

# Challenges to Legal Advocacy: The Escalating Targeting of Lawyers and Threats to Judicial Independence in Algeria

A report by SHOAA for Human Rights organization on the escalation of prosecutions against lawyers defending detainees of the Hirak movement in Algeria.



شعاع لحقوق الإنسان  
SHOAA FOR HUMAN RIGHTS

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## Context:

On February 22, 2019, millions of Algerians took to the streets in the capital and other cities to oppose a fifth term for the country's president, Abdelaziz Bouteflika, and to demand a radical change of the ruling system, the establishment of a state of justice and law, and the demand for human rights, freedom, and democracy. The demonstrators marched in the streets every Friday thereafter, and their activity became known as "the Hirak." With its peaceful nature and legitimate slogans, it presented an ideal image in the history of peaceful revolutions demanding freedom and democracy. This led many professional sectors, including the justice sector of judges, public prosecutors, and lawyers, to organize gatherings to provide the necessary support for this movement. The Hirak eventually forced President Abdelaziz Bouteflika to resign in April 2019.

Later in that year, the Hirak opposed plans to hold presidential elections before implementing reforms. During this time, the "Algerian Judges' Free Club" (an independent union) decided to refuse to oversee the presidential elections scheduled for July 4, 2019, and organized a protest attended by hundreds of judges and lawyers in front of the Ministry of Justice in Algiers, chanting slogans demanding the independence of the judiciary and the reopening of corruption cases from the era of the resigned president Abdelaziz Bouteflika. The Algerian Lawyers' Union also announced a boycott of judicial work on April 17, 2019, protesting against the continuation of Bouteflika's regime figures managing the country's affairs.

The authorities faced all factions of the Hirak opposing the electoral procedures imposed by the military institution by arresting prominent activists of the Hirak, threatening judges and public prosecutors who refused to oversee the elections, and threatening Algerian lawyers because of their announcement of a judicial work boycott, protesting the continuation of Bouteflika's regime figures managing the country's affairs.

Since June 2019, arrests among Hirak activists began, especially prominent activists who were leaders in various human rights, union, and political organizations, and threats against them escalated. The human rights situation deteriorated more deeply than ever before. Lawyers expressed their rejection of the violations affecting freedom of expression and peaceful demonstration, demanding the "release of detained persons." This led many lawyers, who remained steadfast in accompanying Hirak, to establish a coalition comprising lawyers, named "The Collective for the Defense of Hirak Detainees"- not officially recognized.



The "Defense Collective for Hirk Detainees" was formed in July 2019 following the first wave of arrests against peaceful Hirk demonstrators, to voluntarily defend those arbitrarily prosecuted. Several lawyers from this body faced judicial harassment and intimidation. In June 2021, " the Collective for the Defense of Hirk Detainees" was nominated for the Lawyers for Lawyers Award 2021 in recognition of their significant contributions in protecting the rule of law and human rights in difficult environments.

### **The active role of lawyers in protecting democracy and supporting democratic rights:**

Following the start of the popular Hirk and the subsequent arrests and prosecutions of peaceful Hirk activists, the Collective for the Defense of Hirk Detainees was formed. It includes lawyers nationwide to take care of defending the prosecuted activists. Lawyers of the Collective for the Defense of Hirk Detainees rapidly spread towards police stations and prosecutions to defend detained Hirk youth and women, where the exemplary roles played by these lawyers are known to few. This idea evolved into forming lobbying groups of lawyers according to offices and the geographical presence of lawyers in complete coordination between the national states, especially with the rise in human rights violations among Hirk activists, in terms of arbitrary arrests and legal charges outside the legal framework. However, most of these charges were vindictive and political, meaning that the targeting was political for the accused and detainees, with an exceeding of the law and rights, and contrary to the Rights Document which is an integral part of the law. Lawyers who joined the Collective for the Defense of Hirk Detainees adopted the demands of the popular Hirk, believing in freedom, peace, justice, and the sovereignty of the rule of law and fair trials, continuing this risky work to establish the principles of justice and democracy.

