

**Baker  
McKenzie.**

# Real Rights: young people engaging with law enforcement

 Algiers, Algeria



The Real Rights project has been developed by Baker McKenzie and the Global Initiative on Justice with Children to provide young people – especially young people of colour, minority and vulnerable populations – with specific guidance for interactions with law enforcement. Thanks to the Real Rights project and the pro bono work of over 1,500 volunteer professionals, we have created a clear and accessible data base of answers to child questions when they are in contact with the police – from initial contact, questioning, to stop and report.

If you are interested to support us in this project, click on the "Feedback" button provided in each city page or email [realrights@bakermckenzie.com](mailto:realrights@bakermckenzie.com).

## Rights:

What rights do I have when I encounter law enforcement?

### Question Asked

- Stopped By The Police On The Street, Now What?
- When Can Police Search You and Your Surroundings?
- Reasons Police May Detain or Arrest You
- The Difference Between Police TELLING Me What To Do And Asking Me To Do Something
- Do Police Need A Warrant To Arrest You?
- How Do You Know If You Are Under Arrest?
- What To Do After Being Warned of Your Rights
- Police Questioning You
- How do I Contact A Lawyer and When?
- Do Police Always Have To Tell The Truth?
- How do I make a complaint if I have questions or feel my rights have been violated?
- How can I respond to circumstances involving discrimination?
- What can you do if the police perform an improper search? Or I was improperly detained?

## Stopped By The Police On The Street, Now What?

### Proposed Information

It is important to follow this advice:

- Stay calm. It is not a good idea to run. Speak carefully and clearly. Anything you say can be used against you in a court of law.
- It is not a good idea to touch the officers. Keep your hands where the police can see them.
- It is not a good idea to resist, even if you're innocent or if you think the police are acting unfairly or unlawfully.

### **Can the police arrest you for refusing to answer questions?**

No. You cannot be forced to answer questions. However, you must identify yourself to a police officer if asked.

[Convention on the Rights of the Child text | UNICEF](#) Article 40 2. (iv). Algeria Code of Criminal Conduct, Pt II, Chapter 1, Art 50

### **What if the officers do not identify themselves?**

Arrests are often carried out by plain-clothes officers of the DRS who do not identify themselves and use vehicles not marked as belonging to security forces. They do not inform you or your family of the reasons for your arrest.

These arrests routinely occur even though they breach Article 9.2 of the ICCPR, which states anyone arrested should be promptly informed of any charges against him ([Algeria.pdf \(ohchr.org\)](#)).

### **What if an officer just begins speaking to me but does not order me to do anything?**

You can speak to the officer if you would like. However, you cannot be forced to answer questions.

[Convention on the Rights of the Child text | UNICEF](#) Article 40 2. (iv).

### **What if the officer is not in uniform or identified as an officers but I think it is one?**

Arrests are often carried out by plain-clothes officers of the DRS who do not identify themselves and use vehicles not marked as belonging to security forces. They do not inform you or your family of the reasons for your arrest.

These arrests routinely occur even though they breach Article 9.2 of the ICCPR, which states anyone arrested should be promptly informed of any charges against him ([Algeria.pdf \(ohchr.org\)](#)).

### **Can I tell police I do not want to speak without a lawyer?**

You have the right to speak with a lawyer in preparation of your defense. You do, however, have to identify yourself to a policer officer if asked.

[Convention on the Rights of the Child text | UNICEF](#) Article 40 2. (b)(iii). Algeria Code of Criminal Conduct, Pt II, Chapter 1, Art 50

### **If I am stopped in a group, and some kids run, can I run?**

Whether you are stopped in a group, or by yourself, **do not run**. Police officers are allowed, by law, to stop you from leaving the area until they have finished their inquiry (*Algerian Code of Criminal Procedure*, Book I, Pt. II, Art. 50). This also means you should not leave the area where you were stopped until the officer says it is okay to do so.

### **Can I tell others (siblings, for example) to run?**

**Do not tell others to run**. Police officers are allowed, by law, to stop anyone from leaving the area until they have finished their inquiry (*Algerian Code of Criminal Procedure*, Book I, Pt. II, Art. 50). This also means they should not leave the area where they were stopped until the officer says it is okay to do so.

