

*Political Reforms in Algeria: Towards the Promotion of
Women's Political Rights*

الإصلاحات السياسية في الجزائر: نحو ترقية الحقوق السياسية للمرأة



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Abstract:

This study aims to shed light on the most prominent texts and provisions approved by Algerian laws, on top of which are the constitutions, in order to activate the political participation of women, in addition to providing an analysis of the actual practice of political rights by women, in light of the difficulties facing this practice and its slow implementation, which is What made her participation in political life still limited.

Keywords: Political Rights of women; Political participation; The quota system; Elected councils; Parliamentary representation.

ملخص:

تهدف هذه الدراسة إلى إلقاء الضوء على أبرز النصوص والأحكام التي أقرتها القوانين الجزائرية وعلى رأسها الدساتير من أجل تفعيل المشاركة السياسية للمرأة، إلى جانب

تقديم تحليل للممارسة الفعلية للحقوق السياسية من قبل المرأة، في ظل الصعوبات التي تواجه هذه الممارسة وتبطل تفعيلها، وهو ما جعل مشاركتها في الحياة السياسية لا تزال محدودة. **كلمات مفتاحية:** الحقوق السياسية للمرأة؛ المشاركة السياسية؛ نظام الكوتا؛ المجالس المنتخبة؛ التمثيل البرلماني.

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Introduction:

The international obligation to respect human rights and fundamental freedoms has become one of the main obligations of the state, and international human rights instruments have become *jus cogens*, with binding legal force.

Since its independence in 1662, Algeria has known profound social and economic transformations that have had an impact on the status of women in the family and society. As a result, laws have witnessed improvements in the interest of women in all fields, especially in light of the political and legal reforms recently witnessed by Algeria, which fall within the path of strengthening The status of women in society and political life, the promotion of their political rights and the expansion of the chances of their representation in parliaments.

However, these political and legal reforms pose a number of challenges to the actual enjoyment of women's political rights in light of the wide gap between the speed of development of legal texts and the slow implementation of them, in addition to the prevailing view in society that deals with women of the second degree, in light of the cultural heritage, and the social limit that limits women's participation in political life. Therefore, we try, through this study, to answer the following problem: **To what**

extent do Algerian women enjoy their political rights under the Algerian legal system?

First: The Algerian legal framework and women's political rights:

The political rights of Algerian women have been surrounded by international obligations, through Algeria's accession to the most important international, regional and Arab human rights conventions in general, concerned with the political rights of women in particular, which were adopted as an international framework whose basis is: universality and inclusiveness of women's rights, and their indivisibility. Which we will try to display as follows:

1. Algeria's international obligations for political rights

1.1. On the world level:

Algeria was one of the first countries to accede to international human rights conventions, and it also accepted international monitoring by bodies and committees concerned with human rights over the extent of its implementation of its international obligations in this regard. Algeria is internationally committed to the political rights of Algerian women, as it joined the most important international treaties on women's political rights.

We will try to present the most important international agreements that Algeria has committed to in this field:

- The Universal Declaration of Human Rights (1948)¹: Algeria acceded to it in 1963, which stipulates in its first article “the right of every person to enjoy his declared rights and freedoms without discrimination based on race, color or sex”.

- The International Covenant on Civil and Political Rights (1966)²: it acceded to it in 1989, with declarations interpreting articles 23, 13 and 1.

- The International Covenant on Economic, Social and Cultural Rights (1966)³: It acceded to it in 1989. With declarations interpreting articles 23, 13, 8 and 1⁴.

- The Nationality of Married Women Convention (1957)⁵: - Marriage agreement, the minimum age for marriage and the registration of marriage contracts: ratified on November 7, 1962.

- The Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others (1949)⁶: ratified in 1963, with a reservation on Article 22.

- The Convention on the Rights of the Child (1989)⁷: ratified in the year 1992.

- The United Nations Convention against Transnational Organized Crime and its three protocols relating to the prevention and suppression of trafficking in persons, especially women and children.

- The United Nations Convention on the Political Rights of Women (1952)⁸: adopted by Algeria in 2004, and this convention consists of 11 articles, three of which are substantial and eight procedural.

- The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (1979)⁹: The Convention on the Elimination of All Forms of Discrimination against Women is considered as the “Universal Declaration of the Human Rights of Women”, and it represents the most

comprehensive international agreement in this field. This convention comprehensively calls for absolute equality of rights between women and men in all fields.

The agreement is considered an international law, according to which the signatory states are obligated to take all measures to eliminate any differences between men and women, whether on the level of public life, or on the level of private life, and in particular in the family sphere. So far, CEDAW is considered the most important international text regulating women's rights. Algeria ratified the CEDAW convention on May 22, 1996.

- Preparation of reports of the Convention on the Elimination of All Forms of Discrimination Against Women¹⁰: The reports of the Convention on the Elimination of All Forms of Discrimination against Women are prepared and presented to the committee emanating from the convention under the supervision of the Ministry of Foreign Affairs and with the participation of the most important associations represented in Algeria¹¹.

