



LIST OF QUESTIONS SUBMITTED TO THE CEDAW COMMITTEE Pre-Session on Algeria, July 2010

Status of reservations issued by Algeria

Upon ratification of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1996, Algeria issued reservations to articles 2, 9, 15 and 16 (as well as 29) of the Convention. The Nationality Code was amended in 2005, giving Algerian women the right to transfer their nationality to their children born to a foreign father, a right which already applied to men with wives who were foreign nationals. Following this reform, Algeria officially removed the reservation relating to article 9. However, reservations to articles 2, 15 and 16 have still to be lifted. These reservations run contrary to the object and purpose of the Convention and thus violate the Vienna Convention on the Law of Treaties.

What measures have been taken towards lifting reservations to articles 2, 15 and 16?

Institutions

The Ministry assigned responsibility for women's affairs develops strategies (for example on combating violence against women), but has not been allocated a budget to ensure their implementation.

What measures are envisaged for strengthening the Ministry responsible for women's affairs? Is it the intention to provide the Ministry with a budget? Is it envisaged to make this Ministry sovereign and autonomous?

By Decree n°06421 dated November 2006, Algeria created the *Conseil national de la famille et de la femme* (National Council for Families and Women), made up of representatives from ministries and relevant associations and of independent figures. The Council's role is to support the work of the Ministry responsible for women's affairs, but unfortunately it is neither very active nor productive.

What programmes/projects have been implemented by the *Conseil national de la femme* in support of the application of the Convention?

Article 1: Discrimination

While the Constitution prohibits all forms of discrimination based on gender or race, Algerian law does not contain any definition of discrimination.

What measures have been taken to include a definition of discrimination in Algerian legislation in accordance with CEDAW?

Articles 4 and 7: Representation of women in public and political life

The Algerian Constitution recognises the right of Algerian women to vote and to be elected.¹ Women also have the right to belong to a political party of their choice. They are, however, underrepresented in political positions, particularly in parliament where there are 30 women members out of a total of 389, on the National Council which has 7 women out of a total of 144, and in government where there are 3 women out of a total of 38 members. It is clear that no real interest is being paid to the issue of women's participation in political and public life.

The government is being slow to implement temporary measures and parties argue that such positive action is discriminatory. The revision of the Constitution undertaken in 2008 by the President of the Republic reaffirmed in article 31 *bis* the state's commitment to "promoting the political rights of women by increasing their opportunities to access representation in elected bodies. The means of application of this article are fixed by a framework law."

A Ministry of Justice commission has been set up to draw up the framework law fixing the level of representation, as well as the means for attaining this level. A draft law was completed in 2009 but has not subsequently been published or adopted.

What procedures are envisaged for adopting the framework law and within what timescale? What level of representation of women is proposed by the law? What means are envisaged for ensuring this legal provision is effective?

What are the effective and durable measures that have been taken by the government to deal with the under-representation of women in decision-making positions in public life at both national and international levels, and in the private sector?

Article 15: Equality in civil and legal matters

While the Algerian Constitution affirms that all citizens have equal rights and that every individual may exercise these rights on reaching his/her majority at age 19, women continue to be underrepresented with regard to their legal capacity.

¹ Article 50 of the Constitution states: "Any citizen fulfilling the legal requirements can vote and is be elected".

Amendments to the *Code de la famille* (Family Law), introduced in 2005, make the consent of a wife a condition to the conclusion of a marriage contract, but the provisions concerning the role of the woman's guardian reduces her legal capacity.

According to the *Code de la famille* of 1984, the testimony of two women equals that of one man.

What reforms are envisaged to eliminate these discriminatory provisions in accordance with CEDAW?

Violence against women

Algeria has implemented a strategy to combat violence against women that involves public authorities and relevant associations. An institutional database has been set up within the Ministry responsible for women's affairs to measure the extent of such violence. The database is not, however, operational and there are difficulties in coordinating with other ministries.

What strategy will be implemented to ensure that the institutional database works? What is the strategy for strengthening collaboration and coordination between different ministries to increase the effectiveness of measures to combat violence against women?

Article 16: Marriage and family life

The Algerian *Code de la famille* continues to be *the* legal text enshrining discrimination against women and can even be considered its foundation:

Polygamy is permitted. It is subject to certain restrictions (art 8), but these are often circumvented. Where a husband fails to secure his first wife's agreement and a judge's permission to take a second wife, he often marries in accordance with a common law ceremony (*fatiha*), presenting the judge with a *fait accompli* and giving the latter no choice but to validate the second marriage. The first wife has the right to divorce on the grounds of polygamy (art 53).

Divorce/repudiation: Women do not have the same rights with regard to separation and divorce (art 53). A woman can use *khol* (art 54) to repudiate her husband, the counterpart of the husband's right to repudiation (art 48). Both procedures entail the right to compensation payable by one or other party for injury caused. The law needs to update these concepts and to introduce into legislation the right of either party to ask for a divorce without specifying the grounds. This would remove the discriminatory element of repudiation that has been commonly used since the *Code de la famille* came into force in 1984.

Many divorced women have problems obtaining their maintenance allowance. A fund is therefore needed that will guarantee support for such women in cases where a husband is insolvent.

Guardianship of children: Responsibility for children is shared by both parents with regard to running the household and the children's education, but the father remains the children's legal guardian. The law is very vague where it allows a woman to replace the father in "emergency situations" involving the children, such as where a husband is absent or unable to act as guardian. It is very difficult for a woman to prove absence.

When a father dies, the mother becomes the guardian and, in cases of divorce, custody and guardianship are awarded to her (art 87). A divorced woman with custody of her children loses this right if she remarries.

Inheritance: Legal provisions relating to inheritance reveal flagrant discrimination against women. A son is entitled to receive two shares of an inheritance and a daughter only one share. Parents who have only daughters get round this by making over gifts to them or by selling their assets for their benefit.

What measures have been taken/are envisaged to repeal the discriminatory provisions in the *Code de la famille* in accordance with CEDAW?