

Report

Algeria: Marriage and divorce



LANDINFO

Country of Origin Information Centre

Translation provided by the Office of the Commissioner General for Refugees and Stateless Persons, Belgium

About Landinfo's reports

The Norwegian Country of Origin Information Centre, Landinfo, is an independent body within the Norwegian Immigration Authorities. Landinfo provides country of origin information to the Norwegian Directorate of Immigration (Utlendingsdirektoratet – UDI), the Immigration Appeals Board (Utlendingsnemnda – UNE) and the Norwegian Ministry of Justice and Public Security.

Reports produced by Landinfo are based on information from carefully selected sources. The information is researched and evaluated in accordance with [common methodology for processing COI](#) and [Landinfo's internal guidelines on source and information analysis](#).

To ensure balanced reports, efforts are made to obtain information from a wide range of sources. Many of our reports draw on findings and interviews conducted on fact-finding missions. All sources used are referenced. Sources hesitant to provide information to be cited in a public report have retained anonymity.

The reports do not provide exhaustive overviews of topics or themes, but cover aspects relevant for the processing of asylum and residency cases.

Country of origin information presented in Landinfo's reports does not contain policy recommendations nor does it reflect official Norwegian views.

© Landinfo 2018

The material in this report is covered by copyright law. Any reproduction or publication of this report or any extract thereof other than as permitted by current Norwegian copyright law requires the explicit written consent of Landinfo.

For information on all of the reports published by Landinfo, please contact:

Landinfo
Country of Origin Information Centre

Storgata 33A

P.O. Box 8108 Dep

NO-0032 Oslo

Norway

Tel: +47 23 30 94 70

E-mail: landinfo@landinfo.no

Website: www.landinfo.no

SUMMARY

This report describes the different stages of an Algerian marriage, including the choice of partner, the engagement, the civil and religious ceremonies and the wedding reception. Although there is generally a free choice of partner today, families on both sides still play an important role in the decision. Studies of Algerian marriage patterns show that equality and balance between spouses with regards to descent, social status and age are decisive factors when choosing a spouse, and that marriages between relatives are still common. The report finally concerns legal and social aspects of divorce.

CONTENTS

1. Introduction	6
2. Population structure, ethnic groups and living conditions	6
3. Family structure and gender roles	7
4. Marriage	9
5. Algerian family law	10
6. Choice of spouse	11
6.1 Arranged marriage versus free choice of spouse	11
6.2 Endogamous marriage pattern	12
6.3 Marital age	13
6.4 Age difference between spouses	13
6.5 Marriage between relatives	14
6.6 Choice of spouse across religious, socio-economic and cultural norms	14
7. Engagement	15
7.1 How long is it usual to be engaged before getting marriage?	15
8. Bride price	16
9. Procedures for entering marriage	17
9.1 Civil marriages	17
9.2 Approval of traditional marriages	18
9.3 Marriages by proxy	19
9.4 Marriages with a foreigner in Algeria	19
9.5 Registration of marriages concluded in Norway	20
10. Religious celebration	20
11. <i>Misyar</i> and <i>mut'a</i> marriages	20
11.1 <i>Misyar</i> marriage	21
11.2 <i>Mut'a</i> marriage	22
12. Wedding celebration	22
12.1 <i>Hammam</i> and henna party	22
12.2 Wedding party	23
12.3 Expenses for the wedding celebration	23
12.3.1 <i>Are there reasons to refrain from having a wedding party?</i>	24

13.	Multiple marriages (polygamy)	25
14.	Child marriages	26
15.	Divorce	27
15.1	Spousal maintenance (alimony).....	27
15.2	Custody.....	28
15.3	Social position of divorced women	28
16.	References	30

1. INTRODUCTION

The extensive topic of marriage and divorce is difficult to covered comprehensively in the context of a single report. The report is therefore not an exhaustive account of marriage traditions in Algeria, but reflects issues raised by the immigration authorities to Landinfo over time. Hence the content of the report is of particular relevance to the immigration authorities.

Furthermore, it should be emphasised that the report mainly concerns marriages between Algerian citizens in *Algeria*. Procedures for the registration of marriages concluded outside Algeria, either between two Algerians or between an Algerian and a foreigner, are only mentioned briefly.

The report is mainly based on information that Landinfo obtained during a fact-finding mission to Algiers in November-December 2017. The information from the trip is supplemented by various written sources. The report must be seen in conjunction with other reports from Landinfo on Algeria, in particular the report on ID documents (Landinfo 2015a).

2. POPULATION STRUCTURE, ETHNIC GROUPS AND LIVING CONDITIONS

The Democratic People's Republic of Algeria (Al-Jumhuriyya Al-Jazairiyya Al-Dimuqratiyya Al-Sha'biyya) is on paper a democratic state with a multi-party system since 1989. In reality, the country is governed by an intricate and opaque distribution of power between the army and the National Liberation Front (FLN, Front de Libération Nationale), a party that arose from the fight for independence against French colonial rule (1954-1962). The more than 80-year-old president Bouteflika was re-elected for a fourth period in 2014.

Algeria is Africa's largest country by land area and extends from the Mediterranean to the Sahara. Roughly 90% of the population of about 40 million live in the coastal zone in the north and are particularly concentrated in Tell-Atlas, the most fertile agricultural region in the country. Large parts of the southern regions, especially south of the Atlas Mountains, are only sparsely populated.¹

Algeria is a multicultural and multilingual country. The original population of what today is Algeria are Berbers. Approximately one third of the population identify themselves as Berbers. The largest Berber groups are located east of Algiers and south of Constantine. There are also smaller Berber groups in the desert areas in the south. For a long time, the Berbers have fought against the Arabification of Algeria and for the right to preserve their own culture and their own language. Tamazigh (a collective term for various Berber dialects) gained status as a national language in 2002 and as an official language, next to Arabic, in 2016. Most of those who speak Berber as a first language also speak Arabic and use it as a language for communication. However, despite the fact that the majority of the population are of Berber origin, most Algerians

¹ The information in this chapter is taken from the Country Guide (undated), unless otherwise stated.

identify themselves as Arabs. Some also have strong ties to the former colonial empire of France, and French language still plays an important role in Algeria.

Algeria receives large revenues from oil and gas and is placed in the category of “high human development” in the UN Development Index, in the same category as, for example, Croatia and Romania (UNDP 2016). In addition to spending on security and counter-terrorism measures, the growth in the economy in the 2000s has led to spending on modernisation projects and social development programs. A share of the oil money has been invested in a government fund for public services, and the Algerian state uses a significant proportion of the budget for social equalisation.

However, the petroleum-based economy is vulnerable to falling oil prices, and today it is facing a decline in economic growth and large budget deficits. Social differences are significant, and a quarter of the population is thought to live below the poverty line. Poverty is most prevalent in the mountains in the north and in the desert to the south.

Despite the decline in birth rates over the last couple of decades, Algeria still has a young population. The population is increasing by around one million a year, and every fourth Algerian is under 15. The labour market is unable to absorb the yearly increase of new employees. Unemployment is very high and particularly affects young persons.² The public sector, especially the security forces, employs many. A significant proportion of the population earns its living in the informal part of the economy through retail and other small-scale trading and services.

Islam is the state religion in Algeria, and, with the exception of small Jewish and Christian minorities, the Algerian population is mostly Sunni Muslim. Islam binds the various ethnic and social groups together, and, besides the story of the country’s war of independence against France (1954-1962), it is the most important component of the country’s common, national identity. Although Algerians are personal believers to varying degrees, Islam forms and structures all essential aspects of life in Algeria, both in the private and in the public sphere. Religious conformism is strong, and a significant part of the population has taken a step in a more conservative religious direction. A gradual and tolerated Islamisation of the social and cultural sphere has taken place in recent decades, although the expression of political Islam is restricted by the authorities (see Landinfo 2014 and 2015b for more information on the evolution of Algerian Islamism).

3. FAMILY STRUCTURE AND GENDER ROLES

Significant changes to the Algerian family structure has occurred over just a few decades. While every woman had about eight children in 1970, the number had declined to two children per woman in the early 2000s. This is one of the most spectacular decreases in birth rates in the world, placing Algeria in the same category as countries such as China and Iran. Urbanisation, increased schooling for girls, a

² The official unemployment rate (as quoted in the Huffington Post Maghreb 2017) is 12.3%, but the real unemployment rates are probably significantly higher.

higher marriage age, increased access to contraceptives, economic downturns in the 1980s and “the black decade” of the 1990s are possible causes for the decline in birth rates (Ouadah-Bedidi & Saadi 2014, p. 4). However, in the past ten years, birth rates have begun to rise again, from two to almost three children per woman on average. According to the Algerian organisation for family planning (Association algérienne de la planification familiale (AAPF), meeting in Algiers in December 2017), it is too early to determine the causes of the increase. However, the AAPF assumes that the turn of Algerian society towards a more conservative Islam, which also affects family life, could be one possible explanation. A baby boom effect after the war-torn 1990s, following the model of what happened in the West after World War II, is another possible explanation, according to the AAPF.

