

The Role of Algerian Mothers in Transmitting Their Nationality to Their Children

دور الأم الجزائرية في نقل جنسيتها الى أبنائها

Dr. BOUKHAROUBA Hamza*
Seniro Lecturer class « A »
Mohamed Boudiaf's University
Hamza.boukharouba@univ-msila.dz

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abstract:

This study aims to investigate the role of Algerian mothers in transmitting their nationality to their children. The role of mothers in this regard has varied across two phases. In the first phase, prior to the amendment of the nationality law in 1970, maternal lineage served as a secondary and exceptional criterion for granting their original nationality to their children. However, mothers had no role in transmitting their acquired nationality to them. The second phase followed the amendment of the nationality law under Decree 05-01, which established gender equality in the transmission of nationality to their children. This applies to both original and acquired nationality. Furthermore, the best interests of the child were considered, leading to the immediate and legal transmission of the effects of the father's or mother's nationality to their minor children, without the need for any additional procedures.

Keywords: Nationality, Original Nationality, Acquired Nationality.

ملخص

تهدف هذه الدراسة إلى البحث في دور الأم الجزائرية في نقل جنسيتها لأبنائها، حيث اختلف دورها بخصوص ذلك في خلال مرحلتين، المرحلة الأولى قبل تعديل قانون الجنسية لسنة 1970، كان فيه حق الدم من ناحية الأم معياراً ثانوياً واستثنائياً بخصوص منح جنسيتها الأصلية لأبنائها، في حين لم يكن لها أي دور في مد جنسيتها المكتسبة لهم، أما المرحلة الثانية فكانت بعد تعديل قانون الجنسية بموجب الأمر 01-05 أين ساوى خلالها بين الجنسين في نقل جنسيتها لأبنائها، سواء فيما يخص الجنسية الأصلية أو المكتسبة كما راعى فيه مصلحة الطفل فمدّ أثر تجنس الأب أو الأم إلى أولاده القصّر بشكل فوري وبقوة القانون ودون حاجة لأي إجراء.

الكلمات المفتاحية: الجنسية، الجنسية الأصلية، الجنسية المكتسبة.

Introduction:

In the past, countries enjoyed unrestricted freedom in regulating their nationality based on their demographic, economic, social, and political circumstances. However, the situation has changed significantly under the modern international system. The freedom has notably receded, with nations being subject to various restrictions when legislating nationality. These restrictions may stem from international agreements, customary international law, or principles and norms acknowledged in the field of nationality. The emergence of international human rights law and its binding rules further increased these limitations concerning individuals' rights. Among these rights, the right to nationality and the right to equality have become paramount; violating them now constitutes a breach of international law.

The right of a woman to transmit her nationality to her children embodies the principle of gender equality. In fact, it is a practical embodiment of a range of international agreements focused on women's rights and the prohibition of all forms of discrimination against them. Consequently, all countries are obliged to adhere to the provisions of treaties they ratified while regulating their nationality laws in this regard¹.

However, the implementation of this principle of equality, which was mandated by the Algerian constitution at that time², required amending Nationality Law No 70-86³. This law explicitly differentiated between genders in matters of nationality. This disparity was rectified through Decree No. 05-01⁴, which introduced significant amendments related to gender equality in transferring nationality to children. This marked and noteworthy evolution in addressing the issue makes discussing this topic of utmost importance.

Shining a spotlight on this issue prompts us to pose the following question: To what extent has the Algerian legislator enshrined the principle of gender equality in transmitting nationality to child?..

To answer this issue, we divided the article into two sections. In the first section, we discussed the role of the mother in establishing the original Algerian citizenship of her children, and in the second section, we explored

the role of the mother in transferring acquired Algerian citizenship to her children.

Section I

The Role of the Mother in Establishing the Original Algerian nationality of Her Children

Original Nationality is the Nationality that is proven for an individual from birth, even if evidence is established later on. It is established for the individual based on the right of blood or the right of territory, and it may be established based on both rights simultaneously. The right of blood involves proving the state's nationality for the newborn based on their familial origin, either from the father or the mother. Meanwhile, the right of territory entails establishing the state's nationality for the newborn born on its territory, irrespective of the nationality of their parents⁵.

While the prevailing trend at the beginning of the twentieth century was to establish original citizenship primarily based on paternal lineage and only exceptionally based on maternal lineage, modern trends no longer discriminate between genders regarding the transfer of nationality to offspring⁶.

