

Legal Protection of Women's and Children's Rights under Algerian Family Law

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Abstract

This article aims to analyze the legal framework established by the Algerian legislator to protect the rights of women and children within the scope of family law and to examine the extent to which this protection is consistent with constitutional principles and international commitments. The research problem lies in the tension between the religious foundations governing the substantive rules of family relations and the requirements of equality and the principle of the best interests of the child as embodied in international conventions. The study adopts an analytical approach to legal texts, supplemented where necessary by a comparative method, based on an examination of Law No. 84-11 and its amendments, together with complementary legislation. The article is organized around three main themes: the conceptual and normative framework of protection; the protection afforded to women during the marital relationship and upon its dissolution; and the protection of children with regard to filiation, custody, maintenance, kafala, and criminal safeguards. The study concludes that the Algerian legislator has provided advanced substantive and procedural protection. Nevertheless, the effectiveness of these guarantees remains dependent upon strengthening enforcement mechanisms and revising certain provisions that continue to perpetuate disparities in the legal status of spouses and shortcomings in some aspects of child welfare.

Keywords: legal protection, Algerian family law, women's rights, children's rights.

Introduction

The family constitutes the primary unit upon which society is built, and within its framework the legal positions of its members are defined, together with their corresponding rights and obligations. Recognizing the importance of family relations, the Algerian legislator enacted a separate legal framework through Law No. 84-11 containing the Family Code, which regulates marriage and its dissolution, filiation, custody, and maintenance. Through this framework, a system of rights has been established for two categories requiring enhanced legal protection because of their position within the family structure: women, as wives and mothers, and children, as individuals who are not fully capable of expressing or defending their own interests.

The significance of examining the legal protection granted to these two groups stems from the fact that family law occupies a sensitive domain where religious principles intersect with modern human rights standards. On the one hand, its substantive provisions are derived from Islamic jurisprudence; on the other hand, they are influenced by constitutional norms and the international treaties ratified by Algeria. This dual foundation makes the study of the protection afforded to women and children an essential means of understanding the nature and limits of national legislative choices, particularly after the substantial amendments introduced by Ordinance No. 05-02 to the Family Code.

Previous studies have addressed this field from various perspectives. Several legal scholars focused on explaining the rules governing marriage and divorce and their legal consequences. Belhadj El Arbi (2005), for example, analyzed the pillars and conditions of marriage and the causes leading to its dissolution, while Abdelaziz Saad (2013) examined the financial and personal consequences of divorce. However, these studies were primarily descriptive and remained closely attached to the legal text, paying limited attention to the balance of protection between spouses. In contrast, Louail Mohamed Amine (2004) devoted his study to the legal status of women under the Family Code and highlighted the weaknesses that characterized their position before the reforms, although his work preceded many of the changes introduced by Ordinance No. 05-02. Ahmed Chami (2010) adopted a critical comparative approach, an orientation similarly followed by El Arbi Bakhti (2013), who linked family law provisions to their roots in Islamic jurisprudence.

Regarding women's rights from a broader human rights perspective, other studies compared domestic legislation with international instruments. Manal Mahmoud Al-Mashni (2011) explored the relationship between Islamic references and international norms concerning women's rights, while Hala Said Tabsi (2011) focused on the Convention on the Elimination of All Forms of Discrimination against Women and its implications. Similarly, Moulay Miliani Baghdadi (1997) and Ahmed Mohamed Mostafa Nasir (2011) examined the Islamic foundations of women's rights and obligations. Although these works shed light on the comparative dimension, most remained at the level of general principles and paid insufficient attention to procedural guarantees under Algerian law.

Concerning children's rights, Issam Anwar Salim (2001) provided a theoretical foundation for the concept of children's rights, whereas Wassim Hossam Eddine (2009) broadened the discussion to include the protection of children under both Islamic law and international conventions. Boulahia Chahira (2011) approached the issue from the perspective of criminal law and its interaction with international standards, while Larissi Abbassia (2006) examined the rights of women and children within the framework of international law. It follows from this review that previous studies either focused exclusively on women or children, or concentrated on international or doctrinal aspects without developing an integrated approach capable of examining the protection of both categories within the domestic framework of the Family Code and its complementary legislation, especially after the establishment of the Maintenance Fund mechanism under Law No. 15-01.

