

	<p>Science, Education and Innovations in the Context of Modern Problems Issue 8, Vol. 11, 2025</p> <p>RESEARCH ARTICLE </p> <p>The Alimony Fund as a Mechanism to Secure Compliance with Maintenance Obligations Toward Divorced Women and Custodial Children Under Decree No. 24 01 (Algeria)</p>
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<p>Abstract This article examines the Alimony Fund as a pivotal mechanism for enforcing alimony obligations toward divorced women and custodied children in Algeria under Law 24-01 of 2024. Drawing from Islamic jurisprudence (fiqh) and Algerian family law, it addresses the persistent challenges faced by divorced women and their children in securing alimony post-divorce, despite judicial rulings. The research gap lies in the limited scholarly analysis of the practical implementation issues of the predecessor Law 15-01 of 2015, which led to its repeal, and the efficacy of the new procedural reforms in Law 24-01 in mitigating enforcement barriers, such as debtor evasion or insolvency. Employing a doctrinal methodology, the study conducts a comparative analysis of linguistic, technical, and legal definitions of alimony across Islamic schools of thought (Hanafi, Maliki, Shafii, Hanbali) and Algerian legislation, supplemented by Quranic exegesis, prophetic traditions, and judicial precedents. Results indicate that while Law 24-01 streamlines administration by centralizing oversight under the Ministry of Justice and introducing expedited procedures, gaps persist in digital integration, coverage for widows and orphans, and safeguards against fraudulent claims. The discussion highlights enhanced protections for vulnerable families but recommends expansions to align more closely with Sharia principles of equity and social welfare, contributing to broader discourses on family law reform in Muslim-majority jurisdictions.</p>	<p>Citation Silini K.; Bechir H. (2025). The Alimony Fund as a Mechanism to Secure Compliance with Maintenance Obligations Toward Divorced Women and Custodial Children Under Decree No. 24 01 (Algeria). <i>Science, Education and Innovations in the Context of Modern Problems</i>, 8(11), 1483-1490. https://doi.org/10.56334/sci/8.11.126</p>
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1. Introduction

Obtaining alimony represents one of the most significant challenges confronting divorced women and their children. Many husbands abandon their financial responsibilities toward their offspring post-divorce, failing to provide adequate

housing or sustained maintenance that ensures a dignified life. Even after judicial rulings mandating alimony payments by fathers and husbands, debtors often refrain from compliance, inflicting severe hardship and distress upon divorced women and their children.

This prompted the Algerian legislator to intervene in 2015 with the enactment of Law 15-01 concerning the Alimony Fund. However, this law encountered practical implementation obstacles, leading to its repeal via Decree 24-01 on special measures for alimony acquisition.

From the foregoing, the research problem posed is: **Are the measures established by the legislator for alimony collection sufficient to protect the family from the risks of the debtor's non-payment?**

To address this problem, the study follows the subsequent outline:

Section One (2): Conceptual Introduction to the Alimony Fund

Section Two (3): Benefiting from the Alimony Fund under Law 24-01

The research gap identified herein stems from the scant academic scrutiny of the operational deficiencies in Law 15-01, particularly in enforcement mechanisms against debtor evasion, and the transitional efficacy of Law 24-01 in bridging these voids through centralized judicial oversight. Prior studies (e.g., Bouchentouf, 2019; Mansouri, 2025) have focused on descriptive overviews, overlooking comparative fiqh integrations and procedural reforms' impact on family welfare.

Methodologically, this doctrinal study employs qualitative analysis of primary sources—including Quranic texts, hadith, fiqh treatises across madhahib (schools of jurisprudence), Algerian statutes (Family Code 84-11 as amended by Ordinance 05-02), and judicial decisions—combined with exegetical interpretation to evaluate alimony's conceptual and practical dimensions. Secondary sources, such as commentaries on family law, inform the comparative framework.

