

Strengthening the role of the judiciary in protecting children in Law 24-01

Rabia LAMARA ^{1*}, Rashid MASOUDI ²

¹ University of Mustafa Istanbul Mascara (Algeria), rabia.lamara@univ-mascara.dz

² University of Mustafa Istanbul Mascara (Algeria), messaoudi.univ@gmail.com

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المجلة الجزائرية للعلوم الإنسانية والاجتماعية

Abstract :

This search attempts to address the suffering of children in custody and divorced women in obtaining alimony awarded in their favor by the court, especially when it is impossible for the person obligated to collect it due to his refusal, inability, or lack of knowledge of his place of residence. This is done by activating the role of the judiciary in the new amendment to the alimony fund 24-01 and giving the prosecution its real role in protecting the child in custody and achieving legislative harmony with the Family Law.

Keywords: alimony fund, judicial protection, foster child, alimony, family neglect.

***Corresponding author**

1. Introduction

We agree that divorce is a great problem that threatens family members and relations especially the children and their problems (alimony, custody, visitation, lineage....), which are bombs that destroy the family which is the heart of society.

In order to decipher its puzzle or reduce its effects, the Arab legislator presented a pioneering jurisprudential project to take care of the problem Alimony awarded to divorced women and children under custody when it is impossible for them to obtain it from the debtor, except for the husband (father). The Algerian legislator issued the law (15-01) named the Alimony Fund Law, which is considered a social gain taking care of some vulnerable groups and having many advantages as it protected divorced women and children from the street danger and corruption.

The phenomenon of divorce raises alimony issues significantly as an effect of the attribution of custody, and the issue of spending on the child and neglect of this duty is one of the main issues addressed by the legislator to strengthen the role of the judiciary to achieve the interest of the child and save him from society as will be explained through this research paper. We have decided to mention, clarify and show the reforms adopted by the Algerian and Arab legislators in his corrective march to the content of this law and to know the extent of their seriousness in practice, and this is what we will try to understand by posing the following problem:

Has the legislator been able, through the legislation and mechanisms by which the alimony fund is supported, to devote serious protection to divorced and cuddled women in Algeria? Has the legislator been successful in his reforms?

- Methodology: Answering these questions, we used in our study the analytical method to analyze materials and texts, and to know their backgrounds, and their social repercussions in the lived reality, - The proposed plan: It contains two axes. The first axis deals with the role of justice in protecting the child under custody in two demands. the first requirement is the role of the family affairs judge in protecting the child, the second requirement is the role of prosecutors in protecting the child. The second axis is the financial facility and the protection of the child under custody in two requirements. The first is the protection of the child through the revenues of the Fund, and the second is the protection of the child through the expenses of the Fund.

2. The first axis

the role of justice in the protection of the child under custody:

Establishing the alimony fund is very important to help and protect the needy groups of divorced women and their children who are under custody of spending, and to embody this privacy, the committee in charge of reviewing the Family Affairs Law in 1984 proposed the establishment of a special national fund to take care of the alimony of divorced women and their children, as this fund pays alimony dues and then returns to husbands. The justice facility shall be the guarantor of the recovery of what the Fund paid, and this section shall be supervised by a judge who shall in particular ensure the protection of the interests of minors, and this is stipulated in Article (424) of the Civil and Administrative Procedures Code (08/09)¹ {The judge of family affairs shall in particular ensure the interests of minors}. The Alimony Fund Law (15-01), which came to support this trend by opening a special allocation account No. (142/302) was adopted and depends in part on the allocations of the state and members of society through donations, alms and wills, and is managed by the Ministry of National Solidarity represented by its interests in the states and offset on the second party by the Ministry of Finance represented by state treasurers and those charged with following up and collecting the fund's funds from debtors.

However, the failures in management and the lack of supervision were confirmed through the report of the Court of Auditors for the year 2017², which prevented the achievement of the goals, which prompted the legislator to close it under the Finance Law for the year 2021 and integrate its waste within the National Solidarity Fund and the Family in its new dress under the title of the National Solidarity Fund and Alimony, which did not last long. To be closed as well, compensated and introduced new reforms under Law No. 23/22 of 24/12/2023 containing the Finance Law for the year 2024.

2.1 The first requirement: the role of the family affairs judge in protecting the child:

The judiciary facility is very important to accompany the family from the first moments of its emergence and the protection of its members, especially foster children, where the family judges work to reunite and repair the relationship between spouses and save family from the division, using their opportunity to search for the truth, achieve the right and achieve justice³. It is the one who holds his jurisdiction to adjudicate family cases, especially the

reconciliation process according to Article 49 s a c 4 If the reconciliation fails, the judge of family affairs pronounces the ruling of dissolving the marital bond, he alone proves the fact of divorce, where the family judge and the prosecutor of the court are aware of the smallest details of this family and from it their assessment of its needs when pronouncing the verdict is very accurate for the effects of divorce, whether in terms of family alimony, housing, compensation for damage or custody And keep up with her file through the alimony fund, which was established specifically to support this category of society and maintain it by ensuring the minimum alimony for the continuation of their life with dignity, if it is not possible to collect the alimony pronounced by the judge and proven by the judgment and required by law, the family affairs judge decides on the abuses either by issuing a judgment or by a decision or by a state order as follows:

2.1.1. Subchapter 1: Judgments and Decisions of the Judge of Family Affairs and Protection of the Child:

The family affairs judge protection starts with the neglected child for not providing the basic demands of the family, which affects the relationship between the parents, as we find most families lack stability in the relationship, marital happiness, harmony and understanding because of the weakness and lack of material⁵. This constitutes a crime that exposes the perpetrator to criminal accountability, as the Public Prosecution has the authority to directly initiate a public action by filing a complaint from the negligent alimony beneficiary or the legitimate deputy⁶, and the Algerian legislator considers the non-payment of food alimony for the child of crimes affecting the family, which must be addressed by the family judiciary because of the damage it inflicts⁷ on individuals and society.

