Islam), and the Tuareg (living in oases such as Tamanrasset and Djanet).⁹ Larger cities in Algeria like Algiers, Constantine, and Oran also have large populations of Amazigh that have partly Arabised over time due to acculturation.¹⁰

In 2016, Algeria recognized Tamazight as an official language in its new constitution, which means that Tamazight can be taught in schools and used in administrative documents.¹¹ Observers have stated that Article 3 and 4 of the Algerian constitution gives Arabic primacy, in contradiction to Algeria's history and traditions.¹² Differences between the Amazigh and the Arabs was further exacerbated by French colonialism,¹³ as the French attempted to pass laws that gave Amazigh customary law an important role, raising suspicion and mistrust among the Arab communities.¹⁴

Algeria ratified the International Convention on the Elimination of all Forms of Racial Discrimination (CERD) in 1966 by a Presidential Decree. In addition, Algeria has also voted for several international standards such as the UN Declaration on the Rights of Indigenous Peoples. Nonetheless, many Indigenous communities in Algeria are not aware of such standards,¹⁵ and face several challenges to

¹ “Algeria Population 2017”, *Algeria Population*. (2017-09-30). Retrieved 2017-10-16, from <http://worldpopulationreview.com/countries/algeria-population/>.

² *Ibid.*

³ *Ibid.*

⁴ “Refugee Response Tribunal - Algeria Research Response” REFWORLD, 31 Oct. 2005, www.refworld.org/pdfid/4b6fe1c30.pdf.

⁵ *Ibid.*

⁶ *Ibid.*

⁷ “The Indigenous World 2017.” *IWGIA*, 2017, pp. 433–437, www.iwgia.org/images/documents/indigenous-world/indigenous-world-2017.pdf.

⁸ Ahmed, Akbar, and Frankie Martin. “The Kabyle Berbers, AQIM and the Search for Peace in Algeria.” *Al Jazeera*, 24 Feb. 2013, www.aljazeera.com/indepth/opinion/2013/02/201321913479263624.html.

⁹ “The Indigenous World 2017.” *IWGIA*, 2017, pp. 433–437, www.iwgia.org/images/documents/indigenous-world/indigenous-world-2017.pdf.

¹⁰ *Ibid.*

¹¹ “Amazigh: Algeria Finally Recognizes Tamazight as Official Language.” UNPO, 11 Feb. 2016, unpo.org/article/18913.

¹² “The Indigenous World 2017.” *IWGIA*, 2017, pp. 433–437, www.iwgia.org/images/documents/indigenous-world/indigenous-world-2017.pdf.

¹³ Brett, Michael. “Berber People.” *Encyclopædia Britannica*, 21 Jan. 2016, www.britannica.com/topic/Berber.

¹⁴ Kazak, Amin. “The Berber Tamazight Movement in Morocco and Algeria.” *Amazigh World*, www.amazighworld.org/history/modernhistory/berber_movement_morocco_algeria.php.

¹⁵ “The Indigenous World 2017.” *IWGIA*, 2017, pp. 433–437, www.iwgia.org/images/documents/indigenous-world/indigenous-world-2017.pdf.

their constitutional rights, freedom of association, and freedom of expression. In attempts to conform to international human rights law, Algeria also joined the UN Human Rights Council in 2014. However, Algeria has continuously denied requests for visits from the UN Special Rapporteurs on issues of extrajudicial executions, human rights and counterterrorism, and the UN Working Groups on arbitrary detention.¹⁶ This report looks at several issues related to racial discrimination faced by Indigenous Peoples.

III. Continuing Rights Violations of Indigenous Peoples

A. Violations of Indigenous People's Constitutional Rights (Articles 1, 2, 3, 4 of CERD)

Even though Tamazight has been recognized as an official language, Algeria is an Arab country with anti-Amazigh laws still in effect.¹⁷ This sentiment is clearly stated in the preamble of the constitution, which declares that Algeria, being the land of Islam and an Arab country,¹⁸ will not jeopardize Islam by constitutional amendments,¹⁹ consequently classifying the Amazigh people as second-level citizens.²⁰ The Justice Department of Algeria has also claimed that the recognition of the Tamazight language is a serious threat to the Arabic language, and insists that the Amazigh flag used by the Kabyle people poses serious threats to Algeria's unity,²¹ and claim that a result, the demands put forth by the Kayble must end.²² Although Berber became an official — but not a national — language in Algeria in 2002, the Tamazigh language is still not taught in public schools or in universities. “Our community is traumatised – we feel like our body parts have been amputated” explained activist Ait Bachir, founding member of the Mouvement Autonome Kabyle (MAK).²³

This is a violation of Article 2(c) of CERD, which requires that states take effective measures to review government policies and laws that perpetuate racial discrimination. It is also a violation of Articles 1, 3, and 4, which condemn racial differences and propaganda based on racial or ethnic differences.

