

Family Upbringing and the Promotion of Citizenship Values in the Algerian Legal System

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Send Article Date: 2026-01-10

Date of acceptance of the article 2026-04-30

Abstract:

The family is the primary nucleus in shaping an individual's personality and plays a pivotal role in instilling citizenship values through early socialization. The article highlights the importance of the family in instilling the principles of belonging, responsibility, respect for the law, and peaceful coexistence, as the primary practitioner of these values in a child's life.

The article also discusses how the legal system contributes to supporting this role by enacting legislation that protects the family and affirms the rights and duties of parents toward their children, in addition to legal texts that reinforce concepts of citizenship in education. It also highlights the role of public policies in encouraging family programs that develop civic awareness among children. The article concludes that the integration of the role of the family and Algerian legal legislation represents the foundation for building a cohesive society whose members possess a strong sense of patriotism and practice their citizenship within a framework of commitment to the law and respect for pluralism.

Keyword: family upbringing, legislation, citizenship, Algeria.

Introduction

The family is the cornerstone of both individual growth and the development of society. It is within this environment that people first learn the principles and values that shape their character. Among the most vital of these are the values of good citizenship, love of country, respect for the law, responsibility, participation, and tolerance. Recognizing this, the Algerian legal system places strong emphasis on the family's educational role, viewing it as a key partner in nurturing civic spirit and supporting the foundations of a state governed by law.

To safeguard this role, the Algerian state has introduced a range of laws designed to protect families and ensure healthy upbringing. These legal measures embed citizenship values into family life and strengthen the continuity of the state. Notable examples include the Family Code, the Child Protection Law, the Anti-Kidnapping Law, and specific provisions in the Penal Code addressing domestic crimes.

This study aims to explore how the legal system supports family upbringing and contributes to instilling citizenship values in family members.

Research Problem:

Accordingly, the central problem of this study can be formulated as follows:

What is the role of the legal system in family upbringing and in instilling the values of citizenship within Algerian society?

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Research Hypotheses:

- What is the conceptual meaning of citizenship and family upbringing?
- What national legislations contribute to achieving proper family upbringing and promoting citizenship values?
- What are the main challenges facing family upbringing amid social change and the effects of globalization?

Research Objectives:

The study aims to clarify the role of the legal system and Algerian legislation in achieving sound family upbringing and strengthening citizenship values. It further seeks to demonstrate how these laws contribute to fostering a culture of rights and responsibilities, thereby ensuring the desired social stability within the state. Additionally, the research intends to explain key concepts such as citizenship and family upbringing, and to examine their interrelation with the legal system.

Research Methodology:

The study will employ both the descriptive and analytical methods to examine legal texts related to the topic and to derive conclusions that answer the central research problem and hypotheses.

Research Outline:**First Axis: The Conceptual Framework of Citizenship**

- Section 1: Definition of citizenship and its importance in building societies.
- Section 2: The role of the family as a fundamental unit in socialization and value formation.
- Section 3: The relationship between family upbringing and the legal system.

Second Axis: The Algerian Legal System and the Regulation of Family Upbringing

- Section 1: Provisions in the Family Code.
- Section 2: Provisions in the Child Protection Law—State protection of the rights of the child and family as a means of fostering citizenship.
- Section 3: The contribution of legislation to promoting a culture of rights and responsibilities.

Fifth Axis: Challenges Facing Family Upbringing in the Context of Social Change

- Section 1: The impact of media and technology on the family's role.
- Section 2: Weak legal awareness among some families.
- Section 3: The gap between legal provisions and practical application.

Sixth Axis: Proposals for Strengthening Citizenship Values Through Family and Law

- Section 1: The role of schools and civil society in supporting the family.
- Section 2: Promoting legal education within the family.
- Section 3: Reviewing social policies to reinforce the family's educational function.