The Algerian legislator did not address this explicitly, as it clearly distinguished between genders in the context of establishing the original citizenship of children before the significant amendment that affected the nationality law in 2005. To understand the stance of the Algerian legislator on this matter, we will discuss in this section the establishment of original Algerian citizenship based on the right of blood from the perspective of the mother through two requirements, both before and after the amendment of the nationality law in 2005, as follows:"

Sub-section 1

The Role of the Mother in Establishing the Original Algerian nationality of Her Children Before the Amendment of the Nationality Law in 2005

The Algerian legislator leaned towards the right of blood and made it the primary criterion for enjoying the citizenship of the state, favoring it over the right of territory. The legislator also favored the right of blood from the perspective of the father, making it the primary criterion for establishing Algerian citizenship, while considering the right of blood from the mother's perspective as a secondary criterion to be resorted to in cases of necessity, aiming to avoid the phenomenon of statelessness⁷.

Referring to the provisions of the Nationality Law No. 70-86 before the amendment, we find that the Algerian legislator limited the scope of the right of blood from the mother's perspective. It did not grant it absolute power in establishing the citizenship of children, as it did with the right of blood from the father's perspective. Instead, it confined it to only two situations: the first based on the right of blood derived from the mother herself as an exception (**Firstly**), and the second based on the right of blood derived from her and reinforced by the right of territory (**Secondly**).

Firstly- Establishing Original Algerian Nationality Based on Maternal Lineage in Exceptional Cases

Article 06 of Algerian Nationality Law No. 70-86, before the amendment, stipulated that the following individuals are considered Algerian nationals by descent:

1. A child born to an Algerian father.
2. A child born to an Algerian mother with an unknown father.
3. A child born to an Algerian mother and a stateless father.

From the text of the article, it's evident that the Algerian legislator predominantly adopted the father's lineage as the basis for establishing original nationality. The father's Algerian nationality was granted to the child without any restrictions, regardless of the mother's nationality or the place of birth. However, in exceptional cases, the legislator resorted to maternal lineage to address cases of statelessness. This happened when determining the father's lineage was impossible due to an unknown father or a father without nationality⁸.

This stance is incomplete, considering that the Algerian legislator did not account for situations where the father is both unknown and foreign, but his nationality law does not transmit his nationality to his child⁹.

According to the article's text, several conditions must be met for establishing original Algerian nationality based on maternal lineage. These conditions include:

1. Proof of Algerian Nationality for the Mother at the Time of the Child's Birth: For the child to acquire original Algerian nationality based on maternal lineage, the mother must possess Algerian nationality at the moment of the child's birth. This condition is intuitive because the mother cannot bestow Algerian nationality on her children if she herself is not a holder of that nationality. The loss of something cannot be given, and subsequently, whether the nationality is original or acquired, it remains unchanged. This is unaffected by the continuation or dissolution of the marital relationship between the parents or the mother's attachment to another partner after separation. Additionally, any change in the mother's nationality after childbirth does not affect this requirement. The key is that the Algerian nationality must be intact for the mother at the child's time of birth. If the mother had Algerian nationality during marriage, conception, or pregnancy but lost it due to reasons stipulated by the law, or if it was revoked, she cannot transmit her non-existent Algerian nationality to her child. Similarly, the Algerian nationality acquired after childbirth is not considered. Conversely, if the mother was a foreign national at the time of conception and acquired Algerian nationality during childbirth, her child is obligated to have original Algerian nationality¹⁰.

2. Establishing the Child's Maternal Lineage Legally: It is not sufficient for a child to be born to an Algerian mother for the child to automatically acquire Algerian nationality. The child's lineage to the mother must be legally established. This verification requires referring to the provisions of the Algerian Family Law regarding lineage. Usually, establishing this lineage is straightforward, as the event of birth from a specific mother is a biological and certain occurrence (with the exception of cases like artificial

insemination). If the mother denies the child's lineage to her, it must be legally proven through methods such as "faraash" (an Algerian legal process for establishing paternity) and evidence. If proving the mother's lineage is unattainable, the child cannot be granted her nationality¹¹.

If the child's lineage to an Algerian mother is legally confirmed, the child is mandated to have original Algerian nationality based on maternal lineage, established by the force of the law and from the time of birth. Even if the confirmation of lineage is delayed significantly after birth, the child still possesses the original Algerian nationality¹².