The Kayble, the largest ethnic group among the Amazigh, have struggled to maintain their identity since before colonialism in 1830. During colonialism, the Kayble resistance to French occupation was met with atrocious massacres.²⁴ After Algeria's independence in 1962, the Kabyle were again faced with fighting a new Algerian military elite which had declared Algeria an Arab country.²⁵

In the present day, with the proliferation of anti-terrorism laws post 9/11, and an alliance between the United States and the Algerian government, the War on Terror has led to the closing off of Algeria's borders with Morocco and Libya, while borders with Niger and Mali are closely monitored.²⁶ Such closures and monitoring have resulted in deprivation of family and community relationships between Indigenous Peoples whose communities span borders as well as shortages in necessities like food, medicine, etc.²⁷ The UN Declaration on the Rights of Indigenous Peoples in Article 36 1. States, “Indigenous peoples, in particular those divided by international borders, have the right to maintain and

¹⁶ “Algeria 2016 Human Rights Report.” *U.S. Department of State: Diplomacy in Action*, www.state.gov/documents/organization/265702.pdf.

¹⁷ “The Indigenous World 2017.” *IWGIA*, 2017, pp. 433–437, www.iwgia.org/images/documents/indigenous-world/indigenous-world-2017.pdf.

¹⁸ “Constitution of the Democratic Republic of Algeria.” www.joradp.dz/TRV/Fcons.pdf.

¹⁹ “The Indigenous World 2017.” *IWGIA*, 2017, pp. 433–437, www.iwgia.org/images/documents/indigenous-world/indigenous-world-2017.pdf.

²⁰ *Ibid.*

²¹ “Djaballah: The Amazigh Flag Is a Threat to National Unity in Algeria.” *Amazigh World News*, 26 Apr. 2017, www.amazighworldnews.com/djaballah-the-amazigh-flag-is-a-threat-to-national-unity-in-algeria/.

²² *Ibid.*

²³ Wuite, Casper. “The Politics of Identity: A Berber Spring in Algeria?” *Fair Observer*. N.p., 3 Aug. 2012. https://www.fairobserver.com/region/middle_east_north_africa/politics-identity-berber-spring-algeria/

²⁴ Ahmed, Akbar, and Frankie Martin. “The Kabyle Berbers, AQIM and the Search for Peace in Algeria.” *Al Jazeera*, 24 Feb. 2013, www.aljazeera.com/indepth/opinion/2013/02/201321913479263624.html.

²⁵ *Ibid.*

²⁶ “The Indigenous World 2017.” *IWGIA*, 2017, pp. 433–437, www.iwgia.org/images/documents/indigenous-world/indigenous-world-2017.pdf.

²⁷ *Ibid.*

develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders,” and that “States, in consultation and cooperation with indigenous peoples, shall take effective measures to facilitate the exercise and ensure the implementation of this right.”

B. Freedom of religion (CERD Articles 5)

Article 5(d)(vii) of CERD grants freedom of religion; however, government policies reflect a strong will to eradicate cultural diversity through land grabs and destruction of Kalybia (village) holy cities, particularly due to Arabization.²⁸ The Kabyle, followers of Ahmadi Islam, are persecuted by the state through denial of association, denial of construction of mosques, and hate speech because of their claimed threat to Sunni Islam.²⁹ In addition, “[t]he Amazigh community of Ghardaia, largely practicing the Ibadi branch of Islam, has also been subjected to discrimination and economical marginalization for decades,” drawing criticism from international organizations such as Amnesty International and Human Rights Watch.³⁰