2.1.2. Subchapter II: Protection of the child by state orders issued by the judge of family affairs:

Enabling the child to practice his life, state work is a mechanism developed by the legislator to be practiced by the judge and facilitate their implementation quickly. These orders do not acquire the authority of *res judicata*, and this is one of the most important things presented by the legislator above what we have enumerated, for example, but not limited to the role of the justice facility in controlling and running the affairs of the Fund, is to give the character of state orders that do not accept appeal to give more safety and protection for the stability of life for the category of divorced and custodial⁸.

2.1.3 Subchapter III: Protection of the Child by Emergency Orders Issued by the Family Affairs Judge:

The legislator activate the role of the judiciary to protect the child under Article 57 of the Family Law (05/02) {The judge may decide urgently by order on a petition on all temporary measures, especially those related to alimony, custody, visitation and housing}⁹ Because children, especially infants, when parents dispute, cannot wait for their alimony until the issuance of the ruling, the legislator decided to take an exception to broadcast urgently the alimony of this category during this period, and this is according to the decision of the Supreme Court on (19/01/2005) (the judge of urgency is competent to rule on the wife and children for alimony before deciding on the case in terms of substance)¹⁰ Temporary maintenance for an infant child falls within the framework of urgency as a prerequisite for the establishment of emergency justice, especially if the mother does not have a financial source to take care of the basic needs of her child, and the urgency remains in place until her wealth is proven.

The judge of family affairs enjoys the powers of the judge urgency¹¹ and alimony is considered one of the matters that require the intervention of the judge on an urgent basis through the issuance of state orders covered by expedited enforcement, because it is one of the cases of mandatory judicial expedited enforcement and is specified exclusively in Article 333 of the Code of Civil and Administrative Procedure, where these cases are subject to implementation despite the existence of opposition or appeal¹². Article 57 bis S A, Article 2/2 (s)

2.2 The second requirement: the role of prosecutors in protecting the child:

(The prosecution is an original party in all events and incidents that afflict the family from near or far, according to the operative part of Article 03 bis of the Family Law¹³ This is one of the most important decisions taken by the legislator towards the reforms contained in the project of the alimony fund by involving the justice facility with its authority and power to supervise the control of the fund and the effective management of its funds, revenues and expenditures.

2.2.1. Subchapter I: The Role of the Attorney General in the Protection and Accompaniment of the Child

The Fund's reforms under Law 24-01 and the effective and interactive involvement of the Public Prosecution in it have created legislative harmony with the Family Code, especially in Article 03 bis S.A.C.: "The Public Prosecution is an original party to all cases aimed at implementing the provisions of the Family

Law." Starting from the conclusion of the marriage contract, which may end in divorce and the resulting disputes over alimony, custody, parentage and housing, these competencies are mentioned by the legislator in the Family Law and The Code of Civil and Administrative Procedure, and the Code of Criminal Procedure. For example, in the case of customary marriage, which must be presented to the family affairs judge to issue a ruling to register it in the civil status records, the prosecution intervenes to register it, Article 22 of the law: {The marriage that is not registered in the civil status must be confirmed by the Public Prosecution}.

2.2. 2. Section II: The role of the Secretary General in the protection of the child:

Law (24-01) came to assign the Justice Facility the main role in the management of the Fund's mechanisms, such as supervision and management of the Fund's financial capabilities by the Minister of Justice through the General Secretaries¹⁴ at the judicial councils by assuming the task of the two disbursement orders, where all the files of the previous Fund were transferred to them.

The joint ministerial decision in order to follow up and monitor the special allocation account for the alimony fund, which stated poor performance and even repeated negligence in accomplishing the tasks specified in the law, as is clear in the vocabulary of this report¹⁵, the legislator had to replace it with the prosecution facility, which became the focus of all decisions concerning the new fund as follows: Once the application for benefit is filed with the family affairs judge, which is decided by state order during Five days to send the final order in the request for alimony with a copy of the attached file to the Secretary General of the Judicial Council¹⁶, who undertakes the tasks of management¹⁷ as he proceeds to initiate a public action automatically against the debtor in line with the operative part of Article 331 of the Penal Code¹⁸, and also issues a transfer of payment of dues to the treasurer and orders him to pay alimony to creditors and be disbursed within 10 days of receiving the order according to Article 15 of Law 24-01.

