**Questionnaire for International Organizations and Civil Society by the**

**UN Special Rapporteur on the situation of human rights defenders**

**Mary Lawlor, 9 February 2021**

The UN Special Rapporteur on the situation of human rights defenders, Ms. Mary
Lawlor invites you or your organization to respond to the questionnaire below. Submissions received will inform the thematic report of the Special Rapporteur on the issue of long term detention of human rights defenders, which will be presented to the UN General Assembly in October 2021.

The questionnaire on the report is available at OHCHR website in English (original
language) as well as in French, Spanish, Russian and Arabic (unofficial translations): (<https://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/SRHRDefendersIndex.aspx>).

All submissions received will be published in the aforementioned website, unless you/your organization clearly indicated that you did not wish to have your input be made publicly available when submitting your response.

There is a word limit of 2500 words per questionnaire. Please submit the completed questionnaire to defenders@ohchr.org

Deadline for submissions: **19 March 2021**

**Contact Details**

Please provide your contact details in case we need to contact you in connection with this survey. Note that this is optional.

|  |  |
| --- | --- |
| Type of Stakeholder (please select one) | ☐ International or Inter-governmental Organisations X Civil Society Groups or Organisations ☐ Individual human rights defender☐ Academic/training or research institution☐ Other (please specify) |
| Name of Stakeholder/Organization (if applicable)Name of Survey Respondent | Cairo Institute for Human Rights Studies (CIHRS)Nadège Lahmar |
| Email | Nadege.lahmar@cihrs.org |
| Can we attribute responses to this questionnaire to you or your organization publicly\*? \*On OHCHR website, under the section of SR on human rights defenders. |  ~~Yes~~  NoComments (if any):  |

**Questions**

Human rights defenders are persons, who individually, or in association with others, work peacefully to promote and protect universally recognized human rights and fundamental
freedoms, in accordance with the UN Declaration on Human Rights Defenders.

Defenders around the world peacefully promoting and defending human rights operate under national legal frameworks not always fully consistent with the United Nations Charter and international human rights law. In some instances, as echoed in multiple Human Rights Council and General Assembly resolutions,[[1]](#footnote-1)[1] national legislation, in particular national
security and counter-terrorism laws, or regulations on civil society and public freedoms have been misused to target defenders in a manner contrary to international law, that might result in long-term arbitrary deprivation of liberty.

**1) Do you know of any human rights defender(s) currently detained by States, who have been imprisoned on charges that carry a prison sentences of at least 10 years or more? Please provide a list of cases.**

**Country: Algeria**

Mohamed Baba Nedjar is a young Amazigh[[2]](#footnote-2) rights defender, also member of the Socialist Forces Front (Front des Forces Socialistes, FFS) in Taghardaït (known as “Ghardaïa” in Arabic). He has been detained since 2005, and found guilty of premeditated murder in June 2006 by the Taghardaït Criminal Court. Initially sentenced to death, he was tried again after a cassation appeal, in May 2009, before the Criminal Court of Medea, and was sentenced to life imprisonment as well as indemnities of 500,000 Algerian dinars.

Mohamed Baba Nedjar was 21 when, on 20 October 2005, Brahim Bazine, president of the local Red Crescent organisation and former FFS activist was sprayed with gasoline and immolated on his way to the local mosque. On his hospital bed, Bazine told police he was assaulted by “two masked individuals”, “dressed in black, who fled on two motorcycles”. Brahim eventually died due to his injuries on 22 October 2005.

On 27 October, Mohamed Baba Nedjar went to the Taghardaït central police station after police summoned him. He was detained in isolation for six days at the prison of Taghardaït, suffered psychological abuse and was prevented from contacting his family or lawyer. When he eventually saw his father, he told him police officers had asked him to say that fellow Amazigh rights defender [Kamel Eddine Fekhar](https://www.frontlinedefenders.org/en/profile/kamal-eddin-fekhar) was behind the assassination of Brahim Bazine, and threatened to sentence him to death if he refused to do so, which he did.

The investigation against Mohamed Baba Nedjar presents several irregularities. Local police did not inspect the scene of the crime, explaining that they had found nothing that could be useful for the investigation. Daoud Bazine, the victim's son, went to collect the gasoline bottle used to immolate his father on his own and turned it over to the police on 22 October. The police never appeared to be looking for a second assailant, per the victim’s testimony. Police explained that eye witnesses recognised Mohamed Baba Nadjar from a picture that his lawyer was never shown and that was never found in Baba Nadjar’s prosecution file. Other witnesses, all minors, who testified to having seen Baba Nedjar near the mosque where Bazine was attacked a few days before the event, later declared not knowing Baba Nedjar or basing their testimony on second hand accounts. It was discovered that one of the witnesses gave a false testimony in another case in which another local activist was prosecuted. In addition, analyses carried out comparing the gasoline used to attack Brahim Bazine and the gasoline used by the Baba Nedjar family showed it was not the same product.

Furthermore, the police presented as material evidence of the crime elements that only attest to Mohamed Baba Nedjar’s opinions and activism: a vest on which was inscribed a slogan demanding the release of Khodir Babaz, a local activist arrested in 2004, as well as a publication from the local FFS section. Investigators as well as the court refused to take statements from Mohamed himself, his father, uncle and other members of his family, who all confirmed that Mohammad was with them at the time of the crime on the other side of town, breaking fast at his uncle's house *[for Ramadan]*.