C. Freedom of association, expression and access to tribunals (CERD Articles 4, 5, and 6)

The Mozabite and Kabyle also face repression by police either through arbitrary arrest, banning of all forms of expression or protest, and through surveillance of phones and internet in violation of their right to freedom of association and expression guaranteed by Article 5(d)(viii), (ix), and Article 4(c), which prohibits States from using public authorities and public institutions to promote racial discrimination. Several Mozabites are in prisons in the southern regions of Taghardayt and El-Ménéa. Most of these prisoners have been imprisoned for over 18 months, when by law they can only be held for 4 months - if it is preventative detention, with a one-time extension of 4 months.³¹ Salah Dabouz, an attorney that represents Mozabite prisoners was arrested and released in an attempt to have him drop the charges brought against the prisoners.³² Even though he was later released, he is still required to sign an attendance sheet in Algiers, which is 600 kilometers from where he lives.³³ In Kabylia, Amazigh non-governmental organizations are continuously harassed.³⁴ Some have lost their jobs, making them reliant on the goodwill of their family and friends.³⁵ These prolonged detentions and harassment are also deprivations under Article 6 of CERD, which requires effective protection and remedies against racial discrimination by way of competent tribunals and State institutions.

The MAK, under its president, Ferhat Mehenni, living in exile in France, filed its Memorandum for the Self-Determination of Kabylia to the UN Secretary General in September 2017, asking to join the United Nations as an independent state.³⁶ “One of the objectives of the present initiative is also to fully inform the international institutions on the policy of oppression, repression and discrimination practiced by Algeria in Kabylia towards its identity, language, culture, economy, environment, administration and security.”³⁷

Harassment to independence groups is not limited to the Kabyle. In November 2013, Mozabites in the city of Guerrara accused the security forces of torturing at least 10 people who had been detained. Human Rights Watch sent a letter to the Algerian authorities in November 2014 to inquire about investigations into the complaint the 20 men filed with the prosecutor of the First Instance Tribunal in

²⁸ “Kabylia: Outrageous Discrimination Increasing Against Minorities and Migrants in Algeria.” Unrepresented Nations and Peoples Organization, 20 Sept. 2017, unpo.org/article/20340.

²⁹ *Ibid.*

³⁰ *Ibid.*

³¹ “The Indigenous World 2017.” *IWGIA*, 2017, pp. 433–437, www.iwgia.org/images/documents/indigenous-world/indigenous-world-2017.pdf.

³² *Ibid.*

³³ *Ibid.*

³⁴ *Ibid.*

³⁵ *Ibid.*

³⁶ “Ferhat Mehenni Officially Demands UN for Self-Determination of Kabylia.” *Amazigh World News*, 28 Sept. 2017, www.amazighworldnews.com/ferhat-mehenni-officially-demands-un-for-self-determination-of-kabylia/.

³⁷ *Ibid.*

Ghardaia, but did not receive a reply.³⁸ In 2015, Kamal Eddine Fekhar, leader of the Movement for the Autonomy of the Mزاب, was arrested along with 30 co-defendants, after intercommunal violence broke out in front of his house, resulting in the death of 25 people.³⁹ The co-defendants could have faced charges for murder and terrorism that could have resulted in the death penalty.⁴⁰ The defendants' charges were based on a 150 page report which lacked incriminating evidence, included offences against peaceful protest and offences that were discriminatory.⁴¹ Nonetheless, the defendant's case was sent to trial in February 2017.⁴² Algeria's High Court rejected the defendant's appeal and the case was opened for trial in May 2017.⁴³ After nearly two years in prison, without trial, Kamal Eddine Fekhar was finally released in July 2017.⁴⁴

D. Land Rights (CERD Articles 2.2, 5i, 5v, 5vi, Gen. Rec. #23):

Tensions between the Mozabite and the Arabs go as far back as the 1960's, when the Chaamba Arabs (originally the Bedouins), were encouraged by the Algerian government to settle in the regions originally occupied by the Mozabite, creating housing and land rights issues.⁴⁵ The conflict is yet to be solved, as the two groups continue to fight.⁴⁶ Mohamed Sibachir, a political scientist, has stated that the resulting conflict is due to Algeria's ancestral agreements of land ownership and sharing which have not been respected; and as long as these agreements are not respected, the conflict will continue.⁴⁷

E. Violence Against Indigenous People (CERD Article 4)

Article 4(a) and 5(b) of the CERD condemn states from participation in violence or incitement based on race; it also condemns use of state forces to promote or incite racial discrimination and mandates right to security of persons. However, in contravention to these mandates, the Algerian government has persecuted Indigenous Peoples such as the Mozabites. Kamel Eddine Fekhar, the Mozabite human rights activist stated that, "state-sponsored racism is being perpetrated against the Mozabite because they are neither Arabs nor Sunni Muslims."⁴⁸ The Algerian government has denied the state police forces' participation in harassing the Mozabite.⁴⁹ In fact, instead of addressing the violence perpetuated by the police, the government has proposed creating an unidentified organization for the benefit of the Mozabite as well as distributing land that is already in the possession of the Mozabite to the Mozabite.⁵⁰ Finally, in addition to the police, the Mozabites are also facing attacks by the Chaambas, traditional pastoralists living in the M'زاب region.⁵¹

