

ALGERIA



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Gender Justice & The Law

DOES THE LAW ENSURE GENDER EQUALITY AND PROTECTION FROM VIOLENCE?

The colour-coded representation below provides a comparison of the laws identified in the country profile with international human rights standards, the recommendations of the UN Committee on the Elimination of Violence against Women and country recommendations under the country's respective Universal Periodic Reviews.

YES

The law provides for gender equality and/or protection from gender-based violence and is substantially compliant with international standards. A green category does not indicate that the law is perfect or that gender justice in the relevant topic area has been fully achieved.

NO

The law does not provide for gender equality and/or there is no or minimal protection from gender-based violence.

Partly

Some gender justice aspects of the law have been addressed, but important gender inequalities remain.

No available data or inadequate information.

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

Algeria ratified CEDAW in 1996 and maintains reservations to Article 2 (policy measures), Article 15(4) (freedom to choose residence and domicile), Article 16 (equality in marriage and family life), and Article 29 (administration of the convention and arbitration of disputes).

Constitution

Article 32 of the 2016 Constitution states that all citizens are equal before the law and no discrimination shall prevail because of birth, race, sex, opinion, or any other personal or social condition or circumstance. Article 34 refers to equality of rights and duties of all citizens, men, and women.

NATIONALITY LAW

NATIONALITY

Women enjoy equality under the Nationality Code. Women and men have the same rights in relation to passing their nationality to a child and spouse.

CRIMINAL LAWS

Domestic violence

Domestic violence was criminalized by Law No. 15–19 of 30 December 2015 amending the Penal Code. Penalties for some Penal Code offences involving spouses were increased. However, there is no law on domestic violence prevention measures, such as protection orders.

Abortion for rape survivors

Abortion is prohibited by Articles 304–313 of the Penal Code, including for women who have been raped. A fatwa was issued in 1998 permitting abortion for rape survivors in some cases, and the public health law allows abortion if it is essential for a woman's mental

Female Genital Mutilation / Cutting (FGM/C)

FGM/C is not commonly practised in Algeria. Some cases may exist in migrant communities. There is no legal prohibition against FGM/C.

Marital rape

Marital rape is not criminalized.

Sexual harassment

Sexual harassment is criminalized by Articles 333 bis and 341 bis of the Penal Code.

Human trafficking

All forms of human trafficking are criminalized by Article 303 of the Penal Code. However, Algeria does not have a comprehensive anti-trafficking law that also addresses prevention and protection measures.

Rape (other than of a spouse)

The Penal Code No. 66–156 of 1966 criminalizes rape. Rape is considered a crime against the family and morals. The penalty for rape is 5–10 years' imprisonment. If the rape was committed against a minor, the sentence is imprisonment for 10–20 years.

Honour crimes: Mitigation of penalty

Article 279 of the Penal Code provides that a person who kills or injures his or her spouse benefits from mitigating circumstances if his or her spouse was caught in an act of adultery.

Sex work and anti-prostitution laws

Prostitution is prohibited by Articles 343–347 of the Penal Code.

Exoneration by marriage

Article 326 of the Penal Code exonerates a man who abducts a girl under 18 without violence, threat or deception if he later marries her. If the victim marries her abductor, the offender can only be prosecuted if the marriage is annulled.

Adultery

Adultery is an offence under Article 339 of the Penal Code.

Sexual orientation

Homosexual conduct between consenting adults is a criminal offence under Articles 333 and 338 of the Penal Code. Anyone guilty of a homosexual act is punishable with between two months and two years' imprisonment and a fine.

PERSONAL STATUS LAWS

Minimum age of marriage

The Family Code sets the age of marriage for males and females at 19 years. However, in exceptional circumstances the judge may approve a marriage for those under 19 years.

Male guardianship over women

Since the 2005 revision of the Family Code, the role of male guardian is limited to a symbolic role in approving the marriage contract. A bride's wali (guardian) must be present when she concludes her marital contract. A wali cannot force a woman to marry someone against her will or oppose the marriage.

Marriage and divorce

Both spouses can stipulate conditions in the marriage contract. A husband must maintain his wife. Women do not enjoy equal rights in divorce. A man can seek divorce without grounds. If a woman seeks divorce with no grounds and no consent, compensation must be paid to the husband.

Polygamy

Polygamy is permitted by the Family Code. Polygamy is subject to the wife's approval and the certification by a court of a "justified motivation" for the marriage and that the husband has adequate financial means to provide support.

Guardianship of children

The father has guardianship over his children including after divorce. However, in some circumstances the mother may also act as guardian.

Custody of children

In the case of divorce, custody is granted to the mother unless it is not considered to be in the best interests of the child. A mother may be granted custody of her sons until they reach the age of ten and of her daughters until they reach the age of marriage.

Inheritance

The Family Code applies Sharia rules of inheritance. Women have a right to inheritance, but in many cases receive less than men. Daughters receive half the share that sons receive.

LABOUR LAWS

Right to equal pay for the same work as men

Article 84 of the Labour Code requires employers to pay equal remuneration to male and female employees.

Domestic workers

Domestic workers have legal protections under the Labour Code and the national social protection scheme.

Dismissal for pregnancy

There is no provision in the Labour Code specifically prohibiting the termination of employment based on pregnancy. However, such a case may be considered as unlawful discrimination or an unfair dismissal.

Paid maternity leave

Women have the right to 14 weeks (98 days) maternity leave in line with international standards as stipulated by ILO Convention No. 183 at the full normal pay rate, which is paid by the government according to the Social Insurance Law, Law No. 83–11 of 1983, Articles 28 and 29.

Legal restrictions on women's work

Most restrictions on the employment of women in industries based on gender or sex have been removed. Article 29 of the Labour Code prohibits employing women for night work, unless a special exception has been granted.