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**The Discursive Representation and the Status of Women in the Algerian
Family Code (2005) in relation to Marriage and its Dissolution**
FCDA Approach

*Dissertation Submitted to the Department Of English as a Partial Fulfillment of the
Doctoral Degree in « Gender Studies and Sociolinguistic Diversities »*

Presented by: ZOHRA BEKHEDDA

Board of Examiners

- | | | |
|------------------------------------|-------------------|---------------------------|
| 1. Pr Bakhta Abdelhay | Chairperson | University of Mostaganem. |
| 2. Dr Dallel Sarnou | Supervisor | University of Mostaganem |
| 3. Pr Fatima Zohra Nedjai Mebtouch | External examiner | ENBA |
| 4. Dr Hayet Aoumeur | Internal examiner | University of Mostaganem |

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Abstract

Family issues in relation to marriage and its dissolution are regulated by various family laws. As far as Algeria is concerned, in the last decade, there have been noticeable reforms in the Algerian Family Code. The new amendments are said to affect the struggle between women and the government to improve their rights in the institution of marriage and its dissolution. In this regard, the present research analyzes the discursive representation of women in the Algerian Family Code of 2005. To investigate the issue under scrutiny, the current study applies the theory of feminist critical discourse analysis (henceforth FCDA) to legal discourse in an effort to shed light on the way women are discursively represented in the New Algerian Family Code (NAFC). For this particular purpose, the aforementioned legal discourse is linguistically examined following an FCDA framework with a special emphasis on Van Leeuwen's Socio-Semantic(2008) and Van Dijk(2004) models of analysis. This interdisciplinary approach is used to explore how power, dominance bias, and ideologies are maintained in the New Algerian Family Code. The results of this study reveal that the target code does maintain and still perpetuates women's inferior position. In a nutshell, this research indicates that gender bias and asymmetrical power relations between women and men are enacted in the discourse under investigation.

Key words: Algerian Family Code, dissolution of marriage, discursive representation, legal discourse, Feminist Critical Discourse analysis, ideologies, gender bias.

DEDICATION

Praise be to Allah who has given me the strength, and courage to overcome all the difficulties and to continue this journey.

I dedicate this work

To the loving memory of my father, and lovely late brother Samir. May Allah reward them the highest level of paradise .

To my mother, who has been a source of encouragement and inspiration to me throughout my life.

To my grandmother and all the members of my family especially Mohamed, Meriem, Kika, Fatiha Nabila, larbi.

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To all my uncles Djilali ,Aek and their families kheira,samira...

To my friends and learning partners .

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List of Abbreviations and Acronyms

FCDA: Feminist Critical Discourse Analysis.

CDA: Critical Discourse Analysis.

NAFC: The Algerian Family Code of 2005.

Art: Articles .

IPA ARABIC transliteration symbols

B	p	T	dʒ	ħ	x	D	r	z	s	ʃ	sʕ	dʕ	tʕ	ʕ	y	q	g	k	l	m	n	h	w	j
پ	ب	ت	ج	ح	خ	د	ر	ز	س	ش	ص	ض	ط	ع	غ	ق	ك	ل	م	ن	ه	و	ي	

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General

Introduction

General Introduction

The family is one of the essential bases of any society. It should be protected by governments and states. One of the ways to protect it can be affected by organizing family relations via law. The family matters pertaining to marriage are controlled by distinct laws which are recognized by the constitution. In this regard, the Algerian Family Code is a set of legal provisions governing the family relationships. Therefore, this code provides a number of guidelines for marriage and its dissolution to protect the rights of the family and the society as a whole. Ensuring women's rights in the domain of family and marriage has always been considered as the most prominent focus of The Algerian Family Code.

Since the last decade, there have been noticeable reforms in the Algerian Family Code. The new amendments have affected the struggle of women to improve their rights of women in the institution of marriage and its dissolution. In addition, these amendments developed around a general principle of extending the protection of women within the family; therefore, women seem to gain more rights in regard to marriage, divorce, polygamy, custody, alimony.

The present investigation analyzes the representation and the status of women in the New Family Code in Algeria from a critical discursive perspective. The corpus for this study consists of articles from the NAFC which was amended in 2005. These articles deemed controversial since they have been suddenly, after more than twenty years, amended in an unprecedented manner creating significant debates about the new code and its impact on women and the Algerian society.

To proceed with the analysis of our corpus, we opted for a Feminist Critical Discourse Analysis as an approach to examine the way women are represented in the NAFC. Thus,

FCDA is employed to explore how power, dominance, bias and ideologies are maintained in the target code.

This study aims to increase knowledge of the current condition of the family and the representation of women in the NAFC. Therefore, the purpose of this research is to develop a better informed, even detailed, understanding of the amended code about marriage and its dissolution by considering both the representation and the constructed position of women in this discourse, and by highlighting the contextual factors that intervene in its production and interpretation. Accordingly, the Algerian Family code will be analyzed to uncover the target discourse and dissect it critically to investigate how meaning is constructed.

The main objectives of this research are as follow:

- To increase knowledge about the representation and position of women in the family code.
- To account for the representation of women and detect important aspects of how they are discursively portrayed in the New Algerian Family Code vis-à-vis marriage and its dissolution.
- To unveil the ways gender, ideology and power are implicit in legal discourse about marriage and its dissolution.
- To sensitize the people to gender issues about women's status in the target discourse.
- To raise women's consciousness of their civil rights in the new Family Code.
- To find out the gaps that the legislator overlooked in the aforementioned code.

Thus, this research aims at identifying Algerian women's legal position between patriarchal conditioning and family code reforms. It seeks to investigate the implementation

of patriarchal values and women subordination within the legal discourse under the umbrella of FCDA Critical Discourse Analysis.

The current investigation sets out to answer the following questions:

1)-How are women discursively represented in the Family Code in relation to marriage and its dissolution?

2)-How are women positioned in the Algerian Family Code?

A. What are the rights ensured to women by the target law?

B. What kind of rights is given to women by this law?

C. Whose interest is served by this positioning?

3) -Are women aware of their legal status and how they perceive NAFC?

4) -What are the embedded ideologies to be detected in the New Algerian Family Code , and how are gender ideologies (re)produced and negotiated through this type of discourse?

The following hypotheses might respond to the research questions above:

H1: Women are discursively represented as subordinate to men. Hence, the Algerian Family Code maintains and perpetuates women's inferior position to men.

H2: The Algerian legislator uses the legal discourse as a source of power to institutionalize patriarchy and fossilize women inferior status as opposed to men supremacy.

H3: Women are quite aware of their legal status.

H4: Various ideologies such as patriarchal and feminist ideologies may be embedded in the target code.

This research analyzes the main ways in which women are represented as social actors and their portrayal in the Algerian Family Code. Notably, it is significant to explore this new area of research that has so far received little attention by researchers in the field of sociolinguistics and gender studies.

Additionally, it is worth to investigate the aforementioned issues and critically analyze the portrayal and the status of women in the Algerian Family Code, particularly the case of marriage and its dissolution. This research intends to analyze the Algerian Family Code and its new reforms, and it studies the way power and ideology are embedded and coded in this type of discourse.

The results of this study could turn the attention of the decision makers to legitimize the voices of women and improve their image in the legal discourse in general and in the Family Code in particular. Thus, this study is an endeavor to increase the sensitizing of Algerian people (both men /women) to gender issues about women's status in the target discourse. More precisely, the results of this study can play a major role in raising women's consciousness of their representation and status in the New Algerian Family Code. In short, this study can provide a clear understanding of how meaning is constructed in this particular type of discourse.

Overall, the present study comprises four chapters. Chapter one represents the theoretical framework of this research. In this chapter, the main key concepts are highlighted. In addition, this chapter attempts to define the family code with a special focus on the Algerian context. It provides an overview of the Algerian Family Code, its definition, historical glance with a special focus on the recent reforms about marriage and its dissolution emphasizing women's representations in it.

Furthermore, chapter two contains the methodological framework for this study. It encloses the methodology of the data analysis and which processes were used to collect our data. The first section of this chapter is devoted to the implication of FCDA on the legal discourse in general and on the New Algerian Family Code in particular. It gives an overview of FCDA – its history, role, concepts and procedure. Van Leeuwen, Van Dijk and Lazar's models are emphasized in this chapter. Therefore, CDA procedures addressed by Van Leeuwen and Van Dijk theories under the umbrella of FCDA are applied to examine the legal discourse and find out the connection between gender, power, ideology and the language. Questionnaires and interviews are also provided in this chapter as data collection tools.

Chapter three is devoted to data analysis. It is meant for scrutinizing the obtained data. As a consequence, results of the questionnaire and the interview are analyzed and discussed in this chapter.

Chapter four is the concluding part of our dissertation. It offers the reader the analysis and examination of the obtained data. This chapter analyzes and interprets the main findings of the research, and draws significant conclusions regarding women's status. Suggestions for further studies and the research limitations are also provided in this chapter.

Chapter

One

1-Chapter 01: Conceptual Framework

1.1 Introduction

The first chapter of the present thesis represents its theoretical part. It is divided into two sections. In order to yield an accurate idea of the way this research is conducted, a broad discussion of the main steps in the research design is provided in this chapter's first section. Additionally, the definition of the key concepts used in this study is inevitable to clarify their meanings. More specifically, the second part highlights and gives a glance about the Algerian legal context. It is devoted to the definition of the Algerian Family code in relation to marriage and its dissolution with a special focus on women status in it. Hence, this chapter is considered as a foundation for the present study since it explores the relationship between gender, language and legal discourse emphasizing the position of women in the Algerian Family code of 2005.

1.2 Sex and Gender

The question of gender or sex has long been a major interest of many scholars and students and it seems that there is no clear – cut answer on how to differentiate between these two terms since they are closely related. Sex refers to the differences in the genetic code; it may settle the biological and anatomical disparities between women and men. People are said to be of either female or male sex, as determined by the three sets of characteristics: external sex organs, internal sex organs and sexual development at puberty. Hence, sex can only fix the differences between women's body and men. (Shapiro, 1981). Therefore sex refers to the biological distinctions between males and females which are based on physiological and biological factors as Shapiro argues:

“Sex and gender serve a useful analytic purpose in contrasting a set of biological facts were I to be scrupulous in my use of terms, I would use the term sex only when I was referring to the social, cultural, psychological constructs that are imposed upon these biological differences” (Shapiro 1981, cited in Holmes and Meyerhof, 2003, p.22)

Although sex is related to gender, these two notions are different. Sex is based on physiological factors such as chromosomes, reproductive organs, hormones etc. Gender, on another hand, refers to the way a society perceives, evaluates, and judges the behaviours of males and females. Gender is culturally and socially constructed, i.e. it is the social and cultural elaboration of sex. (Judith Butler ,1990,p7 cited in the handbook of language and gender) declares:

“Gender ought not to be conceived merely as the cultural inscription of meaning on a pre-given sex.. ..gender must also designate the very apparatus of production whereby the sexes themselves are established. As a result, gender is not to culture as sex is to nature; gender is also the discursive/cultural means by which "sexed nature" or "a natural sex" is produced and established as "pre-discursive" prior to culture, a politically neutral surface on which culture acts.” (Judith Butler ,1990,p. 7)

It is a range of physical, mental, and behavioural characteristics that differentiate masculinity from femininity .John Money introduced the terminological distinction between biological sex and gender as a role in 1955.Before this work, it was uncommon to use the term gender to refer to anything but grammatical categories. However, Moneys meaning of the word did not become widespread until the 1970’s when the feminist theory embraced the distinction between biological sex and the social construct of gender .Thus, the meaning of gender has undergone a usage shift to include “sex” or even to replace it.

These gender differences are portrayed in human's linguistic behaviours. All societies have gender classification ,but their traits vary from one culture to another.Some feminists(Littossiliti, 2006) believe that gender is related to people's daily activities, it is considered as something done and not something owned. In Goodwin's examination of African American boys 'and girls 'speech (directives, arguments, gossip, and stories) and in range play activities, she finds that boys and girls build systematically different social organizations and gender identities through their use of talk (cited in Holmes&Meyerhoff, 2003).

Gender issues seem to be universal .They are heavily rooted in history and through the social and cultural life, which has a strong influence in defining the individual's identity, behavior , role, occupation. All societies consist of men and women who use language in the interaction of everyday life, and develop ideas and thoughts about how women and men should think and act in relation to social norms.Moreover, it is believed that gender is socially constructed by cultural forces; however, gender traits may differ across cultures (Bell, 1993) argues: "One's biological sex does not necessary imply that one will engage in certain activities or that people will believe that one possesses certain attributes" (Bell, 1993, p.131-132).She goes on to say that "some cultures perceive more than one gender, and cultures vary in their beliefs about the nature of males and females" (Bell, 1993, p.134).Society is conceived to be mold which shapes people through determining not only their behaviour's but also their gender identities .It controls individuals through gendered practices which are defined as a social process "created in interpersonal relationships and encouraged and maintained through social interaction" (weatherall,2002,p.99).

1.3 GENDER STEREOTYPES

People are often stamped out with a number of gender stereotypes since an early age. When a baby is born, it is dressed in either blue or pink according to her/his sex. Once growing up, she/he was given presents of dolls or trucks , and treated either to as soft (for females)or strong (for males) (Malszecki and Cavar , 2005, p.161; Zimmerman and Reaville, 1998, p.41).

In addition, females have always been expected to be dressed in robes, and associated to activities such as cooking cleaning, raising children. By associating females to these roles, they are seen as maintaining a fragile body ,passive, moral, and pure (Griffin, 1998; Sherrow, 1996; Woolum, 1998; Zimmerman and Reavill, 1998).This categorization can impact women negatively stating Florence“ *Often these gender role expectations create difficulties for individuals socially, sexually, physically, and psychologically Gender*”, (Florence,2004p.71)

In fact, gender stereotypes are the attitudes which people have about males and females. Stereotypes differ across cultures, and even from one chronological period to the other. These attitudes are often related to the roles that the sexes attached to in a particular culture. For instance; children acquire some aspect of stereotypes at a very early age. By the age of three, children show evidence of having some basic knowledge of the roles and items related to their sex. (C.L. Martin& L. Dinella, 2001).

Similarly, gender stereotypes are continually developing, and socialization rules are gradually varied. They refer to the psychological qualities assumed to be more attributed to sex. These stereotypes are directly connected with sex role ideologies, and they have often been used to explain the distinctions of sex roles ideologies across cultures. (L. Best & J. Foster, 2004). Thus, gender stereotypes are widespread visions or perceptions about characteristics and/or activities that women and men are believed to own or perform.

Ascribing women or men to specific attributes, or roles by reason only of their belonging to a particular gender is definitely harmful since it perpetuates gender inequalities.

Gender stereotypes, such as women are irrational, nurturing ,weak ,passive , are unfair and they lead to the violations of human rights and some essential freedoms.

The Algerian society, like many other societies, reinforces gender stereotypes .Boys are given more independence and freedom, and they are expected to perform different roles. Additionally, the distinction between men and women is still strengthened and encouraged by the Algerian culture unlike other societies where norms and traditions are transgressed and men /women are presented as equal in all life spheres including language.

1.4 Language and Gender

Human beings are mainly distinguished from animals by their use of language to communicate with one another. The existence of correlations between language and gender has been noticed practically from the very start of systematic reflection on language and speech. Therefore, interest in language usage differences between the two sexes has a long tradition. The social and psychological limitations of style and communication that culture places on gender are understood as the determinant of social roles and as an inalienable element of social identity

Language plays different roles in any society.It mirrors and shapes people's beliefs, attitudes and actions according to the context and the needs or expectations of a given society. In fact, it may help people to know and become aware of different gendered attitudes which are derived from the social life .It may reinforce these differences linguistically in a negative way. Thus, language is loaded with socio-cultural senses and interpretations. Controversially, language is a powerful means that may determine the repressive, regressive or progressive behavior of any society .It also works according to the values and customs of a specific culture.Furthermore, it depends on its religious, political and economic variables .It is a

dynamic and active tool that functions differently across culture. Language is “*a medium which imposes its own constraints on the meaning which is constructed*” (Mills1995,p.11).

The theory of linguistic determinism (Ting-Toomey and Korzenny , 1988) suggests that the language of a culture shapes the way its speakers perceive the world; that is to say, if a language is sexist, speakers will see and conceive the world in a sexist way. Since language has an impact on how we view the world, it therefore affects the material conditions of women’s life (Mills, 1995, p85).

Moreover, language reinforces men’s power and authority and reflects a negative image about women in a given society. Weatherall declared: “*language does not only reflect and perpetuate gender, but language also constitutes gender and produces sexism as a social reality*” (Weatherall 2002, p5)

In the second half of the last century, the attention of researchers was turned to language and gender. New approaches and researches had been raised in the field of sociolinguistics. Wardlaugh (2006) states:“*The connection, if any, between the structures, vocabularies, and ways of using particular languages and the social roles of men and women who speak theses languages*”. Wardlaugh (2006, p315)

It is often obvious that men and women do not use the same language and their conversational styles are different as well. However, the reasons behind these differences are debatable .To examine the extent to which language and gender are related, many approaches have been conducted.

1.4.1 The Deficit Theory

In 1922, the pre-feminist Danish grammarian, Otto Jespersen published an interesting book entitled *Language: Its Nature, Development and Origin*. In this work, he focused on women's speech. His key concern was to analyse the vocabulary used by women. The deficit theory is attributed to Jespersen's way of studying language and gender which regards men's language as normative and standard. In Jespersen's work, men's language is normative and women's language of women is considered deficit since it deviates from the norms. For Jespersen (1922, p.247-248), men are "*chief innovators*" of language and they have a large vocabulary. Additionally, he assumes that men's sentences are complex whereas women's sentences are poorly structured. For him, females do not finish their sentences as a consequence of their unfinished thoughts. He argues: "*she thought in blanks, as girls do, and some women*" (Jespersen, 1922, p.251). According to the pre-feminist deficit approach, men are naturally superior and better than women.

Jespersen's work foreshadows many theories such as Lakoff's and it is considered as a starting point for further studies in the field of linguistics. Lakoff published her article "*Language and Women's Place*" (1973) (published as book in 1975). Her article is considered as the first work in feminist linguistics. It brought wider attention to the issue of language and gender. Her major claim was that women use deficit language as a result of their social weakness and inferiority.

For Lakoff, women's way of speaking is different from men's; this reflects their subordinate status in society. Hence, women's language is distinguished by powerlessness and tentativeness expressed through the use of hedges, minimal responses and inessential qualifiers. She listed some linguistic features like the use of polite forms in making requests. She postulated that women use more hedges, modals, tag questions, rising intonation in declaratives. Additionally, she posited that women use hypercorrect grammar and empty

adjectives to convey an emotional rather than an intellectual evaluation. In her descriptive list of women's language, Lakoff added that women use indirect requests, discuss trivial issues and they lack a sense of humour.

Unlike Jespersen, Lakoff claims that the social position of women, power, and authority are factors that determine women's language. So, she emphasises the role of social and not biological factors.

1.4.2 The Dominance Theory

In the late 1970's, researchers in language and gender turned their attention to the use of language in interactions between men and women (Money 1968, 1974; Money and Ehrhardt 1972). The key point of this approach is grounded in the idea that the linguistic distinction between men and women are due to their power inequities. In other words, the unequal political and social strengths are reflected in the use of language. Don Zimmerman and Candace West are considered as the main figures in the dominance paradigm of language and gender. They focused on men's dominance in cross-gender conversations. They assumed that men tend to interrupt women more than men. For Zimmerman, "*interruptions are device for exercising power and control in conversation*" (1983,p.103). However, the study of interruption seems to be more complex than the claim of Zimmerman. Tannen expresses her disagreement with Zimmerman viewpoint declaring: "*to claim that a speaker interrupt another is an interpretive not a descriptive act*"(1989,p.268). Silence is another instance that shored up men's linguistic dominance. As a result of men's interruption, women prefer to stay silent.

According to the study of Zimmerman and West, females' silence duration is longer in mixed gender groups than in a single gender pairs and it generally takes place after a male's

interruption to them indicating their subordinate social position. By contrast, men's silence occurs before the use of minimal responses such as "yeah, um..." signalling their disinterest and inattention to the speaker's utterance. Thereby, this deny the female's rights to control the topic of conversation. According to the theory of dominance , sex can only fix the differences between women's body and men interruption takes place even with women with high status. West examined interruption of both male and female doctors with their patients. The results reveal that female doctors are more interrupted by their patients than the male doctors.

Likewise, Coates (2004) reported that Nicola Woods (1989) detect that highly ranked women in the workplace are more interrupted by subordinate men than the males. According to this approach, the linguistic devices as interruptions, silencing, topic raising and asymmetrical conversational turns are a symbolic depiction of men's social dominance.

1.4.3 The Difference Theory

This approach develops the "*two-culture*" model of men and women. It claims that the reason for the different forms of language used by men and women is rather cultural. That is to say, the key criteria of the cultural approach are related to psychological and socialization differences. Deborah Tannen (1990) suggests engenders "*miscommunication*" to refer to the situation in which children are socialised within two separate groups.

Unlike the deficit and the dominance approaches, the cultural model highlights the positive aspects of women's language .Cameron argues: "*cultural difference was the moment of feminist celebration, reclaiming and revaluing women's distinctive cultural traditions*" (2003,p.39)

Daniel Maltz and Borkere (1983) and Deborah Tannen(1990) are the prominent figures of the two-culture model. Maltz and Borker (1983) based their argumentation on Gumperz model .They assert that women belong to the distinct subcultures.

According to Maltz and Borker , children play in some gender group, but they learn different conversational rules .This model influenced further studies which implies the argument of different communication styles in the workplace .

Marie Nelson(1988) demonstrates a similar model. She states that women occupy unequal social positions. The higher status women support the ones of lower status. She relies on her professor with graduate teaching assistants. Nelson reports that she tried to minimize her authority by modelling ways of phrasing criticism that avoided “making light of any writer on her work”(1988 ,p 2002)

Deuchar (1988) suggests that the powerless members of society must also be more polite. Therefore , in communities where women are the powerless members ,their speech would contain more elements of linguistic politeness. Related to that, Tannen popularized the “ *dual – cultural*” approach with her work: *You just Don’t Understand :Women and Men in Conversation*(1990).Tannen’s fundamental idea is that there are gender differences in ways of speaking .She examined a range of speech actions from advice-giving, storytelling, reactions to another’s account of problems, requests, and giving information, compliment ,and gossip. Tannen’s results indicated that women and men approach the world differently and this lead to different conversational styles. According to Tannen men and women develop distinct communication styles in their interactions .She reveals that women tend to establish intimacy and community, so their utterances ,men seeks to achieve higher status and giving information.

The three approaches of “deficit” , “dominance” , and “difference” consider how gender differences expressed via language .They relate the linguistic distinctions between the two genders to physical and social manifestations of gender while neglecting the context .The latter was the essence of the performative theory.

1.4.4 Performative Theory

In this theory, gender is understood as a constitutive factor in building social identities. The key principle of the performative theory is that gender is a social construct. Litosseliti (2006) advocates the idea of doing gender rather than being a men and women. For her, people’s language is the outcome of their performance in a particular context. Similarly, Butler believes that masculinity and femininity are not natural traits, but they are rather the product of activities and performance.

In this respect, the main point to understand how gender is performed is to look at how discourse is used. Eckert&Mc Connell-Guinet (1995) cites that “*languages are the primary tool in constituting identities*”. Jenis Bohan (1993) declared that no one is feminine or masculine since people do masculinity in a certain context and perform femininity in another context.

Considering gender in a particular community of practice is assumed to be helpful for explaining how gender is performed .Community of practice is defined by Wenger and Lave (1991) as:“*Groups of people who share a concern or a position for something they do and learn how to do it better as they interact regularly*”.(Wenger&Lave ,1991, p.12)

Echert and Mc Connel- Guinet (2003) refer to the usefulness of community of practice approach stating :“*To understand precisely how gender interacts with language and with other symbolic and social phenomena requires that we look locally ,closely observing*

linguistic and gender practices in the context of particular community social practices”
(Echert and Mc Connel- Guinet (2003,p.464)

In short, in performative /constructive theory gender is not fixed but rather dynamic and context –dependent. Women negotiate a continuum of femininity and masculinity that is portrayed by their linguistic choice. Hence, researchers should take into consideration the other social variables that affect the use of language.

1.5 Sexism in language

Sexism reflects the language use .Many people tend to avoid using language which supports unfair or untrue attitudes to a particular sex, usually women. When Neil Amestrong stepped to the moon he uttered a memorable sentence “that’s one small step for a man, one giant leap for mankind” .If he had landed in the moon in the mid 90’s no doubt he would have said a much more politically correct sentence “that’s one small step for a person ,one giant leap for humankind”.

Language can help to reinforce the idea of male superiority and female inferiority what is now termed “sexist” language. The latter often suggests an inherent male dominance and superiority in many fields of life .Male pronouns, he/him/his are used automatically even though the sex of the person is not known.

Drawing on Mills (1995, p83) statement language is sexist when “its use constitutes ,promotes or exploits an unfair or irrelevant distinction between the sexes”. However,she also argues that language can be sexist when it presents the male-oriented experience as the norm in society.

Henley (1997) suggests that sexist language is “the *language that ignores women, language that defines women narrowly, and language that depreciates women*”(cited in Weatherall,2002,p13). Hereby, this differentiation between the sexes at the level of speech may have negative attitudes towards women and an effect on their expectations ,because of stereotypes which are widely and socially common among the individuals ,and which entail women “s exclusion and inferiority .People are exposed to sexist language in everyday life, at home, at school, in the street , and through the media , such as cinema television and magazines .

Language use can be sexist because of the social and cultural circumstances of any society;the former are instilled in the beliefs of this society’individuals. There are some opinions such as Lakoff’s (1975) and Mills(1995,p86)”*sexism in language simply reflects sexism within society,and is a symptom rather than a cause*”. This suggests that sexism in language is not a cause of women’s discrimination or trivialization since words alone are not strong enough to make women invisible.That’s why language is the first powerful tool which is responsible for making such segregation between the sexes .It is a factor in women’s oppression because it is through language that ideas and thoughts are communicated among citizens , and as Weatherall says ,“*sexist language is not just about words used to describe women but also how they are used to and to what ends*” (weatherall,2002,p.11).Sexism in language is a reflection of discrimination of a particular members in a society and thus it exists in various domains including the legal one.

1.6 Language of the law

Language is fundamental to human interactions. It occupies a chiefly critical function in law. In fact, more narrowly, law would not exist without language. Bentham, the father of modern utilitarianism states:

“A law may be defined as an assemblage of signs declarative of a volition conceived or adopted by the sovereign in a state, concerning the conduct to be observed in a certain case by a certain person or class of persons, who in the case in question are or are supposed to be subject to his power...”(Bentham 1970,p. 1).

Therefore,Bentham contends that law is as symbol of sovereignty and the power of a state that is supposed to regulate and control the human behaviour . Geertz, an anthropological scholar, gives a more detailed definition for the term law stating:

“Law does not just mop in,it defines.It does not just correct.It makes it possible what it defines,the meaning frames it sets forth it is an important force that shapes human behavior and giving its sense, lending its significance ,point and direction,(we can view) law not so much as a device or mechanisms to put things back on track,when they have run into trouble,but as itself a constructive element “ within culture” a style of thought,which in conjunction with a lot of other things equally within culture-islam ,buddhism,etc lays down the track in the first place”.(Geertz ,1996,p.35 cited in Rosen 2006)

Hence, Geertz observes that law does not merely regulates and solve problems ,but it is rather a productive aspect that constructs human cognition in particular culture.Moreover, language is seen as : “a medium and product in the various arenas of the law ,where legal texts ,spoken or written ,are generated in the service of regulating social behaviour” (Maley ,1994,p.11). In the same regard,Danet believed that law has two primary functions; one is the ordering of human relations, the other the restoration of social order when order breaks down (Danet 1985).

1.7 Discourse

The concept of discourse plays an essential role in the contemporary researches in the field of linguistics. There are many definitions of discourse. Gee (1990) uses the term discourse to refer to the way language is used in a social context to enact activities and identities. Therefore, one can assume that discourse is a form of language use, and discourse analysis is the analytical study of the text in its context. Gee (1990) uses the term discourse to refer to the way language is used in a social context to enact activities and identities.

Discourse is a form of language use in relation to a social context. Frances Henry and Henry and Tator (2002) declared:

“Discourse is the way in which language is used socially to convey broad historical meanings. It is the language identified by the social conditions of its use, by who is using it and under what conditions language can never be neutral because it bridges our personal and social worlds” (NP).

Fairclough (1995a, p.18) gives a more precise definition of the concept arguing: “we would suggest two main perspectives on “discourse”:

One is predominant in language studies: discourse as social action and interaction, people interacting together in real social situations. The other is predominant in post-structuralist social theory (e.g. in the work of Foucault): a discourse as a social construction of reality, a form of knowledge. The first sense is most closely associated with the interpersonal function of language, and with the concept of genre (...). The second sense is most closely associated with the ideational function of language, and with discourses - notice that in addition to be used as an abstract noun for this general view of language in social use, discourse is used as a count noun (a discourse, several discourses) as a category (alongside 'genre') within

the intertextual analysis of texts". Fairclough (1995a:18) .(Jaworski and Coupland, 1999: 1-3 provide a useful overview, quoting, amongst others: Brown and Yule, 1983; Fasold, 1990; Foucault, 1972; Stubbs, 1983; Fairclough, 1992).

All these authors emphasise that discourse is language in use:

*" ...relative to social, political and cultural formations – it is language reflecting social order but also language shaping social order, and shaping individuals' interaction in society. *...+ Despite important differences of emphasis, discourse is an inescapably important concept for understanding society and human responses to it, as well as understanding language itself"*.

(Jaworski and Coupland, 1999,p 3).

Van Dijk states the following:

"In my view, it hardly makes sense to define fundamental notions such as 'discourse', 'language', 'cognition', 'interaction', 'power' or 'society'. To understand these notions, we need whole theories or disciplines of the objects or phenomena we are dealing with. Thus discourse is a multidimensional social phenomenon. It is at the same time a linguistic (verbal, grammatical) object (meaningful sequences or words or sentences), an action (such as an assertion or a threat), a form of social interaction (like a conversation), a social practice (such as a lecture), a mental representation (a meaning, a mental model, an opinion, knowledge), an interactional or communicative event or activity (like a parliamentary debate), a cultural product (like a telenovela), or even an economic commodity that is being sold and bought (like a novel)". (Van Dijk ,2009,p 67)

For Van Dijk, it is hard to outline fundamental notions of 'discourse', 'language', 'cognition', 'interaction', 'power' or 'society'. To recognize these notions, one has to take into considerations the theories and the disciplines in which these concepts are studied.

Therefore, discourse is a complex term which refer to a social phenomenon which covers different aspects of social practice.

From the above definitions one can assume that discourse is a complex term which can hardly be defined. Attempting to decode the right meaning of the term discourse one has to tackle it in a particular field with taking into consideration both the micro and the macro contextual factors that intervene in the production and the use of a particular linguistic code whether it is written or spoken.

1.7.1 Discourse versus Text

The terms discourse and text are closely related and often confused ; however, they are not synonyms. Reisigl and Wodak provide an interesting distinction between the two terms, (Ehlich, 1983)states :

“...texts are part of discourses. They make speech acts durable over time and thus bridge two dilated speech situations, i.e. the situation of speech production and the situation of speech reception. In other words, texts – be they visualized and written or oral – objectify linguistic actions. (Ehlich (1983, cited in Reisigl and Wodak, 2009,p 89-90)

As Eckert MC&Guinnet(2003)points out, “a discourse has privileged status in society by virtue of the power of the people who engage in it. It can be heard in more places, get more ‘air time’ associated with voices of authority”(p.43)Moreover, discourse imposes its position in society through power of people who practice it. Primarily discourse serves to spread authority.

According to Van Dijk (1997), discourse is a means that helps in transmitting ideologies in a convincing way. For Bayram (2010), discourse has multiple functions for criticism, strength, conveying messages as well as affirming power. “Discourses can be used for asserting power and knowledge and for resistance and critique” (Bayram 2010, p.26).

In addition, discourse and text are key terms that are not used only in linguistics but also in other fields of studies such as literature, anthropology, sociology, philosophy, etc.

Chafe, 2003 states In the International Encyclopaedia of Linguistics :

“The term discourse is used in somewhat different ways by different scholars, but underlying the differences is a common concern for language beyond the boundaries of isolated sentences. The term text is used in similar ways. Both terms may refer to a unit of language larger than the sentence: one may speak of a discourse or a text.”(Chafe, 2003, p. 439–440)

Halliday & Hasan (1976, pp. 2–4) define text as :

“ A text has texture and this is what distinguishes it from something that is not a text. ... The texture is provided by the cohesive RELATION [which is set up] where the INTERPRETATION of some element in the discourse is dependent on that of another.”

Likewise, Tannen (1982, p. ix), views that:

“Discourse ... refers to both text and talk, and these not as two separate genres to be compared and contrasted, but rather as overlapping aspects of a single entity. As the object of study, spoken discourse is “text”, much as words spoken in a speech are

commonly referred to as the text of the speech. In this sense, discourse and text are synonymous". (Tannen 1982, p. ix),

For Tannen(1981) text and discourse are two synonyms that denote both the written and the spoken form. So ,the two concepts are overlapped and interrelated enabling the user to employ them interchangeably.Nonetheless,Cornish (2009, p. 99–100) states that discourse and texts can be distinguished as follows:

“Text, then, refers to the connected sequences of signs and signals, under their conventional meanings, produced by the speaker ... Discourse, on the other hand, refers to the hierarchically structured, mentally represented product of the sequence of utterance, propositional, illocutionary and indexical acts that the participants are jointly carrying out as the communication unfolds ... Text, in normal circumstances of communication, on the other hand is essentially linear, due to the constraints imposed by the production of speech in real time”. (Cornish 2009, p. 99–100).

As it is noticed above, some scholars tend to use text and discourse interchangeably whereas others view that these terms are quite distinct. Text can refer solely to a written piece that can be read or studied. Discourse, on the other hand, is believed to refer to the use of text in a social context. In linguistics , the term discourse is defined as the written or spoken codified language which is used within specific social context. This is said to be the key difference between text and discourse.

A text can be referred to as any object and written materials that can be read. It is a set of symbols or signs that conveys a message. Discourse, on another hand, mainly refers to

the language used in different fields and institutions which can be oral and used in a wide interactional context.

1.7.2 Legal Discourse

Broadly speaking, legal discourse is defined as “not just how a particular text is constructed but how the context surrounding that text influences its production and reception” (Gavins, 2007,p 8). More specifically, for Goodrich (1987, 3): “legal discourse is a linguistic register that can be defined in terms of its systematic appreciation of legally recognized meanings, accents, and connotations, and its simultaneous rejection of alternative and competing meanings and accents, forms of utterance and discourse generally, as extrinsic, unauthorized or threatening”. Thus, for Goodrich again, the term legal discourse refers to the linguistic register that can be recognized in relation to its organized approval of legally standard denotations and connotations , and its elimination of different and opposing meanings and accents, structures of speech and discourse generally, as extraneous , unconstitutional or menacing.

Likewise , Nárčević (1997, p 9) defines the legal text as a “communicative occurrence produced at a given time and place and intended to serve a specific function as naïve due to the fact that each text is in fact a communicative occurrence and aims to achieve a pragmatic function”. It is a communicative event that takes place in a particular time and place and aims at realizing a given aim as naïve since each text intends to fulfill a pragmatic purpose.

It is a special type of discourse that requires the use of special lexicon ,Goodrich (1987,p. 177) views that legal terminology is mainly symbolic in which the legal signifier is emphasised. It is a vocabulary of possibilities supposedly involving a wide-ranging structure of denotation . As far as Arabic is concerned, some legal bodies produced in the

Arabic language, such as legislative, have in common some grammatical criteria with other Arabic varieties such as diplomatic, political, and legal Arabic.

This demonstrates what Gu (2006, p.140) suggests about the ancestry of Arabic vis à vis English in the following statement: “Whereas legal English adopted a Romanic vocabulary to build its legal (as distinct from literary) language, legal Arabic grew out of literary language and became more sophisticated with the development of its literary counterpart. In fact, there was neither a clear-separation between legal, religious, linguistic and literary Arabic nor an absolute division of labour between grammarians, theologians, and jurists in early Islam”. That is to say, Gu proposed that legal English originated from Romanic lexicon, whilst legal Arabic flourished from literary texts admitting that there is no clear distinction between the legal and the other types of Arabic discourses.

Even more, Arabic legal discourse is standard. Formality is articulated in Arabic differently from English. In Arabic, it is employed via the use of modes of address or honorary titles because of the distinct settings and contexts in the Arab world. Lataiwish (1995,p. 256) indicates that the modes of address are terminologies used to express politeness and commend that aim at recognizing the status of the person addressed while in English ‘_mister’ and ‘_sir’, have an almost “neutral” honorific value.’

In addition, gender - biased and gender-bound concepts are fundamental to the study of legal discourse especially in the case of legal Arabic. Baker (1992,p. 92) cites that in Arabic gender differentiations are reproduced in the use of nouns and pronouns, however, and in the concord between verbs and adjectives.

1.7.3 Discourse and Power

Power is one of the crucial concepts that has been dealt with in CDA .Power can be performed in the legal domain and it is anchored in discourse .It is the means by which people can dominate ,control,and abuse others . Power can maintain social inequality that can be realized through discourses, and here are some definitions to clarify the notion of power in relation to discourse.

According to Weedon(1987), *“a dynamic of control and lack of control between discourses and the subjects,constituted by discourses ,who are their agents. Power is exercised within discourse in the ways in which they constitute and govern individual subjects”*. Weedon(1987,p.113) .

Therefore, power is applied through discourse by means of shaping and ruling individual subjects. It is described as an active oversight and scarcity of oversight among discourses. Power, as a complicated and abstruse system, imposes its position in individuals’ lives. It impacts them and their way of life. *“Power is a complex and an abstract idea and has a significant influence on our lives”* (Bayram,2010,p.05)

According to Van Dijk (1997), the power linked to discourse assigns social power that is assumed in the connection between groups . It is that important part which has been taken into consideration when pointing at discourse authoritative groups will obviously abuse and manipulate weaker people. For Van Dijk(1997), discourse is recognized as a means that includes power in order to have an impact over people who are not conscious about its probable outcomes. Consequently, the injustice use of power shows a moral issue since it has the ability for trespassing individuals’ rights:

“Discourse is considered to be a tool that has the power to influence people without them being completely aware of its potential consequences. Therefore,the abuse of

power represents an ethical problem because it may violate the human or social rights of a person or a group”(Van Dijk1997,p.5)

In this respect, Foucault (1978) defines power as *“the name that one attributes to a complex strategical situation in a particular society ,power is not an institution,and not a structure ;neither is it a certain strength we are endowed with.”*(Foucault 1978,p.93).That is to say, power refers to an intricate case in certain social environment .power is a broad and general concept in which we are granted with.

On the one hand, discourse is the mechanisms of production and the transmission of power; it reinforces it, but also undermines and exposes it, renders it fragile and makes it possible to thwart (Foucault 1998,p.100-1).

Another definition of power in relation to discourse which shows a close relationship between the two concepts is that discourse is the tool which shows authority and impedance .Discourse is the field which has different functions as to destabilize strategies of power: *“Discourse can be a site of both a power and resistance, with scope to evade ,subvert or contest strategies of power”*(Gaventa 2003,p.3). Power is the broad concept that is performed through discourses. It pertains relations of people who have access to it, therefore it has different functions as to control and abuse weaker people .In the following part, we are going to elaborate the notion of ideology and its features.

1.7.4 Discourse and Ideology

Ideology, as defined in critical discourse analysis, is the abstract idea that is embedded within discourse such as legal discourse .Many scholars were interested to elaborate its connotation, among them Fairclough(2003),van Dijk(1998), and Foucault(2000).Ideology is the concept which is anchored in discourse .

According to Fairclough (2003), the analysis of text is a crucial element in investigating and criticizing ideologies which are considered as the portrayal of the world which perpetuate the power connections that may appear through communication and imprint in identities.

“Ideologies are representations of aspects of the world which contribute to establishing and maintaining relations of power, dominations and exploitation. They may be enacted in ways of interactions (and therefore in genres) and inculcated in ways of being identities (and therefore styles). Analysis of texts ...is an important aspect of ideological analysis and critique” (Fairclough 2003,p.218)

Ideologies are the primary structure of the social awareness that is interchanged by the members of a given society; they have different functions as to preserve the attention of groups and to regulate their social impersonation. Subconsciously, ideologies observe the social activities associated to the group as well as text, talk and its participants.

“Ideologies are basic frameworks of social cognition, shared by members of social groups, constituted by relevant selections of sociocultural values, and organized by an ideological schema that represents the self-definition of a group. Besides, their social function of sustaining the interests of groups, ideologies have the cognitive function of organizing the social representations (attitudes, knowledge) of the group, and thus indirectly monitor the group –related social practices, and hence also the text and talk of members” (Van Dijk 1987, p.248)

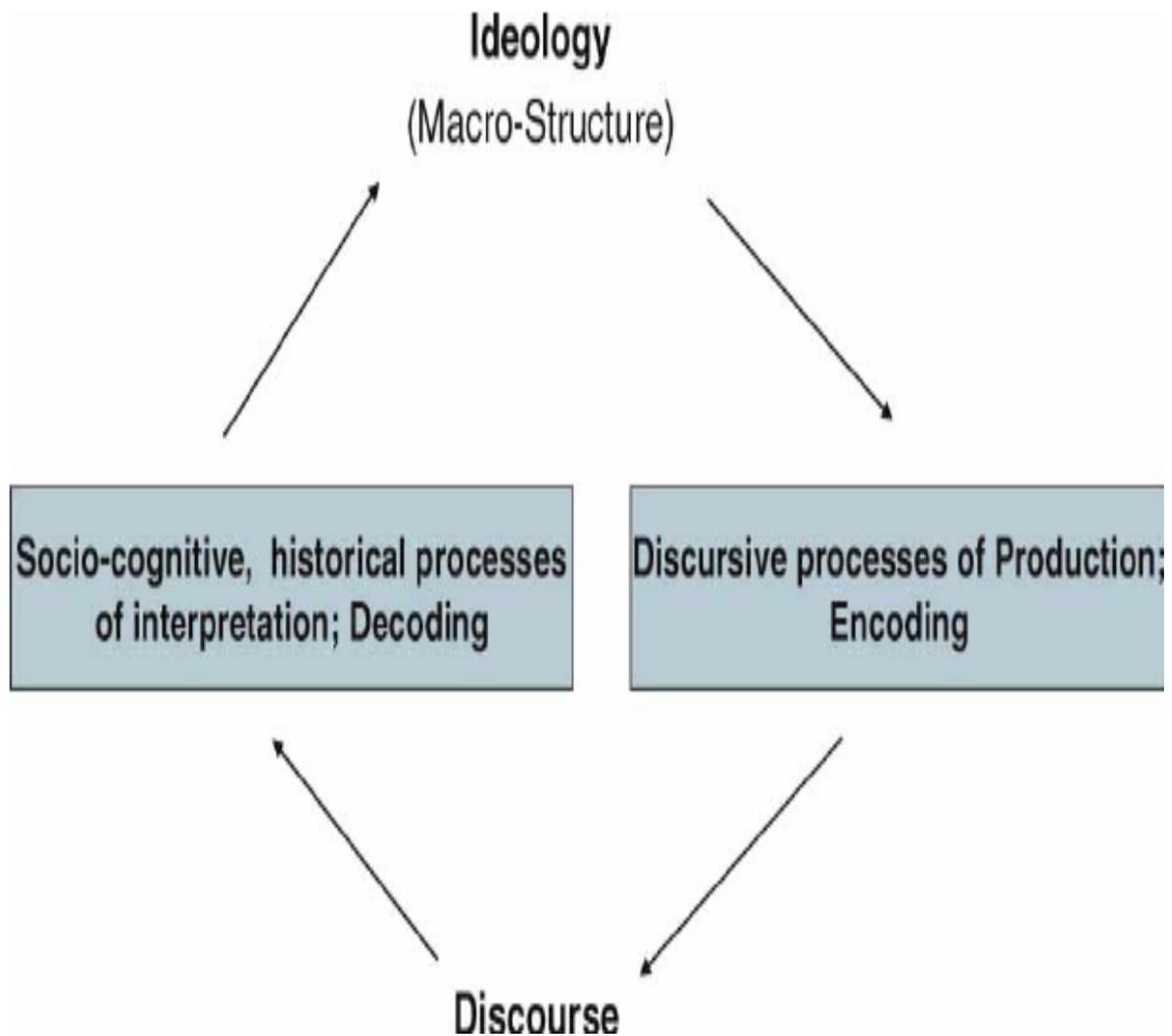


Figure 01: Linguistic Representation (adapted from van Dijk, 1987).

