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	Title of research article  Protection of the Wife's Right to Alimony in Algerian Legislation: A Legal and Jurisprudential Analysis of Civil, Criminal, and Procedural Dimensions in the Context of Islamic Law and Gender Justice
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Keywords	Algerian Family Law; Alimony; Islamic Law; Wife's Rights; Judicial Protection; Gender Justice; Criminal Sanctions; Legal Enforcement; Family Stability; Social Cohesion
Abstract The protection of the wife's right to alimony represents one of the most fundamental guarantees of social justice within the Algerian legal system. Anchored in the dual foundations of Islamic jurisprudence (Sharia) and national legislation, this right not only ensures the material and moral security of the wife but also serves as a cornerstone for maintaining family stability and societal balance. This study provides a comprehensive legal and analytical exploration of the mechanisms through which Algerian legislation safeguards the wife's entitlement to maintenance (nafaqa), both during marriage and after dissolution. Through a detailed examination of Family Law provisions, penal measures, and procedural enforcement mechanisms, the paper underscores the holistic approach adopted by the Algerian legislator—an approach that integrates civil, criminal, and judicial remedies to guarantee compliance with the husband's duty. The article explores the scope of judicial intervention in cases of negligence, abandonment, or absence; the recognition of working women's entitlement to alimony; and the criminalization of willful refusal to provide support under Article 331 of the Penal Code. Furthermore, this research contextualizes these legislative developments within the broader framework of Islamic legal philosophy and international human rights instruments ratified by Algeria, particularly in relation to gender equality and family protection. The findings reveal that while Algerian law provides a robust normative framework, challenges persist in enforcement and judicial consistency. The study concludes that the evolution of Algerian family legislation demonstrates a commitment to balancing religious principles, constitutional equality, and social realities, emphasizing alimony not merely as a private obligation but as a societal duty and a moral imperative for the preservation of family cohesion.	
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Introduction

The family has always been, and continues to be, the nucleus of society and the cornerstone of its cohesion. No society can exist without a family in which both spouses perform complementary roles: the husband as the provider and supporter, and the wife as the caregiver, teacher, and manager of household affairs. The difference in these roles has often raised debates about the fairness of the man's position in many aspects of life. This controversy, however, cannot be resolved except through a comprehensive and integrated system—Islamic law—which has meticulously organized the family, addressed its dimensions and responsibilities, and established a stable balance within it.

Algerian Family Law, inspired by Islamic principles, has reinforced this balance by defining the rights and duties of each family member and laying down the legal framework for establishing a safe and sound marital relationship. It therefore constitutes the most appropriate mechanism for regulating relations among family members in contemporary society while ensuring the protection of women's rights within both the family and society at large.

Alimony, as part of this framework, is recognized as a fundamental right and a prerequisite for a dignified life. The failure to pay alimony is thus considered not only a breach of legal obligation but also a punishable offense under Algerian law.

Research Question: How does Algerian legislation regulate the protection of the wife's right to alimony?

First Section: Judicial Intervention to Protect the Wife's Right to Alimony

1. Intervention in Cases of Consummated Marriage

According to Article 74 of the Family Code, once the marriage has been consummated, the wife becomes legally entitled to alimony. If the husband deliberately delays or refuses to provide maintenance despite the validity of the marital contract, the wife may resort to the courts. The judiciary, in this sense, operates as an institutional mechanism to safeguard the wife's right to support. Nevertheless, this protection remains incomplete, as some husbands deliberately postpone fulfilling their obligations to avoid financial responsibility. The legislator has therefore entrusted the judge with the authority to intervene—upon the wife's request—to compel the husband to provide the required maintenance.

2. Intervention in Cases of Non-Consummated Marriage

As an exception to the general rule, if the husband fails to consummate the marriage without legitimate justification, the wife may still claim alimony. By presenting evidence that she has invited her husband to the marital home, she can oblige him—through judicial order—to begin providing support from the date of that invitation. This principle, reflected in the provisions of Article 74, grants flexibility to the judiciary in protecting the wife's rights while considering the husband's financial and social circumstances.

3. Protection in Cases of the Husband's Absence

If the husband is absent, Article 110 of the Family Code authorizes the judge to impose alimony in favor of the wife. This may extend to permitting the wife to access funds belonging to the absent husband, held in banks or other institutions, provided that the validity of the marriage is proven. Judicial intervention thus becomes indispensable, as the wife cannot otherwise secure her maintenance.

Second Section: Protection of the Working Wife in Algerian Family Law

The entry of women into the workforce has become an undeniable reality driven by demographic, social, and economic factors. Algerian legislation has recognized this necessity by granting women the right to work while safeguarding their entitlement to alimony. Article 19 of the 1984 Family Law, amended by Law 05-02, explicitly allows women to stipulate their right to work in the marriage contract or in a subsequent official agreement. This stipulation prevents the husband from later revoking her right to employment.