First Axis: The Conceptual Framework of Citizenship**1.1 Section One: Definition of Family Upbringing and Citizenship and Their Importance in Building Societies****Definition of Family Upbringing:**

Family upbringing is a process through which the individual learns how to adapt to the group to which he or she belongs and acquires the social behavior that this group deems desirable. The family plays a fundamental role in the child's socialization by developing social aspects and skills that

enable him to achieve social adaptation, making his behavior more consistent and harmonious with the surrounding social environment.¹

Family upbringing can also be defined as the set of procedures and methods adopted by parents in the social upbringing of their children, transforming them from mere biological beings into fully social individuals capable of engaging productively within society.²

Methods of Family Upbringing:

There are several approaches that families adopt to raise and guide their children, protecting them from deviation and delinquency. These include:

- a. **Balancing leniency and firmness** in child-rearing, to refine their talents and help them make the best use of their abilities.³
- b. **Applying intensive care** in the child's social, behavioral, and moral education.⁴
- c. **Creating a positive family environment** that fosters emotional security, mutual respect, and effective communication within the household.

2.1 Section Two: The Role of the Family as a Fundamental Unit in Socialization and Value Formation

First : Definition of Socialization

Socialization is the process through which an individual acquires social, cultural, and religious values and norms that regulate life within a community. It primarily occurs within the family, which serves as the first and most direct environment for shaping a child's personality.

Second : The Family's Role in Socialization and the Transmission of Values and Beliefs

The family conveys to the child the core values of society, such as honesty, respect, cooperation, and obedience. It contributes to :

Building personal and social identity: by teaching the child who they are, what their role is, and how they relate to others.

Teaching traditions and customs : such as forms of greeting, etiquette, and respect for elders.

Regulating behavior: as the family represents the first authority to establish rules and boundaries for a child's conduct.

Meeting psychological and social needs: including love, security, support, and social acceptance.

Third: The Family's Role in Instilling Citizenship Values

Citizenship represents an individual's sense of belonging to their nation, awareness of their rights and duties, and active participation in serving society. The family plays a central role in strengthening this through:

Promoting national belonging: by discussing the homeland, its history, symbols, and national celebrations, and by nurturing love for the country.

Instilling values of participation and responsibility: by involving children in family decision-making, encouraging teamwork, and fostering accountability.

⁽¹⁾AmerMisbah, Socialization and Deviant Behavior of the Secondary School Student, Dar Al-Ummah, Algeria, 2003, p. 48.

⁽²⁾RahimaSharfi, Family Socialization Methods and Their Impact on the Adolescent, Master's Thesis, Faculty of Social and Islamic Sciences, El HadjLakhdar University of Batna, Algeria, p. 113.

⁽³⁾Al-Hassan Ihsan Muhammad, Sociology of Crime, Dar Wael for Publishing and Distribution, Amman, 2008, p. 66.

⁽⁴⁾From Family Code No. 84/11, as amended and supplemented by Ordinance No. 05/02 dated February 27, 2005 (People's Democratic Republic of Algeria, Official Gazette, No. 42, 2005).

Teaching respect for laws and regulations: by establishing discipline and order within the household, preparing children to respect societal norms.

Fostering tolerance and coexistence : by teaching respect for others regardless of differing beliefs or cultures, reflecting global citizenship values.

Developing awareness of rights and responsibilities: by teaching children their individual and civic rights and their duties toward family, school, and community.

Fourth: The Importance of the Family's Role Amid Contemporary Challenges

In an era of globalization and digital openness, the family's role becomes increasingly vital, as it serves as the first line of defense against: ideological and behavioral deviations, the erosion of traditional values, and the loss of belonging and identity.