2. Conceptual Introduction to the Alimony Fund

2.1. The Concept of Alimony

2.1.1. Definition of Alimony Linguistically and Technically

Understanding the rulings on alimony necessitates knowledge of its linguistic and technical meanings, as well as the evidences establishing it.

a) Linguistic Definition of Alimony

It is a name for what is expended, as in the expenditure of an animal when it departs from its owner's possession through sale or demise. This is evident in the Almighty's statement:

وَلَا يُنفِقُونَ نَفَقَةً صَغِيرَةً وَلَا كَبِيرَةً وَلَا يَقْطَعُونَ وَادِيَا إِلَّا كُتِبَ لَهُمْ لِيَجْرِيَهُمُ اللَّهُ أَحْسَنَ مَا كَانُوا يَعْمَلُونَ
(Al- Tawbah: 121)

[And they do not spend an expenditure, small or large, or cross a valley but that it is registered for them that Allah may reward them for the best of what they were doing] (Al-Jawhari, 1987, Vol. 4, p. 1560).

It also denotes marketability, as in "the sale was marketable" or "the commodity was marketable" when it sells well. Alimony is a noun, with its plural being alimonies (Al-Razi, 1999, p. 316).

In Lisan al-Arab, it is defined as: "What one expends and depletes on dependents and oneself" (Ibn Manzur, 1993, Vol. 10, p. 358). Linguistically, alimony thus refers to the money disbursed by a person to those under their care (Al-Jaziri, 2003, Vol. 4, p. 485).

b) Technical Definition of Alimony

1- Definition of Alimony in Islamic Jurisprudence

A. Hanafi Definition:

Hanafi jurists consistently define alimony as: *"The provision for a thing by what sustains it"* (Ibn al-Humam, 1898, Vol. 3, p. 321). This implies that alimony is grounded in compassion and empathy, delivered in installments continuously to ensure the beneficiary's survival and meet their needs in a manner that preserves life and dignity (Khalil, n.d., p. 14). It is also defined as: "Food, clothing, and housing" (Ibn al-Humam, 1898, Vol. 3, p. 321).

Criticism: This definition is not exclusive, as it encompasses non-obligatory sustenance, such as providing food, clothing, and housing for hire, or hospitality to those not legally entitled (Al-Asi, 2007, p. 4).

B. Maliki Definition:

Malikis define it as: *"Customary sustenance for a human without extravagance"* (Ibn 'Arafah, 2014, Vol. 5, p. 5). This delineates alimony's limit between excess and stinginess; anything exceeding customary norms is not legitimate alimony (Khalil, n.d., p. 14).

Criticism: It is not comprehensive, limiting to "customary human sustenance," excluding cases like a voracious wife requiring more than the norm, despite Malikis obligating sufficiency (Ibn Qudamah, 1969, Vol. 8, p. 197).

C. Shafi'i Definition:

Alimony is: "What a person expends on themselves or others for needs like food, drink, and similar" (Al-San'ani, 1997, Vol. 3, p. 318). This encompasses types obligatory for wives, relatives, slaves, and animals, yet implies restriction to food, excluding other alimony elements (Khalil, n.d., p. 15).

D. Hanbali Definition:

Hanbalis define it as: "Sufficiency in bread, condiments, housing, and appurtenances for those one maintains" (Al-Hajawi, n.d., Vol. 4, p. 136).

Criticism: Not comprehensive, specifying "bread" excludes equivalents like grain or flour, despite achieving the purpose (Ibn Qudamah, 1969, Vol. 8, p. 197).

Contemporary jurists incorporate prior elements:

- A term for what one expends on wife, dependents, relatives, and slaves in food, housing, clothing, and service (Badran, 1998, p. 232).
- What one expends on wife, dependents, relatives, and slaves in food, clothing, housing, and service; for the wife, necessities per custom (Taqiyyah, 2011, p. 184).
- Extracting sustenance for those entitled, including bread, condiments, clothing, housing, and adjuncts like water, oil, lamps (Al-Jaziri, 2003, Vol. 4, p. 485).

2. Definition of Alimony in Law

The Algerian Family Code does not define alimony but enumerates its components in Article 78: "Alimony includes food, clothing, medical treatment, housing and its rent, and what is considered essential per custom and usage."

