ALGERIA

Under the Algerian Constitution (amended in 2008), women enjoy the same civil and political rights as men and have the status of full citizens (articles 29 and 31). Algeria ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1996, but with it has not ratified the Optional Protocol on violence against women. As of August 2010, Algeria had signed but not ratified the Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa.

1. Discriminatory family code

Algeria’s Family Code was revised in 2005, removing some clauses present in the previous Family Code that had directly discriminated against women. The minimum legal age of marriage in Algeria is 19 years for men and women. However, a judge can give permission for marriage to take place before the age of 19 if it is in the best interests of the person concerned, or in ‘cases of necessity’; in such cases, no minimum age is specified in the text of the Family Code. A contradictory situation exists in regards to guardian consent and freedom of marriage. According to the new Family Code, women cannot marry without the consent of their guardians (who are always male), however guardians cannot force a woman to marry against her will, or oppose a marriage. A marriage is only recognised as valid when both spouses have given their free consent.

Only marriages registered with the civil authorities are legally valid in Algeria. No information was found regarding planned legislation to remove the clause in the Family Code allowing marriage before the age of 19 at the discretion of a judge.

Overall, the United Nations Population Fund notes that rates of early marriage in Algeria are very low in comparison to global averages. Approximately 1.8% of girls ages 15-19 are married, widowed or divorced.

Under the new Family Code, if a couple has children, both parents are responsible for the protection of their children and for providing them with an education. However, parental authority remains with the father, and the mother is only able to make decisions concerning

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2 United Nations Treaty Collection (n.d.)
3 African Union (2010)
4 CEDAW (2010), p.14
5 Marzouki, Nadia (2010), p.30
6 Family Code, Article 7
7 Marzouki, Nadia (2010), p.37
8 CEDAW (2010), p.14
9 Family Code, Articles 18, 22
10 Loaiza, Edilberto and Sylvia Wong (2012), p.22
the child ‘in an emergency’ if the father is absent.\textsuperscript{12} Parental authority is governed by the civil Family Code; however, this code is informed directly by Sharia law.\textsuperscript{13}

Legally, women and men can both be the head of the household in Algeria.\textsuperscript{14} The new Family Code states that the husband and wife have reciprocal rights and duties towards each other, and the clause included in the previous Family Code stating that ‘the duty of the wife is to obey her husband’ has been removed.\textsuperscript{15, 16}

A shadow report submitted to the Committee on the Convention of the Elimination of All Forms of Discrimination against Women (CEDAW Committee) by the Centre d’Information et de Documentation sur les Droits de l’Enfant et de la Femme / Coalition Égalité sans Réserve (CIDDEF / CER) notes that the Family Code is very vague in regard to what circumstances constitute ‘an emergency’ when a mother can assume responsibility for parental decisions in the absence of the father, and that in practice, it is very difficult to prove absence.\textsuperscript{17} In cases of divorce, the husband has a legal obligation to provide the wife and children with somewhere to live, but this is often flouted.\textsuperscript{18}

The new Family Code stipulates that when a divorced couple have children, decisions regarding custody should be made in the best interests of the children. There is a default position of ‘mother preference’ in custody decisions, meaning that in the majority of cases, custody is granted to the mother, while the father is obliged to provide financial support. In addition, when a mother has been granted custody of her children, she obtains parental authority over them.\textsuperscript{19} If a woman remarries, she loses custody of her children; the same is not true if a divorced man remarries.\textsuperscript{20, 21}

Never-married women raising children are subject to overt discrimination and stigma, including in accessing state services.\textsuperscript{22}

Sharia law applies in the event of inheritance, as governed by the Family Code.\textsuperscript{23} In general, a woman is entitled to the equivalent of half her brother’s (or relevant male relative) share.\textsuperscript{24}

In some cases, according to a report by Freedom House, women are pressured by male relatives to give up their share of the inheritance.\textsuperscript{25} But in other families, parents circumvent

