

# **REDESM-CERM SEMINAR**

## **Insubria Doctoral Program in Law and Humanities**

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# The Algerian case

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# Which religious minorities are present in Algeria?

- **Ibadi Muslims** : are considered by some to be a third way of Islam. They are particularly concentrated in Mزاب region.
- **Shia Muslims**
- **Jews** : because of their small number (due to the exoduses after the independence of Algeria and during the years of civil war) and because of the closure to the synagogues, we can't speak of a minority as such. There is no more community life.

- **Catholics** : the Catholic community has been present in Algeria for many centuries and the Catholic Church wants to be a church of testimony for the Christian presence in North Africa. The Catholic Church is largely composed of foreign – rather than indigenous Algerians.

- **Ahmadis** : started to be visible in Algeria in 2016.

The Organisation of the Islamic Cooperation excommunicated them in 1973.

- **Evangelical protestants** : Their presence goes back to the colonial period through the existence of missions. There is no hereditary link between it and today's evangelical Protestants, mostly Algerians since the 1980. The Protestant Church of Algeria, *l'Eglise protestante d'Algérie* (EPA) founded in 1972, was led for almost forty years (until 2008) by an American pastor. Since then and until today, it has been represented by Algerians. There would be 46 communities affiliated to the EPA out of 12 wilayas (or provinces).

# General Framework

- Rejection to name these groups “religious minorities”.
- Names them “religious other than Muslims” or “cults other than Muslims”.
- Legal and security reasons.
- Recognition of the existence of religious minorities would call into question the construction of an Algerian identity based on Maliki Sunni Islam.

Definition of “religious minorities” given by the doctrine and the UN bodies :

- A number smaller than the majority of believers
- A common religion
- And a desire to preserve their community within the State

# The 2020 Algerian Constitution

- Art. 2 : Islam is the religion of the State, with no mention of the other religions ;
- Art. 35 : All citizens are guaranteed equal rights and duties ;
- Article 37 : All citizens are guaranteed equal protection before the law. Equality and non-discrimination on the basis of birth, sex, race, opinion, or any other personal or social condition or circumstance are guaranteed for all citizens ;
- Art.51 : The freedom of opinion is inviolable. The freedom of worship is guaranteed as long as it is exercised with the respect for law (introduced in 2016). Places of worship are protected from any political or ideological influence ;
- Suppression of the freedom of conscience ;
- Art.52 : Freedom of expression and freedom of peaceful assembly and demonstration are guaranteed in accordance with Algerian law ;
- Art.53 : The right to create associations is guaranteed. It is exercised by simple declaration.



## **Law 06-03 of 2006**

### **“Governing the Practice of Religions other than Islam”**

- Comes from the Ordinance n°06-03 of February 28 2006 setting the conditions and rules for the exercise of religions other than Islam.
  
- Completed by two decrees :
  - Executive Decree 07-135 of May 2007 setting the conditions and the procedure of religious events of religions other than Islam.
  
  - Executive Decree 07-158 of May 2007 setting the operating procedures of National Committee for Non-Muslim Worship.

# The National Committee for Non-Muslim Worship

It is a government entity under the Ministry of Religious Affairs responsible for the management and oversight of non-Muslim religious practices.

The committee includes representatives of :

- the executive office ;
- the national police ;
- the national gendarmerie ; and
- the National Human Rights Council ;
- representative from the Ministry of National Defence ;
- representative from the Ministry of the Interior ;
- representative from the Ministry of Foreign Affairs.

# **The collective exercise of worship**

- 1. The collective exercise of worship must be organised by religious associations.**
- 2. The collective exercise of worship must be in buildings that are identifiable from outside, remain open to the public, and register as places of worship.**

# **1. The collective exercise of worship must be organised by religious associations**

- **Art.6 of Law 06-03** : religious associations must be registered and approved in accordance with the law 06-03, but also, with the 2012 Law on Associations and Registration Requirements for Religious Affiliations.
- The **2012 law** regulates the creation and function of religious and non-religious associations. It requires associations to obtain approval from the government before operating. Following the passage of the law, all associations were required to re-register.

The Ministry of Interior issues association permissions in accordance with registration requirements. Groups can register for national-level or wilaya-level association status.

National associations must include at least 25 founding members from at least 12 wilayas (or provinces).

**Only for religious associations** : The National Commission for Worship gives a prior opinion to the approval of a religious association (law 06-03)

The 2012 Law on Associations dictates that penalties for leaders of unregistered associations include an imprisonment of 3 to 6 months and a fine (art.22).

## **2. The collective exercise of worship has to be in buildings that are identifiable from outside, remain open to the public, and registered as places of worship**

- Art.5 of Law 06-03 : Places of worship must be approved by the National Committee for Non-Muslim Worship and used for the purposes of worship.
- Art.7 : Places of worship must be open to the public and identifiable by the outside.
- Art.10 : Any provocation to resist laws or decisions of the public authority, or incitement to rebellion made in places of worship is punishable by 1 to 3 years imprisonment and a fine.
- Art.13 : Hosting worship activities in buildings no designated or approved by the government is punishable by 1 to 3 years and a fine.
- Art.13 : Preaching in a worship building without approval or authorization from the leader of a denomination and by relevant Algerian authorities is punishable by 1 to 3 years and a fine.

# The religious freedom of expression

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- The Council of Ministers which adopted the draft ordinance 2006 also affirmed that the text “sets out provisions intended to put an end to the anarchic activities of associations and individuals (...) as well as **proselytizing** enterprises carried out against Muslims in Algeria”
- Art. 11 of Law 06-03 : Any incitement, coercion, or other “means of seduction” intended to convert a Muslim to another religion is punishable by 2 to 5 years imprisonment and a fine.

- Protection of the “**national interest**” or “**national constants**” of the State.
- Article 96 of Penal Code : Anyone who distributes, offers for sale, exhibits to the public, or holds with a view to distribution, sale, or exhibition, for the purpose of propaganda, leaflets, bulletins and tickets likely to harm the national interest, is punishable by imprisonment from 6 months to 3 years and a fine (...). When the leaflets, bulletins, and tickets are of foreign origin or inspiration, imprisonment can be increased to 5 years.



- Criminalization of **blasphemy**.
- Article 144 bis of Penal Code : “whoever offends the prophet (...) and the envoys of God or denigrates the dogma or the precepts of Islam, whether by way of “*writing, drawing, statement, or any other means*”, is punishable by imprisonment from 3 to 5 years and a fine (...) or one of these two penalties only”.