

Students University Grant: Between Entitlement and Exclusion

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Received: 2025-01-20

Accepted: 2025-05-11

Published:2026/06/06

Abstract:

This research examines the legislative rationale for directly linking a student's eligibility for a university grant to the patrimony of their parents. Students qualify for the grant provided there are no outstanding tax debts against their parents. However, if such liabilities are found, the students face exclusion from grant eligibility. Thus, the basis for merging the patrimonies of both parties is examined, given that the default principle is the financial independence of each.

Key words: University Grant, Student, Exclusion, Patrimony.

الملخص:

الفكرة في هذه الورقة البحثية هو دراسة ما سبب ربط المشرع شرط استفادة الطالب من المنحة الجامعية مباشرة بالذمة المالية لأولياءه، حيث يستفيد منها إذ ما ثبت عدم مديونيتها لإدارة الضرائب أما في حالة ما إذا تبث عكس ذلك فمصير الطالب هو الحرمان من المنحة ، فعلى أي أساس تم الدمج في الذمة المالية لكلا الطرفين في حين أن الأصل هو انفصال الذمة المالية ل كليهما.

الكلمات المفتاحية: المنحة، الطالب الجامعي، الإقصاء، الذمة المالية.

1-Introduction:

The concept of patrimony the framework or repository encompassing both financial obligations and rights. This principle is universally applicable, irrespective of whether the subject is a natural person or a legal entity. Therefore, it extends to natural persons, covering all their financial commitments, as well as to legal entities such as state bodies, local authorities, and various institutions with legal personality, along with private entities like commercial companies.

In Algeria, the state provides a university grant as a form of monetary aid allocated to students enrolled in higher education institutions. This grant, a final and non-repayable benefit, forms an integral part of the state's social policy, aiming to facilitate access to education, promote academic attainment, and support students in achieving qualifications that align with employment opportunities suited to their credentials Unlike student loans in other jurisdictions—often accompanied by procedural complexities and fixed repayment obligations—the Algerian university grant is a financial endowment exempt from repayment. Nevertheless, there are restrictions: employed students or those engaged in professional or commercial activities are precluded from grant eligibility. Furthermore, students who do not fulfill the grant's conditions are required to reimburse any grant funds received improperly.

This paper addresses the problem of the legal basis for holding students accountable for their parents' unresolved tax liabilities—a scenario that leads to their exclusion from the grant.

To explore this problematic, the discussion is structured into two primary sections. The first section examines the patrimony of students, analyzing its integration with and independence from parental patrimony. The second section assesses the impact of tax law on students' patrimony and its implications for their exclusion from the grant.

2- The Patrimony of Students Between Integration and Independence:

Irrespective of the legal provisions that govern specific aspects of patrimony, the Law on Direct Taxes and Related Levies stipulates inclusion of a taxpayer's personal income, as well as the income of their children and other individuals deemed their dependents, within the taxable base for total income tax. The fiscal legislation mandates that these dependents must not possess any independent income that could be considered separate from the income subjected to taxation under the primary taxpayer's obligations.

2.1- Definition of Patrimony

A natural person's legal personality is characterized by several core attributes intrinsically linked to their legal status, including name, personal status, domicile, financial liability, and legal capacity. In Algerian legislation, legal capacity is primarily regulated by family law, with certain provisions addressed in the civil code¹. However, while patrimony is

¹ Bachir Mohamed, Incapacity and the Legal Remedies Provided in Algerian Legislation—A Comparative Study, Law Voice Journal, University of Khemis Miliana ,Vol 5, No: 2,2018, p 73.

acknowledged within these frameworks, the legislator does not provide a precise definition, necessitating reliance on legal jurisprudence for conceptual clarity.

Legal jurisprudence defines patrimony as the entirety of an individual's financial rights and obligations, encompassing both current and future elements. This concept is not confined to present responsibilities but extends to those that may arise in the future. Scholars frequently describe patrimony as a repository, referring to the unified entity that consolidates all financial rights and obligations attributed to a person. This patrimony is inherently dynamic, subject to variations over time, whether through expansion or reduction, and in some cases, it may even be extinguished entirely.