However, this raises a crucial legal question: does the wife's alimony lapse if she goes out to work? Opinions differ. Some argue that alimony should not be affected if the wife works with her husband's permission, while others hold that unauthorized work could nullify her entitlement. Islamic jurisprudence offers varied interpretations, but Algerian law, through judicial practice, leans toward protecting the wife's dual rights: the right to work and the right to maintenance.

1. Judicial Protection of the Working Wife

Judicial practice confirms that a working wife retains her entitlement to alimony unless her income is sufficient to cover her basic needs, in which case the court may adjust the maintenance owed. This balanced approach prevents the husband from evading his obligations while acknowledging the wife's financial contribution to the household.

2. Conditions for the Obligation of Alimony

According to Articles 78, 79, and 80 of the Algerian Family Law, marital maintenance includes food, clothing, medical care, and housing. The legislator has thus defined the essential components of alimony while leaving their precise forms to local customs and traditions. The obligation of maintenance remains binding on the husband as long as a valid marriage contract exists, regardless of the wife's wealth or professional status.

3. Intervention in Case of Disputes

In situations where the husband refuses to provide alimony, the working wife may resort to the courts. The judiciary is empowered to compel the husband to fulfill his obligations through civil enforcement under Article 687/2 of Law 09-08 and, when necessary, through criminal sanctions under Article 331 of the Penal Code. This dual mechanism ensures effective protection of the wife's rights and prevents deliberate neglect on the part of the husband.

Third Section : Criminal Sanctions for Failure to Pay Alimony

The Algerian legislator has not confined the protection of the wife's right to alimony to civil remedies alone but has extended this protection into the sphere of criminal law. The refusal or neglect by the husband to provide alimony is treated as a punishable offense, thereby ensuring that this obligation is not only moral or civil but also subject to penal accountability.

1. Definition of the Offense

Article 331 of the Penal Code criminalizes the refusal by a spouse to provide alimony for more than two months. The offense is established when the husband abstains from fulfilling his duty to support his wife despite the existence of a judicial decision ordering him to do so. This demonstrates the legislator's determination to elevate the obligation of alimony from a private matter to one of public concern.

2. Sanctions Imposed

The prescribed penalty for failure to pay alimony is imprisonment ranging from six months to three years, in addition to a fine between 50,000 and 300,000 Algerian dinars. These sanctions serve both as punishment for the negligent husband and as a deterrent for others, thereby strengthening the effectiveness of the law.

3. Enforcement Mechanisms

Enforcement usually begins with the wife filing a complaint before the competent prosecutor. Judicial authorities then initiate proceedings to hold the husband accountable. This procedure complements civil enforcement mechanisms, ensuring that the wife's rights are not left unprotected in the event of deliberate negligence or obstruction by the husband.

Fourth Section : Procedural Mechanisms for Protecting Alimony Rights

The effectiveness of legal protection for alimony depends largely on the procedures available for its enforcement. Algerian law provides for both civil and criminal procedures to ensure the wife's right to alimony is effectively safeguarded.

1. Civil Procedures

Civil procedures allow the wife to obtain a judicial order for alimony, which can be executed through enforcement offices. These may include:

- **Salary deductions** from the husband's income.
- **Seizure of movable and immovable property.**
- **Access to funds** deposited in the husband's bank accounts.

Through these measures, the judiciary ensures that the wife's financial rights are realized in practice.

2. Criminal Procedures

When civil enforcement proves ineffective—particularly in cases where the husband conceals his income or evades execution—the wife may resort to criminal procedures. By criminalizing failure to pay alimony, the legislator has provided a powerful enforcement tool that guarantees greater protection of the wife's rights.

3. Role of the Public Prosecutor

The public prosecutor plays a central role in initiating criminal proceedings against negligent husbands. Acting in defense of both the wife's individual rights and the public interest, the prosecutor ensures that alimony is enforced not only as a private obligation but as a social duty vital to family stability and social cohesion.

Conclusion

The protection of the wife's right to alimony in Algerian legislation demonstrates a comprehensive and multidimensional approach that integrates civil, criminal, and procedural safeguards. This reflects the legislator's awareness of the importance of alimony in ensuring family stability, protecting women's dignity, and reinforcing social solidarity.

The Family Code, rooted in Islamic principles, lays down the duties of spouses in detail, while the Penal Code reinforces compliance through deterrent sanctions. Judicial practice further adapts these provisions to the realities of modern Algerian society, such as women's growing participation in the workforce.