It should be noted that in 2009, Amazigh rights defender Kamel Eddine Fekhar was accused of having set a police car on fire by security forces who presented a witness who later stated during trial that the police had pressured him to testify. The witness declared having testified against Fekhar to avoid being prosecuted like Baba Nedjar. Kamel Eddine Fekhar was later arbitrarily arrested and suffered systemic pressure and harassment[[3]](#footnote-3) due to his human rights work, including for [denouncing](https://www.lavantgarde-algerie.com/article/la-lutte/par-dr-kameleddine-fekhar-mohamed-baba-nedjar-lhomme-trahi-par-la-justice-et-les-siens) the lack of independence of the Taghardaït Criminal Court. His [death in detention](https://www.frontlinedefenders.org/en/case/kamal-eddine-fekhar-dies-medical-negligence-hunger-strike-while-targeting-human-rights) in May 2019 while on hunger strike was denounced by human rights organisations as medical negligence, and never investigated by Algerian authorities.

In 2017, the attorney general of the city of Saïda asked Baba Nedjar and his family to pay the 500,000 dinars of indemnities (currently about 3746.12 USD), which he has refused to do. According to the attorney general, while a miscarriage of justice has been committed, he could request a pardon if the indemnities were paid.

Mohamed Baba Nedjar has reported being victim of ill-treatment, including lack of access to medical care, and physical abuse in detention. He has carried out several hunger strikes for which he has hospitalized.

**2) Do you know of any human rights defender(s) currently detained by States, who have been imprisoned on continuous sentences amounting to 10 years or more?  For example, a defender who completes a sentence of four years in detention but instead of being released is given another six year sentence? Please provide a list of cases or examples if possible.**

**3) Do you know of any human rights defender(s) whose time in pre-trial detention and/or
administrative detention by States combines with a sentence that amounts, or would amount to 10 years or more? Please provide a list of cases.**

**4) Do you know of any human rights defender(s) falling under any of the previous categories above, who were released before ending their long-term prison sentences for any reasons (e.g. granted a pardon, as a result of an appeal, or released on humanitarian or other grounds)? Please provide a list of cases.**

**5) What actions do you suggest the Special Rapporteur can take to:**

1. **Prevent defenders from being detained for long terms in connection to their human rights work? And**
2. **Have those human rights defenders arbitrarily detained under long sentences released?**

**Algeria**

* Call on the Algerian Ministry of Justice to seize the Supreme Court to reopen Baba Nedjar’s case[[4]](#footnote-4) and ensure a fair trial and compensation if a miscarriage of justice is established, in light of the lack of incriminating evidence and the irregularities highlighted above, and the wider concerns relating to the arbitrary prosecutions of Amazigh rights activists and Amazigh citizens.[[5]](#footnote-5)
* Urge Algerian authorities to address recommendations made by the UN Human Rights Committee in 2018 in its last Concluding Observations on the fourth periodic report of Algeria (CCPR/C/DZA/CO/4), which remain valid, notably CO n°28; 34b; 40; 44 and 46.
* Urge authorities to cease all arbitrary prosecutions against individuals for their activity in defense of human rights, notably Amazigh rights defenders, revise the Algerian Penal Code in line with international law[[6]](#footnote-6), and express concern at the risk posed by an [overly broad](https://cihrs.org/algeria-change-within-continuity-the-2020-constitutional-revision/?lang=en) and abusive interpretation of the charge of “incitation to discrimination and hatred” within law 20-05 adopted in April 2020.
* Urge Algerian authorities to revise all legislative and constitutional provisions classifying indigenous Amazigh people as second-level citizens and to respect, protect and fulfill Amazigh people’s rights to participate fully in the political, economic, social and cultural life of the State.
* Ask Algerian authorities to issue a standing invitation to your mandate as soon as travel conditions allow for it.

**NOTE**: When providing the list of cases/examples under each question, please include: the name of the human rights defender(s), a summary of their human rights work, history of
detention (date of arrest(s), charges and conviction including articles of the relevant law(s)), a brief explanation of facts relevant to their case).

1. [1] See [A/HRC/RES 22/6](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/22/6) (2013) and [A/RES/68/181(2014)](https://undocs.org/A/RES/68/181). See also: [A/HRC/RES/25/18 (2014),](https://undocs.org/A/HRC/RES/25/18) [A/HRC/RES/27/31 (2014),](https://undocs.org/A/HRC/RES/27/31) [A/HRC/RES/32/31](https://undocs.org/en/A/HRC/RES/32/31) (2016) and [A/HRC/RES/34/5 (2017)](https://undocs.org/en/A/HRC/RES/32/31)  [↑](#footnote-ref-1)
2. Specifically the Mozabite Amazigh minority. [↑](#footnote-ref-2)
3. See Special Procedures communications AL DZA 3/2019 and UA DZA 1/2017. [↑](#footnote-ref-3)
4. According to the provisions of the Code of Criminal Procedure (Article 531). [↑](#footnote-ref-4)
5. See for instance submissions to Special Procedures AL DZA 6/2020; AL DZA 3/2019 and UA DZA 1/2017 as well as the Working Group on Arbitrary Detention [opinion](https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session88/A_HRC_WGAD_2020_53_Advance_Edited_Version.pdf?fbclid=IwAR2FXeCEBN079Ogw1NV64ZQ2McQcRlQ8qqj-MGpk9XfdNYEKmwIUzC1VFCc) A/HRC/WGAD/2020/53 and documentation from Amnesty International in [2017](https://www.amnesty.org/en/latest/news/2017/05/algeria-ensure-fair-trial-for-minority-rights-activists-fekhar-and-other-amazigh-rights-advocates-held-since-july-2015/) and [2019](https://www.amnesty.org/en/latest/news/2019/07/algeria-41-arrested-for-carrying-the-amazigh-flag-as-authorities-crack-down-on-freedom-of-expression/). [↑](#footnote-ref-5)
6. Especially overly vague provisions within Articles 75; 79; 95bis; 98; 100; 144; 144bis; 144bis 2; 146 et 196bis. [↑](#footnote-ref-6)