Despite the fact that changes in family law imply a certain strengthening of women’s rights, this is reflected only to a limited extent in the Algerian family structure, which is at its core patriarchal. The man is the head of the family, which implies that he carries full responsibility for supporting the family. His wife and children, in return, must show obedience to him (CIDDEF, meeting in Algiers in November 2017).

Obedience, as mentioned above, is a fundamental value in the Algerian family. The woman must show obedience to her husband and children to their parents. Until the family law was changed in 2005, Article 19 stated that “a wife obeys her husband, regards him as the head of the family and respects his parents and his immediate relatives” (as quoted in Ouadah-Bedidi & Saadi 2014, p. 5). This provision was removed during the amendment of the law in 2005 and replaced by an article on equality between spouses. The obligation of obedience, however, is so strongly rooted in Algerian culture and in religious dogma that it constitutes one of the fundamental values on which the Algerian family is built. Obedience is vertical (younger generations respect older ones) and horizontal (women respect men). However, demands for obedience and submission change during the different phases of a woman’s life:

A newly married woman [...] submits herself to the existing hierarchical order the moment she enters her new family. As she gives birth to children - and especially sons - she climbs up the social ladder, and, when her sons grow up, her status and power in the family rises. When she then marries off her sons and becomes a mother in law, she begins to reproduce the family model she has lived in. The first part of a woman's life is characterised by restraint and submission. The second part is characterised by strengthening the woman's status as wife and mother. In the third and last part of their life, women have a certain power and can benefit from their independence and power, but at the expense of control over and exploitation of their own daughter-in-laws (Ouadah-Bedidi & Saadi 2014, pp. 8-9).

Conservative gender roles are also reflected in the division of labour in Algerian society as a whole and within the individual family. The man has absolute responsibility to support his family. The husband’s duty to provide for his spouse (*nafaqa*) is rooted in Islam and, according to Professor of Women’s Rights, Tove Stang Dahl, it is a fundamental premise of gender roles in Islamic society:

It is the obligation of spousal maintenance that gives the husband a superior position in Islamic law. The duty to provide the bride price, mahr, is supplemented by the absolute and unilateral requirement in the Qur'an for the

husband to provide for the wife during the marriage, nafaqa. Together, these two types of financial obligations give him a superior position in the marriage, with the right to demand her obedience and with final decision-making rights over the family and the home [...]. Spousal maintenance is a unilateral and absolute responsibility of the husband. The wife has, as already mentioned, no duty to support herself, her husband or the children, even if she has her own means through inheritance, gifts or salary (Dahl 1992, pp. 127-28).

As the man has an absolute and unilateral obligation to support the family, the ability to provide is a precondition for marriage. A man initiates marriage only when he has sufficient financial resources to support a family. The duty to provide explains why marital age has increased considerably, both for men and women, in recent decades. Many men do not have financial means to conclude marriage until late in life, and some never get married.

Women are only to a limited extent economically independent in Algeria. The number of women who work outside the home varies somewhat between different age groups, but is on average at around 10%. Most working women are single women below the age of 30, who stop working outside the home when they marry and establish a family. According to Ouadah-Bedidi & Saadi (2014, p. 9-10), unmarried women first and foremost work to save money for the wedding, while married women work mainly when the family cannot manage without her income. Women's lack of participation on the labour market is paradoxical in the sense that more and more girls are engaged in higher education, often with better results than boys.

The Algerian family is patrilineal, which means that legitimate children belong to the father's lineage, and take the father's surname (Barraud 2010). It is also traditionally patrilocal, which means that the newlyweds live with, or in the geographical proximity of, the husband's parents, before they can establish themselves with their own household in their own dwelling. It is common even today for a newly married couple to live with their parents for a few years before setting up their own household (Ouadah-Bedidi & Saadi 2014, p. 5). This pattern of living has cultural reasons, but is also a consequence of the acute housing shortage in Algeria, and it may take several years for a married couple to gain access to an accommodation of their own.

The extended family is still very important in an Algerian context. Although many married couples live in their own homes, the term "nuclear family", according to Addi (2005), has little meaning in an Algerian context. Regular and frequent visits, especially between parents and children, but also between more distant relatives, strong emotional ties, financial dependence and the involvement of relatives in the couple's circumstances and family life result in that bonds with the extended family are maintained, for better or worse, even when the couple live separately.

4. MARRIAGE

Marriage is a virtue in Islam and, according to the Prophet Mohammed, constitutes "half of faith". Marriage is considered as *sunna*, that is, tradition of the Prophet, and thus is a model for believers (Locoh & Ouadah-Bedidi 2014, p. 5). Celibacy, the only acknowledged alternative to marriage as extramarital sexual relationships (*zina*) are

prohibited, is considered an undesirable marital status according to sociologist M. Daoud (as cited in Benyakoub 2017). Unmarried and childless persons gain little social respect, especially women. To be married is a precondition for filling certain positions and roles, such as leading the Friday prayers.³ Cohabitation between two members of the opposite sex is practically non-existent and is considered a form of prostitution (Hamel et al. 2013, p. 7).

Marriage is meant to last for life, and the spouse is therefore chosen with great care. A marriage is far from being just a relationship between two individuals, based on mutual attraction and romantic feelings, but is also a relation between two families. A marriage therefore, in addition to being the only socially, religiously and legally accepted context for sexuality and cohabitation, is intended to maintain or develop relations between the two involved families.

In the past, the marriage would be arranged by the family, the marital age was low and marriage between relatives was the norm. Today, free choice of spouse is customary (after advice from parents and with their consent), the marital age is more than ten years higher than it was just a decade ago, and marriage with a relative is, even if it occurs, less frequent and less well-regarded than before.

Marriage, as understood in an Algerian context, has a civil, a religious and a social dimension. Each of these dimensions are marked differently, and it is the sum of the different stages (civil wedding ceremony, religious ceremony and wedding party) which together constitute the conclusion of an Algerian marriage.

5. ALGERIAN FAMILY LAW

The family law (Code de la famille), adopted in 1984, and last amended in 2005, governs marriage, divorce, legal guardianship and inheritance. The family law is the only law in today's Algeria that is (partly) based on Islamic law; other laws are mainly based on French law and case law.

The law is considered conservative in a North African context, especially compared to the more progressive family laws in Tunisia (1956) and Morocco (2004). When the family law was passed in 1984, Algeria experienced a deep divide between Islamists and secularly oriented groups, and the conservative law was a compromise between the two directions.

The family law was amended in 2005, but the changes were limited. As the law regulates relationships of great value and symbolic significance, such as gender roles and the organisation of family life, the changes in the direction of more rights for women were controversial and sensitive. In order to avoid a disruptive and divisive debate in Parliament, the amendments were adopted as a provisional instrument in the Council of Ministers (*ordonnance*) and not as a bill that would have to be adopted by Parliament.

³ Algerian President Bouteflika is unmarried and childless, something that is so unusual for a man of his age and position in Algeria and in the rest of the region that it is still the subject of comment.

The most important changes include (Mahieddin 2006):

- The lowest permitted marriage age is 19 for both sexes (formerly 18 for women and 21 for men).
- Marriage by proxy is no longer possible.
- The woman herself can choose her guardian (*wali*) when she is to enter marriage.
- The woman's statutory obedience to the husband is suppressed, as is the term "head of the family".
- The spouses have equal rights and duties in marriage.
- Polygamy is only allowed after permission from a judge, and only under certain conditions.
- Women are given greater access to divorce.

6. CHOICE OF SPOUSE

6.1 ARRANGED MARRIAGE VERSUS FREE CHOICE OF SPOUSE

As mentioned earlier, the capacity to provide for his spouse is a precondition for a man to conclude marriage. The search for an appropriate marriage candidate therefore begins only when the man is ready to take on the financial obligations a marriage entails. It is always the man, and possibly his family, who takes the initiative to marriage, never the woman or her family, although they can of course make it known that they are open to suggestions.

Whereas the family chose spouses for their sons in the past, and the woman's family accepted or rejected the marriage offer on her behalf, it is common practice today that the man chooses a spouse without *direct* interference from his family and that the woman herself chooses whether she will accept the marriage offer. Nevertheless, there is a clear expectation that the spouse will be chosen according to the advice of the family, or at least with the family's blessing. It is in particular the mother who is involved in the process of finding and approving her son's future spouse. If she is excluded from the process, it will be perceived as a humiliation for her (Ouadah-Bedidi & Saadi 2014, p. 14). It is increasingly common for the man himself to choose a spouse, but within the context of what is acceptable to the family. The final choice must be approved by the parents. The woman is usually free to accept or decline an offer of marriage, and her father no longer has a unilateral right to choose a spouse for his daughter (*jabr*), as he has previously had in traditional Algerian culture. Nevertheless, parental consent is still important for the woman, and few will want to force through with a marriage that the family is opposed to.