The legislator wisely deferred to custom and usage for essentials, as habits evolve (Khasal, n.d., p. 95).

Decree 24-01 (2024) defines alimony contextually in Article 2: "The sum adjudicated judicially per the Family Code for the custodied child(ren) post-parental divorce, including provisional alimony during divorce proceedings, and alimony for the divorced woman." This is fund-specific, not generalizable.

Definitions are fiqh's domain; the legislator lists components, adding treatment as alimony, with judges considering parties' circumstances (Bakhti, 2013, p. 280).

This aligns with the Supreme Court decision of February 10, 1986: "It is agreed in fiqh and jurisprudence that ruling alimony for a sick wife for a year depends on treatment duration and her remaining in the marital home, even notionally; contrary rulings warrant cassation" (Belhadj, 2007, p. 428).

Commentators define it as:

- Essential means to ensure a person's life, health, and dignity (Saad, n.d., p. 177).
- What the husband expends on wife, children, and relatives in food, clothing, treatment, and necessities per custom and his means (Belhadj, n.d., p. 577).

Thus, alimony is what one expends on dependents, wife, and relatives, encompassing food, clothing, housing or rent, and treatment per custom.

2- Ruling on Alimony and Evidences of Its Establishment

a) In Islamic Jurisprudence

Alimony is obligatory in its types, including on children. Islamic Sharia mandates it for those liable, evidenced by Quran, Sunnah, consensus, and reason.

1. From the Quran:

Allah's statement: الرَّجَالُ قَوْا مُونَ عَلَى النِّسَاءِ بِمَا فَضَلَ اللَّهُ بَعْضَهُمْ عَلَى بَعْضٍ وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ (Al-Nisa': 34) [Men are in charge of women by [right of] what Allah has given one over the other and what they spend [for maintenance] from their wealth] (Al-Baghawi, 1997, Vol. 2, p. 296).

Allah's statement:

أَسْكِنُوهُنَّ مِنْ حَيْثُ سَكَنْتُمْ مَنْ وُجِدُوكُمْ وَلَا تُضَارُوْهُنَّ لِتُصْبِّتُوْا عَلَيْهِنَّ وَإِنْ كُنَّ أُولَاتٍ حَمِلْ فَأَنْفَقُوا عَلَيْهِنَّ حَتَّى يَضْعَنْ حَمْلَهُنَّ إِنْ أَرْضَعْنَ لَكُمْ فَأَتُوْهُنَّ أُجُورَهُنَّ (Al-Talaq: 6)

[Lodge them [in a section] of where you dwell out of your means and do not harm them in order to oppress them. And if they should be pregnant, then spend on them until they give birth. And if they breastfeed for you, then give them their payment] (Al-Jaza'iri, 1997, Vol. 5, p. 380).

Allah's statement:

وَعَلَى الْمُؤْلُودِ لَهُ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمُعْرُوفِ (Al-Baqarah: 233)

[And upon the [father's] heir is [a provision for] the mother's food and clothing in a reasonable manner] (Al-Tabari, 2001, Vol. 4, p. 211; Al-Jaza'iri, 1997, Vol. 1, p. 221).

2. From the Prophetic Sunnah:

The Prophet's (PBUH) statement to Hind bint 'Utbah: "Take from his wealth reasonably what suffices you and your children" (Al-Bukhari & Muslim, as cited in Ibn Hajar, n.d., Vol. 9, p. 509).

The Prophet's (PBUH) statement: "The best charity is what leaves sufficiency; the upper hand is better than the lower. Begin with those you maintain..." (Al-Bukhari, n.d., Hadith 5355).

3. From Consensus:

Consensus from the Prophet's era to today obligates alimony for entitled parties, like husband to wife, and children to indigent parents (Al-Jaziri, 2003, p. 535; Ibn Qudamah, 1969, Vol. 8, p. 230).

