



**July 2014**

**Refugee Documentation Centre**

**Country Marriage Pack**

**Algeria**

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**1. Types of Marriage**

Please see the paper by Sami Aideeb reference below which gives details of marriage in Algeria starting on Pg10 under the heading “Marriage Records”

**Civil Marriages**

According to the *US Department of State*:

“Amendments to the family code supersede the religiously based requirement that a male sponsor consent to the marriage of a woman. The sponsor represents the woman during the religious or civil ceremony. Although this requirement has been formally retained and the sponsor continues to contract the marriage, the woman may choose any man that she wishes to be her sponsor. Some families subjected women to virginity tests before marriage.”  
US Department of State (27 February 2014) *2013 Country Reports on Human Rights Practices – Algeria*

**Religious Marriages**

A report on *Algeria.com* states:

“After the engagement, the next ceremony is the actual signing of the contract of marriage, called "lehlal" in Algeria. A religious man prepares the contract and it is necessary that twelve men play the role of witnesses that the marriage has been legal and has the consent of both parties.” (Algeria. Com (Undated) *Marriage in Algeria: Focus on Religion (Part 1)*)

## **Traditional/Other Marriages**

A report by *Amnesty International* states:

“The FamilyCode maintains the right of a man to marry more than one woman, despite imposing restrictions on polygamy.” (Amnesty International (14 April 2014) *Algeria: Key human rights concerns ahead of presidential elections*)

According to the *Social Institutions and Gender Index*:

“The family code affirms the religiously based practice of allowing a man to marry as many as four wives. According to the family code, polygyny is only permitted upon the permission of the first wife and the determination of a judge as to the husband’s financial ability to support an additional wife. Polygyny occurred in 1 to 2 percent of marriages. It was unclear whether authorities followed the law in all cases.” (US Department of State (27 February 2014) *2013 Country Reports on Human Rights Practices – Algeria*)

“Polygamy is legal in Algeria according to the Family Code, under which it appears men can take up to four wives.[28] However, legislative changes introduced in 2005[29] make it quite difficult for a man to take a second wife, as he must obtain the consent of both the first and the proposed second wife, and make an application to the Family Court for permission.[30] The Court then decides whether the husband’s reason for wanting to take a second wife is justifiable, and whether or not he is in a position to provide for both wives.[31] According to a 2010 report published by Freedom House, 3% of households in Algeria are polygamous.” (Social Institutions and Gender Index (SIGI) (Undated) *Gender Equality And Social Institutions In Algeria*)

## **Proxy Marriage**

A report by *Unicef* states;

“The 2005 amendment to the family code sets the minimum age for marriage to 19 for both young women and young men. Mutual consent is required for a marriage contract according to the amended law. Proxy marriages (when a prospective spouse is represented by another person at the marriage ceremony) are now prohibited. Proxy marriages facilitated forced marriages and were previously common in rural areas. Polygyny remains legal in Algeria. According to the 2006 Multiple Indicator Cluster Survey (MICS) 2 per cent of young women age 20-24 were married before the age of 18.” (Unicef (October 2011) *ALGERIA MENA Gender Equality Profile*)

## **2. Formalities of Marriage (Consent, Minimum Age and Registration of Marriage)**

A report by the *Social Institutions and Gender Index* states;

“The minimum legal age of marriage in Algeria is 19 years for men and women. The average age of marriage for women is now 29.9, and is increasing annually in both urban and rural areas, according to the 2010

CEDAW report. Up-to-date figures for the number of early marriages are not available, but data from 2002 held by the United Nations indicates that 1.8% of girls aged 15-19 were married, divorced or widowed. However, early marriage is still prevalent in rural areas where family traditions prevail. The new code appears to have removed stipulations that prohibited women from marrying men who are not of Algerian nationality.” (Social Institutions and Gender Index (SIGI) (Undated) *Gender Equality And Social Institutions In Algeria*)

The *Canadian Embassy in Algeria* states in relation to Canadian Citizens marrying Algerian nationals regarding documents need to marry:

“For the Algerian citizen:

1. A number 12 birth certificate issued less than 3 months ago,
2. Certified copy of the national identity card,
3. Certificate of Algerian residence,
4. Employment certificate or certified declaration in the case of unemployment,
5. Certificate of non-impediment to marriage,
6. Three passport photos,
7. Form provided by the local authorities.” (The Canadian Embassy in Algeria (8 June 2013) *Marriage*)

### **3. Divorce**

A report by *Amnesty International* states:

“A husband can freely divorce his wife without justification, but a wife must meet specific conditions in order to initiate a divorce. A woman has to disclose the reasons for her divorce, in violation of her rights to privacy as well as dignity. The grounds for divorce include non-payment of maintenance, “defects” which prevent the realisation of marriage, the refusal of the husband to share the matrimonial bed for more than four months, and the absence of the husband for more than one year without proper justification. A woman may obtain a divorce without the consent of her husband by paying a financial compensation (*khol’a*), which the judge can estimate on the basis of her estimated dowry at the time of judgement. Men are not obliged to pay financial reparation in cases where they request a divorce. The Family Code provides that, in the case of divorce, custody of children would fall in order of priority to the mother. If the mother remarries, she loses the custody of her children, whereas divorced men with custody of their children do not lose this right if remarrying. In case of divorce, if the wife has been granted custody of her children, she is to be maintained in the marital home until the execution of any judicial decision dealing with housing. However, under the Family Code, women do not have any right to the matrimonial home if their marriage did not result in children, leaving women already stigmatized for not having children vulnerable to homelessness and violence.” (Amnesty International (14 April 2014) *Algeria: Key human rights concerns ahead of presidential elections*)

According to the *Social Institutions and Gender Index*:

“The Family Code continues to treat men and women differently in the case of divorce.<sup>[36]</sup> 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 khula, whereby a woman can divorce her husband unilaterally if she pays him a sum of money. Under the new Family Code, the conditions under which a wife can seek a divorce have been broadened, and include ‘inconsolable differences’ and failure to observe conditions included in the marriage contract. The new Family Code also stipulates that when a divorced couple have children, decisions regarding custody should be made in the best interests of the children; in the majority of cases, custody is now 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. However, in all divorce cases, judges in Family Courts are legally obliged to persuade the couple to reconcile. Provisions in the previous Family Code whereby men who obtained a divorce had the right to keep the family house and immediately evict their wives and children have been removed, although the new Code only appears to allow the children (and by extension their mother) to remain in the family home until such time as the husband has made alternative arrangements to lodge them elsewhere. If a woman remarries, she loses custody of her children. According to the 2010 Freedom House report, single and divorced women face marginalisation in society.” (Social Institutions and Gender Index (SIGI) (Undated) *Gender Equality And Social Institutions In Algeria*)

#### **4. Marriage between Non Nationals and Nationals**

According to the *US Department of State*:

“The family code prohibits Muslim women from marrying non-Muslims, although authorities did not always enforce this regulation. Muslim men may marry non-Muslim women. A woman may marry a foreigner and transmit citizenship and nationality to both her children and spouse.”(US Department of State (27 February 2014) *2013 Country Reports on Human Rights Practices – Algeria*)

The Social Institutions and Gender Index states:

“Amendments made to the Nationality Code in 2005 mean that Algerian women married to men who are not Algerian citizens are now able to pass Algerian citizenship onto their children.” (Social Institutions and Gender Index (SIGI) (Undated) *Gender Equality And Social Institutions In Algeria*)

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United Kingdom Home Office  
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