In choosing the ideal spouse, women and men prioritise different factors. For women, the spouse's capacity to provide for his spouse is the most important condition when choosing (Addi 2005). A man will pay particular attention to the woman's background (whether she comes from a well-reputed family), age (there is an expectation that the woman is younger than the man at the time of marriage) and impeccable behaviour

(there are still strong expectations that a woman is a virgin when entering into marriage, and it is not uncommon for the man to require a certificate confirming this)⁴ (Algérielle 2016; Ferhati 2007).

However, for many Algerian women the fear of *not getting married* is greater than the fear of not finding the ideal partner. The fear of not getting married “before it is too late” leads some women to accept marriage offers of marriages from suitors who, objectively speaking, are not “ideal”, such as men with inadequate capacity to provide, divorced men or widowers, or as spouse number two in a polygamous marriage (Ould-Khettab 2016). A man does not have the same challenges on the marriage market and can choose his spouse relatively free as long as he can support his family.

6.2 ENDOGAMOUS MARRIAGE PATTERN

Studies of marriage patterns in Algeria show that endogamous marriages, that is, marriages within one’s own social group, are still prevalent (Ouadah-Bedidi & Saadi 2014, p. 19). Spouses have essentially the same social and economic background and position and often come from the same family.

The principle that there should be social and economic equality between bride and groom is central to Islam through the doctrine of *kafa’a* (compatibility) (Dahl 1992, p. 65), which is considered a precondition for a harmonious and robust marriage. If there is inequality between the spouses, it should be in the favour of the man. If a woman concludes marriage with a man of a higher social status than her, she will be raised to the groom’s level. A man of a lower social position than the woman, on the other hand, is not socially accepted. so-called *mésalliances*, that is, men marrying women of a higher social standing than themselves, should be avoided as far as possible, according to social and religious norms.

The religious norm of compatibility and balance between spouses is deeply rooted in Algerian culture and tradition. Algerian families will first and foremost assess the family’s social status, reputation and standing when considering a suitor for their daughter, and especially for their son.

Algerian society has traditionally been patrilocal, which entails that spouses establish themselves at or near the husband’s family. From this perspective, equality between spouses is a guarantee for both families. The woman’s family will have knowledge about the man and his family’s ability to support their daughter while the husband’s family will feel confident that the woman will be able to find her place in her new family and live up to the expectations of her in it. Too many differences between the spouses and their families would otherwise lead to disharmony and division, not just between them, but within the extended families.

Algeria is a country with major social differences and strong awareness of social hierarchies. Similarly, from the perspective of social structure, equality between spouses is important. In a socially tiered and hierarchically structured society like the Algerian, it is imperative that marital relationships do not cross class or social divisions, which would be inappropriate for both parties.

⁴ The amendment of the family law in 2005 introduced a requirement for a health certificate upon entering marriage. According to Ferhati (2007), many assess that the requirement of providing a health certificate is a requirement of confirmation that the woman is a virgin (*certificat de virginité*).

6.3 MARITAL AGE

The marital age has increased strongly in Algeria in recent decades. While the average marital age in the 1960s was around 18, it is today around 29 for women and 33 for men (Benyakoub 2017).⁵ The number of persons, both men and women who never marry, has also increased in recent decades (Ouadah-Bedidi & Saadi 2014, p. 14).

The most important explanation for the rise in marital age is the lack of financial resources and capacity to provide among men. A wedding is very expensive and requires many years of saving for those who are lucky enough to have an income. When the expenses of the wedding are covered, the man is expected to support his family and provide housing, to put food on the table and to cover other running expenses for the family. High unemployment, low wage levels and in particular housing shortages mean that many men do not have the necessary financial resources to get married and support a family. Many men get married late in life, and some never get married (Ouadah-Bedidi & Saadi 2014, p. 14).

Increased marital age among men propagate further, leading also to an increase in average marital age for women. But women and their families also have their own expenses for marriage, for example, for the equipment she will bring into the marriage, which may take a long time to earn back. If there are many sisters in a family, it may take a long time for the family to “recover” financially from the previous wedding and it may take time before the family has economic ability to pay for the next one. But other factors, such as a higher level of education among women, also help increase the marital age for them.

6.4 AGE DIFFERENCE BETWEEN SPOUSES

According to Hammouda (2009), the age difference between spouses is around six years in favour of the man, while according to Ouadah-Bedidi & Vallin (2003) the difference in the man’s favour is three years. The age difference in the man’s favour is strongly rooted in Algerian (and North African) culture, reflecting the traditional gender role model characteristic of the Algerian family. As mentioned earlier, Algerian family structure is based on a patriarchal model in which gender roles are clearly defined and complementary. The man has responsibility for providing for the family, while women are responsible for children and domestic matters. In this perspective, it is convenient for a woman to marry early in terms of fertility, whereas the husband’s capacity to provide is likely to increase with age.

There is thus a clear expectation in Algerian culture that the man should be older than the woman when they marry. Marriages where the woman is older than the man, and especially if she is divorced and has children, have a low status in the Algerian context.

In the Algerian context, the central purpose of marriage is to create a legal context for establishing a family. There is also a clear expectation of reproduction when the marriage is entered into, and the spouses’ social position is linked to the roles of father and parent, mother and caregiver, respectively. In this perspective, first-time marriage

⁵ The age difference between the sexes at first marriage varies according to the model used to calculate it. Ouadah-Bedidi & Vallin (2003) come to an age difference of three years in the man’s favour. However, the model used to reach this age difference is criticised by Hammouda (2009), who comes to an average age difference of six years by using another model. Irrespective of the model on which the calculation is based, the main point is that the age difference should be in favour of the man, which is strongly rooted in Algerian culture.

with a woman over fertile age is very unusual. It is unlikely that a man will refrain from establishing his own family in order to marry a woman past fertile age, and such marriages seem to occur primarily in connection with migration, and not among two Algerians who will live together in Algeria (Consular source A, meeting in Algiers in November 2017).

6.5 MARRIAGE BETWEEN RELATIVES

Marriage between relatives is common throughout North Africa, including in Algeria. Although the extent of such marriages are declining, one out of three marriages is still between relatives (Ouadah-Bedidi & Saadi 2014, 19). In a North African context, cross-marriages (i.e. marriage between children of siblings of different sexes) are particularly appreciated.

Marriages between relatives are first and foremost explained by economic reasons, since marriages between (close) relatives help prevent property and other assets from being fragmented, but retained in the family. In addition, marriage between relatives is motivated by enhancing bonds and solidarity within the family. As family ties within the extended family are still strong, it is crucial that spouses share the same values and have the same expectations of marriage and cohabitation to avoid conflict.

However, the law sets limitations on certain types of marriage between relatives. Relatives in the direct upward and downward line cannot get married with one another, nor can a husband marry his spouse's child by another man. A man cannot be married to two sisters at the same time. In addition, there is a ban on marriage between persons who are connected through the same wet nurse (Code de la famille 1984, Chapter II).⁶

6.6 CHOICE OF SPOUSE ACROSS RELIGIOUS, SOCIO-ECONOMIC AND CULTURAL NORMS

With the exception of small religious minorities (Christians, Jews and some Muslim minorities), which according to the US Department of State 2016, accounts for less than 1% of the Algerian population, Algerians are Sunni Muslims. Marriage across religious divisions is therefore rarely an actual issue in an Algerian context, and occurs as almost exclusively in connection with migration. Algerian women are not allowed to marry non-Muslim men, and a marriage between an Algerian woman and a non-Muslim man concluded abroad will also not be registered in Algeria without the man submitting a confirmation of conversion (CIDDEF meeting in Algiers in November 2017).

Unconventional marriages, in which spouses differ in origin and socio-economic status, and where the age difference goes in favour of the woman, or are in breach of the expectations of the husband's capacity to provide or the woman's ability to reproduce, are regarded with scepticism by the wider society. However, in an Algerian context, where the desire for migration is strong among many, the negative aspects of an unconventional marriage can be counterbalanced by the prospect of migrating (Consular Source A, meeting in Algiers in November 2017).

In view of this, the will to break with expectations and norms concerning a suitable spouse must be seen in relation to what can be achieved by breaking them. As the

⁶ These restrictions are rooted in Islamic tradition, cf. Schacht 1964, pp. 162-163.

potential of emigration is large and the roads to legal migration rare, setting up a family, either with a foreigner or with a person of Algerian background with a residence permit or citizenship in a European country, is one of the few opportunities that Algerian citizens have to legally establish themselves in Europe.

In this context, the desire to migrate usually outweighs the demands made on a spouse's appropriateness, with regard to age, previous marriage, education, origin, and so on. The family and social circle can to a larger extent accept differences between spouses if the marriage enables migration, than they would if the spouses were to live together in Algeria. In some cases, the family itself may initiate an unconventional marriage if it allows migration, as having a relative in a Western country will benefit the family economically.