### **If the officer's language is not my first language, can I tell them without waiving my rights?**

You have the right to the free assistance of an interpreter if you cannot understand or speak the language used.

[Convention on the Rights of the Child text | UNICEF](#) , Article 40, 2 (b)(vi)

## **If I did not do anything, can they stop me?**

Arrests are often carried out by plain-clothes officers of the DRS who do not identify themselves and use vehicles not marked as belonging to security forces. They do not inform you or your family of the reasons for your arrest.

These arrests routinely occur even though they breach Article 9.2 of the ICCPR, which states anyone arrested should be promptly informed of any charges against him ([AI-Algeria.pdf \(ohchr.org\)](#)).

## **When Can Police Search You and Your Surroundings?**

### **Proposed Information**

It is important to follow this advice:

- You have the right to say no to searches of you without warrants.
- You have the right to say no to searches of your car, house or other surroundings without warrants.
- You cannot be arrested for refusing to consent to a search without a warrant.
- A warrant is a court order so you have no choice but to consent.

### **What if a police officer wants to search my phone?**

The police can seize objects from you if you are being investigated for currently committing a crime or for having just committed a crime. (Code of Criminal Procedure, Part II., Chapter I, Art. 41.)

Otherwise, the police will need either your consent or a search warrant to search your belongings. (Code of Criminal Procedure, Part II., Chapter II, Art. 64)

### **What if a police officer asks me for my password to my phone?**

A warrant would be required to search your phone. The police can seize objects from you if you are being investigated for currently committing a crime or for having just committed a crime. (Code of Criminal Procedure, Part II., Chapter I, Art. 41.) Otherwise, the police will need either your consent or a search warrant to search your belongings. (Code of Criminal Procedure, Part II., Chapter II, Art. 64). Thus, you do not have to give them your password or access to your phone if they do not have a warrant.

Article 17 of the International Covenant on Civil and Political Rights (ICCPR) provides for the right of every person to be protected against arbitrary or unlawful interference with his privacy, family, home or correspondence as well as against unlawful attacks on his honor and reputation ([AI-Algeria.pdf \(ohchr.org\)](#)).

### **What if they tell me to give them my password or other access to my phone?**

A warrant would be required to search your phone. The police can seize objects from you if you are being investigated for currently committing a crime or for having just committed a crime. (Code of Criminal Procedure, Part II., Chapter I, Art. 41.) Otherwise, the police will need either your consent or a search warrant to search your belongings. (Code of Criminal Procedure, Part II., Chapter II, Art. 64). Thus, you do not have to give them your password or access to your phone if they do not have a warrant.

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## **Do I have to give them my device password if they demand it when I am not under arrest? What if they just ask for it?**

A warrant would be required to search your phone. The police can seize objects from you if you are being investigated for currently committing a crime or for having just committed a crime. (Code of Criminal Procedure, Part II., Chapter I, Art. 41.) Otherwise, the police will need either your consent or a search warrant to search your belongings. (Code of Criminal Procedure, Part II., Chapter II, Art. 64). Thus, you do not have to give them your password or access to your phone if they do not have a warrant.

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## **What tools can police use to search me? What technology? (Facial recognition, hidden cameras, finger print searches, etc.)**

Police officers are trained to conduct electronic surveillance, specifically using social media.

[EU trained Algeria and Morocco police in online disinformation tactics | Middle East Eye](#)

## **Can they search my backpack or other item I am carrying?**

The police can seize objects from you if you are being investigated for currently committing a crime or for having just committed a crime. (Code of Criminal Procedure, Part II., Chapter I, Art. 41.)

Otherwise, the police will need either your consent or a search warrant to search your belongings. (Code of Criminal Procedure, Part II., Chapter II, Art. 64)

## **Reasons Police May Detain or Arrest You**

### **Proposed Information**

It is important to follow this advice:

- The police may arrest you because they suspect you of committing (or having committed) a violation of the law, or if they suspect that you currently have evidence of a crime.
- Sometimes police have a warrant for an arrest. You should be clear on what kind of warrant is being presented to you if that is the case.
- It is a good idea to review any paper from police/warrant carefully, to ensure you understand what exactly is covered.
- If arrested, you may be charged with a felony for a more serious crime (with potential jail time of one year or more), a misdemeanor for a less serious crime (with jail time of less than one year) or a violation.
- If the police arrest you, they also have the right to search you. Anything found during this search may be used as evidence against you.