Against this background, the present study seeks to answer the following principal question: **To what extent has the Algerian legislator succeeded in providing balanced and effective legal protection for the rights of women and children within the framework of family law and related legislation?**

This main question gives rise to three subsidiary questions:

1. What are the conceptual and normative foundations underlying the legal protection of women and children in the Algerian legal system?
2. What are the manifestations of the protection afforded to women during the marital relationship and upon its dissolution?
3. What forms of protection are provided to children with regard to filiation, custody, maintenance, kafala, and criminal safeguards?

Addressing these issues required the adoption of the analytical method as the principal approach, since it is the most suitable for examining legal provisions, clarifying their objectives, and determining the scope of their application, while paying particular attention to legislative drafting and its interpretative implications. This approach is complemented by the comparative method whenever necessary, especially in comparing domestic rules with international instruments such as the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child, in order to assess the degree of conformity and identify areas of reservation. The choice of these methods is justified by the nature of the topic, which combines national legislation with international commitments and therefore requires both internal analysis and external comparison.

The study relies on a hierarchy of sources according to their evidentiary value. At the first level are national legislative texts, foremost among them Law No. 84-11 as amended by Ordinance No. 05-02, followed by the Civil Code enacted by Ordinance No. 75-58, the Penal Code established by Ordinance No. 66-156, and special legislation such as Law No. 15-01 relating to the

Maintenance Fund and the Nationality Code issued by Ordinance No. 70-86. At the second level, international conventions and presidential decrees relating to accession and ratification are examined to determine the scope of Algeria's international obligations. At the third level, judicial decisions rendered by the Personal Status Chamber of the Supreme Court are utilized to illustrate the practical application of legal provisions. Finally, doctrinal and legal writings are employed to clarify concepts and analyze legal rules, without replacing legislation itself as the primary source of binding norms.

1. The Conceptual and Normative Framework of the Legal Protection of Women and Children

The study of the legal protection afforded to women and children requires, first, clarifying its meaning and, second, identifying the normative foundations upon which it is based within the Algerian legal system. Legal protection is not a concept with a single dimension; rather, it encompasses both substantive and procedural aspects and derives its legitimacy from domestic and international sources of varying authority. Accordingly, this section is divided into two subsections. The first addresses the concept of legal protection and its basis under Algerian family law, while the second examines the constitutional and international references that shape this protection.

1.1. The Concept of Legal Protection and Its Basis in Family Law

In its broad sense, legal protection refers to the set of mechanisms established by the legal system to safeguard a particular legal position against infringement or deprivation through the recognition of rights, the imposition of corresponding obligations, and the provision of sanctions in the event of non-compliance. Within the sphere of family law, legal protection encompasses the mechanisms that guarantee women and children the effective enjoyment of the rights granted to them by law, whether these rights are personal or patrimonial in nature. A distinctive feature of protection in family matters is that it extends beyond the mere recognition of rights and seeks to facilitate their enforcement, since many of the rights enjoyed by women and children would remain ineffective in the absence of mechanisms ensuring their realization.

This protection operates at two complementary levels. The substantive level consists of the legal rules that create rights and determine their content, such as a woman's right to dower and maintenance, her ability to stipulate conditions in the marriage contract, and the child's rights to filiation, custody, and maintenance. The procedural level, on the other hand, comprises the rules that enable individuals to assert these rights when they are disputed or withheld, including rules governing evidence, jurisdiction, and enforcement. Issam Anwar Salim (2001) emphasized that recognizing rights for children remains incomplete unless accompanied by procedural guarantees capable of transforming theoretical entitlements into practical realities, an observation that applies equally to the legal position of women.

The foundations of this protection under Algerian family law are characterized by their composite nature. Article 222 of the Family Code provides that, in the absence of an explicit provision, recourse shall be made to the principles of Islamic Sharia, thereby establishing Islamic jurisprudence as a subsidiary source to be consulted whenever the legislator remains silent. On this basis, Moulay Miliani Baghdadi (1997) argues that women's rights in legal systems inspired by Islamic law are founded upon the principle of equal religious responsibility, although certain differences in practical rules arise from the distinct legal positions occupied by individuals. In the same vein, Ahmed Mohamed Mostafa Nasir (2011) highlights the close relationship between rights and duties within the Islamic legal structure governing the status of women, stressing that rights cannot be understood independently of their corresponding obligations.