Moreover, it is not a requirement for the mother to retain Algerian nationality at the time of confirming the child's lineage. If the mother loses her Algerian nationality between the child's birth and the confirmation of lineage, the child is bound to the original Algerian nationality that the mother held at the time of birth. This is because the confirmation of lineage, although occurring later, serves as an identifier of nationality rather than a creator of it¹³.

3. Birth to an Unknown or Stateless Father: In addition to the conditions mentioned earlier, Algerian law stipulates that for establishing original Algerian nationality based on maternal lineage alone, the father's influence must be absent due to him being unknown or stateless. The following details elaborate on this condition:

A- Birth to an Unknown Father: To grant a child Algerian nationality based on maternal lineage, according to the second paragraph of Article 06 of Algerian Nationality Law No. 70-86, before the amendment, the father must be unknown. This refers to a situation where the child's lineage to the father is unestablished either because the father is fundamentally unknown or because he is known but denies the lineage without legally proving it. If his lineage is legally proven after the birth, and he happens to be foreign, the child loses the original Algerian nationality that was established based on maternal lineage retroactively. If the father is Algerian, the basis on which the child's Algerian nationality was established shifts to paternal lineage. If the father is stateless, the basis shifts to the third paragraph of Article 06, which will be discussed

later. Notably, this case was also included in Article 05/2 of the annulled Algerian Nationality Law No. 63-96¹⁴.

B- Birth to a Stateless Father¹⁵: This case differs from the previous one in that the father is known, and the child's lineage to him is legally confirmed. However, the father doesn't possess the nationality of any country. Granting Algerian nationality to the child in this case aims to combat the problem of statelessness and is a common practice among most nationality laws worldwide¹⁶.

Algerian nationality law did not explicitly include the case of a father whose nationality is unknown, which is different from the case of a father who is stateless. In the latter case, the father's nationality status is definitive in that he doesn't hold the nationality of any country, whereas in the case of an unknown father, he is known in reality but his nationality is unknown, even though he might possess nationality in actuality¹⁷. Despite the shared rationale of safeguarding the child from statelessness in both cases, Algerian nationality law did not encompass this scenario.

Secondly: Establishing Algerian Nationality Based on Maternal Lineage Enhanced by Territorial Connection

In addition to the ability of an Algerian mother to transmit her original Algerian nationality to her children based on maternal lineage in cases of an unknown or stateless father, as previously discussed, Algerian legislation has introduced another avenue for mothers to confer Algerian nationality to their children. However, this time, the foundation is not solely the right of maternal lineage but rather a combination of maternal lineage and dual birth of the son and his father in Algerian soil. This principle is embodied in the second paragraph of Article 07 of Algerian Nationality Law No. 70-86, before the amendment, which states:

"2- A child born in Algeria from an Algerian mother and a foreign father is considered Algerian by birth in Algeria, unless the Algerian nationality is declined within a period of one year before reaching the age of majority."

It's evident that Algerian legislation is built on a realistic premise that emphasizes the strengthening of a person's bond with their birth country when both their origins and birth occur in the same nation. Moreover, this is amplified when the person is of the same blood as a mother who holds the nationality of that country. This concept is embodied in the mentioned article, where the Algerian law intertwines the right of maternal lineage with dual birth of the father and son in Algerian soil as sufficient indicators to justify granting original Algerian nationality¹⁸.

To apply the provisions of this paragraph, the following conditions must be met:

- 1. Affiliation to an Algerian Mother:** As previously explained in the first branch, the child's affiliation to an Algerian mother is a prerequisite.
- 2. Birth in Algeria:** Algerian legislation deems that the right of maternal lineage alone is insufficient to grant Algerian nationality to a child born to a foreign father. This right must be supplemented by the factor of birth on Algerian territory. Algerian territory is defined in accordance with Article 05 of the same law, stating, "The term 'in Algeria' refers to the entirety of Algerian land and Algerian territorial waters for Algerian ships and aircraft." Here, it's important that the child's lineage to the father is legally established. The child's birth in Algeria can be either a coincidence or intentionally¹⁹.
- 3. Foreign Father's Birth in Algeria:** While the child's birth to an Algerian mother in Algeria is required, the legislation doesn't mandate that the father reside in Algeria. Consequently, the rationale for granting Algerian nationality to the child loses its validity. To address this, Algerian law adds another condition: the father, even though foreign, must have also been born in Algeria. Even if the father's residence in Algeria isn't a prerequisite, the birth of two successive generations in Algeria signifies family residence and stability in Algerian territory²⁰.