F. Freedom of Expression: Legal Rights to Cultural Practices (CERD Articles 5a, 5(d)(vii), 5(d)(viii), 5(d)(ix))

³⁸ "Algeria: Pro-Autonomy Activists Detained." *Human Rights Watch*, 25 Aug. 2015, www.hrw.org/news/2015/08/25/algeria-pro-autonomy-activists-detained.

³⁹ "Kabylia: Outrageous Discrimination Increasing Against Minorities and Migrants in Algeria." Unrepresented Nations and Peoples Organization, 20 Sept. 2017, unpo.org/article/20340.

⁴⁰ "Algeria: Ensure Fair Trial for Minority Rights Activists." *Human Rights Watch*, 29 May 2017, 4:00 am, www.hrw.org/news/2017/05/29/algeria-ensure-fair-trial-minority-rights-activists.

⁴¹ *Ibid.*

⁴² *Ibid.*

⁴³ "Algeria: Ensure Fair Trial for Minority Rights Activists." *Human Rights Watch*, 29 May 2017, 4:00 am, www.hrw.org/news/2017/05/29/algeria-ensure-fair-trial-minority-rights-activists.

⁴⁴ Gueddouh, Nadir. "The Arrested, Kamel Eddine Fekhar, Released on Sunday 7th." *DZ Breaking*, 16 July 2017, www.dzbreaking.com/2017/07/16/arrested-kamel-eddine-fekhar-released-today/.

⁴⁵ Benlakehal, Massinissa, "Clashes in Algeria's Ghardaia Signal Lasting Conflict". *Al Jazeera*, 14 Feb. 2015, www.aljazeera.com/news/2015/02/clashes-algeria-ghardaia-signal-lasting-conflict-150214101738931.html.

⁴⁶ *Ibid.*

⁴⁷ *Ibid.*

⁴⁸ Mahjar-Barducci, Anna. "Human Rights Violations In Algeria: The Mozabite People Under Attack." *MEMRI - The Middle East Media Research Institute*, 6 Feb. 2014, www.memri.org/reports/human-rights-violations-algeria-mozabite-people-under-attack.

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*

⁵¹ *Ibid.*

Prior to recognition of Tamazight as an official language in 2016, Ait Bachir, leader of the Movement for the Autonomy of the Kabylie (MAK), in 2012, stated that the Kablye movement is a movement for cultural revindication seeking a reformed nation with a defined common space with laws designed to include the Kablye, rather than the “Arab imperialism” that some Amazigh feel the current political system stands for.⁵² The first step was to begin with revising the constitution to guarantee Indigenous Peoples cultural rights.⁵³ The Law of Political Parties has been a hindrance to non-Arab opposition groups, as it restricts political organization to only election periods, thereby limiting such activities only to social media, the internet, and demonstrations.⁵⁴ In fact, political parties, NGOs, and civil associations are required to register and obtain written authorization from the Ministry of Interior before holding gatherings.⁵⁵ As a result, police have dispersed and arrested at least 100 MAK activists in July 2016, as they were preparing to hold unauthorized meetings to commemorate the 15th anniversary of the Berber Spring.⁵⁶ The Ministry of Culture and the Ministry of Religious affairs also constantly review content in films as well as books before release and publications.⁵⁷ Finally, due to ongoing violence in the Ghardaia's M'zab valley, historical sites dating as far back as the 9th century have been severely damaged, affecting tourism.⁵⁸

G. Education (CERD Article 5(d)(v) and Article 7)

Algeria's education is devoid of the country's cultural diversity,⁵⁹ in contravention of Article 5(d)(v) which require States to guarantee the right to education and training without discrimination and Article 7 which requires States to provide education to combat prejudices leading to racial discrimination. Even though Tamazight has been recognized as an official language that can be taught in schools, it is still having difficulty getting foothold due to lack of resources, decrease in institutions that teach the language, and because there are no jobs available in Tamazight.⁶⁰ In addition, because national baccalaureate exams do not require taking the Tamazight as one of the required exams, students are discouraged from learning Tamazight.⁶¹ Finally, another difficulty for the language is lack of agreement as to which one of the 6 dialects to teach.⁶²