Nevertheless, the religious foundations of family law do not negate its character as positive law. By codifying family law provisions and linking them to legal sanctions and procedures, the Algerian legislator transferred them from the realm of juristic interpretation to that of binding legal rules. Ahmed Chami (2010) addressed this duality by noting that Algerian family law represents a legislative formulation of rules originating in Islamic jurisprudence, while their implementation follows the logic of positive law in terms of interpretation and legal argumentation. Likewise, El Arbi Bakhti (2013) observed that many provisions of Algerian family law correspond to principles found in Islamic jurisprudence, although the legislator adapted their formulation to meet the requirements of modern codification and judicial consistency.

This dual foundation implies that the legal protection of women and children evolves within a framework combining continuity and flexibility. Provisions concerning the essence of marital relations and filiation display a certain degree of stability due to their connection with religious principles, whereas flexibility is more evident in procedural and financial mechanisms introduced by subsequent reforms, such as the establishment of the Maintenance Fund. This distinction is essential for understanding the nature of legal protection, since evaluating substantive rules according to purely procedural standards, or vice versa, would lead to misleading conclusions.

1.2. Constitutional and International Foundations of Protection

The protection afforded to women and children cannot be understood solely through the provisions of the Family Code. It is also anchored in higher normative references represented by the Constitution and the international obligations undertaken by Algeria. The Constitution establishes general principles such as equality before the law and the protection of the family and childhood. These principles guide the interpretation of family law and constitute a normative framework that lower legal rules cannot contradict. Consequently, the interpretation of family law provisions must be undertaken in light of these superior constitutional principles.

The international dimension is reflected in Algeria's accession to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) of 1979 through Presidential Decree No. 96-51 of 22 January 1996, accompanied by reservations concerning several of its provisions. Hala Said Tabsi (2011) pointed out that the Convention imposes upon States Parties an obligation to review their domestic legislation in order to eliminate discrimination based on sex. However, reservations entered by states whose legal systems are influenced by Islamic principles have limited the Convention's impact in matters relating to personal status. Similarly, Manal Mahmoud Al-Mashni (2011) argues that reconciliation between the Convention and legislation derived from Islamic law should not be based on literal conformity but rather on the pursuit of common objectives aimed at preserving women's dignity and rights while maintaining cultural and legal particularities in detailed matters.

With regard to children's rights, Algeria acceded to the Convention on the Rights of the Child, adopted by United Nations General Assembly Resolution 44/25 of 20 November 1989, and issued Presidential Decree No. 92-461 containing interpretative declarations. Algeria also ratified the Optional Protocol to the Convention concerning the sale of children, child prostitution, and child pornography through Presidential Decree No. 06-229 of 2 September 2006. Boulahia Chahira (2011) observed that Algeria's commitment to this international framework has been reflected in the strengthening of criminal legislation aimed at protecting children from exploitation, demonstrating the interaction between international obligations and domestic law. In the same context, Wassim Hossam Eddine (2009) emphasized that the Convention on the Rights of the Child established the principle of the best interests of the child as the guiding standard for all decisions affecting children, a principle that has influenced many national legal systems and is reflected in rules governing custody and filiation.

A comparison between constitutional and international sources reveals a relationship characterized by both complementarity and tension. On the one hand, both frameworks converge on fundamental principles relating to the protection of the family, childhood, and the dignity of women. On the other hand, tensions arise in relation to specific provisions linked to religious foundations, as illustrated by the reservations expressed with respect to CEDAW. Larissi Abbassia (2006) addressed this interaction by explaining that international human rights law provides a protective framework for both women and children, although its implementation within domestic legal systems varies according to the legislative choices of each state and the scope of its reservations.

In conclusion, the legal protection of women and children in the Algerian legal system is founded upon a dual conception combining substantive and procedural dimensions and rests on a composite normative basis that balances religious principles with the requirements of positive law. This framework is situated within a hierarchy of norms headed by constitutional principles and international commitments. Such a theoretical foundation provides the basis for analyzing the practical manifestations of protection, beginning with the rights granted to women during the marital relationship and upon its dissolution.

2. Legal Protection of Women's Rights under Algerian Family Law

The protection afforded to women under Algerian family law is manifested through a series of provisions accompanying the marital relationship throughout its various stages, beginning with the formation of marriage, continuing during married life, and extending to its dissolution and the consequences arising therefrom. These substantive rules have been reinforced by procedural and financial mechanisms subsequently introduced by the legislator to address difficulties revealed through practice. Accordingly, this section is divided into three subsections dealing respectively with women's rights at the formation and during the existence of marriage, their protection upon dissolution, and the financial and procedural guarantees established to ensure the effectiveness of these rights.