Additionally, the foreign father must be born in Algeria at the time of the child's birth, regardless of his nationality during the mother's pregnancy. If these conditions are met, the child is entitled to original Algerian nationality by the force of the law from the date of birth. However, the same

article allows the child the right to decline Algerian nationality within a year before reaching the age of majority, by submitting a declaration to the Ministry of Justice expressing their desire to forego it. If this right is exercised, the child is not considered Algerian starting from the date of submitting this declaration, and this renunciation does not have retroactive effects²¹.

It's worth noting that this provision was also included in the 1963 Algerian Nationality Law, paragraph 3 of Article 06. The only difference lies in the duration allowed for nationality refusal, which was two years before reaching the age of majority instead of one²².

Thus, it becomes clear that at this stage, Algerian legislation clearly distinguished between genders, which indicates a lack of adherence to the ideal principles of nationality. The anticipated amendment aimed at achieving complete equality between men and women in granting nationality to their children, which was indeed realized through the amendment of the Algerian Nationality Law by Decree 05-01. This will be explored in the following section.

Sub-section 2

The Role of the Mother in Establishing Original Algerian Nationality for Her Children under the Current Legislation after the 2005 Amendment

In light of the amendment to the nationality law pursuant to Order 05-01, the Algerian legislator adopted a different stance from what it used to be before the amendment regarding the role of both the father and the mother in establishing the original nationality for their children. This amendment established complete equality between them in this matter, and this was the result of a combination of reasons (**Firstly**). Moreover, the amendment imposed certain conditions for a child born to an Algerian mother to acquire the original Algerian nationality (**Secondly**).

Firstly: Reasons for Establishing Gender Equality in the Field of Proving Original Nationality for Children

Modern ideas and orientations that called for gender equality in the realm of transmitting nationality to children, as well as international agreements and declarations on human rights, have had a significant impact on the Algerian legislator's stance. This led to the amendment of the Algerian Nationality Law No. 70-86 through Order 05-01 dated 27/02/2005, which among other reasons aimed at establishing equality between men and women in the field of nationality. This is evident in the amendment made to Article 06 of the same law, which now includes a single paragraph stating, "**A child born to an Algerian father or an Algerian mother shall be considered Algerian.**"

Secondly : Conditions for a Child Born to an Algerian Mother to Acquire Original Algerian Nationality under Current Nationality Law

Several conditions must be met for a child born to an Algerian mother to acquire original Algerian nationality under the current nationality law, which can be summarized as follows:

01- the mother must possess Algerian nationality at the time of the child's birth.

02- the child's lineage from his/her mother must be legally proven.

These two conditions were previously explained in the first request; therefore, we refer back to that explanation.

If these conditions are met, the child's original Algerian nationality is established regardless of the place of birth. The nationality is confirmed automatically based solely on the mother's absolute blood right. This holds true even if the father's nationality is Algerian, foreign, stateless, or unknown. Essentially, it suffices to establish the child's lineage to his/her Algerian mother at the moment of birth, and this automatically confers the original Algerian nationality upon the child, based on the maternal blood right alone²³.

Based on the above, it can be stated that the Algerian legislator, after amending the nationality law through Order 05-01, established a new phase wherein gender equality was recognized in establishing the original nationality for their children.

This was the stance of the Algerian legislator regarding the role of the mother in establishing the original Algerian nationality for her children. **As for her role in transmitting the acquired Algerian nationality to them, what is the legislator's position?**

Section II

The Role of the Mother in Transmitting Acquired Algerian Nationality to Her Children

As we observed in the first part, there has been a clear evolution in the Algerian legislator's stance regarding the role of women in conferring original Algerian nationality to their children, by granting them an equal role to men. Mere affiliation of the child to an Algerian mother has become sufficient grounds for holding the national status unconditionally. What then is the legislator's stance regarding their role in the field of acquired nationality?

Nationality is termed as "acquired" because it is not the individual's original or primary nationality established since birth. Instead, it is acquired at a later date after birth and is often referred to as "derivative" because it emerges subsequent to birth. Individuals usually possess an original nationality prior to acquiring the acquired one²⁴.