Foucault describes ideology as “*in traditional Marxist analyses ,ideology is a sort of negative element through which the fact is conveyed that the subject ‘s relation to truth ,or simply the knowledge relation ,is clouded,observed,violated by conditions of existence ,social relations ,or the political forms imposed on the subject of knowledge from the outside*” (Foucault 2000,1994,p.15) Thus,from the above definition ,Foucault views ideology as a type of negative component through which the reality is passed on that the subject’s connection to truth,or basically the information connection is clouded, observed, violated by conditions of presence ,social relations, or the political shapes forced on the subject of

prudence ,social relations ,or the political shapes forced on the subject of information from the exterior.

Historically, ideology is a kind of negative component by which reality can be transmitted; that is to say, the subject matter relation to truth is becoming fuzzy and profaned under the circumstances of existence ,social connections or else the imposition of political forms on the subject of the external cognition.

According to Fairclough (1989), social classes depicted by power relations, pave the way to the emergence of ideologies hence individuals have the capacity to exceed societies as well as ideology. He clarifies his perspective on ideology, but he dismissed the idea to see ideology in general as a format of social attachment that is invisible from the social environment. *“Ideologies arise in class societies characterized by relations of domination, and in so far as human beings are capable of transcending such societies they are capable of transcending ideology. I do not therefore accept the view of ‘ideology in general ‘ as a form of social cement which is inseparable from society itself”* (Fairclough, 1989, p.67)

Following Van Dijk (1998):

“The basic sense of ideology is simply the system of ideas, beliefs, values, comprehends and interprets the world .In this sense ,ideologies are representations of who we are ,what we stand for what our values are and what our relationships with others are. More accurately, an ideology is a self –serving schema for the representation of Us and Them as social groups ,and reflects the fundamental social ,economic, political or cultural interests of conflicts between Us and Them” (Van Dijk ,1998, p.1-3).

Ideology is the structure of life by which members of a society understand and view the world. It gathers a set of assumptions and opinions. Ideology reserves the necessary benefits of different domains such as economics, politics, and culture. It seeks to categorize people like women and men. One of the main ideologies embedded in discourse is 'patriarchy'. In what follows, a brief explanation of this key concept will be presented.

1.8 Patriarchy

Patriarchy refers to males' dominance in society. It is an ideology that is widespread in mostly all societies. Wilson (2000,p1493–4) suggests that the concept 'patriarch' originates "*from the Old Testament paternal ruler of a family, tribe, or church, and patriarchy is a formal sociological or anthropological category for societies organised into kinship groups and governed or dominated by the elder male*". (Wilson 2000,p.1493–4).

Hence, patriarchy is a situation in which a grandfather, father, uncle, brother, or son or any male member of the family guides and controls both women and their possessions in the small family and the big one (Sultana 2012,p.2). Additionally, Rothman (1994) declares: "*motherhood in a patriarchal society is what mothers and babies signify to men*". So, in a patriarchal society women are seen only as wives and mothers" Rothman (1994,p.140)

Moreover, Tong explained the so-called patriarchal system arguing: "*the patriarchal system, a universal system rooted in economic, legal and political structures, as well as social and cultural institutions that oppress women, through the assertion of male power, dominance, hierarchy, and competition.*" (Tong, 1989,p. 3).

For Tong patriarchy is worldwide, and it is entrenched in different institutions that dominate women while perpetuating male's oppression. The economic, political, social, and legal institutions emphasize males' superiority and women's iniquity.

Coetzee (2001, p.300) argues that ideology upholds norms, values, ideas, motives or goals to a supreme position in any society. Briefly, patriarchy is an ideology in which women's domination is legitimized and men's hierarchy is exercised. Hence, feminist theories consider patriarchy as an ideology of social and gender injustice.

1.9 Feminism

The term feminism was defined differently .On the one hand, some researchers employed the term Feminism to refer to the historical and political movements that appeared in the USA and the United Kingdom. On the other hand, some scholars relate it to the struggle against women discrimination .Zara Huda Faris(2013,p.1) argued: “...*Women need feminism because there are women who suffer injustice ...*” .

Moreover , Pilcher and Whelehan (2004) contend: “...*women are subjugated because of their sex and ... deserve at least formal equality in the eyes of the law*” (Pilcher and Whelehan, 2004: 65)., Feminism fought against women's misery aiming at fulfilling women's dreams in social justice especially in male dominated societies .Zara Huda Faris(2013,p.1) stated: “...*women have traditionally been dehumanized by a male dominated society, which they call patriarchy; and that has been always better to be a man...*”. Therefore , Feminism refers to women's activism that started from the late 19th century to the present time.

The term feminism was first coined by Charles Fourier(1837).It is a movement that appeared in the 18th century ; it was the first movement that was mainly interested in

fighting for women's political rights, such as voting. However, Feminism, as an important movement, first emerged in the USA and western Europe; then it became widespread in all over the world. The word 'Feminist' is a term which is derived from Feminism to refer to someone who defends women rights for women's interest. That is to say a feminist strives to help realizing gender equality and empowering women.

1.9.1 Waves of Feminism

The history of Feminism is often divided into three main waves, and sometimes four. In this section, we are going to discuss the four waves of feminism. The notion "The Three Waves of Feminism" owed debt to the Irish activist Frances Power Cobbe in 1884 who joint that movement: *"resemble the tides of the ocean, where each wave obeys one more uniform impetus, and carries the waters onward and upward along the shore"* (as cited in Hewitt, 2012, p. 2). The metaphor of "waves" is associated with the connotation of homogenous and massive waves that disregard the varieties of race, ethnicity, nationality, class, gender etc.

1.9.1.1 First Wave of Feminism

This wave emerged in 19th and 20th century in the USA and the United Kingdom. The activists contributed to abolishing slavery, equal contracts, property rights, women suffrage, economic and political rights (Rakockzy 2004, p.13). This wave witnessed compaigns for vote and equality. Women of this era claimed their civil, political and economic rights. They started questioned their inferior status and their legal exclusion (Lorber 2010, p.1).

In this wave, Virginia Woolf's famous book *A Room of One's Own* (1929) was written to help Mary Wollstonecraft and others to construct a fresh way for women to revolutionize against their oppression. Indeed, thanks to this wave that women started to participate in politics, demanded and obtained their rights to get access to university education, to a career, to easy divorce, to vote, etc.

1.9.1.2 The Second Wave of Feminism

This second wave appeared in the late 1960s-1980s. This wave viewed women's cultural and political injustice as being interrelated, and women were encouraged to be aware of how their personal lives depicted the power asymmetry. The second wave exceeded the principal of political equality, that was fought for by the first wave feminists, to claim social equality. The second wave's slogan was "The Personal is political". The slogan cannot be traced back to any one person but was popularized by Carol Hanisch. In this regard, Pilcher and Whelehan, 2004 argued "*...women are subjugated because of their sex and ... deserve at least formal equality in the eyes of the law*" (Pilcher and Whelehan, 2004, p 65).

Issues about sex, and personal relationships, right to abortions, and familial labor, workplace problems were among the main issues tackled by the second wavers. Interestingly, this movement achieved some key legislative and legal success in favour of women's interest.

1.9.1.3 Third Wave of Feminism

The point of departure of the third wave dates back to two events: the Anita Hill case in 1991, and the emergence of the riot grrrl groups, a musical movement, in the music prospect of the early 1990s. Rebecca Walker is the first user of the the notion "Third wave feminism" in 1992. This wave came as a response of the second wave thoughts and actions such as women in pornography, sexuality, and prostitution. (1995, p70)

Fighting against workplace sexual harassment, pornography, reproductive rights, the connection of race and gender are the main issues addressed by third wave feminists. Intellectually, Judith Butler is one of the most prominent scholars of gender, sexuality, and identity. She viewed that gender and sex are two different concepts, and that gender is

constructive. She was the first scholar to encourage the struggle for transgender rights. Third-wave feminism is quite different from the second wave since it lacks the solid cultural framework that featured the second wave.

1.9.1.4 Fourth wave feminism

This wave is believed to be related to technology such as social media and networks. “Maybe the fourth wave is online,” (Valenti,2009).Online refers to the internet where feminists meet and prepare their plans to act. The fourth wave’s early development dates back to 2008, when social media were well-established . The fourth wave is distinguished from the three previous waves by its trending hash tags such as *#Yes all women, #Stand With Wendy, #Me Too...*

In fourth-wave feminism queer, sex-positive, trans-inclusive and body-positive topics are highlighted and digitally driven (Gay ,2014). Nowadays , it has started to establish a radical review of the system of power that allows men to attack women. Finally, the feminist waves mentioned above played an important role in feminist theories and have played to enhance women’s social, political, cultural, social, economic, and even sexual rights . They paved the way to other waves and activities to appear and helped woman to get her rights each one in its own different way.

1.9.2 Marriage and Feminism

Marriage is defined differently by scholars and researchers. In the current research, we tend to define the notion of marriage with a special focus on the feminist viewpoint. It is defined by Atkinson, Greenstein and Lang (2005) as *a structural context of opportunity for husbands and wives to behave in ways that validate their identities as male and female, that is, to display the visible aspects of their gender ideologies*”. (2005,p.1138)

Atkinson, Greenstein and Lang view marriage as a situation where women and men can confirm their gender identities and exhibit their own gender ideologies. Furthermore, the institution of marriage is regarded by feminists as a form of female oppression (Mill 1996; cf. De Beauvoir 1997; Wollstonecraft 1996; Friedan 1963; Firestone 1970; Pateman 1988; Okin 1989; Tamale 2004; Shangase 2000; Dube 2007). Feminists' attack of marriage is justified by the fact that wives are obliged to do domestic activities.

Consequently, in feminism, marriage is viewed an institution of female domination (Mill 1996; cf. De Beauvoir 1997; Wollstonecraft 1996; Friedan 1963; Firestone 1970; Pateman 1988; Okin 1989; Tamale 2004; Shangase 2000; Dube 2007). Likewise, Feminists consider marriage as a patriarchal institution where patriarchy is mostly nurtured (Chisale 2016a; cf. Dreyer 2011; Dube 2007). The construction of patriarchy starts in early childhood when little girls are socialised on how to treat men (Shangase 2000).

Then, marriage is defined by feminists in relation to the role of sex and reproduction, as well as the gendered category of spouses and their performed roles (Pateman 1988). Thus, feminists state that *“women are not only victims but also perpetrators of oppression against themselves”* (Kamaara & Wangila 2009:131; cf. Moyo 2005).

Kingston (2006,p.14) investigates the relationship between wifhood and domesticity among professional wives. She reveals that feminism has freed women to become independent and enjoy their own liberty by being salaried and having their own jobs far from the household (Kingston 2006,p.14). Marriage relationships and couples rights are regulated and granted by the family code.

1.10 Introduction to the Algerian Family Code

A family code is a document that contains a set of rules which govern the status of a person financial and non-financial relations with his/her family and society in order to ensure the stability and cohesion of the family. In this respect, the Algerian Family Code is a set of laws which regulates familial relations in Algeria. . It contains some aspects of Islamic law known as *shariaa* together with some secular basics. It is composed of four chapters: Marriage and its dissolution, legal representation, succession, and donations and contributions.

1.10.1 The concept of personal status law (Statut Personnel)

The civil law regulates two kinds of conditions, in particular and in personal and cases. However, the Algerian legislator has set out a special system for personal status, which he called the "family law" because of the nature of the provisions contained therein.

Personal status refers to the total relationships and situations that exist between a person and his or her family, and the legal effects of such relations and conditions. The term personal status law was not known in ancient jurisprudence and in Islamic jurisprudence, a term invented by Italian jurisprudence in the second and thirteenth centuries AD.

1.10.2 The Development of Personal Status Law in Islamic countries

The judiciary in the Arab and Islamic countries is based on Islamic jurisprudence in various areas of life, especially those related to personal status. Despite of the problems of the Arab and Islamic world, the personal status law has remained far from the occupier's control regardless of many attempts.

The connection of the Muslim world with the West has led to the separation of personal status issues from the rest of the other legal systems due to their severe impact on their various legal systems and the keenness of the Muslim peoples to keep the family's provisions within the scope of the provisions of the Islamic *Shariaa*. This has led to the emergence of the term Islamic judiciary in the colonial period in which for the civil judiciary that was handed over to the West Bank settlement. The emergence of personal status laws in the Muslim world coincided with the independence of these countries from colonization.

France had sought after Algeria to integrate this field within its legal arsenal, which was subjected to the values and customs of Algerian society, especially in:

1. Act of 2 May 1930 on engagement and the age of marriage.
2. Decree of 19 May 1931 on the legal status of Algerian women.
- 3 - Order 23 November 1944 on the organization of the Islamic judiciary.
- 4- Law of 11 July 1957 concerning the provisions of the lost, guardianship, stone and how to prove marriage.
5. Order 17 September 1959 on the organization and dissolution of marriage in Algeria.

After its independence, Algeria sought to regulate the scope of the personal status law. At the beginning, the family court, in accordance with the system of colonialism, retained a legislative vacuum in the decree issued on December 31, 1961, which provided for the continuation of the French law, in violation of public rights and freedoms, the law on the regulation of the age of marriage and the establishment of marital relations was promulgated on June 29, 1963, and on 23 June 1966, 16 September 1969 and 22 September 1971, special orders were issued on how to prove marriage. 05 July 1973 Working with French domestic

laws. On June 9, 1984, Act No. 84-11, which included the Algerian Family Code, was amended by Order No. 05-02 of 27 February 2005.

1.10.3 Historical Glance

The evolution of the Algerian Family Code had been passed through five main periods :

1.10.3.1 Before 1830

Since the dawn of the Islamic conquest has shone on North Africa, Algeria's judicial system, like other Islamic countries, was subjected to the rules of Islamic law . The personal status law (as family code was named at that time) was generated from the holy book 'Quran' , the consensus and measurement, and the advisory opinion of the scholars and their jurisprudence found in the various books of Islamic jurisprudence, which were transmitted generation after generation, as well as the jurisprudence of the judges themselves.

The Maliki doctrine had become a reference to jurisprudential rulings on various issues at that period. However, during the period of Ottoman ruling, the Hanafi doctrine took its place in Algiers because of the settlement of the Turkish community there. The *Ibadi* doctrine had also existed to regulate the relationship between the *Ibadites*.

The peoples of the countries which were under the Ottoman ruling had been subject to the provisions of the Islamic state for more than thirteen centuries. However, with the fall of most of them under the occupation of European colonisers, and despite of the intensification of missionary campaigns and Crusades in order to keep them away from their religion , these countries remained steadfast and unbreakable resistance, until the weakness began to creep. Consequently, the Ottoman state was impacted by Westernization in all the fields except for

the legal field of personal status, and this was the case of Islamic countries in general, and Algeria in particular .

1.10.3.2 Legalizing the Family: from the French Occupation until Independence 1830/1962

Algeria was colonized by France in 1830. The French administration in Algeria worked to arrest the Islamic law and gradually replaced it by new French laws covering all areas , including the family code. Despite of the difficulties it faced due to the different family principles in Algeria compared to the systems of the European communities there, the French government was keen to apply the French judicial organization by adding the judiciary Personal of Algerian Muslims, and then worked through "Moran" and "Muskih" on the translation of Khalil Khalil Ibn Ishaq, which explained the existence of the provisions of the doctrine of Imam Malik in the folds of the provisions of the French Civil Code.

1.10.3.3 Algeria without a Family Code (From 1962 to 1984)

After the independence of Algeria, the family disputes were governed by the Civil state and the Civil Code. Muslim law was also introduced by magistrates in the treatment of the family matters. Algeria inherited some western principles from the French era which modernized it by introducing the raising of the age of marriage of girls to 15 years and the suppression of the matrimonial guardianship.

1.10.3.4 The Birth of the Algerian Family Code

In 1984, when there were only four women deputies in the National Assembly, the Assembly adopted a Family Code. This text emanated from the current conservative FLN, then single party, which had taken over the progressive current. At the time of the adoption,

the representative of the Government declared: *"The rights of women are contained only in the Qur'an and the Sunnah"*, thus sealing the fate of Algerian women.

In 1997, women's rights organisations again started to ask for the revision of the Personal Status Code with 14 associations, introducing a national appeal looking for one million signatures in order to amend 22 articles from the Family Code. This petition was labeled '*a million signatures for women's rights within the family*' enabled the women's rights movement to unite and take up women's rights issues directly. (Naciri, Nusair, , 2003)

I.10.3.5 A More Egalitarian Family Architecture

In 2005, the president of the Republic, Abdelaziz Bouteflika, implemented his promises of 2001 to review the Family Code. The bill was promulgated by the President by ordinance following an open debate between the Conservatives and the women's movements. The family architecture was reworked: the head of the family and the duty of obedience were abolished, as was marriage by proxy. The conditions of polygamy were hardened; modern techniques such as artificial insemination were introduced as well as the medical certificate as a condition of the marriage contract.

Mutual consent resumed its place as a fundamental element; it is no longer the guardian who concludes; it is the couple who concludes the marriage. The amendments also point out that "*khulâ*" is a woman's right and that the husband has only agreed to the amount to be paid. The woman who divorces has the guardianship of the children. The nationality code was also revised: the mother can now transmit nationality to her child.

1.10.4 The Main Features of the Algerian Family Code.

The Algerian Family Code has specificities and features that can be summarized as follows:

Inclusion of two types of provisions The first category: Provisions related to the family system and the related provisions of marriage, divorce, eligibility, the legal prosecution and guardianship of the young.

The second category: Provisions related to financial matters, but based on the idea of ratification granted legally, on the basis that they contain a religious element that has an impact on the determination of its judgment, and its articles are divided as follows:

- **The first book:** Marriage and its dissolution.
- **Second Book:** The Shariaa Prosecution.
- **Book III:** Inheritance.
- **Book IV:** Donations: Will, Waqf, Giveaway.

This is stated in Article 222 from the Algerian constitution, which stipulates that "all that is not provided for in this Law shall be subject to the provisions of the Islamic Shariaa." Not to be bound by a certain Islamic jurisprudence, as it is not limited to the Maliki school prevailing in the Arab Maghreb, but expanded its choices to other doctrines and statements of scholars, and this approach in general, taking into account what is better for Algerian society and its changing social reality.

The law shall apply to all Algerian citizens and to other residents of Algeria, subject to the provisions of the Civil Code. Article 221 states that "This law shall apply to all Algerian citizens and to other residents of Algeria, subject to the provisions of the Civil Code "

The Public Prosecution is considered as an original party in all personal status cases. Article 3 bis of Order 05-02 states that "the Public Prosecution shall be an original party in all cases aimed at implementing the provisions of this Law." This requires a notification of the case of the claimant, or otherwise it was rejected.

It is also important to note that there exist two versions of the Algerian Family Code: The Arabic and the French versions. It seems that the two versions refer to the same code; however, there are some points of distinction between the two versions.

1.10.5 The Main Amendments to the New Algerian Family Code

In 2005, significant changes brought to the personal status law (the Family Code of Algeria) were introduced by the government as a response to the suggestions of the minister of Justice Tayeb Belaiz. To repeal the guardian's requirement to marry a woman and to restrict polygamy are the main points covered by the new code. Nadia Merzouki summarized the main points tackled by the new code as follows:

"The 1984 family code was amended on February 22, 2005, to improve several key provisions. For instance, under Article 7 of the amended code, the legal age of capacity for marriage changed from 21 for men and 18 for women to 19 for both sexes. In addition, proxy marriages are now prohibited. This practice, in which a prospective spouse could be represented by a proxy during a marriage ceremony, facilitated forced marriages and was especially common in rural areas. In some cases a bride might not even be aware of her marriage—agreed upon by her family and the groom—until after the fact". (Mezouki,p.9).

1.10.5.1 Regarding Marriage

Article (04) of the 1984 Family Law provides that *"a contract is made between a man and a woman in a legitimate manner, one of which is the formation of a family based on affection and mercy, cooperation and marriage, and maintenance of the lineage"*.

In the amended code, the purpose of which is to clarify that a marriage contract is a *"consensual contract between a man and a woman, based mainly on the consent of the spouses, which is achieved by combining the positive with the consent, in accordance with the general provisions of the contract"*.

1.10.5.2 The Guardian (al wali)

It was an essential element of marriage in the 1984 Family Code mentioned in articles 9 and 11. Article 9: *"The marriage shall be consented to by the spouses, the wife's guardian, two witnesses, and a dowry."*

Article 11: *"The marriage of a woman and her guardian, her father, one of her first relatives, the judge and the guardian, shall be the responsibility of the guardian."*

1.10.4.3 The Age of Marriage

Article 70 of the Family Code, 1984 states: *"The husband's full capacity to marry is" 21 years "and the woman is" 18 years old "and the judge may authorize marriage before that, in favor or necessity."*

As for the new amended code, which targeted the guardian(al wali) in the first place, there were heated debates around it, especially among the Islamists, who considered it an

exception to the Islamic law. They said that it was a matter of canceling the state and preventing the presence of the guardian.

The reformed article, however, is based primarily on the fact that the presence of the guardian(al wali) in the marriage of a woman is annulled for 19 years and that adult women can voluntarily delegate this right to their guardian(wali). This is all summarized in two articles: “*. The age of marriage shall be standardized for men and women and shall be determined by 19 years. The judge may authorize marriage of minors to a necessity or a definite interest.*”

Abolition of the guardian's requirement for the marriage of a girl, aged 18, and an adult woman can voluntarily delegate the right to her guardian. This amended article is based first on raising the age of marriage. The latter makes the girl able to assume marital responsibility. The validity of marriage, and this amendment aims to liberate women from the coercion, which may be imposed by her wali (who is most of the times her father), and also aims to inform her sense, and the ability to assume its responsibilities.

After the pressure exerted by the political class and the civil society, the former president of the Republic responded "Abdelaziz Bouteflika", with the approval of the Council of Ministers gave an order to amend these articles.

1.10.5.4 Marriage contract

Article 9 of the Family Code 1984 provides that: "*The marriage shall be carried out with the consent of the spouses, the wife's guardian, two witnesses and a dowry.*"

In the 2005 Amendments, Article 9 was amended as follows:

Article 9 (new): "*The following conditions must be met in the marriage contract:*

- *Eligibility of the husband.*
- *The dowry.*
- *The guardian*
- *Two witnesses.*
- *Absence of legal obstacles.*

It should be noted here that this code distinguishes between the elements of the marriage contract (exchange of consent) ,and its conditions with regard to the marriage contract and its proof.

Article 19 of the 1984 Act states that:

"The couple may, in the marriage contract, impose all conditions which they deem incompatible with this law".

In the draft amendment, the article is complementary to the following: *"The right of the spouses to require, in a marriage contract or in a subsequent contract, all the conditions they deem necessary, especially with regard to polygamy and the employment of women. The conditions are incompatible with the provisions of the law "*.

Article (05) of Law No. 84-11 of 09 June 1984, which reads as follows: "If there is material or moral problem in one of the parties, the compensation may be awarded."

This article is supported by Article 70 bis in the new draft, as follows:

"Marriage applicants must submit a medical document, no more than two months old, proving that they are free from any disease that is incompatible with marriage"

The binder, or the civil status officer, must verify, prior to the release of the marriage contract, that the parties are subject to medical examinations and knowledge of any disease that may be revealed.

The application of this article should be determined by regulation .This article obligates marriage applicants to submit a medical document, no more than two months old, proving their absence from any disease incompatible with marriage.

This condition is intended to protect the health of the couple, the children and the community. It is the responsibility of the notary and the civil status officer to ensure that the parties know each other's health status prior to the release of the marriage contract or not. This article refers to regulation, to determine conditions, and how to apply them.

1.10.5.5 Polygamy

Article 08 of Law No. 48-11 of 09 June 1984 provides as follows:

"It is permissible to marry more than one wife, within the limits of Islamic law, when the legal justification is found, and the conditions of the intention of justice are fulfilled. This is done after knowledge, both the previous wife and the successor, and each one has the right to file a lawsuit against the husband , In the case of fraud/deceit (tadliss), and the demand for divorce, in case of dissatisfaction ".

In the draft amendment: polygamy is subject to the following conditions:

- The judge's license to marry.

- The judge should ascertain the consent of the previous wife and the woman the husband wishes to marry.

- Evidence of the legal justification, and the judge confirms the ability of the husband, to provide justice, and the necessary conditions for the marital life.

Failure to respect these conditions leads to the dissolution of the new marriage, before entry, and in case of deceit- fraud /tadlis/ a wife may sue the husband for divorce. The purpose of this article is to protect every wife, from maneuvering, which may be issued by the husband, and to protect the family in general, and the children, who may be born of this wife.

According to article 41 of the new code: "The court does not authorize polygamy, if he does not have the necessary abilities, to support the families, and to ensure all rights, from maintenance and housing.

In this regard ,Nadia Merzouki states:

“ Polygamy remains legal under Article 8 of the family code, although it is now subject to several conditions. The court must certify that there is “justifi ed motivation” behind the decision to take more than one wife, that the man is able to take care of an additional spouse, and that all of the spouses involved consent to the marriage.” (Mezouki,2010,p.9).

However, the question which is posed here is “What if the wife refused polygamy?” If the wife refuses polygamy, she can ask for divorce. If she refuses, and does not ask for divorce, the court automatically applies the principle of discord.

1.10.5.6 Divorce

The draft amendment states: "The decision of the right of a wife to file a petition for divorce, for one of the ten reasons mentioned in the text of the draft law".

These reasons, which can be followed by divorce, are summarized as follows:

- 1 - Divorce of the damage
- 2 – Divorce of financial insecurity(no funds for maintenance)
- 3 - Divorce of the absence of the husband
- 4 - Divorce of the defect.
- 5 – Divorce of Abandonment.
- 6 - Divorce because of the division - agreement, Khula '.

For example, in article 45: "If the court proves, through discussions, that the marital relationship cannot continue, and the wife to whom the marriage is to be insisted on demanding the divorce, the court has set an amount for the eviction of all rights of the wife and her children, who are obliged to spend on them. "

1.10.5.7 Custody

Article 65 of the Family Code, 1984 provides as follows:

"The period of custody of the male shall expire by the age of 10 years. The female shall reach the age of marriage and the judge may extend the custody of the male to 16 years if the incubator does not remarry".

- The new Code stipulates that the age of custody shall be increased to 15 years and that the marriage of the foster mother shall not be subject to custody in the following cases:

- If the child's age is less than 07 years.
- If he has a permanent disability.

- If she is a mother, she is legitimate guardian of the custodians.
- If the mother marries, a deprived relative, and if her husband, a legitimate deputy of the child

Article 64 of the Family Code, 1984 states: "The mother is first in the custody of her son, then her mother, then the aunt, then the father, then the mother of the father, and then the relatives, degree, taking into account the interests of the child".

- In the new amendment, there was a change in the order of the right to exercise custody, by providing the father immediately after the mother ".

- As for custody, the right of the child must be preserved, since custody is initiated for the benefit of the child, by relying on the mother, who is the owner of it, first and foremost the father, and for the practice of custody, the necessary conditions must be met. Providing decent housing for the residents, which is an independent duty, from the rest of the elements of alimony.

1.10.5.8 Marriage Housing

Under the new measures of the government, in the event of divorce, the husband is obliged to provide adequate accommodation for the foster mother and their children. If he is unable to do so, he is obliged to rent a house. This is contrary to what has been done in the Personal Status Law, which has been in effect since 1984, which gives the husband the right to retain his residence in the event of divorce.

"In the case of divorce, the husband is obliged to pay the foster mother with her children an appropriate housing, and if he is unable to pay it, the mother of the foster parent has the right to stay in the house Family"

Family Law stipulates that:

"The father shall be his minor children, and after his death the mother shall be legally dissolved"

In the draft amendment, the mother has been granted custody of the foster mother of children of divorced spouses.

1.10.5.9 Maintenance

The new code provides the following:

- Kindergarten fees and expenses, which is not the cost of breastfeeding, and maintenance.
- The cost of living for the child, and it is independent in its estimate of the maintenance, and the cost of custody, and others.
- If the husband does not provide housing, he must pay the amount determined by the court for the rent. The code adds that if the husband does not pay the amount stipulated in the limited term, this is considered a retreat from his desire to divorce.

Finally, the Public Prosecution is considered as an original party in the lawsuits aiming at implementing the Family Law by the judicial authorities, as well as enhancing the powers of the President of the Court in the field of the right of characteristics, the right to visit, the right to housing.

- Political class, national Islamic figures, and secularism, between support and opposition:

The demand for the abolition or amendment of the family law in Algeria began many years ago by women's organizations and secular parties. They demanded the need for a radical

change and formulated many forms and projects to study and adopt them until former Algerian President Abdelaziz Bouteflika. At the beginning of his new term, decided to set up working committees to study the change of family law, based on the changes taking place within Algerian society, on the basis of Islamic law, as a reference to legislation and reliance on all Islamic doctrines.

The debate on the conditions of the amendment, which includes personal status in Algeria, revolved around three basic points concerning polygamy, marriage, and the guardian of women in marriage. The Algerian Foreign Minister, "Abdelaziz Belkhadem," expressed his strong opposition to the amendment of the family law, on the grounds that it has nothing to do with the religion of Algerians,

On the other hand, the second trend, which is pressing the government to amend the law, is the so-called secular fundamentalists; they demand a national and democratic coalition to confront the opponents of the new family law. They also ask the government to discuss the family law as political leaders.

The law of 1984 has created a division within the family, but we cannot deny the rights of Algerian women, who struggled to achieve independence. The establishment of a modern democratic state, and an end to the bureaucratic projects, which are opposed to the college of deep hopes of Algerian society, which seeks to build a genuine, democratic and social state.

Based on this data, the former President of the Republic, on the occasion of the opening of the judicial year 2004/2005, declared : “the review of family law is a necessity if we are to ensure the stability and harmony of society and to ensure respect for Islamic law.” He also called for the protection of the spiritual and cultural values of society and the

achievement of the goal of ending women's susceptibility and vulnerability in view of civil law, as well as ensuring the protection of children and preserving their rights. Nadia Merzouki states:

“Despite of these amendments, many believe that the family code remains too ambiguous on several central issues and retains a number of discriminatory provisions. For instance, a bride’s wali (marriage guardian, usually her closest male relative) must be present when she concludes her marital contract, though he is now reduced to an honorary role and defined as her father, a relative, or “any other person of her choice.” (Mezouki,p.9).

In brief, the recent reforms brought to the family code of Algeria tend to protect women's rights, This code has been reallocated by men who consider these laws unfair and accuse them to encourage women to file for divorce. Hence, men's circles in Algeria consider that these laws encourage women to be free and exempt from the family, whereas the legislators see it as a necessity.

1.10.6 Family Law of the Maghrebean Countries

Personal statuses in the Maghrebean countries (Tunisia, Morocco, Algeria, Mauritania, Libya) depend on the nature of their social structures, as well as the nature of the religiosity models that dominate their doctrinal beliefs. Although these countries possess an almost absolute unity of religion and sometimes doctrines, the treatment and regularization of small minorities in the countries vary from one country to another.

The personal status law in each of Maghrebean country is one of the conflicts between traditional values and the values of modernity. After many years of colonialism, the deep gap between the modern West and the traditional East has been revealed. Each of the five countries had its own way of combining modernity with heritage.

Tunisia, for instance, witnessed the first codification of Islamic jurisprudence in the world in the "Code of Crimes and Martial Law" published in 1861, which came before the famous "Code of Justice", which was applied in the majority of Muslim countries. Many scholars see the Tunisian Personal Status Code, which was under the direction and supervision of a group of scholars from the Zaytouna mosque, including the famous Imam "Tahir Ben Ashour", as one of the most liberal laws of the Islamic world. Heritage restrictions, and even some scholars, see that it clearly disregards certain provisions of Islam, such as the permissibility of adoption, and preventing polygamy, or even preventing divorce.

Al mudawana, as the Moroccan family law is known also shows the scope of the state's interest in highlighting the personal status law in the form of contemporary legal jurisprudence in the Kingdom of Morocco in particular. The Moroccan king is considered the most prominent jurist; he is the "Emir of the Believers" constitutionally. He has made amendments to the Moroccan Personal Status Code, which has been described as revolutionary.

Al mudawana focused on 11 points related to the sharing of responsibility to care for the family between husband and wife, considering the state as a woman's right, restricting polygamy, uniting the age of marriage, incubator for men and women. Divorce is a solution to the husband's and wife's conjugal engagement by extending the right of women to seek divorce, preserving the rights of the child by including the requirements of international conventions, of the child, giving girls the right to inherit from their grandfather and simplifying marriage procedures and the right of women to the money acquired during marriage. However, the King's concern is that the new draft adopts a modern formulation rather than concepts that affect the dignity and humanity of women and the responsibility of the family under the care of the couples and the references which say that the king as 'the

prince of believers' has no right to resolve what God has forbidden, nor to deprive what I give. The principles of tolerant isolation, the unity of Maliki's doctrine and jurisprudence were also taken into consideration. The Code did not consider a law for single women, but only a family code for fathers, mothers and children.

Although the state of the three countries wanted to draft its Personal Status Law in the form of legitimate jurisprudence, the Islamic parties strongly attacked these laws and considered them as evidence of state secularism and the abandonment of sanctuaries and heritage, especially in periods when these movements were far from the seat of power.

Charrad (2001) views that the most developed and modernity -oriented family laws are the one of Tunisia while the Algerian and the Moroccan family laws were founded on the notion of the sacred family which is owned and dominated by males. The Tunisian Majalla (As the code of Tunisia is labeled) approved essentially a clear model of the family and expanded women's rights . Owing to its success in the revolution against the French colonization, the nationalist leadership in Tunisia imposed laws that best suit its vision of a modern democratic country.

In the three independent states (Morocco, Algeria, and Tunisia), the reasons that lead to the variation of the family codes *“lie neither in the ideology of nationalists nor in pressures from below, but instead in struggles for state power and in state building strategies. What made the most important difference was neither the history of family law itself nor in history of opinions about the law ,but the history of politics”*(Charrad,2001,283) .

Thus, Charrad views that the family laws of the three Maghrebean countries are politically guided and controlled .They shape the political ideology of the leadership.

1.11 Conclusion

This chapter represented the theoretical part of the present study. It defined the key concepts of our investigation's theoretical background by discussing the relationship between gender ,language and legal discourse .Also, concepts and notions such as patriarchy, feminism, family code were highlighted .Finally, the status of women in the Algerian family code was also discussed. The following chapter will shed light on the methodology followed to conduct this research.

Chapter

Two

2-Chapter Two : Methodological Framework

2.1 Introduction

This chapter sets out to provide an overview of the methodology dedicated to the collection and analysis of the NAFC. It is an endeavour to provide a synopsis of some important approaches to Feminist Critical Discourse Analysis. Firstly, we begin with defining the approach of this study together with its key concepts. Then, we present the sampling and the tools used for data collection. After that, we review some of the main theoretical and methodological theories within this analytical approach which are employed to analyse the obtained data.

2.2 Methodology

2.2.1 Research Approach

Because the Feminist Critical Discourse Analysis (FCDA) in this dissertation is the main methodological approach, we drew on Lazar's framework in order to address the application of a critical and feminist perspective to women's representation. Before going deeper into FCDA, giving a quick glance about CDA is inevitable to clarify the relationship between power, discourse and ideology. Accordingly, the combination between CDA and FCDA can provide better comprehension and opportunities to examine the ideological discourse and power imbalance between men and women in specific texts.

2.2.1.1 Feminist Discourse Analysis

Lazar, one of the pioneers in Feminist Critical Discourse Analysis (henceforth FCDA), points out that this model of investigation is interdisciplinary. FCDA emphasizes the political outlook on gender and aims at the demystification of gender, power, and ideology in

discourse, texts and talk (Lazar 2005,p. 7) Therefore, FCDA has materials and substantive intention to ensure that language is “accountable and responsible” to social justice and equality for society. (Lazar 2005,p. 6) .

Lazar’s approach is used to look at the target discourse from a feminist viewpoint since it deals with “complex and subtle ways in which taken-for-granted social assumptions and hegemonic power relations are discursively produced, perpetuated, negotiated and challenged”(Lazar, 2005, p. 2). The concept of “gender,” in FCDA, functions as an interpretive class that permits social actors to make sense of and organize their social practices. (Lazar, 2005, p. 2)..

FCDA challenges the status quo in favor of a vision of a society in which gender does not predetermine our relationships or our sense of ourselves .“*Relations of power systematically privilege men as a social group and disadvantage, exclude and disempowering women as a social group...Interconnections and particularities of discursive strategies employed in various forms of social oppression that can feed back into feminist strategies for social change*” (Lazar,2005, p. 5).

Gender ideology is often not considered as supremacy but rather commonly accordant and uncontested to many people. This agreement and acceptance of relations of superiority are realized discursively as ideological assumption which are “re-enacted and circulated through discourse” as “commonsensical and natural” (Lazar, 2005, p. 7).

Taking for granted and normalizing hegemonic gender discourse often lead to the mystification of gendered power practices. Marcus’s (1992) work highlights the importance of how cultural scripts position men and women according to normalized gendered inequalities .

FCDA does not deal merely with the deconstruction of texts and talk, but exceeds this as it highlights the contextual factors behind the text to ensure social change and challenge gendered assumptions. In this concern, “feminists do not consider language a side-issue or a luxury, but an essential part of the struggle for liberation.” (Cameron, 1998, p. 1). One of its goals is to prove that social practices are not neutral but rather gendered (Lazar, 2004).

As far as the purpose of FCDA is concerned, Lazar (2004) declared:

“The aim of feminist critical discourse ... is to show up the complex, subtle and sometimes not so subtle, ways in which frequently taken-for-granted gendered assumptions and hegemonic power relations are discursively produced, sustained, negotiated, and challenged in different contexts and communities”. (2004, p. 6-7)

Also ,FCDA aims to reveal how " frequently taken-for-granted gendered assumptions and hegemonic power relations are discursively produced, sustained, negotiated, and challenged " (Lazar, 2007, p. 142). The purpose of FCD is, therefore, to detect the complex and common ways in which gendered assumptions and power relations are enacted, sustained, negotiated, and challenged in distinct contexts, It intends to analyze the ways in which “power and ideology in discourse” sustains a “gendered social order”.(Lazar 2005,p. 1)

Accordingly, FCDA was founded on the theory that language reflects the possession and exercise of power. Under this approach the accurate and detailed analysis of language usage,

2.2.1.1.1 Critical Discourse Analysis

Critical Discourse Analysis includes a variety of approaches toward the social analysis of discourse(Fairclough&Wodak1997). It has been used as a fundamental discipline to answer some questions about the relationships between language, society ,power, identity, ideology,

politics, and culture. The rise of CDA has influenced most fields of humanities and linguistics.

Scholars in the field of CDA generally argue that social practice and linguistic practice complete one another and concentrate on how societal power relations are maintained, exercised and reinforced through the use of language. Besides, Critical Discourse Analysis is a type of discursive analytical study that primarily investigates the way social power abuse, dominance, and inequality are enacted, reproduced and resisted by text and discourse in a particular context.

For a better understanding of the term CDA, an overview of some related terms is provided. In the last decades, critical discourse analysis has become a significant research methodology in a variety of disciplines around the world. Hence, critical discourse analysts take an explicit position, aiming to understand, expose and ultimately resist social inequality.

One of the defining characteristics of Critical Discourse Analysis is that it can be applied in a wide variety of settings and contexts. Wherever there is continuous text, written or spoken, there is a potential analysis of such a text. Law, therefore, is a fertile field for discourse analysts. It depicts instances of injustices in social interaction and aims at raising people's consciousness of them. Thus, ideology, power, hierarchy, gender and sociological variables are relevant topics in CDA (Weiss & Wodak 2003, 11).

One of the objectives of this thesis is to understand the relation between power and discourse. It is about power and ideologies and the production of knowledge through discourse and discursive practices. Since CDA deals with power struggles and control in social relations, it holds a component that is concerned with how texts affect the

disadvantaged in society and how they work to the advantage of those who have power. (Wodak 2007).

Interestingly, Critical discourse analysis essentially considers the ways in which power embedded and exercised in discourse.(Huckin & Clary-Lemon, 2012). Ruth Wodak (et al., 1997,p23-24) identifies the goals of critical discourse analysis as follows:

“Critical Discourse Analysis aims to make ideologically distorted, more or less opaque forms for use of power, of political control and manipulation as well as the use of discriminating - e.g. sexist or racist - strategies of suppression and exclusion in the use of language apparent [...]The critical discourse analysis takes the side of those, who have to suffer under political or social injustice”.Simply, CDA’s purpose is to show how society and discourse shape each other and revealing the way ideologies, power, and inequality are exercised and reflected in discourse.

The present dissertation applies CDA to legal discourse, in an effort to shed light on women representation and position in this discourse under scrutiny. For this particular purpose, the Algerian Family Code is examined following an FCDA framework. As a theoretical and practical approach, FCDA is considered as an interdisciplinary approach to the study of discourse in which language is seen as a form of social practice.

As far as data collection and data analysis are considered, a number of articles about marriage and its dissolution will be gathered from the family code and examined within the hypothetical foundation of CDA for the analysis. Moreover, CDA is an important tool to carry out a study on the relationship reflected by written structures and social issues. There might be obviously diverse perspectives of CDA, so we will read and take those that are most appropriate for examining the discourse of the target context.

