



Constitutional protection of the right to education in Algeria

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Abstract

The Child Protection Law is an affirmation of the great importance that Algeria attaches to respecting the rights of the child and the constant and determined work to protect and promote childhood, in line with the content of the International Convention and the African Charter on the Rights and Welfare of the Child, focusing in this field on the teachings of our tolerant Islamic religion and the principles of the Constitution guaranteeing human rights.

Algeria ratified the International Convention on the Rights of the Child on December 19, 1992, and this Convention was adopted by the United Nations General Assembly on November 20, 1989. This Convention states the right to education “Every child has the right to education”. “Primary school shall be free(...)” “children should be encouraged to attain the highest level of education(...)”.

Child Protection. the right to education. the rights of the child

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1. INTRODUCTION

Education is one of the most important rights that international conventions and domestic constitutions, and even the legislation that provides and organizes it, have sought to give this development the right proportions. The provisions contained in international conventions have guaranteed that it is mandatory in its infancy, and without a smile from the communities, it has resulted in it becoming an essential pillar of development. The cornerstone of this right cannot be conceived as sophistication or renaissance unless it is preceded by the spread of education, and it is mandatory for the establishment of a civilized society to take the lead in progress and advancement. Education is one of the main pillars of comprehensive and sustainable development. Therefore, states of various political orientations and affiliations undertake the ideological work of giving it constitutional legitimacy and legal protection. Like various declarations of human rights, the Algerian legislature, where successive Algerian constitutions provide for this right and give it protection, and a necessity for state intervention to protect and ensure the organization under numerous texts like the constitutions of most countries. To verify the Algerian legislature to ensure the protection of the right to education.

Children's rights are prerogatives recognized by law and granted to an individual in their own interest, allowing them to enjoy a thing, a value, or to demand a service from others. The right enshrined in the second MDG can be classified as second-generation rights, namely economic, social, and cultural rights. This right aims to improve the material living conditions of citizens. The last two goals, on the other hand, are classified as third-generation rights, which are linked to the progress of industrial technology and the international community. They aim to ensure solidarity between nations and protect the environment. UNICEF believes that never before have so many political leaders gathered as they did in September 2000 at UN headquarters to mark the new millennium. One hundred and eighty-nine states: "These objectives are quantitative and aim to remedy poverty by 2015."

extreme poverty and hunger, child and maternal mortality, improving maternal health,¹⁵ HIV/AIDS and other diseases,¹⁶ while promoting universal primary education, gender equality, and a global partnership for environmental protection and development. The MDGs provide a framework for action to achieve the world of peace, security, solidarity, and shared responsibilities described in the Millennium Declaration.

Ask the following question: Does the Constitution protect the right of citizens to education in Algeria?

2. CHAPTER I: The concept of the right to education and its place in international conventions:

Section I: The right to education in international charters and conventions:

The first major framework for education was the Committee on Intellectual Cooperation of the League of Nations, which was founded in 1922 to disseminate and promote intellectual activity, but was not a committee activity. Intellectual involved in free and compulsory education, but represented international attention mainly to provide intellectual cooperation and paved the way for the establishment of UNESCO in November 1945, solidified the foundations of education as an international organization in the Universal Declaration of Human Rights in December 10 (1948), which gave the right of every human being to education and it is obligatory to have education in the early stages free and compulsory and to circulate technical and vocational education, and to facilitate the acceptance of higher education should be open in full equality to all according to their merit, and that the objective of education for the integral development of the human personality and strengthening respect for human rights and fundamental freedoms and the development of understanding, tolerance and friendship among all peoples and racial and religious groups, and to promote the activities of United Nations peacekeeping operations, taking into account that parents the right to choose the kind of education for their children.

- the Convention against Discrimination in Education:

Since this agreement issued by the General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO) on 14 December 1960, at its eleventh session, which entered into force on 22 May 1962, Recalling that the Universal Declaration of Human Rights affirms the principle of non-discrimination and proclaims that everyone has the right to education, and that discrimination in education is a violation of the rights set forth in the Declaration, and that among the objectives of the United Nations Educational, Scientific and Cultural Organization, under the objective of the founding Charter, is the establishment of cooperation between the United Nations, in order to promote universal respect for and enjoyment of all individual rights, and equality of educational opportunity, recognizing that it is the duty of the Organization to build on it, and while respecting the diversity of national education systems, not to be deprived of any form of discrimination in education, but also work on all equality of opportunity and treatment in the field of education.