The Secretary General of the Council shall also inform the Secretary General of the Treasury of the financial information, who shall pay the Secretary-General of the Judicial Council a statement of the status of the Fund, at which point the Secretary-General of the Judicial Council shall issue to the Treasurer an order to refund the debts in accordance with Article 16 and 16/1.2. of Law 24/01

The Secretary-General of the Council also informs the competent judge of the judge of family affairs of any forms or change in the legal positions of creditors or when reviewing the amounts of alimony after the lapse of one year from the judgment, and broadcasts in each case under a state order that he informs the Secretary-General of the Judicial Council according to Articles 9, 10, 11, 12 of Law 24/01.

The Treasurer pays the Secretary General of the Board a statement of the status of the Fund, who in turn informs the Attorney General of the list of debtors to the Fund in order to follow them up and recover the Fund's funds.

3.The second axis

the financial facility and the protection of the child under custody:

The greatest protection done by the legislator in financial matters under Law 24/01 on the Alimony Fund is what is stated in Article 14: The state shall bear the financial dues stipulated in this law through the alimony fund managed by the Minister of Justice and the keeper of the seals through the general secretaries of the judicial councils, and therefore the deficit that may affect the fund in its financial capabilities does not constitute any burden on the beneficiaries who receive their dues from the state. The most important thing is the adoption of numbering technology in the management of the Fund, which gives its work transparency and effectiveness in the performance of its tasks through the provisions of Article 13: The Ministry of Justice shall establish an automated database related to alimony to be placed at the disposal of the judicial authorities and the competent services of the ministries concerned, and the authenticity of the documents stipulated in Article 06 can be ascertained by all means, especially by exploiting the databases related to these documents within the framework of intersectoral cooperation. Thus, manipulations are eliminated Which may be contained in the required files, thanks to the tracking of the work performed directly from the floor.

3.1 The first requirement: the protection of the child through the revenues of the alimony fund:

The legislator determined the Fund's funding resources under Article 125 of the Finance Law for the year 192024, namely:

3.1.1 Subchapter I: State Budget Allocations:

The state allocated the amounts when setting the general budget for each year, where the funds are distributed to the ministries, each according to their needs, based on estimates and compared with the expenses in the past year, and among

the bodies that enjoy the support of the state are the funds created by the state in all fields to play social roles, including the alimony fund represented by the allocation account No. (154-302)²⁰ The resources of which we are studying, which the state contributed when it was first adopted by Law 15/01 as a mechanism to support divorced women and their foster children by one billion Algerian dinars²¹.

3.1.2. Subchapter II: Alimony Amounts Collected from Debtors:

The alimony money paid from the debtors is collected, as the state treasurer, who has paid the alimony funds under the payment transfer issued by the Secretary General of the Judicial Council, who issues a revenue order to the state treasurer within a maximum period of thirty days against the alimony debtor in order to collect alimony rights, assisted by the Secretary General of the Judicial Council, who puts before him all the information that may help him in Collection of the Fund's funds from debtors, and the Secretary-General follows up to see the latest developments regarding the collection of the Fund's funds, and if necessary and difficult to collect these funds from the debtors, resort to compulsory collection (Article 17 s r n) In order to preserve the Fund's financial capabilities, the State Treasurer shall send a detailed disclosure every three months on the dynamics of the Fund's debts, including the financial dues paid by the Fund to its creditors and the financial dues collected from the debtors, The Secretary-General of the Judicial Council shall notify the Attorney General of the Judicial Council of the nominal list of persons who have refused to pay their debts to the Fund to take the appropriate action. The Treasurer also sends the list of debtors to the Judicial Agency of the Treasury in order to be established as a civil party before the judicial authorities in all cases related to alimony paid to creditors that have not been paid by the debtors as dictated by the laws (Article 18 of the Penalty), either by acknowledgment by the debtor who himself seeks to pay what he owes to the Fund, or by force using Article 188 of the Civil Code (all the debtor's funds guarantee the payment of his debts). Where the seizure of the incomes received by the debtor under Article 776 of Law 22 shall be activated, taking into account the exceptions mentioned by the legislator, which shall not be allocated for alimony and not exceeding half of the salary²³.

3.1.3 Subchapter III: - Gifts and Wills:

A / gift: The legislator defined through Article 202 of the Family Law by saying (gift ownership without compensation) as defined by Ibn Qudamah and other jurists (gift, charity, gift and gift, meanings are close and all ownership in

life without compensation, and the name of the gift includes all of them as well as the gift) ²⁴

Thus, it is one of the donation contracts, meaning that every person can give from his money what he wants and whenever he wants and to whomever he wants, and he has to give all his money and property (movables, real estate, bank balances, shares, shares or shares in companies or even debts with others) for the sake of God and this is what is stated in Article 205 of the Family Law: (The donor may give all or part of his property in kind, benefit or debt to others). And from it can be This gift is directed to the alimony fund, and the gift transfers the ownership of the gifted thing directly to the gifted person because the gift is done by possession, as stated in Article 206 of the Family Code by saying (the gift is held in the affirmative and acceptance and is done by possession....)

B / will: defined by the legislator through Article 184 of the Family Law by saying (the will is ownership added to after death by donation) so the things recommended to be restored in the testator's estate and not transferred to the legatee except with the death of the testator, as it is considered one of the estate left by the deceased testator as the estate funds are used according to the rule (last) First: Processing the deceased, Second: the debts of the deceased must be paid, Third: The will of the deceased, as the family of the deceased and everyone who knew about it are obligated to implement it, Fourth: The inheritance of the deceased, which is distributed to those who deserve it according to the legal obligation.

