

Informal Marriage and the Problem of Proof (Comparative study)

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Abstract:

Some believe that informal marriages can provide solutions to certain problems faced by young people, while others argue that this type of marriage leads to various social, humanitarian and psychological problems. As a result, personal status laws in Arab and Islamic countries, including the Algerian Family Code, require the registration of marriage contracts with civil registry offices and official authorities to protect rights from being lost. However, some individuals bypass this procedure and enter into informal marriages without registration, a social phenomenon that is increasing day by day, raising legal and practical questions regarding the proof of such marriages.

Keywords: marriage, informal contract, records, evidence

INTRODUCTION

Islamic law places great emphasis on family matters in order to build a cohesive community characterised by affection and mercy. It requires consent, a guardian, a dowry and witnesses for a marriage to be valid. However, it does not consider the writing and documentation of marriage contracts as essential for the validity of the marriage. This has changed with the introduction of civil laws in Islamic countries, including the Algerian Family Code, which stipulates the need to document marriage contracts in order to protect rights from being lost. This is known as a formal or notarised marriage.

The situation among Muslims remained unchanged until the authorities observed a decline in the moral compass of many individuals and a deterioration of conscience in some. As a result, the legislator was compelled to intervene legally to address the negative effects of the lack of documentation of this contract, to protect the family and

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its structure, and to prevent manipulation of marital relations. This was achieved by establishing legal restrictions and conditions.

The legislator sought to achieve important social goals through these legal restrictions, as they were designed to regulate the documentation of marriage contracts. Similar to other Arab legislations, the Algerian legislator enacted legal texts affirming the need to document marriage contracts with a civil servant. However, the increasing number of cases in Algerian courts on this issue indicates a significant increase in informal marriages in Algeria. Requests for the authentication of these marriages come from various sectors of society and often take months to be registered. This situation calls for an examination of the issue from both a social and a legal perspective. We therefore ask the following question:

What is the significance of informal marriages and what are the challenges involved in proving them?

Section One: Defining Informal Marriage

Informal marriage is a widespread phenomenon in Arab societies, as opposed to formally documented marriage recognised by state institutions. The term is derived from certain procedures established by a state that require the registration of a marriage with its official bodies. The term “informal” is derived from “custom”, and in a legal context, custom has meaning and authority if it is considered valid and does not contradict religious texts. In general, in Islamic law, custom is one of the secondary sources that occupy an important place in Islamic jurisprudence.

The term “informal marriage” is relatively modern and is not found under this name in the ancient legal heritage. Informal marriage does not mean that individuals have created their own customs or practices regarding marriage contracts with their own terms of acceptance and conditions. Instead, the term refers primarily to marriages that are not registered or officially documented¹. When a man enters into a verbal marriage ceremony that fulfils its essential requirements and conditions, people refer to this as an informal marriage, indicating that it lacks official documentation.

Thus, an informal marriage is a marriage conducted in accordance with Islamic law and fulfilling all its necessary elements and conditions, including the contracting parties, a guardian, witnesses, public announcement and dowry. It is called ‘informal’ because people are used to formalising it outside official state institutions and without

a document with a specific number. This is the reason for calling this type of marriage informal.

It is worth noting that there are two forms of informal marriage. The first takes place with the consent of both the man and the woman, together with the consent of the guardian and the presence of witnesses, in addition to the public announcement. However, this contract is not registered with the official authorities. This form of marriage has existed since the beginning of Islam and is still common in many Arab communities, especially in rural areas. The second form lacks essential elements such as witnesses, a guardian or public announcement².

Section One: The Legislative Approach to Informal Marriage

In this section, we will examine the position of various Arab legislations on informal marriage, as well as the position of Algerian legislation in this regard.

Subsection One: The Position of Arab Legislation on Informal Marriage

All personal status laws require individuals wishing to marry to document their contract with the relevant official authority. However, these laws differ in their treatment of those who enter into informal, unregistered marriages. The position of personal status laws can be summarised in four main approaches:³

- **First approach:** Legislation that requires the documentation of marriage contracts with official authorities but does not impose penalties for failure to do so. This approach is evident in the Moroccan Personal Status Code, which states in Article 43: “The contract shall be recorded in the marriage register of the court and a copy shall be sent to the civil status administration”.