## **What if they tell me something they are investigating and that is wrong? Must I correct them?**

You cannot be forced to give testimony or to confess guilt.

UNICEF Convention on the Rights of the Child.

## **What if an officer just begins speaking to me but does not order me to do anything?**

You do not have to speak to them. The police must issue a summons before preliminary questioning may occur.

<https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/algeria/>

You can choose to voluntarily answer questions by police. Children cannot be forced to answer questions by police.

<https://www.unicef.org/child-rights-convention/convention-text>

## **What is the legal difference between talking to them if they do not tell me I am under arrest, versus after they inform me that I am under arrest?**

The police must issue a summons before preliminary questioning may occur. Therefore, there may be a legal distinction in the obligation to provide answers before an arrest has occurred and without such a summons. Additionally, Algerian's Constitution provides for the right of detained individuals to consult a lawyer, and free legal assistance for individual criminal defendants.

<https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/algeria/>

## **The Difference Between Police TELLING Me What To Do And Asking Me To Do Something**

### **What is the difference between the police deciding to search me or my belongings (phone, person, backpack) and me agreeing to the search?**

Agreeing to be searched is the same as consent to a search. Some laws require that the police have your consent before they search your property or home. If you do not provide your consent, or agree, then the police may not be permitted to conduct the search.

### **What if they tell me to give them information versus them asking and me providing answers voluntarily?**

You can choose to voluntarily answer questions by police. Children cannot be forced to answer questions by police.

<https://www.unicef.org/child-rights-convention/convention-text>

## **Do Police Need A Warrant To Arrest You?**

### **Proposed Information**

It is important to follow this advice:

- No. Police officers can legally arrest you without a warrant in several circumstances:
  - When the crime is committed in front of the police officers; or
  - When the officer has probable cause (reason to suspect) that the suspect committed a felony, whether or not the act was done in front of them.

### **Even if I did not do anything, can they stop me?**

No, arbitrary arrest and detention are prohibited in Algeria by the constitution.

However, according to the US Department of State, authorities in Algiers "sometimes used vaguely worded provisions, such as 'inciting an unarmed gathering' and 'insulting a government body,'" to get around the constitutional prohibition and "arrest and detain

individuals believed to be disturbing public order or criticizing the government." The law banning unauthorized gatherings is a significant source of arbitrary arrests and aims to suppress political activism according to human rights organizations (2017). International and local observers allege that authorities sometimes use antiterrorism laws and restrictive laws on freedom of expression and public assembly to detain political activists and critics of the government (US Department of State, 2017, p. 8). ([Algeria criminal justice system.pdf \(publishing.service.gov.uk\)](#))

### **Can I ask for the reason they stopped me?**

Yes, you can ask the reason why they stopped you. Arbitrary arrest and detention are prohibited in Algeria.

[https://assets.publishing.service.gov.uk/media/5b4f6cfbed915d439454b492/Algeria\\_criminal\\_justice\\_system.pdf](https://assets.publishing.service.gov.uk/media/5b4f6cfbed915d439454b492/Algeria_criminal_justice_system.pdf)

### **Can I advocate for another young person stopped by police if we are stopped together?**

You can speak up on their behalf, but be respectful because it is possible to be charged with "contempt for the authorities." Additionally, videos of police misconduct published online violate laws protecting national interest.

<https://www.rfi.fr/en/africa/20140901-algerian-jailed-two-years-filming-police-officers-stealing>

### **If I think the stop is unjustified, what can I do?**

Any person who believes they have been subject to abuse of authority by the police has the right to file a complaint against him or her with the police themselves, the Attorney General, the Minister of Justice and the Inspector General of the Ministry of Justice. The office of the regional inspector is responsible for "[l]aunching inspections it deems to be appropriate in light of the facts or information received by their units" and "[c]arrying out investigations or counter-investigations following serious incidents brought to their attention and tarnishing the institution's reputation" [translation] (Algeria nd). The criminal code provides mechanisms to investigate abuses. Title VIII, Art. 573-581.