1.2. As for the Regional level:

- The African Charter on Human and Peoples' Rights (1981)¹²: Algeria ratified it in 1987, and in accordance with Article 3, Paragraph 18 thereof, the State party is obligated to “ensure the elimination of various forms of violence against women and guarantee the protection of women's rights and rights. And international agreements - “However, women's rights have not been addressed in a broad way.

- African Charter on the Rights and Welfare of the Child (2003)¹³: The Solemn Declaration of African Heads of State on Equality between Men and Women, this declaration, which was ratified

during the 2004 Heads of State and Government Conference in Ethiopia, addresses the principle of parity in decision-making. Algeria ratified the gender equality policy of the African Union during the African Union summit in 2009, and was among the countries that contributed to the preparation, discussion and enrichment of the document. On December 29, 2003, it also took the initiative to sign the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa upon its adoption during the Maputo Summit in 2003, and then began its legal procedures¹⁴.

1.3. On the Arab level:

The Council of the League of Arab States issued the Arab Charter for Human Rights on September 15, 1994, Article 2 stipulates that “every state party to this charter shall guarantee to every person present on its territory and subject to its authority the right to enjoy all the rights and freedoms contained therein without any discrimination on the basis of race. Color, gender, language ...”¹⁵.

Thus, the Charter rejects discrimination against women. However, what is noticed in this Charter is its lack of insistence on women's political rights.

And due to the faltering charter and its shortcomings, the Council of the League of Arab States at the ministerial level decided, on March 4, 2004, to update this charter, and approved a new initial formula in which the rights of women had a share. Article 3 in the update states: “Men and women are equal in human dignity, rights and duties, in light of positive discrimination established by Islamic Shariaa and other divine laws, legislation and charters in force for the benefit of women¹⁶.

2. In The National Legislation:

The Algerian legislator has undertaken a set of political and legal reforms based on the principle of equality between citizens, promoting rights, achieving social justice and equal opportunities. Women benefit directly and appreciably in all fields. Article 31 of the constitution states that “institutions aim to ensure equality All male and female citizens in rights and duties by removing the obstacles that hinder the opening of the human personality and prevent everyone from participating effectively in political, economic, social and cultural life, "with a strong political will to push reforms to reach their full extent in all fields.

Beside that:

- **The Civil and Administrative Procedures Law:** has been introduced, and the Family Affairs Department looks into all cases related to betrothal, marriage, dissolution of the marital bond and its auxiliaries, alimony, custody, sponsorship, guardianship and protection of the interests of minors.

- **In the area of personal status:** Ordinance No. 05-02 amending and supplementing Law No. 84-11 of June 9, 1984, which includes the Family Code, came to embody one of the major obligations for the promotion of the family in general and the status of women in particular by strengthening their rights to equality and Citizenship in accordance with the stipulations of the constitution (restoring balance in rights and duties between spouses, recognizing the right to conclude a marriage contract for women, standardizing the age of marriage for men and women and setting it at the age of nineteen).

- The Algerian nationality law: has been amended by Order No. 05-01 amending and supplementing Ordinance No. 70-86 of December 15, 1970, which includes the Algerian Nationality Law, to enshrine equality between father and mother in the case of acquiring nationality, in accordance with the basic principles of human rights and the International Convention on the Protection of Rights The child, as well as those related to the elimination of all forms of discrimination against women, in addition to granting the privilege of obtaining citizenship through marriage with an Algerian or Algerian.

- As for the Penal Code: In 2005, new amendments were introduced that include criminalizing sexual harassment and giving the victim the legal means that enables him to claim her rights and follow up on those responsible for these practices. In 2008, the acts related to trafficking in women and girls were criminalized¹⁷.

- Amending the current constitution (1996) on November 12, 2008¹⁸: Despite the great successes of Algerian women in various fields, and the Algerian state's consecration of the principle of equality between the sexes in the constitution and all laws, especially equality in the right to vote, run for office, and practice political work, the percentage of their representation in Parliament remained weak and did not correspond to the size of the social and economic presence.

In order to redress the weakness recorded in the field of women's political participation in decision-making positions from independence to today, Algeria has implemented a set of legal and

procedural measures in order to expand the participation of women in decision-making positions represented by adding an explicit clause in the current constitution that affirms the political rights of women¹⁹. Through Article 31 bis, which states that "the state shall work to promote the political rights of women by expanding the chances of their representation in the elected councils, and an organic law specifies the modalities for applying this article."²⁰.

- Organic law and the application of the quota system²¹: In view of the weak political participation of women and their representation in legislative and local councils, many countries, several decades ago, invented the technology of quotas or "quotas" as an interim measure to improve and expand women's political participation, and in light of the developments they have witnessed. In the international arena, in terms of promoting human rights and adopting democratic practices, the demand for this system has increased in recent years²².

Second: The reality of women's political participation after political reforms:

The importance of women's political participation lies in the influence of the centers of power and power on the life of women. If they are effectively present in these positions, they will be able to achieve the interests associated with them, highlight their issues, defend their rights, and give them a real role in the development process in society. The presence of women in these positions should not be understood as serving women only, but it will have a greater impact on all aspects of society.