In order to understand the Algerian legislator's stance on the issue of acquiring acquired Algerian nationality based on maternal blood right and its evolution, it is advisable to delve into the role of the mother in transmitting Algerian nationality to her children under the previous nationality laws (Sub-section 1), followed by examining her role in this regard after the 2005 amendment (Sub-section 2).

Sub-section 1

The Role of the Mother in Transmitting Acquired Algerian Nationality to Her Children before the 2005 Amendment

As we have seen previously, being born to an Algerian mother prior to the 2005 amendment to the nationality law is not sufficient reason for a child to become a member of the state's community. Beyond the deprivation of their original Algerian nationality, which we discussed under exceptional circumstances, for a child to acquire derivative Algerian nationality, a set of conditions must be met (Firstly). Moreover, the national status could be established for the mother at a later date through naturalization, raising the question of whether these children can enter Algerian nationality based on their mother (secondly).

Firstly: Acquisition of Emergency Algerian Nationality by Birth from an Algerian Mother with Enhanced Conditions

Merely the birth to an Algerian mother does not, within the framework of Law No. 70-86 before its amendment, constitute sufficient grounds for the immediate acquisition of the child's Algerian nationality. Additionally, it is imperative, in addition to birth to an Algerian mother, that a set of conditions be met, as stipulated by Article 09 of the same law, which states: "Algerian nationality is acquired by birth or residence in Algeria.

A child born in Algeria to an Algerian mother and a foreign father born outside Algerian territory acquires Algerian nationality if he declares his intent to acquire this nationality within 12 months prior to reaching the age of majority, provided he possesses a customary and regular residence in Algeria at the time of declaration, unless opposed by the Minister of Justice in accordance with Article 26 thereafter. The silence of the Minister of Justice after the aforementioned 12-month period following the complete submission of the file is considered consent."

Thus, based on the article's text, the Algerian legislator necessitates a series of conditions for the child born to an Algerian mother to acquire emergency Algerian nationality, as follows:

1. Establishment of Algerian Nationality for the Mother at the Time of the Child's Birth
2. Proving the Child's Legal Relation to the Algerian Mother
3. The Child's Birth Taking Place in Algeria

These three conditions have been thoroughly explained in the first section. Hence, there is no need to delve into them again; it suffices to refer to them.

4 - The Child's Father Being a Foreigner: It is necessary that the child's father holds the nationality of a foreign country. This requirement arises from the fact that if the child's father holds Algerian nationality, the child's original nationality is established based on affiliation to an Algerian father, as per the provisions of Article 06/1 of the Algerian Nationality Law. Furthermore, if the father is stateless, the child's original Algerian nationality is established pursuant to paragraph 03 of the same article²⁵.

5 - The Foreign Status of the Child's Father: It is imperative that the child's father holds the nationality of a foreign state. This requirement arises from the fact that if the child's father holds Algerian nationality, the child's original nationality is established based on affiliation to an Algerian father, as per the provisions of Article 06/1 of the Algerian Nationality Law. Furthermore, if the father is stateless, the child's original Algerian nationality is established pursuant to paragraph 03 of the same article.

6 - The Child Declaring the Desire to Acquire Algerian Nationality: Acquiring emergency Algerian nationality based on the provisions of Article 09 is not legally mandatory, unlike original nationality. It is recommended that this choice be explicitly expressed through a declaration directed to the Minister of Justice within the year proceeding the age of majority, as determined in nationality matters. The desire expressed outside this period is not considered²⁶.

7 - Habitual and Regular Residence in Algeria at the Time of Declaring Desire: Through this condition, the Algerian legislator aims to reinforce the child's birth from an Algerian mother within Algerian territory with a material element, which is regular and customary residence in Algeria. This condition

carries significant importance in affirming the child's connection to Algerian society and his intention to integrate into it. The duration of residence is left to the discretionary authority of the Ministry of Justice²⁷.

8 - Non-Opposition by the Minister of Justice: It's noteworthy that expressing the desire to acquire Algerian nationality, after fulfilling all the conditions stipulated by Article 09, does not automatically confer legal force upon entry. Rather, the matter hinges on the absence of opposition by the Minister of Justice within a year from the complete submission of the file. The second paragraph of Article 09 further specifies that the Minister of Justice's silence after the mentioned 12-month period from the complete submission of the file is deemed consent.