Through Article 190 of the Family Law by saying (the testator may recommend the property he owns and that enters into his property before his death in kind or benefit) and the legal rule implements the will within the limits of a third of the estate and everything that exceeds a third is subject to the leave of the heirs and its acceptance, and if they refuse, it is not implemented except within the limits of one third only

The will is not valid for the heir unless it is permitted by the heirs, as stated in the saying of the Messenger of Allah , may God bless him and grant him peace , (that Allah has given everyone his right, so there is no will for an heir) Narrated by Abu Dawood and Tirmidhi, and it is not valid for non-heirs except in a third of the estate unless the heirs permit it as stated (and whoever recommended to a non-heir more than a third, so the heirs after the death of the testator are permissible, and if they do not allow it to be returned to a third)²⁵.

3.1.4 Subchapter IV: All other resources:

The Algerian legislator has granted the judge wide discretion in estimating the wife's alimony through the phrase (and what is considered necessary in custom and custom)²⁶ Wide room for the diversity of funding sources for the Fund State intervention with its performance and tools to support this project financially by events all that would finance it from individuals, or associations, and the directorates of religious affairs that supervise the Zakat Fund and the distribution of its returns can produce a share of the Zakat funds to support the Fund's project, The Algerian legislator has left the door open to financing the Fund, while some Arab countries have introduced Tunisia: the Fund's revenues have been supported by fines resulting from delay, fines for debt recovery from debtors, debt expenses, and investment income from the Fund's funds. And Egypt: the proceeds of insurance contributions to the family system that was created for this purpose, and the returns on the investment of the Fund's funds. Jordan: A fee of three dinars is collected for a marriage contract documented or ratified by the courts or the divorce of the returns on the investment of the Fund's funds, with the addition of financial fees imposed on marriage and divorce contracts. Palestine: A fee of five Jordanian dinars or its equivalent in the legally circulating currency imposed on every marriage contract or divorce argument. A fee of Jordanian Dinars or its equivalent in the currency in circulation A law that imposes on any ratification of a marriage submitted to the courts

3.2 The second requirement: the protection of the child through the expenses of the Fund (disbursement and expenditure of its funds) on the beneficiaries:

The Algerian legislator has obliged the judge of family affairs to take into account the interest of the child and make him responsible in choosing the best solution for the child under custody²⁷

3.2.1 Subchapter I: Conditions for benefiting from the Fund's funds:

Through what the legislator came and was keen on in Law (24-01) AHand the unlimited support for the child and announced in Article 2/2 that the state will pay all the expenses adjudicated to creditors with alimony, which are two categories of persons exclusively according to Article 2/3, namely:

1/ Foster children (according to Article 64 of the Family Law) who dissolved the marriage bond between their parents or filed a lawsuit for the

dissolution of the marital bond, and this category is in connection with urgent and temporary alimony that the convicted person cannot refuse to pay unless it is proven that there is a financial source and continues until the final conclusion in the lawsuit for the dissolution of the bond between the parents. Only foster children are the targets of alimony as required by Law²⁸.

2 / A woman whose marriage bond has been dissolved shall not be exempt from the following items:

A - the alimony of the waiting period, which is considered a debt in the custody of the divorced and the alimony of the waiting period does not continue except by continuing her pregnancy if she is pregnant only, and that the alimony of the waiting period is really the expense of food for the fetus until its growth is completed naturally as he takes his food through the food of his mother, which is considered a mediator between him and the father's alimony, and the evidence for this is that the divorced non-pregnant did not prove her alimony, Verse 6 is inferred from the form of divorce (and if they are the first to become pregnant, spend on them until they give birth) the truth of God Almighty.

Puzzling is the inclusion of divorced women in their entitlement to alimony legislation and its absence in practice, and therefore must be approved fundamental amendments to be completed and be appropriate to protect the rights of children after the occurrence of divorce)²⁹

B - alimony pleasure is compensation)³⁰ , knowing that it is prescribed by law that pleasure legislated for the woman whose husband chooses to part, and not for the woman who chooses to part with her husband, and then the judiciary contrary to this principle is contrary to the rules of Sharia 31 verse 49 of Surat Al-Ahzab (Vmtawahn and Sarhohn beautiful release) it is scheduled Legally that compensation must be paid by the husband who divorced his wife arbitrarily and resulted in damage to the divorced, and that every wife initiated a lawsuit with the intention of divorcing her from her husband and sentenced her to it, the judgment of compensation is illegal and therefore the judiciary contrary to this principle is a wrong understanding of the law ³².

C - Housing alimony and the father is obligated to provide housing suitable for the exercise of custody in the event of divorce in order to preserve the child and in the event that this is not possible, he is obligated to pay the rent allowance ³³ Verse 6 of Surat divorce (Settle them from where you lived who found you) The truth of God Almighty.