7. ENGAGEMENT

Engagement (*khutba*) represents only an intention to get married and is not legally binding. Both parties can therefore withdraw from the engagement without legal consequences. If it is the man who breaks off the engagement, he cannot demand the return of the gifts he has given to his fiancée. If the woman breaks off the engagement, she must return the gifts, or the value of them (Code de la famille 1984, Articles 4-6).

The engagement is often marked with a meeting between the two families that are to be united in marriage. The man and his close relatives visit the woman's home to ask her father for her hand. They bring cakes or other sweets to the bride's family, and possibly presents to the bride. The two families agree on the bride price, the distribution of the expenses for the wedding celebration and other practical conditions.

Engagement is marked with recitation of the Qur'an's opening verse (*al-fatihah*), which the ceremony has taken its name from. In some regions, the engagement is marked with an engagement ring (*khatim al-kalma*).⁷

7.1 HOW LONG IS IT USUAL TO BE ENGAGED BEFORE GETTING MARRIAGE?

Marriage, in an Algerian context, is a process containing many elements. There may be a relatively long time between the various stages (engagement, civil wedding, religious ceremony and wedding party).

It varies how long it takes between the different stages that together constitute marriage in the Algerian context. Since a marriage ceremony is expensive and there are many practical things to be arranged before the wedding party, it is common that it takes a certain amount of time, at least one year, before the couple has gone through all the stages, from engagement to wedding party.

⁷ In reality, an engagement can be difficult to distinguish from the religious ceremony of a marriage (see chapter 10), as the recitation of the *fatihah* is perceived as the most important element of both ceremonies. Because of this, the Algerian authorities have given instructions that civil marriages must be entered into *before* the religious ceremony can be carried out. The imam therefore has a duty to ask to see the marriage certificate before conducting the religious ceremony.

In addition, there is an expectation that the couple will be able to settle in their own home, and, given the acute housing shortage in Algeria, it may take many years to wait for a house or apartment. It is therefore not uncommon to be engaged for several years before getting married (Benyakoub 2017).

8. BRIDE PRICE

The bride price (*sadaq*) involves a transfer of assets from the husband (or his family) to the woman upon entering marriage. The bride price is the woman's own property, and she can spend her assets at her own discretion. The bride price serves as an insurance for the woman in the event of divorce or if the husband dies.⁸

The bride price is one of the conditions for getting married and is thus a mandatory element of an Algerian marriage. Without the bride price being agreed, the marriage will not be legally concluded under the applicable law (Code de la famille 1984, Art. 9b). If the parties do not agree on a bride price, a minimum bride price (*sadaq al-mithl*) is applied (Article 15).

The amount of the bride price varies greatly, between both ethnic groups (Arabs and Berbers), geographical areas and social groups.

Dahl (1992, p. 65) demonstrates that the bride price in Islam is usually determined by criteria such as social origin, age, beauty, reputation and the price for previously married sisters. This is how it is in Algeria. An "ideal" candidate (a young woman who has never been married from a family of a good reputation) will usually get a better bride price than a less attractive candidate within the same ethnic group and social stratum.

In an Algerian context, however, the spouses' ethnic and/or geographical origin appears to be the most important single factor that determines the amount of the bride price. In central parts of Algeria, the bride price is 200,000-300 000 dinars (14 000-20,000 NOK), as well as gold jewellery. In the Oran area in the west of the country it is higher, and the highest bride price is found, according to Bersali (2017), in the southern provinces.

But factors other than ethnicity and geography can have an impact on the amount of the bride price. About one fifth of all marriages in Algeria are between relatives, many of them between cousins. The bride price is often lower when there are close relations between spouses, as the assets remain in the family anyway.

Studies of the marriage pattern of Belgian citizens of North African background (Descheemaeker et al., 2009, p. 34) show that practices concerning bride price often change in a migration context. When a North African woman marries a Belgian citizen of North African origin, the bride price is oftentimes dropped. In the reverse case, when a woman with a North African background with legal residency in Belgium

⁸ The bride price thus differs from the dowry, which is defined as the wealth that a woman's parent or family gives her on marriage (SNL 2018). Nor is there any wedding gift, as it is not voluntary, but compulsory for the marriage to be legally entered into.

marries a man living in North Africa, the bride price is often very high. This is mainly due to the fact that the marriage allows migration.⁹

9. PROCEDURES FOR ENTERING MARRIAGE

Following the change of the family law in 2005, marriage must be entered into before the civic authorities (in the town hall or at the notary) to be valid by law (with one exception, see sub-section 9.2). It is very widespread, but not mandatory, to have a religious marking of the marriage after the civil marriage.

The authorities have instructed all the country's imams that they may only carry out a religious ceremony if the spouses have submitted documentation (marriage certificate or family book) confirming that they have previously entered into a civil marriage (CIDDEF 2013, p. 11). This is to ensure that the marriage is legally valid before the religious ceremony is conducted.

9.1 CIVIL MARRIAGES

Civil marriages can be concluded in two ways. The spouses can either conclude a marriage at the town hall (*daira*), or they can get married before a notary, who then has a three-day deadline for registering the marriage in the population registry. The following terms must be met (CIDDEF 2013, p. 19):

- The spouses' marital status does not preclude the marriage.
- There are no legal barriers to the marriage (for example, certain types of family relationship between spouses).
- The marriage is voluntary.
- The bride price has been determined.
- The bride is represented by a guardian.
- Two Muslim witnesses are present.

To get married and obtain a marriage certificate, the following documentation must be submitted (Ministère de l'Intérieur, de Collectivités Locales, et de l'Aménagement du territoire 2016):

- Print-out from the birth register for both spouses, not older than three months.
- Residence certificate for one of the spouses.
- Health certificate for both spouses, not older than three months.

⁹ It may happen that benefits, either in the form of material values or labour, from the husband to the wife in connection with marriage, are not contractual. This may, for example, be the case in connection with the marriage being mainly concluded to give the Algerian party grounds for residence in a Western country. In such cases, the contractual bride price may be moderated in order not to arouse the authorities' suspicion, while the real "bride price" is in fact much higher.

- ID documents for both witnesses.
- Dispensation for the age requirement from a judge, in the case of a minor.

Persons serving in the army or security forces must have pre-authorisation from the military authorities to get married (Ministère de l'Intérieur, de Collectivités Locales, et de l'Aménagement du territoire 2016).

The legal documentation that the marriage is validly concluded is the marriage certificate (*acte de mariage*). Most people will also apply for a family book.¹⁰ An Algerian marriage consists of several stages, but it is the date of entering into civil marriage which is the official date of the marriage (Consulat General de France à Algiers n.d.).

The spouses draw up a marriage contract in which they can determine various factors, for example, that the woman is entitled to take work outside the home or that the man cannot conclude a polygamous marriage. Separation of property is the ordinary property regime in Algeria, but the spouses can agree jointly on separation of property in the marital contract (CIDDEF 2013, p. 31).

9.2 APPROVAL OF TRADITIONAL MARRIAGES

As mentioned above, a civil marriage must be conducted before any religious marking of the marriage can take place. However, it is possible to conclude a valid marriage without a prior civil marriage, under certain circumstances and subject to certain conditions.

A marriage concluded by a religious ceremony similar to that described in Chapter 7 (Engagement) may be given legal validity and be registered in the population registry after it has been concluded. A marriage of this kind is referred to as a traditional marriage (*mariage coutumier*) in Article 6 of the law, and is valid if the following conditions are met:

- There is no impediment to the marriage (such as low age, certain types of relatives, etc.).
- The two spouses have consented to the marriage.
- Two witnesses and the woman's guardian were present during the marriage.
- The bride price was agreed before the marriage.
- There is a marriage pact.

If these conditions are met, the marriage is deemed valid if subsequently registered in the population registry. The spouses have five days to have the marriage publicly recognised in the population registry after the marriage has taken place. After five days, the marriage must be confirmed by a court ruling. Then the marriage can be registered in the population registry in the usual way and is legally valid (CICADE 2016, p. 2-3). The process of giving the traditional marriage legal validity, according

¹⁰ The family book is issued after application for civil marriage and is an important ID document in Algerian daily life. The family book is a booklet-format paper document that shows the relationships between family members (see Landinfo 2015a, p. 11-12 for more information about the issue of the family book).

to Association algérienne de planification familiale (meeting in Algiers, November 2017), is lengthy and cumbersome.

Such traditional marriages, which involve a religious ceremony without a prior civil wedding ceremony, are particularly common in the outlying areas where traditional culture is strong. In these areas, the population has historically had little contact with the authorities, and it is often both inconvenient and expensive to go to the nearest city to settle the legal and administrative aspects of marriage. Marriage is celebrated according to tradition and is legitimate and real, from both a religious and a social perspective. The registration of the marriage often occurs when the couple has children (K. Chekkat, meeting in Algiers in November 2017).