\textsuperscript{12} CEDAW (2010), pp.15, 16
\textsuperscript{13} CEDAW (2010), pp.15, 16
\textsuperscript{14} International Bank for Reconstruction and Development / World Bank (2011), p.54
\textsuperscript{15} CEDAW (2010), p.15
\textsuperscript{16} Marzouki, Nadia (2010), p.38
\textsuperscript{17} Centre d’Information et de Documentation sur les Droits de l’Enfant et de la Femme / Coalition Égalité sans Réserve (CIDDEF / CER) (2010), p.3
\textsuperscript{18} Human Rights Council (2011), p.16
\textsuperscript{19} CEDAW (2010), p.16
\textsuperscript{20} Centre d’Information et de Documentation sur les Droits de l’Enfant et de la Femme / Coalition Égalité sans Réserve (CIDDEF / CER) (2010), p.3
\textsuperscript{21} Human Rights Council (2011), p.16
\textsuperscript{22} Human Rights Council (2011), p.8
\textsuperscript{23} CEDAW (2010), p.13
\textsuperscript{24} Marzouki, Nadia (2010), p.43
\textsuperscript{25} Marzouki, Nadia (2010), p.43
the existing legislation and re-establish equality between their children by gifting property to female heirs while the owner is still alive.\textsuperscript{26, 27}

\textbf{More}

The Family Code continues to treat men and women differently in the case of \textit{divorce}. Men have the right to divorce without any justification, although the court may place conditions on the divorce. By contrast, women can obtain a divorce only under certain conditions (e.g. abandonment), or the practice of \textit{khula}, whereby a woman can divorce her husband unilaterally if she pays him a sum of money.\textsuperscript{28, 29}

\textbf{2. Restricted physical integrity}

There is no specific law criminalising \textbf{domestic violence}. Currently, the criminal code addresses inter-generational violence within the family, but not violence between spouses. The penal code allows for more severe penalties when violence is perpetrated against children or against parents, but does not consider violence committed by a spouse as an aggravating factor.\textsuperscript{30}

According to the 2010 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) report, legal provisions relating specifically to domestic violence and other forms of violence against women were at that stage being drafted.\textsuperscript{31} No further information on this planned legislation was found.

A National Strategy to Combat Violence Against Women was in place for 2007-2011, with the aim of raising awareness about gender-based violence, and putting systems in place to provide support to women who have been affected.\textsuperscript{32, 33} This included establishing a database on violence against women.\textsuperscript{34} However, the lack of infrastructure to support women who are victims of violence remains a challenge.\textsuperscript{35, 36} Some support is available to victims of domestic violence, in the form of shelters and hotlines run by the government and by women’s rights NGOs.\textsuperscript{37, 38} No data on conviction rates was found.

Domestic violence is still treated as a private matter that should be resolved within the family, including by police and the judiciary. As the Special Rapporteur noted in her report, ‘domestic violence is often accepted as a normal part of family life, mainly because of entrenched perceptions of the preservation of family honour, the social and economic subordination of women to their husbands and male relatives, and the fear of becoming outcasts from the

\textsuperscript{26} Marzouki, Nadia (2010), p.43
\textsuperscript{27} Centre d’Information et de Documentation sur les Droits de l’Enfant et de la Femme / Coalition Égalité sans Réserve (CIDDEF / CER) (2010), p.4
\textsuperscript{28} Marzouki, Nadia (2010), p.39
\textsuperscript{29} Human Rights Council (2011), p.15.
\textsuperscript{30} Human Rights Council (2011), p.16
\textsuperscript{31} CEDAW (2010), p.21
\textsuperscript{32} CEDAW (2010), pp.26-30
\textsuperscript{33} Marzouki, Nadia (2010), p.41
\textsuperscript{34} Human Rights Council (2011), p.13
\textsuperscript{35} République Algérienne Démocratique et Populaire, Ministère Délégué Chargé de la Famille et de la Condition Féminine (2007), pp.58-60
\textsuperscript{36} Human Rights Council (2011), p.13
\textsuperscript{37} CEDAW (2010), pp.33-34
\textsuperscript{38} Marzouki, Nadia (2010), p.41
family and community if the violence is reported’. These factors, along with fear of further violence from their husbands and of victimisation by police and judges, dissuade women who are affected by domestic violence from seeking help.

**Rape** is a criminal offence in Algeria, with punishments of between five and 20 years in prison, depending on the age of the victim. The definition of rape does not specifically include spousal rape.

In the Arabic version of the penal code, the word ‘rape’ (lightisab) is not used; rather, the crime referred to is ‘attack on the honour’ (hatk al-’ardh); this is not the case in the French version of the Penal Code, which use viol (rape). As such, rape becomes more a matter of an attack on the family’s honour, rather than a violent crime against the individual woman, and if the victim is not married, the rapist can avoid punishment by marrying her, and hence ‘expunging her honour’.