2.1. Women's Rights upon the Formation of Marriage and During the Marital Relationship

Law No. 84-11, as amended by Ordinance No. 05-02, establishes several safeguards designed to protect a woman's free will in entering into marriage. Consent constitutes an essential element without which the marriage contract cannot exist, and the legislator has made the validity of marriage contingent upon the legal capacity of both parties and the absence of defects affecting consent. Belhadj El Arbi (2005) emphasized that requiring the wife's free consent constitutes the first guarantee of her protection, as it removes the notion that she is merely an object of the contract and confirms her status as a party possessing legally recognized will. In this context, the reform of guardianship provisions redefined the role of the guardian (wali), transforming it from an authority capable of concluding marriage on behalf of an adult woman into a framework accompanying the conclusion of the contract without depriving her of her autonomy. Legal scholarship has interpreted this change as a transition from compulsory guardianship to participatory guardianship.

One of the most important manifestations of protection lies in recognizing a woman's right to include conditions in the marriage contract, provided that they do not contradict its objectives. Such conditions may relate to employment, continuation of education, or the husband's commitment not to contract another marriage. Louail Mohamed Amine (2004) considered this right a preventive instrument enabling women to secure their legal position in advance, provided that they are aware of this possibility and make proper use of it at the time of concluding the marriage. Consequently, the effectiveness of this protection largely depends on the level of legal awareness among women. In addition, women are entitled to the dower (mahr), which constitutes their exclusive property. Legal and doctrinal studies have regarded the dower as a symbol of financial independence rather than compensation for any benefit, thereby distinguishing it from interpretations that diminish women's dignity.

During the marital relationship, the law guarantees women financial independence, ensuring that their property remains separate from that of their husbands and that they retain full authority over their assets. Abdelaziz Saad (2013) highlighted this financial autonomy as one of the strongest

aspects of the wife's legal position, since it preserves an independent patrimony unaffected by her status within the family. Furthermore, the law imposes upon the husband the obligation to provide maintenance covering food, clothing, housing, and the necessities of life. This obligation corresponds to the rights enjoyed by the husband and reflects the complementarity between the legal positions of spouses, as emphasized by Ahmed Mohamed Mostafa Nasir (2011) in his discussion of the relationship between rights and obligations.

Nevertheless, practical application has revealed issues that remain subject to debate, foremost among them polygamy. The legislator subjected polygamy to prior judicial authorization and required the existence of a legitimate justification, the ability to ensure equal treatment, and prior notification of both the existing and prospective wives. Article 8 of the Family Code has been interpreted in conjunction with Ministerial Circular No. 84/102 of 23 December 1984. El Arbi Bakhti (2013) argued that making polygamy subject to judicial approval constitutes an important protective development for women, since it transfers the matter from the husband's unilateral will to the supervision of an impartial authority responsible for verifying compliance with legal requirements. Nevertheless, controversy persists regarding the practical effectiveness of this judicial control, an issue relating more to the operation of the mechanism than to the substance of the right itself.

2.2. Protection of Women upon the Dissolution of Marriage

The dissolution of marriage represents one of the most sensitive stages for women because of the personal and financial consequences associated with it. Law No. 84-11 regulates the various forms of marital dissolution and establishes safeguards aimed at protecting women against arbitrary divorce. Divorce may only occur through a judicial decision, and this requirement in itself constitutes a form of protection, since judicial intervention allows verification of the conditions of dissolution and safeguards the rights of the weaker party. Abdelaziz Saad (2013) observed that subjecting divorce to judicial control transformed it from a unilateral act into a legally supervised procedure, thereby limiting opportunities for abuse.

The legislator has granted divorced women several financial rights, including maintenance during the waiting period ('iddah), compensation (mut'ah), and damages that may be awarded in cases of arbitrary divorce. Belhadj El Arbi (2005) viewed mut'ah as compensation intended to remedy the harm caused by separation, especially when the marriage has endured for a considerable period. It is therefore not a gratuity but a right founded on considerations of equity and the principle of preventing harm. Furthermore, the law grants women the ability to seek dissolution either through judicial divorce based on legally specified grounds or through khul', which enables a woman to terminate the marital bond in exchange for compensation without requiring the husband's consent. Louail Mohamed Amine (2004) regarded the recognition of khul' as one of the most significant guarantees of women's freedom, since it breaks the husband's monopoly over the initiative to terminate the marriage.