4. From Reason:

Marriage allocates the wife for the husband's benefit, precluding her work; thus, her alimony is obligatory. Sharia principle: One detaining for another's benefit owes maintenance, as states owe employees (Shalabi, n.d., Vol. 1, p. 439).

b) Evidences of Alimony's Obligation in Algerian Law

Articles 75, 76, 77 of the Algerian Family Code obligate child alimony (Family Code, 1984, as amended 2005). Constitutionally, Article 71 mandates: "Under penalty of criminal prosecution, children are obligated to provide benevolence and assistance to their parents" (Algerian Constitution, 2020).

These provisions use imperative language, obligating alimony: for males until majority, females until consummation.

2.2. Concept of the Alimony Fund in Algerian Law

To grasp the Alimony Fund, we define it and outline funding sources.

2.2.1. Definition of the Alimony Fund

The Algerian legislator provides no direct definition, but Articles 2, 3, 4 of Law 24-01 imply: "A reserve fund executing alimony entitlements for custodied children and divorced women adjudicated judicially, upon total or partial enforcement failure due to debtor refusal, incapacity, or unknown residence" (Bouchentouf, 2019, p. 317).

Under Law 15-01, it was a special allocation account No. 142-302, managed by the Chief Treasurer and wilaya treasurers, with the Minister of National Solidarity as ordonnateur (Muqaddam, 2016, p. 49).

Under Law 24-01, it is special allocation account No. 154-302 in treasury books, with the Minister of Justice as primary ordonnateur and judicial council secretaries-general as secondary (Mansouri, 2025, p. 80).

2.2.2. Funding Sources of the Alimony Fund

Executive Decree 15-107, Article 3, specifies: state budget allocations, recovered alimony sums, fiscal or para-fiscal fees for the fund, donations and bequests, other resources (Executive Decree 15-107, 2015).

The legislator enumerates without limitation to ensure sustained support.

Law 24-01 rationalizes governance, closing the old fund per Finance Law 20-16 (2021), with inter-ministerial decisions for monitoring (Inter-Ministerial Decision, 2016). The Court of Accounts noted failures in recovery orders and documentation, prompting judicial centralization (Mansouri, 2025, p. 79).

3. Benefiting from the Alimony Fund under Law 24-01

3.1. Personal Scope of Benefiting from the Fund (Beneficiaries)

Article 2 of Law 24-01 defines the alimony creditor as: custodied child(ren) adjudicated alimony, represented by the custodian, and the divorced woman adjudicated alimony per the Family Code.

3.1.1. The Custodied Child

Per Article 2, custodied child alimony is included. The custodied is the minor needing care, assigned to a parent or relative by the judge post-separation (Family Code, Article 62).

Alimony commences at birth and filiation, borne by the father unless the child has assets, until self-sufficiency; majority for males (19 years per Civil Code), consummation for females, persisting for incapacity or studies (Family Code, Article 75).

During spousal litigation, provisional alimony is adjudicated urgently per Article 57 bis: "The judge may rule urgently via order on petition for provisional measures, especially alimony, custody, visitation, housing" (Family Code, as amended).

The legislator prioritizes custodied children, including in urgent measures, to avert harm from evasion or protracted proceedings. Criticism: Article 57 bis focuses on children, neglecting wives during litigation.

3.1.2. The Divorced Woman Adjudicated Alimony

This includes mut'ah (compensatory alimony), 'iddah alimony, or neglect alimony.

Law 24-01 excludes widows/orphans and children under maternal care absent/incapacitated father. If sued, adjudicated, and defaulted, the fund intervenes until paternal assets are seized.

3.2. Objective and Procedural Scope for Benefiting from the Alimony Fund

3.2.1. Objective Scope (Conditions) for Benefiting from the Alimony Fund

Beyond Family Code general conditions, Law 24-01 Article 3 specifies: total/partial non-execution of alimony order/judgment due to refusal, incapacity, or unknown residence.

For final judgments: Formal notification and 15-day compliance demand precede non-execution certificate.

For urgent orders/provisional judgments: Article 614 of Civil and Administrative Procedures Code exempts from 15-day wait, allowing immediate execution post-notification (Civil Procedures Code, 2008, Articles 612, 614).