To investigate the ways power and ideologies are enacted through discourse, Norman Fairclough, one of the pioneers in the field, suggests the three-dimensional model of analysis. The latter examines how ideology and power are usually connected. According to Fairclough (1989, p. 2), “the nature of ideological assumptions embedded in particular conventions, and so the nature of those conventions themselves, depends on the power relations which underlie the conventions”

Thompson (1990, p. 56) argues that ideology studies the ways in which meaning serves to maintain relations of domination. Indeed, power is exercised in the ideological use of language. CDA, hence, examines how the discursive practices are maintained and reproduced in a particular social, political, and historical context. Fairclough defines CDA saying that:

“ By CDA I mean discourse analysis which aims to systematically explore often opaque relationships of causality and determination between (a) discursive practices, events and texts, and (b) wider social and cultural structures, relations and processes; to investigate how such practices, events, and texts arise out of and are ideologically shaped by relations of power and struggles over power; and to explore how the opacity of these relationships between discourse and society is itself a factor securing power and hegemony” (Fairclough, 1993, p. 135)

Additionally, Fairclough, and Wodak (1997) explain: “discursive practices can help produce and reproduce unequal power relations between social classes, women, and men, and cultural majorities and minorities” (cited in Dijk, 1997, p. 258)

Foucault is another scholar who gives a particular attention to power asymmetries in society. His goal is to demonstrate the specific practices. This is why he prefers power as

analytic rather than a theory. Therefore, Foucault theorizes on this issue, asking about the ways power is exercised and attempts to determine its effects. For Foucault, “power is a strategic terrain, the site of an unequal relationship between the powerful and the powerless rather than possessed by the powerful”. (Foucault 1980,p.98)

Foucault(1980) also states that power is productive and not simply repressive. That is to say, power is not practiced just for the sake of being powerful. There is a productive aspect in the practice of power. The latter is produced through the production of meanings regarding women and gender equality.

Fairclough’s framework to CDA is the most significant and relevant to the objective of this research because it covers various aspects of analysis. Fairclough(1989) endeavors to examine ideological and power aspects in texts. He identifies the relationship between power and language (social power and ideology). Fairclough provides a three-dimensional theory of research for the analysis of text and discourse:

- The linguistic description of the formal properties of the text.
- The interpretation of the relationship between the discursive processes/interaction and the text: where a text is the end product of a process of text production and as a resource in the process of text interpretation.
- The explanation of the relationship between discourse and social and cultural reality.

Fairclough’s (1989) analysis has gone beyond the linguistic description of the text to include the explanation and the interpretation to uncover the reasons and the conditions behind the use of language in a specific context. The selection of discourse is determined by particular assumptions that are ideologically controlled. Fairclough’s (1989) model for CDA is

composed of three inter-related mechanisms of analysis related to three inter-related dimensions of discourse. These three dimensions are:

- The object of analysis (including verbal, visual or verbal and visual texts).
- The processes by means of which the object is produced and received (writing/ speaking/designing and reading/listening/viewing) by human beings.
- The socio-historical conditions which govern these processes.

According to Fairclough each of these dimensions necessitates a distinct type of analysis:

- Text analysis (description),
- Processing analysis (interpretation),
- Social analysis (explanation).

This approach enables the researcher to look at the specific linguistic selections of the text, their juxtapositioning, their sequencing, etc. Nevertheless, it requires the full recognition of the historical conditions of the text and comprehension of the linguistic selections which are closely related to the context of the target discourse. Hence, the text is embedded in its social and cultural context.

Fairclough model does not require a specific order . He does not define which type of analysis one has to start with. However, at the end of the analysis all the aspects should be included and mutually explained. It is in the integrations that the researcher should cover the main components and disjunctions that need to be described, interpreted and explained.

As far as the textual analysis is concerned, Fairclough (1989: 110,p.2) suggests a list of ten main questions together with sub-question to analyze a text. Faircough's model is useful to examine the target discourse. Fairclough divides the questions into three main

groups: Vocabulary, Grammar, and textual structures. We will try to find possible answers to the following main questions:

- Vocabulary

1. What experiential values do words have?
2. What relational values do words have?
3. What expressive values do words have?
4. What metaphors are used?

- Grammar

5. What experiential values do grammatical features have?

6. What relational values do grammatical features have?

7. What expressive values do grammatical features have?

8. How are (simple) sentences linked together?

- Textual Structures

9. What interactional conventions are used?

10. What larger-scale structures does the text have?

Fairclough(1989,110-1).

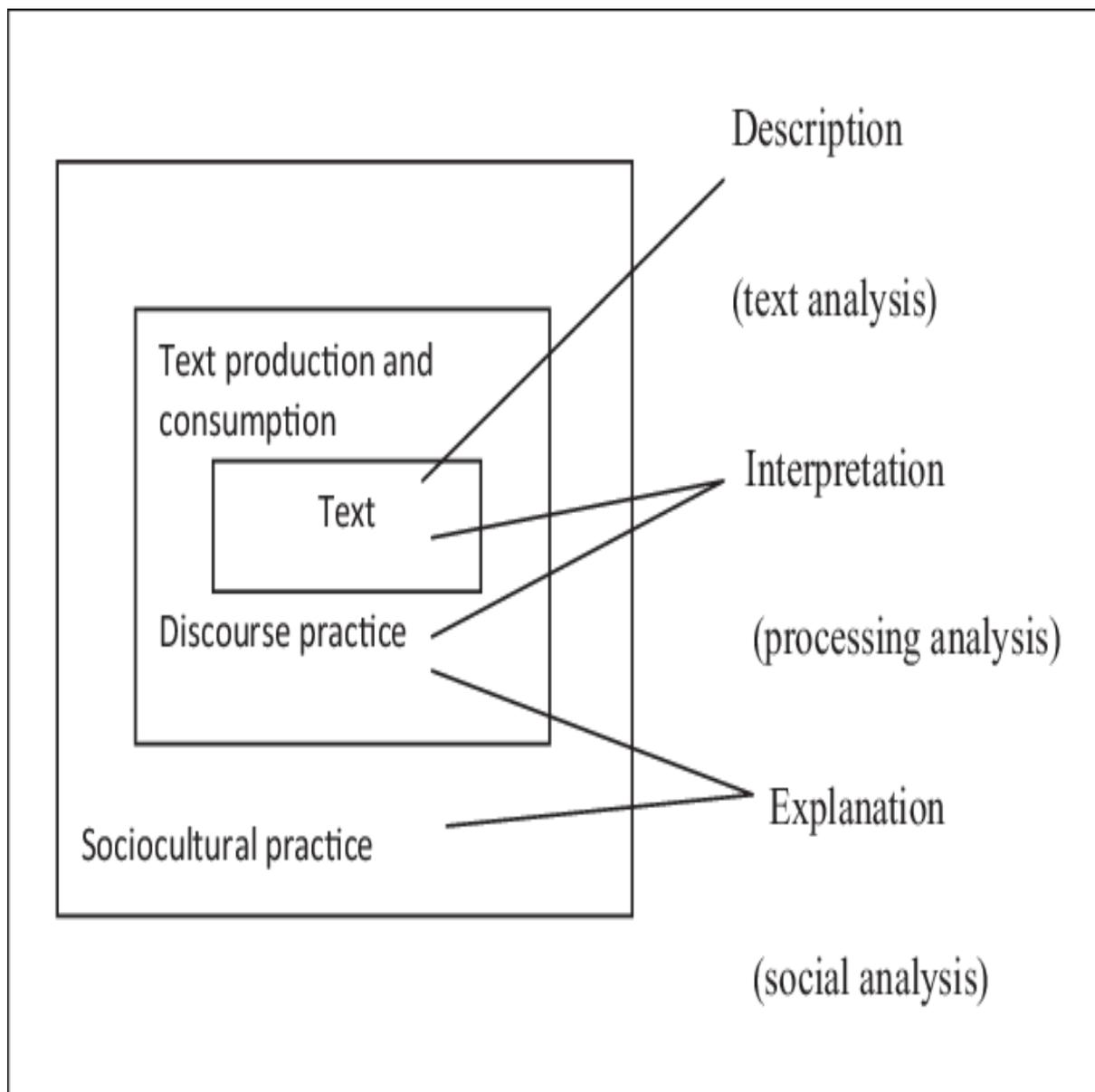


Figure 02: Three Dimensions of Discourse .(Fairclough ,2010,p.133)

2.2.1.1.2. Van Leeuwen Socio-Semantic Model

Van Leeuwen approach will be used to examine the representation of women in the target discourse considers the representation of social actors. Leeuwen's (1996) framework consists of the following main sections:

- **Exclusion:**It is divided into Suppression and Backgrounding.

- **Inclusion:** Under inclusion, we have :
 - A.** Activisation vs.Passivization.
 - B.** Genericisation vs.Specification.
 - C.** Individualization /Assimilation .
 - D.** Indetermination (anonymous) / Determination.
 - E.** Nomination / categorization.
 - F.** Functionalization / identification.
 - G.** Impersonalization
 - H.** Abstraction /Objectivation

This model enables the researcher to study some of the main discourse strategies found in the selected articles to refer to women in relation to marriage and its dissolution. Leeuwen's (2008) theoretical framework will be used for better understanding of social practices through discourse.

Van Leeuwen(1996) suggests some general categories and some subtypes refer to social actors in discourse: exclusion or inclusion. Inside inclusion, the following types are distinguished:

- A)Role allocation (agent)
- B) Generalisation
- C) specification (generic or specific reference, i.e., representation as classes or as individuals)
- D) assimilation (representation of people in groups)
- E) association (groups of social actors)
- F) dissociation (unformed associations)
- G) indetermination (unspecified representation of social actors)

- H) differentiation (specification of the different social actors)
- I) nomination (reference to the unique identity of social actors)
- J) categorisation (identities and functions shared with others)
- K) functionalization
- L) identification (reference to social actors in terms of something they do or what they are)
- M) impersonalization
- N) personalisation (representation of social actors as human beings or not)
- O) overdetermination (representation of social actors as participating in more than one social practice).

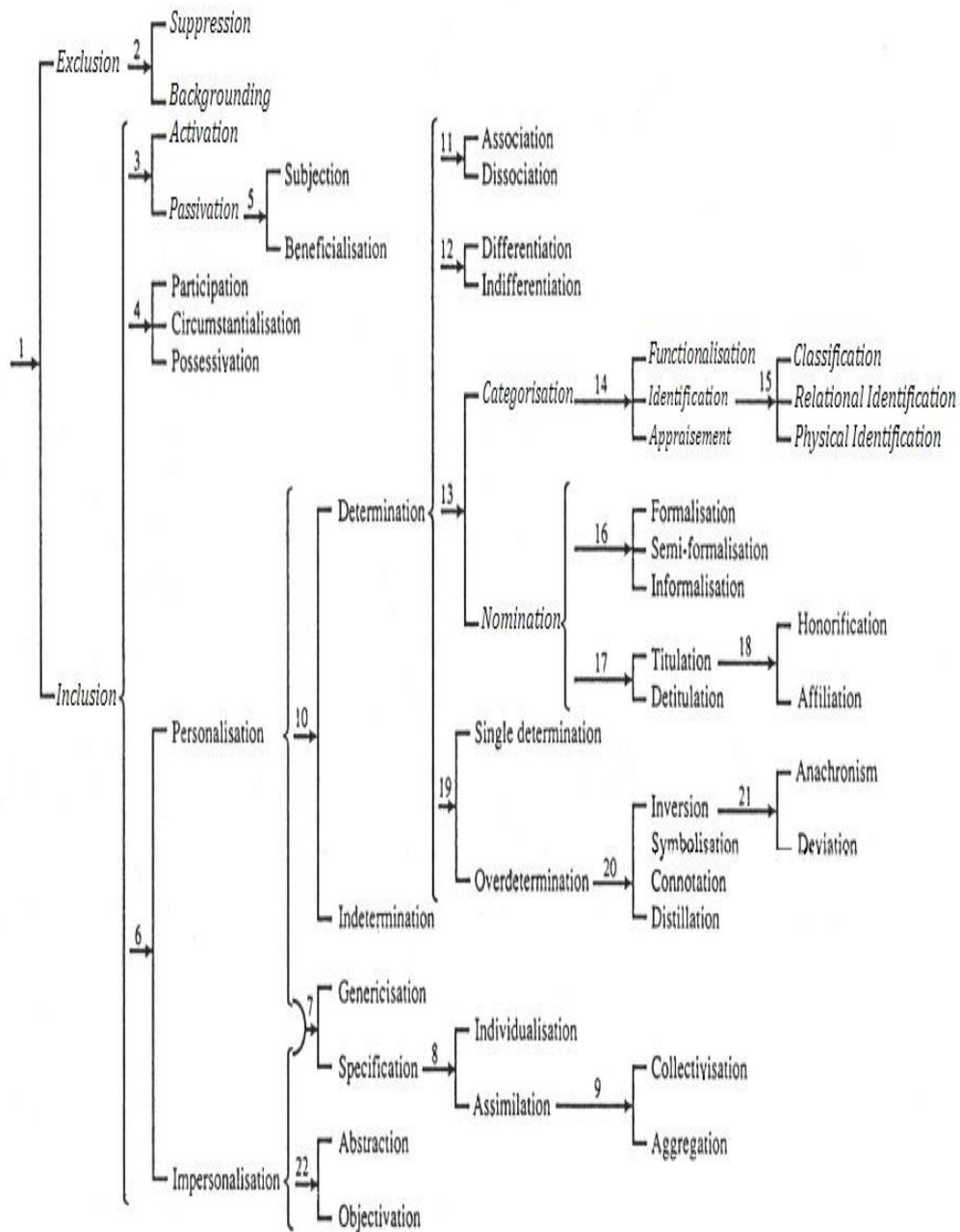


Figure03: The Representation of Social Actors in Discourse: system Network

(Van Leeuwen 1996,p.66)

After identifying Van Leeuwen’s categorization of social actors in discourse, the ways in which power, ideologies, and gender will be analyzed using Van Dijk approach. In

this research, we will highlight how to use this model for the analytical study of the legal discourse about marriage and its dissolution.

2.2.1.1.3 Van Dijk Analytical Framework

Van Dijk's (2004) analytical framework was employed in this research. In this model, Van Dijk introduces two interrelated levels: the micro level which has to do with language, discourse, verbal communication; and the macro level which refers to the power relations, such as bias and discrimination. He identifies 27 strategies which are summarised as follows:

- Consensus: Constructing union and cohesion
- Actor description: Describing social actors either positively or negatively
- Irony: Using language that normally signifies the contrary or something different.
- Authority: Supporting statements by referring to authorities.
- Polarization: Grouping people as belonging to US with good actions and THEM with bad actions.
- Vagueness: Creating ambiguity and inexactness.
- Disclaimer: Supporting one's idea; then, in the second sentence presenting it as negative using conjunctions ,language markers...
- Categorization: Classifying people to distinct groups.
- Self Glorification: Elevating and praising Our country/action "positive self representation". Hyperbole: Enhancing and exaggerating.
- Number Game: Ensuring credibility by employing numbers and statistics
- Implication: Presuming or assuming embedded data.
- Lexicalization: Referring to the semantic criteria of the words mainly for negative other-representation

- Evidentiality : Supporting one's claims by mentioning hard facts.
- Presupposition: Assuming and taking things for granted
- Victimization: Narrating bad stories about persons from the other group "Them" (Van Dijk,2004,p.70)

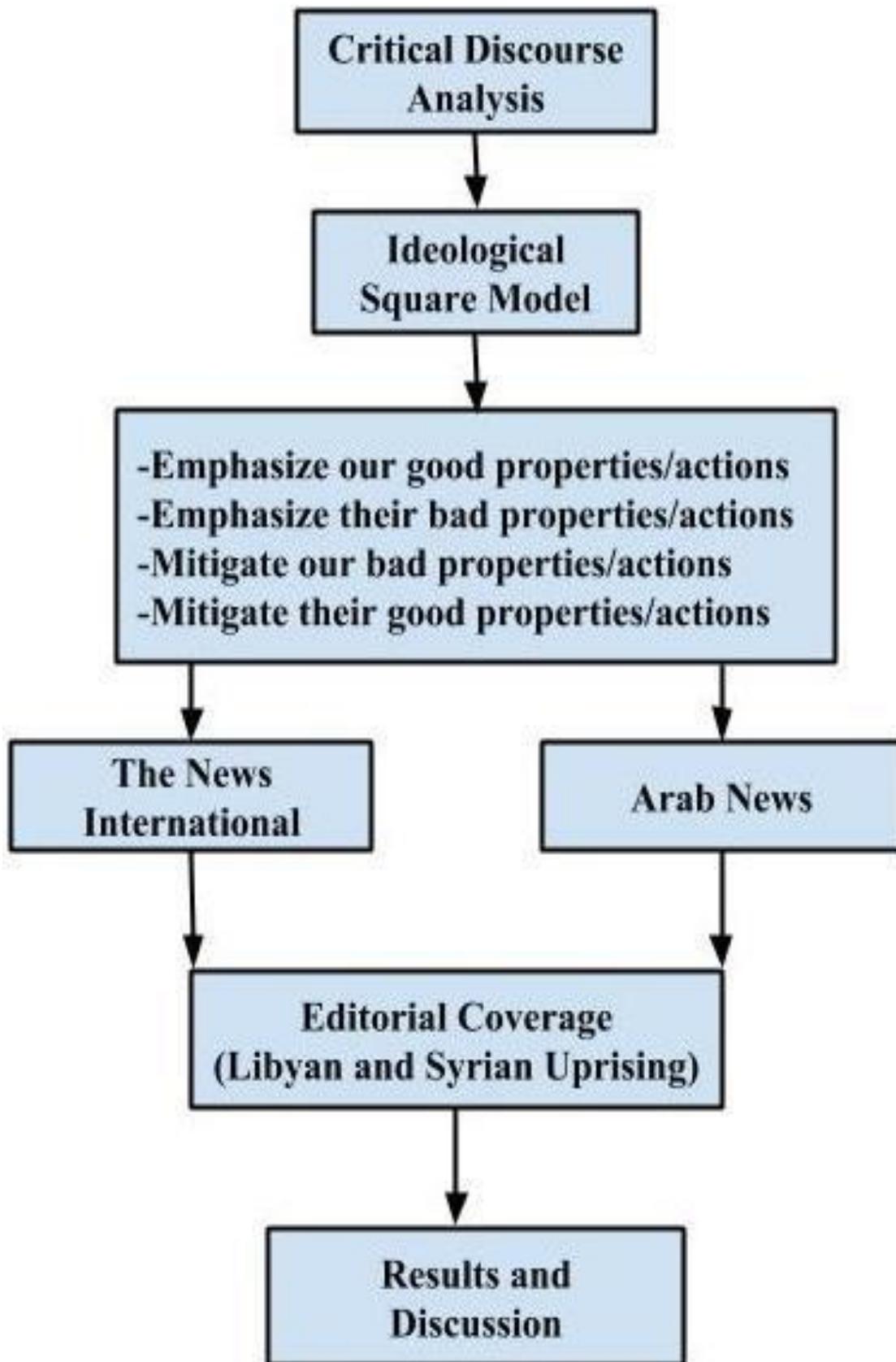


Figure 04 :Ideological Square Model of the Uprising (Van Dijk, 1998b, 2004).

In this research, we employed the strategy of polarization . The latter is divided into two sub-strategies: ‘self-positive-representation’ and ‘other negative representation’. Positive self-representation of the “Us” is a semantic macro- strategy of favoritism. In contrast, the negative other-representation of the “Them” is a different semantic macro-strategy relating to in-groups and out groups negative representation(Van Dijk,2004,p.42).

Van Dijk (2004) presents the above sub-strategies of polarization in a form of “ideological square” which creates the following dimensions:

- 1) Putting emphasis on “Our” positive actions
- 2) De emphasising “Their” positive actions .
- 3) Putting emphasis on “Their” negative actions .
- 4) De emphasising “Our” negative actions.

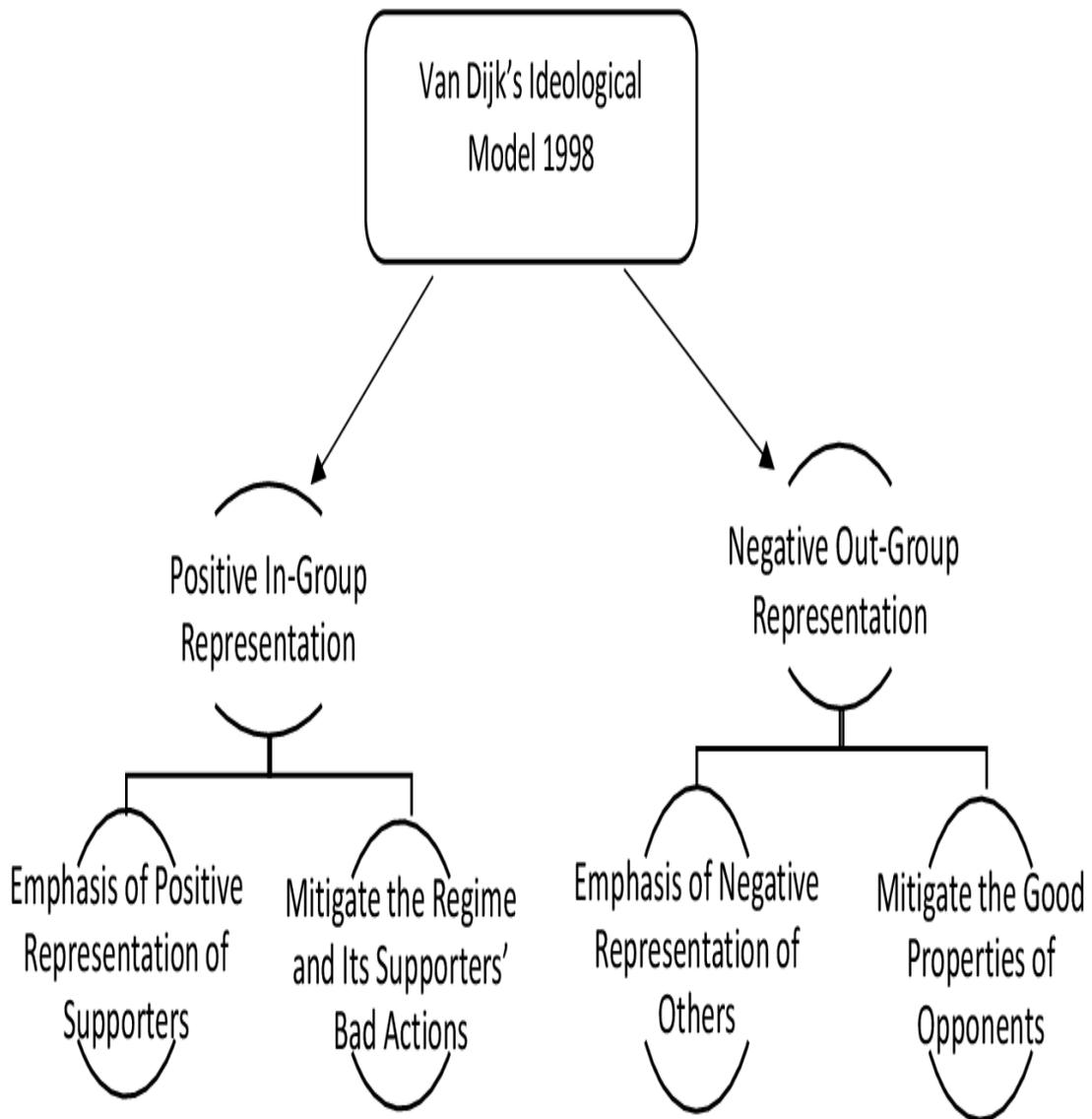


Figure 05: Van Dijk's Ideological Model (Van Dijk ,1998).

2.2.2. Corpus

Our analysis draws upon thirty one article corpus taken attentively from NAFC, issued in Algeria and run by the former president of the Republic, Abdelaziz Bouteflika, from 2005 to 2019 . The version of the Algerian Family Code we are using is that of 2005 (the most recently amended version), published by Dar Ennadjah Livre in 2006 in Algeria.

The present thesis' focal point is upon the articles which, in our opinion ,were the subject of media, legal and societal controversy .

These articles are deemed controversial because they are suddenly being amended in an unprecedented manner creating great debates about the new code and its impact on women and society on the whole. In brief, the corpus for this study is made up of articles from the New Algerian Family Code which was amended in 2005.

N° of Articles	Order N° 02-05	Official Newspaper N°
4	Amended	15/2005
5	Amended	15/2005
7	Amended	15/2005
8	Amended	15/2005
8 bis	New	15/2005
8 bis 1	New	15/2005
9	Amended	15/2005
9 bis	New	15/2005
10	Amended	15/2005
11	Amended	15/2005
13	amended	15/2005
19	Amended	15/2005
31	Amended	15/2005
37	Amended	15/2005
41	Existed	15/2005
43	Existed	15/2005

48	Amended	15/2005
49	Amended	15/2005
51	Amended	15/2005
53	Amended	15/2005
54	Amended	15/2005
57	Amended	15/2005
62	Amended	15/2005
64	Amended	15/2005
65	Amended	15/2005
66	Amended	15/2005
67	Amended	15/2005
74	Amended	15/2005
75	Existed	15/2005
79	Existed	15/2005

Table 01: Analytical table for the articles under investigation.

2.2.3 Data Collection Tools

To contextualize the research questions, CDA is used to gather primary data. Additionally, semi-structured in-depth interviews were conducted for the collection of secondary data. The interviews provide us with personal perspectives and experiences which help to enrich our research. Interestingly , the body of data for this research will be divided into two formats. Attempting to collect authentic and relevant data, two methods of data collection were used, namely semi –structured interviews and questionnaires.

2.2.3.1 Interview

The main tool in this investigation study is to respondents to collect data about their perceptions of their legal status; therefore, we met both women and men to find out about their experiences and attitudes toward the NAFC focusing on their perception of women status. Throughout the study, we endeavor to elicit as much information as possible about the representation and the status of women in NAFC.

We met 50 women /men to learn about their experiences and their perceptions. This involved individual discussions lasting for approximately 20 minutes. We asked them a number of questions regarding their experiences, their attitudes, and perception of NAFC in relation to marriage and its dissolution. The questions are open-ended and non-judgmental as we were interested in finding out about their individual experiences and their own viewpoints. Discussions were recorded in agreement with the participants to ensure that we would have an accurate record of what was said.

Therefore, the interview contains some specific questions; the main concern of the interview is to be as open-ended and non-leading as much as possible whilst focusing on the research objectives. It was likely that participants would be confused when answering some particular questions.

Consequently, it was possible to include some probes in order to clarify some questions and also to gain a better understanding of individual responses. In some areas, we used specific questions in order to know about their experiences and opinions. In other sections, such as “The participant and his/her Family”, it was anticipated that participants’ experiences would be varied.

2.2.3.1.1 The Interview Guide

The interview guide is a list of questions that the researcher intends to ask to the participants during the interview. The order of the questions diverges and varies according to the pieces of information intended to be elicited and according to the type of the interview. There are three types of interviews: structured, unstructured or semi-structured.

Following a structured interview, the participants are interviewed by asking them the same questions and respecting the same order. However, unstructured interviews can be considered as interactions since there is no precise set of questions which oblige the researcher to respect.

Finally, semi-structured interviews can be seen as the best of both previous types of the interview and it was selected to be followed to guide the present research. Under this type, an interview guide is designed. Undoubtedly, the latter is important to elicit some pieces of information, but also it allows utterances to flow naturally and the researcher, then, does need to respect the order of the questions. Additionally, the researcher is able to go “off-script” and add some questions to the participants to get more details in their responses.

2.2.3.1.2 Interview with Women/Men

This interview seeks to collect data about the perception of women’s status in the New Algerian Family Code (NAFC), based on your experience and expectations related to marriage and its dissolution. We want to make sure that the respondents are comfortable during the interview. This in-depth and semi-structured interview will follow the method of questioning. Probing questions are also needed and will be used throughout the interview(s) to have a more comprehensive data about the participants’ experiences and attitudes.

2.2.3.2 Questionnaire

A questionnaire is a data collecting tool. To put it differently, it is a series of questions that respondents are supposed to answer in order to gather data. Questionnaires are beneficial; they allow the researcher to gather a large amount of data. In addition, they are widely used for the sake of investigating peoples' attitudes and opinions. It is usually used to collect data from a large group of people about a specific topic.

We carried out a questionnaire to find out some basic information about NAFC. The questionnaire for this study contains short closed-ended questions (multiple choices) and broad open-ended questions. Using a questionnaire allowed us to get a better understanding of the participants' perception, attitudes, and expectations. Additionally, it helped us not only to enrich this research but also to open the doors for future studies about the issue under investigation .

In this study, approximately 50 experts and 100 men /women were asked to complete a survey which consists of questions about both men's and women's attitudes, opinions, and perception of NAFC. The aim of the questionnaire is, as a first priority, to elicit information about the factors that stand behind the appearance of the NAFC.

Extracts and data from the interviews and the questionnaires are used in this doctoral dissertation, but names or information that might identify individuals will not be revealed. Only the supervisor and the researcher have access to the tapes and related documents.

Importantly, since our participants do not master the English language, there was a need to use Modern Standard Arabic to collect data for this study. Both translation and transliteration were provided for the analysis of the collected data (when needed).

2.2.3.2.1 Criteria for Selection

To achieve the objectives of this research, both men and women were invited to participate in this survey regarding the following criteria:

Gender: Both men and women

Age: 19 years old or more.

Occupation: occupation is important regarding experts .

Literacy and educational level: Both literate and illiterate adults were invited to take part in this study.

Different questions were designed to fit the level of the participants. The above criteria are significant to ensure the constant availability of good-quality data.

The collected data were carefully examined and the findings form the basis of our doctoral dissertation. We interviewed women/men asking them about their experience, attitudes, and expectations. Whilst there has been a lot of research carried out examining the New Algerian Family Code(henceforth NAFC), there have been, however, relatively little research approaching the status of women in NAFC from a feminist critical discourse analytic perspective.

2.3 Conclusion

This chapter dealt with the methodological framework on which this research is based. Starting with CDA and FCDA approaches with reference to the main figures in them, we provided our reader with a detailed description of the corpus of this study and the main tools

used in data collection. Additionally, Van Leeuwen's (2008) and Van Dijk socio cognitive (2004), and Lazar's Feminist Critical Discourse Analysis models were emphasised.

CHAPTER

THREE

3- CHAPTER THREE: Data Analysis

3.1 Introduction

This chapter contains detailed scrutiny and presentation of the data being collected. After gathering necessary data from respondents via the questionnaire and interview, the findings of these data collection tools are reported and presented in both tables and graphs . Also, a thorough discussion is provided under each table to help readers get the balance right and avoid confusions.

3.2 Interview Analysis

A. Gender

females	Males
28	22
56%	44%

Table 2: Gender of Respondents

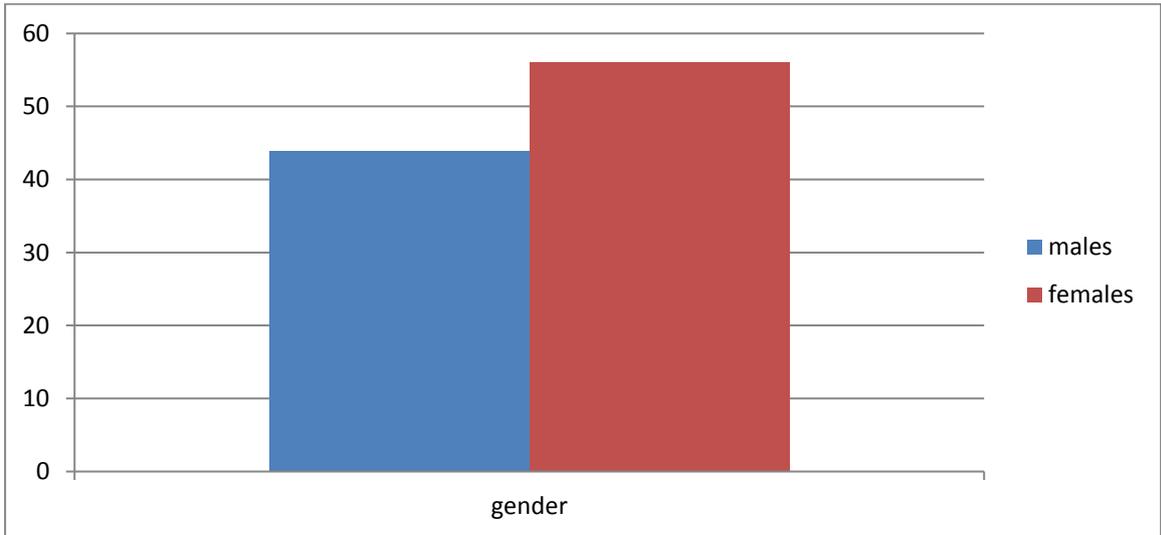


Figure 06:Gender of Respondents.

From the above figure we notice that the majority of the respondents are females with a percentage of 56% whereas males represents 44% of the total percentage of informants. This convergence yield more accurate data.

B. Age

Age	19/25	25/35	+40
Numbers			
N°	15	33	02
%	30%	66%	4%

Table 03:Age of Respondents.

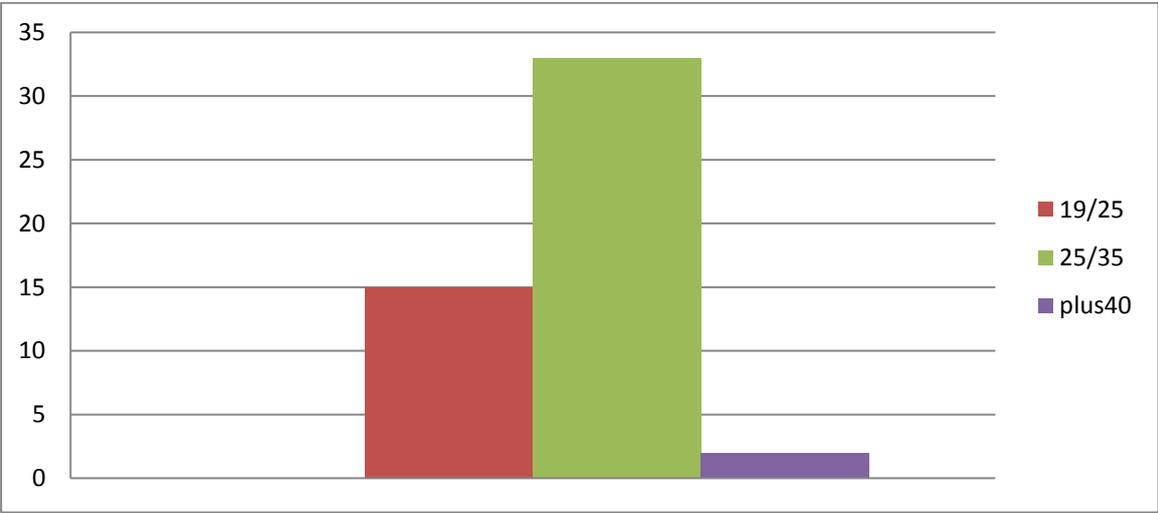


Figure 07: Age of Respondents.

It is shown that the majority of respondents are aged between 25 and 35 with a percentage of 66%.this fact indicates that most of the respondents are youth who are expected to be conscious about their marital relationships and eager to stabilize it.

C. Occupation

Occupation \ Numbers	students	teachers	nurses	Policewomen/ policemen	Agent of administration	Housewives Jobless	Hairdressers
N°	08	10	05	02	06	12	07
%	16%	20%	10%	04%	12%	24%	14%

Table 04: Occupation of Respondents .

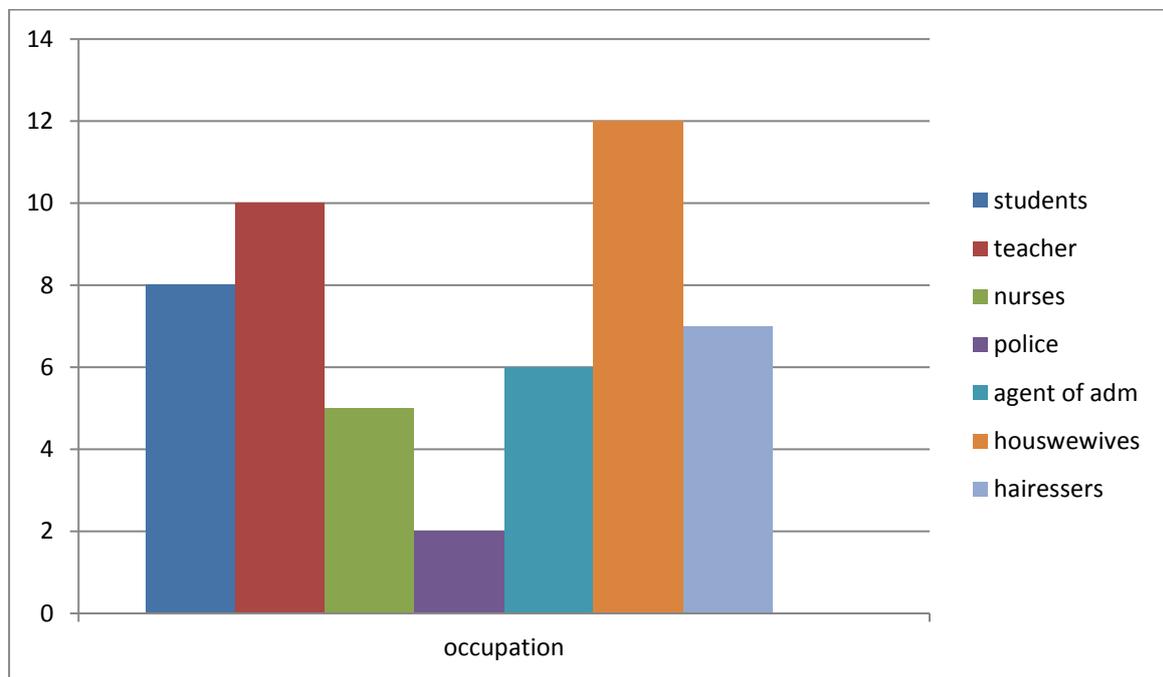


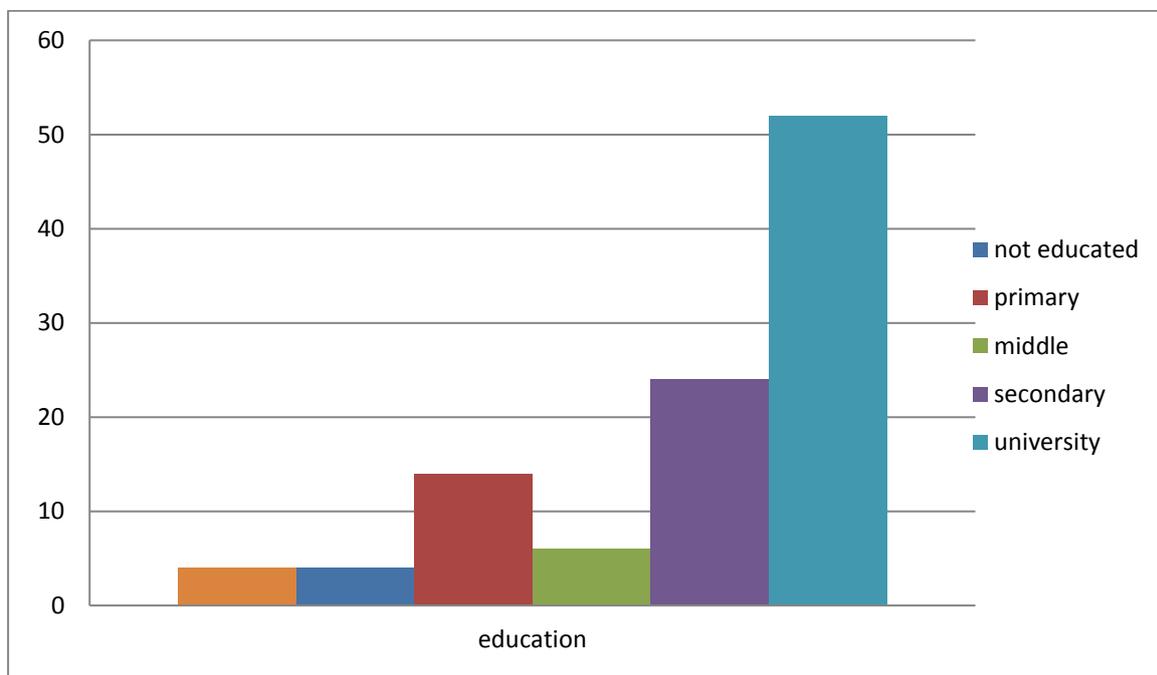
Figure 08: Occupation of Respondents .

The above data showed that respondents professions' vary. The majority with 24% of the total percentage of informants are housewives /jobless. On the other hand, 20% are teachers followed by 12% of respondents works as agent of administration. Then, the least percentage refers to policewomen/policemen with 04% of the total percentage of respondents. This variation enrich the present research and ensure more reliability of data.

D. Education

Education	Not educated	primary	middle	Secondary	University
Numbers					
N°	02	07	03	12	26
%	04%	14%	06%	24%	52%

Table 05: Education of Respondents.



Figures 09: Education of Respondents .

In this survey, most of respondents are considered as literate , when only 04% of the total percentage of them are illiterate. The higher percentage of 54% refers to the people who have university degrees followed by 24% who have a secondary education. These data signified that most respondents are well educated. We believe that education is a very important means to develop critical thinking and avoid naïveté.

E. Marital status

Marital status	single	married	Divorced	Widow(ed)	In a complex relationship
N°	02	05	12	04	27
%	04%	10%	24%	08%	54%

Table 06 :Marital status of Respondents .

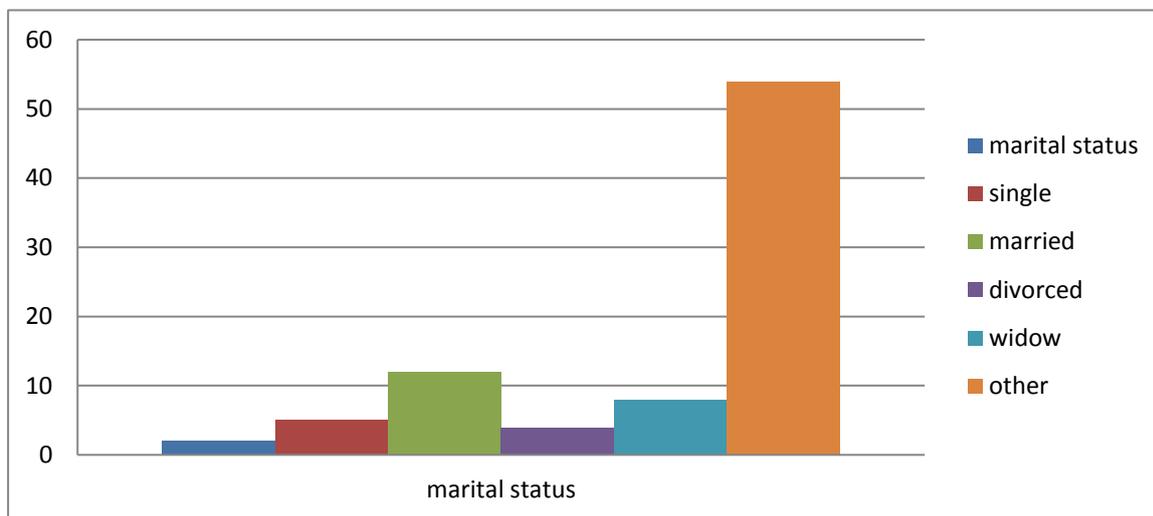


Figure 10 :Marital Status of Respondents.