- **Second approach:** Legislation that refuses to hear claims of marriage or its recognition unless an official document proving the marriage is presented. This is reflected in Egyptian personal status law under Article 99 of the Regulations for Sharia Courts, as amended by Law No. 78 of 1931. However, what the law stipulates does not concern the marriage itself, but is limited to disputes relating to it. The Egyptian Fatwa House has stated: “Marriage is valid between the parties (husband and wife, themselves or through their representatives or guardians) with an offer from one to the other, provided that this contract meets all the legal conditions outlined in jurisprudence. This contract has all the effects and consequences, and each spouse has rights and obligations towards the other, regardless of whether the contract is formal

or informal. From a legal point of view, however, Decree-Law No. 78 of 1931, in paragraph four of Article 99, states that claims for marriage or its recognition shall not be heard unless they are established by an official document for events occurring after 1 August 1931. This means that the law does not require an official document for the validity of the marriage contract, but only for the admissibility of the claim”.

The Kuwaiti Personal Status Law has a similar approach to the Egyptian law. Article 93(a) states: “The claim of marriage shall not be heard if it is denied unless it is established by an official marriage document or if the denial was preceded by the recognition of the marriage in official documents.”

- Third approach: Legislation that imposes penalties on individuals who do not register their informal marriage with an official document. An example of this is the Jordanian Personal Status Law, Article 10 of which stipulates that the suitor must consult a judge or his representative in order to enter into a marriage contract; marriages must be solemnised by the judge with an official document. In exceptional cases, with the permission of the Chief Justice, the judge may perform the task personally. If a marriage is performed without an official document, both the parties to the contract and the witnesses are subject to the penalties set out in the Jordanian Penal Code, including fines of up to 100 dinars. Any official who fails to register the contract with an official document after paying the legal fee may be subject to both of these penalties, as well as dismissal from his position.

The Iraqi Personal Status Law also follows the Jordanian approach. Article 10(5) states: “Any man who marries outside the court shall be punished by imprisonment for a term of not less than six months and not more than one year, or a fine of not less than 300 dinars and not more than 1,000 dinars. If a man, while still married, enters into another marriage outside the court, he shall be punished by imprisonment for a term of not less than three years and not more than five years”.

- Fourth approach: The Tunisian Personal Status Code stipulates in Article 4 on marriage that “marriage shall be established only by an official document regulated by a special law”. This provision contrasts with the Egyptian and Kuwaiti laws, which state that marriage claims will not be heard without official documentation. The Tunisian law explicitly denies the validity of a marriage without official documentation, indicating that such a contract would be considered null and void in the eyes of Tunisian courts. This provision is undoubtedly a clear violation of the principles of Islamic law.

Subsection Two: The position of Algerian legislation on informal marriage

In 2005, in conjunction with amendments to the Family Code, the Ministry of Religious Affairs and Endowments issued a directive prohibiting imams from performing religious marriages unless a civil marriage contract has been drawn up. This measure is intended to prevent problems arising from a lack of official documentation. The directive stipulates that imams must abide by this policy and that all citizens are responsible for reporting any violations. However, the directive does not provide for any disciplinary or punitive measures.

Algerian court rulings have consistently upheld informal marriages, recognising their validity as long as they meet the necessary legal requirements. For example, one ruling state⁴: “Any marriage is considered valid if its essential elements are present, even if it is not registered in the civil registry, and all the rights and obligations deriving from it are applied”.

In addition, the Supreme Court has ruled that: “Marriage consists of four essential elements: consent, a guardian, a dowry and witnesses, as well as the absence of legal impediments. If any two of these elements, except consent, are lacking, the marriage is invalid.”⁵

Another decision⁶ stated: “If an informal marriage fulfils all its complete and valid elements, the court’s decision to recognise this marriage and register it in the civil status records, as well as to attribute the lineage of the children to their father, is in accordance with both Islamic law and the law. If this is the case, the appeal must be rejected”.