Alternatively, you can file a complaint with a human right investigatory body.

<https://www.refworld.org/docid/59c113424.html>

### **Can I get the officer's identifying information for a future complaint?**

Yes, any person who believes they have been subject to abuse of authority by the police has the right to file a complaint against him or her.

<https://www.refworld.org/docid/59c113424.html>

## **How Do You Know If You Are Under Arrest?**

### **Proposed Information**

It is important to follow this advice:

- You are under police custody if you do not feel free to leave an officer's presence, or if a reasonable person in your shoes would not feel free to leave.
- If the following happens, you are likely under arrest under the law:
  - an officer handcuffs you;
  - an officer forcibly holds you down;
  - an officer forcibly puts you into the back seat of a police car; or

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- you are in long-time investigation with lodging.
- An officer only has to warn you of your rights before the police question you. This means an officer can arrest you before warning you of your rights.
- An arrest without rights warnings is still a valid arrest; it just may mean that evidence collected from it is admissible in court later.

### **What if I do not know if I am under arrest?**

The arresting officers have to inform you.

[Refworld | Algeria: Unrestrained powers: Torture by Algeria's Military Security](#)

### **What is the difference between detention and arrest?**

There is no real difference between detention and arrest if held by the DRS. [AI-Algeria.pdf \(ohchr.org\)](#). However, detention legally cannot last more than 48 hours. Algerian Constitution, Article 60.

### **If I am handcuffed, am I arrested?**

If you are handcuffed then you are arrested. [Algeria: Unrestrained powers: Torture by Algeria's Military Security \(amnesty.org\)](#)

### **If my liberty is restricted, am I under arrest?**

You are either arrested or detained. The DRS often disregards guaranteed rights and officers make arrests in plain-clothes.

[AI-Algeria.pdf \(ohchr.org\)](#)

## **What To Do After Being Warned of Your Rights**

### **Proposed Information**

It is important to follow this advice:

- You can use your right to remain silent or any of your other rights (e.g., the right to an attorney) by saying that you want to use that right.
- You are also able to waive your rights (that is, not use them) by, for example, saying 'Yes, I understand my rights but I am ready to talk to you.' This is not a good idea without a lawyer present.
- Make sure you know what you're doing in giving up your rights

### **Does it matter where I am when the police read me my rights? (street, station, police car, etc.)**

There is no explicit requirement under Algerian law for arresting officers to inform you of the reason for your arrest. [Refworld | Algeria: Unrestrained powers: Torture by Algeria's Military Security](#)



## Police Questioning You

### Proposed Information

It is important to follow this advice:

- You are not required to make a statement, answer police questions or participate in a police investigation, and you never have to go anywhere with the police unless they have arrested you.
- If police has arrested you and if you are under the age of 20, police generally notifies your parent, caretaker or legal guardian immediately in practice.

#### Am I required to make a statement?

You would be required to make a statement if you are summoned to be heard as a witness.

Algeria Code of Criminal Procedure, Title III, Chapter I, Section 4, Art. 97.

#### Must police notify my guardian?

**Yes.** When a police officer has taken you in for questioning they are required, by law, to provide you with the means necessary to get in touch with your family and to allow them to visit with you (*Algerian Code of Criminal Procedure*, Book I, Pt. II, Art. 51). However, this is routinely disregarded by the DRS.

#### Must I confess?

You cannot be forced to confess guilt.

[Convention on the Rights of the Child text | UNICEF](#) Article 40 2.(iv)

#### What adults can I ask to be with me?

There is no express right to have a parent or guardian be present for interrogations, but the assigned juvenile judge must notify your parent(s) or guardian(s) of proceedings against you. (Code of Criminal Procedure, Title I, Part II., Art. 454.)