9.3 MARRIAGES BY PROXY

In connection with the amendment of the family law in 2005, the possibility of getting married by proxy was removed.

However, in practice, this only applies to men's right to marry by proxy. Women can, according to information from the Algerian Consulate General in Paris (Consulat Général d'Algérie à Paris n.d.), give prior consent to marriage, and let a guardian conclude the marriage on her behalf afterwards. In such cases, the woman is not personally present during the actual marriage in Algeria, but is represented by her guardian, who gives a statement of consent on her behalf. In order to obtain such a declaration of consent, the woman and her guardian must meet personally at the embassy and submit the following documentation:

- The guardian's ID documents (ID card, passport)
- The woman's ID documents (ID card, passport)
- The woman's birth certificate
- The family book

9.4 MARRIAGES WITH A FOREIGNER IN ALGERIA

Marriage between an Algerian citizen and a foreigner in Algeria is governed by a circular notice on the entry and stay of foreigners in Algeria (DGSN, pp. 11-13).

If one of the parties is not an Algerian citizen, the couple must obtain permission to get married from the *wali*¹¹ (prefect) in the district where the marriage is to be concluded. The prefect issues a permit based on investigations and, if relevant, interviews with the security forces. Without the permission of the prefect, the marriage cannot be entered in the population registry. The Algerian party submits a birth certificate, civil status certificate, residence certificate and copy of the ID document. The foreigner submits a civil status certificate, birth certificate, copy of passport or residence permit, possible confirmation of conversion and potential permit to get married for citizens of countries that require it (DGSN, pp. 11-13).

¹¹ *Wali* used both for the prefect and guardian in Arabic.

9.5 REGISTRATION OF MARRIAGES CONCLUDED IN NORWAY

Algeria recognises marriages concluded under other countries' family legislation, provided it does not come into direct conflict with Algerian law. An Algerian citizen who is married in Norway can register the marriage at the Algerian Embassy in Oslo and receive a family book (Algerian Embassy in Norway, meeting in May 2015). To get the marriage entered in the Algerian registry, the spouses submit the marriage certificate, Algerian ID document (passport or national ID card) and possible confirmation of conversion to Islam (Algerian Embassy in Norway 2015).

10. RELIGIOUS CELEBRATION

Despite the important private law aspect of marriage, with the signature of a marriage contract as the most important element, the vast majority of Algerians wish to confirm their marriage with a religious ceremony. The ceremony is, as mentioned earlier, not mandatory, and has no legal effect, as civic marriage has. Nevertheless, most Algerians consider the religious ceremony as the *real* marriage, and marriage cannot be consummated by the spouses initiating cohabitation before the marriage is marked with a religious ceremony and made known to the outside world through the wedding party (Association algérienne de la planification familiale, meeting in Algiers in November 2017; Moussaoui 2010).¹²

The religious ceremony usually takes place by an imam or other religious authority coming to the bride's home. He assures himself that the marriage is entered into voluntarily, gives a speech about love and marriage and reads out the al-fatiha, the opening prayer of the Qur'an. It is also not uncommon for the occasion to be celebrated with food, drinks and gifts.

11. MISYAR AND MUT'A MARRIAGES

A marriage must, as previously mentioned, be concluded in civil form and entered in the population registry in order to be legally valid, with the exception of so-called traditional marriages, which on certain terms can be entered retrospectively in the population registry.

Nevertheless, some people choose to conclude various types of religious marriage without a prior civil marriage. Such marriages are not valid in the sense of the law and will not have any legal effect, in the form of remuneration for divorce, inheritance for

¹² A consular source from a Western country that receives many applications for family establishment with Algerian persons (consular source B, meeting in Algiers in November 2017) states that in connection with applications for family establishment between a citizen of that country (often with Algerian family background) and an Algerian party, it is common for the Algerian party to delay the religious marriage ceremony until the residence permit is granted. This is an insurance policy for the Algerian party, in case he or she still does not receive a residence permit. This shows how important the religious marriage is, and that it represents, for most Algerians, the real marriage, while the civil marriage is a formality, albeit mandatory from a legal point of view.

children, or similar. However, since the terms of marriages in classical Sharia law (consent of both spouses, a guardian for the woman, bride price and public announcement) are met, the marriage is considered valid from a religious point of view.

The rationale for entering into such religious marriages can be diverse, but in most cases the motive is to legalise sexual relations that would otherwise be prohibited (all extramarital sexual intercourse (*zina*) is prohibited according to religious norms).

Contrary to what is the case when entering into a traditional marriage, which may be publicly registered in retrospect, the purpose of religious marriages is not to establish a common household or family with the spouse. The purpose is, as previously mentioned, to legitimise, viewed from the religious side, illegal sexual relations.

Because *misyar* marriage and *mut'a* marriage are not valid in the sense of the law and cannot be documented with a marriage certificate, women have no rights in the event of separation or if the spouse dies, and children have no inheritance rights. Both the authorities and women's organisations therefore warn against such marriages. As this form of cohabitation gives weak rights for women, the authorities have instructed the country's religious leaders to only conduct the religious ceremony *after* the civil marriage has taken place (Moussaoui 2010).

11.1 MISYAR MARRIAGE

The most common type of religious marriage in an Algerian context is the so-called *misyar* marriage, often translated as "travel marriage". Such marriages are entered into under the rules of Sharia and are therefore valid from a religious point of view, but not from a legal point of view.

The purpose of entering into a *misyar* marriage is, according to Moussaoui (2010), multiple. Some men use this type of marriage as a means of circumventing the legal and financial obligations of a man in polygamy (see chapter 13). Following the change in the family law in 2005, the conditions for polygamous marriages were tightened. The judge must assess whether the man is able to support more than one spouse and, if he cannot, the judge will refuse. This means that a man who for economic or other reasons would not have obtained a prior consent from a judge to conclude a polygamous marriage, might obtain permission after a *fait accompli*, based on an assessment of the best interest of the child if the couple has children (Moussaoui 2010).

Another motive for entering into a *misyar* marriage is to evade financial obligations in the event of divorce. Since the husband by law is required to pay child support and housing for his divorced spouse, this kind of marriage is an opportunity for the man to enter a new relationship without having to meet the financial obligations he has in divorce (Moussaoui 2010).

But *misyar* marriages can also, even though this is probably relatively unusual, be concluded on the initiative of the woman. Divorced women, widows or other women who want to live with a man without the legal and social obligations of which a marriage entails or who want a sex life without compromising their own religious values can conclude a religious marriage and thus avoid the personal and/or social burden that may result from extramarital sexual relationships.

11.2 **MUT'A MARRIAGE**

Another type of religious marriage is the so-called *mut'a* marriage (“temporary marriage”). *Mut'a* marriage differs from *misyar* marriage by being a temporary wedding, and dissolved at a contractually predetermined time. Algerian campuses and educational institutions have seen a modest occurrence of *mut'a* marriages, in particular within Islamic-oriented student communities with an interest in Shia Islam, although the number of such marriages is probably limited (Moussaoui 2010).

12. **WEDDING CELEBRATION**

The wedding celebration – and especially the wedding party – are very important in an Algerian context. Although the spouses, in the sense of the law, are married when they conclude a civil marriage and are considered married from a religious point of view after they have completed the religious ceremony, the wedding party signifies the *social* dimension of the marriage. Only when the marriage has been publicly announced through the wedding party is it valid in the social sense, and the spouses can begin their marital partnership.

Form and content of the wedding party vary according to local traditions and social stratum. Nevertheless, some elements appear across local and socio-economic differences, not only in the Algerian marriage tradition, but in North Africa as a whole.¹³

In the past, the wedding party could last for a week or more, but today it is usual for the party to be celebrated over the course of three days, usually Thursday, Friday and Saturday.

12.1 **HAMMAM AND HENNA PARTY**

The wedding celebration begins with the bride's female relatives taking the bride to a *hammam*, a public bath. The bath is booked for the occasion, and, before the bride arrives, it is common for her relatives to prepare the room for the celebration with candlelight and incense to drive out evil spirits. Through various treatments of the skin and hair with clay and traditional soap, the bride makes herself beautiful for the wedding party. The *hammam* visit also has an important ritual cleansing function before the celebration. The evening often ends with a party for the bride's female family and friends.

The next stage in the celebration is the henna party. This part of the celebration also takes place with female relatives and friends, often at the bride's home or at the home of some of her closest relatives. The bride has her hands and feet decorated with henna by a specialist called a *naqqasha*. There is song and dance, and tea and cakes are served. Older married women give the bride advice on marriage and cohabitation. The women prepare a trousseau chest, consisting of various exclusive fabrics, perfumes,

¹³ See Landinfo 2017 for marital traditions in Morocco and Landinfo 2013 for marriage traditions in Tunisia.

nightwear and similar. The henna party is believed to confer happiness and fertility in marriage.