In addition to all these conditions, there is another condition specified by Article 03 of the Nationality Law, which pertains to the necessity of the concerned individual submitting a declaration renouncing their original nationality.

In conclusion, we find that the Algerian legislator, prior to the amendment of the Nationality Law in 2005, viewed women with a disparaging outlook and disregarded their effective role in society by denying them equality with men in transmitting their nationality to their children.

Secondly: Acquisition of Emergency Algerian Nationality by Derivative from the Mother's Naturalization

An important question arises when a foreign mother acquires Algerian nationality at a later date than the birth of her children: Do the effects of this acquisition extend to her children?

The Algerian legislator adopted in Law No. 70-86, prior to its amendment, the notion that minor children can acquire the nationality of their father based on his naturalization request. Article 17/3 of this law states, "Naturalization may grant Algerian nationality to minor children of a naturalized foreigner, provided that they have the freedom to renounce Algerian nationality between the ages of 18 and 21."

Upon closer examination of this text, the following points can be noted:

- Naturalization of the foreign father (excluding the mother) with Algerian nationality can lead to the minor children acquiring their father's new nationality as a consequence of his naturalization. The word "foreigner alone" included in Article 17 refers to the father excluding the mother. This interpretation is supported by the stance of the Algerian legislator at that time, which clearly differentiated between genders in establishing the original nationality of children.
- This stance faced sharp criticism from legal scholars based on the argument that naturalization is based on the integration of an individual into the society and their coexistence with nationals, making them fully immersed in their customs and behaviors. This consideration is more applicable to minor children of the naturalized mother, as they often live under her care throughout the residence period required by the state for naturalization. The role of family upbringing and the impact of the mother in instilling loyalty and allegiance towards the state of her naturalized nationality cannot be ignored. Thus, depriving the mother of transferring her acquired nationality to her children, despite all these considerations, and discriminating against her compared to the father in this matter, is a discrimination lacking any reasonable justification.

Sub-section 2

The Role of the Mother in Transmitting Acquired Algerian Nationality to Her Children After the 2005 Amendment to the Nationality Law

Prior to the 2005 amendment, the Algerian legislator did not confer any effect of foreign maternal naturalization with Algerian nationality on her minor children, unlike the previous case of the father, as previously mentioned. However, the legislator reversed this stance through the 2005 amendment, which introduced the principle of gender equality in this context. Therefore, in this demand, we will discuss the content of this principle (the first section), followed by some observations on the amendment that enshrined this equality (the second section).

Firstly: Content of the Principle

The current legislation, after the 2005 amendment, no longer differentiates between minor children of a foreign father or mother who acquired Algerian nationality. It has adopted a new principle of gender equality by extending the effect of foreign naturalization with Algerian nationality to minor children, both male and female, through legal inheritance. Article 17 of the amended and supplemented nationality law stipulates: "Collective Effects: Minor children of a person who has acquired Algerian nationality under Article 10 of this law become Algerians at the same time as their parent. They have the freedom to renounce Algerian nationality within two years from reaching the age of majority."

Secondly: Observations on the Amendment of Article 17 of the Current Algerian Nationality Law

Through the amendment of Article 17 of the amended and supplemented Algerian nationality law, we can make the following observations:

- The most significant observation is the replacement of the term "foreign" in the old text with the term "a person who has acquired" in the new text. It needs to be examined whether the new term applies equally to both fathers and mothers. Based on the interpretation of the old text, the term "foreign" referred only to the father, excluding the mother. However, with the new term "a person," in accordance with Article 06 of the nationality law that established complete equality between parents in transmitting their nationality to their children and considering the reasons that led the Algerian legislator to amend their previous stance, as discussed earlier, this term includes both the father and the mother. Thus, the naturalization of the mother with Algerian nationality also extends its effect to her minor children. Furthermore, the French language version of the article supports this interpretation, using the term "leur parent," which includes both parents. Consequently, it can be concluded that the naturalization of both the

father and the mother with Algerian nationality extends its effect to their minor children²⁸.