- **The Universal Declaration on Education for All**, published in March 1990 at the Jomtien Conference in Thailand, held under the auspices of UNESCO and UNICEF, with the support of United Nations organizations. The international community gathered in Jomtien, Thailand, to underscore its commitment to universal education. The World Conference on Education for All, and as part of the initiative that led to the EFA (Education for All), committed a broad coalition of governments, non-governmental organizations, and development agencies, with six goals aimed at providing education "to all citizens of all communities."

- Expand and improve early childhood education, especially for the most vulnerable children.

- Ensure that all children, especially girls and disadvantaged people, have free access to high-quality, compulsory primary education by 2015. Eliminate gender disparity in primary and secondary education by 2005 and achieve gender equality in education by 2015.

Section II: The Child's Right to Education in Convention Law.

1. The Child's Right to Education in Public International Law.

Far from ignoring the supremacy of legal norms, we will take a chronological approach. We will review the UDHR and the 1958 Declaration of the Rights of the Child (A), before addressing the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child of 20 November 1989 (B).

1959 Declaration of the Rights of the Child.

Since the UDHR chronologically precedes the 1959 Declaration, we will focus on it first.

a. The Child's Right to Education in the UDHR. In 1948, the United Nations General Assembly adopted the Universal Declaration of Human Rights to combat oppression and discrimination.

International conventional law, or treaty law, covers any agreement of wills reached between two or more States (subjects of international law), at least to the extent that they

have intended to enter into legal obligations.

Public international law is the set of rules governing relations between States and other subjects of international society.

In the aftermath of a devastating world war, which had been the scene of the worst acts of

barbarism ever committed in human history, the Universal Declaration set out, for the first time, in detail, individual rights and freedoms. Also, for the first time, it was internationally recognized that human rights and fundamental freedoms apply to everyone, everywhere.

Article 26, paragraph 1 of the text under review states that: "Everyone has the right to education.

Education shall be free, at least elementary and fundamental education. Elementary education shall be free."

The near-universal acceptance of the Declaration testifies to the success of this undertaking. Currently, the Universal Declaration, the foundation of international human rights law, serves as a model for numerous international treaties and declarations and is incorporated into the constitutions and laws of a large number of countries, including the DRC. Needless to say, it inspired a specific text on the rights of the child, namely the 1959 Declaration of the Rights of the Child, which we will discuss below.

b. The child's right to education in the ICESCR.

Article 13, paragraph 1, provides that the States Parties to the present Covenant recognize the right of everyone to education. They agree that education should be

directed toward the full development of the human personality and sense of its dignity and should strengthen respect for human rights and fundamental freedoms.

They further agree that education should enable everyone to participate usefully in a free society, promote understanding, tolerance, and friendship among all nations, racial, ethnic, or religious groups, and encourage the development of United Nations activities for the maintenance of peace.

15 Declaration of the Rights of the Child of 1959, Preamble, Paragraph 4

The second paragraph continues that the States Parties to the present Covenant recognize that, in order to ensure the full realization of this right:

1. Primary education shall be compulsory and accessible to all (...); 2. The development of a school network at all levels must be actively pursued, an adequate scholarship system established, and the material conditions of teaching staff must be continuously improved.

The Covenant is reinforced by the provisions of the Convention on the Rights of the Child, adopted by the UN General Assembly in 1989.

c. The child's right to education in the Convention on the Rights of the Child.

Article 28(1) provides that: "States Parties recognize the right of the child to education, and in particular, with a view to achieving this right progressively and on the basis of equal opportunity:

a. they shall make primary education compulsory and free for all (...);

e. they shall take measures to encourage regular school attendance and the reduction of school dropout rates."

This Convention suffers from the same difficulties related to the lack of an additional or optional protocol relating to the implementation of economic, social, and cultural rights.

