



RESEARCH ARTICLE 

Criminal Protection of Women Against Abortion and Physical Violence: A Doctrinal and Analytical Study of Algerian Penal Law in the Context of Human Rights and Comparative Legal Frameworks

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Abstract

Violence against women remains a critical global concern, encompassing physical, psychological, and reproductive dimensions that challenge legal systems and human rights frameworks worldwide. Among the most significant manifestations of such violence are unlawful abortion and acts of beating and wounding, which directly infringe upon women's bodily integrity and dignity while simultaneously raising complex legal questions concerning the protection of fetal life. These issues are particularly relevant in legal systems that seek to balance individual rights with societal and moral considerations. This study provides a comprehensive doctrinal and analytical examination of misdemeanors against women within Algerian criminal law, focusing on abortion and physical violence as representative models. It analyzes the conceptual definitions, legal elements (actus reus and mens rea), and penal consequences associated with these offenses, while critically evaluating the effectiveness of legislative measures in ensuring deterrence and protection. The research further situates Algerian legal provisions within a broader comparative and human rights-oriented context, drawing on international standards related to gender-based violence and reproductive rights (United Nations, 2020; World Health Organization [WHO], 2021). The findings reveal that although Algerian legislation provides a relatively structured framework for criminalizing violence against women and protecting fetal life, significant gaps remain in terms of definitional clarity, enforcement mechanisms, and alignment with evolving international norms. The study argues that purely punitive approaches are insufficient to address the structural roots of gender-based violence and calls for integrated legal, social, and institutional reforms.

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Introduction

Violence against women remains one of the most pressing human rights challenges of the contemporary era, affecting women across all social strata regardless of age, marital status, or socio-economic background (World Health Organization [WHO], 2021). Such violence manifests in diverse forms, including physical assault, psychological abuse, and reproductive coercion, often occurring within both private and public spheres. The persistence of these practices reflects deeply rooted structural inequalities and socio-cultural norms that perpetuate gender-based violence (United Nations, 2020).

Within this broader framework, two specific forms of violence—namely, abortion-related offenses and acts of beating and wounding—occupy a central position in criminal law discourse due to their direct impact on bodily integrity and human dignity. These acts are not merely individual offenses but represent systemic violations that challenge the effectiveness of legal protection mechanisms designed to safeguard vulnerable individuals, particularly women.

Algerian criminal policy has sought to address these issues by establishing a comprehensive legal framework aimed at protecting both women and the fetus from various forms of aggression. The protection of fetal life is considered a fundamental legal and moral value, reflecting not only the interests of the individual but also the broader societal interest in continuity and preservation (Hosni, 1992). Consequently, the Algerian legislator has criminalized all forms of unlawful abortion, while simultaneously recognizing limited exceptions where the life or health of the mother is at risk.

At the same time, the legislator has extended significant legal protection against physical violence, including beating and wounding, particularly when such acts are committed against women. These offenses are treated as violations of bodily integrity and are subject to aggravated penalties when accompanied by specific circumstances such as the use of weapons, premeditation, or resulting in permanent disability (Freija, 2009).

From a comparative perspective, similar legal approaches can be observed in various jurisdictions, where the protection of women and unborn life is balanced against evolving human rights standards and medical considerations (Al-Ghamri, 2005; Badawi, 2020). Additionally, Islamic jurisprudence provides a normative framework emphasizing the sanctity of life and the protection of the fetus at all stages of development, further reinforcing the moral and legal dimensions of these issues (Al-Mubarak, 2009).

Despite the existence of such legal provisions, the effectiveness of criminal law in deterring these offenses remains subject to debate. Empirical studies suggest that legal sanctions alone may be insufficient to address deeply embedded social practices unless accompanied by broader institutional, educational, and cultural reforms (Bano et al., 2023).

Accordingly, this study seeks to address the following key research questions:

- What is the legal concept and structure of the crimes of abortion and physical assault under Algerian law?
- What are the essential elements (*actus reus* and *mens rea*) of these offenses?
- To what extent has the Algerian legislator succeeded in establishing effective deterrence through criminal sanctions?