Judicial practice has reinforced this protective orientation through several decisions rendered by the Personal Status Chamber of the Supreme Court. The decision of 22 October 1984 (Case No. 72343), published in Judicial Review No. 3 (1989), established principles relating to the consequences of marital dissolution and the protection of women's rights arising therefrom. Similarly, the decision of 29 December 1986 (Case No. 4386), published in Judicial Review No. 2 (1993), dealt with financial rights of divorced women. In later years, judicial practice further strengthened this protection, as evidenced by the decision of 14 July 2011 (Case No. 624622, Issue No. 2) and the decision of 15 September 2011 (Case No. 656.259), published in Judicial Review No. 1 (2012). Collectively, these decisions illustrate the judiciary's role in translating protective legislative provisions into effective practice responsive to women's interests.

Among the most debated issues at this stage is housing. The legislator linked the custodial mother's right to housing to her custody of the children and imposed upon the father the obligation to provide suitable accommodation. Ahmed Chami (2010) noted that associating housing rights with custody reflects a logic prioritizing the child's welfare. However, it raises concerns once custody ends, as it leaves unresolved the situation of women who have devoted years to raising children and subsequently find themselves without adequate housing. This observation indicates that, despite its advanced structure, the existing protection still requires solutions for exceptional cases revealed by practice.

2.3. Financial and Procedural Guarantees for Women's Rights

The legislator recognized that merely granting financial rights to women is insufficient when their implementation is obstructed by the debtor's refusal or insolvency. Consequently, a mechanism was introduced to guarantee the payment of court-ordered maintenance. This was achieved through Law No. 15-01 of 4 January 2015 establishing the Maintenance Fund, published in Official Gazette No. 1 of 7 January 2015. The fund is based on the principle of state intervention to provide maintenance to divorced women and their children when recovery from the debtor proves impossible, while preserving the right of the fund to recover the amounts paid from the debtor.

The significance of this mechanism lies in its capacity to bridge one of the most serious gaps in legal protection, namely the disparity between judicial decisions and their effective execution. Many maintenance judgments remained unenforced because debtors concealed assets or evaded payment, leaving women and children in vulnerable situations. The Maintenance Fund was designed to eliminate this link between difficulties in enforcement and deprivation of rights by transferring the initial burden of pursuing the debtor from women to the institution administering the fund. This approach corresponds with the view expressed by Manal Mahmoud Al-Mashni (2011), according to whom women's protection requires not only the recognition of rights but also mechanisms capable of ensuring their effective enjoyment without imposing excessive burdens of litigation and enforcement.

Nevertheless, the effectiveness of this mechanism depends upon efficient implementation, expeditious procedures, and the ability of the fund to recover amounts from debtors. Larissi Abbassia (2006), in discussing guarantees of women's rights, emphasized that the true value of any protective mechanism should be assessed according to its accessibility and practical effectiveness rather than its mere existence in legislation. Thus, despite its importance, the Maintenance Fund remains dependent upon continuous administrative and procedural improvements to fulfill its intended purpose.

In conclusion, the protection of women under Algerian family law extends from safeguards concerning consent, contractual stipulations, and financial independence during marriage to guarantees aimed at preventing arbitrary dissolution and remedying its consequences, culminating in financial and procedural mechanisms ensuring the enforcement of established rights. This graduated framework reflects growing legislative awareness, although it still requires further development at the level of implementation. The analysis now turns to the second category benefiting from legal protection, namely children.

3. Legal Protection of Children's Rights under Algerian Family Law

The protection of children under family law is based on the recognition that children are incapable of defending their own interests and therefore require legislative intervention to guarantee their proper upbringing and their material and moral welfare. Such protection is reflected in provisions concerning filiation, custody, maintenance, and kafala, reinforced by criminal law and international commitments. Accordingly, this section is divided into three subsections dealing with children's rights in matters of filiation and custody, maintenance and kafala, and finally criminal and international protection.