2.2- Characteristics of patrimony

Patrimony includes a set of characteristics, which can be extracted from the previous definitions and we will mention the most important of them in this study such: inseparability from the person, indivisibility, exclusivity, a legal construct of patrimonial rights and obligations, comprehensiveness and continuity post-mortem.

a. Inseparability from the Person: Patrimony is intrinsically linked to its holder, accompanying the individual in their capacity to acquire rights and assume obligations. This capacity, referred to as passive legal capacity, arises at birth, provided the individual is born alive. Its foundation lies in the human condition itself, distinguishing it from active legal capacity, which is contingent upon rationality and discernment.

b. Indivisibility: Each legal subject is characterized by a singular patrimony, irrespective of the diversity of its components—whether assets (active patrimony) or liabilities (passive patrimony). This singular financial liability encompasses all rights and obligations attributed to the individual, obviating the need for multiple patrimonies. The principle of unity signifies that patrimony is indivisible, mirroring the indivisibility of legal personality. Just as a legal subject cannot possess multiple legal personalities, they cannot maintain more than one financial liability.

c. Exclusivity: Financial liability cannot be jointly held by multiple legal subjects. The principle of exclusivity, which stems directly from the principle of unity, dictates that each individual possesses a distinct patrimony that cannot be shared or merged with others.

d. Patrimonial Rights and Obligations: Patrimony, as a juridical construct, consists of two principal components. The first is assets (active patrimony), representing the positive elements of financial liability. This includes current financial rights and resources, as well as prospective rights that secure the satisfaction of obligations. The second is liabilities (passive patrimony), which comprise debts and other financial obligations borne by the legal subject.

e. Comprehensiveness: No matter how extensive an individual's patrimony may be, it remains the sole juridical structure capable of encompassing all patrimonial rights and obligations, both present and future.

f.Continuity Post-Mortem² :Patrimony persists beyond the death of the legal subject, retaining its unity and identity until the decedent's estate is fully liquidated.

3- The Legal Framework for Students' Right to Grants:

Executive Decree No. 90-170, as amended and supplemented³, delineates the conditions under which study grants are allocated and their respective amounts. Article 2 of this decree posits the grant as financial support provided by the state to students officially enrolled in institutions of higher education and scientific research.

The purpose of this financial aid is to offset part of the educational expenses or to supplement the basic living costs of students, ensuring the grant is sustained throughout the designated study period. Furthermore, Article 16 expands this provision to encompass any student engaged in regular studies or training at a public institution, whether at undergraduate or postgraduate levels, thereby broadening the eligibility criteria.

The qualification for such grants, however, hinges on a set of specific conditions elucidated in the decree and a joint ministerial decision that specifies both the amounts and conditions necessary for the disbursement of study and research grants, particularly to Magister's or second-cycle students⁴.

3.1- Conditions for Receiving the Study Grant

The eligibility criteria for receiving the study grant, as stipulated in Executive Decree No. 90-170, include the following mandates:

- The student must be officially registered at university.
- The combined net monthly income of the parents must not exceed eight times the guaranteed national minimum wage.
- There must be no outstanding tax liabilities on the part of either parent.

² Rahmani Ibrahim, The Concept of Patrimony in Islamic Jurisprudence– AComparative Study, Journal of Research and Studies, University of El Oued ,Vol. 6, No: 2,2009, p63.

³ Executive Decree No. 90-170 dated 9 Dhu al-Qi'dah 1410 corresponding to June 2, 1990, specifying the conditions for granting scholarships and their amounts. Official Gazette, 1990, No. 23, pp. 784–786. Amended and supplemented by Executive Decree No. 91-412 dated 25 Shawwal 1412 corresponding to November 2, 1991, Official Gazette, 1991, No. 54. Further amended and supplemented by Executive Decree No. 09-351 dated 7 Dhu al-Qi'dah 1430 corresponding to October 26, 2009, Official Gazette, 2009, No. 62. Amended by Executive Decree No. 14-31 dated 4 Rabi' al-Thani 1435 corresponding to February 4, 2014, Official Gazette, 2014, No. 7.

⁴ Joint Ministerial Decision dated 7 Rabi' al-Thani 1431 corresponding to March 23, 2010, determining the amount of research scholarships for students enrolled in master's or second-cycle programs and the conditions for granting them. Official Gazette, 2010, No. 26.

- The student must not be in receipt of any other financial allocation.
- The grant is awarded for the length of the academic program.
- The grant may be extended for an additional year if a student repeats a year or extends their training period, pending approval from the institution's scientific council.