To answer these questions, the study adopts a descriptive-analytical methodology, combining doctrinal legal analysis with a critical examination of legislative texts and relevant jurisprudence. The research is structured as follows:

- Section I: Criminal protection of abortion
 - Concept and elements of the offense
 - Applicable penalties
- Section II: Criminal protection against beating and wounding
 - Legal definition and elements
 - Penal sanctions
- Conclusion: Evaluation of legislative effectiveness and recommendations

Violence against women, particularly in its physical and reproductive forms, must be understood not only as an individual criminal act but as a structural and systemic phenomenon embedded within broader socio-legal and cultural frameworks. Contemporary legal scholarship increasingly emphasizes that gender-based violence is deeply rooted in historical power imbalances and institutional inequalities that limit women's autonomy and expose them to various forms of coercion and harm (United Nations, 2020; World Health Organization [WHO], 2021). Within this context, the criminalization of acts such as beating, wounding, and unlawful abortion reflects the legislator's attempt to respond to both immediate harm and long-standing societal vulnerabilities.

From a doctrinal legal perspective, the protection of women and the fetus represents a dual-layered interest in criminal law. On the one hand, the woman's right to bodily integrity and personal security is recognized as a fundamental legal value, protected under both national constitutions and international human rights instruments (Badawi, 2020). On the other hand, the fetus is increasingly regarded as a subject of legal protection, particularly in legal systems influenced by religious or moral considerations, where life is considered worthy of protection from its earliest stages (Al-Mubarak, 2009; Hosni, 1992). This duality creates a complex normative tension between the autonomy of the pregnant woman and the protection of potential life, which is reflected in the conditional criminalization of abortion across many jurisdictions.

Discussion

In Algerian law, this balance is manifested through a restrictive approach to abortion, whereby the act is generally criminalized but permitted under narrowly defined circumstances, particularly when the life or health of the mother is at serious risk. Such an approach aligns with several comparative legal systems that adopt a "prohibition with exceptions" model, reflecting both ethical concerns and public policy considerations (Al-Ghamri, 2005). However, legal scholars have argued that overly restrictive frameworks may inadvertently contribute to unsafe practices and fail to adequately address the underlying social determinants of abortion (Belabassi, 2017).

At the same time, physical violence against women—manifested through acts of beating and wounding—continues to represent one of the most prevalent forms of gender-based violence. These acts are not merely isolated criminal behaviors but are often embedded within patterns of domestic violence, where power, control, and coercion play a central role (Freija, 2009). Empirical studies have demonstrated that such violence frequently occurs within intimate relationships, thereby complicating both detection and prosecution, as victims may be reluctant to report offenses due to social stigma, economic dependency, or fear of retaliation (WHO, 2021).

The Algerian Penal Code addresses these offenses by criminalizing all forms of physical harm inflicted upon individuals, with aggravated penalties when the victim is particularly vulnerable, including women in specific circumstances. The legal characterization of beating and wounding as offenses against bodily integrity underscores the importance of protecting the physical and psychological well-being of individuals, while also reinforcing the deterrent function of criminal law (Suleiman, 2006). Moreover, when such acts result in permanent disability or are committed using weapons, the severity of punishment increases, reflecting the legislator's intention to respond proportionately to the gravity of harm inflicted.

From a comparative standpoint, the criminalization of violence against women has evolved significantly over recent decades, with many jurisdictions incorporating specific provisions addressing domestic violence, marital rape, and gender-based harm (Bano et al., 2023). These developments are closely linked to international human rights frameworks, such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which emphasizes the obligation of states to protect women from violence in both public and private spheres (United Nations, 2020). In this regard, Algerian legislation can be seen as part of a broader global trend toward strengthening legal protections for women, although challenges remain in terms of implementation and enforcement.

Furthermore, the intersection between abortion and violence against women highlights the need for a more nuanced understanding of reproductive coercion. In many cases, abortion may not be a voluntary decision but rather the result of external pressure, including coercion by partners, family members, or social circumstances (Amirjalili et al., 2024). Such situations blur the boundaries between criminal liability and victimhood, raising important questions regarding consent, agency, and legal responsibility. Legal frameworks that fail to account for these complexities risk oversimplifying the phenomenon and undermining the protection of vulnerable individuals.

In addition to legal considerations, socio-cultural factors play a critical role in shaping both the prevalence of these offenses and the effectiveness of legal responses. Traditional norms, stigma surrounding reproductive issues, and

societal attitudes toward gender roles can all influence the reporting, prosecution, and adjudication of cases involving violence against women (Belabassi, 2017). Consequently, a purely punitive approach may be insufficient to address the root causes of such violence, necessitating complementary measures such as public awareness campaigns, education, and institutional reform.