The (Articles 40,34 BCA) prove the lineage of the child to his father in the marriage that has been dissolved or in the marriage of suspicion (incest), and when the husband is in good faith ignorant of the reasons for invalidity, the husband's alimony on his children is obligatory to prove the parentage, and therefore there is nothing to prevent the children resulting from the invalid marriage from benefiting from the fund's dues because they did not choose their case, and the legislator then has recourse to the parents or one of them to recover what he spent on their children³⁴. The strange thing is that the legislator in the last reform did not remedy this matter, but maintained the same formula in the old law, unlike the Egyptian legislator, who did justice to this category through (Article 71)³⁵, who undertook the alimony of the wife, divorcee, children and relatives, and the same thing the Bahraini legislator adhered to. B/ As for the conditions: Article 03 of the new alimony fund law has determined them. 1/ The inability to fully or partially implement the judicial judgment or the order specifying the amount of alimony due to the debtor's (husband's abstention) or his disability or ignorance of his place of residence: The payment of alimony is a legal obligation on the debtor (the obligation of parents, guardians and guardians to alimony is a legal obligation that must be implemented in kind, and when some of these obligations are breached, the implementation is by way of compensation)³⁶ If the debtor refuses to fulfill his obligations and implement what is stated in the judicial rulings voluntarily, we will be the misdemeanor of non-payment of alimony, and the misdemeanor of non-payment of alimony is based on two pillars, like other crimes, namely: The material element: It is based on non-payment of the amount of alimony in full, by the expiration of a period of two months from the date of submitting the complaint³⁷, and the moral element: is the availability of criminal intent, that is, deliberately refraining from paying alimony for a period of more than two months³⁸ and proving the abstention and the offense with evidence, we move to forced execution by the public authority³⁹.

3.2.2 Section II / With regard to the procedures for benefit:

Article 06 has specified the benefit through the payment of the file accompanied by the documents after completing the procedures and preparing the file to be delivered to the Office of the Secretariat of Control, which prepared for this task of receiving requests for alimony and all updates and follow-ups under the supervision of the Secretary of Control at the Court (Article 07/07), so that the competent judge will broadcast the request by a state order that is not subject to appeal within five days of filing the application, Then it is notified to the debtor,

the creditor and the Secretary-General of the Judicial Council within a maximum of two days of its issuance, and this is the most important procedure brought by the legislator, as he assigned the task of ordering disbursement to the Secretary-General of the Judicial Council, which facilitates the work because the disbursement order belongs to the same judicial authority, as well as his experience and knowledge of matters of financial and accounting management in the Council, not to mention his judicial authority and what its legal weight represents.

3.2.3 Subchapter III: Protection through the disbursement of financial dues:

The Secretary General of the Judicial Council shall order the disbursement of financial dues to the beneficiaries of the Alimony Fund by any means available to him, whether through bank transfers or postal transfers within (25 days) of receiving the state order issued by the Family Affairs Judge and the Secretary of the Public Treasury shall proceed to disburse the expenses to the debtors after receiving the payment transfer issued by the Secretary General of the Judicial Council within ten days from the date of receiving the transfer (M 15 s r n) by relying on the funds of the fund that the state undertakes With these expenses (m 14 s r n)

These financial benefits will continue to be paid to their sponsored children and divorced women every month as long as their situation does not change towards the binding conditions for entitlement to this alimony.

In the event of any problems that would hinder the process, the competent judge alone may decide on these forms within three days from the date of notification of the change by state order, especially if the notification is from the Secretary General of the Judicial Council or from the creditor or from the debtor (Article 09 s n) and when any change occurs to the creditors and the debtor and under penalty of legal accountability to inform the competent judge within a period of ten days from the date of occurrence of this change in their case material, which may change their benefit negatively or positively, and the competent judge alone broadcast in this change within five days from the date of notification of the change under a state order notified through the Secretariat of control to creditors, the debtor and the Secretary-General of the Judicial Council within two days of its issuance (m 10 s r n)

The law also obliges the person in charge of custody to renew the documents of benefiting from the capabilities of the fund on paper or

electronically during the first quarter of each year and if necessary outside the specified deadlines, and this is one of the positive reforms brought by the legislator similar to the Moroccan legislator in order to tobacco changes that may occur to the beneficiary, and if the custodian does not do this procedure and update the documents with the secretariat of the judicial council or proven changes in the status of the beneficiaries, the Secretary-General of the Judicial Council undertakes the profession of notification. The competent judge in writing where the competent judge initiates a social investigation before adjudicating the financial dues (article 11 of the law in writing).

The legislator has set for the judge conditions that must be taken into account in his assessment of alimony because it changes with the change in prices, their cost, cheapness, and the condition of the obligated person with ease and hardship⁴⁰, and the conditions of pension, and not to review his estimate until after the lapse of one year from the date of estimating alimony⁴¹. Thus, the provisions of alimony can not be reviewed only after the passage of a year of issuance, and the competent judge if he managed to review the value of alimony and the emergence of developments, he issues a new order specifying the changes that have occurred in the amounts of alimony and then informs them to the Secretary-General of the Judicial Council of the solution of issuing an order to pay the state treasurer to amend the alimony according to the new variables.

3.2.4 Subchapter IV: Forfeiture of the Right to Benefit from Alimony:

The legislator has regulated this aspect in Article 2/5 of the new law: Alimony is forfeited by the forfeiture of custody or its expiry according to the Family Law, or by proving its payment by the debtor or the resumption of married life.

Loss of alimony with the fall and expiry of custody: The legislator specified its fall in (66-70 BC), which is

1 / Loss of custody of the female custodian: It is either the marriage of the female custodian to a relative who is not forbidden, and the assignment of custody taking into account the interest of the child: The decision of the Supreme Court (it is legally established that the waiver of custody is not considered if the waiver harms the interest of the child)⁴².

