

# The Universal Periodic Review: *A synthesis of The Algerian Case*

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## ABSTRACT

**In a world of increasing globalization, Algeria's experience with the Universal Periodic Review is especially noteworthy. This article presents a careful deconstruction, that offers invaluable insight into how governments and citizens alike can interact in this ever-shifting landscape. Algerian activists surveyed want freedom from arbitrary detention and release of detainees, but only 1% of content coverage across 291 recommendations was given to this issue. As the UPR process advances, Algeria has made noteworthy commitments to uphold human rights through its efforts in allowing more freedom of expression and reducing restrictions on civil society. Only when this is done responsibly and with due diligence will a foundation for lasting change truly take shape.**

**Keywords: The Universal Periodic Review, Democracy, United Nations, Algeria, and Self-expression.**

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## INTRODUCTION

The Universal Periodic Review is a mechanism of the Human Rights Council that allows all countries to declare actions they have taken to improve human rights situations. The review is based on a three-step process: (1) the country under review declares what it has done to improve its human rights record; (2) the other countries participating in the review make recommendations to the country under review; and (3) stakeholders, non-governmental organizations, and individuals provide information on the actions of the reviewed country.

This allows all countries to communicate their progress on human rights issues and encourages them to take constructive action to improve human rights situations in their respective countries. The UPR also provides a platform for countries to share best practices and dialogue on the most pressing issues of human rights. Finally, it serves to hold countries accountable for their commitments to improve human rights standards and allow them to engage in constructive dialogue with other nations. The review process is essential in helping countries build effective systems that protect and promote human rights. The first Universal Periodic Review took place in 2008 and since then, the review process has become a fundamental tool to monitor human rights progress around the world. Every five years, each country is subjected to an assessment of its human rights record by a panel of experts from other countries.

The review consists of three parts: (1) an in-depth review of the country by a panel of experts, (2) a dialogue between the panel and representatives from the state under review, and (3) an interactive dialogue with all participating countries. The UPR is intended to assess progress made by each country to improve its human rights record as well as identify areas for improvement. Additionally, stakeholders such as civil society and non-governmental organizations are allowed to provide information during the review process. This can be done either through written submissions or oral statements. These stakeholders are essential in providing a more comprehensive assessment of the country under review and ensuring that all voices, including those most affected by human rights violations, are heard.

## THE UNIVERSAL PERIODIC REVIEW

There were 291 recommendations presented during the Algerian UPR review, from varied topics and priorities. Human rights topics such as freedom of expression, for example, can surface with different verbs such as "continue to work on"

or "put an end to". Overall topics mentioned are not a stand or position, the purpose is to create constructive dialogue with an aim for objective analysis, share best practices, and produce well-informed feasible recommendations. It is at this stage that the Algerian Geneva Mission, the public, civil society, and parliament begin to filter through the recommendations to decide on what to support, note, and/or reject. This is done through an internal consultation process among the various actors. The results of these consultations will then be reported back to the Human Rights Council, where the Council will then adopt the outcome report and recommendations. This process is a keyway to ensure that all voices, particularly those of civil society and vulnerable groups, are considered. After the adoption of the outcome report and recommendations by the Human Rights Council, it is up to the Algerian government. The nature and strength of the recommendations vary, for instance: the word 'continue' (or continue to) was used 78 times, 'ensure' 41 times, 'eliminate' 7 times, 'review' 5 times, 'amend' 11 times, 'consider' 15 times, 'address' 8 times, "put an end" 2 times, to name but a few. Out of a total of 291 recommendations 68 were in the category of gender equality, women empowerment, and protection, by far the highest-mentioned topics (See Figure 1).

It is important to acknowledge that recommendations do not necessarily mean criticism, and the strength of the recommendation is illustrated by the verbs used. For example, a recommendation that states, "continue to" skews differently than one that starts with "stop without delay". One is framed in a positive light and implies that there is progress, the latter, however, implies the contrary. It is also neither success nor failure of the UPR if topics such as freedom of expression, freedom of assembly and association, legislative and institutional alignment, etc. are referred to. The review is solely focused on human rights; hence such topics are mentioned for every state under review. The analysis is in the breakdown of the recommendations and patterns of concern. It is prudent to indicate that the SDGs in consonance with the United Nations agenda for gender equality holds primacy among the UN member states. There is a need to mention this premise as a variable that can have a significant impact on both the content and linguistics of the recommendations.

A particular example is recommendation 6.2187 from Uzbekistan "Continue with legislative and policy measures to further ensure gender equality". This is neither specific nor does it provide a direct pathway. It states "continue" which implies that there currently is legislative progress and presents gender equality in a broad aspect. Contrary to 6.2276 by Canada "Revise article 326 of the Penal Code to ensure that it can never be used to excuse rape." This is a clear position and constructive critique, as it not only provides the exact article in question but a rationale behind the recommendation. Canada has been consistent in its stance on this subject and recommended the same concern during Algeria's previous review in 2017. The second highest general category was legislative alignment and change to the penal code, again this is not necessarily mean a stand for HIRAK or protest. Feedback is best practice, in designing sustainable and measurable objectives that are specific and can be addressed.