### **Risks and Obstacles Facing Lawyers of the Collective for the Defense of Hirk Detainees Due to Their Support for Democratic Rights:**

At the inception of the Collective for the Defense of Hirk Detainees in 2019, it comprised nearly 200 lawyers. This body covered almost all trials across the national territory for about two years, with intense media activity to expose legal violations in the conviction of those prosecuted for their activities in the Hirk movement, as well as to demand respect for human rights and the establishment of a state of law. However, after the Coronavirus crisis and the cessation of Hirk marches, the authorities began to harass members of the Collective for the Defense of Hirk Detainees by using security apparatuses, employing various methods of pressure on them, and this escalated over stages.

Initially, they faced constant surveillance everywhere on the street and in facilities, pressure in their work, obstruction, and even retaliation in the judgments of their cases not related to the Hirak. A wave of escalations in harassment followed, including work suspensions, as well as harassment by the lawyers' unions under the pressure of the authorities, leading to disciplinary files with threats of criminal prosecution and then arrest and imprisonment due to their defense of Hirak detainees.

In addition to professional restrictions, lawyers of the Collective for the Defense of Hirak Detainees were demonized in the media by the authorities and their arms, labeled as traitors and foreign agents, which isolated them and deterred citizens from seeking their services in public law cases for fear of losing their cases and retaliation from judges against their clients. Lawyers no longer felt comfortable exchanging information or freely discussing their work in support of Hirak detainees or regarding human rights and the rule of law in general, fearing criminal prosecution. This led many lawyers of the body to cease human rights activities and defending these cases until the number of lawyers in the body did not exceed 40 in the year 2024.

### **Arrests and Judicial Prosecutions of Lawyers and Restrictions on Them Due to Their Activities in Defending Hirak Detainees:**

Because of their membership in the Defense Collective for Hirak Detainees, and revealing legal violations in the conviction of those prosecuted for their activities in the Hirak and also for demanding respect for human rights and building a state of law, many of them faced prosecutions and imprisonment.



**Mohamed Chahid**  
Member of the Collective for  
the Defense of Hirak Detainees

On October 8, 2023, was arrested with his family home in Bechar searched, and then taken to the Sahaoula security center in Algiers, the capital. On October 12, 2023, the investigating judge at the Sidi M'Hamed court in Algiers ordered his temporary detention under investigation in the same case with 15 political activists on charges of issuing a statement calling for dialogue, the release of political prisoners and prisoners of opinion, and he was charged with four counts - felony of establishing an organization with the purpose of activity under the impact of Article 87 bis, misdemeanor of undermining national unity, misdemeanor of publishing publications likely to affect public security and public order, and misdemeanor of using the wounds of the national tragedy and boasting about it through statements and writings for the purpose of undermining state security.



**Abderraouf Arslane**  
Member of the Collective for  
the Defense of Hirak Detainees

Was temporarily imprisoned pending investigation on May 26, 2021, by order of the investigating judge at the Tebessa court, and was tried on June 14, 2022, before the Primary Criminal Court, where he was sentenced to three years in prison, of which one year is effective and two years suspended, and he was released, while he has not yet been able to resume his work as a lawyer. This was after he represented the previous prisoner of opinion and Hirak activist "Bakakria Abdelaziz," who was arrested due to his political and human rights activity and posts on social media.



**Abdelkader Chohra**

Member of the Collective for the Defense of Hirak Detainees

On May 14, 2022, and May 31, 2022 they are imprisoned, respectively, by decision of the investigating judge at the Chlef court, based on their political, professional, and solidarity activities, and also after their call for a protest to demand an investigation into the death of the prisoner of opinion "Debazi Hakim," who died in prison, and also to demand the release of prisoners of opinion. It is also mentioned that they held a solidarity stand with the former military prisoner of opinion "Azouz Ben Halima Mohamed," where they visited his elderly mother to show solidarity... After all that, they found themselves judicially pursued and were released on August 15, 2022, after the Primary Misdemeanor Court of Chlef sentenced them to six months imprisonment suspended and a fine of 100,000 Algerian Dinars, while they have not yet resumed the practice of law due to restrictions and judicial prosecution.



**Yacine Khlifi**

Member of the Collective for the Defense of Hirak Detainees

On December 4, 2022, was assaulted at 7:45 a.m. in front of his residence by uniformed police officers belonging to the judicial police services of Algiers, the capital. He was leaving his house headed to court when a weapon was brandished in his face, he was thrown to the ground, handcuffed, and placed in a police car without committing any act or crime and without knowing the reason for the assault. On December 28, 2022, he filed a complaint with the Public Prosecutor at the jurisdiction of the Chéraga court against the fourth brigade of the judicial police in Bouchaoui 3 Chéraga to open an investigation to determine the reason for the use of violence against him by agents of that brigade.