It is pointed out that the division of respondents by marital status.... In this investigation, the “single” category denotes persons who have certainly not married ,“married” refers to the respondents who are involved in the institution of marriage. While“Widowed/divorced” covers the informants whose spouse has died or who are legally separated from their partners .The single group makes up 04% of the total, married 10% , “widowed 08%, The percentage of divorced is higher 24% but the highest is 54% which refers to those who are in a complex relationship, i.e. those who are not yet divorced or

married at the time of the survey. Respondents who chose the complex relationship are undoubtedly those who have litigations about marriage and its dissolution at that time.

Respondents Experiences and Perceptions

Q01:Have you ever taken a legal action(about marriage and its dissolution)? Yes no

Yes	No
48	02
96%	04%

Table 07:Taking a legal Action.

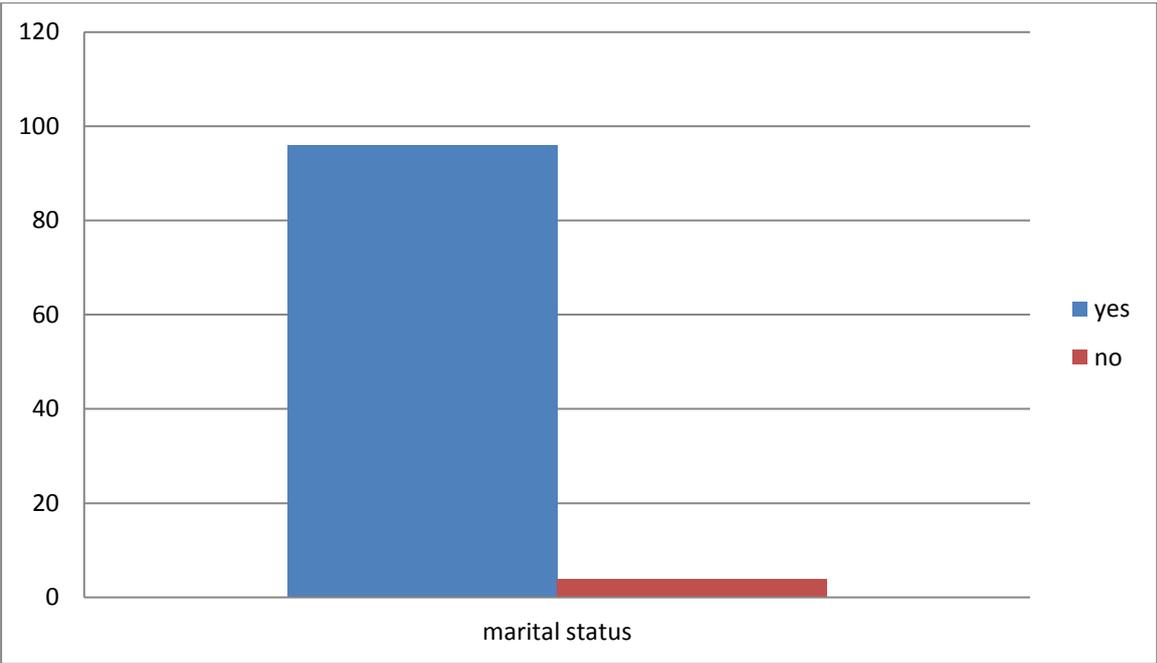


Figure11:Taking a Legal Action.

Question 02:If yes ,it was about which issue of the following(if there are many choose the last action) :

- a)custody and visitation
- b)Getting married
- c)Divorce, Legal Separation
- d)Staying in the family house
- e)Allimony

A	B	C	D	E
11	02	18	09	10
22%	04%	36%	18%	20%

Table 08: Issues of the Legal Action.

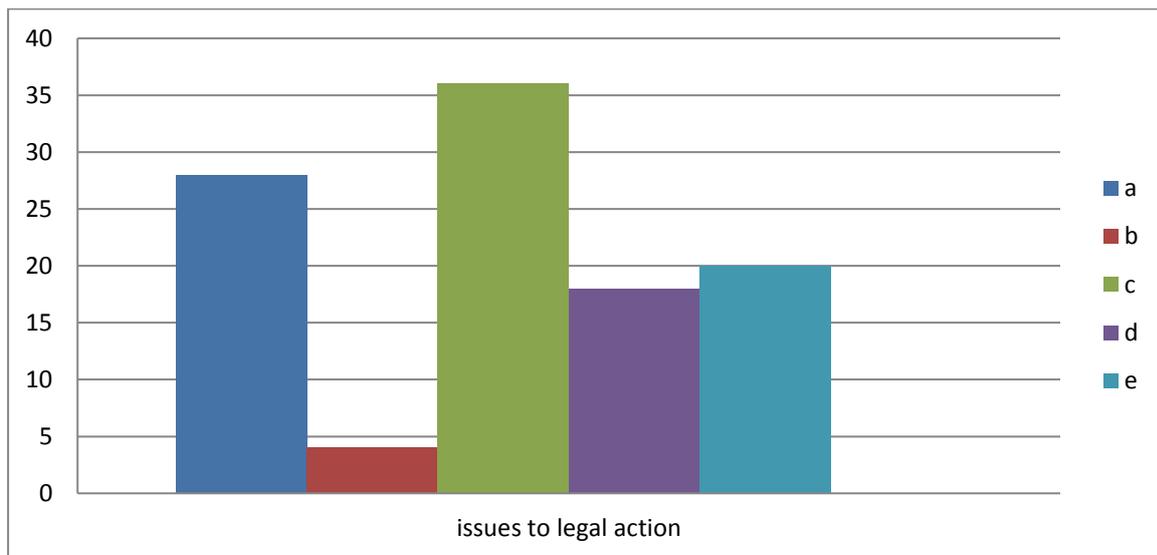


Figure 12: Issues of the Legal Action .

The above tables and figures indicated that a good number of respondents with a percentage of 96% took legal actions about marriage and its dissolution. When asking them about the issue of the legal action, 36% replied that it was about divorce and legal separation. The issues custody, staying in the family house, and alimony represent 22%, 18%, and 20%

respectively. This convergence indicated that divorce and post divorce conflicts are among issues of the legal actions that our informants took.

Question 03 :Have there been any litigation or other legal proceedings between you and the opposing party? If so, please explain.

Yes	48	96%
No	02	04%

Table 09 :Having Litigation or Legal Proceedings between them and their Partners.

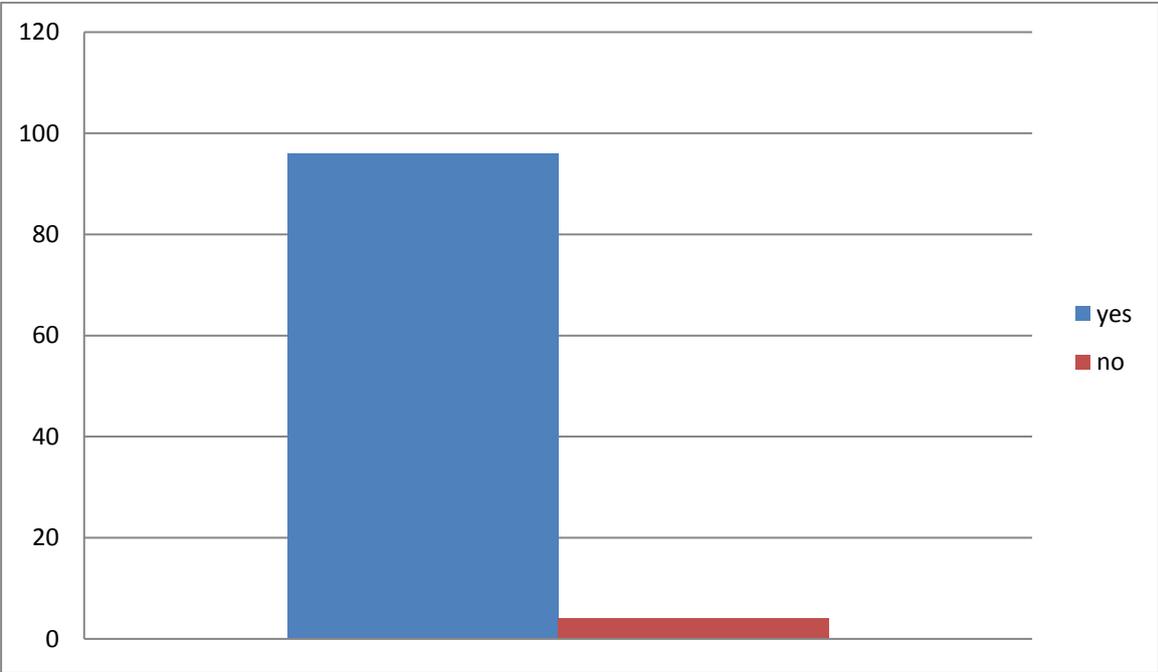


Figure 13: Having Litigation or Legal Proceedings between them and their Partners.

At the present time, is there litigation in progress ? explain please.

Yes	45	90%
No	05	10%

Table 10: A Litigation in Progress at that Time.

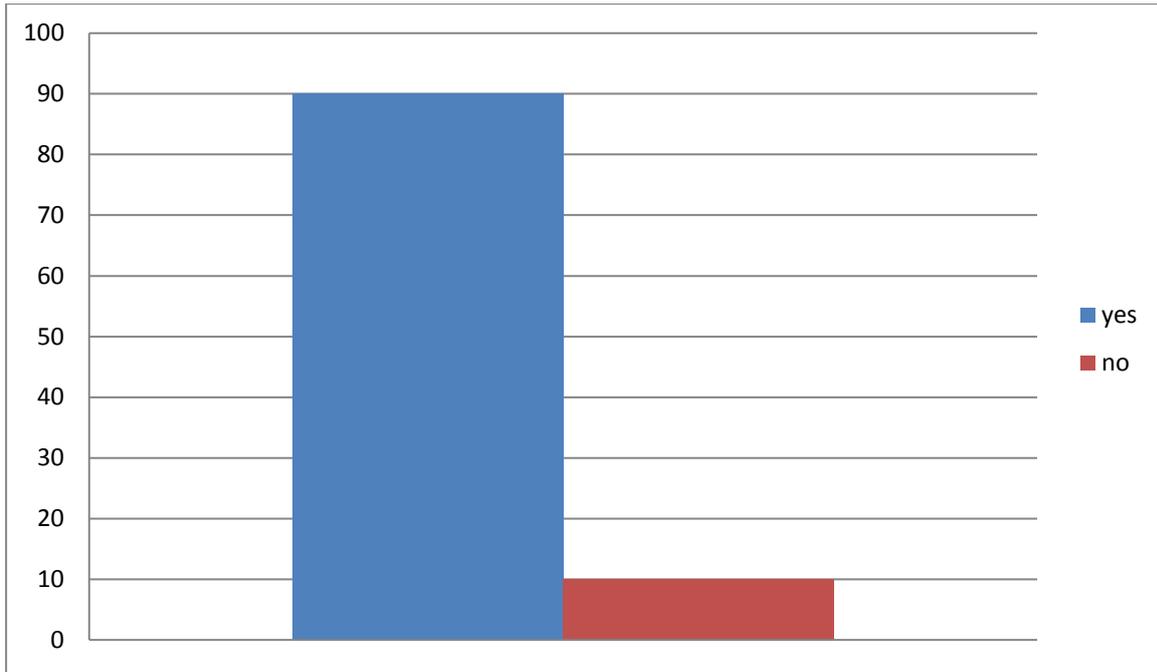


Figure 14: A Litigation in Progress at that Time.

Question 05: Is there a pending or existing court order for or against you?

Yes	49	98%
No	01	02%

Table 11: A pending or existing court for or against respondents.

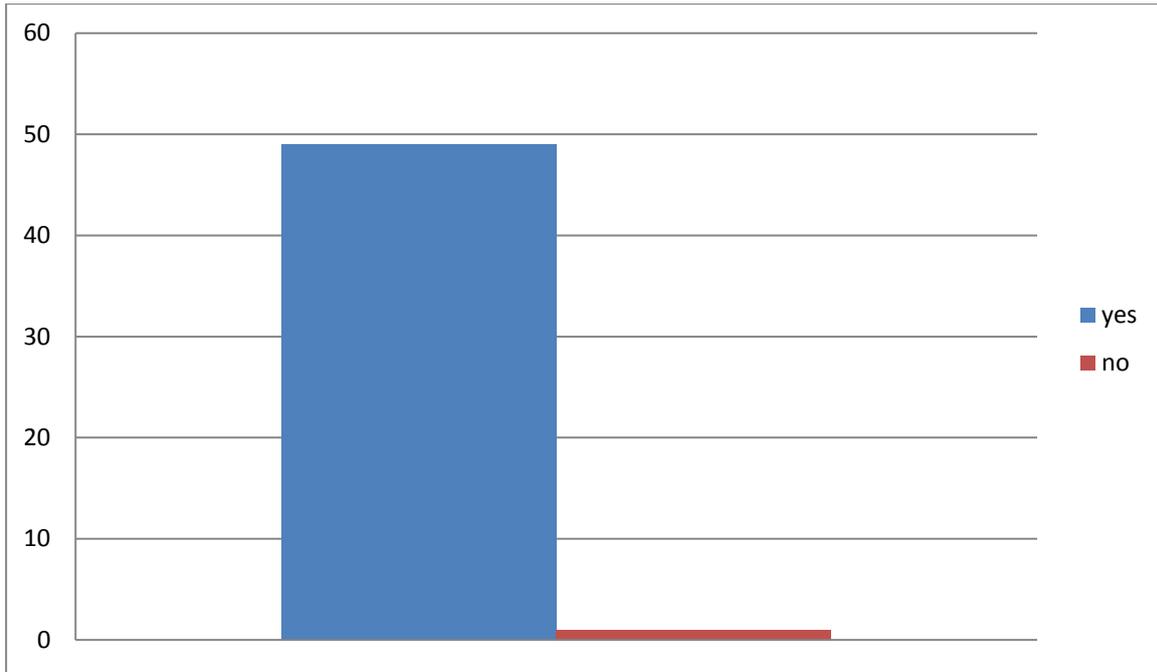


Figure 15: A pending or existing court for or against respondents.

Question 06: Do you have concerns for being treated as having less importance than the other party to this mediation?

	Yes	%	No	%
Females	50	100%	00	00%
Males	05	10%	45	90%

Table 12: Having Concerns for Being Treated as Having Less Importance than the other Party to this Mediation.

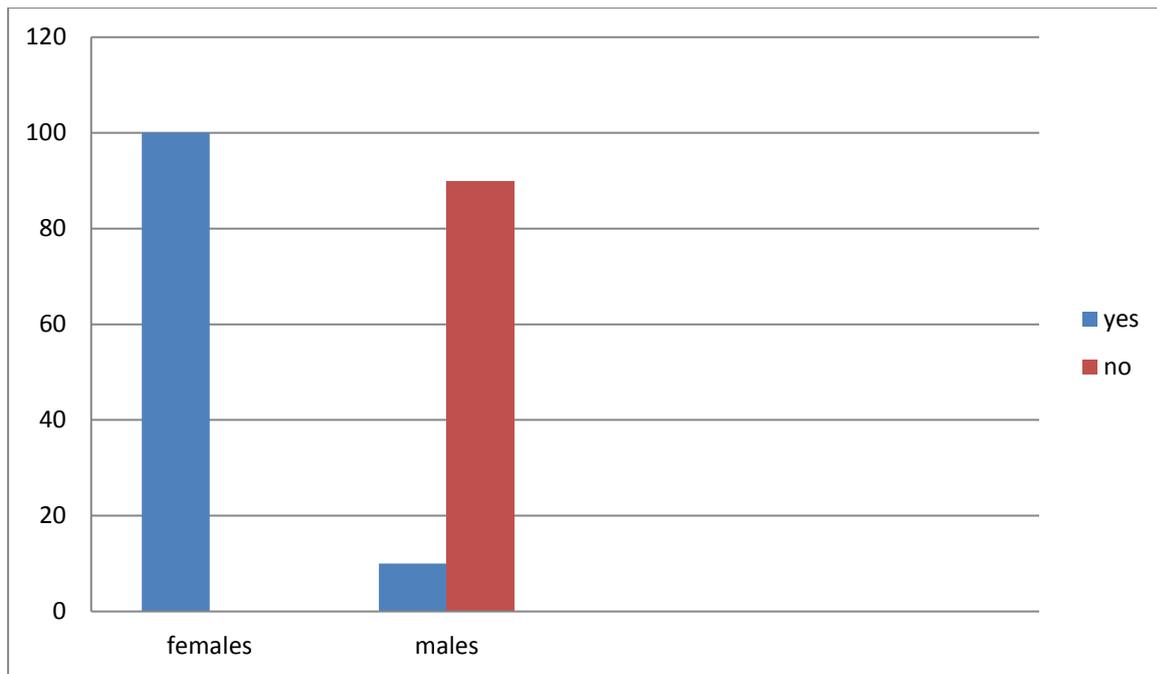


Figure 16: Having Concerns for Being Treated as Having Less Importance than the other Party to this Mediation.

Data presented in the above tables and figures are discussed as follow: Respondents were asked whether there was a litigation in progress 90% ,they said yes. When explaining the majority of them said that they have serious familial problems that they cannot solve . So, they were obliged to opt for the court to solve them. Whilst they were questioned if there was a pending or existing court order for or against them ,and if they had concerns for being treated as having less importance than the other party to this mediation; 98% of respondents answered with yes for the first question and 00% with no for the second one. This signifies that all respondents neglecting their personal situations and experiences feel that their rights are violated in favour of the second party, i.e. not only women even men .

Different answers were received for the above questions such as:

Women answers

From the above responses one can draw the following key points:

Women unawareness of their legal rights: Women carelessness about NAFC: Women do not care about laws or even about their legal rights. They show great negligence to the NAFC and they blame themselves for mistakes that they did not commit.

شادخلني انا فهذا القانون /šadaxalni ana fi hada lqanun/ (what's my part in this law?)

انا راني مريضة فيا لاطونسيون والغدة/ana rani mrid'a fija lat'onsijon welyoda/(I'm hypertensive and thyroid

انا مانفهمش فالقانون بصح بالتجربة القاضي ماعطانيش حقي /ana manefhemš fel qanun bs'aħ btadzruba lqad'i ma št'aniš ħaqi/(I don't understand the law, but by experience the judge didn't give me my right).

Dissatisfaction: Women are dissatisfied with NAFC, they accuse of being gender biased and male oriented.

اه هداك القانون الي دالي ولادي /ah hadek lqanun li dali wladi/ (Ah that law that took my children from me).

قانون الظلم هداك جاي مع الرجال /qanun d'solm hadek dzaj mša rdžal/(The Law of injustice that favours men)

عطاوني 3000دج حمبوك هديك 4 اولاد /nafaqa št'awni 3000DA hambuk šadir hadik 1 4 wlad/(They gave me only 3000DA as an alimony for 04children).

(ماعطاني والو هداك هداك القانون). /ma ʕtani walu hadek l qanun/(That law doesn't give me any of my rights).

القانون الجزائري ظالم بظالم /lqanun ldzazajri dʕalm dʕalm bezaf/(The Algerian law is so unjust).
القانون في بلادنا ماكانش. /lqanun fi bladna makanʃ/ (We do not have law in our country).
الله ونعم الوكيل فيهم اللي دارو القانون /hasbija lahu w aniʕma l wakil fi li daru lqanun/(Allah is my suffice ,and the best deputy in those who made law).

طلعلي السكر هذا القاضي /tʕalaʕli sokkr hada lqadʕi/ (I got diabetes because of this judge).

انا راني نروح عند بسيكولوج /ana rani nruħ ʕand psikolog / (I'm visiting a psychiatrist).

هبلوني القانون ماجاش معايا لقيت روعي فالزونقا hebluni lqanun madzaʃ mʕaja lqit ruħi fzonqa/(They drove me crazy the law was not on my side i found myself on the street).

كون يقلعولهم يعاودوا الزواج /kun jegelʕulhom jʕawdu zwadz/ (I wish they would ban polygamy)

كون يطلعولي النفقة /kun jtʕalʕuli nafaqa/(I hope the alimony will be raised).

كون غي يعطوني الدار خير مالكرا تعرفي كرا لي في واحد البلاصة كاتاستروف /kun yi jaʕtʕuni dar xir mel kra taʕarfi krali fi waħd plasa katastrof/(I wish they would allow me to stay in my house it would be better than rent, because he rented me a terrible house.)

Submissive and Perpetrators

Women are not victims but rather perpetrators.They devaluate themselves and consider their inferiority:

ماخصنيش الدراهم خصني ولادي كون حسبت كيما هكا مانتزوجش ماكانش معيشة بلا ولادي /ma xasniʃ drahem xasni wladi kun hsebt kima haka ma netzeweʃ makanʃ mʕiʃa bla wladi/ (I do not need money

.I need my children I can live without them, if I knew that will happen to me I would not remarry) .القانون باغي يجي معايا. / lqanun bayi jdzi mʕaja/(the law in my favour).

باجنا لقانون يجي مع الرجل باغي يجي مع المغبونة كيفي /bajna lqanun jdzi mʕa radzel bayi jdzi mʕa lmaybuna kifi/ (The law favours a man, not a poor woman like me).

Men's answers

Unawareness/ignorance الخلع حرام ماكانش منها الرجل تطلقو المرأة /lxoʕ hram makanʃ mnha tʕalgu martu/(kholaa is illicit).

Dissatisfaction المرأة لقانون جاي مع المرأة /lqanun dzaj mʕa lmra/(the law favours women).

Evasion of responsibility by:

Denying: man refused to pay alimony and support his children as if they are not his children or they are no longer so since he divorced their mother(her former spouse) علاش نعطيها النفقة انا /ʕlaʃ naʕtʕiha nafaqa ana maʃi xddam/ (Why shall I give her alimony).

كون يقلعو القانون تاع النفقة /kun jegelʕu lqanun taʕ nafaqa/(I hope they delete the alimony law).

Attacking:القانون حللكم العينين وليتو تهددو الرجل بالخلع /lqanun hallalkum lʕajnjin welitu thaddu radzel bel xoʕ/(The law opened your eyes and you threaten men with khula).

Blaming: كون بغات تدي ولادها كون ماتزوجتتش /kun byat tedi wladha kun matzewdzetʃ/(If she wanted to keep her children, she wouldn't remarry).

انا ندي ولادي مانبغيمش يترباو مع راجل غريب /ana wladi manebif jetrabbaw mʕa radzel yrib/(I am taking my children and I do not see them being brought up with a strange man).

انا كون يديرو علي هذا القانون قاع بيدلوه راه عطاكم الحرية باش تركيبو فوقنا /ana kun jdiru ʕlija hada lqanun gaʕ Ybedluh rah ʕtakum lhurrija beʕ terekbu fugna/(If they took my opinion, they would delete that law that liberate and empowers you).

Men's answers ,on the other hand, indicated the great dissatisfaction about NAFC. Surprisingly,men think that NAFC promotes gender discrimination in favour for women. Thus, it ensures women's rights regardless men's viewpoints and interests. For them, NAFC may have catastrophic outcomes, it is the main factor that cause family disputes and often lead to divorce. Articles about alimony and kholaa should be deleted ,as men suggested.

These findings reflect the patriarchal thought of Algerian men .The latter believe that they are women controllers ,and women must have no little access to independent rights.

3.3. Questionnaires Analysis(Women /Men)

Personal Information

Gender: male female other

Total gender	Male	female	other
100	50	50	00
%	50%	50%	00%

Table 13: Gender of Respondents

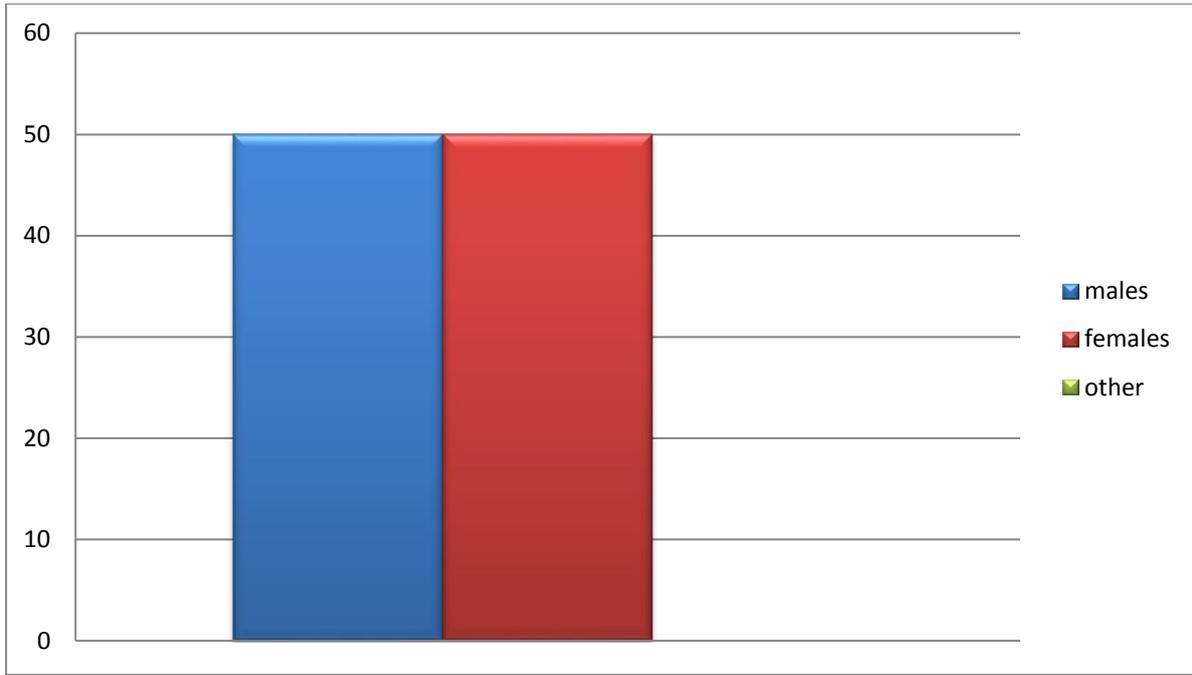


Figure 17: Gender of Respondents.

Age: 19/30 30/50 +50

Total Age	19-30				30-50				+50			
	Females		Males		Females		Males		Females		Males	
	N°	%	N°	%	N°	%	N°	%	N°	%	N°	%
% 100	11	11%	09	09%	29	29%	33	33%	10	10%	08	08%

Table 14: Age of Respondent.

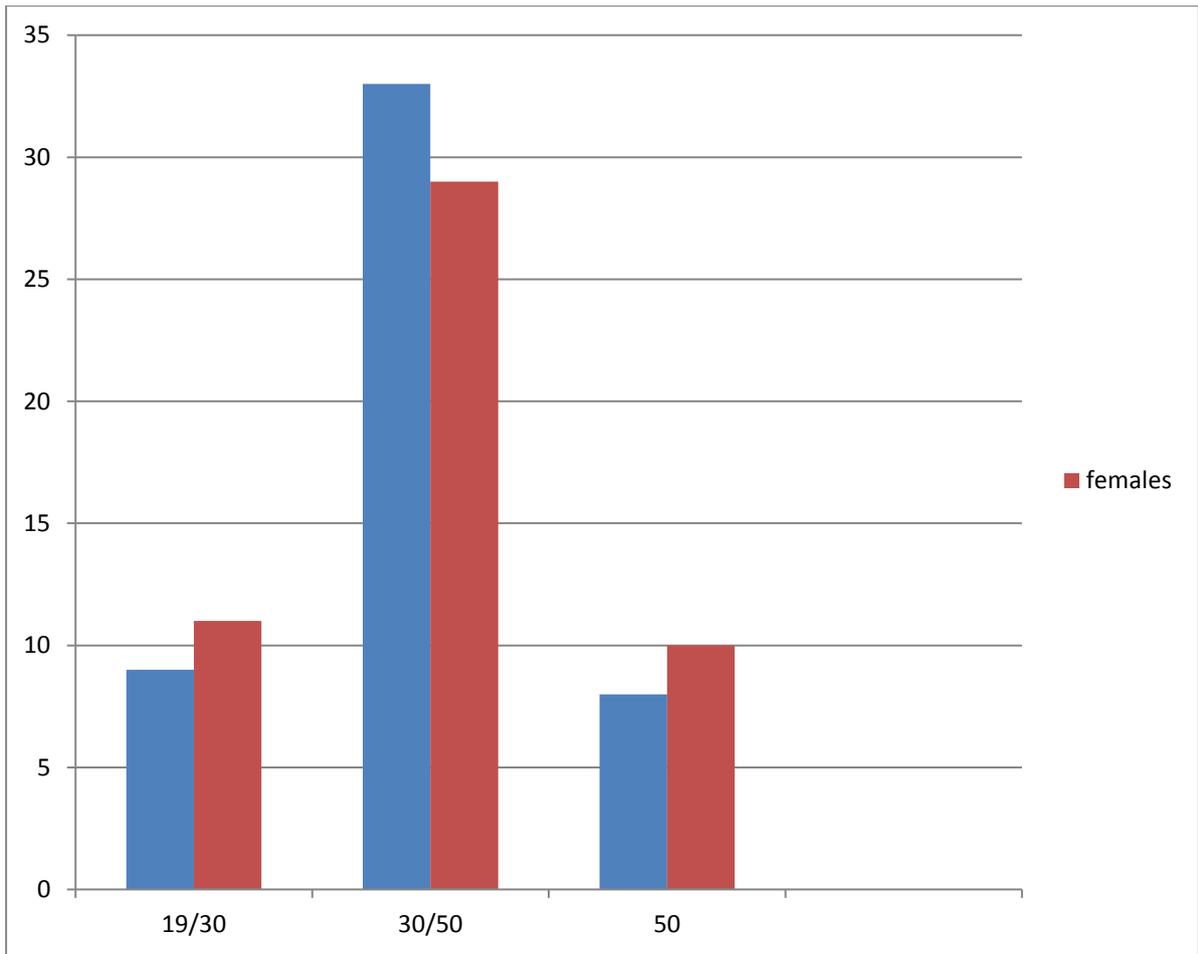


Figure 18: Age of Respondents.

Occupations

Females	Males
19 housewives	15 Security agent
03 hairdressers	10 trader
11 teachers	07 jobless
01 midwife	05 teachers
02 engineers	05 firemen
02 bank agents	03 policemen
01 maid	02 retired
02 directors	01 engineer
04 nurses	01 Tailor
02 doctors	01 director
03university students	

Table 15: Occupation of Respondents.

Educational level

	Females		Males	
	N°	%	N°	%
Primary school	04	04%	02	02%
Middle school	08	08%	07	07%
High school	07	07%	09	09%
Bac +	03	03%	13	13%
Superior level (BA+...)	28	28%	19	19%

Table 16: Education of Respondents.

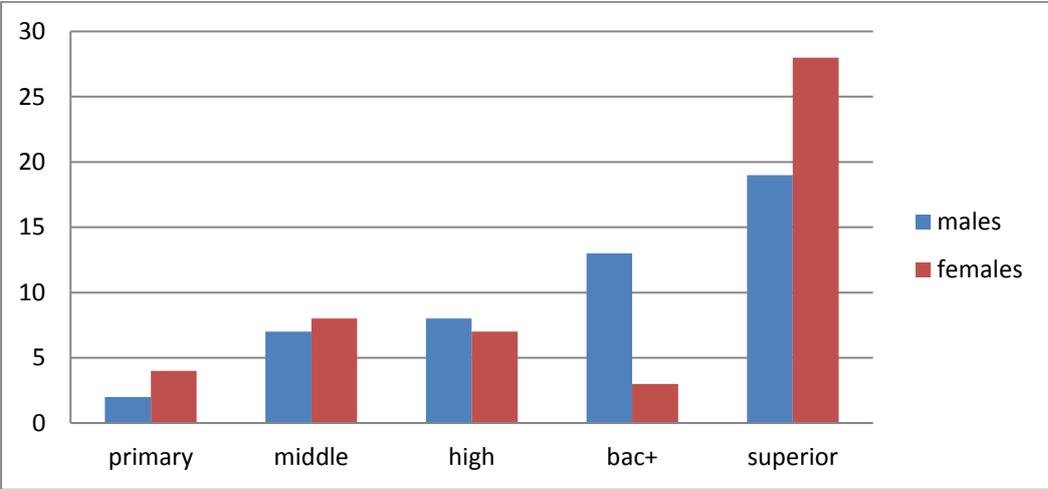


Figure 19: Education of Respondents

Marital Status

	Females		Males		Total	
	N°	%	N°	%	N°	%
single	03	03%	05	5%	8	08%
married	11	11%	24	24%	35	35%
widowed	00	00%	02	02%	02	02%
divorced	36	36%	19	19%	55	55%
Total	50	50%	50	50%	100	100%

Table 17 :Marital Status of Respondents.

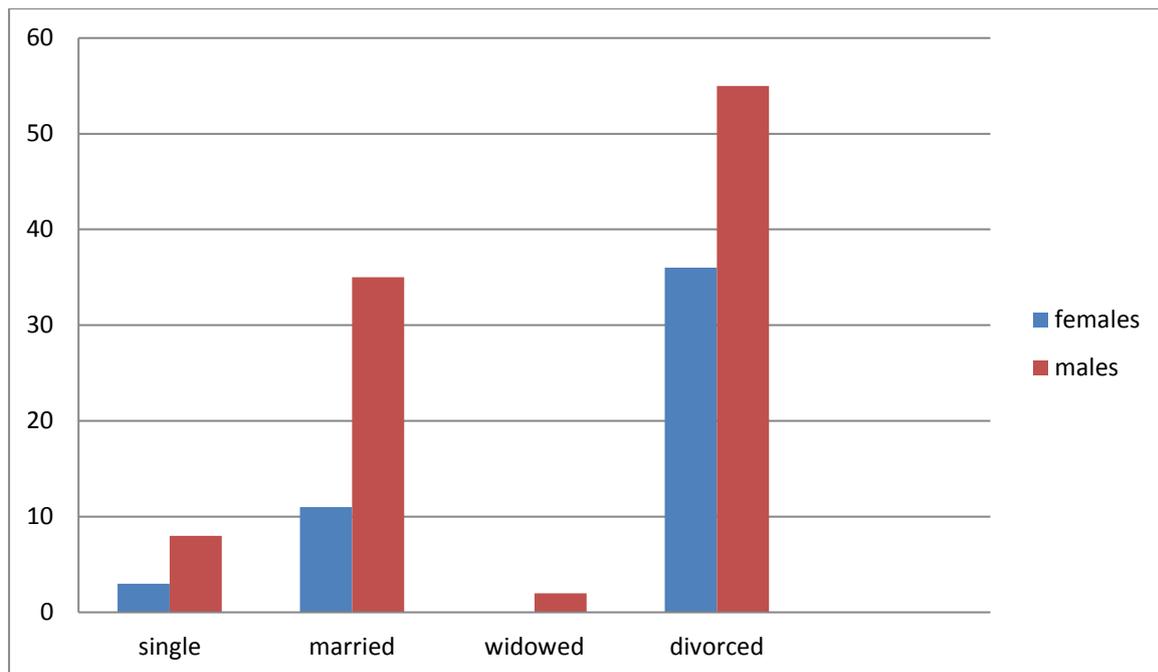


Figure 20:Marital status of Respondents.

The whole number of the participants is 100, half of them are females ;whereas the rest are males,with an average age of more than 30 and less than 50 years old. Out of 100 respondents, Most of them(56% of females and 36% of males) are well educated Furthermore,the majority of them occupy high social positions like teachers ,doctors, directors...etc. Importantly, the majority of females are divorced (72%) while nearly half (48%) of the males respondents are married.

Personal Experience

1. Have you ever taken a legal action? **Yes** **No**

Have you ever taken a legal action?	yes	%	No	%
100	98	98%	02	02%

Table 18: Taking a Legal Action.

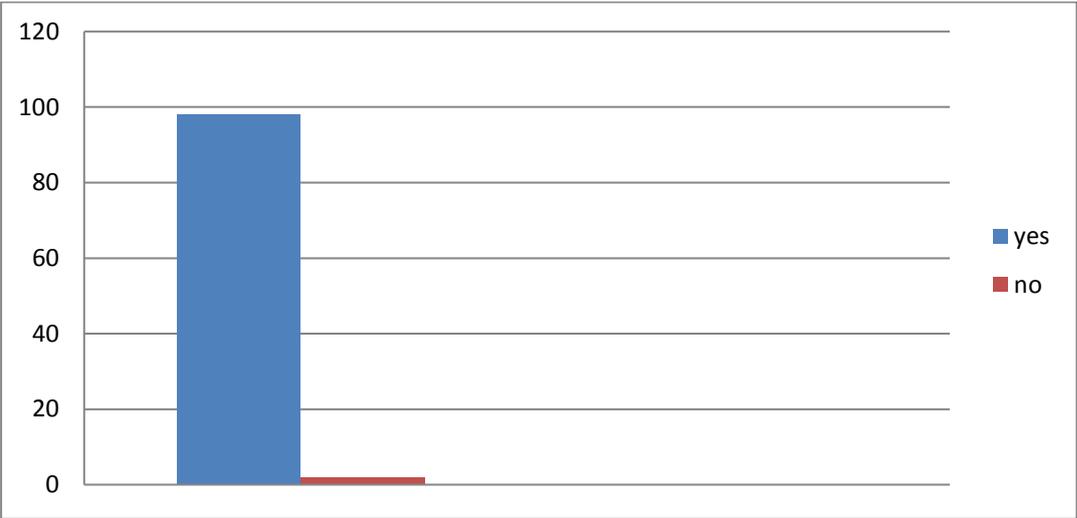


Figure 21: Taking a Legal Action.

2.If yes ,it was about which issue of the following(tick in the box):

Ideas	N°	%
A- custody and visitation	24	24%
B- <u>Financial support</u> <u>/Enforcing support payments</u>	33	33%
C- <u>Staying in the family house</u>	02	02%
D- Divorce, Legal Separation	35	35%
E- <u>Getting married</u>	06	06%

Table19: Issues of the Legal Action.

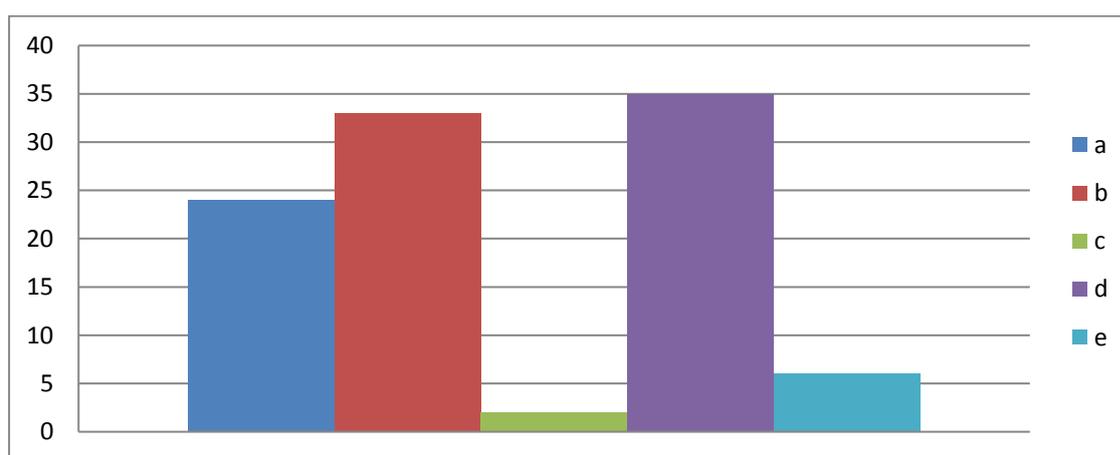


Figure 22: Issues of the Legal Action.

The above table is concerned with the respondents experiences and whether they have ever taken a legal action or not. It also tries to precise the purpose of the legal action for the respondents who answered with yes . It indicates that the majority of them (98%) took a legal action mostly about getting divorced and/or enforcing support payment. A significant number of them chose to the court room to solve problems about their children’s custody and visitation, whereas few of them(02%) took the legal action to get married.

3. Have there been any litigation or other legal proceedings between you and the opposing party? Yes No

Question	Yes		No	
	N°	%	N°	%
Have there been any litigation or other legal proceedings between you and the opposing party?	96	96%	04	04%

Table 20: A litigation between the Respondent and the other Party.

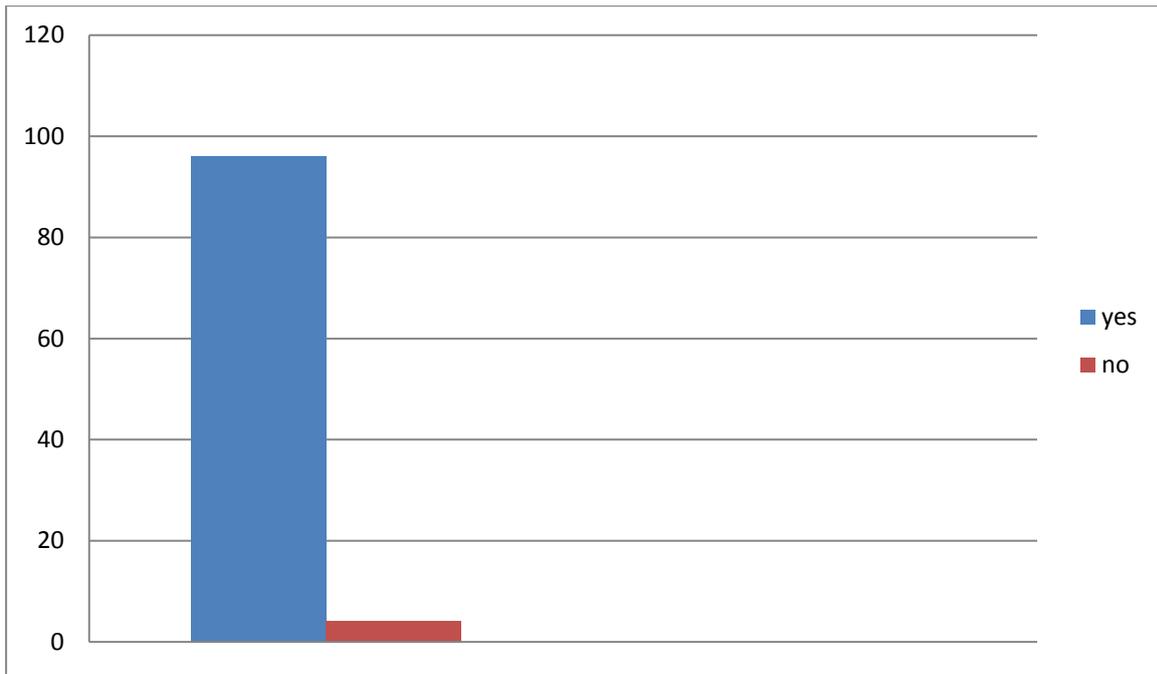


Figure23 : A litigation between the Respondent and the other Party.