- Also, the text adopts the concept of automatic inheritance by establishing its immediate effect through foreign naturalization with Algerian nationality, without the need to express the intention or take any further action. Once the decree of naturalization for the father or mother is published, it immediately results in their minor children becoming Algerian citizens, with the option for them to renounce it within two years from reaching the age of majority.
- Furthermore, the effect of the naturalization of the father or mother is limited to their minor children, excluding their adult children. This is because adult children with full legal capacity can exercise their own will to change their nationality. The article did not introduce any relaxation in terms of conditions or procedures for adult children, nor did the naturalization of the father or mother grant them any special privilege in this regard²⁹.
 - However, an exception to this general direction was introduced in Article 11/3 of the amended Algerian nationality law. This article stipulates that if a foreigner has provided exceptional services or died as a result of a disease or disability caused by work that served Algeria's interest or benefited it, and they died before applying for Algerian nationality, their spouse and even their adult children are granted the privilege of applying for naturalization without meeting the general conditions for naturalization, as a form of recognition for the deceased foreigner's exceptional contributions.

Conclusion:

After conducting this research, several important conclusions have been reached, including:

1. A noteworthy observation is the clear evolution in the Algerian legislator's stance regarding gender equality in nationality matters. The new principle of absolute equality between parents in transmitting their

nationality to their minor children has been established, taking into consideration the child's best interests. The immediate and automatic extension of the effect of naturalization to minor children, without the need for additional procedures, has been emphasized.

2. The ruling in Article 06 of the amended nationality law, which enshrines gender equality in establishing the original nationality of their children, might lead to dual nationality when the husband is foreign and his nationality law also allows him to transmit his nationality based on paternal descent.
3. The amended Article 17 of the nationality law, while strongly indicating the establishment of absolute equality between genders in transmitting the nationality of the naturalized parent to their minor children, still remains somewhat ambiguous. Therefore, it is recommended to amend this article by replacing the phrase "a person who has acquired" with the phrase "a man or woman who has acquired" in order to remove any ambiguity.
4. The effect of naturalization, as a means of acquiring Algerian nationality, extends to minor children. However, this effect is limited to minor children of the naturalized parent and does not include their adult children.
5. The amended Article 17 did not address various issues that might arise in this context, such as the status of married minor children – whether the effect of the naturalization of the father or mother applies to them. Furthermore, the article did not stipulate that the minor children need to reside with their mother or father in Algeria to activate the extension of the naturalization effect to them. As per the article's wording, this effect could potentially extend to children residing in foreign countries, potentially leading to outcomes that do not align with the concept of nationality, as they might lack integration and assimilation into the national community.

Margins:

¹Among the agreements ratified by Algeria in this regard: the International Covenant on Civil and Political Rights, adopted by the United Nations General Assembly on December 16, 1966 (ratified by Algeria under Law 89-08 dated April 25, 1989, published in the Official Gazette of the People's Democratic Republic of Algeria, No. 17, in the year 1989). Also, the United Nations Convention on the Elimination of All Forms of Discrimination Against Women, adopted by the United Nations on December 18, 1979 (ratified by Algeria under Order 96-03 dated January 10, 1996, including reservations regarding certain articles of the 1979 Convention, published in the Official Gazette of the People's Democratic Republic of Algeria, No. 3, in the year 1996). Algeria lifted these reservations by Presidential Decree No. 08-426 dated December 28, 2008, which included the withdrawal of reservations concerning Article 9(2) of the 1979 Convention on the Elimination of All Forms of Discrimination Against Women (published in the Official Gazette, No. 5, dated January 21, 2009). This action followed Algeria's amendment of its nationality law through Order 05-01, which emphasized equality between men and women in matters of nationality, especially with respect to the acquisition, loss, and granting of nationality to their children."

²Article 29 of the Algerian Constitution of 1996, as amended by Law No. 02-03, states:

" كل المواطنين سواسية أمام القانون، ولا يمكن أن يُتدرَّع بأي تمييز يعود سببه إلى المولد، أو العرق، أو الجنس، أو الرأي، أو أي شرط أو ظرف آخر شخصي أو اجتماعي"، كما نصت المادة 31 منه على " تستهدف المؤسسات ضمان مساواة كل المواطنين والمواطنات في الحقوق والواجبات بإزالة العقبات التي تعوق تفتح شخصية الإنسان، وتحول دون مشاركة الجميع الفعلية في الحياة السياسية، والاقتصادية والاجتماعية والثقافية".

³ Law N°: 70-86 dated December 15, 1970, includes the Algerian Nationality Law (published in the Official Gazette of the People's Democratic Republic of Algeria, No. 105, in the year 1970)..