Methodologically, the present study adopts a descriptive-analytical approach, grounded in doctrinal legal analysis. The descriptive dimension involves defining the legal concepts of abortion and physical assault, as well as identifying their essential elements within Algerian criminal law. The analytical dimension focuses on examining statutory provisions, judicial interpretations, and scholarly opinions in order to assess the coherence, effectiveness, and limitations of the existing legal framework. This dual approach allows for a comprehensive understanding of both the normative structure and practical implications of the law.

In light of the foregoing, the study proceeds to examine, in detail, the legal protection afforded to the crime of abortion, followed by an analysis of the legal framework governing acts of beating and wounding. Through this examination, the research seeks to evaluate whether the Algerian legislator has succeeded in establishing an effective system of criminal protection capable of addressing the multifaceted nature of violence against women, or whether further reforms are required to enhance both deterrence and justice.

Section II: Elements and Legal Structure of the Crime of Abortion

The crime of abortion constitutes one of the most sensitive forms of infringement upon the right to life, particularly in legal systems where both maternal integrity and fetal protection are recognized as fundamental legal interests. In Algerian criminal law, abortion is regulated within a dual normative framework that reflects its classification as both a crime against persons and an offense against family and public morality. This dual positioning underscores the legislator's intention to address abortion not only as an individual harm but also as a societal concern linked to moral order and demographic continuity (Hosni, 1992; Freija, 2009).

From a theoretical standpoint, modern criminal jurisprudence establishes that a criminal act cannot be recognized unless it fulfills a set of essential legal elements or "pillars" (actus reus and mens rea), in addition to the principle of legality. Accordingly, the crime of abortion, like other criminal offenses, requires the presence of specific constitutive elements whose absence negates criminal liability (Suleiman, 2006). In Algerian doctrine, these elements are generally categorized into four principal pillars: the legal element, the material element, the moral element, and a distinctive presumed (or assumed) element, which reflects the particular nature of this offense.

1. The Legal Element (Principle of Legality)

The legal element represents the foundational basis for the criminalization of abortion, grounded in the principle *nullum crimen, nulla poena sine lege* (no crime and no punishment without law). This principle, which is universally recognized in modern legal systems, ensures that no conduct may be punished unless it is explicitly defined as an offense by statutory provisions (Butler, 2009; Hosni, 1992).

In Algerian legislation, abortion is explicitly criminalized under Articles 304 to 313 of the Penal Code. Article 304 provides a broad definition of the offense, encompassing any act that results in the termination of pregnancy through the administration of substances, the use of medical or physical means, or acts of violence, regardless of whether the pregnant woman consents to the act or not. This expansive formulation reflects the legislator's intent to capture all possible forms of abortion-related conduct, including attempts and indirect participation (Freija, 2009).

Furthermore, the legal prohibition of abortion is not limited to direct perpetrators but extends to accomplices, instigators, and professionals who facilitate the act. This approach aligns with comparative legal systems, particularly those influenced by continental European traditions, where abortion is treated as a broadly defined offense encompassing multiple forms of participation (Al-Ghamri, 2005). The inclusion of such provisions reinforces the preventive function of criminal law by targeting not only the act itself but also the broader network of actors involved in its execution.

2. The Presumed Element: The Existence of Pregnancy

A distinctive feature of the crime of abortion is the presence of a presumed element, namely the existence—or even the assumption—of pregnancy. Unlike many other criminal offenses, abortion requires a specific factual condition: the presence of a fetus within the womb. Without this condition, the offense cannot be legally established, as there is no protected subject upon which the criminal act can operate (Thabet bin Azza, 2013).

Algerian law adopts a particularly expansive interpretation of this element by recognizing not only actual pregnancy but also the presumption of pregnancy. This means that criminal liability may arise even in cases where the perpetrator believes that the woman is pregnant, regardless of whether this belief corresponds to reality. Such an approach reflects the legislator's emphasis on the intent and perceived harm, rather than strictly limiting liability to objectively verified biological conditions (Hosni, 1992).