4. If so, please explain.

5. At the present time, is there litigation in progress? Yes No

Question	Yes		No	
	N°	%	N°	%
At the present time, is there litigation in progress ?	88	88%	12	12%

Table21:A Litigation in Progress.

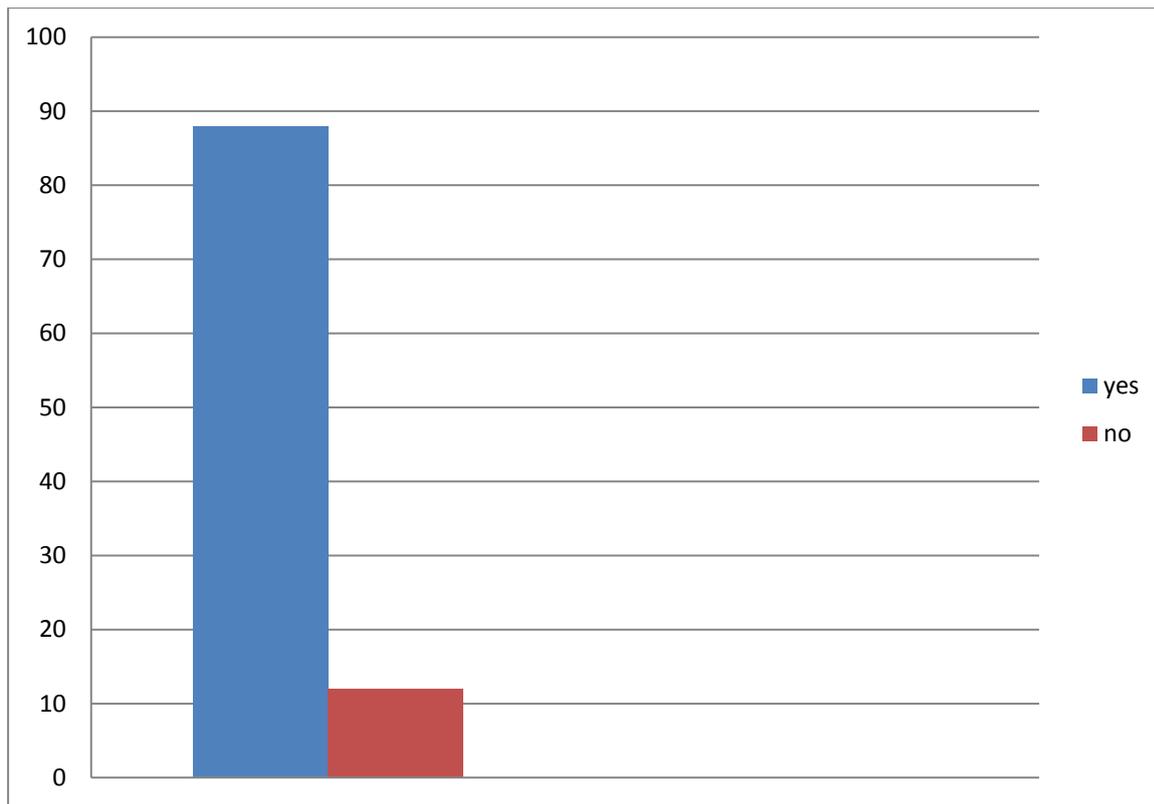


Figure 24:A Litigation in Progress.

6. Is there a pending or existing court order for or against you(in relation to marriage and its dissolution)?..... Yes No

Question	Yes		No	
	N°	%	N°	%
Is there a pending or existing court order for or against you(in relation to marriage and its dissolution)	96	96%	04	04%

Table 22:A Pending for or against the Respondent.

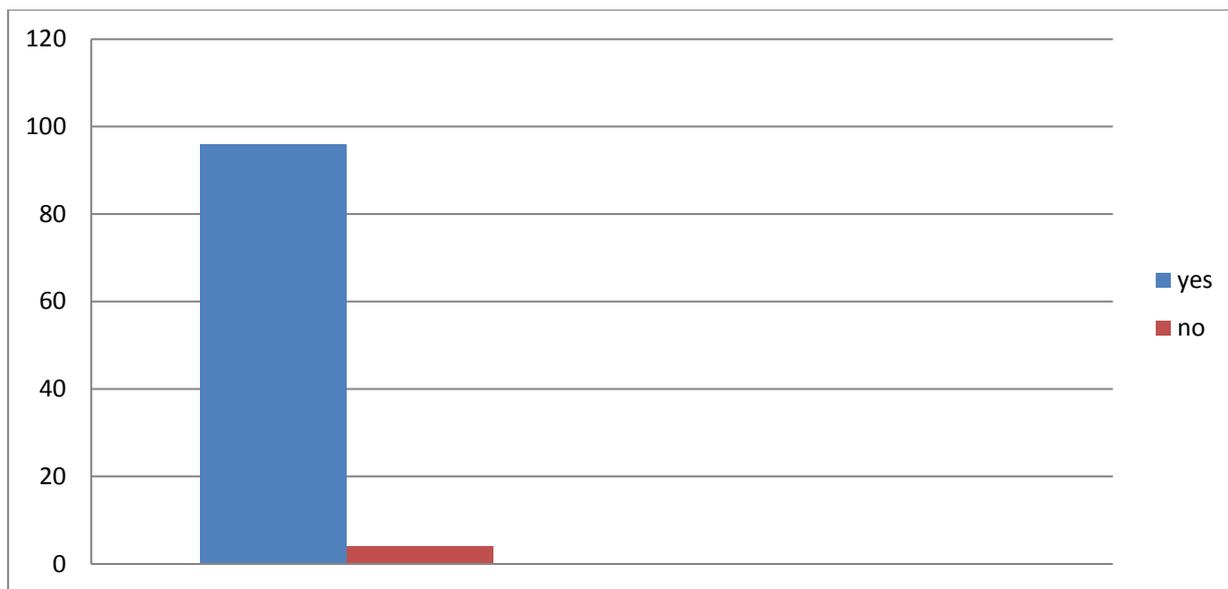


Figure 25:A Pending for or against the Respondent.

The above tables seek to elicit more information about the participants experiences by examining whether there is any litigation between the respondent and her/his partner especially in the present time ; and if there is a court order against her/him.The results shows that a great number of them (96%) answered that there have been a legal proceeding between her/him and the opposing party. At that time,88% declared that the litigation was still in progress and there was a pending or an existing order for/against them.

7. Have you heard of the legal reforms in the Algerian family code? YesNo

Have you heard of the legal reforms in the Algerianfamily code?	Females				Males			
	Yes	%	No	%	Ye s	%	No	%
	09	09%	41	41%	10	10%	40	40%

Table23:Having heard of the Amendment to NAFC.

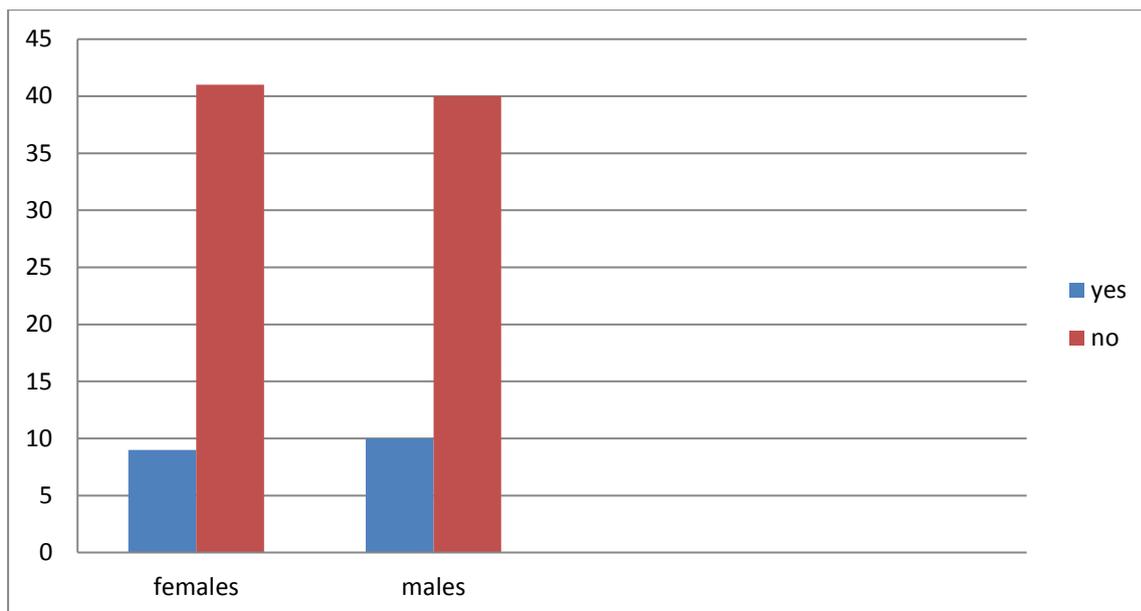


Figure 26: Having heard of the Amendment to NAFC.

It is surprising to figure out that the above table shows that the majority of my respondents (82%/80%) did not hear of the legal reforms in the Algerian family code although there was a great debate about it everywhere especially in social media. This fact confirms their unawareness of their legal rights.

8 . Do you think that inequality between men and women is embedded in the Algerian Family Code in relation to marriage and its dissolution ?

Yes No

	Females				Males			
	Yes		No		Yes		No	
Do you think that inequality between men and women is embedded in the Algerian Family Code in relation to marriage and its dissolution ?	40	40%	10	100%	49	49%	01	01%

Table 24: Perception of Equality in NAFC.

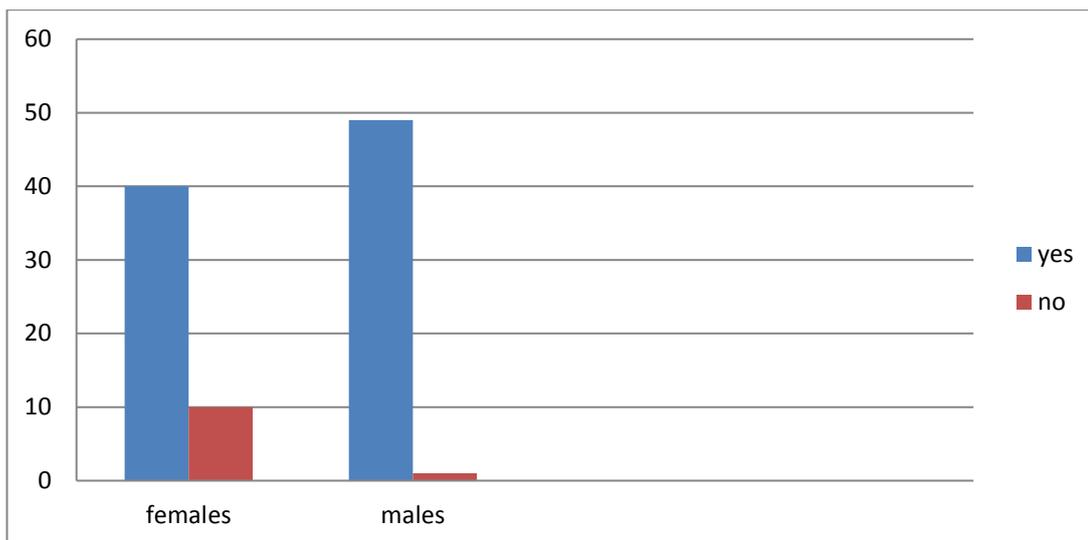


Figure 27: Perception of Equality in NAFC.

As illustrated in the table above only very few number of my respondents males viewed that the Algerian family code is not gender biased ,similarly 20% of females regarded that gender inequality doesn't exist in the target code.

9. Do you think that the Algerian family code ensures women's rights?

Yes No

	Females				Males			
	Yes		No		Yes		No	
Do you think that the Algerian family code ensures women's rights?	04	04%	46	46%	43	43%	07	7%

Table 25: Ensuring Women's Rights in NAFC.

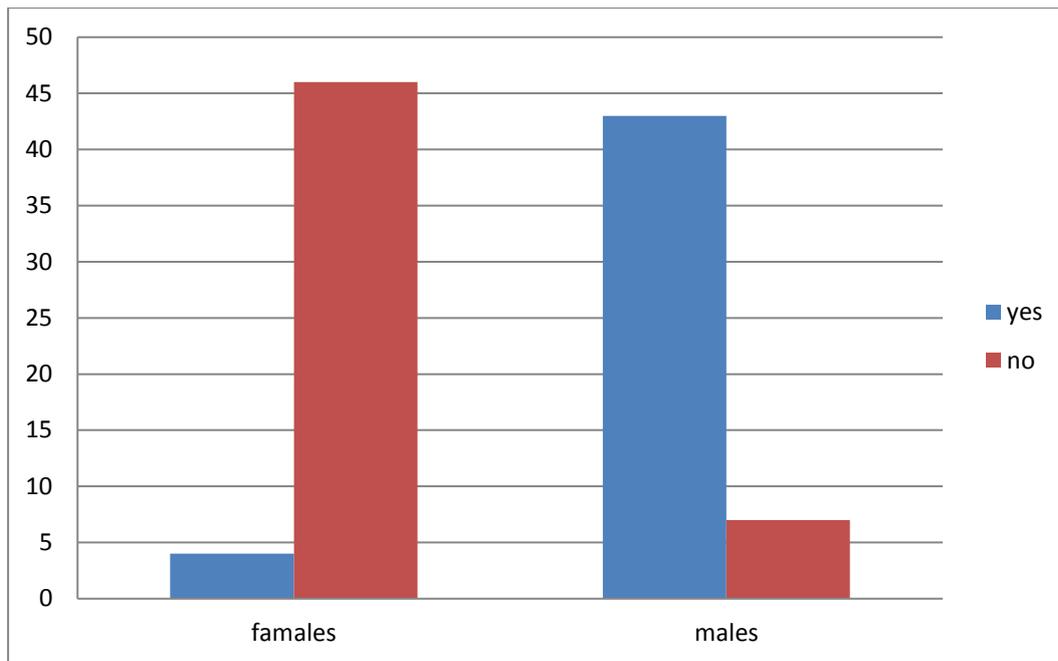


Figure 28: Ensuring Women’s Rights in NAFC.

10. What, do you think, are the impacts of the Algerian family code on women ?

11. What provisions should the Algerian Family code include to ensure women’s rights?

We figure out examining the results of the above tables and questions that 92% of females saw that the Algerian Family code does not ensure their rights .On the opposite, 86%of males viewed that it does. Additionally, when asking the participants about the impacts of the NAFC on women we received different answers as follow:

Females	Males
Protecting the rights of women.	Bullying women.
Preserving the dignity of women.	Despised man.
Ensuring children's rights.	Causing social problems.
Giving women a descent position.	Family break-up.
Saving women from slavery.	

Table 26:Impacts of NAFC on women.

As shown in the above table there is a clear discordance between the females and males viewpoints about the impacts of the family code of women, most females viewed that the code can have positive effects on women; whereas males view that it has extremely negative impacts on both women and the family.

Furthermore, when asking the participants about the possible provisions that the Algerian Family code should include to ensure women's rights. The following suggestions were provided:

Females	Males
<p>The government should pass stringent laws to punish men like imprisonment, excessive fines, etc</p> <p>Granting the right of custody to the mother without conditions</p> <p>Preventing polygamy</p> <p>Buying a flat for the woman after divorce.</p>	<p>Polygamy without conditions.</p> <p>Preventing al kholaa.</p> <p>Passing strict laws to decrease divorce rates.</p> <p>Increasing children visits.</p> <p>Making alimony affordable.</p>

Table27: Respondent’s Suggestions to ensure Women’s rights in NAFC.

From the above table we notice that there is a clear subjectivity when dealing with the subject since each party suggested the provisions which serve her/his interests .In spite the fact that some suggestions seem illogical, they are necessary for the respondents to solve their problems. For example buying a flat for woman after divorce may be seen as over exaggeration since it can exceed the financial capacity of man .However, it can be the best solution to grant peace and stability for the family(women and their children).Hence, the above suggestions should be taken for granted to ensure women’s rights.

12. who (do you think)has more rights when a marriage or union ends in terms of:

Females

	Females	%	Males	%	The same rights	%	Total
Children custody	46	92%	04	08%	00	00%	100%
Dissolution of marriage	7	14%	43	86%	00	00%	100%
Remarriage	00	00%	22	44%	28	56%	100%
Choosing the place where residing after the dissolution of marriage	8	16%	10	20%	32	64%	100%

Table 28: Females Perception of Women Rights in Post Divorce Period.

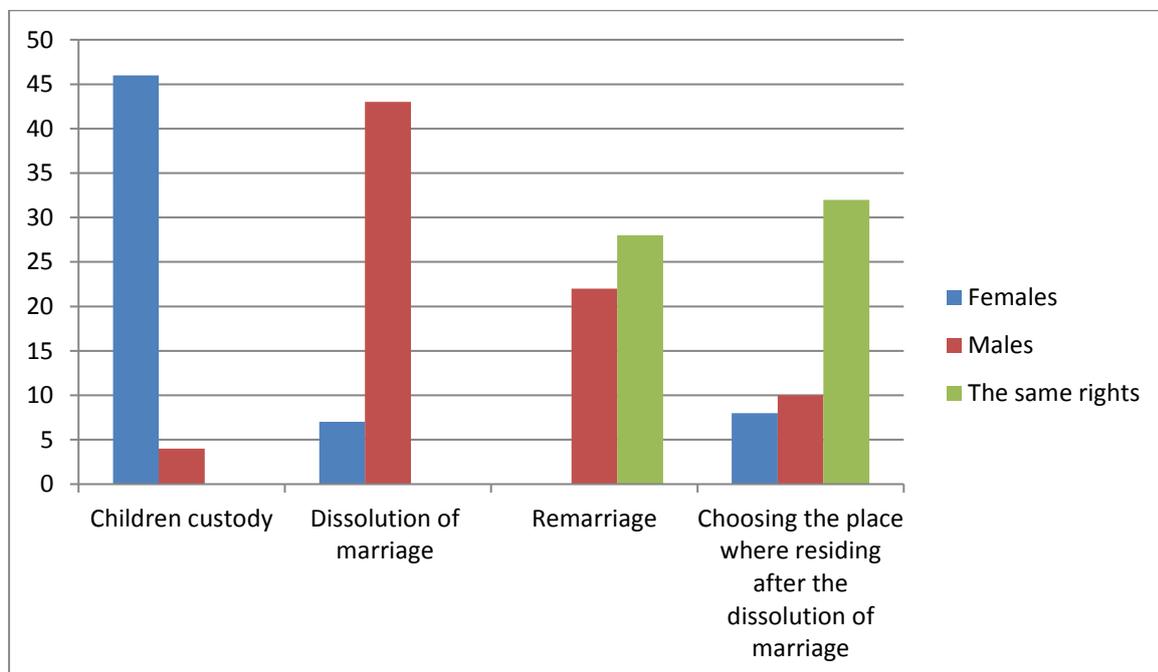


Figure 29: Females Perception of Women Rights in Post Divorce Period.

Males

	women	%	men	%	The same rights	%	Total
Children custody	50	100%	00	00%	00	00%	100%
Dissolution of marriage	00	00%	00	00%	50	100%	100%
Remarriage	00	00%	00	00%	50	100%	100%
Choosing the place where residing after the dissolution of marriage	00	00%	10	20%	40	80%	100%

Table 29: Male's Perception of Women Rights in Post Divorce Period.

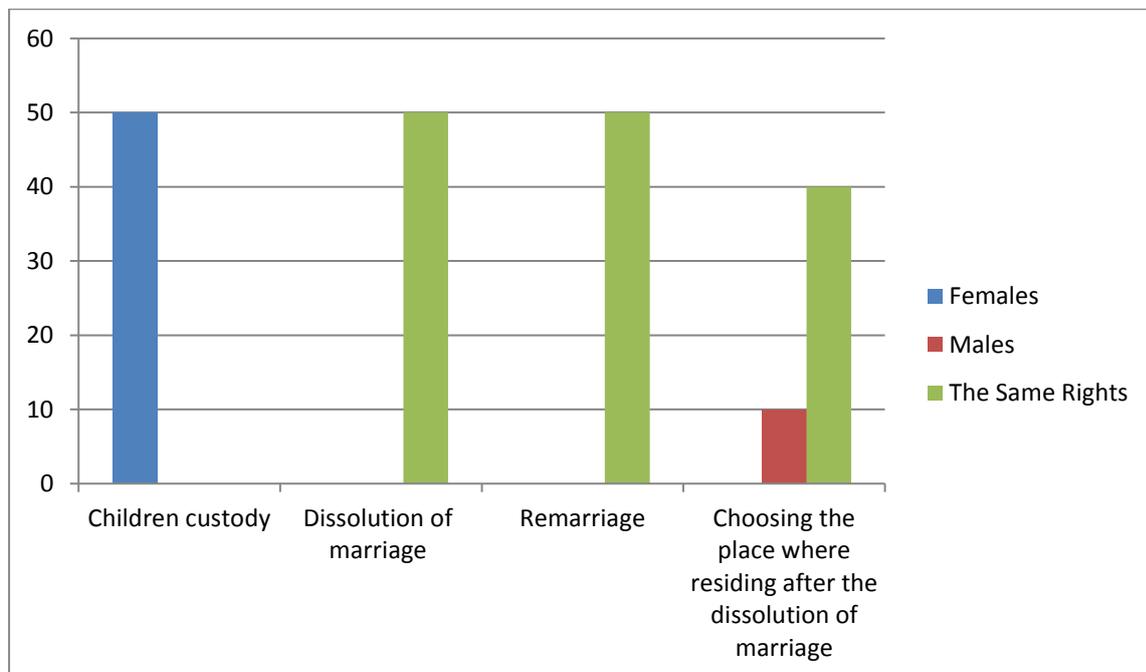


Figure 30: Male's Perception of Women Rights in Post Divorce Period.

As shown in the two tables above, my female respondent's view that women are having more rights with regard to the custody of children. Moreover, they are having the same rights to remarry, and nearly the same rights to choose the place of residing after the dissolution of marriage. On the contrary, with reference to marriage dissolution women have less rights (14%) compared to men (86%).

On the other hand, males believe that they have the same rights with women vis a vis the dissolution of marriage and remarriage, and nearly they are equal when choosing the place after the end of the union.

13. To what extent do you agree or disagree with the following statements ?

About marriage:

Ideas	Females				Males			
	Agree		Disagree		Agree		Disagree	
	N°	%	N°	%	N°	%	N°	%
A -Both spouses should express their consents to get married	50	100%	00	00%	36	72%	14	28%
B -The marriage of a Muslim man with a non - Muslim is temporarily forbidden	48	96%	02	04%	27	54%	23	46%
C -Forced marriage is prohibited and the father cannot oblige his daughter to marry against her will	35	70%	15	30%	45	90%	05	10%

D -The guardian's presence is not always needed for women	48	96%	02	04%	07	14%	43	86%
E -Engagement is a promise of marriage, not marriage	50	100%	00	00%	49	98%	01	02%
F -Both men and women can marry before 19years old after having authorization from the judge	22	44%	28	56%	48	96%	02	04%
G -Polygamy is legal under some conditions	18	36%	32	64%	43	86%	07	14%
H -The guardian's presence is not essential for the marriage of a woman who is more than 19years old	17	34%	33	66%	00	00%	50	100%
I -Women(more than19) can choose their guardian for marriage	50	100%	00	00%	10	20%	40	80%

Table30: Respondents (dis)agreement about some issues related to divorce.

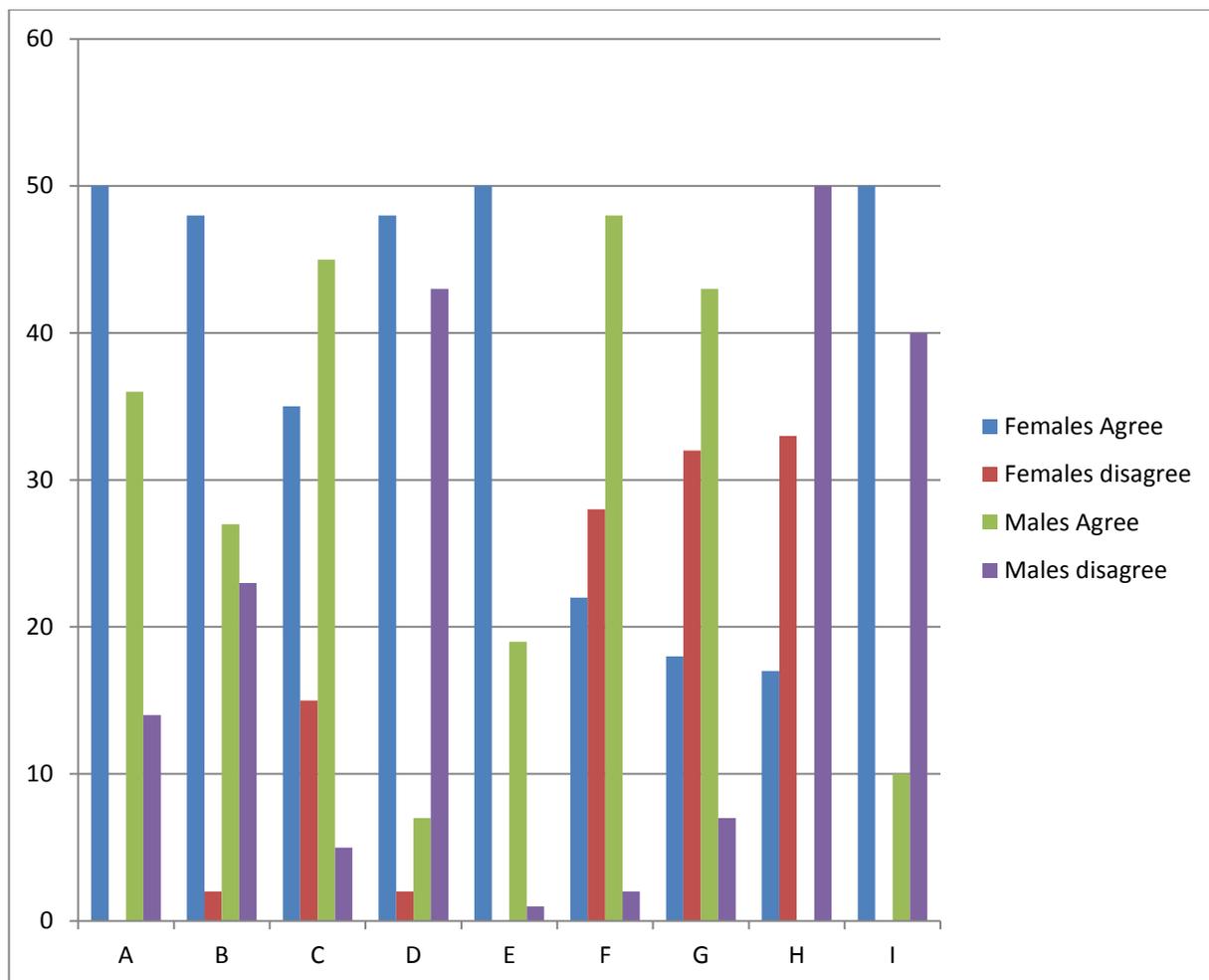


Figure 31: Respondents (dis)agreement about some issues about divorce.

We note via examining the above table that both females and males agree on the facts that engagement is not marriage but only a promise of marriage, the marriage of the minor can be legal after having the authorization from the judge, and forced marriages are prohibited as well as the marriage with non Muslim. This result indicates that the majority of the participants agree with what is mentioned in the Algerian family code. However, with regard to guardianship males are completely disagree with the articles that devalued the presence of the guardian for major women.

About Marriage Dissolution

Ideas	Females				Males			
	Agree		Disagree		Agree		Disagree	
	N°	%	N°	%	N°	%	N°	%
Al kholaa (without the husband consent)is a fundamental right for women	45	90%	05	10%	02	04%	48	96%
women are prohibited to seek their children custody after her marriage to somebody who is stranger for the children	00	00%	50	100%	46	92%	04	08%
Women's work is not a reason to custody cancellation.	42	84%	08	16%	38	76%	12	24%
The dissolution of marriage can be held by divorce or by women request.	48	96%	02	04%	01	02%	49	98%

Table31: Respondents (dis)agreement about some issues about Marriage.

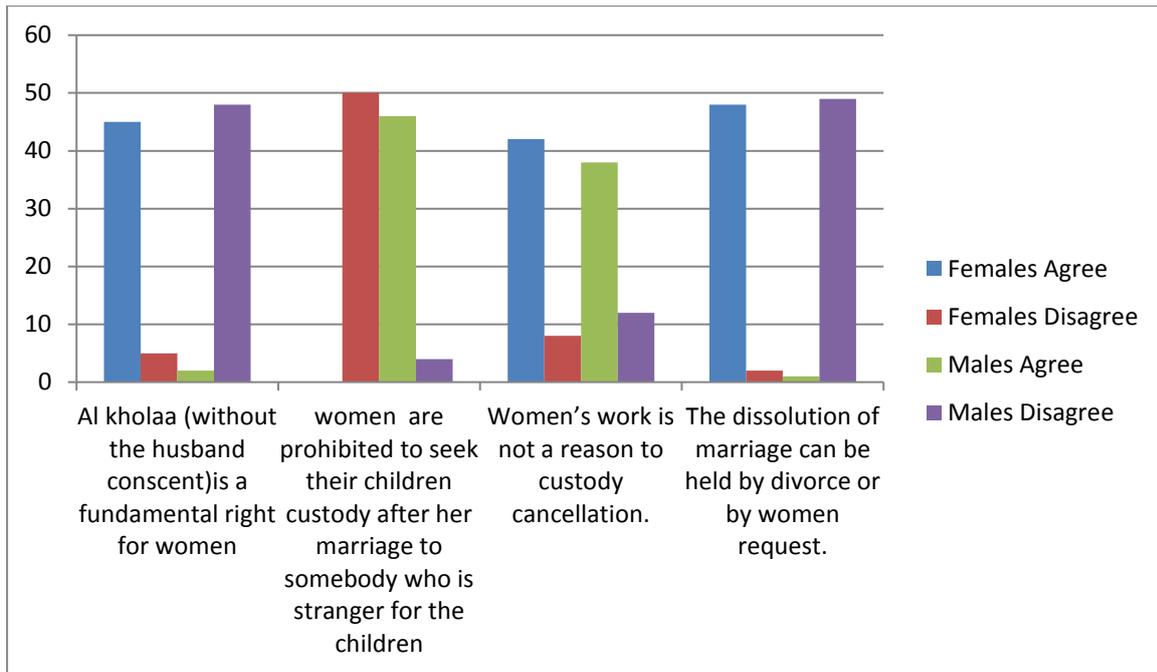


Figure 32: Respondents (dis)agreement about some issues about Marriage.

When examining the above table we noticed that *there's* a substantial *divergence* of opinion between males and females. The later agreed, with high rates(96%,90%,84%) ,with the aforementioned ideas except the one about custody .Unlike females ,males agree with the article of custody(92%) ,and extremely disagree(96%,98%) with the ideas about the dissolution of marriage which are formerly mentioned in the table.

14. If you have any feedback or comments regarding the questionnaire(about the topic), we would be grateful if you would let us know in the space below.....

This question was opened to give the respondents the opportunity to criticize and express their opinions toward the questionnaire ,most of the participants leave the space blank or write just some greetings and positive expressions like thank you,goodluck,May God help you ,I like it..etc.

However others prefer to express their opinions differently by asking some mocking questions such as : why always women women,why do not say that man is oppressed in this country, are you Muslim?, do you think that you can get married with this mentality?,Why do not you stay at home...etc

These questions and others were not shocking because they reflect the traditional conservative beliefs of the Algerian society , which is still considered as patriarchal conservative society. in the Algerian society,people believe that there are some limits that women shouldn't exceed and there are some roles that she mustn't play.To conduct a survey about the Algerian family code which is believed to be based on religion (a shared belief) is considered by some respondents as an unwelcome step.

3.4. Experts Questionnaire Analysis

This questionnaire is part of a study designed to describe the perception of women status in the New Algerian Family Code(henceforth NAFC)to future academic goals. Please complete this questionnaire. If you spend the time to complete all items, you will give me the background information necessary to understand the complexity of the target law and it may help us to detect its deficiencies. All information will be held in strict confidence.

DO NOT MENTION YOUR NAME ON THE SURVEY. YOUR INDIVIDUAL ANSWERS WILL REMAIN STRICTLY CONFIDENTIAL

Please answer the following questions according to your perception of the New Algerian Family Code. Please mark your answers with an X in the appropriate box.

Gender: male female other

Age : 19/30 30/50 + 50

Occupation :

For how long have you been practicing law?

Gender: male female other

Total	Male	female	other
Gender			
50	43	07	00
%	86%	14%	00%

Table 32 : Gender of Respondents.

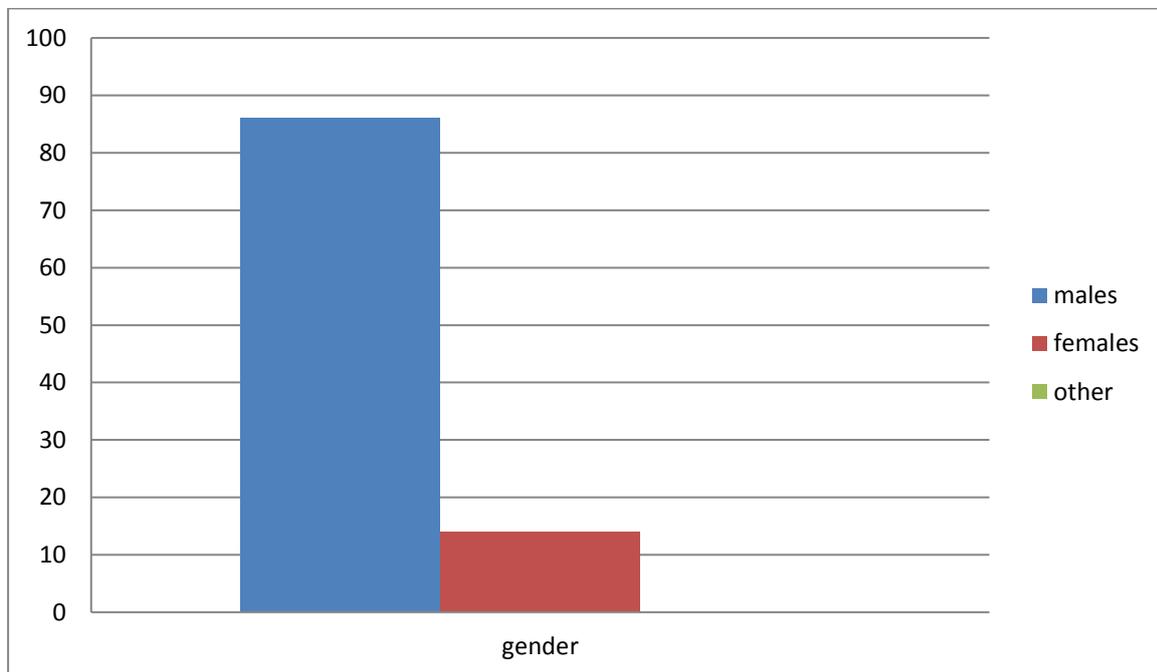


Figure 33 :Gender of Respondents.

Age: 19/30 30/50 +50

The average age is 30 years old

Table 33: Age of Respondents.

Total	19-30	30-50	+50
Age	23	26	01
%	46%	52%	02%

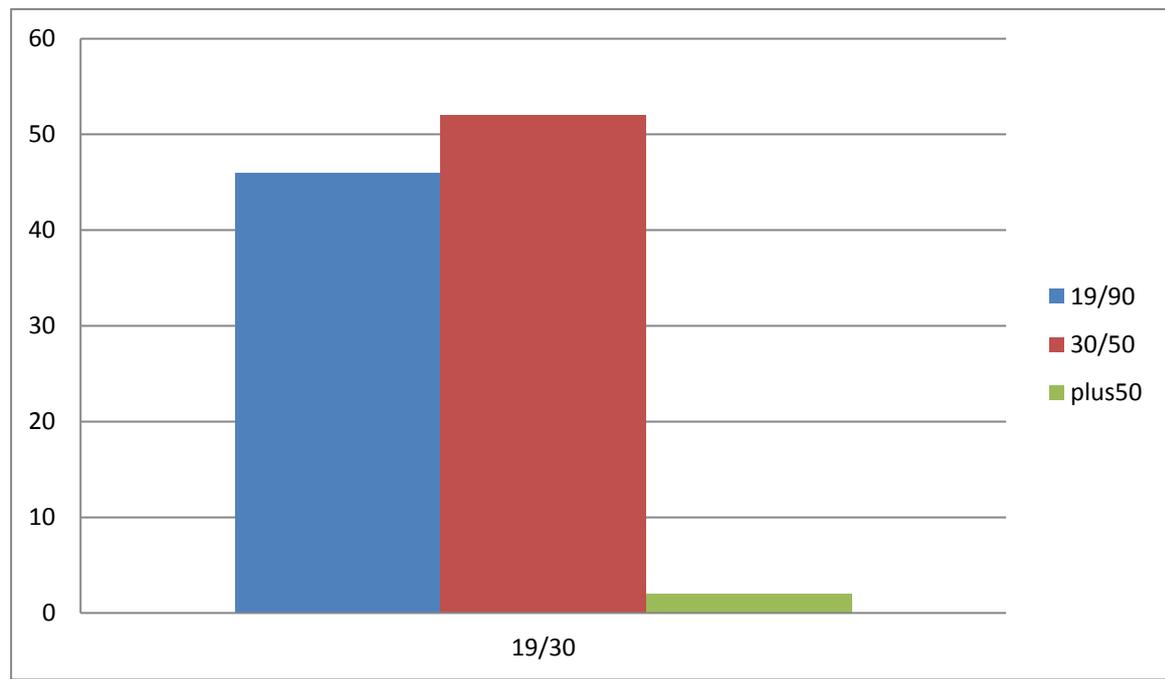


Figure 34: Age of Respondents.

Occupation: 44 Lawyers /01 Judge (family affairs)/01 General Secretary /04 Jurists

Experience : The average experience is 05 years

The whole number of the participants is 50, with an average age of more than 30 and less than 50 years old. It can be deduced that the staff is young especially since 44 of them are lawyers. This is due to the fact that the majority of them hold a BA “license” university degree after 4/3 years of study. It is evident that all the respondents have an average experience of 05 years which implies a flexible criterion that can be helpful and useful in filling the present questionnaire .

Questions

1. Have there been any legal reforms in Algerian family code? YESNO

Question	Yes	%	No	%
Have there been any legal reforms in Algerian family code?	50	100%	00	00%

Table34: Having heard of the Amendment to NAFC.

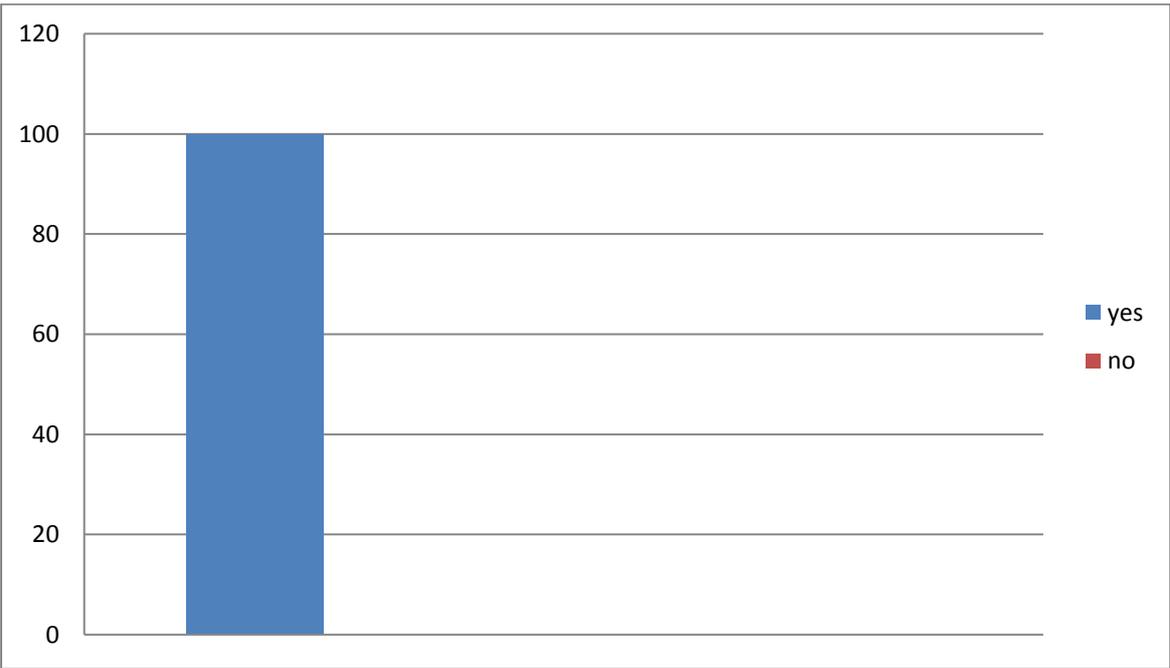


Figure 35: Having heard of the Amendment to NAFC

As an opening question this one tends to attract the respondent's attention and introduce them to the following questions. Logically, all the respondents (100%) answered with yes .

2. Do you think that the amendments of 2005 to the Algerian Family Code tend to guarantee non-discrimination and equality between men and women (in relation to marriage and its dissolution)? **YES NO**

Question	Yes	%	No	%
Do you think that the amendments of 2005 to the Algerian Family Code tend to guarantee non-discrimination and equality between men and women(in relation to marriage and its dissolution) ?	39	78%	11	22%

Table 36 : Viewpoint about non Discrimination in NAFC.