Among these conditions, our focus is on the requirement that the parents have no outstanding tax liabilities. The student's application must include a document confirming the parents' tax compliance, as stated in Article 2 of the decision implementing Article 5 of Executive Decree No. 90-170⁵.

- The same decree prescribes how to demonstrate parental income:
 - A certificate detailing the net annual income and tax clearance for salaried parents or guardians.
 - A net tax extract for unsalaried parents or guardians, explicitly marked "Valid only for a grant application."
 - Any other relevant official documentation issued by competent authorities for situations not previously specified.

The submission of falsified documents not only results in the immediate disqualification from receiving the grant but may also lead to further criminal penalties⁶. Failure to meet any of the listed conditions results in the permanent revocation of the grant and necessitates the repayment of any funds received improperly⁷.

3.2- Grounds for Denial of the Grant

Numerous students face rejection of their grant applications for various reasons such as incomplete documentation, repeating an academic year for two consecutive years, or due to the high-income bracket of their parents. A substantial number of rejections are attributed to parental failure to comply with tax obligations, particularly prevalent among parents involved in commercial activities.

These students are often denied grants because their parents are classified as tax defaulters. Furthermore, some applicants are excluded due to parental incomes that exceed the eligibility threshold, as they do not qualify as belonging to low-income households. Some students further jeopardize their eligibility by submitting counterfeit documents such as forged unemployment certificates.

⁵ Decision dated 11 Rabi' al-Awwal 1411 corresponding to September 30, 1990, defining the application modalities of Article 5 of Executive Decree No. 90-170 dated 9 Dhu al-Qi'dah 1410 corresponding to June 2, 1990, which specifies the conditions for granting scholarships and their amounts. Official Gazette, 1990, No. 48.

⁶ Refer to Article 3 of the Decision dated September 30, 1990, op. cit.

⁷ Refer to Article 10 of Executive Decree No. 90-170, op. cit.

From the above, the legislator explicitly ties students' eligibility for the university grant to the patrimony of their parents. Students may only benefit from the grant upon demonstrating that their guardians are free from outstanding tax liabilities.

Conversely, evidence of parental tax debt results in the student's disqualification. This dependency raises a pivotal question: why are the patrimonies of the student merged with those of their parents when, in principle, their patrimonies should remain distinct? Although various laws regulate patrimony, the Law on Direct Taxes and Similar Levies explicitly includes within the overall taxable base subject to general income tax not only each taxpayer's personal income but also the income of their children and any individuals residing with them who are considered under their care.

Upon closer examination, those deemed dependents by the fiscal legislator must not possess any income that diverges from the income used as the basis for taxing the responsible taxpayer⁸. The final paragraph of Article 6 of the Fiscal Procedures Law specifies these dependents as follows:

- Children of the taxpayer, provided they are under eighteen years of age or under twenty-five if they can prove they are enrolled in studies or demonstrate a legally defined level of disability;
- Children living in the taxpayer's household.

Furthermore, the taxpayer is entitled to request separate taxation for their children if those children earn income from their own work or from assets independent of the taxpayer's patrimony. Thus; taxable income encompasses not only the earnings of the taxpayer but also the income attributed to dependents under their care. This includes minors and children classified as dependents until the age of 18, or up to 25 if they are enrolled in full-time education⁹.

These provisions extend dependency to students who meet these conditions, incorporating their status into the taxable income base. Consequently, a guardian's failure to comply with tax obligations directly impacts the student's eligibility for the university grant, often resulting in disqualification. The regulatory framework governing grants stipulates that eligibility is contingent upon satisfying specific legal conditions. A central requirement is that the parents or guardians of the applicant must demonstrate full tax compliance.

Failure to meet this condition results in automatic disqualification, as articulated in Article 2 of the decision dated September 30, 1990. This requirement applies equally to undergraduate and postgraduate students, as set forth in Article 16 of Executive Decree No.

⁸ Article 6 of Fiscal Procedures Code, Directorate General of Taxes, 2023 Edition. Available at: https://www.mfdgi.gov.dz/images/pdf/codes_fiscaux_arabe/CIDTA_LF_2023_ar.pdf. Accessed on April 23, 2023, at 9:48 PM.

⁹ Ben Amour Aisha, The Legal Status of Taxpayers Refusing to Pay Fiscal Liabilities—A Comparative Study- Doctoral thesis in law, University of Abou Bakr Belkaid, Tlemcen, Faculty of Law and Political Science, 2017, p 55.