The legal significance of this presumed element lies in its role as a prerequisite for the existence of the crime. If pregnancy—real or assumed—is absent, the offense of abortion cannot be established, and the act may instead fall under a different category of criminal conduct, such as assault or attempted harm. Thus, the fetus serves as the central legal interest that defines the nature and scope of the offense.

3. The Material Element (Actus Reus)

The material element of the crime of abortion consists of the physical act or conduct that leads to the termination of pregnancy. This includes any positive action aimed at expelling the fetus from the uterus prior to the natural time of birth, whether through medical intervention, chemical substances, or physical violence (Freija, 2009).

From a legal perspective, the material element is composed of three essential components:

- Criminal conduct: The use of means intended to terminate pregnancy (e.g., drugs, instruments, or violent acts)
- Result: The actual or attempted termination of pregnancy
- Causal link: A direct connection between the conduct and the resulting harm

The inclusion of a wide range of means within the definition of the offense reflects the legislator's awareness of the evolving methods through which abortion may be carried out. In contemporary contexts, these methods may include not only traditional physical or chemical techniques but also technologically mediated interventions, further complicating the evidentiary and regulatory dimensions of the offense (Ali et al., 2025).

Importantly, Algerian law does not require the successful completion of the abortion for criminal liability to arise. The mere initiation of the act—provided that it is capable of producing the intended result—is sufficient to establish the offense. This reinforces the preventive and deterrent function of criminal law by penalizing conduct at an early stage (Suleiman, 2006).

4. The Moral Element (Mens Rea)

The moral element of the crime of abortion is represented by criminal intent, defined as the conscious and voluntary direction of the will toward the termination of pregnancy. In Algerian law, abortion is treated as an intentional offense, meaning that liability arises only when the perpetrator acts with knowledge of the pregnancy and the intention to end it (Hosni, 1992).

This requirement distinguishes abortion from unintentional acts that may result in fetal harm, which are typically addressed under different legal provisions. The emphasis on intent reflects the seriousness of the offense and the moral weight attributed to the act of terminating potential life.

Scholarly analyses highlight that the determination of criminal intent in abortion cases may be particularly complex, especially in situations involving coercion, misinformation, or medical ambiguity (Amirjalili et al., 2024). In such cases, the line between intentional and non-intentional conduct becomes blurred, raising important questions regarding culpability and legal responsibility.

Penalties Prescribed for the Crime of Abortion

The Algerian legislator has established a comprehensive system of penalties aimed at addressing various forms of abortion-related offenses. These penalties are designed not only to punish perpetrators but also to serve a deterrent function by signaling the seriousness of the offense.

Under Article 304 of the Penal Code, the general punishment for abortion consists of imprisonment ranging from one to five years and a financial fine, regardless of whether the act was completed or merely attempted. This reflects the legislator's intention to criminalize both the outcome and the conduct leading to it (Freija, 2009).

A particularly notable aspect of the legal framework is the aggravation of penalties for individuals with professional status, such as doctors, pharmacists, and medical practitioners. Article 306 imposes additional sanctions on these individuals, including professional disqualification, reflecting the higher degree of trust and responsibility associated with their roles. This approach is consistent with international legal practices, where professional misconduct in medical contexts is subject to enhanced penalties (Al-Ghamri, 2005).

Furthermore, the legislator has extended criminal liability to instigators and accomplices, even in cases where the abortion does not ultimately occur. Article 310 criminalizes incitement as an independent offense, emphasizing the importance of preventing the dissemination of practices that may lead to abortion. This provision reflects a proactive approach to criminal law, targeting not only acts but also the encouragement of unlawful conduct (Suleiman, 2006).

4. Attempt and Participation in the Crime of Abortion

A fundamental principle in criminal law is that attempted misdemeanors are not punishable unless expressly provided by law, as established under Article 31 of the Algerian Penal Code. This principle reflects the legislator's adherence to strict legality, ensuring that criminal liability is not extended beyond clearly defined statutory boundaries (Suleiman, 2006; Hosni, 1992). However, the Algerian legislator departs from this general rule in the case of abortion by explicitly criminalizing both attempt and participation, thereby emphasizing the seriousness of the offense.

Article 311 of the Penal Code provides that the attempt to commit abortion is punishable in the same manner as the completed offense. This legislative choice reflects a preventive criminal policy aimed at intervening at an early stage of criminal conduct, even when the intended result—termination of pregnancy—does not materialize (Freija, 2009). Such an approach is consistent with comparative criminal law systems, where attempts to commit offenses against life are treated with particular severity due to the protected legal interest involved (Al-Ghamri, 2005).