2. The child's right to education in regional law.

This paragraph reviews the child's right to education as provided for in African regional law. It refers to the African Charter on Human and Peoples' Rights (A) and the African Charter on the Rights and Welfare of the Child (B).

A. The child's right to education in the African Charter on Human and Peoples' Rights is inseparable from economic, social, and cultural rights, both in their conception and their universality, and that the fulfillment of economic, social, and cultural rights guarantees the enjoyment of civil and political rights.

Referring to the child's right to education, it provides that every child has the right to education. The State has the duty to ensure the elimination of all discrimination against women and to ensure the protection of the rights of women and children as stipulated in international declarations and conventions. B. The child's right to education in the African Charter on the Rights and Welfare of the Child.

Article 4, paragraph 1 of the present Charter provides that: "In all action concerning a child, undertaken by any person or authority, the best interests of the child shall be the primary consideration."

Article 11 continues that "Every child has the right to education. States Parties to the present Charter shall take all appropriate measures to achieve the full realization of

this right and, in particular, they undertake to: provide free and compulsory basic education (...)."

From the above, it appears that the weakness of the child's right to education, as enshrined in the legal instruments listed above, lies in the effective implementation of this right, which is programmatic in nature and subject to progressive realization. A combined reading reveals that all these texts enshrine equal opportunity. Article 2, paragraph 1, of the ICESCR provides that:

Each State Party to the present Covenant undertakes to take steps, both through its own efforts and through international assistance and cooperation, particularly economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including in particular the adoption of legislative measures.

Chapter 2: Constitutional Protection of the Right to Education in Algeria:

Section I: The Right to Education in the 1963 Constitution:

We note that the first Constitution of Algeria, ratified on September 8, 1963, is the first Constitution known to Algeria since independence, which includes provisions that widely recognize the confirmation of human rights and fundamental freedoms, whether political, social, economic, or cultural, and among these rights, the right to education; where the text establishes the obligation for all, and without discrimination, free of charge,

This makes it one of the fundamental objectives of the People's Democratic Republic of Algeria, where the text of the fourth paragraph of Article X was:

- Guarantee the right to work and education, free of charge.

Article 18: Compulsory education and culture for all, without subsidies. Without Distinction of any kind, except that which is caused by the preparation of each individual and the needs of the group. It is clear that the Algerian legislature does not expressly provide for the right to education, but the first two texts, Articles 10 and 18, confirm this free of charge, which makes the legislature one of the fundamental objectives of the Republic of Algeria, which constitutes one of the guarantees for the protection of this right, and other matters confirmed that provides for compulsory education, and to give to all, without distinction of sex, race, or religion, which is a guarantee of other guarantees, the right to education in the first constitution of independent Algeria.

Section II: The Right to Education in the 1976 Constitution:

Devoted to the Algerian Constitution published on November 22, 1976, the subject of fundamental freedoms and human rights in the fourth quarter, which guarantees more than 25 articles on the rights of economic, social, and cultural life.

As stated in the text of Article 39: The State guarantees fundamental freedoms, human and civil rights. And all citizens are equal in rights and duties.

Article 41: The State guarantees the equality of all citizens, and the removal of obstacles to economic, social, and cultural development that effectively limit equality among citizens, hinder human development, and prevent the active participation of

All citizens are involved in the political, economic, social, and cultural organization.
20

Article 42 of the Constitution guarantees the rights of all women, including cultural rights, and the right to education is one of the most important of these rights, as we have seen previously.

Article 66 deals with the right to education, and the purpose of our study was detailed as follows:

- Every citizen has the right to education.
- Free education, which is compulsory in primary school under the conditions provided for by law.
- The State must guarantee the equal application of the right to learn.
- The State organizes education. -The State ensures that the doors of education, vocational training and culture are equally open to all. In this way, it is not clear how much the Algerian Constitution enshrines the right to education for all citizens, and its protection and guarantees are free of charge, and equality is granted, and open to all by the legislator confirming that the State must ensure that the doors of education are equally open to all, and organized by the State.

Section III: The Right to Education in the 1989 Constitution:

With the adoption of the Constitution of February 23, 1989, the situation changed and became a human rights issue more relevant than in the past, and more relevant in the new institutional system. The situation changed radically—so to speak—with the 1989 Constitution, which established a break with the fundamental principles of the institutional system in Algeria since 1962.