⁴ Order N°: 05-01 dated February 27, 2005, amends and supplements Law No. 70-86, which contains the Algerian Nationality Law (published in the Official Gazette of the People's Democratic Republic of Algeria, No. 15, dated February 27, 2005) "

⁵ جوتييار محمد رشيد، جلال حسين عنز، دور الأم العراقية في جنسية ولدها، مجلة كلية القانون للعلوم القانونية والسياسية، جامعة كركوك، العراق، المجلد 01، الإصدار 01، 2012، ص 108.

⁶ Same reference and same location.

⁷ Refer to:

- عبد الحميد محمد ————ود عليوة، دور الأم المصرية والعربية والأجنبية في نقل الجنسية إلى أبنائها، الطبعة الأولى، دار المطبوعات الجامعية، الاسكندرية، مصر، 2006، المرجع السابق ص 132.

⁸ أعراب بلقاسم، القانون الدولي الخاص الجزائري، تنازع الاختصاص القضائي الدولي، الجنسية، الجزء الثاني، الطبعة الخامسة، دار هومة، الجزائر، 2008، ص 183.

⁹ زروتي الطيب، الوسيط في الجنسية الجزائرية، دراسة تحليلية مقارنة بالقوانين العربية والقانون الفرنسي مطبعة الكاهنة، الجزائر، 2002، ص 289.

¹⁰ See:

- رعد مقداد محمود، جنسية أبناء الأم العراقية، دراسة في قانون الجنسية العراقية رقم 26 لسنة 2006 بالمقارنة مع بعض قوانين الجنسية العربية، مجلة جامعة تكريت للحقوق، المجلد 01/، الصادر 01، 2009. ص 74.

¹¹ Tayeb Zerouti, 'Intermediary in Algerian Nationality, previous reference, page 294.

¹² Same reference, page 291

¹³ جوتيار محمد رشيد، جلال حسين عنز، المرجع السابق، ص 116.

¹⁴ See in this context:

حسن الياسري، دور الأم في نقل الجنسية الى الأولاد في التشريعات العربية والعراقية - دراسة مقارنة- مجلة جامعة أهل البيت، العراق، المجلد 01، الصادر 12، 2012، ص 59.

¹⁵ The Algerian Nationality Law No. 63-96, in its Article 06(1), required, for the grant of Algerian nationality in this case, the birth of the child in Algerian territory, as it stated."

« Est de nationalité algérienne par la naissance en Algérie:

1: -- L'enfant né en Algérie d'une mère algérienne et d'un père apatride »

¹⁶ علي علي سليمان، مذكرات في القانون الدولي الخاص الجزائري، الطبعة الخامسة، ديوان المطبوعات الجامعية، الجزائر، 2008، ص 243.

¹⁷ Hassan Al-Yasri, previous reference, page 53.

¹⁸ Tayeb Zerouti, 'Intermediary in Algerian Nationality, previous reference, page 304-305.

¹⁹ See in this context:

- أحمد عبد الكريم سلامة، المبسوط في شرح نظام الجنسية، بحث تحليلي انتقادي مقارن الطبعة الأولى، دار النهضة العربية، القاهرة، 1993، ص 441-442.

²⁰ See in this context:

- عكاشة محمد عبد العال، الوسيط في أحكام الجنسية، دراسة مقارنة، الطبعة الأولى، منشورات الحلبي الحقوقية، بيروت، لبنان، 2002، ص 343.

²¹ Tayeb Zerouti, 'Intermediary in Algerian Nationality, previous reference, page 308-309.

²² Paragraph 3 of Article 6 of the Algerian Nationality Law of 1963 states: "3- l'enfant né en Algérie d'une mère algérienne et d'un père étranger lui-même né en Algérie, sauf répudiation de la nationalité algérienne par l'enfant dans le délai de 2 ans qui précédé sa majorité »

²³ زروتي الطيب: دراسات في القانون الدولي الخاص الجزائري، دار هومه، الجزائر، 2010، ص 214-215.

²⁴ Tayeb Zerouti, 'Intermediary in Algerian Nationality, previous reference, page 142-143.

²⁵ Arabe belkacem, previous reference, page 193.

²⁶ Tayeb Zerouti, 'Intermediary in Algerian Nationality, previous reference, page 324.

²⁷ Arabe belkacem, previous reference, page 194.

²⁸ Tayeb Zerouti: Studies in Algerian Private International Law, previous reference, page 212.

²⁹ Arabe belkacem, previous reference, page 210-211.