3.1. Children's Rights in Matters of Filiation and Custody

Filiation constitutes the first right acquired by the child, since it forms the basis upon which all other rights, including maintenance, inheritance, and care, are built. The Family Code primarily associates the establishment of filiation with a valid marriage, thereby ensuring the child's affiliation with both parents and integration into the family unit. Issam Anwar Salim (2001) emphasized that the right to a known lineage represents the cornerstone of the child's legal dignity, since the absence of filiation exposes the child to multiple forms of deprivation affecting both identity and patrimonial rights. Likewise, Wassim Hossam Eddine (2009) argued that the protection of lineage in legal systems derived from Islamic law aims to safeguard children from abandonment and preserve their connection to their origins, in harmony with the principle of the best interests of the child embodied in the Convention on the Rights of the Child.

The 2005 amendments introduced the possibility of relying on scientific methods for establishing filiation, thereby incorporating modern means of proof that complement traditional methods and reduce instances of denial. El Arbi Bakhti (2013) regarded this openness to scientific expertise as an important development serving the interests of children, since it provides objective evidence

capable of resolving disputes with a high degree of certainty, although its use remains subject to the legal framework established by the legislator. Judicial practice has also played a significant role in matters of filiation. In its decision of 15 September 2011 (Case No. 656.259), published in Judicial Review No. 1 (2012), the Personal Status Chamber of the Supreme Court addressed disputes concerning family relations and their impact on the child's legal position.

Custody constitutes a right of the child before it is a right of the custodian, since its primary objective is to ensure care and protection during a stage when the child is incapable of managing his or her own affairs. The legislator has established an order of entitlement to custody intended to guarantee that the child remains with the person most capable of ensuring his or her welfare, while making the child's best interests the decisive criterion in cases of dispute. Belhadj El Arbi (2005) explained that the order of custodians is not determined solely by kinship but by the criterion of what is most beneficial to the child, thereby allowing judges to alter the order whenever required by the child's interests. This approach was confirmed by the Supreme Court's decision of 14 July 2011 (Case No. 624622, Issue No. 2), which emphasized that decisions concerning custody revolve around the welfare of the child.

The legislator further reinforced the protection of children in custody by linking the right to custodial housing to their interests, obliging the father to provide suitable accommodation or its equivalent throughout the custody period. Abdelaziz Saad (2013) observed that this obligation seeks to ensure the child's stability in an appropriate environment and to prevent the hardships resulting from parental separation. Although the custodial mother benefits indirectly from this arrangement, its primary purpose remains the protection of the child. Consequently, this issue illustrates the close interrelationship between the protection of women and children, as a single safeguard ultimately serves the interests of both.

3.2. Children's Rights to Maintenance and Kafala

Maintenance constitutes a fundamental right of the child and represents an obligation primarily incumbent upon the father. It includes the provision of food, clothing, medical care, and education according to the financial capacity of the person liable and the circumstances of the child. The legislator provides that a child's entitlement to maintenance continues until he or she reaches self-sufficiency or acquires the means of independent support, while taking into consideration the continuation of maintenance for children pursuing their studies and for daughters until marriage. In his analysis of family obligations, Ahmed Mohamed Mostafa Nasir (2011) emphasized that the duty to maintain children does not cease with the dissolution of marriage, since its basis lies in parenthood rather than the marital bond. Consequently, the obligation persists regardless of changes in the relationship between the parents.

Protection of the child's right to maintenance has been further strengthened by including children among the beneficiaries of the Maintenance Fund established under Law No. 15-01 of 4 January 2015. The Fund provides court-ordered maintenance to children when it proves impossible to

recover it from the debtor. Larissi Abbassia (2006) linked the effectiveness of legal protection to the existence of enforcement mechanisms, stressing that the child's right to maintenance remains incomplete in the absence of guarantees ensuring payment in cases of refusal or insolvency. Thus, the inclusion of children within the scope of the Fund addresses a significant gap that previously exposed them to deprivation due to the debtor's evasion and represents a transition from merely declared protection to effectively implemented protection.

Kafala constitutes the system adopted by the legislator to ensure the care of children deprived of their families. It enables individuals to assume responsibility for the child and provide for his or her needs without creating legal effects relating to filiation or inheritance, thereby distinguishing it from adoption, which is prohibited. Wassim Hossam Eddine (2009) analyzed kafala as a mechanism that reconciles the child's need for a family environment with the rules of Islamic law prohibiting the attribution of lineage to persons other than biological parents. It therefore represents a protective arrangement preserving the interests of the child without compromising the rules governing filiation. Likewise, Issam Anwar Salim (2001) considered such systems to embody the principle of the best interests of the child in practical terms, since they provide children with an alternative family environment rather than placing them in institutional care.