Fund payment does not discharge debtor obligations, remaining subject to penal sanctions for non-payment per Penal Code.

3.2.2. Procedural Scope for Benefiting from the Fund

a) Judicial Procedures

1. Competent Judicial Authority: Article 423 of Law 08-09 assigns family affairs section competence (Civil Procedures Code, 2008). Locally, per Articles 40, 426, at creditor's domicile (custodian for child).

2. Form and Adjudication of Request: Creditor (custodian for children) submits paper/electronic request per Article 6, with: divorce judgment copy, custody/alimony order, non-execution record, crossed check if chosen, identification documents.

Requests deposited at a clerk-managed office per Article 4.

Judge rules via jurisdictional order within 5 days (Article 5), notifying debtor, creditor, and council secretary-general within 2 days.

Secretary-general coordinates payment from fund (Finance Law 2024, Article 125), sourced from state budget, recoveries, donations; Minister of Justice primary ordonnateur, secretaries-general secondary. Payment within 25 days of notification.

Monthly continuation until change; parties notify judge within 10 days of change, who rules within 5 days, notifying within 2.

Upon revision per Family Code Article 79, new order issued to secretary-general.

3.3. Forfeiture of the Right to Benefit from the Alimony Fund

Benefiting is not absolute; causes relate to creditor or debtor.

3.3.1. Forfeiture Due to Creditor-Related Reasons

Creditor: Custodied children represented by custodian, or divorced woman (Law 24-01, Article 2).

Causes: Loss/expiration of custody, resumption of marital life.

a) Loss or Expiration of Custody

Custody forfeits for breach or lost eligibility, via judicial ruling (Family Code, Article 66: forfeiture for remarriage to non-mahram, waiver, incapacity; Articles 62, 68-70: delay, travel, cohabitation).

Expiration: Males at 10 (extendable to 16), females at marriage age (19) (Family Code, Articles 65, 7).

b) Resumption of Marital Life

Provisional alimony during divorce (Article 57 bis) forfeits upon reconciliation.

3.3.2. Forfeiture Due to Debtor-Related Reasons

Debtor: Father or ex-husband (Law 24-01, Article 2).

Causes:

a) Debtor's Compliance with Adjudicated Alimony

Voluntary/judicial fulfillment, end of incapacity (e.g., employment), or located debtor's willingness halts payments.

b) Debtor's Death

Death invokes inheritance rules; children inherit, receive death grants if employed, exiting fund eligibility.

4. Conclusion

Results from the analysis reveal that Law 24-01 rectifies deficiencies in Law 15-01 by centralizing under Justice Ministry, expediting procedures, and enhancing enforcement against evasion. It advances family protection per Sharia compassion principles, reducing post-divorce hardships. However, discussions underscore persistent gaps: exclusion of widows/orphans, lack of digital platforms for filings/notifications, undefined incapacity criteria risking fraud, and limited scope omitting ascendants/descendants.

Recommendations:

1. Include custodians/custodied post-father's death without income.
2. Activate national digital platform for alimony to streamline documents, updates, notifications.
3. Define incapacity to protect state treasury from manipulators.
4. Expand beneficiaries to all needy ascendants/descendants, including widows.

These enhancements would optimize Law 24-01's application, aligning with fiqh equity and modern welfare needs.

Ethical Considerations

This study adheres to established ethical standards for legal and doctrinal research. It is based exclusively on publicly available legal texts, statutory instruments, judicial decisions, and recognized sources of Islamic jurisprudence (fiqh), including classical and contemporary scholarly works. No human participants, personal data, interviews, or confidential case files were involved in the research process. Consequently, ethical approval from an institutional review board was not required.

The authors have ensured academic integrity by accurately citing all primary and secondary sources, avoiding misrepresentation of legal provisions or religious texts, and presenting interpretations in a balanced and objective manner. Particular care was taken to respect the principles of Islamic jurisprudence and Algerian family law without ideological bias or normative distortion.

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Conflict of Interest

The authors declare that they have no known competing financial or personal interests that could have appeared to influence the work reported in this paper. The research was conducted with full academic independence and objectivity.

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