Furthermore, an unregistered informal marriage contract is considered a neglected contract under Article 39 of the Civil Code, which states that “Except as provided for in the fourth paragraph of article 79⁷, if the contract is not declared to the civil status officer within the prescribed period or is not accepted, or if the documents are missing or have been lost for reasons other than a disaster or military action, the registration of birth, marriage and death contracts shall be effected directly, without charge, by a simple decision of the president of the judicial court in which the contracts were or could have been registered, based solely on a request from the public prosecutor to that court by means of a brief petition and based on any documents or evidence”.

Returning to the Algerian Family Code⁸, Algerian family law does not set a time limit for the formalisation of an informal marriage, nor does it impose punitive measures to

curb the phenomenon of unregistered marriages. However, the legislator does impose the need for registration in Article 22 of the Family Code, which states: “Marriage shall be established by an extract from the civil status register and, in the case of non-registration, by a court decision. The decision confirming the marriage must be registered in the Civil Registry on the initiative of the Public Prosecutor”.

Section Two: Reasons for the existence and prevalence of informal marriage

Several factors drive individuals into informal marriages and contribute to the persistence of traditional forms of marriage despite legal requirements for registration in official institutions.

Subsection One: Reasons for its existence and prevalence in Arab countries

Informal marriage is seen by many as a solution to many of the challenges that young people face in the context of marriage, particularly financial constraints. These obstacles often prevent young people from entering into formally documented marriages, leading them to opt for informal arrangements. Informal marriages allow individuals to circumvent many of the restrictions associated with formal marriages, thereby protecting themselves from immoral behaviour or involvement in illicit relationships. As a result, the prevalence of informal marriage has increased significantly in recent times.

Some of the main reasons for its spread in Arab countries can be summarised as follows:⁹

The restrictions imposed on couples by personal status laws in some Arab countries include the prohibition of polygamy, except by court order for good cause, and the right of the first wife to seek divorce if her husband marries another woman. As a result, many young people resort to circumventing these laws, finding informal marriages to be the optimal solution to their problems.

- **Financial difficulties:** Many young people face financial challenges, including high dowries and excessive wedding expenses, as well as rising unemployment and the high cost of living, which contribute to increased poverty rates. As a result, young people turn to informal marriage, which does not involve significant financial outlay.
- **Weak religious commitment:** A lack of strong religious motivation leads young people who want to fulfil their desires but are unable to marry formally to seek

informal marriage as a means of satisfying their urges. Once their desires are satisfied, they may neglect their informal spouse.

- Desire to conceal the marriage: One party may wish to hide the marriage because of differences in social status between them and their partner, such as a doctor marrying a nurse or a manager marrying a secretary, which may not be in line with social norms. Informal marriage allows them to fulfil their desires while keeping the union hidden from public view.
- Desire for additional marriages: Husbands may wish to marry another woman without informing their first spouse, especially in countries that restrict polygamy, require the knowledge of the first wife, or give her the right to request a divorce.
- Material needs: Practical needs may lead some people to marry informally, such as a widow with children who wishes to maintain her pension rights without formally remarrying.
- Lack of legal obligations: Informal marriage does not carry the same legal obligations as formal marriage, making it attractive to those who wish to avoid the responsibilities associated with formal marriage contracts.

Subsection Two: Reasons for the existence and prevalence of informal marriage in Algeria

The reasons for informal marriage in Algeria are diverse and numerous, and include the following main ones:¹⁰

- Marriage as a means of binding minors: Article 7 of the Family Code sets the legal age of marriage at 19 for both men and women. Marriages involving minors are subject to conditions that require the permission of a judge, who has the discretionary power to accept or reject the marriage of a minor. As a result, most men who wish to marry minors resort to informal marriages in order to avoid legal proceedings or in response to a judge's refusal to grant the necessary authorisation.
- Informal marriage as a tool for foreigners: Informal marriages are sometimes used by foreigners to establish ties with Algerian women. Marriages between foreigners in Algeria are subject to conditions, including the foreigner's legal presence in Algeria and permission from the relevant local authority. If the foreigner is in an illegal situation, such as an undocumented immigrant, or if the local authority refuses to grant permission, they may resort to an informal marriage.