Men often have their own party while the women celebrate the hammam and henna party.

12.2 WEDDING PARTY

The last and most important stage of the wedding celebration is the wedding party. The party is a big event and it is expected that it will be lavish.

There are usually many guests in an Algerian wedding – both extended family, friends, neighbours and other networks are invited. The party takes place at the home of the bridegroom’s parents, in a reception room or outdoors, as summer is the wedding season in Algeria. It is important to appear as a generous host, and party food such as grilled lamb, couscous, fruit and cakes is served.

The man fetches the woman from her family home and brings her to the party. The spouses arrive at the party in a procession of cars and are welcomed with joy, music and applause.

The bride, who often changes outfits several times during the party, and the groom, either dressed in a suit or in a traditional outfit, sit on bridal chairs, where they are admired by the guests.

Dance and music, either with a DJ or with traditional musicians, and often both, are key elements of the celebration. Genders may be separated at the party, but do not have to be. Often women and men attend the same party, but stay in different parts of the room. Children often attend the party and dance with the adults.

Towards the end of the party, the woman goes to the man’s home to spend the night there. The mother in law offers the bride milk, dates and gifts when she arrives. The wedding ceremony often ends with a dinner for the bride’s parents.

Algerian wedding parties are meant to be heard and seen. Greetings, applause and tooting with car horns make the party heard throughout the neighbourhood. Fireworks, firecrackers and Bengal lights make the party visible to the surroundings. It is important that the party is seen and heard as it acts as a public announcement of the spouses’ change of marital status.

12.3 EXPENSES FOR THE WEDDING CELEBRATION

It is generally considered that spending on wedding celebrations have almost exploded in recent years. Bersali (2017) suggests that an average wedding in urban areas in Algeria today costs around 1.5 million Algerian dinars (around 100,000 NOK). AFP (2017) states that even a modest wedding costs at least 1.2 million Algerian dinars (80,000 NOK). A well-informed consular source (consular source A, meeting in Algiers in November 2017) confirms that the wedding celebration costs a huge amount, without specifying an exact cost level. Benyacoub (2017), for his part, describes the expenses as “unreasonably high”.

The cost of a wedding far exceeds the financial resources that the individual family has at their disposal, but pressure from family and the community at large means that everyone must do their utmost to meet the high expectations. A magnificent wedding

is proof of prosperity, while a modest wedding is testimony of social and economic defeat. Everyone therefore wants to have a wedding party that exceeds the financial resources they have, to give an impression of prosperity and abundance, thus increasing their social status:

Culture and economic conditions for young Algerians can explain why the marrying age has increased. [...] Marriage takes place in stages, and each stage has its expenses. The future spouses and their families must save for months to cover the expenses of the wedding celebration, from the engagement and the trousseau chest to the big wedding party. "Everything costs money and on such an occasion the family will show how prosperous and socially successful they are, even if they have to borrow money to avoid criticisms from the community and the neighbourhood" (Benyacoub 2017).

Hire of party rooms, decorations, orchestras and/or DJs, multiple wedding outfits for the two spouses, wedding procession and video photographer cost far more than a family can pay, even with savings. Tasks previously performed by the family's women, such as cooking and serving, are today often paid services, which help to further increase the costs. Fashion phenomena, often imported from neighbouring countries, such as the use of bridal throne to present the bride to the guests, or hiring the services of a *naggafa* (a wedding planner or helper) also help to increase the expenses massively (Beratto 2017; Bersali 2017; Chenaoui 2017).

However, as the price level for the wedding celebration, especially the hire of premises, has increased significantly in recent years, according to Benyacoub (2017), there has been a certain tendency for more persons to arrange wedding parties in private homes, with home-cooked food and the help of family and friends. In some cases, collective weddings have also been organised for the poor who do not have the opportunity to pay the wedding expenses themselves (AFP 2017).

The distribution of the expenses for the wedding celebration between the two families is a subject of negotiation, as is the bride price. It used to be common for the man and his family to cover most of the expenses for the wedding celebration, but it is equally common today that families share the expenses. However, although the two families share the expenses of the celebration itself, the man is the provider and must be able to pay for housing and running expenses before he can consider getting married.

12.3.1 Are there reasons to refrain from having a wedding party?

The wedding celebration has an important notification function in an Algerian context (CIDDEF, meeting in Algiers in November 2017). The couple are only considered to be married by their surroundings after the wedding party, which is very visible and audible precisely because of its notification function. Because the celebration serves this function, a marriage not celebrated by a wedding reception will be viewed with scepticism. Modest wedding parties with few guests are also rare in Algeria, for precisely the same reason.

If a sad event, such as illness or death, occurs in the family, it is not usual to cancel the wedding party.¹⁴ The celebration is often planned a long time in advance, and advances

¹⁴ According to Muslim tradition, the dead must be buried as soon as possible, preferably the same day after the body is ritually washed and wrapped in a cloth. The Quran states that the death of individual human beings is determined by God, and death is therefore predetermined. The period of mourning is short, maximum three days,

for banqueting rooms, catering, orchestra and others will already have been paid. Nevertheless, out of respect for the sick or dead person, it is sometimes still possible to tone down the party.



Bridal salon in the centre of Algiers (photo: Anne Moseng Knutsen)

13. MULTIPLE MARRIAGES (POLYGAMY)

A man has the right, under certain conditions, to marry up to four women (Code de la famille 1984, article 8).

except that the female spouse must undergo a three-month waiting period (*'idda*) before she can conclude a new marriage.

Before 2005, it was sufficient for the man to tell his wife that he wanted to marry a new woman. Following the amendment of the family law in 2005, the husband must be granted permission by his existing and future wife to conclude a new marriage.

He must also obtain prior permission from a judge. To obtain such permission, he must have a valid reason, for example, that his wife is sterile or incapacitated. He must also prove that he has sufficient financial resources to support two households. If the judge is in doubt about the husband's capacity to provide, he may order a home visit to survey the circumstances. If the judge is in doubt that the man has informed his current and future spouse, he may summon them to his office to confirm that they consent to the marriage (CIDDEF 2013, p. 15).

The occurrence of polygamous marriages has never been particularly extensive in Algeria and has now fallen to less than 1% of all concluded marriages. However, it must be assumed that so-called "hidden" polygamy, that is, a man marrying more than one woman without the prior approval of a judge, is relatively widespread, without it being possible to estimate the actual extent. One of the main reasons for such "hidden polygamy", as mentioned in chapter 11, is to avoid paying maintenance in the event of divorce (Moussaoui 2010).

There are examples of men who do not meet the conditions for polygamy remarrying with a new woman without divorcing their spouse, for example by submitting a false residence certificate. If his wife can prove that the man has lied or deceived her, she is entitled to divorce (CIDDEF 2013, p. 16).

14. CHILD MARRIAGES

The minimum marital age is 19 for both sexes (Code de la famille 1984, article 7).

If a girl or boy under legal marital age (19) wishes to get married, he or she must have consent from both a guardian and a judge. The judge can only grant permission to deviate from the age requirement if there are strong grounds for getting married. It is prohibited for a guardian of a minor to marry the minor without the minor's explicit consent (Code de la famille 1984, article 13).

The real extent of marriages involving minors is unknown. According to a survey conducted by the Algerian social authorities in cooperation with UNICEF and the UN Population Fund and analysed by CIDDEF (as cited in Taouint 2017), 4.2% of women in rural areas and 2.2% in urban areas, excluding the capital Algiers, are married before the age of 19. In Algiers 59 marriages with minors were registered in the period 2012 to 2016. It is especially women in rural areas, especially in the Oran region and in the south, with no or little schooling, who are most frequently married while still minors (CGRA 2016, p. 16).

Many traditional marriages (see section 9.2) involve minors and are only registered with the authorities when the girl is 19. Traditional marriage can therefore be a way to bypass the age requirement for marriages (journalist M. Kezzar, met in CGRA in 2016, p. 13). It is therefore difficult to assess the true extent of marriages with minors, because only when the couple have been given consent by a judge to deviate from the age requirement, they are recorded in public statistics. There are therefore no available

figures on the age difference between the minor and the spouse at the time of the marriage.

15. DIVORCE

According to Islamic tradition and jurisprudence, divorce is unfortunate and should be avoided, but is still permitted. According to the Prophet Mohammed, divorce is the most disliked of all the things God has allowed (Eggen 2010).

Family law allows both women and men to apply for divorce, but men have easier access to it than women. There are four different types of divorce (CIDDEF 2013, pp. 34-41; Code de la famille 1984):

- By mutual consent – joint application for divorce, or application from one of the parties accepted by the other party (article 48).
- On the initiative of the man – the man, unilaterally and without justification, divorces the woman (article 52).
- On the initiative of the woman – on the basis of ten different reasons, including the fact that the man is not meeting his duty of maintenance, suffers from sterility or impotence or is absent for more than a year without reason (article 53).
- *Khul'* – the woman divorces, without the consent of the spouse being required, by giving him financial compensation as reimbursement for the bride price (article 54).