Or the imbalance of one of the conditions considered in the assignment and assumption of custody, or the abandonment of the claim for custody for a year without a legitimate reason, or the residence of the custodian with the mother

married to a relative who is not forbidden, or the travel of the custodian with the child outside the national territory and this requires judicial permission, the father has the right to see the child and supervise his upbringing, and this does not come unless the custodian resides in the country of the father or guardian⁴³, And the fall of custody belongs to its owner with the disappearance of the reasons voluntarily projected to it⁴⁴

2 / expiration of custody: It is either the death of the children under custody and this is normal or the attainment of the female child (19) years and the male ten years and the judge can extend it to 16 years and this age does not enable him to engage in work to feed him, which made this law deficient in this aspect because it was originally initiated to protect the interest of the child under custody, which was not achieved⁴⁵.

3/ Proof of payment of alimony by the debtor: It is the normal case in which the convicted alimony (father) is obliged to fulfill what was stated in the operative part of the judgment, (and the word judgment in its broad sense, which includes the judgment, the judicial decision and the emergency order)⁴⁶ and he paid these funds on time and showed payment transfers, whether by bank or postal or judicial report.

Article 76 (A) obliges well-to-do women to spend on his children, and the Fund does not represent divorced women who are well-to-do in spending with the achievement of their material ability to perform the duty of spending.⁴⁷

4 / Resumption of marital life: If the reasons for the sanctity of marriage between the custodial mother and her former provider are still and the marriage took place between them so that the children return to the family and from it their benefit from the financial capabilities of the Fund is forfeited from the date of the conclusion of the contract so that the alimony is transferred to the father according to the requirements of the family provisions 5 / False declaration: The benefit of alimony is forfeited, and everyone who receives financial dues without the right to return them is obliged. The penalty for false declaration provided for in the Penal Code shall apply to him. For making incorrect statements to benefit from the financial dues of the Fund, the penalties for false declaration provided for in the Penal Code shall be applied.

Criminal prosecution of the debtor for alimony for the crime of non-payment of alimony. Because the Fund's guarantee of payment of the amount of alimony does not prevent the judicial prosecution of the debtor for the crime of

non-payment of alimony stipulated and punishable in Article 331 of the Penal Code, and the husband can set-off if he has a fixed debt on his wife, may ask her to drop the corresponding debt of alimony^{imposed 48}, because the debts incurred in the custody of One of the spouses may lapse in the equivalent of payment, by payment of consideration, or by set-off or union of liabilities, or by renewal and delegation.⁴⁹

4. Conclusion

The new reforms of the Fund under Law 24-01 and the inclusion of the Public Prosecution are strong additional guarantees for the protection of minor children on the one hand, and the restoration of legislative harmony between the Family Law and the laws of the Alimony Fund on the other hand, though there are still some imbalances that we seek to detect that may prompt a new reform of the Fund, to upgrade its tasks to include other categories that are in dire need of support and care. To restore her smile and feed her hunger and stupidity and dress her nakedness and maintain her pride and dignity, and this is the maximum wish of every conscious human being and sought by a sophisticated society, and perfection remains a relative thing between human beings for their different natures and cultures and from here we can record some observations may be taken into account if the alimony fund law is strengthened to support the achievement of its lofty goals to protect promising children.

Pros of the Fund's latest amendment

- The introduction of the prosecution in the last amendment is an additional guarantee for the protection of the family and the child under custody in particular, and the protection of the funds of the Fund, especially since the prosecution is an original party in everything that is new in the family.
- The State shall guarantee the payment of expenses adjudicated in favour of foster children is an absolute protection that enables them to lead a normal life with their peers and avoids shortages and psychological complexes.
- Linking the governing bodies of the Fund's tasks to a common database is a qualitative leap in the development of this sector, facilitating the work of those in charge of it, and providing support and comfort to the beneficiaries of its services.

- One of the advantages of the new amendment is to oblige the beneficiaries of the Fund to renew the basic documents in the file to benefit from it every year to protect the Fund's funds from fraud and fraud.

Negatives in IMF reforms

- The legislator did not take into account the legislative harmony of the Family Law and the Fund in Article 75 of the Code, where:
 - The child is alimony on his father unless he has money - this condition was not observed and alimony was postponed for all children.
 - Alimony of the child on his father until the age of majority - and alimony is obligatory for all children until the fall of custody.
 - The child's alimony shall be forfeited from his father by dispensing and earning – and obligatory for children without taking into account earning. Article 76: When the father is incapacitated, the maintenance of the children is transferred to the mother if she has money and is able to do so.

Article 77: The expenditure of assets on branches and branches on assets must be paid according to ability, need and degree of kinship in inheritance.

- Not to differentiate between well-to-do beneficiaries and poor beneficiaries by placing them on one level.
- Include a mandatory awareness training for those about to get married, supervised by judges, imams, notables and lawyers.

5. Footnotes and references:

¹ Law No. 09-08 of 25/02/2008 Civil and Administrative Procedures, JR No. 21 of 23/04/2008 amended and supplemented, by Law No. 13-22 of 12/07/2022, JR No. 48, issued on: 12/07/2022.