The aim is feedback not mere critique, as the goal is peer review with an expectation to produce a positive outcome. It is important to clarify the differences between the terms. Critique is a careful judgment to give an opinion about positive and negative aspects. Feedback, on the other hand, is not mere critique or identifying flaws, but provides a pathway and avenue for correction. For example, United States of America recommendation 6.1355: "Cease harassment and imprisonment of journalists and human rights defenders and remove language criminalizing actions that "undermine national unity" in Article 95 bis, defamation provisions of 144 bis, and "false information" provisions of 196 bis." The term "undermine national unity" has indeed created great leverage owing to disproportionate authority discretion, which at best produces inconsistency and at worst breaths disproportionate authority discretion.

This is a necessary discussion and one that considers the Algerian public and civil society's point of view. It is also important to understand that this is not a political stand, nor one that is neither for nor against the Algerian government. It is constructive criticism and feedback with aim of addressing public concerns and in full respect of Algerian sovereignty. Another example of a legislative adjustment recommendation is "Further strengthen laws that allow religious plurality and protect religious minorities (Eswatini)", which further substantiates that one cannot make conclusions on the bases of coverage alone. The Kingdom of Morocco on the other hand seized the opportunity to politicize the mechanism through their recommendation: "Respond to the hundreds of communications from human rights mandate holders and treaty bodies regarding the abusive repression of the pacific protesters of the HIRAK movement, as well as the numerous cases of arbitrary detention, extrajudicial executions, and enforced disappearances in the Algerian territory, including Tindouf (Morocco);"

The danger of this recommendation is that it embeds false allegations with political motives, camouflaged with Hirak and genuine Algerian concerns. The impact of this “recommendation” can have far-reaching consequences – from damaging the relationship between two brotherly nations to endangering regional security. Such actions are in direct defiance of King Mohammed VI’s emphasis on unification and harmony across the region, thus risking greater unrest among not just these countries but also the entire region.

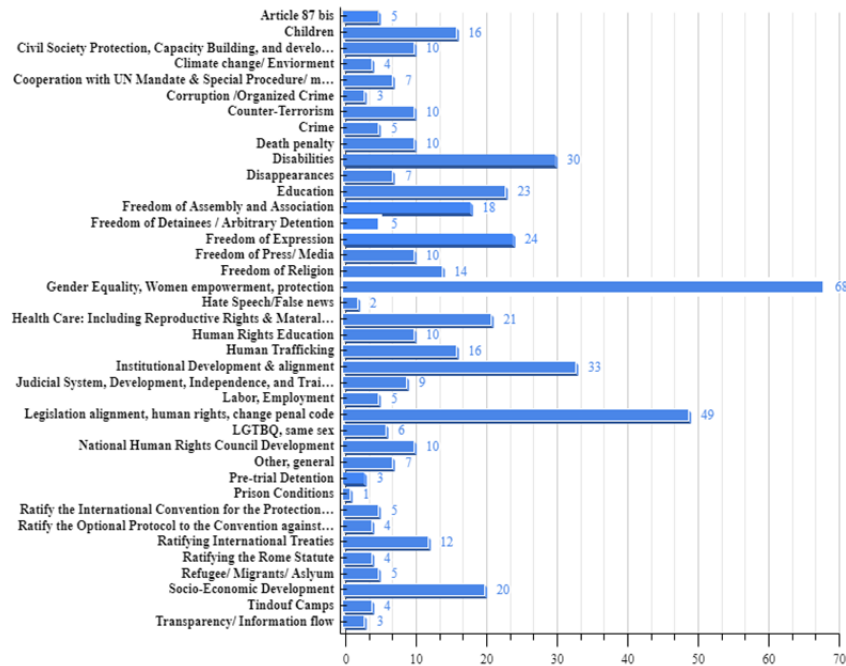


Fig. 1: Constructed by Farida Bouattoura. Data harvested from Office of the United Nations High Commissioner for Human Rights. “Draft Report of the Working Group on the Universal Periodic Review.” Ohchr.org, 2022.