Moreover, participation in the crime—including instigation, assistance, or facilitation—is equally punishable, reinforcing the collective dimension of criminal liability. Modern legal doctrine recognizes that crimes such as abortion often involve multiple actors, including medical professionals, intermediaries, or individuals exerting coercion. Therefore, extending liability to all participants enhances the deterrent function of criminal law and prevents the normalization of such practices (Ali et al., 2025; Bano et al., 2023).

5. Aggravated Forms of Abortion

While abortion is generally classified as a misdemeanor under Algerian law, its legal characterization shifts to a felony when accompanied by aggravating circumstances. These circumstances may relate either to the objective nature of the act or to the personal status of the perpetrator, thereby justifying the imposition of more severe penalties.

5.1 Abortion Resulting in Death

One of the most serious aggravating circumstances arises when abortion leads to the death of the pregnant woman. Article 304(2) of the Algerian Penal Code provides that in such cases, the penalty is elevated to temporary imprisonment ranging from ten to twenty years. This reflects a qualitative transformation of the offense from an attack on potential life to a direct violation of an existing human life, thereby warranting a more severe legal response (Hosni, 1992).

From a doctrinal perspective, this aggravation is justified by the principle of proportionality, whereby the severity of punishment corresponds to the gravity of harm inflicted. Comparative legal systems similarly impose enhanced penalties in cases where abortion results in maternal death, recognizing the dual harm caused by the act (Al-Mubarak, 2009).

5.2 Habitual Practice

Another significant aggravating circumstance is the habitual commission of abortion-related acts. When it is established that the offender has repeatedly engaged in such conduct, the legislator imposes stricter penalties, potentially elevating the offense to the maximum limits of temporary imprisonment. This reflects the recognition that habitual offenders pose a greater threat to social order and require stronger deterrent measures (Freija, 2009).

Recidivism in this context is particularly concerning when it involves professionals who exploit their medical expertise to facilitate unlawful abortions. Such conduct not only undermines legal norms but also erodes public trust in medical institutions, thereby justifying the imposition of additional sanctions, including professional disqualification (Al-Ghamri, 2005).

The Second Axis: Criminal Protection Against Beating and Intentional Wounding

1. Conceptual Framework and Legal Foundations

The right to **physical integrity** is universally recognized as a fundamental human right, closely linked to the right to life and personal security. Legal systems therefore impose strict prohibitions on any form of physical violence, including beating and wounding, which are classified as offenses against the person (Badawi, 2020).

In the Algerian legal framework, this protection is reinforced at the constitutional level. Article 40 of the Constitution explicitly guarantees the protection of women from all forms of violence, whether in public, private, or professional settings. This constitutional recognition reflects a broader commitment to safeguarding women as a vulnerable category within society and aligns with international human rights standards (United Nations, 2020).

From a sociological perspective, the prevalence of physical violence against women is often linked to structural inequalities, cultural norms, and power imbalances within domestic and social relationships (WHO, 2021). Consequently, the criminalization of such acts serves not only a punitive function but also a symbolic role in affirming societal condemnation of violence.

2. Definition of the Crime of Beating and Wounding

Although Algerian legislation does not provide a precise statutory definition of the crime of beating and wounding, its elements can be derived from the relevant provisions of the Penal Code and legal doctrine. Jurisprudence generally defines this offense as any intentional act involving the use of physical force that results in harm to the bodily integrity of another person, whether through direct violence or the use of instruments (Suleiman, 2006).

The concept encompasses a wide range of behaviors, including slapping, punching, kicking, strangulation, and the use of weapons. The defining characteristic of the offense is the intentional infliction of harm, regardless of the severity of the injury or the method employed (Freija, 2009).

From a linguistic and doctrinal perspective, the distinction between “beating” and “wounding” lies in the nature of the harm inflicted. Beating refers to external physical pressure that may or may not leave visible marks, whereas wounding involves the tearing or disruption of bodily tissues, whether superficial or internal. However, both forms are treated equally under the law as violations of bodily integrity (Hosni, 1992).