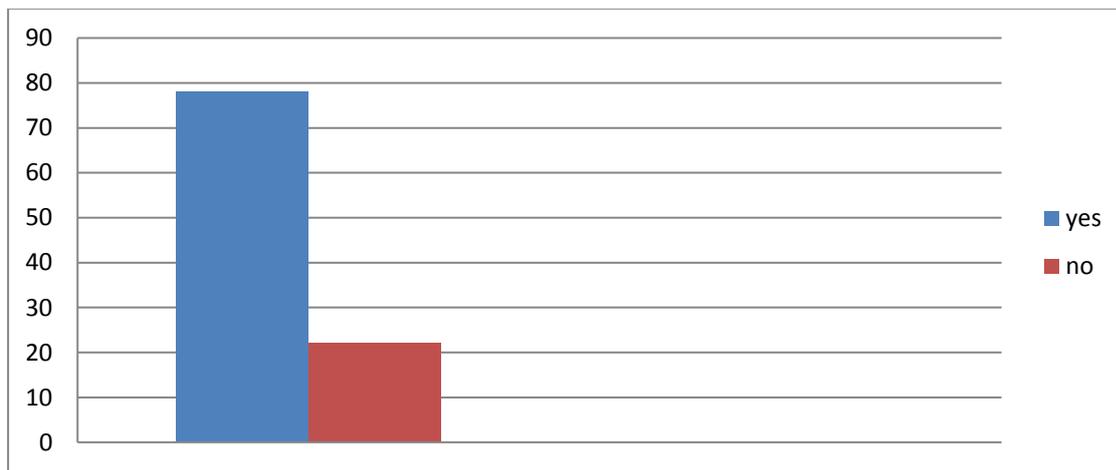


Figure 36: Viewpoint about non Discrimination in NAFC.

3. If yes, please explain and provide examples. (If no please go directly to the previous question).....

As indicated in the above table the majority (78%) answered with yes. Plenty of examples were provided, some of them are irrelevant (they may be relevant to other questions).The pertinent examples are summarized as follow:

Women now have the right to file for divorce without the husband agreement .

The same age of marriage.

Custody goes to the father directly after the remarriage of the mother.

No arbitrary marriage is legalized

Legal age for marriage is 19.

From the above examples ,it seems that the respondents are quite aware about the principles of non discrimination that are provided by the family code, however they are not conscious about the imbedded loopholes in the target code.

4. Do you think that the Algerian Family code(2005) provides some guidelines(tick in the box) :

To protect the rights of women

To enhance the rights of men

To protect children

Other please specify them

Idea	Number	Percentage
To protect the rights of women	27	54%
To enhance the rights of men	02	4%
To protect children	20	40%
Other	01	02%

Table 37: Guidelines provided by NAFC.

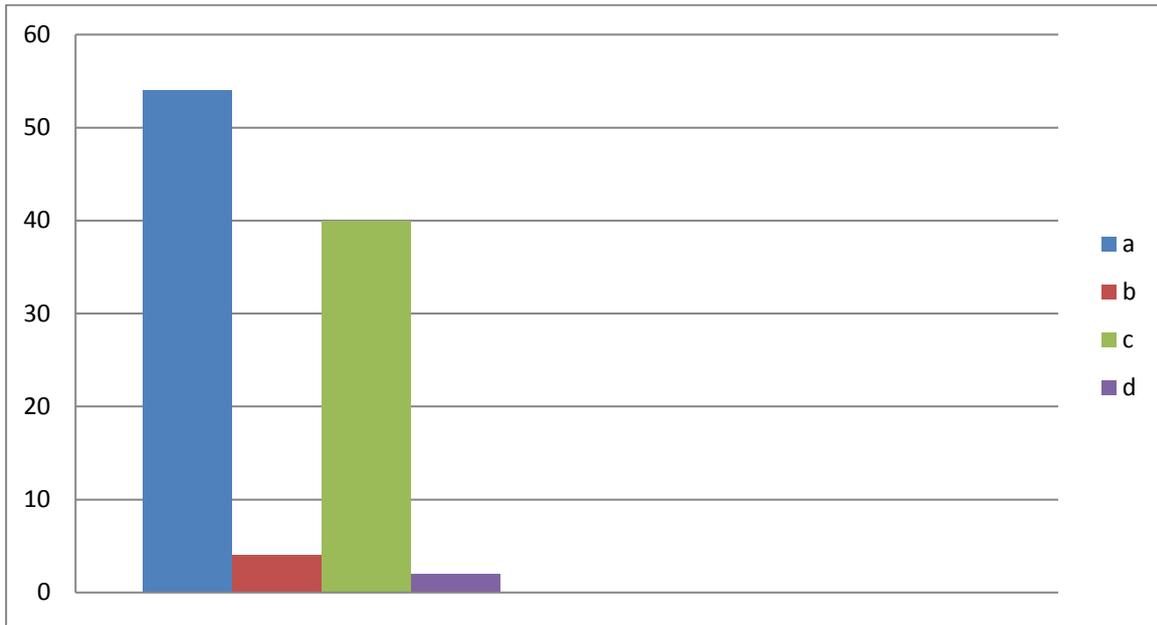


Figure 37: Guidelines provided by NAFC.

The above table shows that the majority of the respondents (54%) believe that target code provides some guidelines to preserve the rights of women, whereas only very few number of them (4%) view that it does so to enhance the rights of men .In addition, one respondent argues that the new Algerian family code provides some guidelines for purely political reasons and none of the list .

5. Compared to the previous Family Code , how do you consider the recent amendments to the Algerian family code :

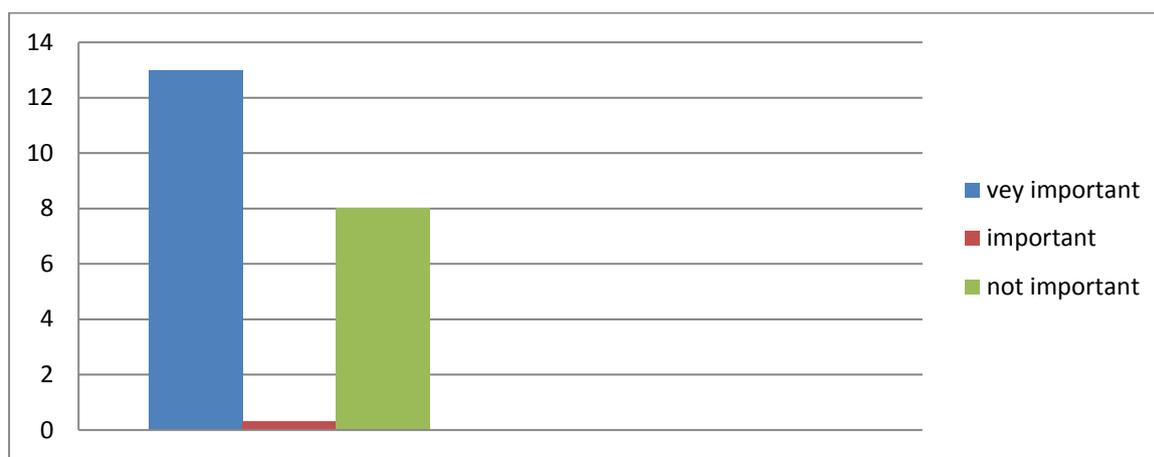
Very important

Important

Not important

Idea	Number	Percentage
Very important	13	26%
Important	29	58%
Not important	8	16%

Table 38: Experts Perceptions of the new Amendments to NAFC.



Figures 38 :Experts Perceptions of the new Amendments to NAFC.

6. How satisfied are you with the reforms of 2005?

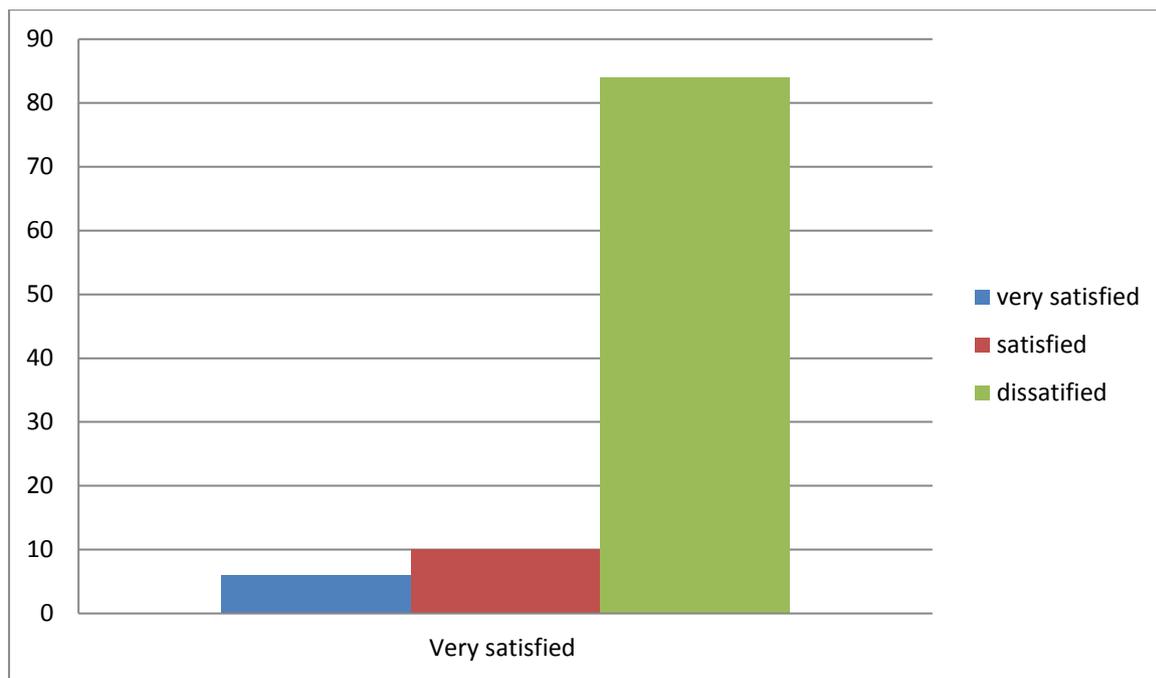
Verysatisfied

Satisfied

Dissatisfied

Idea	Number	Percentage
Very satisfied	3	6%
Satisfied	5	10%
Dissatisfied	42	84%

Table 39:Experts Satisfaction of NAFC.



Figures 39:Experts Satisfaction of NAFC.

From the above two tables, it is noticed that most of respondents (58%) view that the amendments of 2005 to the Algerian family code are important. However, they are dissatisfied with it, with a high percentage of 84%. That is to say, the Algerian family code of 2005 was improved compared to that of 1984. whilst, the amendments of 2005, for the respondents, are still deficient.

7. Do you think that the New Algerian family Code help to protect the Family in general, and women in particular? Yes No

Question	Yes	%	No	%
Do you think that the New Algerian family Code help to protect the Family in general, and women in particular?	44	80%	06	12%

Table 40: Expert's Perception of the Protection of Women Rights in NAFC.

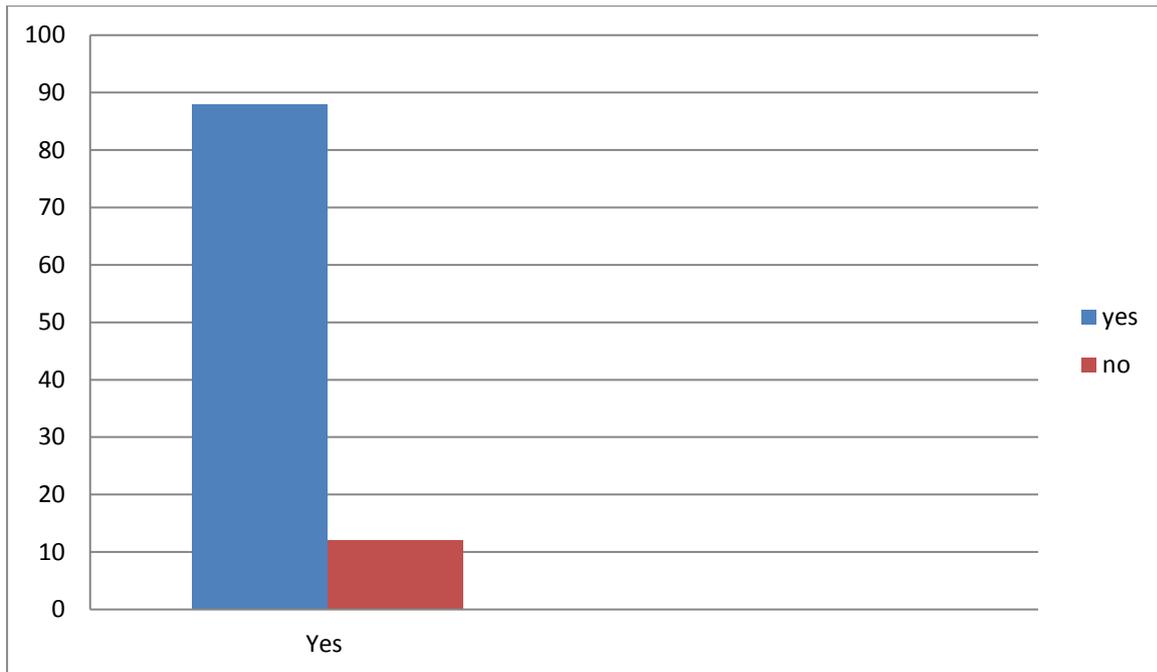


Figure 40: Expert’s Perception of the Protection of Rights in NAFC.

8. Have women status been enhanced by the new Algerian family code in relation to(tick in the box only one answer):

The minimum age for marriage

The freedom to choose a spouse and to express consent

The freedom to dissolve marriage

Option	Number	Percentage
The minimum age for marriage	04	8%
The freedom to choose a spouse and to express consent	22	44%
The freedom to dissolve marriage	24	48%

Table 41: Expert’s Perception of enhancing Women’s Rights in NAFC.

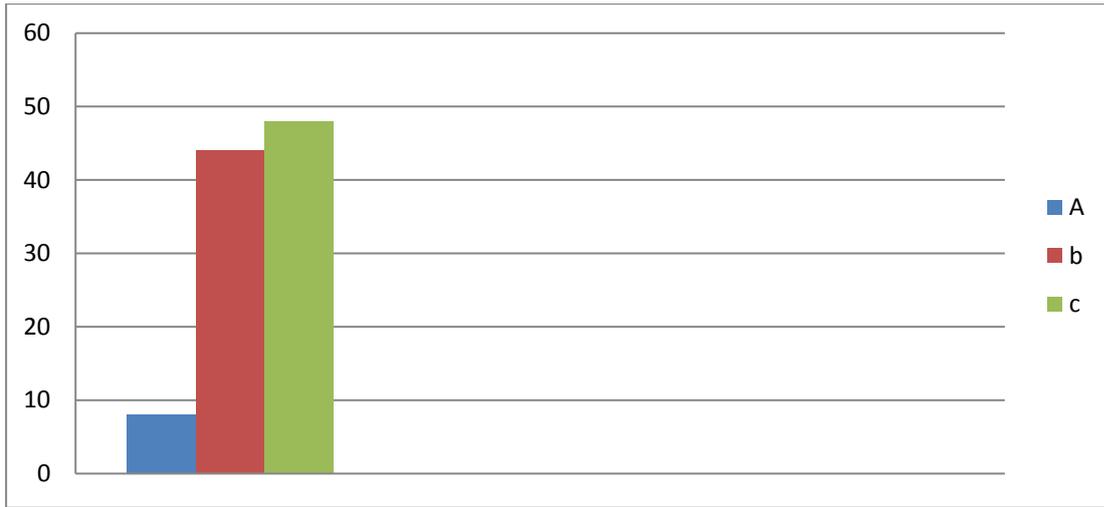


Figure 41: Expert's Perception of enhancing Women's Rights in NAFC.

It is pointed out from the above two tables that most of the respondents(88%) think that the new Algerian family Code help to protect the family in general ,and women in particular. Furthermore, they view that women status in relation to the freedom to dissolve marriage have been enhanced.in fact, the question number 08 was tricky since women's status have been enhanced in relation to all of the three options ,and thus choosing only one seem to be based on personal assumption not existing facts .

9. With permission or authorization from guardian/courts, both men and women have the right to marry before 19 years old according to amended Algerian family code ?

Agree

Disagree

Question	Agree	%	Disagree	%
With permission or authorization from guardian/courts, both men and women have the right to marry before 19 years old according to Algerian family code ?	17	34%	33	66%

Table 42: Expert's (dis) Agreement with the legal Age for Marriage.

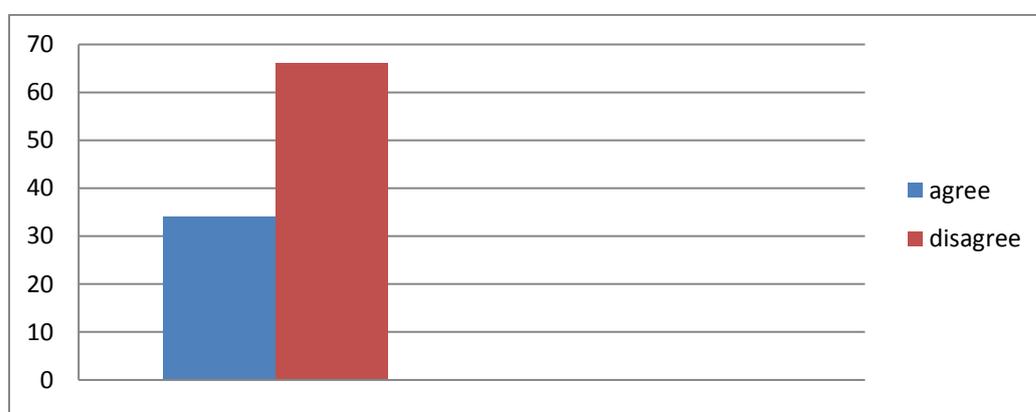


Figure 42: Expert's (dis) Agreement with the Legal Age for Marriage

In considering the above tables ,it is found that 66% of the respondents were disagree with the existing law in relation to the age of marriage. This law gives both genders the opportunity to marry at the age of 19 and under this age marriage can be held with authorization from the court and/or the guardian. Hence, the minor's marriage can be legal under some conditions, and this is not considered as a dangerous issue for legal experts.

10. Do you agree or disagree with the law of polygamy? Agree Disagree

Question	Agree	%	Disagree	%
Do you agree or disagree with the law of polygamy?	38	76%	12	24%

Table 43: Expert's (dis)agreement with the article Polygamy.

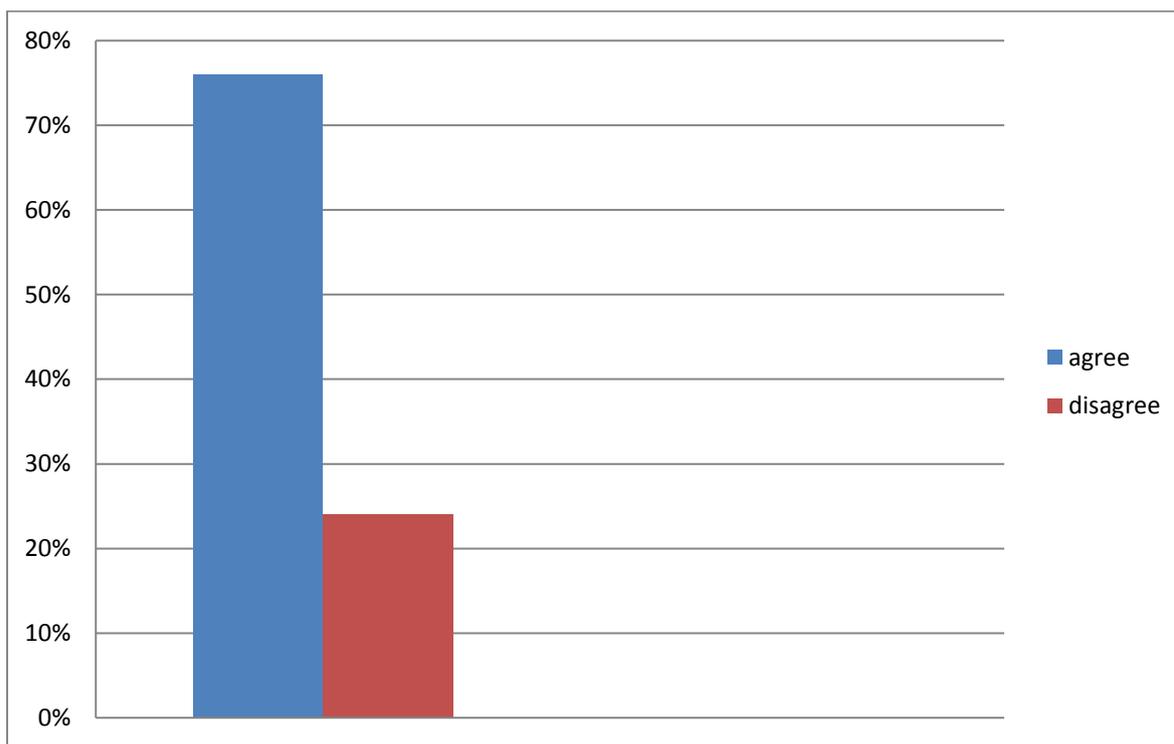


Figure 43 :Expert's (dis)agreement with the article Polygamy.

The above table shows that only a few number of respondents (12 out of 50) disagree with the existing law of polygamy .i.e. the majority of them agree with it although it was largely criticized by experts in the field and completely rejected by women. A reason behind this result may be due to the fact that the majority of the respondents are males.

11. Are rights of widow(er)/divorced advanced in terms of:

Idea	Yes	%	N	%
Freedom to choose residence after separation/death	8	16%	42	84%
Remarriage	50	100%	00	00%
Alimony	22	44%	28	56%
Property	50	100%	00	00%
Custody	46	92%	04	08%

Table 44: Expert's perceptions of the rights of Divorced/widows.

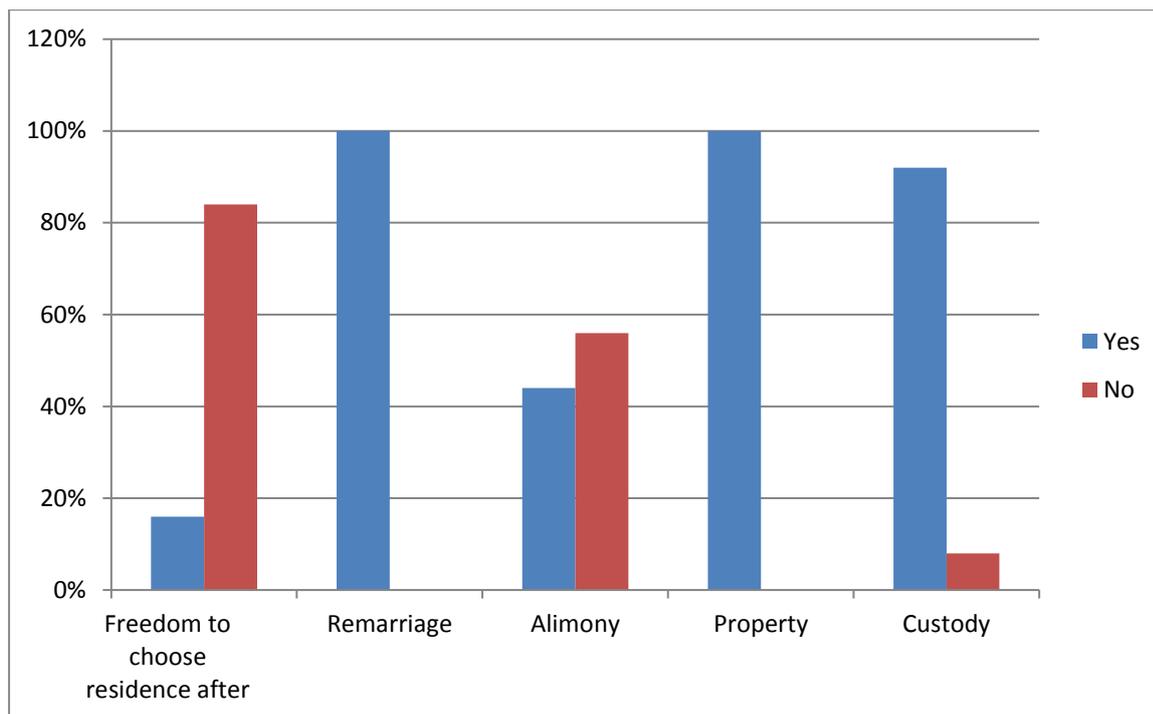


Figure 44: Expert's perceptions of the rights of Divorced/widows.

12. Some people think that in spite of the amendments to the Algerian Family code of 2005 in relation to marriage and its dissolution , it still includes some aspects of the patriarchal society. What do you think? YesNo

Question	Yes	%	No	%
Some people think that in spite of the amendments to the Algerian Family code(2005)in relation to marriage and its dissolution , is still including some aspects of the patriarchal society. What do you think?	02	04%	48	96%

Table 45: Expert's Viewpoint about the Patriarchal Principles in NACF.

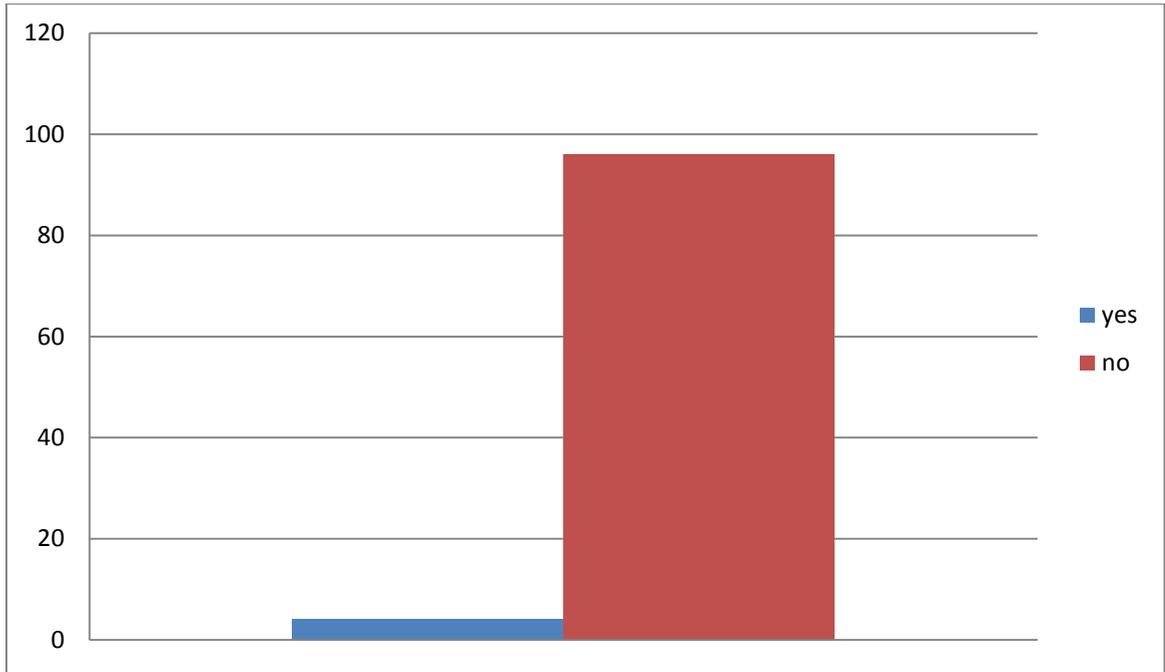


Figure 45: Expert’s Viewpoint about the Patriarchal Principles in NACF.

13. Please justify your answer?.....

Examining the above table, it is noted that 96% of the respondents disagreed with the given fact.i.e they think that the target code does not include any patriarchal aspects.

As far as justifications are concerned, the respondents who answered with no defended their viewpoints are quoted as follows:

القانون متمخض من احكام الشريعة الاسلامية فان رأيت غير ذلك

بتلاوة القرآن /Iqanunmutamaxid⁵mina ari⁵a lislamijafa in raajtayajradalika fa
 ʃalajkabilawatilquran/The law is under the provisions of Islamic law “shariaa”, if you see
 the contrary you should read the theCoran.

لا ابد/la abadan/no never.

قانون الأسرة لم يظلم لا الرجل ولا المرأة /qanunlosra lam jad^{si}limlradzulwalalmaraa/ The family code did not oppress neither men nor women.

هو كأى قانون وضعي به عيوب /huwakaajqanun wad^{si} bihi^{si}ujub/ it is like any man made law has some disadvantages.

الهيمنة الذكورية ليست دائما سلبية /al hajmana dukuri jalaysat daiman silbija/ Male's domination is not always negative.

القانون أعطى المرأة كل حقوقها /lqanun ^{si}t'a lelmra kul huquqha / The law gave women all their rights.

قانون مستمد من الشريعة الاسلامية لا نقاش /qanun mustamad mina ^{si}fari^{sa} lislamiya la niqaf / The law is derived from Islamic law “ shariaa” ,no debate.

هيمنة أنثوية /haymanauntawija/ Female domination.

رجل والمرأة امرأة وهذا الاختلاف طبيعي / radze lradzel welmra mra wahada ixtilaf t'abi^{si}/ A man is man and a woman is woman this difference is natural.

وين هادي ماكانش منها /win hadimakan ^{si}Mnha/ where is this!!!!!! It does not exist

On the other hand the respondents(4%) who chose to say yes provided the following justifications:

قانون الاسرة متوازن /qanun losra mutawazin/ The law is balanced

المفروض التساوي في الحقوق والواجبات /almafrud attasawi fil huquq wal wad^{si}ibat/ Equal rights and duties are required

From the above results ,it is clearly noticed that the majority of the respondents think that the new Algerian family code is free from any sexist classification .i.e according to them, men are not privileged by the target code.One explanation can be provided here is that *privileges* may not be noticeable to their holders.

14. Are women given more rights by the Algerian Family Code(2005),in relation to marriage and its dissolution ? YesNo

Questions	Yes	%	No	%
Are women given more rights by the Algerian Family Code(2005) in relation to marriage and its dissolution?	48	96%	02	04%

Table 46:Expert’s Perception of Women’s Rights in NAFC.

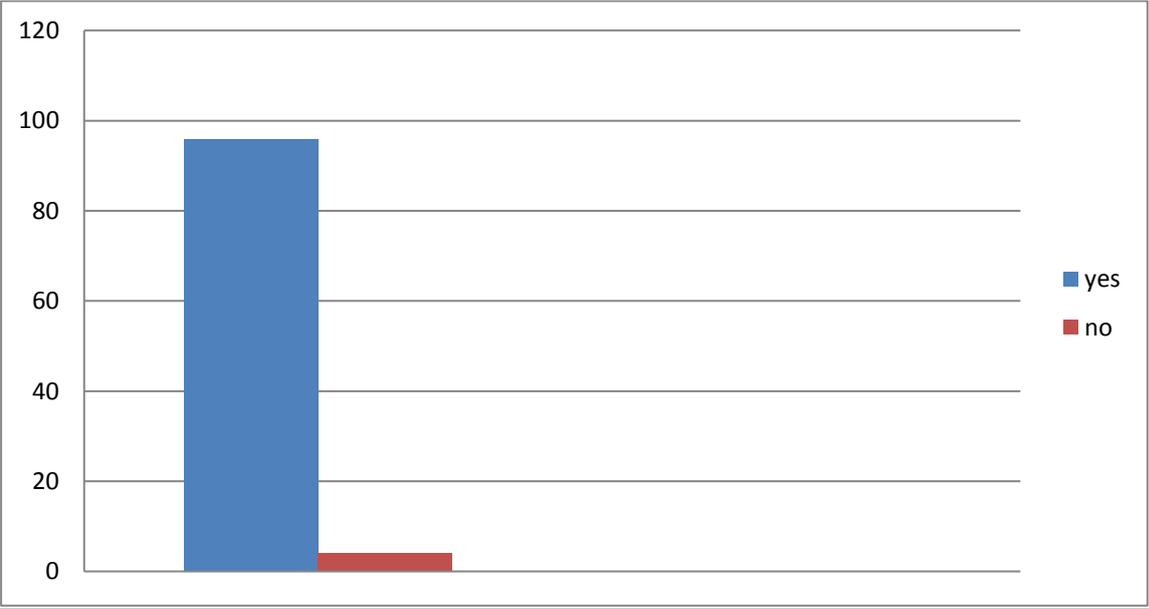


Figure 46:Expert’s Perception of Women’s Rights in NAFC.

As it is indicated in the above table, the results of the present question go logically with that of the previous one .Obviously ,the majority of the respondents(96%) think that the Algerian family code 2005 in relation to marriage and its dissolution gives more rights to women.

15. Compared to the other Arab Countries (like Tunisia, Morocco, Egypt) ,do you think that women’s status was enhanced by Algerian Family Code of 2005?

YESNo

Questions	Yes	%	No	%
Compared to the other Maghreb Countries (like Tunisia, Morocco) ,do you think that women’s status was enhanced by Algerian Family Code 2005?	10	20%	40	80%

Table 47:Expert’s viewpoint about NAFC in comparison with other Arab Countries.

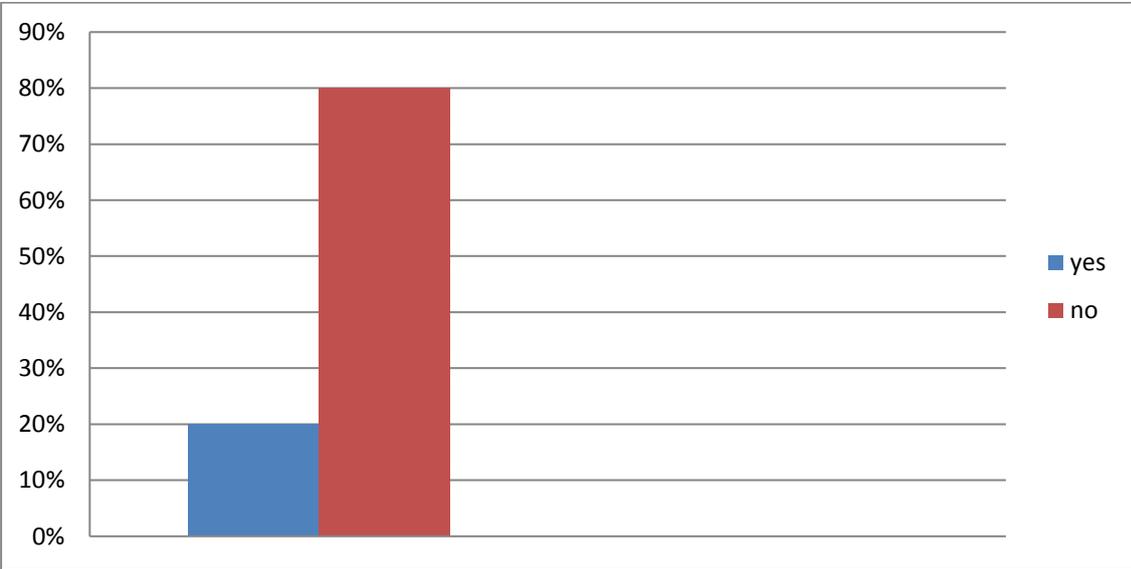


Figure 47: Expert’s viewpoint about NAFC in comparison with other Arab Countries.

The results of the above tables are really astonishing compared by the previous ones. Although the majority of the respondents think that women are given more rights by the target

code, only 20% of them view that women’s rights are enhanced when compared to the neighbouring Arab countries. That is to say, in spite of all the efforts of the legislator to enhance women’s rights ,they are still considered to be inefficient.

16. Do you think that religion can be an obstacle that hinder the enhancement of women’s status? YES No

Question	Yes	%	No	%
Do you think that religion can be an obstacle that hinder the enhancement of women status?	01	02%	49	98%

Table 48:Expert’s viewpoint about the obstacles that hinder the enhancement of women’s status.

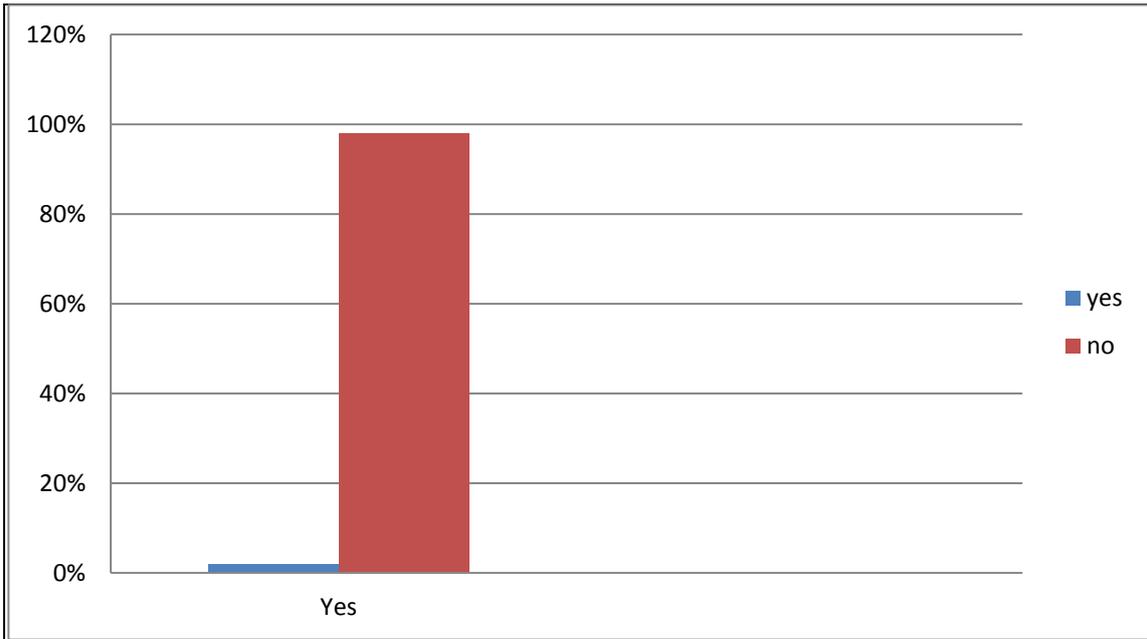


Figure 48: Expert’s viewpoint about the Obstacles that hinder the Enhancement of women’s Status.

As expected the above table shows that most the respondents argued that religion cannot be an obstacle to hinder the enhancement of women status. Indeed, religion is sacred and the respondents cannot criticize it or accusing it to be an obstacle for women’s rights development except one of them who dared to say yes it is so.

17.] Do you think that women are aware of their legal rights in relation to marriage and its dissolution?

Question	Yes	%	No	%
Do you think that women are aware of legal their rights in relation to marriage and its dissolution?	13	26%	37	74%

Table 49 :Expert’s viewpoint about Women’s (un)awareness of NAFC.

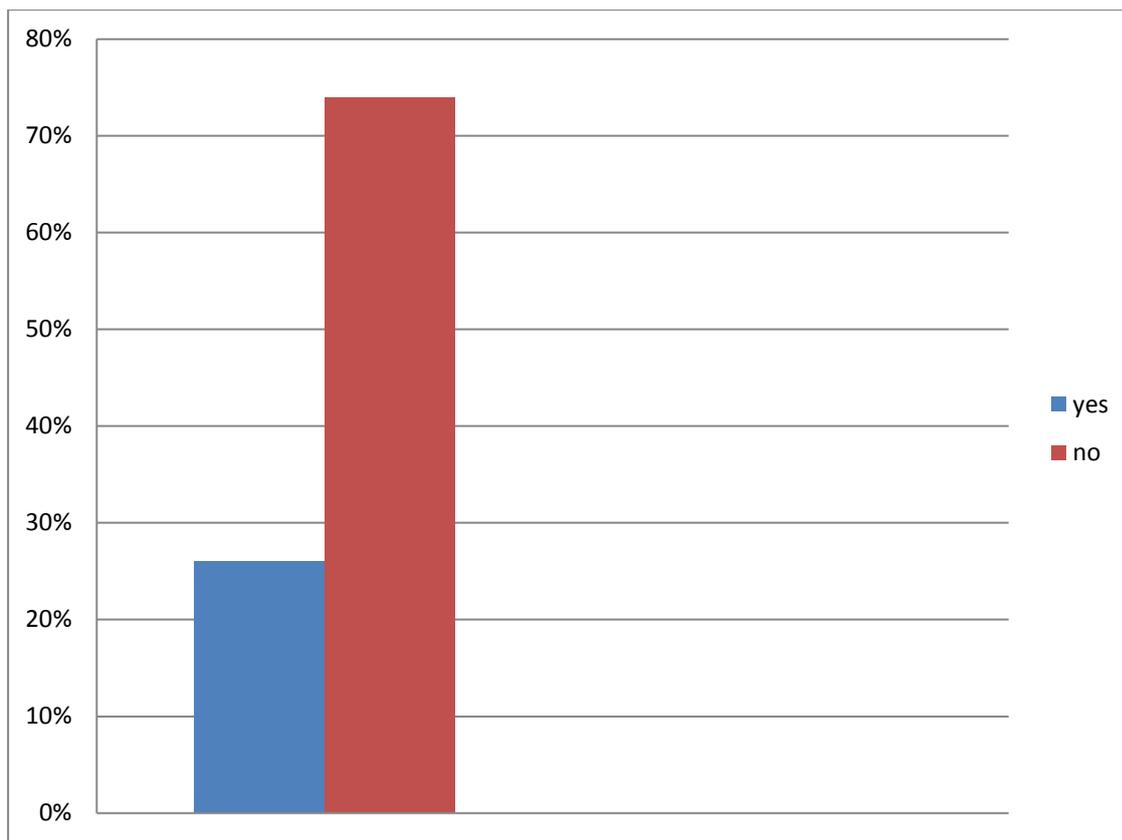


Figure 49: Expert's viewpoint about Women's (un)awareness of NAFC.

As pointed out in the above table ,74% of the answerers viewed that women are not aware of their legal rights,whereas only 26% of them view the opposite. We believe that experts are in a position which enables them to judge women's awareness, since they are in a direct touch with them and they are always asked to provide more information about the legal issues.

18. If you have the opportunity to change some articles on the Algerian family code(2005),in relation to marriage and its dissolution, which articles will you choose to enhance women's status?

(please cite 3 articles or more mentioning just their numbers).....

-Article:.....

-Article:.....

-Article:.....

Many replies were found for the above question. The respondents were very generous in terms of mentioning articles which, they think , need to be reformed. The most suggested articles are as follow:

- Art 09.
- Art 11.
- Art 54.
- Art 08.
- Art 19.
- Art 72.
- Art 70.
- Art 79.

The articles N°09 and N°11 about the wali .

N°08 about polygamy.

N°54 about kholaa .

N°72, N°70, N°79 about post divorce rights and custody.

By suggesting the above articles, the respondents confirm our supposition that they are able to detect the loopholes

19. If you have any feedback or comments regarding the questionnaire, we would be grateful if you would let us know in the space below.....

Various responses were written in the blank space at the bottom of the questionnaire, some of them are positive comments like :*thank you, wish you all the best, good luck ,*

Whereas other feedbacks like:

هبلتوني بحقوق المرأة/hebeltuni b huquq lmaraa/

You made me mad by women's rights: It is an expression which is often used by Algerians to say that they get bored of something.