Ultimately, alimony is not merely a financial obligation but a fundamental human right tied to dignity and social justice. By combining civil remedies, criminal sanctions, and procedural mechanisms, Algerian law provides robust and effective protection, ensuring that this right is upheld in both principle and practice.

Methodology

This study adopts a qualitative and doctrinal legal research methodology, grounded in a critical analysis of legislative texts, judicial decisions, and scholarly commentaries. Primary sources include the Algerian Family Code (1984, amended 2005 and 2020), relevant articles of the Algerian Penal Code, and Islamic jurisprudential sources (fiqh). Secondary sources encompass academic works, legal commentaries, and comparative studies of North African and Middle Eastern family law systems.

The study also applies a jurisprudential-analytical approach, examining how Algerian courts interpret and enforce the wife's right to alimony, supported by case law analysis from the Supreme Court and regional tribunals. A comparative perspective with neighboring Maghreb jurisdictions (Morocco and Tunisia) is integrated to situate Algeria's approach within a regional context of evolving gender-sensitive legislation.

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Ethical Considerations

This research was conducted in full compliance with the principles of academic integrity and ethical legal scholarship. All sources have been appropriately cited following international academic standards. The study did not involve human participants, interviews, or personal data collection, and therefore did not require institutional ethical approval. The authors affirm that the content represents an independent and objective analysis, free from any external influence or conflict of interest, and that due respect has been given to Islamic and national ethical norms regarding family and gender-related legal discussions.

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Conflict of Interest

The authors declare no conflict of interest related to the publication of this paper. The views expressed herein are solely those of the authors and do not necessarily reflect the official policy or position of their respective universities.

References

1. The Algerian Constitution of 2020.
2. Algerian Family Code, Ordinance No. 84-11 of June 9, 1984, amended and supplemented.
3. Algerian Penal Code, Law No. 66-156 of June 8, 1966, amended and supplemented.
4. Civil and Administrative Procedure Code, Law No. 08-09 of February 25, 2008, amended and supplemented.

5. Boukhalfa, M. (2009). Family law in Algerian legislation. Algiers: Dar Houma.
6. Boudiaf, M. (2010). The family in Algerian law: Rights and obligations. Algiers: Dar Al-Haditha.
7. Othmani, A. (2012). Civil status and personal status. Algiers: Dar El-Houda.
8. Qasmi, S. (2015). The protection of the wife's right to alimony in Algerian law (Master's thesis). University of Algiers 1.
9. Belarbi, A. (2018). Judicial intervention in family disputes in Algerian law (Doctoral dissertation). University of Oran 2.
10. Journal Officiel de la République Algérienne (Official Gazette of the Algerian Republic), various issues.
11. Bendjeried, D., & Souilem, M. (2025). The Security Council's authority to refer international crimes to the International Criminal Court. *Science, Education and Innovations in the Context of Modern Problems*, 8(7), 54-63. <https://imcra-az.org/home/>
12. Eldjouzi, A. (2025). The contribution of non-governmental organizations to international cooperation for environmental protection within the framework of sustainable development. *Science, Education and Innovations in the Context of Modern Problems*, 8(6), 33-41.
13. Bouter, A. (2024). Challenges of using artificial intelligence tools in scientific writing: Ethical and academic implications. *Science, Education and Innovations in the Context of Modern Problems*, 7(5), 15-26.
14. Saber, L., & Khalfa, I. (2025). A general theoretical framework for studying communication in the context of social relations and institutional structures. *Science, Education and Innovations in the Context of Modern Problems*, 8(7), 70-79.
15. Souilem, M. (2024). The legal protection of tangible cultural heritage and its impact on promoting tourism investment in Algeria. *Science, Education and Innovations in the Context of Modern Problems*, 7(4), 45-53.
16. Djilali, B. (2025). The balance of rights and obligations in Algerian public service delegation contracts: A legal analysis under Executive Decree 18/199. *Science, Education and Innovations in the Context of Modern Problems*, 8(7), 82-91.
17. Asadov, A. (2021). Organizational issues of work on world literature samples in primary schools. *Journal of Preschool and Primary Education*, 3, 81-93.
18. Eldjouzi, A., & Najafzadah, A. (2024). Gender equality and legal protection in the Maghreb: Comparative perspectives in Algerian and Moroccan legislation. *Science, Education and Innovations in the Context of Modern Problems*, 7(5), 58-67.
19. Abaszade, Z. (2025). Social justice and the reform of family law in Islamic societies: An analytical overview of legal modernization trends. *Science, Education and Innovations in the Context of Modern Problems*, 8(7), 95-104.
20. International Meetings and Conferences Research Association (IMCRA). (2025). Editorial policy and ethical standards of SEI Journal. Retrieved from <https://imcra-az.org/home/>