- Isolation in remote areas: Nomadic Bedouins and residents of remote areas often resort to informal marriage due to their isolation and distance from official institutions.
- Fugitives seeking informal marriage: Those wanted by the authorities may also turn to informal marriage, as these individuals may have committed crimes and fear arrest if they approach official institutions to formalise their marriage.
- Avoiding the legal requirements for second marriages: The main reason for informal marriages in Algeria is to circumvent the provisions of Article 8 of the Family Code, which requires a man who wishes to marry a second wife to obtain the consent of the first wife and the authorisation of the head of the competent court. In this case, men opt for an informal marriage in order to conceal their second marriage and avoid obtaining the consent of the first wife, especially since Algerian law allows a husband to formalise his marriage with a second wife.

Chapter Two: The Problem of Documenting Informal Marriages

The process of proving an informal marriage involves a number of legal stages, as provided for by Algerian law. However, in order to establish this proof, it is essential to look at the evidence provided by Islamic law and the specific laws regarding methods of proof, particularly civil law. In order to discuss the issues surrounding the proof of this marriage under Algerian law, we need to understand these methods as follows:

Section One: The Problem of Legal and Religious Proof of Informal Marriage Contracts

Proving an informal marriage contract is one of the main challenges for the parties involved. This is due to the nature of its formation for specific purposes, and once disputes arise between the spouses, some may evade their obligations. For this reason, both Islamic law and Algerian legislation surround this issue with rules governing the methods of proof. If the marriage is formalised, it must be documented with an extract from the civil status register, in accordance with the first paragraph of article 22 of the Family Code¹¹. As for the validity of its establishment, it can be proved by three methods: acknowledgement, testimony and oath, with the possibility of refusing to take the oath.

Subsection One: Acknowledgement

Admission is considered one of the strongest forms of evidence. According to Article 341 of the Civil Code¹², it refers to the admission by a party before the court of a legal fact concerning a claim made against it in the course of the relevant proceedings. This acknowledgment serves as evidence only against the acknowledging party and does not extend to third parties or to those to whom the judgment relates¹³. In order for the acknowledgement to be valid, certain necessary conditions must be met:

- As to the acknowledging party: You must be of sound mind and of legal age. An acknowledgment made by a minor is ineffective, since attaining the age of majority is a condition for its validity¹⁴. An acknowledgment made under duress, by an intoxicated person, or by a legally incompetent person is also not valid. In addition, the acknowledgment must be made seriously and not in jest.
- Regarding the acknowledgee: The identity of the acknowledgee must be known and sufficiently defined. It is essential that the woman recognises the man as her husband if he is the one making the acknowledgment, and vice versa¹⁵.
- Regarding the fact acknowledged: this refers to the existing conjugal relationship between the parties. Therefore, the marriage must be valid between them, which means that the woman should not be permanently or temporarily prohibited from marrying the man¹⁶.
- Form of the acknowledgment: The recognition should be final and unconditional. It must confirm the right being recognised and should be made before the court¹⁷.

With regard to the types of acknowledgment, there is judicial acknowledgment, which is the notification of the opposing party of a legal fact asserted against him before the court, such as when a husband stands before the judge and acknowledges the marital relationship between him and the plaintiff. The extrajudicial acknowledgment, on the other hand, is made outside the court or may be made before the court but in a case unrelated to the subject of the acknowledgment, such as the acknowledgment of marriage in an administrative complaint. This type is subject to the judge's discretion as to whether it should be considered a partial acknowledgment, a full acknowledgment, a principle of written proof or merely a presumption¹⁸.

As for its legal validity from a jurisprudential point of view, most jurists have recognised that an acknowledgment is binding only on the party who made it and is a sufficient means of proving a customary marriage. If one party refuses the acknowledgment, the focus shifts to evidence or an oath¹⁹. Legally, the Algerian

legislator has explicitly stated that an acknowledgment is conclusive evidence against the person who made it, according to Article 342 (1) of the Algerian Civil Code.

Branch Two: Testimony

Testimony is considered one of the most important means of proving the existence of marriage; it is one of the strongest forms of evidence because it is transitive and what it establishes is binding on everyone. According to the legal texts, it refers to reporting in court what a person has heard that has legal or religious implications²⁰.