1. The participation of women in political authorities and institutions:

The position of women and their participation in political life are among the most important indicators of their position in society. The following are the most important indicators in numbers for women's political participation in Algeria.

1.1. Participation of women in the legislative authority²³:

Parliament consists of two chambers: the National People's Assembly and the National Assembly. Feminist participation in the National People's Assembly has evolved from 7.75% in 2007 (30 female deputies out of 389), compared to 30% (148 deputies out of 462 seats) in 2012. In the National Assembly, an estimated 5.5% (08 women) participated in the National Assembly in 2008 out of a total of 144 members.

1.2. Participation of women in the executive authority²⁴:

-Government: Two (02) ministers were appointed within the last Algerian government team (September 2012), and they are the two ministers of solidarity and family, and the minister of culture.

-Wilaya: The first woman was appointed to the governor in 1999 during the term of the current president, followed by a mandatory governorate as well as three female secretaries general for four states (04) inspectors general for four states.

-Daira: 11 women department heads have been appointed.

- Municipal people's councils: The last local elections (November 2012) resulted in the election of 4,715 women at the level of local elected councils, distributed as follows:

4120 women elected to membership in municipal people's councils, of whom six are heads of municipal councils.

- 595 women elected to membership in state councils, of whom two are chairpersons of state councils²⁵.

1.3. The participation of women in the judiciary²⁶:

It is counted as follows: Women held the highest positions in the judiciary, by more than 60%.

- The percentage of women working in the judicial police service exceeded 50%.

- The percentage of women lawyers is 70% of all lawyers²⁷.

2. Evaluating women's political participation after reforms:

It is evident from previous data and numerical indicators that despite the great development of legislation related to women, especially in light of political and legal reforms, and the increase in their participation in political life by imposing quotas, this is still far from the international standards set in United Nations resolutions. And the Beijing strategy, which stipulated that the participation of women in the political field should not be less than 30%. 35%, albeit through the quota system. Also, this participation remains insignificant and does not reflect the percentage of women's representation, which is estimated at 49.4% of the total population, as the gap between theory and reality remains large.

It is the result of several factors, the most important of which are:

- The culture of the Algerian society that limits the role of women to the scope of family and working life.

- A conservative societal vision that questions the willingness of women to bear the political burden and hold critical positions.

Weak women's affiliation with parties in Algeria as a result of marginalizing their role and limiting it to secondary and formal roles only, as women usually occupy the lowest ranks in the electoral lists.

- The reluctance of women to enter political life, whether by running for office or by voting, because the political atmosphere is not pure in most cases and contains negative behaviors, which constitute a threat to the reputation of women, exposing them to criticism and moral damage on the part of their surroundings.

- The lack of financial power required by women to enter the political arena, as financial independence is weak for the largest segment of women, which prevents them from succeeding in winning representative tasks.

Despite all the difficulties and obstacles that face the presence of Algerian women in political life, their existence as a social force cannot be denied, and the issue remains more procedural than objective in light of the daily and social reality of Algerian women.

Conclusion:

In conclusion, we were able to come up with a set of results, which we attached to a set of recommendations to fill the gaps that emerged to us through the study.

1. Results:

- The participation of women in political life is an urgent necessity imposed by the development of society, and it has become impossible to strengthen the rule of law or achieve any development away from the participation of half of the society, which women represent through their participation in development and their participation in opinion in decision-making positions.

- The "quota" system is a good mechanism for increasing the chances of Algerian women in elected councils and enhancing their role in decision-making positions, but it must be adopted as a temporary solution, until the gender differences between women and men at all levels disappear. The approval of Article 31 bis of the Algerian constitution remains one of these. Mechanisms, and it opens the door to more mechanisms that support Algerian women.

- Taking real and effective measures to empower women politically is an important entry point to address major political, social and economic problems and dilemmas, and political participation is one of the most important of these approaches, given that it allows participation in managing public and political affairs in particular in a democratic manner.

2. Recommendations:

- Work to provide the necessary conditions to create an appropriate cultural and social environment for the development of mentalities and the growth of the values of equality and partnership between the sexes, in order to enable women to exercise their rights, as a human being with full rights and duties and as a free and responsible citizen.

- Continue to harmonize laws with international commitments, especially those related to women's political rights, and take implementation measures for these commitments (especially the Convention on the Elimination of All Forms of Discrimination against Women and the Arab Charter on Human Rights).

- Encouraging parties, trade unions and societies to further integrate women into their structures.
- Developing women's capacities in expressing opinions and participating in decision-making, through special programs.
- Familiarity with the difficulties faced by women in participating in public life at the national, regional and local levels.

Algerian political and legal reforms, and the implementation of the quota system in the legislative elections, remain a positive step that deserves to be appreciated and valued, as a real start towards the promotion of political rights for Algerian women.

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Marginalization:

¹ <https://www.un.org/en/universal-declaration-human-rights/>

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