Petitions for divorce are brought before the court, and divorce is given in the form of a ruling. Mediation is mandatory before the court gives a divorce ruling, which must be available no later than three months after the divorce petition has been submitted. Divorces are automatically entered in the population registry.

A divorce judgement is final and cannot be appealed, as opposed to judgements which relate to the effect of the divorce, such as the alimony, child support and child custody (CIDDEF 2013, p. 40).

According to information from Algerian authorities (as quoted in APS 2018), the divorce rate was 19.54% in 2017 (68,000 divorces against 349,544 concluded marriages in the same year).

15.1 SPOUSAL MAINTENANCE (ALIMONY)

Separation of property is the normal arrangement for spouses' property regime and applies automatically when the parties marry. However, the spouses can contractually agree on specific assets in the marriage pact, or in subsequent contracts (CIDDEF 2013, p. 31).

Whether the woman is entitled to remuneration and/or maintenance (*nafaqa*) after divorce largely depends on whether the divorce happens on the initiative of herself or of the man.

If a father has not been given custody for any child after divorce (something he rarely gets, see paragraph 15.2), he has a duty to pay child support for his children. The obligation to pay for sons lasts until the marital age (19) and for daughters until they marry or can support themselves. The contribution is calculated on the basis of the father's financial resources and is revised one year after the divorce (Code de la famille 1984, article 75). The father also has a duty to pay the expenses of housing for his divorced spouse and shared children (article 72).

In theory, therefore, women with child custody can claim contributions from the father. In reality, the mother and children rarely get what they are entitled to (Algerie Focus 2014). Therefore, the Algerian authorities established a national support fund in 2014. According to Khaldoun-Arab (2016), the fund exists only on paper, while the Algerian authorities claim that 913 women and 1867 children have received assistance from the fund since its establishment. Divorced women with custody of children must therefore, in essence, support themselves or get help from their own family. Poverty is thus a major problem among divorced women with custody.

15.2 CUSTODY

The woman is almost without exception given custody of the children after divorce (Djeral 2016).

The law clarifies the order of persons to be given custody for children after divorce. According to article 64 of the family law, custody is given first to the mother. If, for some reason, the mother cannot – or does not wish – custodial rights, the responsibility is transferred to the father. If he also either cannot or will not, the responsibility passes on to the maternal grandmother, thereafter to the paternal grandmother, the mother's sister and finally the father's sister. Those who are awarded daily custody for a child must be physically and mentally fit for the task. Any incapacity must be documented in court.

Algerian legislation does not operate with the term “parental responsibility”, only legal guardianship (*wilaya*) and daily care (*hadana*). Following the change in the family law in 2005, the person who has custody and cares for the child will automatically become the child's legal guardian (Code de la famille 1984, article 87). The parent who does not care for the child is entitled to have access.

If a mother remarries with a person who is not related to the child, she may lose custody. Although this is statutory (article 66), the provision is rarely applied because the court's assessment of the child's best interest is given greater weight (APS 2018). Nevertheless, the provision deters divorced women from getting remarried, as they fear losing custody of their children. Women, therefore, rarely remarry after divorce, unlike men (CIDDEF, meeting in Algiers in November 2017).

15.3 SOCIAL POSITION OF DIVORCED WOMEN

As mentioned above, the divorce rate in Algeria is around 20%. Divorce is therefore not uncommon in an Algerian context.

Attitudes to divorced women will vary according to geographical area, social group and family values. Individual circumstances, such as whether the woman is held responsible for the divorce, may also affect the attitude of the community towards the woman. Different families experience different levels of conflict caused by divorce,

from unproblematic divorces based on mutual consent, to harrowing conflicts that last for many years.

Being a divorced woman is not socially beneficial, but, as divorce has become increasingly common in recent decades, it no longer creates a unilateral negative social status. The challenges facing divorced women are more related to their economic situation than the loss of social status. Divorced women can rent or own housing, take paid employment or establish their own business and manage their own lives, but they have to deal with the same challenging housing and labour market as much as all other Algerians.

16. REFERENCES

Written sources

- Addi, L. (2005). Femme, famille et lien social en Algérie. In : Kian-Thiebaut, A. & Lader-Fouladi, M. (eds). *Famille et mutations socio-politiques. L'approche culturaliste à l'épreuve*. Paris : Editions de la Maison des Sciences de l'Homme, 71-87. Available at <https://halshs.archives-ouvertes.fr/file/index/docid/398641/filename/index.html> [downloaded 4 January 2018]
- AFP, ie. Agence France Presse (2017, 3 January). Algérie : des mariages collectifs pour convoler malgré la pauvreté. *Le Figaro*. Available via <http://madame.lefigaro.fr/societe/en-algerie-des-mariages-collectifs-pour-convoler-malgre-la-pauvrete-030117-128865> [downloaded 26 January 2018]
- Algérie Focus (2014, 11 December). Algérie : seules 2500 femmes divorcées bénéficient de la pension alimentaire. *Algérie Focus*. Available at <http://www.algerie-focus.com/2014/12/seules-2500-femmes-divorcees-beneficient-de-la-pension-alimentaire/> [downloaded 8 February 2018]
- Algérielle (2016, 12 July). Virginité en Algérie: un sujet tabou. *Algérielle*. Available at <http://www.algerielle.com/societe/ma-vie-en-algerie/1579-virginite-en-algerie-un-sujet-tabou.html> [downloaded 17 January 2018]
- Algerian Embassy in Norway (2015, 15 December). *Transcription*. Oslo: Embassy of Algeria. Available at <https://algerianembassy.no/2015-12-15-22-49-48/transcription-des-actes-d-etat-civil> [downloaded 30 January 2018]
- APS, ie. Algérie Presse Service (2018, 5 January). Louh: plus de 68.000 cas de divorce enregistrés en 2017. *APS*. Available at <http://www.aps.dz/societe/67901-louh-plus-de-68-000-cas-de-divorce-enregistres-en-2017> [downloaded 13 February 2018]
- Barraud, E. (2010). La filiation légitime à l'épreuve des mutations sociales au Maghreb. *Droit et Cultures*, 59(1), 255-282. Available at <http://journals.openedition.org/droitcultures/2118> [downloaded 13 February 2018]
- Benyakoub, E. M. (2017, 25 August). Mariage tardif : Le poids des contraintes sociales et des traditions. *El Watan*. [Subscription service, downloaded 8 January 2018]
- Beratto, L. (2017, 28 July). En Algérie, on se marie sur un trône. *Radio France Internationale*. Available at <http://www.rfi.fr/afrique/20170725-tendances-algerie-mariage-trone-rafda-mode> [downloaded 21 September 2017]
- Bersali, A. (2017, 8 July). Mariages en Algérie: Goût du luxe et folles dépenses. *El Watan*. Available via http://www.algeria-watch.org/fr/article/eco/soc/mariages_en_algerie.htm [downloaded 22 September 2017]
- Chenaoui, Z. (2017, 18 July). Les folles dépenses des mariages en Algérie. *Le Monde*. Available at http://www.lemonde.fr/afrique/article/2017/07/18/en-algerie-les-folles-depenses-des-mariages_5162030_3212.html [downloaded 22 January 2018]
- CICADE, ie. Centre pour l'Initiative Citoyenne & l'Accès au(x) Droit(s) des Exclus (2016). *Le mariage en droit algérien*. Montpellier: CICADE. Available at <http://www.cicade.org/wp-content/uploads/2015/07/Le-mariage-en-droit-algerien.pdf> [downloaded 29 January 2018]
- CIDDEF, ie. Centre d'Information et de Documentation sur les Droits de l'Enfant et de la Femme (2013). *Guide amendements Code de la famille*. Algiers: CIDDEF.
- CGRA, ie. Commissariat général aux réfugiés et aux apatrides (2016, 16 November). *Algeria. Forced Marriage*. Brussels: Cedoca. Available at http://www.cgrs.be/sites/default/files/rapporten/coi_focus_algeria_forced_marriage_20161116.pdf [downloaded 6 February 2018]
- [Code de la famille] (1984). *Loi N° 84-11 du 09 juin 1984 portant code de la famille, modifiée et complétée*. Algiers : République Algérienne Démocratique et Populaire. Available at <http://www.joradp.dz/trv/ffam.pdf> [downloaded 19 September 2017].