Conditions of testimony: These include conditions related to the witness and those related to the testimony itself.

- **Witness:** The witness must be legally competent, i.e. of sound mind and of full age, at the time of testifying and giving evidence. Legally, the legislator has set the minimum age for a witness at 19 years, according to Article 33 of the Civil Status Code²¹. In addition, there must be male witnesses, either two men or one man and two women. The witnesses must also be Muslims, as the testimony of a non-Muslim against a Muslim is not permissible, based on the verse: “Believers should not take unbelievers as allies in place of believers”²². Furthermore, the witnesses must be righteous; the testimony of a corrupt person is not accepted.

- **Testimony:**The term means to declare, “I bear witness that I acknowledge such and such,” and it must be consistent with the claim. It is to be given in court or before a judicial authority.

- **Threshold:**The threshold of evidence is the testimony of two men or one man and two women. A witness may retract his testimony with good reason, provided that the retraction is made in court²³.

The oath is a declaration made by invoking God and His names, and it is binding on the defendant if the plaintiff requests it. Its validity is limited to the person taking the oath and his heirs as successors, whether it be the oath itself or its rejection, and it does not extend to others. The judiciary does not consider it a sufficient means of proving that a marriage has taken place; instead, the judge instructs the plaintiff to present further evidence, including the testimony of witnesses who confirm the validity of the event and the fulfilment of its legal elements.

Refusal refers to the refusal of the person to whom the oath is addressed to take it, resulting in the loss of his claim. It is a piece of evidence on the basis of which the

judge rules against the person who refused it, as stated in Article 347 of the Civil Code²⁴.

Requirement two: The question of the registration of customary marriage contracts and their effects

A formal marriage contract must comply with the required procedural formalities and is established by the issuance of a marriage certificate from the civil status register. The question arises, however, with regard to marriages that are contracted according to Islamic law but are not registered (customary marriages). How can it be registered within the legal procedures and what are the negative consequences?

Branch One: Procedures for the registration of uncontested customary marriage contracts

Article 71 of the Civil Status Code clarifies that “the marriage contract is the responsibility of the civil status officer or the judge in the jurisdiction of the place of residence of one or both parties, or the place of residence where one of the parties has resided continuously for at least one month prior to the marriage”. In addition, Article 22 of the Code of Civil Procedure states that an unregistered marriage may be established by a judicial decision, provided that this decision is registered in the civil status records on the initiative of the public prosecutor. Therefore, a marriage contract registered by a notary or a civil status officer within their jurisdiction is an official document and serves as the primary evidence of the marriage in accordance with articles 18 and 21 of the Civil Procedure Code and articles 71-77 of the Civil Status Code²⁵.

The Algerian legislature has made considerable efforts, through a series of laws, to emphasise the need to register marriage contracts in order to avoid personal disputes between spouses and the emergence of denial claims and complications in resolving disputes. This includes the introduction of a system for the registration of previous or overlooked marriage contracts in the civil status records, as provided for in Decree No. 62/126 of 13 December 1962 on civil status.

Consequently, article 72 of the Personal Status Code and articles 18 and 22 of the Code of Civil Procedure confirm the obligation to register the marriage contract in the registry office of the registrar of births, marriages and deaths as soon as it has been concluded before him. A family book is then issued to the spouses to confirm the marriage. The registration can also be made before a notary or a judicial officer, as

long as it takes place before the marriage is consummated. If the marriage takes place afterwards, or if the marriage contract is concluded by a verbal declaration before a group of Muslims, it is necessary to go to court and provide evidence of the validity of the contract. Once a judgement has been issued, the clerk of the court sends a copy to the civil registrar of the municipality for registration in the civil registry²⁶.

The competent authority for examining applications for marriage certificates is the court of the judicial district where the contracts were registered. Once the notary has issued the marriage certificate for one of the spouses, the application is submitted to the Public Prosecutor's Office by means of a written request, accompanied by documents such as the birth certificates of both spouses, a certificate of non-registration of the marriage in the Civil Registry, a certificate of single status, a medical certificate of the wife's condition, copies of the identity cards of both spouses and the marriage certificate. Once the file has been submitted, the public prosecutor summons the parties and hears witnesses to confirm the authenticity of the documents.