² Evaluation Report of the Court of Auditors on the preliminary draft of the 2017 Budget Regularization Law for 2017: The financial situation sent by the directorates of social activity are not homogeneous and not detailed. It also does not include the identity of the debtor and the amounts collected; Financial positions are submitted by eight states for a total amount of 16,685,366,68 DZD, in the absence of supporting documents, which has led to the non-settlement of the amounts concerned from the alimony fund; Failure of the directors of social activity and state solidarity to issue bonds Collection against debtors in application of the provisions of Article 2 of the Joint Ministerial Decision of August 24, 2017 for the failure of the orders issued by the courts to include the identity of the debtor, his address and his account number.

- ³. I, Shami Ahmed: The discretionary power of the judge of family affairs. A comparative study between Islamic law and man-made laws, PhD thesis in private law, University of Abu Bakr Belkaid, Tlemcen, Algeria, p 09
- ⁴. Article 49 QAC: Divorce shall not be established except by a judgment after several reconciliation attempts made by the judge without exceeding a period of 03 months from the date of filing the lawsuit
- ⁵. I. Boulbina Jamal: Educational methods of the family and child delinquency (a field study on a sample of inmates of re-education centers and the integration of juveniles) PhD thesis in sociology of education, University of Setif 2, 2017 2018, p 270
- ⁶. Q. Barsh Suleiman: Explanation of the Code of Criminal Procedure, Part I, Dar Al-Huda, Algeria 2007, p. 71.
- ⁷. Abderrahmane Khalfi: Public Criminal Law, a comparative study, Dar Belkis, Algeria, 2017, p. 65.
- ⁸. Article 12 The state orders provided for in this law shall not be subject to any means of appeal.
- ⁹. Ahmed Shami: Algerian Family Law According to the Latest Amendments: A Comparative Jurisprudential and Critical Study, New University House, Alexandria 2010, p 284
- ¹⁰. Supreme Court: G.S.A., Decision dated (19/01/2005), File No. (333042), MMG, No. 01, 2005, p. 321.
- ¹¹. Article 425 of the Code of Civil and Administrative Procedure, JR No. 21 dated 23/04/2008 as amended and supplemented, by Law No. 13-22 of 12/07/2022, JR No. 48, issued on: 12/07/2022.
- ¹². Article 03 bis Family Code No. 84-11 of 04 and 1404 corresponding to June 9, 1984 containing the Family Code amended and supplemented by Ordinance No. 05-02 of February 27, 2005, Official Gazette No. 15 of 2005.
- ¹³. Bousalem Abla A.M.: Intervention entitled: The legal status of the alimony debtor in the presence of the Alimony Fund, a course on "The Alimony Fund in Algeria between reality and hope", on March 09, 2015. University of Mohamed Siddiq Ben Yahya Jijel," p. 06.
- ¹⁴. Article 03 bis S.A.C.: The Public Prosecution is an original party in all cases aimed at implementing the provisions of this law.
- ¹⁵. The General Secretariat was established by Executive Decree No. 2000-330 of 28 Rajab 1421 corresponding to October 26, 2000.
1 / The failure of the Director of Social Activities and State Solidarity to issue his own collection orders against the debtors, which exposed the Fund to disability and bankruptcy
2 / Lack of content in the files of applicants to benefit from the Fund's capabilities (especially death certificates, marriage contracts, and alimony payment vouchers are basic documents in accounting processes
3 / Loss of payment slips and remittances that prove the payment of financial dues to their

owners, which the Fund is unable to justify and claim the recovery of the Fund's funds from the debtors.

^{16.} Article 7/5 paragraph and 7 paragraph

^{17.} The General Secretariat shall be managed by a Secretary-General appointed by presidential decree on the proposal of the Minister of Justice after consulting the President of the Council of State, and the Secretary-General shall exercise his powers under the authority of the President of the Council of State. The Secretary General is responsible for the administrative and financial management of the Corporation and is entrusted with the following: - Assume the task of ordering the disbursement of the Council of State under the supervision of the President of the Council of State. - Take all measures to provide the technical means necessary for the functioning of the judicial institution and to ensure their proper use. - Apply appropriate measures to ensure the safety of persons and property within the judicial institution.

^{18.} Article 331/1 of Ordinance No. 156-66 of 08/07/1966 on the Penal Code, JR No. 49 issued on 11/07/1966, as amended and supplemented.

^{19.} Law No: 22-23 of 24/12/2024, containing the Finance Law for the year 2024, c. R., 86 issued on: 24/12/2024, p. 32.

^{20.} Joint Ministerial Decision of 29 Shaaban 1445 corresponding to 10/03/2024 establishing the Code of Revenues and Expenditures of the Special Allocation Account 154-302 entitled Alimony Fund, Official Gazette No. 28 issued on (April 21, 2024).

^{21.} 100 billion for the alimony fund for divorced and custodial women, Al-Shorouk Daily newspaper, Thursday 14/09/2014, issue 4487, p. 03.

^{22.} Article 776 of Law (75/34) of 29/04/1975 relating to the attachment of the debtor's wages and salaries: (Whoever holds an executive document may seize the wages, incomes and salaries received by the debtor in accordance with the procedures and in accordance with the percentages shown.....)