No information was found in regard to measures to ensure the implementation of the law in regard to rape. According to the United Nations Office on Drugs and Crime (UNODC), in 2008, there were 812 cases of rape registered with the police. It is unclear how many of these cases resulted in a conviction.

The US Department of State notes that rape is rarely reported due to societal pressure on victims, and bureaucratic obstacles to securing convictions. No further information was found.

**Sexual harassment** is a criminal offence under Algerian law. This follows amendments made to the Penal Code in 2004, which criminalise abuse of authority ‘with a view to obtaining favours of a sexual nature’. However, as the Special Rapporteur on Violence Against Women (who visited Algeria in 2010) notes, this definition of sexual harassment is restricted, potentially affecting its effectiveness. Article 341 bis of the Penal Code also criminalises sexual harassment in the workplace and punishes perpetrators with a fine and from 2 months to 1 year of imprisonment.

The National Commission of Women Workers runs a hotline for victims of sexual harassment, and has also run information campaigns on the issue. However, as the Special Rapporteur

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39 Human Rights Council (2011), p.17
40 Marzouki, Nadia (2010), p.40
41 CEDAW (2010), p.23
42 Marzouki, Nadia (2010), p.34
43 Human Rights Council (2011), p.16
44 Marzouki, Nadia (2010), p.34.
45 Marzouki, Nadia (2010), p.34
47 US Department of State (2013)
48 CEDAW (2010), p.23
49 Marzouki, Nadia (2010), p.46.
50 Human Rights Council (2011), p.17
51 Penal Code, article 341 bis
notes, sexual harassment remains largely underreported, with only 99 cases registered by the judicial police throughout the country from January to October 2010.  

According to the Special Rapporteur on Violence Against Women (who visited Algeria in 2010), sexual harassment remains largely underreported, due to fear among victims of reprisals and counter-accusations, and the lack of protection afforded to victims and witnesses in sexual harassment cases.  

There is no evidence that female genital mutilation (FGM) is practised in Algeria.  

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Women bore the brunt of violence and abuse during Algeria’s civil war, which lasted from 1991 to 2002. Rape, torture, forced marriage and pregnancy and murder, for the most part by armed rebel groups, were commonplace, although it is impossible to say with any certainty how many women were affected. Many of the women who experienced sexual violence during the war were subsequently abandoned by their families and by the state, and have since struggled to achieve a decent standard of living. The official policy of ‘national reconciliation’ has seen amnesty granted to those who committed grave human rights abuses during the civil war, including acts of sexual and gender-based violence against women, denying victims access to justice. In addition, there has never been an official enquiry into the violence experienced by women during this period. As of 2011, the Special Rapporteur noted that there had been a lack of specific rehabilitation measures for victims of sexual violence.  

Abortion is legal only in cases where the pregnant woman’s health is in danger.  

3. Son bias  

Algeria has a male/female sex ratio at birth of 1.05 in 2013. This keeps stable around 1.05 for the age-range 0-14 and drops to 1.02 for the working age-group 15-64. The 2014 projected sex-ratio for the entire population is 1.03. Analysis of sex ratios across age groups provides initial evidence that missing women is an issue of concern in Algeria.  

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Infant mortality rate is higher for boys than for girls, with 24.4 deaths over 1,000 live births and 20.64 deaths over 1,000 live births, respectively.
Education statistics are overall balanced across sexes. The 2008-2012 gross enrolment ratio in pre-primary school is 73.8% for males and 75.4% for females. The same pattern holds for primary and secondary school participation, with female’s net attendance ratio in secondary schooling being slightly higher than males’ counterpart (64.5 against 57.4%). Males’ literacy rates for the 15-24 age group are higher than females’ ones (94.4% compared to 89.1%). However, the figures above would not indicate that Algeria is a country of concern in regard to son preference linked to access to education.

4. Restricted resources and assets

Under the Constitution and the Family Code, women have the right to own and use land and other forms of property (non-land assets). Under the Family Code, when a woman marries, she retains ownership of any property, and can dispose of that property without permission from her husband.

The Family Code governs women’s access to land, which, as discussed above, is a piece of civil law but is directly informed by Sharia.

No data was found on women’s access to land ownership of land or property other than land.