The legislator has further reinforced the effects of kafala by regulating matters relating to the identity of the child under care. The provisions governing civil status and nationality facilitate the preservation of the child's name and legal affiliation. In this respect, the provisions of Ordinance No. 70-20 concerning Civil Status, as amended and supplemented, regulate the registration and documentation of children, while the Nationality Code established by Ordinance No. 70-86, as amended by Ordinance No. 05-01, determines the child's legal status in relation to membership in the national community. Boulahia Chahira (2011) observed that protecting a child's identity constitutes an extension of the protection of filiation, since a name, nationality, and registration in civil records are elements that establish legal existence and enable the child to exercise his or her rights.

3.3. Criminal and International Protection of Children's Rights

The protection of children extends beyond the provisions of family law to encompass criminal law, which criminalizes acts that infringe upon children's rights and violations of duties of care. Ordinance No. 66-156 establishing the Penal Code, as amended by Law No. 14-01 and Law No. 15-19, criminalizes acts affecting children's safety and security and provides for aggravated penalties in certain circumstances where minority constitutes an aggravating factor. Boulahia Chahira (2011) highlighted that the Algerian legislator has progressively strengthened criminal provisions aimed at protecting children, thereby demonstrating the interaction between domestic legislation and obligations arising from the Convention on the Rights of the Child, particularly in the field of protection against exploitation and abuse.

At the international level, Algeria's accession to the Convention on the Rights of the Child, adopted by United Nations General Assembly Resolution 44/25 of 20 November 1989, constitutes an important normative reference guiding domestic legislation. In this regard, Presidential Decree No. 92-461 of 19 December 1992 containing interpretative declarations reflects the cautious nature of Algeria's commitment in certain aspects. Larissi Abbassia (2006) considered the Convention to be a universal framework that conferred an international dimension upon children's rights and obliged States Parties to harmonize their domestic legislation with the principles of the best interests of the child, non-discrimination, and the rights to life and development.

This commitment was further consolidated through Algeria's ratification of the Optional Protocol to the Convention on the Rights of the Child concerning the sale of children, child prostitution, and child pornography, adopted in New York on 25 May 2000, through Presidential Decree No. 06-229 of 2 September 2006. Wassim Hossam Eddine (2009) linked this type of international obligation to the development of domestic criminal legislation, noting that accession to optional protocols generally entails strengthening criminal law provisions aimed at combating serious forms of exploitation and protecting children from them. Accordingly, it becomes clear that the protection of children within the Algerian legal system rests upon the interaction of family law, criminal law, and international obligations, thereby creating a multilayered framework of protection.

In conclusion, the protection afforded to children under Algerian family law begins with the establishment of filiation and the guarantee of custody in accordance with the child's best interests, extends to maintenance and care in cases of family deprivation, and is reinforced through criminal provisions and international commitments aimed at protecting children from exploitation and abuse. This integration of substantive, procedural, criminal, and international dimensions reflects an advanced legislative vision whose effectiveness remains dependent upon proper implementation and the continuous improvement of enforcement mechanisms.

Conclusion

The present study has demonstrated that the legal protection of women's and children's rights under Algerian family law is based on a graduated structure combining substantive rules that create rights with procedural mechanisms ensuring their enforcement, within a composite framework balancing religious foundations with constitutional and international requirements. The analysis revealed that, particularly after the 2005 amendments and subsequent legislation, the legislator moved from a logic centered on the mere recognition of rights to one aimed at guaranteeing their effective implementation, as illustrated by the establishment of the Maintenance Fund, the adoption of scientific methods of proof, and the subjection of marital dissolution to judicial control.

With regard to the principal research question concerning the extent to which the Algerian legislator has succeeded in establishing balanced and effective protection, it may be concluded that the Algerian legal system provides an advanced framework at the theoretical level. Nevertheless, the effectiveness of such protection varies according to the efficiency of enforcement mechanisms and the degree of legal awareness among beneficiaries. As for the first subsidiary question concerning conceptual and normative foundations, the study showed that protection is characterized by a dual structure combining stability in fundamental principles with flexibility in secondary rules, under the guidance of constitutional principles and international commitments. Concerning the second question relating to women's rights, it was established that legal protection accompanies the marital relationship from its formation to its dissolution through safeguards relating to consent, contractual stipulations, financial independence, and rights arising from divorce. Regarding the third question concerning children's rights, the analysis demonstrated that protection begins with filiation and custody and extends to maintenance, kafala, and criminal and international safeguards, all governed by the principle of the best interests of the child.