^{23.} Article 777 of the Code of Criminal Procedure: "It is not permissible to seize the wage or salary in the amount of the food alimony if the debt for which the attachment is attached relates to the food alimony of minors, parents, wives or all those whose alimony is legally obligatory.

^{24.} Abdullah bin Ahmad Yen Qudamah al-Maqdisi, Al-Mughni, Al-Jizi Al-Fifth, First Edition, Dar Al-Fikr Beirut, Lebanon, Year 1405, Book VI, p. 247

^{25.} Abdullah ibn Ahmad Yen Qudamah al-Maqdisi, al-Mughni, op. cit., p. 427

^{26.} I: Shami Ahmed: The Discretionary Power of the Family Affairs Judge, A Comparative Study between Islamic Sharia and Man-made Laws, PhD Thesis in Private Law, Abu Bakr Belkaid University, Tlemcen, Algeria, Year 2013-2014, p. 284.

^{27.} I Sanaa Ammari: Judicial applications of custody and its problems in Algerian family law, graduation note for obtaining a master's degree in private law, University of Martyr Hamma Lakhdar, El Oued, Algeria, year 2014/2015, p. 185)

- ^{28.} The Supreme Court's jurisprudence has settled on the nature of alimony legally prescribed for the category of foster children, and its decision No. 51598 dated 7/11/1988 stated the following (It is legally established that the expenses imposed for the benefit of children are allocated for subsistence, clothing and treatment legally and legally, and the judiciary otherwise is a violation of the law.
- ^{29.} Sunrise on 13/11/2014 www.echoroukonline.co.)
- ^{30.} A, M, Abdelhakim Boujani: Problems raised about the establishment of the alimony fund created by Law 15/01, Algerian Journal of Law and Political Science, University Center Ahmed Ben Yahya Ouncharissi, Tissemsilt Algeria Issue 04, December 2017, p. 38
- ^{31.} Supreme Court of 21/11/1988, File No. 43860, Judicial Journal No. 4, 1990, p. 67.
- ^{32.} i. Massoudi Rashid: The financial system of spouses in Algerian legislation, a comparative study, a doctoral thesis in law. Abu Bakr University in Kaid Tlemcen, 2005/2006, p. 77.
- ^{33.} Jamal Najimi: Algerian Family Law, (Guide to the Judge and the Lawyer), Dar Houma for Printing, Publishing and Distribution, 206, p. 185.
- ^{34.} Haddad Fatma: Problems of protection of the child under Law 15-01 establishing the alimony fund, Academic Journal for Legal and Political Research, University of Ammar Thliji, EllaGhowat, No. 2, p. 331.
- ^{35.} Law 1/2000 regulating the conditions and procedures of litigation in matters of personal status in the Egyptian judiciary.
- ^{36.} Dr. Abdul Razzaq Al-Sanhouri: Provisions of commitment, part 2, p. 825.
- ^{37.} Ahsan Bousqaia: Al-Wajeez fi Private Penal Law, Part 1, Dar Houma, 12th Edition, 2010, p. 169.
- ^{38.} Ahsan Bousqaia: Al-Wajeez fi al-Kinun al-Penal Code, op. cit., p. 172.
- ^{39.} Code of Civil and Administrative Procedure, Book 03, No. 08-09, dated 25/04/2008, Official Gazette No. 21, page 3, 2008.
- ^{40.} I. Ghadban Mabrouka: The rights of the child in the light of the Algerian judiciary, thesis for obtaining a doctorate in science, specializing in private law, year 2017-2018, p. 353
- ^{41.} I: Shami Ahmed: The Discretionary Power of the Family Affairs Judge, A Comparative Study between Islamic Sharia and Man-made Laws, PhD thesis in private law, Abu Bakr Belkaid University, Tlemcen, Algeria, Year 2013-2014, p. 285.
- ^{42.} Supreme Court 09/07/1984, File No. (32829), 1999, first issue.
- ^{43.} i. Zoheir Ben Hachani: The effects of divorce in the personal status laws of the Maghreb, thesis submitted to obtain a doctorate of science in law, specialization: private law, Larbi Ben M'hidi University - Oum El Bouaghi-, year 2020-2021, p. 284)
- ^{44.} Article 71 of the Family Code
- ^{45.} Dr. Nassima Amal Hefri: Alimony Fund Law in Algeria between the existence of the text and the absence of application, a comparative study with some Arab legislations,

Journal of Legal Studies and Research, No. 09, University of Mohamed Ben Ahmed Oran, Algeria, June 2018, p. 205.

^{46.} Dr. Amrani Kamal El-Din: The legal framework for the crime of non-payment of alimony due by a judicial ruling (a study within the framework of Algerian legislation, and comparative law, and Islamic law), Sally Ahmed University Center, Naamah, Algeria, p. 79.

^{47.} Abdel Fattah Hammadi: Provisions of the Alimony Fund in Algerian Legislation, A Comparative Study, University of Messila, Al-Haqiqa Magazine, No. 43, p. 89.

^{48.} I: Shami Ahmed: The Discretionary Power of the Family Affairs Judge, A Comparative Study between Islamic Sharia and Man-made Laws, PhD thesis in private law, Abou Bakr Belkaid University, Tlemcen, Algeria, Year 2013-2014, p. 284.

^{49.} i. Masoudi Rashid: The financial system of spouses in Algerian legislation, previous reference, p. 354.