**Said Zahi**

Member of the Collective for the Defense of Hirak Detainees

In November 2019 was suspended from work by the Tlemcen Bar Association and accused of insulting the judiciary during his defense of Hirak detainees, then reinstated in January 2020 after appearing before the disciplinary committee of the Tlemcen Bar Association. He was then removed from activity on April 22, 2021, by the Tlemcen Bar Association on charges of insulting the judiciary and defamation, based on his participation in a television channel where he spoke about the trial conditions of Hirak detainees, then returned to work in March 2022 after appearing before the appeal committee at the Supreme Court. He also faced numerous harassments from various entities due to his defense of Hirak popular activists and human rights cases.



**Mohamed El Amine Bendahmane**

Member of the Collective for the Defense of Hirak Detainees

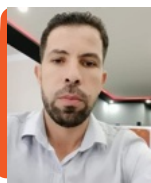
On November 17, 2021, received a summons by the judicial police of Oran, where he was investigated by the Cybercrime Unit regarding a post on his Facebook page dating back to May 2020. He then appeared before the investigating judge at the Saniya court in Oran on May 31, 2023, on charges of incitement to unarmed assembly and insulting a regular body.



**Omar Boussag**

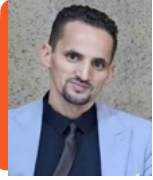
Member of the Collective for the Defense of Hirak Detainees

On September 13, 2023, appeared before the Cybercrime Unit of the Béjaïa police for interrogation in two cases related to his duties as a lawyer defending Hirak detainees. He was then referred for trial on charges of "insulting a judge" and "insulting a regular body" where he was tried before the Primary Misdemeanor Court in Béjaïa on November 26, 2023, and was fined 100,000 Algerian Dinars. Lawyer Sofiane Ouali was pursued due to his activity and representation of many Hirak activists in the Kabylie region, prosecuted under Article 87 bis.



**Sofiane Ouali**

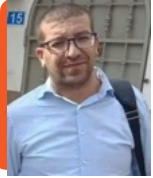
Member of the Collective for the Defense of Hirak Detainees



**Zidan Mehdi**

Member of the Collective for  
the Defense of Hirak Detainees

Was heard by the judicial police in an official report while performing his duties as a lawyer. This was during his visit to his clients who were detained under consideration at the state security center of Tizi Ouzou, where his phone was seized and he was referred for investigation. Initially, he was placed as a witness in the case, before becoming an accused as well. He then appeared before the investigating judge at the Primary Court of Tizi Ouzou on February 5, 2023.



**Mounir Gharbi**

Member of the Collective for  
the Defense of Hirak Detainees

In 2021, he was summoned for investigation and appeared before the public prosecutor. On November 9, 2022, he attended a preliminary hearing before the investigating judge of the Bordj Bou Arréridj court. The charges were "insulting a regulatory body and publishing posts that could harm national interest," stemming from a Facebook post. He then appealed to the Supreme Court against the charges.

## International Legal Framework:

According to Article 16 of the United Nations Basic Principles on the Role of Lawyers, governments must ensure that lawyers are "able to perform all of their professional functions without intimidation, hindrance, harassment, or improper interference. They should not be threatened with prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards, and ethics." Article 23 of these Principles also grants lawyers – like any other citizen – the right to freedom of expression and participation in public discussions on matters relating to the law, the administration of justice, the promotion, and protection of human rights.



In 2023, the UN Special Rapporteur on the Independence of Judges and Lawyers, Ms. Margaret Satterthwaite, in her first report of her mandate, expressed "serious concern about the widespread and increasing efforts to target lawyers for their work. Amidst growing authoritarianism globally, lawyers may increasingly face threats, arrest, legal prosecution, imprisonment, and even death. This applies particularly to lawyers who are active in defending human rights.

