



Algeria – Researched and compiled by the Refugee Documentation Centre of Ireland on 22 July 2011

Information the treatment of women in Algeria.

The 2011 *Freedom House* report for Algeria, in a section titled “Political Rights and Civil Liberties”, states:

“Women continue to face discrimination at both the legal and societal levels. Under the family code, which is based on Islamic law, women do not enjoy equal rights in marriage, divorce, and inheritance.” (Freedom House (12 May 2011) *Freedom in the World 2011 – Algeria*)

The 2011 *United States Department of State* country report for Algeria, in a section titled “Women”, states:

“The constitution provides for gender equality; however, some aspects of the law and many traditional social practices discriminate against women. The family code contains elements of Sharia (Islamic law).” (United States Department of State (8 April 2011) *2010 Human Rights Report: Algeria*)

The 2011 *Amnesty International* report for Algeria, in a paragraph headed “Discrimination and violence against women”, states:

“In November, the UN Special Rapporteur on violence against women visited Algeria. Despite efforts to implement a national strategy to combat violence against women, the authorities had yet to criminalize domestic violence, including marital rape, and individuals responsible for gender-based violence were not brought to justice.” (Amnesty International (13 May 2011) *Annual Report 2011 – Algeria*)

The 2010 *United States Department of State* religious freedom report for Algeria states:

“Some aspects of the law and many traditional social practices discriminate against women. The family code, which draws on Shari'a (Islamic law), treats women as minors under the legal guardianship of a husband or male relative. Under the code Muslim women are prevented from marrying non-Muslims, although this regulation was not always enforced. The code does not prohibit Muslim men from marrying non-Muslim women, but it prohibits them from marrying a woman of a nonmonotheistic religious group. Under the law children born to a Muslim father are Muslim, regardless of the mother's religion. In rulings on divorce, custody of the children normally is awarded to the mother, but she may not take them out of the country without the father's authorization. Under the 2005 family code amendments, women no longer need the consent of a male tuteur (guardian) to marry.” (United States Department of State (17 November 2010) *International Religious Freedom Report 2010: Algeria*)

This report also states:

“Women suffer from discrimination in inheritance claims. The family code, which derives inheritance rules from Shari'a, states that women, including widows, are entitled to a smaller portion of a deceased husband's estate than his male children or brothers. Non-Muslim religious minorities may also suffer in inheritance claims when a Muslim family member lays claim to the same inheritance.” (ibid)

The Introduction to a *Freedom House* report on women's rights in Algeria states:

“The 1984 family code established the concept of an agnatic family structure characterized by patriarchal authority. Under this code, which was designed to appeal to Islamic fundamentalists by meeting a few of their basic priorities, women were primarily recognized as guardians of kin and tradition rather than as autonomous individuals.² In 2005, partly under the pressure of women's organizations, the family code was finally amended by the government of President Abdelaziz Bouteflika, who has been in power since 1999. The new code has brought a number of positive changes. It grants women more rights in terms of divorce and housing, reduces the role of a woman's male guardian to a largely symbolic status, and ensures Algerian women's right to transmit citizenship to their children. However, most women's rights groups continue to regard the amended code as far too hesitant to create true gender equality.” (Freedom House (3 March 2010) *Women's Rights in the Middle East and North Africa 2010 – Algeria*)

This Introduction also states:

“The present situation for Algerian women is complex and often ambiguous. Some believe that the family code, even with the recent revisions, is discriminatory and should be replaced by secular civil laws. This view has been continuously defended, notably, by Louisa Hanoune, a secular feminist and the only female leader of a political party, the Party of Workers ('Parti des Travailleurs'). However, women's empowerment is also inhibited by other factors, including gender-based prejudices, the lack of legal awareness among women, and broader government restrictions on civil liberties and political rights. Despite these constraints, the number of women's rights organizations has grown since 2004. Analysts praise the energy of these organizations as well as the interest that Algerian women display in learning about their rights whenever they are given the opportunity to do so. Scholars and activists emphasize the fact that the actual practices of Algerian society are often more progressive than official discourse or formal laws may suggest.” (ibid)

In a section titled “Nondiscrimination And Access To Justice” this report states:

“Women's rights are generally acknowledged and protected under the constitution, civil laws, and penal code, although discriminatory provisions on topics including rape and witness testimony continue to exist. Reforms of the family code and nationality code in 2005 were seen as positive even if incomplete, and amendments made to the constitution in 2008 illustrate the government's more active commitment to promoting women's political role. However, factors such as the irregular enforcement of laws and women's lack of knowledge about their rights hinder equal access to justice.” (ibid)

The Summary of a report from the *UN Committee on Economic, Social and Cultural Rights* states:

“While women enjoy formal legal equality in the public sphere, they lack equal access to the labour market and decision-making positions, as evidenced by their low

representation in these areas. Moreover, many women are still subject to oppression and discrimination in the community and family circle. The Family Code has been considerably improved but retains institutions that disadvantaged women, most significantly with regard to inheritance and the material consequences of divorce.” (UN Human Rights Council (13 February 2008) *Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences, Yakin Ertürk: addendum: mission to Algeria*, p.2)

A report published by the *Office of the United Nations High Commissioner for Human Rights*, in a section titled “Developments in the legislative framework” (paragraph 30), states:

“The amendments made in 2005 to the Family Code are regarded by high-ranking officials as instruments whose interpretation may enable the overcoming of deeply entrenched cultural and religious attitudes and perceptions. Promulgated in 1984, the Family Code contained blatant discriminatory provisions that systematized women's subordinate legal status to men.” (Office of the United Nations High Commissioner for Human Rights (OHCHR) (19 May 2011) *Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, on her mission to Algeria*)

In paragraph 31 this report states:

“Significant amendments in the Family Code include the removal of formal references to the 'inferior' position of women; the introduction of mutual consent by both spouses as a requirement of marriage; the right of adult women to choose the wali (marital guardian) of their choice; and the ability to contract a marriage on the basis of mutually agreed clauses. The amended Code also broadens the grounds on which a woman may sue for divorce, establishes the confirmation by a court of a divorce after reconciliation attempts have failed, and introduces strict requirements to polygamy, a practice which is said to be marginal and practiced by less than 1 per cent of the population. During the visit, officials highlighted the importance of judicial discretion to ultimately approve or disapprove polygamous marriages and how they understood this as a preventative measure to protect women from polygamy while responding to the social and cultural reality in Algeria.” (ibid)

This response was prepared after researching publicly accessible information currently available to the Refugee Documentation Centre within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

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