Where to draw the parameters of the 1989 Constitution to change the system of government of the socialist leadership of economic and political provisions, as well as the abandonment of a single-party system in favor of multiple parties, and the acceptance of capitalist human rights.

Many of the rights and freedoms contained in approximately 35 articles, in addition to the content of the 1976 Constitution, which are cited verbatim in this Constitution, include new provisions relating to political, economic, and social rights. This is illustrated by the constitutional provisions contained therein, and in particular Chapter IV of Part I, on the right to the rights and freedoms guaranteed by the 1989 Constitution. Provisions that are prominent appear in the text, defined along clear axes.

After expressing the fundamental principle of equality, it is a technical element of the division of human rights among those relating to civil and political rights on the one hand, and economic, social, and cultural rights on the other.

And benefited from the protection of the right to education, particularly through the text to ensure this right.

Article 50:

- The right to education is guaranteed.
- Education is free, the conditions defined by law.

- Basic education is compulsory.
- The State organizes the education system.
- The State guarantees equal access to education.

Section IV: The Right to Education in the 1996 Constitution:

The 1996 Constitution was a response to the social, political, economic, and cultural transformations that took place in the country, and the greater scope for political pluralism and the transition to a market economy. Therefore, the education system requires providing the younger generation with the intellectual tools, skills, and knowledge to ensure harmony with the current social and economic development system, and the absorption of scientific and technological advances to experience significant and rapid development.

The 1996 Constitution declares in Article 53 the general principles of the education system in Algeria, namely:

- The compulsory nature of basic education for nine years and unisex.
- Guaranteeing the right to education, free of charge.
- Equal access to education.
- The State ensures the organization of the education system.

If the education system provides the best conditions for achieving a balanced education, it allows:

- The inclusion of human values and the principles of Islam in behavior, attitudes, and everyday life.
- The development of the Tamazight language, and work to broaden their education.
- Knowledge of national history and the history of the national movement, and their interactions with the history of humanity.
- Acquisition of scientific, technical, and technological aids to

Develop a spirit of creativity and adapt to changing circumstances

- Foreign language proficiency to enable the use of technical documentation,

CONCLUSION:

Since the beginning of independence, Algeria has had a legal system for the promotion and protection of human rights consistent with international humanitarian and human rights standards and controls, and with the requirements of, and the reasons for, and factors and circumstances surrounding, the socio-economic, political, and national situation. The text of the first Constitution of the Republic of Algeria expressly stipulates Algeria's adherence to the Universal Declaration of Human Rights, without reservation, and on the condition that all subsequent constitutions, including the texts of international declarations, conventions, and treaties on human rights, ratified by the constitutional authorities, are superior to national legislative texts. The right to education is one of the most important rights due to its importance in the life of the individual, the continuity of the state, and its economic and cultural development, as stipulated in the Algerian constitutions. It was eager to ensure that Algerian citizens enjoy this right in accordance with the provisions of international and regional conventions ratified by Algeria.

Results:

Perhaps the most important result of our study shows that the issue of the right to education in Algeria is a basic issue and strategy; it has been based on most of the independence, and has focused on issues of human rights and social justice and economic, social, and cultural equality. It has ensured a system to uphold the principles and guarantee the process of upgrading and protecting human rights under state law. The state has adopted legal provisions to regulate the exercise of the right to education as one of the most important rights that should be enjoyed by the Algerian citizen, regardless of affiliation, location, or gender. This right is promoted and protected through free and compulsory education, based on democracy and the principles of justice and equal opportunity.

Suggestions:

Today, we have no choice but to place education at the top of the national effort's priorities, to recruit all national forces and capabilities, and to mobilize its full potential, making it the subject of the right to education on a national and strategic scale.

The challenges are posed by realities at home and abroad. A pricing strategy is capable of achieving the community's educational objectives that will ensure the individual's immunity and secure their place among other communities and those in need, in accordance with a dual strategy: political and strategic. This is either a political issue linked to state policy in the field of education through legislation that protects and ensures education.

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