#### Who do police have to contact if I am a legal minor?

You have a Constitutional right to get in touch with your family immediately. (Constitution Art. 60.) There is no express right to have a parent or guardian be present for interrogations, but the assigned juvenile judge must notify your parent(s) or guardian(s) of proceedings against you. (Code of Criminal Procedure, Title I, Part II., Art. 454.)

## How do I Contact A Lawyer and When?

### Proposed Information

It is important to follow this advice:

- **You should always contact a lawyer before making any statements to anyone in a criminal case or investigation.**
- This applies even if you are told that (i) police officers only want to question you and/or (ii) you are only a witness.
- While you do have to wait until you attend court to get a lawyer appointed if you cannot afford your own lawyer, you should still ask for a lawyer as soon as you are questioned or arrested by the police. If you are arrested, you have the right to remain silent and to not speak until your lawyer is present. In addition, you have the right to appoint a lawyer and to consult with him/her without any official being present,

although a prosecutor or police officer may designate the date, place and time of the consultation when it is necessary for their investigation (Code of Criminal Procedure Articles 39(1) and 39(3)).

## Do Police Always Have To Tell The Truth?

### Proposed Information

It is important to follow this advice:

- No. The police may lie to you during the course of an investigation, including lying about the strength of the case they have against you and particular evidence they have in their possession.
- Sometimes police will lie to try and get you to talk more.

### Can the police lie to me?

While it is unclear whether the police are forbidden from lying at all, in certain aspects they must tell the truth. For example, rights to truth incorporated in the Algerian Constitution include (1) Any person arrested must be informed of the reasons for his arrest (see Algeria Con. Art. 44); and (2) Any person remanded in custody shall be informed of his right to contact a lawyer (see Algeria Con. Art. 45). However, the DRS often disregards these protections.

### Do I have to tell the police the truth?

You have the right to remain silent and you cannot be forced to testify or confess guilt. See The International Covenant on Civil and Political Rights, Dec. 9, 1966, art. 9(1), 999 UNTS 171. As the United Nation's Office of the High Commissioner of Human Rights describes Algeria's implementation of the ICCPR, "the right to remain silent was not recognized by law, but an arrested person [is] not obliged to speak." See Press Release, United Nations Office of the High Commissioner for Human Rights, Human Rights Committee Considers Report of Algeria (Oct. 24, 2007)

<https://www.ohchr.org/en/press-releases/2009/10/human-rights-committee-considers-report-algeria>

## How do I make a complaint if I have questions or feel my rights have been violated?

### Proposed Information

It is important to follow this advice:

The United Nations has several outlets to file a complaint if you feel your human rights have been violated (<http://www.claiminghumanrights.org/algeria.html>):

UN Human Rights Committee

[ECOSOC](#) (for women's rights violations)

[African Commission on Human and Peoples' Rights](#)

### What if I feel I was a victim of discrimination or racism?

The Algerian Constitution states, "there shall be no pretext for discrimination on the basis of birth, race, gender, opinion, or any other personal or social condition or situation." See Algeria Con. Art. 37. The ICCPR in Article 26 also states, "All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this

respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." See The International Covenant on Civil and Political Rights, Dec. 9, 1966, art. 26.

## How can I respond to circumstances involving discrimination?

### Proposed Information

It is important to follow this advice:

Most cases of discrimination can be settled in a civil suit. The huge caveat is women, as the penal code and family code continue to systematically discriminate against women in most family law issues. See Algeria 2021, <https://www.amnesty.org/en/location/middle-east-and-north-africa/algeria/report-algeria/> (last visited Jun 21, 2021).

## What can you do if the police perform an improper search? Or I was improperly detained?

### Proposed Information

It is important to follow this advice:

The Algerian Constitution states, "No search can be made, except in compliance with a law and in conformity with its provisions. A search may only be effectuated by virtue of a warrant issued by the competent judicial authority." See Algeria Con. Art. 48. Someone victim to an improper search is capable of suing, Article 46 of the Algerian Criminal Code says, "subject to the need for investigations, any communication, or disclosure, without the authorization of the accused or his successors or the signatory or recipient of a document resulting from a search of a person not qualified by law to examine it, shall be punishable by a fine of 2000 to 20,000 DA and imprisonment for two months to two years."

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Law is generally described as of December 2022.

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