/وين راهم حقوقنا/ win rahum huquqna/

Where are our rights: referring to men

هاداماشا قانون الاسرة قانون العارم/hada qanun l usra qanun l ar/

It is not family code ,but rather the code of infamy.

قراي القران الاسلام مكرم للمرأة/qraj lquran islam mukarim lil maraa/ You should read the Coran Islam protects women's dignity.

القانون اعطى الحرية للمرأة/Aqanun t'a lh uriya lel mra/ This code gives more freedom to women.

يؤدي ال التفكك العائلي/yuadi ila tafakuk laili/ t leads to family disintegration.

هو السبب الاول للطلاق/huwa sabab raisi l talaq/It is the principle cause for divorce.

The above data indicated that the respondents respect the academic research and they did their best to provide assistance. In fact, some respondents underestimate the importance of the issue, while others view it as a platform to make their voices heard and to criticize it.

3.5 Conclusion

In this chapter, we discussed the findings gathered from the questionnaire and the interview tools .This chapter included detailed examination of data. Data collected through the questionnaire and interview were reported and presented in tables and graphs . Additionally, a scrupulous discussion was offered under each table.

The concluding results of questionnaires and interviews indicate that NAFC is perceived differently by women, men and experts. However, all of them were dissatisfied with the target code since it promotes gender discrimination.

Chapter

Four

4 -Chapter Four :Data Analysis and Discussion

4.1 Introduction

After the collection of data and analyzing them using the questionnaire and interview in the preceding chapters, this chapter is devoted to the analysis, interpretation, and discussion of the findings in the light of FCDA model of investigation. followed by some limitations of the study and ended with suggestions, and recommendations for future researches.

4.2 Discussion

As it is previously mentioned, the methodological framework of this study is composed of Van Leeuwen's socio-semantic and Van Dijk socio cognitive models of analyses under the umbrella of FCDA Lazar's approach.

4.2.1 Van Leeuwen's Analysis

Drawing on Van Leeuwen's model of analysis, the obtained data evince a pattern of inclusion of social actors both together with exclusion in certain articles .

The results of this study can be summarized as follows: Exclusion or Inclusion

4.2.1.1 Exclusion

It is divided into backgrounding and suppression: Women in the Amended Algerian family code are represented as passive recipient of the social action by being totally suppressed or backgrounded .

Art. 9 bis. (New) -The marriage contract must meet the following conditions: - the capacity to marry, - dowry, - El Wali, - two witnesses, - exemption from legal impediments to marriage.

Art.9 bis. (New) -...The capacity to marry ..(Nominalization)...

...El Wali, (Backgrounding) ...

...Exemption from legal impediments to marriage....(Nominalization)

Art. 8 bis 1. (New) - The new marriage is terminated, before consumption, if the husband does not obtain the judge's authorization in accordance with the conditions set out in article 8 above. (2) CONSTITUENT ELEMENTS OF MARRIAGE

Art. 8 bis 1. (New)-. ..The new marriage would be terminated before its consumption(dukhol) ...(Suppression)

These above articles have shown that in the institution of marriage, women are excluded from the social actions denoting either the tendency of hiding the identity of the social actor (as it is the case in the use of nominalization) ,or the fact that the identity of the social actor is obvious(as it is the case for the Wali since it is recommended only for woman)

4.2.1.2 Inclusion

The following types of inclusion are employed in the target discourse:

4.2.1.2.1 Role Allocation

As this strategy clearly demonstrates the activation or the passivation of social actors, it is important to mention that women are mostly represented as dynamic social actors who are often associated to certain activities. However, this does not mean that they are not passivated .Throughout the data, it is noticed that women are not given the chance to be active in certain social activities and they are rather recipient and/or beneficialised from some legal rights .This will be illustrated by the following examples:

Art. 7. (Modified) The minor spouse acquires the capacity to sue_for the rights and obligations arising from the marriage contract (Activation)

Art. 8 bis. (New) - In case of fraud (tadlis), each wife can file for divorce_against_the spouse. (Circumstantialization by the use of a propositional Word ‘against’)

Art. 11. (Modified) -The major woman holds her marriage contract...(Activated action)...

Art. 19. (Amended) - Both spouses may stipulate in the marriage contract or in a contract subsequent clause, any clause which they consider useful, in particular as regards polygamy and wife's work, unless the conditions are contrary to the provisions of this Act. (4)

Art. 19. (Amended) -..... may stipulate in the marriage contract or in a formal additional contract...(Activation)

Art. 54. - (Modified) - The wife may separate from her spouse, without the agreement of the latter, by paying a sum as "khol'a". In the event of disagreement on the counterparty, the judge orders the payment of a sum the amount of which cannot exceed the value of the parity dowry "sadaq el mithl" evaluated at the date of the judgment.

Art. 54. - (Modified) - The wife may separate from her spouse without his agreement(Activation)

Art. 7. (Modified) - Marriage capacity is deemed valid at the age of 19 years old for men and women (Beneficialization).

Art.9.(Amended)-The marriage contract is held by the exchange of the consent ...(Passivation).

Art. 11. (Modified) -The adult woman concludes her marriage contract in the presence of her "wali" who is his father or a close relative or any other person of her choice. Without prejudice to the provisions of article 7 of this law, the marriage of the minor is contracted by through her "wali", who is the father, then one of the close relatives. The judge is the guardian of the person who does not have one.

Art.11.(Modified) -...the marriage of the minor is contracted by through her (wali),
(Passivation)

Art. 74. - Subject to the provisions of sections 78, 79 and 80 of this Act, the husband is required to provide for the maintenance of his wife(relational identification/passivation) as of the consummation of the marriage or if the latter so requires on the faith of a proof.

Art. 74. -...the husband is required to provide for the maintenance of his wife
(Beneficialization).

Art. 31. (Amended) - The marriage of Algerian(man) and Algerian (women) with foreigners of both sexes is governed by regulations(Passivation)

4.2.1.2.2 Differentiation/Individualization

Differentiation is often associated with individualism, indicating that a particular social actor is special and different from the other social actors participating in the social practice.

Art. 10. - Consent follows from the request of one of the two parties and the acceptance of the other expressed in any term meaning legal marriage. The request and the consent of the disabled person expressed in any written or gestures signifying marriage in language or usage

Art. 10. - Consent follows from the request of one of the two parties
(Individualization) and the acceptance of the other(Differentiation)

Art. 8 bis. (New) - In case of fraud (tadlis), each wife can file for divorce
(Individualization)

4.2.1.2.3 Identification

The strategy of identification is overused in the Amended Algerian family code especially relational identification which emphasis the kinship relationships

between the social actors. Moreover, identification is subdivided into classification, relational identification and physical identification.

It is expressed in the investigated articles by employing three terms which were repeatedly employed in the Algerian Family code, these terms are: the wife, the spouse and the mother. As it is noticed, the use of these terms in law represented places women as a subordinate to their male kins (patriarch) who are given more strength to control and 'protect' them.

Hence, the code encourages and perpetuates patriarchal domination. This statement is supported by the following examples:

Art. 11. (Modified) -....the marriage of the minor is contracted by through her "wali", who is the father, then one of the close relatives (relational identification).

Art. 7. (Modified) - Marriage capacity is deemed valid at the age of 19 years old for men and women (classification).

Art. 64. (Modified) -The right of custody devolves first to the mother (relational identification) of the child.

4.2.1.2.4 Genericization

It can be realized by the representation of social actors as groups employing plural without articles or singular with the use of definite or indefinite articles.

By way of illustration, the following articles clarify the use of genericization in the analysed code:

Art. 62. - The right of custody (hadana) consists of the maintenance, schooling and education of the child in the religion of his father as well as the preservation of his physical and moral health. The holder of this right must be able to take charge of it.

Art 62.-The holder of this right (al haadin) must be able to take charge of it. (The use of singular with definite article).

Art. 19. (Amended) - Both spouses may stipulate in the marriage contract or in a contract

subsequent clause, any clause which they consider useful, in particular as regards polygamy and wife's work, unless the conditions are contrary to the provisions of this Act. (4)

Art. 19. (Amended) - Both spouses may stipulate in the marriage contract .

Art. 7. (Modified).... when the aptitude for marriage of both parties is established.

Art. 31. (Amended) - The marriage of Algerian(man) and Algerian (women) with foreigners.

4.2.1.2.5 Descriptivation /Specification/ Spatialization

These three strategies are also found in the targeted discourse, however their use is limited only to the undermentioned articles.

Art. 11. (Modified) -The major woman holds her marriage contract Descriptivation)

Art.8.(Modified)-It is permissible to get married to more than one wife(Specification by the use of a numerative)

Art. 31. (Amended) - The marriage of Algerian(man) and Algerian women. (Spatialization)

As pointed out in the results some exclusions seem to be 'ideology-free' since the identity of the social actors is recognized; but others are not. They often entail embedded ideologies and, thus, tend to abolish the existence of social actors. The social actors are generally included by means of suppression or backgrounding. However, they are most of the times included via role allocation, relational identification, genericization, descriptivation , specification, spatialization.

From the previous examples, it can be seen that women are represented in a variety of ways in the investigated code. That's to say, they are excluded in certain articles and represented as inferior, subordinate or powerless social actors. Whereas, they are included in other few cases and portrayed as active members who play roles in the social action. Interestingly, this case of the study confirms the importance of improving the representation of women in the Algerian family code in relation to marriage and its dissolution.

The findings of this study indicated that women are discursively represented in a variety of ways. Via inclusion strategies, women were depicted as active and dynamic. On the other hand, they were passivated or completely excluded indicating their inferior position and their subordination to the male kin. In fact, women have always been looking for enhancing their rights in society, however, their discursive representation is still governed by some patriarchal beliefs. Since women live in a social context, they are often represented in terms of 'Who they are', 'Whose daughters or spouses are they, and 'how are they thought about in a society, this can deeply generate a representation which is fully context dependent. For instance, when it comes to the capacity of marriage the major woman is given the right to choose her partner, however, the presence of her wali (the male patriarch) is needed although it is not obligatory except in some situations. That is to say, women do and receive actions and their representation is context dependent and ideologically guided.

4.2.2. Van Dijk's Analysis

Using Van Dijk socio cognitive model, our results reveal the following:

Art 09: The marriage contract must meet the following conditions: - the capacity to marry, - dowry, - Wali¹, - two witnesses (men), - exemption from legal impediments to marriage.

Art 11: The adult woman concludes her marriage contract in the presence of her "wali" who is her father or a close relative or any other person(man) of her choice..."

Women are represented as weak and unable to make important life decisions, and hence they do not have equal opportunities as men to make their own choices.

Art 08 : It is permissible to marry more than one wife within the limits of the Islamic law, when the legal justification is available and the conditions and intent of justice are provided

The husband must inform the ex-wife and the woman he wants to marry and submit the marriage license application to the president of the court at the marital home city.

The president of the court can authorize the new marriage after confirming their consent and proving the husband's legitimate justification and his ability to provide justice and the necessary conditions for marital life.

Art48: "Divorce is the dissolution of marriage, subject to the provisions of Article 49, below. It intervenes by the will of the spouse, by mutual consent of both spouses or at the request of the spouse within the limits of the cases provided for in articles 53 and 54 of this law.

Art 54: "The wife may separate herself from her spouse, without the agreement of the latter, by paying a sum as kholaaⁱⁱ ". In the event of disagreement on the counterparty, the judge orders the payment of a sum the amount of which cannot exceed the value of the parity dowry sadaq el mithlⁱⁱⁱ evaluated at the date of the judgment.

From the above articles, one can deduce that , in article 48, it is clearly stated that men can easily file for divorce without mentioning the reasons. However, women , on the

other hand, can file for divorce (or the so-called kholaa) without their husbands' consent and justifications in return for money. The article 54 seems to ensure women rights and empower them.

Nevertheless, when going beyond the limit of the sentences, one can notice the opposite .In the article 54, women are treated as slaves who are obliged to purchase their freedom and negotiate with their master for a price while men are given the total freedom to separate from their wives ,in article 48 .

One of the loopholes in the NAFC is that it does not recognize oral divorce.Article 49 of the Family Code does not prove divorce except with a judgment after an attempt at reconciliation on the part of the judge without exceeding three months. So divorce cannot be proven except by judgment after the reconciliation attempts that the judge will make . so no divorce takes place outside the courts, i.e. retrospective customary divorce, but a lawsuit can be filed to prove customary divorce retroactively and after this the divorce incident is investigated as the parties to the case and witnesses are heard

Art 65: “The period of custody ends when the male reaches 10 years and the female reaches the age of marriage. The judge may extend the period of custody for the male to 16 years. If the holder of custody (the mother) did not remarry taking into account the interest of the child.”

The custodial mother is deprived of her right of custody if she remarries. This article compels women to choose between their private lives and their children neglecting that the best interest of the child generally dictates that children stay with their mothers (except in certain rare cases).

Drawing on Van dijk's model of analysis, we attempted to critically examine the new Algerian family code, through the ideological polarization of 'Us' and 'Them' by analysing a

set of legal articles about marriage and its dissolution. It has investigated the ideological polarization of us and them in the legal discourse under examination.

As far as the dichotomy of positive self representation of “Us” and negative representation of “Them” is concerned, women are negatively represented in the target legal discourse as belonging to “them” ;nevertheless, men are positively represented as belonging to “US”. That is to say , women or “Them” are represented as subordinate, obedient, and inferior. However, men or “Us” are represented as dominant, superior, and responsible. In brief, since the new Algerian family code is produced and manipulated by males “legislators”, it perpetuates and reinforces gender bias, discrimination and male domination.

4.2.2.3 The Major Themes

Drawing on Lazar’s model of analysis, this study examined articles from NAFC focusing on women’s status and representation in the family code (2005)discourse. Based on this investigation; five interrelated themes have been identified. They highlight the legal position of the Algerian women from a feminist critical discourse analysis view vis a vis marriage and its dissolution.

Here is a the analysis of articles translated in English:

4.2.2.3.1 Protection / Domination

NAFC is responsible for protecting and ensuring women’s rights. However ,at the same time this code may also hinder the promotion of these rights.

Art. 9 bis. (New) :-The marriage contract must meet the following conditions: - the capacity to marry, - dowry, - El Wali, - two witnesses, - exemption from legal impediments to marriage

Art 11. An adult woman concludes her marriage contract in the presence of her “wali” [guardian] who is her father or close male relative or any other male of her choice.

Art11 (Modified) : – The adult woman concludes her marriage contract in the presence of her "wali" who is his father or a close relative or any other person of her choice. Without prejudice to the provisions of article 7 of this law, the marriage of the minor is contracted by through her "wali", who is the father, then one of the close relatives. The judge is the guardian of the person who does not have one.

Art. 13(Modified) :- It is forbidden for the wali, whether father or another one, to compel marriage to a minor who is under his guardianship and he cannot marry her without her consent. (1)

Art 33 (Amended): - Marriage is declared void if consent is vitiated. Contracted without the presence of two witnesses, or the Wali when it is obligatory, or without dowry

The marriage contract is considered void /batil/ without the presence of the /Wali/ of the minor woman. So, the presence of the guardian is compulsory in this case.

Marital guardianship is not imposed on an adult woman. We can say that the change in the guardian’s position and his role in NAFC aimed at achieving women's freedom to choose a partner . Interestingly, the role of the guardian is restricted from totalitarian to symbolic what is meant here is that the man, who completes nineteen years old does not need a guardian since he is so himself in a marriage contract, whereas woman, at any age, need to have a guardian present in her marriage contract.

More precisely, a woman(adult) does not need a guardian Wali to consent the marriage on behalf of her, but she can herself conclude her marriage choosing her Wali to solely be present in her marriage contract. However, the consent of the Wali is required for the minor woman’s marriage.

Additionally, the symbolic role of the guardian may have positive and even negative effects. It can be viewed as positive because of his connective role, the guardian is the responsible of communicating with the groom's family, discussing the issues related to the solemnization... since it is shameful and disgraceful in the Algerian society for the woman to host men at home without the presence of at least one man.

Guardianship is negative in the sense of how can a man, who may be younger and less mature (not disqualified by minority or insanity) than a woman can play a role of a guardian while woman who may play different roles in a society and occupy high positions such as judge, minister, ..., is compelled to bring a guardian and cannot marry without his presence. This fact is undoubtedly illogic and unacceptable.

4.2.2.3.2 Invisibility vs Passivity

In the Algerian society the apparently passive nature of women and the supposedly assertive character of men are usually assumed. Women are often believed to be inferior, subordinate and powerless compared to men (see Van leewen's analysis).

Art 41: - The child is affiliated to his father by the fact of the legal marriage, the possibility of conjugal relations, except disavowal of paternity according to the legal procedures.

Art 43: - The child is affiliated with his father if he is born within ten (10) months following the date of separation or death.

Art 62: - The right to custody (hadana) consists of the maintenance, schooling and education of the child in the religion of his father as well as the preservation of his physical and moral health. The holder of this right el hadin must be able to take charge of it.

The use of the generic terms the child /el walad/ and the father /el ab/ and even the holder of the right in the above articles indicates that the female gender is totally ignored. Indeed the Arabic language is rich in terms of gendered vocabulary.

Nevertheless, the legislator chose the use of the generic terms indicating the devaluation of woman. In the articles 41/43 ,it is mentioned that the child is affiliated to his father disregarding the mother while the children need to be affiliated to their parents not only their fathers.

In addition, the Arabic term al / ḥad^ṣin/ is used to refer to the holder of the right of custody which is generally a mother who plays this role, but no feminine indicator is noticed .

Art65: The boy's custody period expires upon reaching (10) years, and the girl upon reaching the age of marriage, and the judge may extend custody for the boy to (16) years if the custodian or not remarried, provided that the ruling of her termination takes into account the interest of the child.

Art 75: Alimony for child is obligatory for the father unless he has money, for males to adulthood and females to marriage, and it continues if the boy is incapacitated by a mental or physical scourge or he is a student, and it is waived by dispensing with it by earning

Art 66:- The holder of the right of custody, marrying a person not related to the child by a relative of a prohibited degree, is deprived of his right of custody. It also ceases by renunciation as long as it does not compromise the interest of the child.

Art 67:Custody is dropped up if one of the conditions stipulated in Article 62 above is violated. A woman's work cannot constitute one of the reasons for losing her right to practice custody. However, in all cases, the interest of the child must be taken into account.

As far as the above articles are concerned, the devaluation of women continues to appear by depicting women as dependent and inferior to men. In the article 65, custody's period is ended with reaching 10 years old for the boy (can be expanded to 16 years old) and till marriage for the girl. This article is highly gender biased since it considers a child boy of ten as more independent and may be more responsible than a girl at any age (even more than 50) and yet she is still considered as dependent and passive. Is marriage a way to achieve maturity and without it a girl may not enjoy her freedom. What about a woman who does not want to marry? Or who does not find the right partner?

Similarly, the article 75 gives some provisions about alimony. The latter is the father's (exclusion of the father) duty and it is given to the boy till he became adult and to the girl till marriage. What is problematic here is that the period of alimony can be extended for the adult man with mental or physical disabilities, and for a student. Drawing on that, is a woman considered as a disabled person till she marries? A woman in this situation is disadvantaged by her gender and viewed as weak and subordinate to man.

As for the articles 66,67 the mother would be deprived of her right to custody if she married a stranger. Hence she is given two options to preserve her custodial rights either to marry one of her children relatives or she stay alone all her life. This article encourages the old tradition of obliging a woman to get married to her brother in law in order to take care of his brother's children believing that a step father may never be as kindhearted for the children as their uncle. However the problem here is: if the daughter must not live with her step father and this is considered / haram^{iv}/, then why even a boy will be taken from his mother when she remarries. Interestingly, the stepdaughter is not forbidden even in Islam as the step father is like the step mother. This article may push the mother to either to commit adultery or violate it by marrying secretly for a period of one year.

Importantly, there is a very important phrase which is added in both articles ‘the interest of the child’ /maslahat al mahdun/ ,the use of this phrase opens several ways for discussion since it is “ambiguous” .By ambiguous in this case I mean vague and unclear ,since the interest of the child can be viewed differently for instance for one mother the interest of her child is to be healthy ,for another mother is to have a good educational level ..etc.

So mentioning such an unclear phrase and giving the judge to decide where the interest of child is and with whom of the parents, can give the impression of disrespect of human rights especially woman this may lead to the judges totalitarianism as well as the loss of many rights. Thus the employment of this vague phrase restricts women’s legal opportunities

Above articles throw light on women’s status in post divorce period , women are not represented as passive but they are rather invisible .They are totally ignored and disadvantaged. Marriage grants rights to the wife and deprives her from them when getting divorced .

Furthermore, motherhood before divorce and after it is seen differently as if the good mother becomes bad after divorce and especially after remarriage. That is to say, the mother is deprived of custody if she gets married, while the father is not neglecting the so called the interest of the child since children may their mothers more than they need a father. This is unquestionably a discrimination against women especially divorced mothers closing the eyes to her psychological , physical ,and emotional needs.

4.2.2.3.3 Bargain /Liberation

Like men, women are given the right to exit marriage and even to file for divorce. NAFC seems to equalize access to divorce for women and men, but with reading the following articles one may view the opposite.

Art 48. Divorce is the dissolution of marriage . . . It arises from the will of the husband, mutual consent of the spouses, or the demand of the wife as provided in articles 53 and 54 . .

In the above article divorce is defined as a way of separation to end the constitution of marriage .it has three forms.one form requires the reciprocal assent of both the wife and the husband,so if the spouses agree to divorce they opt for this option.

The two other forms are as follow:on one hand Divorce which gives the man the absolute right to dissolve marriage using the word *irada* in Arabic or the will in English .on the other hand ,divorce with the demand of the wife using the Arabic term *talab*.

Notably, the two terms will and demand are quite distinct.i.e the use of will in this discourse stands for power and force of the husband.whereas, the term demand signifies a request that may be accepted or rejected.additionally, this option of the demand of the wife to divorce is conditioned by the provisions mentioned in the articles(53/54) .It has two forms *taliq* and *kholaa* which are discussed in the following lines.

Art 53: The wife can seek a divorce *taliq* on the following grounds: (i) non-payment of maintenance after issuing the ruling that obliges him to do so, unless she was aware of his insolvency, at the time of marriage .

Taking into account articles 78–79-80; (ii) infirmities hindering realization of the objective of marriage; (iii) refusal of the husband to cohabit with his wife for more than four months; (iv) conviction of the husband which is of such a nature as to dishonour the family

and render impossible leading of common life and conjugal relations; (v) absence of the husband for more than a year without a valid excuse or maintenance; (vi) violation of provisions of article 8; (vii) an immoral act which is severely reprehensible; (viii) for persistent disagreement between the spouses; (ix) for violation of the clauses stipulated in the marriage contract; and (x) for any recognized legal harm.

As we have previously mentioned, the wife's demand of divorce is conditioned . Therefore, the article 53 stated the reasons that offer women the opportunity to file for the type of divorce called *tatliq*. Here we focus on the reasons that most influence women's status and which they are problematic:

1)-non-payment of maintenance after issuing the ruling that oblige him to do so, unless she was aware of his insolvency, at the time of marriage . taking into account articles 78–79-80

In the first reason, there are two cases:

A- The wife files a suit against her husband to obtain a ruling ordering him to provide maintenance , if he refuses to do that here the wife can file a lawsuit against him requesting divorce for non compliance with the ruling ordering since it is not executed. all these procedures take much time and even money (lawyers,...)

so what about the poor wife or the wife who is suffering in silence ?!!

B- If the wife was not aware of her husband's insolvency at the time of marriage, she would be able to file for *tatliq* and vice versa . The problem here is what would happened if the wife knew the husband's situation before marriage and agreed on it, but after that she experienced bad moments and regretted getting married with that person.

Does she deserve such a harsh punishment spending all her life in misery?!!!!!!

2)- Infirmities hindering realization of the objective of marriage: The term infirmities refers to illnesses or Sexual (or non sexual)defects that prevent pleasure and affect the marital life.

what is noted in this case is that the wife claims must be proven by all means of proofs like experience or testimony of witnesses, ...etc

in fact, the legislator did not specify the defects that the wife's request of divorce can be based on.

3)- Refusal of the husband to cohabit with his wife for more than four months: The wife could opt for tatliq if her husband abandoned her in bed for a period of more than four consecutive months.importantly, any sexual contact between them, even once in this period is considered as a reason for refusing her request for tatliq.

4)- Conviction of the husband which is of such a nature as to dishonor the family and render impossible leading of common life and conjugal relations:

It may happen that the husband commits acts or even a crime that attack the reputation and the honor of the family, but once again, there is no specific details about the crimes affecting the honor of families.

5)- Absence of the husband for more than a year without a valid excuse or maintenance; the absence of the husband for a complete year is a quit long period in which a wife must be patient and assume living alone without her husband,so to file for tatliq before one year is legally impossible. Moreover, if the husband had a so called a valid excuse ,and he granted maintenance for his wife ,she would not be able to file for tatliq neglecting her desire to end the relationship.it should also note that the phrase valid excuse is not clarified since valid is a fluid term and the excuse that is valid for someone may not be so for another.

6)- Violation of provisions of article 8;will be discussed

7)- An immoral act which is severely reprehensible;which is desreputible

The Algerian legislator permitted the wife according to Article 53 if her husband commits a clear immoral act, but this paragraph does not specify what is meant by the stated immorality is it marital infidelity , moral crime,or what??

8)- For persistent disagreement between the spouses: It refers to the continual frequent discord between the spouses after many litigations.

9)- For violation of the clauses stipulated in the marriage contract: Disrespecting and on compliance of the conditions mentioned in the marriage contact. Hence, all the clauses should be written in the marriage contract not only orally agreed on.

10)- For any recognized legal harm.

The husband may legally harm his wife; however, a recognized legal harm is not elucidated.

Article. 53 bis. (New) :- The judge who pronounces the divorce at the request of the wife /tatliq/ may award her compensation for the harm she has suffered. (2)

Since the wife is harmed when requesting tatliq,she is given the right in what is called taawid(compensation).how? how much? No details are provided in this concern.

In some cases ,women do not have “strong” reasons to file for divorce since they cannot prove their harms .they choose another option for separation as follows:

Article. 54. - (Modified) - The wife may separate from her spouse, without his agreement , for the paying a sum as "kholaa". In the event of disagreement on the husband , the judge orders the payment of a sum the amount of which can not exceed the value of the parity dowry "sadaq el mithl" evaluated at the date of judgement.

The wife can opt for kholaa without needing her husband's consent ; since like men,they have the right to ask for separation. Also, the wife is not obliged to state the reasons behind her decision. Accordingly,the judge's mission is restricted in this case and he cannot intervene except for financial matters. Unpredictably,the wife is compelled to pay her husband in kholaa.this payment is presumed as purchasing freedom.it is really a bargain for liberty and happiness. Disregarding the sum or the quantity of this payment ,the fact itself degrades woman and violates her dignity.

Furthermore, this article overlooks the wife's financial situation. If he wife was not able to pay kholaa ,she would be obliged to carry on her life with a husband whom she may detest.This may have dangerous impact on the family especially on women.This act can lead to crimes and immoral acts such as suicide, betrayals, killing, etc

Art 79: In estimating the alimony, the judge takes into account the situation of the parties and the circumstances of the pension and does not review his estimate before one year of the ruling.

Unlike kholaa,with regard to alimony ,the situation of the two parties is taken into consideration simply because it is the man who is required to pay not woman. The husband's economic circumstances are very important since he may be unable to pay the sum dictated by the court. In such cases , he is not compelled to pay a given sum (like in sadaq al mithl in kholaa).why not estimating a specified sum of money with regard to the children and their mothers needs not according to his economic capacities .Gender bias is largely exercised in this article.

Thus, women's rights to exit marriage are breached comparing to man's with respect to divorce and its forms tatlq,kholaa. Women 's capacity to divorce their husbands is conditioned and restricted ,while men's is openly endorsed and legalized .

4.2.2.3.4 Justice or Abuse

Another important theme which we came across in the discourse of NAFC is Justice Or Abuse.

Art 4: Marriage is a consensual contract between a man and a woman in a legal manner. Its goals include forming a family based on affection, mercy, cooperation, immunity of the spouses and preservation of lineage.

Art 7: The legal capacity of a man and a woman to marry is completed by the full 19 years, and the judge may authorize marriage before that for a interest or necessity, whenever the ability of the two parties to marry is confirmed.

The minor spouse acquires litigation capacity regarding the effects of the marriage contract in terms of rights and obligations

On the light of articles 4 and 7 both women and man cannot enter marriage without free assent of each one of them . The two parties are apparently entitled to the same rights to marriage.

NAFC provides that both boys and girls can marry at 19, but the judge can permit them to marry before reaching the legal age. Therefore, the two parties are apparently entitled to the same rights to marriage.

As mentioned in the article 07, the legislator did not stipulate the penalty for violating the age of marriage , and here one can question the feasibility of this limitation if people contravene it without penalty. Consequently, Accordingly, article 07 of the NAFC leads to the

spread of early marriage. The Algerian legislator did not stipulate either explicitly or implicitly the consequences of violating the age of eligibility for marriage,

Early marriage is a serious problem that threatens the life of the Algerian women. In fact, a girl is generally vulnerable and early marriage destroys her chances of ongoing with their education hindering her life opportunities of development. Moreover, early marriage has negative impacts on girls health because of the augmented probability of early motherhood and different health dangers. Early marriage can never be justifiable nor tolerated and accepted; it cannot be solution for problems even in special situations.

Furthermore, the age difference between spouses is not taken into account. Age difference is one of the key elements that should not be ignored in marriage. For instance, if a 19 year old woman married a 70 year old man, this would probably lead to unsuccessful marital relationship. Couples with big age gap may face some communicative problems. That's why, a maximum age difference between spouses should be set in NAFC.

Art52 (Amended) : If the judge finds that the husband has abusively used his faculty of divorce, he grants the wife reparations for the damage she suffered

If a husband divorced his wife without a logical reason, the judge would order a compensation. Nonetheless, the payment of this compensation is not stipulated and its process is not clarified i.e either it should be paid monthly or yearly...

Estimating the degree of abuse and determining the sum of compensation is insufficient for a woman who devoted her life for her family. The husband is given the absolute right to divorce her without her consent. Injustice and discrimination are embedded in this article, woman is victimized by man's recklessness and whims.

4.2.2.3.5 (In)equality /Humiliation

Women and men live in the same society , and thus they should have the same rights and duties.(in)equality influences both of them. It is hard to achieve since it must leave no one behind .

Art 8. It is permitted to contract marriage with more than one wife within the limits of the Shari'a, if there is a just ground and the conditions and intentions of equity can be fulfilled. The husband must inform the ex-wife and the woman he wants to marry and submit the marriage license application to the president of the court at the marital home city.

The president of the court can authorize the new marriage after confirming their consent and proving the husband's legitimate justification and his ability to provide justice and the necessary conditions for marital life.

Art.8 bis. (New) - In case of fraud -deceit i.e /tadlis/, each wife can bring an action for /tatliq/ against the spouse.

Art 8 bis 1(New): - The new marriage is terminated, before consumption, if the husband does not obtained the judge's authorization in accordance with the conditions set out in article 8 above.

In the above article polygamy is legalized but it is conditioned by “The necessity to fulfill the conditions” and “intent of justice” between the wives.

It is noticeable that the Algerian legislature used the phrase "the condition of the intention of justice" without explaining what is meant by the condition of the intention of justice.does it mean Conditions of financial justice, i.e, every wife enjoys financially the level enjoyed by the other With regard to housing, clothing, food, etc.,or another type of justice?

For the intention of justice, it may refer to the man's intent to establish justice and equality among the wives .

Actually, the intention is a abstract term and cannot be measured so how can a legislator recognize if this condition is available on that man or not. Usually the husband fails to achieve fairness between his wives and it is it is the second wife who is treated better than the first wife.

Besides, a marriage license from a judge after the approval of his ex-wife and second wife in case of polygamy is required, except that t this condition can be avoided and a man can remarry without obtaining license via obting for Customary marriage of zawaj al fatiha.

In customary marriage zawaj al fatiha, the husband may remarry illegally through al fatiha and after having a child he makes a request to the court to confirm marriage ithbat el zawaj resort to common-law marriage and marry a second marriage, then After this procedures, the judge only has to decide to confirm it even if the wife does not agree(with the presence of two witnesses).

On one hand, NAFC endeavors to control polygamy and defend the rights of the first wife whose assent is required before permitting a man to take subsequent wives. On the other hand, it affords no penalty or punishment for the violation of the conditions before a man enters into subsequent marriage , it only terminates the second marriage or opt for tatliq . What's more, Polygamy can cause health diseases.Women in polygamous marriages are in danger. Women may face fatal health problems such as HIV on account of their husband's having various sexual partners.

In fact,the purpose of this research is to protect every wife, from maneuvering, which may be issued by the husband, and to protect the family in general, and the children, who may be born of the second wife. However, the question to be posed here is ‘ what if the wife

refuses polygamy?' In fact, if the wife refuses polygamy, she can ask for divorce. If she refuses, and does not ask for divorce, the court automatically applies the principle of divorce.

In the above articles, a flagrant assault on the principle of equality between the sexes as it gives men the right of polygamy and prevents it from women.

These articles clearly encourage polygamy in response to the man's desires. The legislator implicitly considers woman as a tool of man's pleasure and sex appeals. NAFC contradicts and violates the principles of equality since it reinforces and encourages polygamy.

Art 30:. . . . It is equally temporarily prohibited: . . . The marriage of a Muslim woman with a non-Muslim man.

The use of the term temporarily *muaqatan* here means momentarily which is open to change. Therefore, a woman cannot marry a non-Muslim man just for the time being but this action can be fulfilled under different conditions namely if the man converts to Islam.

This article was criticized on two sides: on the one hand, this article is considered a violation of the woman's right to marry with her free and complete consent, as it is considered a restriction of her freedom to choose a husband, and on the other hand it violates the principle of equality between the sexes, because this prohibition affects only women, and the man is not. The meaning of this prohibition is that the law allows a Muslim man to marry a woman of another religion.

If a Muslim woman married a non-Muslim, this would influence the children's religion since they should follow the religion of their father. For this reason, it becomes clear that prohibiting a Muslim woman marrying a non-Muslim is not a matter of gender

discrimination, but essentially a matter of religious beliefs which is also considered as a segregation.

Art 51: Every man who has divorced his wife three times in succession may not resume her until after she has married another man, and she is divorced or he dies after having cohabited.

Art49: The divorce can only be established by judgment preceded by several attempts to conciliate the parties made by the judge, during a period that can not exceed a period of three (3) months from the date introduction of the proceeding. The judge must draw up a report duly signed by him, the clerk and the parties, in which are recorded the acts and results of the conciliation attempts. Divorce judgments are transcribed legally in the civil register at the expense of the public ministry.

One of the loopholes in the NAFC is that it does not recognize oral divorce. Article 49 of the Family Code does not prove divorce except with a judgment after an attempt at reconciliation on the part of the judge without exceeding three months. So divorce cannot be proven except by judgment after the reconciliation attempts that the judge will make .

Therefore , the divorce which took place outside the courts is illegal even though it happened.

In these articles a devaluation of woman and a violation of her dignity by considering it as an object whose ownership is transferred between men. A woman is degraded in such a situation, as she must marry another man in order to have the right to return to her first husband. Then, isn't it an entrenchment of legal prostitution. Hence, in these articles ,women are humiliated and considered as slaves who just obey the owner's orders .

It is also worth to mention that Article 29 from the Algerian constitution Dostour states :

“All citizens are equal before the law. No discrimination shall prevail because of birth, race, sex, opinion or any other personal or social condition or circumstance.”
Constitution of human rights”

The issue here is about enjoying the same privileges and access to opportunities.

In the target discourse, only men are allowed to have access to certain opportunities and rights. That's to say , they are favored and granted this access while women are deprived from the same rights.

To sum, the above themes are interrelated. These representations reveal that women are imprisoned in domestic roles such as giving birth to children and taking care of household. They were and still are believed to be no more than mothers, nurturers and caretakers.

On the basis of the foregoing discussion about the Algerian female's freedom is still constrained mainly at the family level. Marcus's (1992) studies draws attention to how cultural scripts position men and women according to normalized gendered inequalities.

It has to be added that the provisions of NAFC are highly patriarchal .Patriarchy informs the world's political, legal, economic, social and religious structures (Tamale 2014). It is an ideology that gives authority to men and legitimises the oppression of women in all sectors of society (Sultana 2010:1). Additionally, Rothman (1994:139–140) view that. *The dominating group justifies the social system or status quo as an inherent norm to be practised and exercised in society”*. (Rothman 1994,p.139–140)

Hence, the Algerian society is a male- dominated society ,it is highly patriarchal where women are marginalized ,oppressed ,and desriminated on the basis of their

gender. consequently, patriarchy is embedded in the Algerian legislations especially in the discourse of NAFC .

Thus, the numerous gender ideologies especially patriarchy that are embedded in the target discourse infirm the neutrality of NAFC. The latter is a hidden source of power used to legitimize the authority of men and the subordination of women.

4.3 Suggestions for Further Studies

It is suggested that further researches can analyse the discourse of the Algerian family code of 1984 and explore the representation of social actors in it.

In addition, it would be interesting to compare the New Algerian Family Code of 2005 with other family law in the Arab countries especially the neighboring ones such as Tunisia, Morocco, Egypt and identify the points of similarities as well as that of differences between the two codes.

Another area for future research which might be worth exploring is the communication strategies taking place in the courtroom for instance :civil trials ,criminal trials...

The multidisciplinary methodological approach which was adopted in this study can also be employed to analyse family laws written in other languages especially English .

Further methodological applications inspired by the current study could be taken with multiple adaptations. For instance, comparing between men's and women's representations in the Algerian Family code and which roles are assigned to each of them.

In light of the findings obtained from this exploration, some loopholes are detected in the target code. This may draw the attention of lawyers and judges when dealing with this code

Far from the legal setting, other important settings such as social , political and economic , also represent important settings in which discourse can be examined. For

instance : One can analyse the political discourse of the president ,the economic discourse of business men, etc.

I suggest that the notion of FCDA can be one of the most important notions in the field of gender studies and it can be introduced in many other adjacent specialities.

Finally , it would be also beneficial for the students to conduct a study using the present methodology to examine the ways men is represented in the NAFC.

4.4 Limitations

In most of its stages, this research went in good conditions except for some periods in which we faced some obstacles that we fortunately, to some extent, succeeded to overcome .

The previous studies are undoubtedly helpful for illuminating the investment level that shapes specific instances of the research .Yet, there is a lack of research examining the legal discourse of the Algerian family code .Indeed, some resources about the NAFC were found , yet they studied it using social descriptive approaches only. It would be helpful and really appreciated if we came across previous researches exploring our issue using the same methodological approach.

Besides, when collecting data via the questionnaires and especially the interview. The questions were loathed to volunteers , even though the guarantee that they would remain anonymous. It was pointed out after the collection of data that the questions(both in questionnaire and interview) asked were not attuned to the Algerian culture that is still considered as conservative. We also noticed that some people were reluctant or incapable to give details of their personal experiences. Though these obstacles, the final results are truly genuine.

As it is mentioned in chapter three Van dijk (2004) framework consists of more than 25 strategies, examining all these strategies was not feasible. .In fact, determination of this choice depends strongly on the examined issue and the scale of the Study.

Another point worth highlighting is the selection of articles investigated in this research. Due to the multiplicity of parameters, as a researcher, we opted for analyzing a purposive sample from various angles concurrently rather than exploring all the articles from only one or two angles neglecting too many essential parameters. This choice was also motivated by the main objective of this research which is well-established in the research questions.

It is also important to point out that these articles were written in Arabic, the official language of Algeria, and translated to English .Hence ,there may be noticed some problems in terms of translation .Translation of the articles was not an easy for task because of the complexity of the legal discourse under investigation.

Due to time limitation, some points of weaknesses may be noticed in the current dissertation.

The study, additionally, includes Algerian women only, This means that the results may not be generalized to women all over the world.

4.5 Conclusion

We consider the two last chapters as the fruit of our research. We tried to gather the data for this study via the questionnaire and interview in the second chapter and analyze them in the third chapter. In the present chapter, we endeavored to analyse,interpret and discuss the findings of the thesis . In essence, the target articles from NAFC are critically analysed through FCDA framework namely Lazar's approach of study. The research limitations, suggestions and recommendations are provided in this chapter as well.

General

Conclusion

General Conclusion

In 2005, significant changes to the Family Code of Algeria were introduced by the government as a response to the suggestions of the former minister of Justice Tayeb Belaiz . The representation of women in the target code vis à vis marriage and its dissolution, seems to be controversial. The present investigation had analyzed from a critical discursive approach a corpus of articles from the NAFC in relation to marriage and its dissolution in an effort to highlight the discursive representation and the status of women in target legal discourse.

In the current research we looked at :

1)-How women are discursively represented in the Family Code in relation to marriage and its dissolution?

2)-How women are positioned in the Algerian Family Code?

A- What are the rights ensured to women by the target law?

B-What kind of rights are given to women by this law ?

C- whose interest is served by this positioning?

3)- Are women aware of their legal status and how they perceive NAFC?

4)- what are the embedded ideologies in the New Algerian Family Code , and how are gender ideologies (re)produced, negotiated through this type of discourse?

To respond to the research questions above, it was assumed that women are discursively represented as subordinate to men. As a second assumption, we assumed that the

Algerian legislator uses the legal discourse as a source of power to institutionalize patriarchy and fossilize women inferior status as opposed to men supremacy. We also presumed that women are quite aware of their legal status. As a last assumption, we assume that various ideologies such as patriarchal and feminist ideologies may be embedded in the target code.

Drawing on an interdisciplinary theoretical and methodological framework, we followed a multi-methodological approach that consists of in depth interview, questionnaire, and CDA methods addressed by Van Leeuwen and Van Dijk theories -under the umbrella of FCDA- were utilized.

Importantly, this research opted for Feminist Critical Discourse Analysis approach to analyze the research data. Thanks to this framework, the way meaning is reproduced in the discourse under scrutiny are revealed. In this research, we draw on Lazar's framework in order to address the application of a critical, feminist perspective to women's representation. Additionally, this approach helped us to examine the legal discourse and find out the connection between gender, power, and ideology.

Marriage is a noble relationship which should be based on unity, collaboration and mutual respect. In a institution of marriage, women and men have rights and duties over each other. In Algeria, Men are the guardians and women's protectors whereas women are the husband's wife's, father's daughters, etc. This cultural belief influences the Algerian legislations and especially the family code. Consequently, women's rights in NAFC are totally determined by the cultural and even political context.

The findings of the current study indicated that the discourse under investigation portrayed women as weak, passive, and sexual objects. This portrayal perpetuates and reinforces the stereotyped image of women in the Algerian society and depicts the increasing

of the gender-based ideology where women preeminence is reflected together with men supremacy.

It is also worth stating that most women are given some privileges due to their status as wives or widows (with children); less advantages as a single or divorced. Women are considered only in relation to men as if they cannot exist without male's control.