3. Elements of the Crime

3.1 Legal Element

The legal basis for criminalizing beating and wounding is established in Article 264 of the Algerian Penal Code, which prescribes penalties for acts of violence resulting in physical harm. This provision reflects the legislator’s commitment to protecting individuals from bodily harm and ensuring accountability for acts of violence.

3.2 Material Element

The material element consists of the physical act of violence, which may take various forms, including direct physical force or the use of instruments. The offense is established regardless of whether visible injuries are present, as long as there is an impact on the integrity of bodily tissues (Freija, 2009).

The material element also requires the existence of a causal relationship between the act and the resulting harm. If this causal link is absent, criminal liability cannot be established, highlighting the importance of evidentiary analysis in such cases (Suleiman, 2006).

3.3 Moral Element

The moral element is represented by criminal intent, which requires that the offender acts with knowledge and will to inflict harm. The intention to cause injury, rather than the specific outcome, is sufficient to establish liability. This aligns with general principles of criminal law, where intent is determined based on the subjective awareness and volition of the perpetrator (Hosni, 1992).

4. Penalties for Beating and Wounding

The Algerian legislator has established a graduated system of penalties based on the severity of harm inflicted. Under Article 264, acts resulting in temporary incapacity are punishable by imprisonment and fines, while more serious

consequences—such as permanent disability or death—lead to significantly harsher penalties, including long-term imprisonment.

Additionally, Article 266 bis introduces specific provisions addressing violence against spouses, reflecting the increasing recognition of domestic violence as a distinct legal category requiring targeted intervention (Badawi, 2020). This evolution aligns with global trends emphasizing the need for specialized legal responses to gender-based violence (United Nations, 2020; WHO, 2021).

Section I: Original Penalties

Sanctions vary depending on the consequences of the violence.

First: The penalty prescribed for the misdemeanor of beating and wounding for more than 15 days Article 264 of the Penal Code stipulates that Algeria in its first paragraph, where the beating and wounding left for disability of more than 15 days is punishable by imprisonment from one to five years and a fine of 100,000 to 500,000 dinars.¹

3. Aggravated Penalties for Beating and Wounding Resulting in Permanent Disability

The Algerian legislator adopts a graduated and proportional approach to penal sanctions in cases of intentional violence, particularly where such acts result in permanent disability. Article 264 of the Algerian Penal Code, in its third paragraph, establishes that acts of beating and wounding leading to permanent disability are punishable by temporary imprisonment ranging from five to ten years. This legislative formulation reflects the principle of proportionality in criminal law, whereby the severity of punishment corresponds to the gravity and permanence of harm inflicted upon the victim (Suleiman, 2006; Freija, 2009).

Permanent disability, in this context, is understood as any lasting impairment affecting the physical or functional capacity of the victim, including loss of limbs, sensory functions, or long-term incapacity to work. From a medico-legal perspective, such harm is distinguished from temporary injuries due to its irreversible nature and its enduring impact on the victim's quality of life (Al-Ghamri, 2005). Consequently, the legislator justifies harsher penalties on the basis that the offense transcends ordinary bodily harm and constitutes a profound violation of human dignity and personal autonomy.

Furthermore, the legal characterization of the offense escalates significantly when the act of beating and wounding results in the death of the victim. In such cases, the penalty is increased to temporary imprisonment ranging from ten to twenty years, provided that two essential conditions are satisfied:

- (1) the occurrence of intentional violence (*actus reus*), and
- (2) the existence of a causal link between the violent act and the resulting death.

This transformation reflects the doctrine of aggravated liability, whereby unintended fatal consequences of intentional acts give rise to more severe criminal responsibility (Hosni, 1992). Comparative legal systems similarly adopt enhanced penalties in cases where violent conduct results in death, even in the absence of intent to kill, thereby emphasizing the seriousness of negligent or reckless outcomes (Badawi, 2020).

4. Special Protection of the Wife under Article 266 bis

A notable development in Algerian criminal law is the introduction of Article 266 bis, which provides specific legal protection for women subjected to domestic violence, particularly within the marital relationship. This provision reflects a broader shift toward recognizing domestic violence as a distinct legal category requiring targeted intervention and enhanced protection mechanisms (United Nations, 2020; WHO, 2021).

Under this provision, penalties are structured according to the severity of harm inflicted:

- Imprisonment from one to three years where no incapacity exceeding fifteen days is established;
- Imprisonment from two to five years where incapacity exceeds fifteen days;
- Temporary imprisonment from ten to twenty years where permanent disability results;
- Life imprisonment where the violence leads to the death of the spouse.