90-170. However, it raises significant concerns, particularly regarding the treatment of postgraduate students. The final paragraph of Article 6 of the Fiscal Procedures Code limits dependency to students under the age of 25, creating a disparity for postgraduate students who typically exceed this age.

Consequently, this regulation contradicts the principles of financial autonomy for students in advanced academic stages. A more appropriate approach would be to assess the student's individual circumstances—such as employment status or personal taxable income—rather than relying exclusively on their guardian's fiscal standing.

In response to these issues, the Ministry of Higher Education and Scientific Research has implemented reforms to streamline grant application processes. Directive No 1409, issued on August 23, 2021, exempts students whose guardians are salaried, retired, or unemployed from submitting tax clearance certificates.

These measures, introduced during the COVID-19 pandemic to facilitate the 2021–2022 academic year, aim to reduce administrative burdens and simplify procedures for students. Under this directive, the verification of parental tax compliance is now conducted directly through internal communications between administrative authorities, eliminating the need for students to act as intermediaries.

4- CONCLUSION

Algeria guarantees free education at all stages as part of its commitment to the principles of educational democracy and equal opportunity, as enshrined in Article 65 of the amended 1996 Constitution. In addition to tuition-free education, the state provides various university services—such as housing, transportation, and meals—to support students throughout their academic journey.

Beyond these services, the state offers a university grant, which, although symbolic, constitute significant financial assistance administered by the Ministry of Higher Education and Scientific Research. This grant is a legal right afforded to students who successfully pass the baccalaureate exam and aspire to earn degrees that enhance their professional and social prospects.

Eligibility is determined according to the annual income of the students' parents, with priority given to those from low- and middle-income households. Consequently, this grant serves as supplementary financial aid, allocated based on the student's socio-economic status and conditioned by the relevant legal framework.

Despite these legal guarantees, a considerable number of students face disqualification. Such exclusions often arise from the tax noncompliance of parents—particularly those engaged in commercial activities—or from parental incomes exceeding the threshold for low-income households. In other cases, students submit falsified documents, including counterfeit unemployment certificates, to satisfy eligibility criteria.

These practices raise fundamental questions regarding financial autonomy and the fairness of linking grant eligibility to parental patrimony. Although patrimony has traditionally served to distinguish individual assets by subjecting them to specific legal frameworks, intertwining a student's grant eligibility with the fiscal behavior of their guardians arguably undermines the independence of the student's financial status.

Empowered by law, the fiscal administration exercises its authority to collect taxes as part of its sovereign role in securing state revenue. This framework permits the imposition of conditions intended to ensure fiscal accountability. However, such authority must operate within established legal principles, notably the doctrine of tax individuality, which holds that sanctions should apply solely to the individual who commits a fiscal violation.

Consequently, linking a guardian's tax delinquency to a student's entitlement to a grant contravenes the student's legal recognition as an independent entity. It follows that denying a student the right to a grant solely on the basis of the guardian's tax obligations carries significant repercussions, these include:

- Ensuring grant eligibility prevents potential academic setbacks for a substantial number of students.
- Depriving students of grants due to external factors exacerbates their already difficult socio-economic conditions.
- Mechanisms must be in place to compensate students who have been unfairly excluded from grants, particularly for lost academic opportunities.
- Providing equitable access to grants fosters a supportive environment that motivates students to achieve higher academic standards.

To rectify these issues, it is crucial to distinguish between the guardian's financial liabilities and the student's legal standing. Treating students as independent legal entities would better reflect the principles of fairness and individual autonomy.

In sum, Higher education is universally regarded by governments as a strategic investment, shaped by diverse social, economic, and political philosophies. Its long-term value is evident in its objectives, instruments, funding models, and broader societal benefits. Against a backdrop of rapid technological and informational change, enhancing the quality of student services—particularly grants—has become imperative. Meeting the demands of a modern society requires a skilled workforce equipped with specialized competencies.

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Accessed on April 23, 2023, at 9:48

**Journal OF LEGAL STUDIES - International Academic and Scientific Review published semi-annually by the Laboratory of
Sovereignty and Globalization - Yahia FARES University of MEDEA**

ISSN 2437-0304

EISSN: 2602-5108

Dépôt légal: 2015-3039

Volume: 12

Number: 02

Year : JUN 2026

P :635-643