Hence, the findings of this research have revealed that women's representation in NAFC is typically ideological. It depicts women's social position in the Algerian patriarchal society. Women are represented negatively as weak, lacking control and protection, subordinate to men. Patriarchy, therefore, is produced and exercised in NAFC. That is to say, NAFC reinforces and perpetuates patriarchal values.

Indeed, in some of its articles, NAFC guarantees to women some rights such as housing and alimony. By guaranteeing these financial rights and neglecting other fundamental ones, it did not protect women against abuse by persons who are supposed to be more powerful such as their husbands, brother, father, etc. Interestingly, the target code has numerous legal loopholes that we attempted to signal throughout this research.

The investigation has shown how Gender injustice and gender discrimination are enacted in the code under investigation. Women are less valued and have lower social status. They are undervalued, marginalized and underestimated.

Also, the results of this research revealed that women are unaware and sometimes careless about their legal status. Based on their experiences women are increasingly dissatisfied with their rights in NAFC. They claimed that it promotes gender discrimination in favour of men's interest.

All in all, NAFC is far from protecting women from male's supremacy. The Algerian legislator has attempted to enhance women's rights by giving them more privileges in relation to polygamy, khulaa, custody, alimony... Nevertheless, women are still marginalized and dependent to their male kin and all the efforts of liberating them from male's domination seem to be insufficient.

Moreover, the efforts of the legislator are worth and really appreciated but they are still insufficient to free women from the patriarchal domination. Women are still waiting a chance for their voices to be heard and their rights to be more enhanced and legal innovation is therefore required.

Despite of the myriad amendments and notwithstanding its complex nature, the legal discourse of NAFC there existed a very worrying restriction towards advancing the legal status of women. Typically, a variety of modest reforms were performed via adding or deleting some articles such as raising the age of marriage and requiring a bride's consent, restricting polygamy, etc. However, legal articles that might undermine male domination and privilege in the family are scant . Legal reforms benefiting women have been limited and women have been relegated to traditional roles in the home. Women are subjected to coercive and controlling behaviours.

The main conclusion to be drawn from this investigation is that NAFC decrees amplify men's domination by codifying women's inferiority. The legal status of women in Algeria is currently shaky and problematic. It is obvious that whatever improvement was made in the advancement of women's rights is considered inadequate. The socio political context and the lack of awareness created obstacles to the enhancement of women rights and the full potential of NAFC. Unfortunately, The Algerian legislator does not give priority to

Gender equality.NAFC aimed towards conserving stereotypical thoughts rather than advancing women's rights which are ineffective, limited, and negligible.

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Appendices

Appendix A :Interview to women/Men

Thank you very much for participating in this study. This interview seeks to collect some data about the perception of the New Algerian Family Code , based on your experience and expectations related to marriage and its dissolution. I want to make sure that you are comfortable during the interview, so if there are any questions you do not wish to answer or any topics you do not want to discuss, please let me know me and I will move to another question. In case you would like to add something , please do so. You are also free to stop the interview at any point if you do not want to continue the interview or want us to come some other day. I would also like to ask your permission to record this interview since we do not want to miss details. The recording would be used only for this study and will not be shared with anyone else, and it will be deleted once the study is complete.

Notes

This in depth semi structured interview will follow the method of questioning.

Probing questions are also needed and being used throughout the interview(s) to have a more comprehensive data about the participants' experiences.

Interview guide

- A. Introduction and warm up
- B. The participant and his/her Family

Have you ever take a legal action ? Yes no

If yes ,it was about which issue of the following:

- Child custody and visitation
- Getting married
- Divorce, Legal Separation
- Staying in the family home
- Caring for your children
- Financially supporting your children
- Financially supporting your spouse
- Enforcing your support payments

Have there been any legal or other proceedings between you and the opposing party? If so, please

At the present time, is there litigation in progress ? explain please.

Is there a pending or existing court order for or against you?

Do you have concerns for being treated as having less worth than the other party to this mediation?

Women awareness and attitude towards NAFC

What do you think about NAFC?

Does it include gender discrimination?

Does it ensure women's rights?

What do you think about the rights enhanced to women by this code?

What are the consequences of this law over women ?



How can those problems be prevented? Probe for new reforms

What information do you think this code should include to ensure women's rights?

Information on and knowledge of the family code



Appendix B: Interview to Women /Men (Arabic Version)

مقابلة النساء/رجال

شكرا جزيلا لكم على المشاركة في هذه الدراسة. تسعى هذه المقابلة إلى جمع بعض البيانات حول مفهوم قانون الأسرة الجزائري الجديد ، بناءً على خبرتك وتوقعاتك المتعلقة بالزواج وفسخه. أريد أن أتأكد من أنك مرتاح(ة) أثناء المقابلة ، لذا إذا كان هناك أي أسئلة لا ترغب(بين) في الإجابة عليها أو أي مواضيع لا تريد(بين) مناقشتها ، فيرجى إبلاغي بذلك وسأنتقل إلى سؤال آخر. في حالة رغبتك في إضافة شيء ما ، يرجى القيام بذلك. أنت أيضاً حر(ة) في إيقاف المقابلة في أي وقت إذا كنت لا ترغب(بين) في مواصلة المقابلة أو تريد(بين) منا أن نأتي في يوم آخر. أود أيضاً أن أطلب إنك لتسجيل هذه المقابلة لأننا نريد توثيق التفاصيل. سيتم استخدام التسجيل لهذه الدراسة فقط ولن تتم مشاركته مع أي شخص آخر ، وسيتم حذفه بمجرد انتهاء الدراسة.

ملاحظات

ستتبع هذه المقابلة شبه المنظمة المتعمقة طريقة الاستجواب

هناك حاجة أيضاً إلى أسئلة استقصائية ويتم استخدامها خلال المقابلة (المقابلات) للحصول على بيانات أكثر شمولاً حول تجارب المشاركين

دليل المقابلة

المقدمة والتمهيد .

ب- المشارك(ة) وعائلته(ا)

1-هل سبق لك اتخاذ أي إجراء قانوني؟ نعم لا

2-إذا كانت الإجابة بنعم ، فقد كان الأمر يتعلق بأي قضية مما يلي

• حضانة الأطفال وزيارتهم

• الزواج

• الطلاق والانفصال القانوني

• المكوث في منزل الأسرة

• رعاية أطفالك

• دعم أطفالك مالياً

• إعالة زوجتك مالياً

• فرض مدفوعات الدعم الخاصة بك

3- هل كانت هناك أي إجراءات قانونية أو إجراءات أخرى بينك وبين الطرف الآخر؟ إذا كان الأمر كذلك ، من فضلك

4- في الوقت الراهن ، هل هناك دعوى قضائية جارية؟ وضح من فضلك

5- هل هناك أمر محكمة معلق أو قائم لصالحك أو ضدك؟

6- هل لديك مخاوف بشأن معاملتك على أنها أقل قيمة من الطرف الآخر في هذه الوساطة؟

وعى المرأة وموقفها تجاه ق.ا.ج

ما رأيك في ق.ا.ج؟

هل يشمل التمييز بين الجنسين؟

هل تضمن حقوق المرأة؟

ما رأيك في الحقوق التي يعززها هذا القانون للمرأة؟

ما هي نتائج هذا القانون على المرأة؟

كيف يمكن منع هذه المشاكل؟ البحث عن إصلاحات جديدة؟

ما هي المعلومات التي يجب أن تتضمنها هذه المدونة لضمان حق المرأة؟

المعلومات والمعرفة بقانون الأسرة؟

Appendix C: Questionnaire to Women /Men

DO NOT WRITE YOUR NAME ON THE SURVEY

Please answer the following questions according to your perception of the Family code.

Please mark your answers with an X in the appropriate box

Gender: male female other

Age: 19/30 30/50 +50

Occupation:

Educational level:

Which one of these applies to you at present?

Single (never married)

Married

Widowed

Divorced

1. Have you ever taken a legal action? Yes No

2. If yes, it was about which issue of the following (tick in the box)

3. Have there been any litigation or other legal proceedings between you and the opposing party? Yes No

4. If so, please explain.

5. At the present time, is there litigation in progress? YesNo

6. Is there a pending or existing court order for or against you(in relation to marriage and its dissolution)?.....YesNo

7. Have you heard of the legal reforms in the Algerian family code? YesNo

8 . Do you think that inequality between men and women is embedded in the Algerian Family Code in relation to marriage and its dissolution ?

9. Do you think that the Algerian family code ensures women's rights?

10. What, do you think, are the impacts of the Algerian family code on women ?

11. What provisions should the Algerian Family code include to ensure women's rights?

12. Who (do you think)has more rights when a marriage or union ends in terms of:

- Children custody
- Dissolution of marriage
- Remarriage
- Choosing the place, where residing after the dissolution of marriage.

13. To what extent do you agree or disagree with the following statements ?

About marriage:

Ideas	Agree	Disagree
A -Both spouses should express their consents to get married		
B -The marriage of a Muslim man with a non - Muslim is temporarily forbidden		
C -Forced marriage is prohibited and the father cannot oblige his daughter to marry against her will		
D -The guardian's presence is not always needed for women		
E -Engagement is a promise of marriage, not marriage		
F -Both men and women can marry before 19years old after having authorization from the judge		
G -Polygamy is legal under some conditions		
H -The guardian's presence is not essential for the marriage		

of a woman who is more than 19years old		
I-Women (more than19) can choose their guardian for marriage		

**14. If you have any feedback or comments regarding the questionnaire(about the topic),
we would be grateful if you would let us know in the space below.....**

THANK YOU FOR YOUR COLLABORATION

Appendix D: Questionnaire to Women/Men Arabic Version

استبيان للنساء / الرجال

لا تكتب اسمك في الاستبيان

يرجى وضع علامة في المربع المناسب على إجاباتك الرجاء الإجابة على الأسئلة التالية وفقاً لتصورك لقانون الأسرة

الجنس: ذكر ... أنثى أخرى

العمر: 30/19 50/30 + 50

المهنة:

المستوى التعليمي :

أي من هؤلاء ينطبق عليك في الوقت الحاضر؟

أعزب /عزباء (لم يتزوج قط)

متزوج

الأرمل(ة)

مطلق (ة)

1- هل سبق لك أن اتخذت أي إجراء قانوني؟ نعم لا

2- إذا كانت الإجابة بنعم ، فإن كان الأمر يتعلق بأي قضية مما يلي (ضع علامة في المربع)

3- هل كانت هناك أي دعوى أو إجراءات قانونية أخرى بينك وبين الطرف الخصم؟ نعم لا

4- إذا كان الأمر كذلك ، يرجى التوضيح

5- في الوقت الحاضر ، هل هناك دعوى قضائية جارية؟ نعم لا

6- هل هناك أمر محكمة معلق أو قائم لصالحك أو ضدك (فيما يتعلق بالزواج وفسخه)؟ نعم لا

7- هل سمعت عن الإصلاحات القانونية في قانون الأسرة الجزائري؟ نعم لا

8- هل تعتقد أن عدم المساواة بين الرجل والمرأة جزء لا يتجزأ من قانون الأسرة الجزائري فيما يتعلق بالزواج وفسخه؟

نعم لا

9- هل تعتقد أن قانون الأسرة الجزائري يضمن حقوق المرأة؟ نعم لا

10- ما هي ، في رأيك ، تأثيرات قانون الأسرة الجزائري على المرأة؟.....

11- ما هي الأحكام التي يجب أن يتضمنها قانون الأسرة الجزائري لضمان حقوق المرأة؟.....

12- (في اعتقادك) من له حقوق أكثر عندما ينتهي الزواج أو الاتحاد من حيث

حضانة الأطفال

فسخ الزواج

الزواج من جديد

اختيار محل الإقامة بعد الفسخ

13- إلى أي مدى توافق أو لا توافق على العبارات التالية؟

- على الزوجين إبداء موافقتهم على الزواج موافق غير موافق

- يحرم زواج المسلم من غير المسلم مؤقتاً موافق غير موافق

- يحرم الزواج بالإكراه ولا يجوز للأب إلزام ابنته بالزواج رغماً عنها موافق غير موافق

- حضور ولي الأمر ليس مطلوباً دائماً بالنسبة للمرأة موافق غير موافق

الخطبة الإلكترونية وعد بالزواج وليس الزواج موافق غير موافق

- يحق لكل من الرجل والمرأة الزواج قبل سن التاسعة عشرة بعد الحصول على إذن من القاضي موافق غير موافق

-تعدد الزوجات قانوني في ظل بعض الشروط. موافق غير موافق

-لا يشترط حضور ولي الأمر في زواج الفتاة التي يزيد عمرها عن 19 سنة موافق غير موافق

-يمكن للمرأة (أكثر من 19) اختيار وليها للزواج موافق غير موافق

14. إذا كان لديك أي ملاحظات أو تعليقات بخصوص الاستبيان (حول الموضوع) ، سنكون ممتنين لو سمحت لنا بإبلاغنا

..... في الفراغ أدناه

شكراً لتعاونكم

Appendix E: Questionnaire to Experts

DO NOT MENTION YOUR NAME ON THE SURVEY. YOUR INDIVIDUAL ANSWERS WILL REMAIN STRICTLY CONFIDENTIAL

Please answer the following questions according to your perception of the New Algerian Family Code. Please mark your answers with an X in the appropriate box.

Gender: male female other

Age : 19/30 30/50 + 50

Occupation :

For how long have you been practicing law?

Questions

1. Have there been any legal reforms in Algerian family code? YES NO

2. Do you think that the amendments of 2005 to the Algerian Family Code tend to guarantee non-discrimination and equality between men and women (in relation to marriage and its dissolution)? YES NO

3. If yes, please explain and provide examples. (If no please go directly to the previous question).....

4. Do you think that the Algerian Family code(2005) provides some guidelines(tick in the box) :

To protect the rights of women

To enhance the rights of men

To protect children

Other please specify them.....

5. Compared to the previous Family Code , how do you consider the recent amendments to the Algerian family code :

Very important

Important

Not important

6. How satisfied are you with the reforms of 2005?

Very satisfied

Satisfied

Dissatisfied

7. Do you think that the New Algerian family Code help to protect the Family in general ,and women in particular? Yes No

8. Have women status been enhanced by the new Algerian family code in relation to (tick in the box only one answer):

The minimum age for marriage

The freedom to choose a spouse and to express consent

The freedom to dissolve marriage

With permission or authorization from guardian/courts, both men and women have the right to marry before 19 years old according to amended Algerian family code ? Agree

Disagree

10. Do you agree or disagree with the law of polygamy? Agree Disagree

11. Are rights of widow(er)/divorced advanced in terms of:

- Custody yes no
- Property yes no
- allimony yes no
- Remarriage yes no
- Freedom to choose residence yes no

12. Some people think that in spite of the amendments to the Algerian Family code of 2005 in relation to marriage and its dissolution, is still including some aspects of the patriarchal society. What do you think? Yes No

13. Please justify your answer?.....

Yes No

14. Are women given more rights by the Algerian Family Code(2005), in relation to marriage and its dissolution ?

15. Compared to the other Arab Countries (like Tunisia, Morocco, Egypt), do you think that women's status was enhanced by Algerian Family Code of 2005?

YES No

16. Do you think that religion can be an obstacle that hinders the enhancement of women's status? YES No

17. Do you think that women are aware of their legal rights in relation to marriage and its dissolution?

18. If you have the opportunity to change some articles on the Algerian family code(2005), in relation to marriage and its dissolution, which articles will you choose to enhance women's status?

(please cite 3 articles or more mentioning just their numbers).....

-Article:.....

-Article:.....

-Article:.....

19. If you have any feedback or comments regarding the questionnaire, we would be grateful if you would let us know in the space below.....

THANK YOU FOR YOUR COLLABORATION

Appendix F: Questionnaire to Experts(Arabic Version)

مقابلة شفوية مع النساء / الرجال

لا تذكر اسمك في الاستبيان. ستبقى إجاباتك الفردية سرية للغاية

يرجى وضع علامة في المربع من فضلك أجب على الأسئلة التالية حسب تصورك لقانون الأسرة الجزائري الجديد

الجنس: ذكر ... أنثى أخرى

العمر: 30/19 ... 50/30 + 50

المهنة:

منذ متى وأنت تمارس القانون؟

الأسئلة

1-هل تم إجراء أي إصلاحات قانونية في قانون الأسرة الجزائري؟ نعم لا .

2-هل تعتقد أن تعديلات 2005 على قانون الأسرة الجزائري تميل إلى ضمان عدم التمييز والمساواة بين الرجل والمرأة

(فيما يتعلق بالزواج وفسخه)؟ نعم لا

3-(إذا كانت الإجابة بنعم ، يرجى التوضيح وتقديم أمثلة. (إذا كانت الإجابة لا ، يرجى الانتقال مباشرة إلى السؤال السابق

.....

4-هل تعتقد أن قانون الأسرة الجزائري (2005) يوفر بعض الإرشادات (ضع علامة في المربع المناسب)-

لحماية حقوق المرأة

لتعزيز حقوق الرجل

..... لحماية الأطفال

..... أخرى

الرجاء تحديدها.....

5- مقارنة بقانون الأسرة السابق ، كيف تنظرون في التعديلات الأخيرة على قانون الأسرة الجزائري

..... مهم جدا

..... مهم

..... غير مهم

6- ما مدى رضاك عن إصلاحات 2005؟

..... راض جدا

..... راض

..... غير راض

7- هل تعتقد أن قانون الأسرة الجزائري الجديد يساعد في حماية الأسرة بشكل عام والمرأة بشكل خاص؟ .

8- (هل عزز قانون الأسرة الجزائري الجديد مكانة المرأة فيما يتعلق بـ (ضع علامة في المربع إجابة واحدة فقط

..... الحد الأدنى لسن الزواج

..... حرية اختيار الزوج والتعبير عن موافقته

..... حرية فسخ الزواج

9- بإذن أو إذن من ولي الأمر / المحاكم ، لكل من الرجل والمرأة الحق في الزواج قبل سن 19 عامًا وفقًا لقانون الأسرة الجزائري المعدل؟

موافق غير موافق

10- هل توافق أو لا توافق على قانون تعدد الزوجات موافق غير موافق

11- هل تم تطوير حقوق الأرملة / المطلقة من حيث

الحضانة نعم لا

الملكية نعم لا

النفقة نعم لا

الزواج من جديد نعم لا

حرية اختيار الإقامة نعم لا

12- يعتقد البعض أنه على الرغم من التعديلات التي أدخلت على قانون الأسرة الجزائري لسنة 2005 فيما يتعلق بالزواج وفسخه ، فإنه لا يزال يشمل بعض جوانب المجتمع الأبوي. ماذا تعتقد؟ نعم لا

13- الرجاء تبرير إجابتك؟

14- هل يمنح قانون الأسرة الجزائري (2005) المرأة المزيد من الحقوق فيما يتعلق بالزواج وفسخه؟ نعم لا

15- بالمقارنة مع الدول العربية الأخرى (مثل تونس والمغرب ومصر) ، هل تعتقد أن وضع المرأة قد تعزز من خلال قانون الأسرة الجزائري لعام 2005 نعم لا

16- هل تعتقد أن الدين يمكن أن يكون عقبة تحول دون تعزيز مكانة المرأة؟ نعم لا

17- هل تعتقد أن المرأة مدركة لحقوقها القانونية فيما يتعلق بالزواج وفسخه؟ نعم لا

18- إذا أتاحت لك الفرصة لتغيير بعض المواد الخاصة بقانون الأسرة الجزائري (2005) فيما يتعلق بالزواج وفسخه ، .

فما هي المواد التي ستختارينها لتعزيز مكانة المرأة؟

..... (يرجى ذكر قوانين أو أكثر مع ذكر أرقامهم فقط)

المادة-رقم

المادة - رقم

المادة - رقم

19- إذا كان لديك أي ملاحظات أو تعليقات بخصوص الاستبيان ، سنكون ممتنين لو تفضلتم بإبلاغنا في الفراغ أدناه

.....

.....

شكرا لتعاونكم

Appendix G :Translated Articles from NAFC

- **Art 04:** Marriage is a consensual contract between a man and a woman in a legal manner, the goals of which are the formation of a family based on affection, mercy, cooperation, protection of the spouses and the preservation of lineage.
- **Art05:**The engagement is a promise of marriage.The parties may withdraw from the engagement.If the dissolution of the engagement results in material or moral damage to one of the parties, a ruling may be made for him to pay compensation.

The fiancé does not recover anything from the engagement that he gifted if he is recanted from it, and he must return to the fiancée as long as he does not consume what she gave him or his value.If the fiancée belongs to the fiancée, then she must return to the fiancée as long as he does not consume gifts or his value.
- **Art 07:** The capacity of a man and a woman to marry is complete by the full 19 years, and the judge may authorize marriage before that for a benefit or necessity, whenever the ability of the two parties to marry is confirmed.The minor spouse acquires litigation capacity regarding the effects of the marriage contract in terms of rights and obligations.The judge may authorize marriage before that for interest or necessity.
- **Art 07 bis:** The applicants for marriage must present a medical document, not more than three (3) months old, proving that they are free of any disease or any factor that may pose a danger that interferes with the marriage.The notary or the civil status officer must make sure, before the marriage contract is drawn up, that the two parties undergo medical examinations and that they are aware of the diseases or factors that may pose a danger in conflict with the marriage, and this is indicated in the marriage contract.The conditions and methods of applying this article are determined by regulation

- **Art 08:** Marriage with more than one wife is permitted within the limits of Islamic Sharia whenever there is a legitimate justification and the conditions and the intention of justice are fulfilled. The husband must inform the former wife and the woman whom he accepts to marry, and submit the application for permission to marry to the head of the court of the marital residence. The president of the court may authorize a new marriage, if he is sure of their consent and the husband proves the legal justification and his ability to provide justice and the necessary conditions for married life.
- **Art 08 :** It is permissible to marry more than one wife within the limits of Islamic law, when the legal justification is available and the conditions and intent of justice are provided. The husband must inform the ex-wife and the woman he wants to marry and submit the marriage license application to the president of the court at the marital home city. The president of the court can authorize the new marriage after confirming their consent and proving the husband's legitimate justification and his ability to provide justice and the necessary conditions for marital life
- **Art. 8 bis:** In case of /tadlis/, each wife can bring an action for divorce against the spouse.
- **Art. 8 bis 1:** The new marriage is terminated, before consumption, if the husband does not obtained the judge's authorization in accordance with the conditions set out in article 8 above.
- **Art. 9 bis:-**The marriage contract must meet the following conditions: - the capacity to marry, - dowry, - El Wali, - two witnesses, - exemption from legal impediments to marriage.
- **Art. 10:** Consent follows from the request of one of the two parties and the acceptance of the other expressed in any term meaning legal marriage. The request

and the consent of the disabled person expressed in any written or gestures signifying marriage in language or usage

- **Art. 11:** The adult woman concludes her marriage contract in the presence of her "wali" who is his father or a close relative or any other person of her choice. Without prejudice to the provisions of article 7 of this law, the marriage of the minor is contracted by through her "wali", who is the father, then one of the close relatives. The judge is the guardian of the person who does not have one.
- **Art. 13:** It is forbidden for the wali, whether father or another one, to compel marriage to a minor under his guardianship and cannot marry her without her consent.
- **Art. 19.** (Amended) - Both spouses may stipulate in the marriage contract or in a contract subsequent clause, any clause which they consider useful, in particular as regards polygamy and wife's work, unless the conditions are contrary to the provisions of this article.
- **Art. 31:** The marriage of Algerian and Algerian women with foreigners of both sexes is governed by regulations.
- **Art. 32:** The marriage is declared void if it involves an impediment or a clause contrary to the object of the contract.
- **Art. 33:** Marriage is declared /batil/ if consent is vitiated. Contracted without the presence of two witnesses or dowry, or the wali when it is obligatory, the marriage is terminated before consumption and does not open right to the dowry. After consumption, it is confirmed by means of the parity dowry /sadaq el mithl/.
- **Art. 41:** Child is affiliated to his father by the fact of the legal marriage, the possibility of conjugal relations, except disavowal of paternity according to the legal procedures.
- **Art. 43:** The child is affiliated with his father if he is born within ten (10) months following the date of separation or death.

- **Art. 48:** Divorce is the dissolution of marriage, subject to the provisions of Article 49, below. It intervenes by the will of the spouse, by mutual consent of both spouses or at the request of the spouse within the limits of the cases provided for in articles 53 and 54 of this law.
- **Art. 49:** The divorce can only be established by judgment preceded by several attempts to conciliate the parties made by the judge, during a period that cannot exceed a period of three months from the date introduction of the proceeding. The judge must draw up a report duly signed by him, the clerk and the parties, in which are recorded the acts and results of the conciliation attempts. Divorce judgments are transcribed legally in the civil register at the expense of the public ministry.
- **Art. 51:** Every man who has divorced his wife three times in succession may not resume it until after she has married another person, whether she is divorced or dies after having cohabited.
- **Art. 52:** If the judge finds that the spouse has improperly used his faculty of divorce, he awards the wife damages for the injury she has suffered.
- **Art. 53:** The wife is allowed to seek a divorce for the following causes: 1 - for non-payment of the judgmental support unless the wife has known the indigence of her husband at the time of the marriage subject to sections 78,79 and 80 of this Act, 2 - for infirmity preventing the achievement of the purpose of the marriage, 3 - for refusal of the spouse to share the wife's diaper for more than four (4) months, 4 - for conviction of the husband for an offense of a nature to dishonor the family and make it impossible to live together and the resumption of married life, 5 - for lack of more than one (1) without valid excuse or maintenance pension, 6 - for violation of the provisions of Article 8 above, 7 - for any immorally serious misconduct established, 8

- for persistent disagreement between the spouses, 9 - for violation clauses stipulated in the marriage contract, 10 - for any legally recognized injury.

- **Art. 53 bis:** The judge who pronounces the divorce at the request of the wife may award him compensation for the injury he has suffered.
- **Art. 54:** The wife may separate from her spouse, without the agreement of the latter, by paying a sum as "khol'a". In the event of disagreement on the counterparty, the judge orders the payment of a sum the amount of which can not exceed the value of the parity dowry "sadaq el mithl" evaluated at the date of the judgment.
- **Art. 57:** Judgments on divorce by repudiation, at the request of the wife or through "khol'â" are not subject to appeal except in their material aspects. Judgments on custody rights are subject to appeal.
- **Art. 57 bis:** The judge may give an interim order by order on motion on all provisional measures, in particular those relating to alimony, the right of custody, access, housing
- **Art. 61:** Divorced women and those whose husbands have died must leave the matrimonial home during their statutory retirement period only in case of immoral misconduct duly established. The divorced woman is also entitled to alimony during her legal retirement. Right of custody / *hadana*/
- **Art. 62:** The right of custody / *hadana*/ consists of the maintenance, schooling and education of the child in the religion of his father as well as the preservation of his physical and moral health. The holder of this right must be able to take charge of it.
- **Art 64:** The right of custody devolves first to the mother of the child, then to the father, then to the maternal grandmother, then to the paternal grandmother, then to the maternal aunt, then to the paternal aunt, then to the nearest relatives, in the best

interests of the child. In pronouncing the order of devolution of the guard, the judge must grant the right of access.

- **Art 65:** The male custody period expires upon reaching (10) years, and the female when she reaches the age of marriage, and the judge may extend custody for the male to 16 years if the custodian or not remarried, provided that the ruling of her termination takes into account the interest of the child.
- **Art 66:** The holder of the right of custody, marrying a person not related to the child by a relative of a prohibited degree, is deprived of his right of custody. It also ceases by renunciation as long as it does not compromise the interest of the child.
- **Art 67:** The right of custody ceases when its holder no longer fulfills one of the conditions set out in article 62 above. The work of the woman can not constitute a ground for forfeiture of the right of custody. However, the interest of the child will always be taken into account
- **Art 74:** The wife's alimony is obligatory for her husband to enter her or invite her to him clearly, taking into account the provisions of Articles (78, 79 and 80) of this law.
- **Art 75:** The alimony for the child is obligatory on the father unless he has money, for males to adulthood and females to enter, and it continues in the event that the child is incapacitated by a mental or physical scourge or is practicing study, and it is waived by dispensing with it by earning it.
- **Art78:** Alimony includes: food, clothing, treatment, housing or its wages, and what is considered necessities in custom and tradition.
- **Art79:** In estimating alimony, the judge takes into account the situation of the parties and the circumstances of the pension and does not review his estimate before the lapse of one year of the ruling.

- **Art 80:** The alimony is due from the date of filing the lawsuit, and the judge may rule its entitlement based on evidence for a period not exceeding one year prior to the filing of the case.

Appendix H :Arabic Articles from NAFC(Original Version)

مواد قانون الاسرة الجزائري المختارة للدراسة الحالية

المادة 04: (أمر رقم 02-05 المؤرخ في 27 فبراير 2005) الزواج هو عقد رضائي يتم بين رجل وامرأة على الوجه الشرعي، من أهدافه تكوين أسرة أساسها المودة والرحمة والتعاون وإحسان الزوجين والمحافظة على الأنساب.

المادة 05: الخطبة وعد بالزواج.

يجوز للطرفين العدول عن الخطبة.

إذا ترتب عن العدول عن الخطبة ضرر مادي أو معنوي لأحد الطرفين جاز الحكم له بالتعويض.

لا يسترد الخاطب من الخطوبة شيئا مما أهداها إن كان العدول منه، وعليه أن يرد للمخطوبة ما لم يستهلك مما أهدته له أو قيمته.

وإن كان العدول من المخطوبة فعليها أن ترد للخاطب ما لم يستهلك من هدايا أو قيمته.

- وإن كان العدول من المخطوبة فعليها رد ما لم يستهلك

المادة 07: تكتمل أهلية الرجل والمرأة في الزواج بتمام 19 سنة، وللقاضي أن يرخص بالزواج قبل ذلك لمصلحة أو ضرورة، متى تأكدت قدرة الطرفين على الزواج.

يكتسب الزوج القاصر أهلية التقاضي فيما يتعلق بآثار عقد الزواج من حقوق والتزامات

المادة 7 مكرر: يجب على طالبي الزواج أن يقدموا وثيقة طبية، لا يزيد تاريخها عن ثلاثة (3) أشهر تثبت خلوهما من أي مرض أو أي عامل قد يشكل خطرا يتعارض مع الزواج.

يتعين على الموثق أو ضابط الحالة المدنية، أن يتأكد قبل تحرير عقد الزواج من خضوع الطرفين للفحوصات الطبية ومن علمهما بما قد تكشف عنه من أمراض أو عوامل قد تشكل خطرا يتعارض مع الزواج، ويؤشر بذلك في عقد الزواج.

تحدد شروط وكيفيات تطبيق هذه المادة عن طريق التنظيم

المادة 8: يسمح بالزواج بأكثر من زوجة واحدة في حدود الشريعة الإسلامية متى وجد المبرر الشرعي وتوفرت شروط ونية العدل. يجب على الزوج إخبار الزوجة السابقة والمرأة التي يقبل على الزواج بها وأن يقدم طلب الترخيص بالزواج إلى رئيس المحكمة لمكان مسكن الزوجية.

يمكن رئيس المحكمة أن يرخص بالزواج الجديد، إذا تأكد من موافقتهما وأثبت الزوج المبرر الشرعي وقدرته على توفير

العدل والشروط الضرورية للحياة الزوجية.

المادة 8 مكرر: في حالة التدليس، يجوز لكل زوجة رفع دعوى قضائية ضد الزوج للمطالبة بالتطليق.

المادة 8 مكرر 1: يفسخ الزواج الجديد قبل الدخول، إذا لم يستصدر الزوج ترخيصا من القاضي وفقا للشروط المنصوص عليها في المادة 8 أعلاه.

المادة 10: يكون الرضا بإيجاب من أحد الطرفين وقبول من الطرف الآخر بكل لفظ يفيد معنى النكاح شرعا.

ويصح الإيجاب والقبول من العاجز بكل ما يفيد معنى النكاح لغة أو عرفا كالكتابة والإشارة.

المادة 11: تعقد المرأة الراشدة زواجها بحضور وليها وهو أبوها أو أحد أقاربها أو أي شخص آخر تختاره دون الإخلال بأحكام المادة (7) من هذا القانون، يتولى زواج القصر أولياؤهم وهم الأب، فأحد الأقارب الأولين والقاضي ولي من لا ولي له.

المادة 13: لا يجوز للولي أبا كان أو غيره أن يجبر القاصرة التي هي في ولايته على الزواج، ولا يجوز له أن يزوجه بدون موافقته.

المادة 19: للزوجين أن يشترطا في عقد الزواج أو في عقد رسمي لاحق كل الشروط التي يريانها ضرورية، لاسيما شرط عدم تعدد الزوجات وعمل المرأة، ما لم تتناف هذه الشروط مع أحكام هذا القانون.

المادة 31: يخضع زواج الجزائريين والجزائريات بالأجانب من الجنسين إلى أحكام تنظيمية.

المادة 33: يبطل الزواج إذا اختل ركن الرضا.

إذا تم الزواج بدون شاهدين أو صدق أو ولي في حالة وجوبه، يفسخ قبل الدخول ولا صدق فيه، ويثبت بعد الدخول بصدق المثل

المادة 41: ينسب الولد لأبيه متى كان الزواج شرعيا وأمكن الاتصال ولم ينفه بالطرق المشروعة.

المادة 43: ينسب الولد لأبيه إذا وضع الحمل خلال عشر (10) أشهر من تاريخ الانفصال أو الوفاة.

المادة 48: مع مراعاة أحكام المادة (49) أدناه يحل عقد الزواج بالطلاق الذي يتم بإرادة الزوج أو بتراضي الزوجين أو بطلب من الزوجة في حدود ما ورد في المادتين (53 و54) من هذا القانون.

المادة 49: لا يثبت الطلاق إلا بحكم بعد محاولات صلح يجريها القاضي دون أن تتجاوز مدته ثلاثة (3) أشهر ابتداء من تاريخ رفع الدعوى.

يتعين على القاضي تحرير محضر يبين مساعي ونتائج محاولات الصلح، يوقعه مع كاتب الضبط والطرفين

تسجل أحكام الطلاق وجوبا في الحالة المدنية بسعي من النيابة العامة.

المادة 51: لا يمكن أن يراجع الرجل من طلقها ثلاث مرات متتالية إلا بعد أن تنزوج غيره وتطلق منه أو يموت عنها بعد البناء.

المادة 52: إذا تبين للقاضي تعسف الزوج في الطلاق حكم للمطلة بالتعويض عن الضرر اللاحق بها.

المادة 53: يجوز للزوجة أن تطلب التطلق للأسباب الآتية:

1- عدم الإنفاق بعد صدور الحكم بوجوبه ما لم تكن عالمة بإعساره وقت الزواج، مع مراعاة المواد (78 و79 و80) من هذا القانون،

2- العيوب التي تحول دون تحقيق الهدف من الزواج،

3- الهجر في المضجع فوق أربعة أشهر،

وتستحيل معها مواصلة العشرة والحياة الزوجية، 4- الحكم على الزوج عن جريمة فيها مساس بشرف الأسرة

5- الغيبة بعد مرور سنة بدون عذر ولا نفقة،

6- مخالفة الأحكام الواردة في المادة (8) أعلاه،

7- ارتكاب فاحشة مبينة،

8- الشقاق المستمر بين الزوجين،

9- مخالفة الشروط المتفق عليها في عقد الزواج،

10- كل ضرر معتبر شرعا.

المادة 54: يجوز للزوجة دون موافقة الزوج أن تخالع نفسها بمقابل مالي.

إذا لم يتفق الزوجان على المقابل المالي للخلع، يحكم القاضي بما لا يتجاوز قيمة صداق المثل وقت صدور الحكم

المادة 57: تكون الأحكام الصادرة في دعاوى الطلاق والتطلق والخلع غير قابلة للاستئناف فيما عدا جوانبها المادية.

تكون الأحكام المتعلقة بالحضانة قابلة للاستئناف.

المادة 57 مكرر: يجوز للقاضي الفصل على وجه الاستعجال بموجب أمر على عريضة في جميع التدابير المؤقتة ولاسيما

ما تعلق منها بالنفقة والحضانة والزيارة والمسكن

المادة 62: الحضانة هي رعاية الولد وتعليمه والقيام بتربيته على دين أبيه والسهو على حمايته وحفظه صحة وخلقاً.

ويشترط في الحاضن أن يكون أهلاً للقيام بذلك.

المادة 64: الأم أولى بحضانة ولدها، ثم الأب، ثم الجدة لأم، ثم الجدة لأب، ثم الخالة، ثم العمّة، ثم الأقربون درجة مع

مراعاة مصلحة المحضون في كل ذلك، وعلى القاضي عندما يحكم بإسناد الحضانة أن يحكم بحق الزيارة.

المادة 65: تنقضي مدة حضانة الذكر ببلوغه (10) سنوات، والأنثى ببلوغها سن الزواج، وللقاضي أن يمدد الحضانة بالنسبة للذكر إلى (16) سنة إذا كانت الحاضنة أما لم تتزوج ثانية، على أن يراعى في الحكم بانتهائها مصلحة المحضون.

المادة 66: يسقط حق الحاضنة بالتزوج بغير قريب محرم، وبالتنازل ما لم يضر بمصلحة المحضون.

المادة 67: تسقط الحضانة باختلال أحد الشروط المنصوص عليها في المادة (62) أعلاه.

ولا يمكن لعمل المرأة أن يشكل سببا من أسباب سقوط الحق عنها في ممارسة الحضانة.

غير أنه يجب في جميع الحالات مراعاة مصلحة المحضون.

المادة 68: إذا لم يطلب من له الحق في الحضانة مدة تزيد عن سنة بدون عذر سقط حقه فيها

المادة 72: في حالة الطلاق، يجب على الأب أن يوفر لممارسة الحضانة سكنا ملائما للحاضنة، وإن تعذر ذلك فعليه دفع

بدل الإيجار. وتبقى الحاضنة في بيت الزوجية حتى تنفيذ الأب للحكم القضائي المتعلق بالسكن.

المادة 74: تجب نفقة الزوجة على زوجها بالدخول بها أو دعوتها إليه ببينة مع مراعاة أحكام المواد (78 و79 و80) من هذا القانون.

المادة 75: تجب نفقة الولد على الأب ما لم يكن له مال، فبالنسبة للذكور إلى سن الرشد والإناث إلى الدخول، وتستمر في حالة ما إذا كان الولد عاجزا لأفة عقلية أو بدنية أو مزاولا للدراسة، وتسقط بالاستغناء عنها بالكسب.

المادة 76: في حالة عجز الأب تجب نفقة الأولاد على الأم إذا كانت قادرة على ذلك.

المادة 78: تشمل النفقة: الغذاء والكسوة والعلاج، والسكن أو أجرته، وما يعتبر من الضروريات في العرف والعادة.

المادة 79: يراعى القاضي في تقدير النفقة حال الطرفين وظروف المعاش ولا يراجع تقديره قبل مضي سنة من الحكم.

المادة 80: تستحق النفقة من تاريخ رفع الدعوى وللقاضي أن يحكم باستحقاقها بناء على بينة لمدة لا تتجاوز سنة قبل رفع

الدعوى.

المخلص

تنظم المسائل الأسرية المتعلقة بالزواج وانحلاله من خلال مختلف قوانين الأسرة. فيما يتعلق بالجزائر ، قد شهد العقد الماضي إصلاحات ملحوظة على مستوى قانون الأسرة الجزائري. إذ قيل أن التعديلات الجديدة أثرت على الصراع بين المرأة والحكومة فيما يخص تحسين حقوقها التي لها علاقة مع الزواج وانحلاله. وفي هذا الصدد، يتناول هذا البحث تمثيل المرأة في قانون الأسرة الجزائري لعام 2005. اذا، تطبق الدراسة الحالية نظرية تحليل الخطاب النقدي لنسوي(ت.خ.ن.ن)على الخطاب القانوني في محاولة لإلقاء الضوء على تمثيل المرأة اللغوي في قانون الأسرة الجزائري الجديد(ق.ا.ج) ولهذا السبب قمنا بتحليل الخطاب القانوني السابق الذكر من الناحية اللغوية وفقاً لإطار(ت.خ.ن.ن) مع التركيز بشكل خاص على نماذج فان لوبن الدلالي- الاجتماعي (2008) وفان ديجك (2004) للتحليل. إن هذا المنهج متعدد التخصصات استخدم للكشف على ان السلطة، هيمنة التحيز و الإيديولوجيات مازال محافظ عليها في قانون الأسرة الجزائري الجديد. وكشفت نتائج هذا البحث أن القانون الذي قيد الدراسة يقوم بتمثيل المرأة تمثيلاً متدني ولا يزال يحافظ ويكرس مكانة المرأة المتدنية. وباختصار اشار هذا البحث إلى أن التحيز الجندي وعلاقات السلطة غير المتماثلة بين المرأة والرجل متضمنة في الخطاب المحلل.

الكلمات المفتاحية: قانون الأسرة الجزائري ، فسخ الزواج ، التمثيل الاستبدادي ، الخطاب القانوني ، تحليل النقد النسوي ، الأيديولوجيات ، التحيز الجندي.

Resumè

Les questions familiales liées au mariage et à sa dissolution sont régies par diverses lois de la famille. En ce qui concerne l'Algérie, au cours de la dernière décennie, il y a eu des réformes remarquables dans le Code de la famille algérien. Les nouvelles modifications auraient une incidence sur la lutte entre les femmes et le gouvernement pour améliorer leurs droits dans l'institution du mariage et sa dissolution. A cet égard, la présente recherche analyse la représentation discursive des femmes dans le Code algérien de la famille de 2005. Pour étudier la question à l'étude, cette thèse applique la théorie de l'analyse du discours critique féministe (désormais FCDA) au discours juridique afin d'apercevoir la façon dont les femmes sont représentées discursivement dans le Nouveau Code de la famille algérien (NAFC). À cette fin, le discours juridique susmentionné est examiné sur le plan linguistique en appliquant la FCDA qui met l'accent sur les modèles d'analyse socio-sémantiques de Van Leeuwen (2008) et de Van Dijk (2004). Cette approche interdisciplinaire est utilisée pour explorer comment le pouvoir, le biais de dominance et les idéologies sont toujours maintenus dans le Nouveau Code de la famille algérien. Les résultats de cette étude révèlent que le code cible maintient et perpétue la position inférieure des femmes. En résumé, cette recherche indique que les préjugés sexistes et les rapports de force asymétriques entre les femmes et les hommes sont mis en œuvre dans le discours à l'étude.

Mots-clés : Code de la famille algérien, dissolution du mariage, représentation discursive, discours juridique, analyse du discours critique féministe, idéologies, préjugés sexistes

ⁱ The guardian who is required to conclude the marriage of a woman in Islam . He is usually a father or one of her closest male relatives

ⁱⁱ It is a form of marriage dissolution in which a woman can separate from her husband in return for money.

ⁱⁱⁱ The estimated dowry of a woman with regard to the attributes, status, time and place .It is imposed upon her after the marriage contract, in which the dowry is not specified.

^{iv} forbidden or proscribed by Islamic law.