In light of these findings, the study proposes several recommendations. First, provisions that continue to create disparities between spouses should be reviewed in order to achieve closer conformity with the principle of equality while preserving the specific normative foundations of the legal system. Second, the administrative and procedural functioning of the Maintenance Fund should be enhanced through simplified procedures, accelerated recovery processes, and more effective recourse against debtors. Third, special attention should be devoted to situations revealed by practice, such as the housing conditions of custodial mothers after the termination of custody. Fourth, legal awareness among women should be strengthened in order to enable them to make effective use of their rights, particularly the right to stipulate conditions in marriage contracts. Fifth, efforts should continue to harmonize criminal legislation with international obligations relating to the protection of children against exploitation and ill-treatment.

Finally, this study opens several avenues for future research, among which are the evaluation of the practical impact of the Maintenance Fund on the basis of empirical data, the role of judicial practice in the development of family protection, and the exploration of ways to reconcile reservations entered with respect to international conventions with the requirements of protecting women and children. Such research may contribute to the development of an integrated approach that transcends separate treatment of each category and promotes a comprehensive vision of family protection in all its components.

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II. National Legislative Texts

1. Law No. 84-11 of 9 June 1984 containing the Family Code, as amended and supplemented by Ordinance No. 05-02 of 27 February 2005, Official Gazette No. 24.

2. Ordinance No. 75-58 of 26 September 1975 containing the Civil Code, as amended and supplemented by Law No. 05-10 of 20 June 2005, Official Gazette No. 44 of 2005.
3. Ordinance No. 66-156 of 8 June 1966 containing the Penal Code, Official Gazette No. 49 of 11 June 1966, as amended and supplemented by Law No. 14-01 of 4 February 2014 (Official Gazette No. 07 of 2014) and Law No. 15-19 of 30 December 2015.
4. Law No. 15-01 of 4 January 2015 establishing the Maintenance Fund, Official Gazette No. 01 of 7 January 2015.
5. Ordinance No. 70-86 of 15 December 1970 containing the Algerian Nationality Code, as amended and supplemented by Ordinance No. 05-01 of 27 February 2005, Official Gazette No. 15 of 27 February 2005.
6. Ordinance No. 70-20 of 19 February 1970 relating to Civil Status, as amended and supplemented by Law No. 14-08 of 9 August 2014 (Official Gazette No. 49 of 2014) and Law No. 17-03 of 10 January 2017 (Official Gazette No. 02 of 2017).
7. Ministerial Circular No. 84/102 of 23 December 1984 concerning the implementation and interpretation of Article 8 of the Algerian Family Code.

III. International Instruments and Conventions

1. *Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)*, United Nations General Assembly, 18 December 1979.
2. *Convention on the Rights of the Child*, adopted by United Nations General Assembly Resolution 44/25 of 20 November 1989, entered into force on 2 September 1990.

IV. Presidential Decrees

1. Presidential Decree No. 96-51 of 22 January 1996 concerning the accession of the People's Democratic Republic of Algeria, with reservations, to the Convention on the Elimination of All Forms of Discrimination against Women of 1979, Official Gazette No. 6 of 24 January 1996.
2. Presidential Decree No. 92-461 of 19 December 1992 containing interpretative declarations concerning the Convention on the Rights of the Child, Official Gazette No. 91 of 23 December 1992.
3. Presidential Decree No. 06-229 of 2 September 2006 concerning the ratification of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, adopted in New York on 25 May 2000, Official Gazette No. 55 of 6 September 2006.

V. Judicial Decisions (Personal Status Chamber – Supreme Court)

1. Supreme Court, Personal Status Chamber, decision of 22 October 1984, Case No. 72343, *Judicial Review*, No. 3, 1989.
2. Supreme Court, Personal Status Chamber, decision of 29 December 1986, Case No. 4386, *Judicial Review*, No. 2, 1993.
3. Supreme Court, Personal Status Chamber, decision of 14 July 2011, Case No. 624622, Issue No. 2.
4. Supreme Court, Personal Status Chamber, decision of 15 September 2011, Case No. 656.259, *Judicial Review*, No. 1, 2012.