- Consulat Général d'Algérie à Paris (n.d.). *Certificat de consentement au mariage*. Paris: Consulat Général d'Algérie à Paris. Available at <http://www.consulat-paris-algerie.fr/etat-civil/certificat-consentement-au-mariage/> [downloaded 25 September 2017]
 - Consulat Général de France à Alger (n.d.). *Questions fréquentes relatives au mariage*. Algiers: Consulat Général d'Algérie à Paris. Available at <https://alger.consulfrance.org/Questions-frequentes-relatives-au.2666> [downloaded 13 February 2018]
 - Dahl, T. s. (1992). *Den muslimske familie*. Oslo: Universitetsforlaget.
 - Descheemaeker, L., Heyse, P. & Wets, J. (2009). *Choix de la conjointe et mariage des hommes allochtones. Une analyse quantitative et qualitative du processus de choix de la conjointe et du mariage des hommes marocains, turcs et sikhs*. Brussel: Institut pour l'égalité des femmes et des hommes. Available at http://igvm-iefh.belgium.be/sites/default/files/downloads/29%20-%20Rapport%20Choix%20de%20la%20conjointe_FR.pdf [downloaded 13 February 2018]
 - DGSN, ie. Direction Générale de la Sûreté Nationale (n.d.). *Guide étranger*. Algiers: DGSN. Available at http://www.dgsn.dz/IMG/pdf/guide_etranger.pdf [downloaded 7 February 2018]
 - Djerbal, D. (2016, 13 February). «Dans 95% des divorces, la mère a la garde des enfants quelle que soit sa situation matérielle». *El Watan*. Available at http://www.algeria-watch.de/fr/article/eco/soc/fonds_nafaqa_bloque.htm [downloaded 8 February 2018]
 - Eggen, N. (2010, 16 February). Skilsmisse i islam? *Islam.no*. Available at http://www.islam.no/faq_480_43_8531.aspx [downloaded 8 February 2018]
 - Ferhati, B. (2007). Les clôtures symboliques des Algériennes : la virginité ou l'honneur social en question. *Clio. Femmes, Genre, Histoire*, 26, 169-180. Available at <http://journals.openedition.org/cli/6452> [downloaded 17 January 2018]
 - Hamel, C., Lhommeau, B. Pailhé, A. & Samtelli, E. (2013, januar). *Rencontrer son conjoint dans un espace multiculturel et international*. Paris : Institut National d'Etudes Démographiques. Available at <https://www.ined.fr/fr/publications/document-travail/rencontrer-conjoint-espace-multiculturel-international/> [downloaded 15 January 2018]
 - Hammouda, N. (2009). *Age moyen au premier mariage et écart entre époux : Quelles méthodes d'estimation adopter dans le cas algérien ?* [s.l.]: [s.n.]. Available via https://www.researchgate.net/publication/264787918_AGE_MOYEN_AU_PREMIER_MARIAGE_ET_ECART_D%27AGE_ENTRE_EPOUX_QUELLES_METHODES_D%27ESTIMATION_ADOPTER_DANS_LE_CAS_ALGERIEN [downloaded 22 January 2018]
 - Huffington Post Maghreb (2017, 12 August). Le taux de chômage en Algérie a atteint 12,3 % en avril 2017. *Huffington Post Maghreb*. Available at http://www.huffpostmaghreb.com/2017/08/12/taux-de-chomage-algerie-hausse_n_17735676.html [downloaded 5 October 2017]
 - Khaldoun-Arab, F. (2016, 13 February). Le fonds de la pension alimentaire toujours bloqué. *El Watan*. Available at http://www.algeria-watch.de/fr/article/eco/soc/fonds_nafaqa_bloque.htm [downloaded 13 February 2018]
 - Landinfo (2017, 21 April). *Marokko: Ekteskap og skilsmisse – juridiske og kulturelle forhold*. Oslo: Landinfo. Available at https://landinfo.no/asset/3545/1/3545_1.pdf [downloaded 13 February 2018]
- Also available in English, at www.landinfo.no.
- Landinfo (2015a, 11 May). *Algerie: ID-dokumenter og offentlig forvaltning*. Oslo: Landinfo. Available at https://landinfo.no/asset/3132/1/3132_1.pdf [downloaded 13 February 2018]
 - Landinfo (2015b, 9 December). *Algerie: Sikkerhet og terrorisme*. Oslo: Landinfo. Available at https://landinfo.no/asset/3268/1/3268_1.pdf [downloaded 14 February 2018]
 - Landinfo (2014, 10 November). *Algerie: Islamisme på 1990-tallet*. Oslo: Landinfo. Available at https://landinfo.no/asset/3002/1/3002_1.pdf [downloaded 5 October 2017]

- Landinfo (2013, 30 August). *Tunisia: Ekteskap – juridiske og sosiokulturelle forhold*. Oslo: Landinfo. Available at https://landinfo.no/asset/2471/1/2471_1.pdf [downloaded 13 February 2018]
- Landguiden (n.d.). *Algeriet*. Stockholm: Utrikespolitiska Institutet. [Subscription service, downloaded 13 February 2018]
- Locoh T. & Ouadah-Bedidi, Z. (2014). *Familles et rapports de genre au Maghreb. Evolutions ou révolutions ?* Paris: Institut National d'Etudes Démographiques. Available at https://www.ined.fr/fichier/s_rubrique/22779/document.travail.2014.213.maghreb.genre.fr.pdf [downloaded 8 January 2018]
- Mahieddin, N. M. (2006). L'évolution du droit de la famille en Algérie : nouveautés et modifications apportées par la loi du 4 mai 2005 au Code algérien de la famille du 9 juin 1984. *L'année du Maghreb II*, 97-137.
- Ministère de l'Intérieur, des Collectivités Locales, et de l'Aménagement du territoire (2016). *Mariage mixte*. Algiers: Ministère de l'Intérieur, des Collectivités Locales, et de l'Aménagement du territoire. Available at <http://www.interieur.gov.dz/index.php/fr/%C3%A9trangers-en-alg%C3%A9rie/mariage-mixte.html#faqnoanchor> [downloaded 30 January 2018]
- Moussaoui, A. (2010). Alliances bénies en Algérie: nouveaux liens maritaux en Islam. *L'année du Maghreb VI*, 79-98. Available at <http://journals.openedition.org/anneemaghreb/816> [downloaded 24 January 2018]
- Ouadah-Bedidi, Z. & Saadi, N. (2014). *Algérie: femmes et familles entre droits et réalités*. Paris: Institut National d'Etudes Démographiques. Available at https://www.ined.fr/fichier/s_rubrique/22838/document.travail.2014.214.algerie.code.famille.fr.pdf [downloaded 1 February 2018].
- Ouadah-Bedidi, Z. & Vallin, J. (2003). Ecarts d'âge entre conjoints en Algérie. Evolution depuis 1966 et disparités régionales. *European Journal of Population*, 19(3), s. 279-302. Available at <https://link.springer.com/article/10.1023/A:1024947222422> [downloaded 9 February 2018]
- Ould-Khettab, D. (2016, 1 July). Entretien. Zahia Ouadah-Bedidi : « Aujourd'hui la plupart des Algériennes choisissent leur conjoint librement ». *Intymag*. Available at <http://www.google.no/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwiVlevC4ZjZAhUUh6YKHfl6DLcQFggqMAA&url=http%3A%2F%2Fintymag.com%2Fentretien-zahia-ouadah-bedidi-sociologue-aujourd'hui-la-plupart-des-jeunes-femmes-choisissent-leur-conjoint-librement%2F&usg=AOvVaw12kCHckrtdaHNc4FqSwoB0> [downloaded 9 February 2018]
- Schacht, J. (1964). *An introduction to Islamic law*. Oxford: Clarendon Press.
- SNL, ie. Store Norske Leksikon. *Medgift* (last modified 20 February 2018). Oslo: SNL. Available at <https://snl.no/medgift> [downloaded 13 February 2018].
- Taouint, Y. (2017, 25 February). Faisant fi de l'âge légal du mariage, 47 000 mineures ont été mariées entre 2012 et 2013. *Huffington Post Maghreb*. Available at http://www.huffpostmaghreb.com/2017/02/25/faisant-fi-de-lage-legale-du-mariage-47-000-mineures-ont-ete-mariees-entre-2012-et-2013_n_15007060.html [downloaded 17 February 2018]
- UNDP, ie. United Nations Development Programme (2016). *Human Development Index*. New York: UNDP. Available at <http://hdr.undp.org/en/content/human-development-index-hdi> [downloaded 13 February 2018]
- U.S. Department of State (2016, august). *International Religious Freedom Report – Algeria 2016*. Available at <https://www.state.gov/documents/organization/269128.pdf> [downloaded 29 January 2018]

Oral sources

- Algerian Embassy in Norge. Meeting in Oslo, May 2015.
- Association algérienne de planification familiale (AAPF). Meeting in Algiers, December 2017.
- Chekkat, Kamel. Imam. Meeting in Algiers, November 2017.
- CIDDEF, ie. Centre d'information et de documentation sur les droits de l'enfant et de la femme. Meeting in Algiers with lawyer and head of organization Nadia Aït Zaï, november 2017.
- Consular source A. Meeting in Algiers, November 2017.
- Consular source B. Meeting in Algiers, November 2017.