In the case of the registration of an uncontested marriage contracted outside the country, Article 99 of the Personal Status Code confirms that it can be registered if the contract has not been declared due to a failure to declare it, provided that local law accepts late declarations or that a ruling is obtained from the President of the Algerian Court ordering its registration in the consular records. This follows specific procedures, including the submission of a written request by one or both spouses or an interested party to the public prosecutor of the Algiers Court, accompanied by the birth certificates of both spouses and a certificate from two witnesses who attended the marriage contract ceremony or the wedding. The application is submitted by the public prosecutor, after investigation, to the president of the court, who then issues an order to register the contract with the Algerian consulate or embassy and sends a copy of the order to the Ministry of Foreign Affairs within three days of its issue and registration, in accordance with Article 60 of the Personal Status Code.

Branch Two: Procedures for the registration of uncontested customary marriages

In the event of a dispute between the spouses regarding the existence or denial of the marriage, the first legal step taken by the party claiming the marriage is to file an action to prove the marriage before the competent judicial authority and to obtain a judicial decision in its favour, after verifying the fulfilment of the essential elements and conditions of the marriage, as provided for in Article 21 of the Personal Status

Code and Article 22 of the Civil Procedure Code. The legislator has stipulated that the provisions on the registration of marriage contracts shall apply, whether by means of a judgment or an order for its validation in the Civil Registry, noting that it is subject to appeal²⁷.

The action for validation of a marriage contract is similar to other personal status actions in terms of the procedures for filing and the eligibility of the disputing parties. It falls within the scope of personal status actions and concerns disputes between family members, as stated in Article 13 of the Code of Civil Procedure, which states that no person may bring an action unless he or she has the necessary capacity or interest²⁸.

In the case of a contested customary marriage, jurisdiction lies with the court of the defendant's place of residence. If the defendant does not have a known place of residence, the jurisdiction is transferred to the authority of the place of residence, as provided for in Article 8 of the Code of Civil Procedure. This article clarifies the submission of documents and evidence and the procedure for the hearings referred to in Articles 2, 12, 13 and 459. Therefore, in both contested and uncontested customary marriages, it is necessary to have recourse to the judiciary in order to resolve the matter, once the conditions for filing an action have been met, by confirming the existence of the marital relationship through a judicial decision to be recorded in the civil status register²⁹.

Conclusion:

Although the customary marriage contract is valid from a religious perspective and provides both spouses with marital rights, it lacks the power to establish rights between spouses in the event of a dispute. Nor can it prove children's descent from their parents or establish inheritance rights between them.

1. Findings:

- The customary marriage contract is subject to Islamic law; if its essential elements are fulfilled, it is valid even if it is not documented.
- Arab legislation varies in its attitude to customary marriage, ranging from recognition to mandatory documentation, including the imposition of penalties on those who enter into a contract without formalising it.

- Algerian law recognises customary marriages as valid despite the lack of formal registration.

2. Recommendations:

The recent increase in the phenomenon of customary marriage should be addressed through several measures, including:

- Strengthening religious awareness among the youth and improving religious education, which serves as a solid guarantee against injustice and corruption.
- Imposing a significant fine on those who marry customarily, as this would create an additional barrier to such marriages. Given that financial constraints are a driving factor for customary marriages, this approach would add a new constraint to the existing ones, thereby helping to reduce the prevalence of customary marriages.
- Amend the law to prohibit the conclusion of customary marriage contracts between citizens and to disregard their effects. In addition, efforts should be made to enforce the law on the completion of contracts at the municipality before the marriage ceremony, with a strong emphasis on imams to respect this requirement and make it mandatory.
- To address the issue of customary marriage, it is essential to simplify the requirements and procedures surrounding formal marriage, which have burdened young people and pushed them towards customary arrangements. Adding restrictions to this type of marriage can increase moral dissolution and drive young people to seek alternative means to fulfil their desires, complicating rather than resolving the issue.

Footnotes:

¹- Raed Bdeir, "Customary Marriage: Definition and Provisions," available on the website <https://nawazel.net>, 10/03/2021, 15:20.