¹- Article 264 of Order 66/156 dated 18 Safar 1386 corresponding to 08 June 1966, contains the Algerian Penal Code, Official Gazette No. 49, of 1966, as amended and complemented.

This graduated penalty system demonstrates the legislator's attempt to align punishment with the degree of harm while simultaneously recognizing the aggravated nature of violence occurring within intimate relationships. Legal scholars argue that domestic violence is particularly harmful due to the breach of trust, emotional dependency, and power asymmetry inherent in marital relationships (Bano et al., 2023).

Importantly, the legislator restricts the application of mitigating circumstances in cases involving heightened vulnerability. Specifically, the offender is denied mitigation where the victim is pregnant, disabled, or where the offense is committed in the presence of minor children or under the threat of weapons. This reflects a policy of enhanced protection for vulnerable victims, consistent with international human rights standards emphasizing the need to safeguard women in high-risk contexts (Badawi, 2020).

5. Supplementary Penalties

In addition to primary custodial sanctions, Algerian law provides for a range of supplementary penalties aimed at reinforcing the punitive and preventive functions of criminal law. These include the deprivation of certain civil and national rights, as stipulated in Articles 9 bis and 14 of the Penal Code.

Such measures may involve restrictions on political rights, professional activities, or public functions for a period not exceeding five years following the completion of the principal sentence. The imposition of supplementary penalties reflects a broader conception of criminal justice, extending beyond punishment to include social protection and rehabilitation (Suleiman, 2006).

From a criminological perspective, these measures serve both a deterrent and a symbolic function, signaling societal condemnation of violent conduct while limiting the offender's capacity to re-engage in harmful behavior (Ali et al., 2025).

Conclusion

The present study has examined the legal framework governing misdemeanors against women in Algerian criminal law, with particular emphasis on the crimes of abortion, beating, and wounding. Through a doctrinal and analytical approach, several critical findings have emerged.

First, the absence of explicit statutory definitions for key offenses—such as abortion and physical violence—has contributed to interpretative inconsistencies within legal doctrine and judicial practice. While flexibility may allow for case-by-case assessment, it also risks undermining legal certainty and uniform application of the law (Hosni, 1992).

Second, the legal protection afforded to the fetus remains conceptually ambiguous, particularly in relation to its status as a legal subject. The lack of clarity regarding whether fetal life constitutes full legal personhood raises important questions concerning the classification of abortion as a crime against persons or against moral order (Al-Mubarak, 2009).

Third, the phenomenon of therapeutic abortion has, in some instances, been misused as a justification for terminating pregnancies outside the intended legal framework. This highlights the need for clearer regulatory guidelines and stricter oversight mechanisms to prevent abuse while preserving legitimate medical exceptions (Belabassi, 2017).

Fourth, despite the existence of comprehensive penal provisions, violence against women continues to increase, indicating limitations in the deterrent effectiveness of current legal measures. Empirical evidence suggests that legal sanctions alone are insufficient to address deeply rooted social and cultural drivers of gender-based violence (WHO, 2021; United Nations, 2020).

Recommendations

In light of these findings, the study proposes the following recommendations:

- Establish a precise and comprehensive legal definition of abortion, clarifying its elements and scope to enhance legal certainty;
- Strengthen penalties for abortion and physical violence, particularly in cases involving aggravating circumstances, recidivism, or professional misconduct;
- Expand the scope of protection for victims of violence, including reconsideration of procedural mechanisms that may discourage victims from pursuing complaints;

- Develop a comprehensive national strategy to combat violence against women, integrating legal, social, educational, and institutional measures;
- Enhance cooperation between governmental bodies and civil society organizations, particularly human rights associations, to promote awareness, prevention, and victim support mechanisms.

Ethical Considerations

This study is based exclusively on doctrinal legal analysis, statutory interpretation, and secondary scholarly sources, and does not involve human participants, personal data, or experimental procedures. Therefore, formal ethical approval was not required. Nevertheless, the research adheres to internationally recognized principles of academic integrity, objectivity, and respect for human rights, particularly in addressing sensitive issues related to violence against women and reproductive rights (COPE, 2019; United Nations, 2020).