The African Women’s Rights Observatory notes that in practice, women are generally too poor in Algeria to buy or lease land independently, and traditional social values inhibit women’s exercise of economic independence. The report by Freedom House notes that many women delegate decision-making in regard to land and property to their husband or male relatives.

Launched in 2006, the government’s Rural Renewal Policy – designed to revitalise rural areas and boost sustainable development – appears to be gender blind, and does not specifically target or support rural women. However, as of 2008, the official Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) report (2010) notes that 3,550 women (out of a total of 101,838) had been assisted to purchase land through a state ‘farmland ownership productivity enhancement programme’.

Under the Constitution, women in Algeria have the right to access financial services, including bank loans, and are free to negotiate business or financial contracts.

The government provides loans and grants for agricultural development to women and men on an equal basis, although in practice, the number of women applying for such assistance is very small. In practice, it is very difficult for women to secure commercial loans, as they frequently lack the capital needed to secure credit.

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65 UNICEF Statistics (2013)
66 UNICEF Statistics (2013)
67 Marzouki, Nadia (2010), p.43
68 Marzouki, Nadia (2010), p.39
70 Marzouki, Nadia (2010), p.43
71 CEDAW (2010), pp.93-95
73 Marzouki, Nadia (2010), p.45
74 CEDAW (2010), p.52
75 CEDAW (2010), pp.100-101
76 CEDAW (2010), p.103
According to financial inclusion data held by the World Bank, 20% of adult women had a bank account in 2011, compared to 46% of men. In the same year, 1% of adults had taken out a loan with a financial institution (defined as a bank, credit union, microfinance institution, or another financial institution such as a cooperative); these data were not disaggregated by gender.77

According to the official Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) report (2010), there are various government micro-credit schemes that particularly target women.78 No data on women’s access to micro-credit was found.

5. Restricted civil liberties

Women in Algeria do not face any legal restrictions in regard to free access to public space or freedom of movement. Provisions under the previous Family Code that meant women had to obtain their husband or guardian’s permission to obtain a passport have been removed.79 However, under the Family Code, decisions regarding where a married couple will live are the sole prerogative of the husband.80 There are no legal restrictions on unmarried women in regard to the right to choose their place of residence.81

Homosexuality is a criminal offence in Algeria for women and men, meaning that the free access to public space of Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) women is restricted.82

In her report, the Special Rapporteur noted that women living alone are sometimes the targets of hostility and even violence, while a report by Freedom House notes that divorced or single women who move within Algeria for work often face accusations that they are engaging in ‘immoral’ behaviour.83, 84 The Freedom House report also notes that women’s freedom of movement is often restricted ‘as a practical matter’, but does not provide further details.

Following changes to the law made in 2012, there are now quotas in place to promote women’s political participation. The Electoral Law (Law No.12-03) 2012 requires variable quotas of between 20% and 50% of the candidates for parliament to be women, depending on the number of seats in each electoral district. The Electoral Law imposes the same quotas in elections at sub-national level.85

According to the US Department of State, in local elections held in 2012, only four of the 1,514 local mayors elected were women.86

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77 World Bank (n.d)
78 CEDAW (2010), pp.53, 57, 97
79 Marzouki, Nadia (2010), pp.30, 37
80 CEDAW (2010), p.13
81 CEDAW (2010), p.52
82 Fahamu Refugee Programme (n.d.)
83 Human Rights Council (2011), p.9
84 Marzouki, Nadia (2010), p.45
85 The Quota Project (2013)
86 US Department of State (2013)
Discrimination on the basis of gender in employment is illegal, and women and men are legally entitled to receive equal pay for equal work.\textsuperscript{87, 88}

Pregnant women are entitled to 14 weeks’ paid maternity leave in Algeria. Maternity leave payments are 100\% of the woman’s regular salary, and maternity leave is financed through the state social security system.\textsuperscript{89}

Women make up the majority of journalists across all media. However, coverage of ‘women’s issues’ in the media is frequently polemical and sensationalist, according to Freedom House.\textsuperscript{90}

\begin{itemize}
\item \textsuperscript{87} CEDAW (2010), pp.12, 77
\item \textsuperscript{88} Marzouki, Nadia (2010), p.46
\item \textsuperscript{89} Social Insurance Act, Articles 28, 29, 72
\item \textsuperscript{90} Marzouki, Nadia (2010), p. 49
\end{itemize}
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