²- Hosni Mahmoud Abdel Daim Abdel Samed, "Customary Marriage Between Prohibition and Permissibility," Dar Al-Fikr Al-Jami'i, Alexandria, 2011, p. 127.

³- Osama Omar Suleiman Al-Ashqar, "Recent Jurisprudential Developments in Marriage and Divorce Cases," research published on the website <http://middi.over.com/>, accessed 10/03/2021, 19:20

⁴- Decision dated 22/11/1982, File No. 28784, Judges' Bulletin, No. 2, p. 32.

⁵- Decision dated 02/01/1989, G.A.S.H.M., Supreme Court, Judicial Magazine, No. 03, 1995, p. 53.

⁶- Decision dated 25/12/1989, G.A.S.H.M., Supreme Court, Judicial Magazine, No. 04, 1991, p. 110.

⁷- Law No. 62-126 on Civil Status, dated December 13, 1962, Official Gazette, No. 08, amended and supplemented by Ordinance 70-20 dated February 19, 1970, Official Gazette, No. 21, issued February 27, 1970, and amended by Ordinance No. 14-08, dated August 9, 2014, Official Gazette, No. 49, issued August 20, 2014.

⁸- Ordinance No. 05-02 dated February 27, 2005, concerning the Family Law, Official Gazette, No. 15, issued February 27, 2015.

- ⁹- Ahmed Al-Hassanat, "Customary Marriage," General Fatwa Department Library, Hashemite Kingdom of Jordan, 2019, pp. 410-411.
- ¹⁰- Eithar Moussa, "Customary Marriage in Algeria," article published on the website www.mohamah.net/law, accessed 15/03/2021, 20:13.
- ¹¹- Law No. 84-11, previously mentioned.
- ¹²- Ordinance No. 75-58 on the Civil Code, dated September 26, 1975, amended by Ordinance 05-10 dated July 20, 2005, Official Gazette, No. 44, and amended by Ordinance No. 07-05, dated May 13, 2007, Official Gazette, No. 31, issued May 13, 2007.
- ¹³- Mohamed Sheta, "Customary Marriage," 2nd ed., Dar Al-Majd for Publishing and Distribution, 2008, p. 45.
- ¹⁴- Maazouz Dalila, "Procedures for Official Marriage Contracts and Methods of Proving Them and the Problem of Proof in Customary Marriage," Master's Thesis, Contracts and Liability Branch, Faculty of Law, University of Algiers, 2004, p. 129.
- ¹⁵- Mamdouh Azmi, "Customary Marriage," 1st ed., Dar Al-Fikr Al-Jami'i, Alexandria, Egypt, undated, p. 58.
- ¹⁶- Same reference, p. 58.
- ¹⁷- Same reference, same page.
- ¹⁸- Mohamed Sheta, previous reference, p. 53.
- ¹⁹- Mamdouh Azmi, previous reference, p. 59.
- ²⁰- Mohamed Sheta, previous reference, p. 45.
- ²¹- Law No. 62-126, previously mentioned.
- ²²- Surah Al-Imran, verse 28.
- ²³- See Surah Al-Baqarah, verse 282.
- ²⁴- Belhaj Arabi, "Family Law with Amendments 05-02, Commented with Principles of the Supreme Court Over Forty Years", 3rd edition, University Publications, Algeria, 2007, p. 233.
- ²⁵- Same reference, p. 352.
- ²⁶- See Article 72 of the Personal Status Code and Articles 18 and 22 of the Code of Civil Procedure.
- ²⁷- Al-Hussein bin Sheikh Ath Moulwiya, "Guide to Family Law Supported by Jurisprudence of the Supreme Council and the Supreme Court from 1982 to 2004", Dar Houma for Publishing and Distribution, Algeria, 2014, p. 63.
- ²⁸- Barbara Abdel Rahman, "Commentary on the Code of Civil and Administrative Procedure (Law No. 08-09 of 23.02.2008)", Al-Baghdadi Publications, Algeria, 2009, p. 34.
- ²⁹- See Articles 08, 12, 13 and 459 of Law No. 08-09 of 28/02/2008, which includes the Civil Procedure Code, Official Journal No. 21 of 23/04/2008.