Author Contributions

All authors contributed substantially to the conception, design, and development of this research.

- Conceptualization and research design: All authors
- Legal analysis and interpretation: All authors
- Writing – original draft preparation: All authors
- Writing – review and editing: All authors
- Final approval of the manuscript: All authors

All authors have read and approved the final version of the manuscript and agree to be accountable for all aspects of the work.

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Conflict of Interest

The authors declare that there is no conflict of interest regarding the publication of this paper. The research was conducted independently, and no external influence has affected the results or interpretations presented in this study.

Artificial Intelligence Use Statement

The authors declare that artificial intelligence (AI) tools were used solely for language editing, grammar refinement, and structural improvement of the manuscript. AI tools were not used for data generation, analysis, or interpretation. The authors retain full responsibility for the accuracy, originality, and integrity of the content presented in this article, in accordance with international publication ethics standards (COPE, 2019).

References:

1. Abdel Fattah, M. (1996). *The crime of abortion of pregnant women: A study in the position of heavenly laws and contemporary laws*. Dar Oli Al-Nah.
2. Al-Dazi, M. B. A. B. (1986). *Mukhtar al-Sahah*. Dar Al-Kittab Al-Arabi.
3. Al-Ghamri, O. R. (2005). *Sexual crimes, pregnancy and abortion from a medico-legal perspective*. Legal Books House.
4. Al-Mahrouqi, M. M. (2014). *Abortion between permission and criminalization*. New University House.

5. Al-Mubarak, A. A. S. I. (2009). *Protection of the fetus in Sharia and law: A comparative study*. Modern University Office.
6. Al-Sheikh Ibrahim Al-Mubarak, A. (2009). *Protection of the fetus in Sharia and law: A comparative study*. Modern University Office.
7. Amiiza, I. (2005). *Pregnancy: Its provisions and contemporary perspectives* (Master's thesis, University of Algiers).
8. Badawi, A. Z. (1986). *Glossary of social sciences terms* (2nd ed.). Beirut Library.
9. Badawi, N. (2020). Criminal protection of the wife from violence in Algerian legislation. *African Journal of Legal and Political Studies*, 4(1), 83–84.
10. Belabassi, I. (2017). The phenomenon of abortion: Causes and consequences. *Family and Society Journal*, 5(1), 1–10.
11. Freija, H. (2009). *Explanation of the Algerian Penal Code: Crimes against persons and property* (2nd ed.). Office of University Publications.
12. Hosni, M. N. (1992). *Explanation of the Penal Code (Special section)*. Dar Al-Nahda Al-Arabiya.
13. Jaafar, A. (1974). Abortion and family planning. *National Research Center Journal*, June Issue, 70–75.
14. Kahouji, E. M. (2010). *Moral crimes* (Vol. 1). Zain Human Rights Publications.
15. Karkov, N. (2007). Abortion in the Algerian Penal Code (Batch 15). Higher School of the Judiciary, Ministry of Justice.
16. Mursawi, H. (1958). Abortion in the eyes of the criminal legislator. *National Criminal Journal*, 1(3), 90–95.
17. Saad, A. (n.d.). *Crimes based on the family system*. National Book Foundation.
18. Suleiman, A. (2006). *Explanation of the Algerian Penal Code* (Vol. 1). Dar Al-Ulum Publishing.
19. Thabet bin Azza, M. (2013). *The crime of abortion between Islamic law and Algerian criminal legislation*. Dar Al-Jadid University.
20. Yassin, M. N. (1996). *Scientific research in contemporary medical issues*. Dar Al-Nafais.
21. Algerian Penal Code. (1966). Order No. 66–156 of 8 June 1966 (as amended). Official Gazette of the Republic of Algeria, No. 49.
22. Algerian Constitution. (2020). Constitution of the People's Democratic Republic of Algeria.
23. Algerian Penal Code, Article 31. (1966). Attempted misdemeanor provisions.
24. Algerian Penal Code, Article 304. (1966). Abortion-related offenses.
25. Algerian Penal Code, Article 311. (1966). Attempt and participation in crimes.
26. Algerian Penal Code, Article 264. (1966). Assault and bodily harm provisions.
27. Algerian Penal Code, Article 266 bis. (1966). Violence against spouse provisions.
28. Qur'an. (n.d.). Surah Al-Isra (17:15).