**According to the United Nations Basic Principles on the Role of Lawyers, governments must ensure that lawyers are “able to perform all of their professional functions without intimidation, hindrance, harassment, or improper interference,” and that “in the performance of their duties, lawyers shall not be identified with their clients or their clients' causes.” Legal representation is fundamental to the right to a fair trial and is enshrined in several treaties binding on Algeria, including the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights.**

## Policies and laws enacted by the authorities to limit the role of lawyers in protecting democracy:

On June 8, Algeria adopted Presidential Decree No. 09-21, which raises significant concerns as it can be used to criminalize the work of lawyers and broader human rights activities. The law stipulates imprisonment for up to 15 years for individuals who share information considered "secret" - very loosely defined, allowing for personal and abusive interpretation - and imprisonment for 3 to 5 years for individuals who share information about ongoing investigations or legal prosecutions. This decree essentially establishes a basis for prosecuting anyone who publishes information that the authorities themselves consider a "crime" or "undermines" their interests, and prevents anyone from sending information about an ongoing investigation, including to United Nations mechanisms. This decree represents another step in hindering the work of lawyers.



"On June 2021 ,8, Order 08-21 led to a broader expansion of the loose definition of terrorism in Article 87 bis, in a way that allows for the criminalization of peaceful opposition, and the creation of a terrorist list of individuals or entities under preliminary investigation, legal prosecution, or those convicted with a judgment or decision of conviction. Thus, these amendments undermine the presumption of innocence, and accordingly, entities or individuals may face unspecified sanctions related to the list; based on preliminary investigations or criminal prosecution alone. Lawyers were prosecuted under this article, similar to the case of lawyer Abdel-Raouf Arslan and lawyer Sofiane Ouali.

The executive decree number 384-21, issued on October 2021 ,7, specifies the operational mechanism for adding or removing entities and individuals from the terrorist list. Individuals and entities listed are subject to travel bans, asset freezing, and "prohibition from any activity of any kind." This latter measure, due to its ambiguity, opens the door to arbitrary restrictions on the right to freedom of association, peaceful assembly, or even the right to work, without any judicial basis; as a committee chaired by the Minister of the Interior and comprising several ministers and heads of other security agencies, makes such decisions about listing and delisting individuals and entities, based on memos from the concerned ministries. This committee can delist an individual or entity if they contest their listing and demonstrate why it is unjustified.

Therefore, the process of listing and appealing is entirely left to the discretion of executive authorities and security bodies, which is a matter of concern; as the Algerian presidency, under the 2020 constitution, retains dominance over all state institutions, and because the rule of law is not a significant basis for the functioning of the state, in addition to the lack of civilian and democratic oversight of security bodies.



## Conclusion and Recommendations:

One of the fundamental aspects of the rule of law is access to legal representation by an independent legal profession. Lawyers should be able to perform their professional duties without harassment, intimidation, or inappropriate interference. However, Algerian lawyers are targeted in conjunction with the near-total closure of the Algerian public sphere, through arbitrary arrests and judicial prosecutions of Hirak activists, human rights defenders, and journalists, and especially targeting the Defense Collective for Hirak Detainees, as part of a broader retaliatory campaign by the Algerian authorities against the peaceful Hirak movement in general. Lawyers often face harassment and criminal prosecution, especially when working on human rights cases and defending Hirak detainees, and lawyers fall victim to disciplinary procedures based on unsound reasons. This includes their suspension from practicing law without any explanation and being "warned" by the Bar Association against speaking publicly about certain politically sensitive cases, and lawyers no longer feel comfortable exchanging information or freely discussing their work in supporting Hirak detainees or human rights and the rule of law in general, fearing criminal prosecution. Moreover, they refrain from speaking publicly on social media due to ongoing defamation campaigns against lawyers who publish about their work or support for Hirak detainees, human rights, or the rule of law. Lawyers' professional activities are also hindered due to difficulties in accessing clients detained by the police and not knowing when their clients will be presented in court.

## As a result of all this, the Ray of Human Rights organization urges the Algerian government to:

- Immediately and unconditionally release lawyer Mohamed Chahid, stop judicial prosecutions and arbitrary sanctions against lawyers, and reinstate judges and lawyers who have been subjected to arbitrary penalties.
- Take immediate measures to ensure the protection and physical safety of lawyers and freedom of expression.
- Ensure that all lawyers and members of the judiciary in Algeria can perform their professional duties without threat, intimidation, obstruction, harassment, inappropriate interference, or retaliatory actions.
- Take measures to protect and enhance the independence of the judiciary as well as the independent legal profession.
- Take immediate steps to comply with its international human rights obligations, including by issuing an immediate and unconditional invitation to all special procedures of the UN human rights bodies, especially the Special Rapporteur on the independence of judges and lawyers."

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