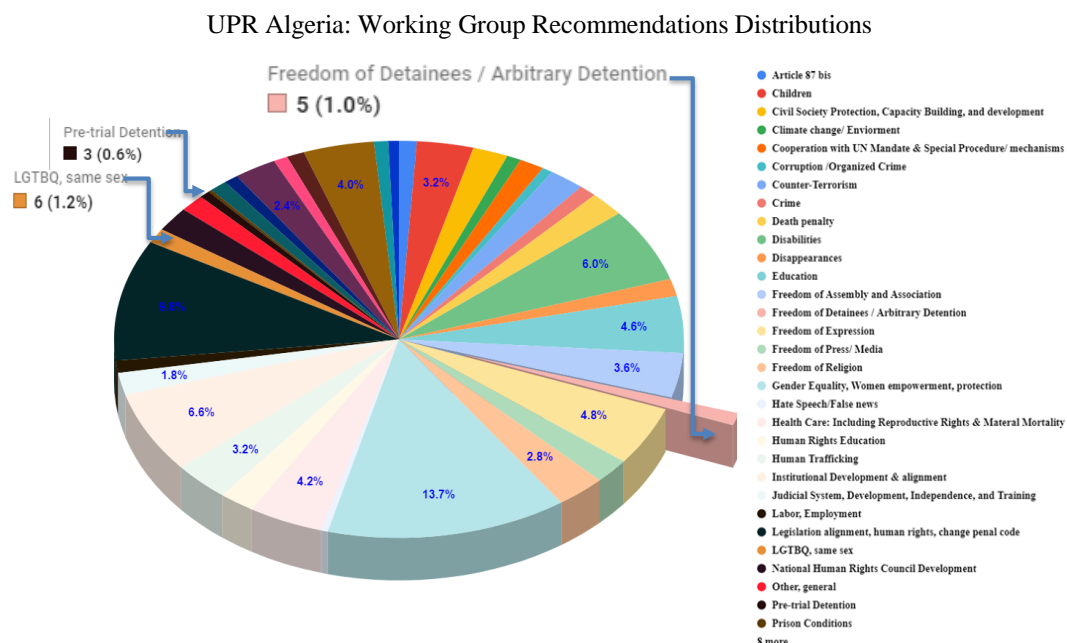


Fig. 2: Constructed by Farida Bouattoura. Data harvested from Office of the United Nations High Commissioner for Human Rights. “Draft Report of the Working Group on the Universal Periodic Review.” Ohchr.org, 2022. Global Comparative

A. Comparative Results

Arbitrary detention and release of detainees which according to surveys given is the top priority for Algerians was only mentioned 5 times out of 291(See Figure 1), resulting in 1% of the content (See Figure 2). Article 87 bis had identical

results with 5 overall mentions(See Figure 1), and 1% of the content(See Figure 2). Institutional development and alignment were at 6.6 %, keeping in mind that the verbs used indicate the state's stand not the mere mention of the subject. Freedom of assembly and association was mentioned at 3.6 %, and freedom of expression at 4.8% with a total of 24/291 recommendations(See Figure 2). Keeping in mind that some of these mentioned used the terms "continue to" or "strengthen", hence why it is important not to jump to conclusions. Figure 2, the Distribution pie illustrates a visual representation of one of the chief priority concerns i.e., overuse of pre-trial detention due to overarching legislation which received less than 1% coverage with only 3 mentions out of 291 recommendations. Less coverage than LGBTQ and same-sex marriage which was mentioned 6 times (See Figure 1 and 2).

To summarize, the topics mentioned are not political stands, and recommendations need to be specific and direct, with a clear pathway for progress and results. Despite the growing acceptance of same-sex marriage in many countries, it is still not a viable option for Algeria. This comes as no surprise given that Islam takes an unequivocal stance against such unions - making any recommendation to pass them through parliament or by popular vote doomed from the outset. While this opinion does not take a stand on either side, it is necessary to recognize and understand the religious context that frames how this suggestion will be received. When advocating and speaking for any country or people, one must adhere to a high ethical code and ensure that our words voice the people in question. There is a danger of losing touch with the culture and nation one represents on the international platform. Personal ideology is an inherited right but cannot be imposed for convenience or a political agenda.

As representatives of the Algerian community and organizations, we answer to a high code of ethics to ensure that our work does not impose the will of others and further oppress and silence the people we hope and claim to advocate for. Keeping that in mind, we must understand the mindset, culture, norms, values, wants, and needs. Regardless of the apparent controversy of the topics discussed, it seems that neither same-sex marriage nor religious liberty was at stake - rather, public concerns were overlooked. A prime example is Algeria's death penalty which has not been used since the 1990s yet was mentioned ten times more than civil society organizations' pressing priorities despite a five-year scope for UPR reviews. Algerian issues had little influence on discussion outcomes.

## CONCLUSION

The UPR process moves forward - what comes next the Algerian Geneva Mission, the public, civil society, and parliament begin to filter through the recommendations to decide on what to support, note, and/or reject. The review process is ongoing, and the Algerian government has begun to make efforts to implement some of the recommendations. For example, Algeria has made commitments to allow more freedom of expression and reduce restrictions on civil society. Though the vast majority of the working group did not prioritize the Algerian public, some recommendations covered the necessary concerns. Article 87 bis, Release of the Detainees, and Arbitrary Detention were covered in implicit detail in United States of America Recommendations 6.8. and 6.1355. Pretrial Detention was covered by Canada's 6.92. Freedom of Assembly and Association was covered by Mexico's 6.119. Gender Equality, Women Empowerment, and Protection by Belgium 6.1422. As well as, the United Kingdom of Great Britain and Northern Ireland 6.103 and the United States of America 6.1355. These nations' thoughtfully constructed roadmap (in-depth and detailed enough) ensured that all necessary matters had been fully considered to best serve Algeria's interests going forward. Moving forward, Algeria must continue to make progress on the recommendations that have been made and builds on the positive momentum created by the UPR process. It is also essential that countries continue to work together, sharing best practices, and exchanging ideas on how to best protect and promote human rights across the globe. Only by engaging in constructive dialogue and collaboration can all countries make meaningful progress in advancing human rights for all.

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