VII. Other UN Body Recommendations

Universal Periodic Review (2nd cycle)

- “Lift de jure and de facto the state of emergency in the Algiers Wilaya and fully guarantee the enjoyment of the right to freedom of expression and assembly for all citizens.” - Belgium

CEDAW - Found on UPR Recommendations - 2nd cycle

- “Develop a comprehensive Women's Rights Plan, aimed at eliminating discriminatory practices, as is reflected in CEDAW's report of February 2012” - Spain
- “Examine systematically its laws with the aim of putting them in conformity with CEDAW” - Switzerland

⁵² Wuite, Casper. “The Politics of Identity: A Berber Spring in Algeria?” *Fair Observer*, 12 May 2014, www.fairobserver.com/region/middle_east_north_africa/politics-identity-berber-spring-algeria/.

⁵³ *Ibid.*

⁵⁴ *Ibid.*

⁵⁵ “Algeria 2016 Human Rights Report.” *U.S. Department of State: Diplomacy in Action*, www.state.gov/documents/organization/265702.pdf.

⁵⁶ *Ibid.*

⁵⁷ *Ibid.*

⁵⁸ Benlakehal, Massinissa, “Clashes in Algeria's Ghardaia Signal Lasting Conflict”. *Al Jazeera*, 14 Feb. 2015, www.aljazeera.com/news/2015/02/clashes-algeria-ghardaia-signal-lasting-conflict-150214101738931.html.

⁵⁹ Mahjar-Barducci, Anna. “Human Rights Violations In Algeria: The Mozabite People Under Attack.” *MEMRI - The Middle East Media Research Institute*, 6 Feb. 2014, www.memri.org/reports/human-rights-violations-algeria-mozabite-people-under-attack.

⁶⁰ Chaif, Rim Hayat. “In Algeria, the Berber Language Can't Get an Educational Foothold.” *Al-Fanar Media*, 15 July 2017, www.al-fanarmedia.org/2015/07/in-algeria-the-berber-language-cant-get-an-educational-foothold/.

⁶¹ *Ibid.*

⁶² “A Battle over Language Is Hampering Algeria's Development.” *The Economist*, 17 Aug. 2017, www.economist.com/news/middle-east-and-africa/21726743-arabic-berber-french-and-hybrid-three-vie-dominance-battle-over.

- “Continue to promote initiatives to empower women of the country at an economic, political and social level, doubling efforts to eliminate discriminatory practices which still affect them, as reflected in CEDAW's report of February this year” - Chile
- “Consider the adoption of new legislation on violence against women, suggested also by CEDAW” - Italy
- “Undertake legislative reforms, and review especially the 1984 Family Code, to withdraw/to allow it to withdraw all its reservations to the CEDAW” - Norway
- “Fully implement CEDAW by lifting its reservations” - France
- “Withdraw its reservation to Article 2 of CEDAW and accede to the Optional Protocol to CEDAW” - Australia
- “Consider withdrawing its reservation to Article 2 of CEDAW” - Mexico
- “Lift reservations to CEDAW” - Canada
- “Take steps towards the withdrawal of Algeria's reservations to articles 2 and 16 of CEDAW, which Slovenia considered contrary to the object and purpose of the Convention” - Slovenia

VII. Questions

- What efforts are being taken by the government to grant Indigenous Peoples, cultural rights, freedom of speech, and access to culturally relevant education?

IX. Recommendations

1. Revise the Constitution to officially recognize Indigenous Peoples, their languages, and their rights.
2. Ratify ILO Convention 169.
3. Implement the UN Declaration on the Rights of Indigenous Peoples
4. Collect disaggregated data on the country's Indigenous population.
5. Respect, protect and fulfill Indigenous people's rights to participate fully, in the political, economic, social and cultural life of the State.
6. Develop a National Action Plan in implementing the rights of Indigenous Peoples as called for in the Outcome Document of the World Conference on Indigenous Peoples.
7. Invite the UN Special Rapporteur on the Rights of Indigenous Peoples to visit Algeria.
8. Develop a comprehensive Women's Rights Plan with Indigenous women's participation, aimed at eliminating discriminatory practices.
9. Stop and investigate arbitrary police repression against Mozabite and Kabyle citizens and bring perpetrators to justice.