1. **Instilling moral and ethical values :** amid the vast cultural exposure of globalization and modern media, the family safeguards children's cultural and religious identity by embedding Islamic and human values and protecting them from moral and intellectual deviation.
2. **Strengthening belonging and identity:** globalization can weaken national or religious identity through exposure to multiple cultures; hence, the family must reinforce pride in one's heritage, language, and traditions.
3. **Monitoring and guidance in the digital environment:** while digital access offers vast knowledge, it also poses risks such as screen addiction and exposure to harmful content; thus, families must guide and set healthy rules for technology use.
4. **Preparing children for mindful global interaction :** rather than isolating them from globalization, families should teach discernment, critical thinking, and cultural selectivity to create balanced, globally aware citizens.
5. **Supporting psychological and social stability:** amid rapid societal changes and stress, the family provides emotional warmth, encouragement, and resilience.
6. **Modeling positive behavior:** effective upbringing occurs through example, parents' behavior, values, and engagement with modern challenges serve as a living model for their children.

3.1 Section Three: The Relationship Between Family Upbringing and the Legal System

First : The Impact of Family Upbringing on Respect for the Legal System

Family upbringing is the process by which an individual is raised within a household that instills social, ethical, and religious values shaping personality, behavior, and social perspective. Through this, the individual learns:

- The distinction between right and wrong
- Respect for laws and regulations
- Adherence to rights and duties
- Appreciation of public order and the common good

A child raised in a family that respects the law and values social order is more likely to become a law-abiding and responsible citizen.

Second : The Impact of the Legal System on Regulating Family Upbringing

The legal system establishes frameworks that govern family relations and safeguard individual rights through legislation such as :

The **Family Code** (covering marriage, divorce, custody, and maintenance)

Child Protection Laws

Women's Protection Laws

Penal provisions against neglect or domestic violence

Thus, the law ensures the family does not operate in a legislative vacuum but within regulated boundaries that protect the rights of all members and uphold societal values.

Second Axis : The Role of the Legal System in Family Upbringing

The **Family Code** is among the primary legal instruments dedicated to protecting the family and ensuring its stability, both during marriage and after dissolution. It particularly safeguards children, who are most vulnerable following parental separation. This section examines how the Family Code supports the sound upbringing of children in such circumstances, given their need for heightened care and protection.

1.2 Section One : The Role of the Family Code in Achieving Sound Family Upbringing**First : Custody Provisions and Ensuring Proper Upbringing After Divorce**

The **Family Code (Law No. 84-11)** is fundamental to protecting the family and ensuring its stability¹. It guarantees proper upbringing by regulating family relations and personal status matters such as engagement, marriage contracts, the rights and obligations of spouses, and the consequences of divorce, including waiting periods, custody, housing, and visitation. It also addresses guardianship, donations, endowments, wills, and inheritance.

Definition of the Family Code :

The Algerian legislator enacted the **Family Code** under **Law No. 84-11**, dated **June 9, 1984**, later amended by **Ordinance No. 05-02** on **February 27, 2005**. The Code comprises **224 articles** governing family affairs. Article 222 states :“In matters not provided for in this law, reference shall be made to the provisions of Islamic Sharia.” Article 223 further stipulates: “All provisions contrary to this law are repealed.”

The Family Code covers all aspects of family relations, both during marriage and after its dissolution addressing:

- Engagement
- Formation of the marriage contract
- Effects of marriage
- Dissolution of the marital bond
- Consequences of dissolution
- Legal guardianship
- Inheritance and succession
- Donation contracts

All these provisions contribute to proper family upbringing by regulating marital relations, defining mutual rights and obligations of spouses, and safeguarding the rights and duties of both parents and children. These legal protections remain in effect even after divorce through provisions on maintenance, custody, visitation, and emotional and material care, ensuring children are raised in a healthy environment regardless of the parents' marital status.

2- The Role of Custody Provisions in Achieving Family Upbringing

Custody is considered one of the consequences of dissolving the marital bond. It refers to the care of the child after the separation of the parents, ensuring the child's protection and upbringing in a family-like environment similar to other children who live under the care of both parents in one household. Thus, custody plays a significant role in family upbringing through the provisions of family law. Since it is in the child's best interest to be placed under custody, it is primarily a right of

⁽¹⁾Ibn Manzur, op. cit., Vol. 2, p. 911.

the child, but it is also a right of the mother whenever she meets the conditions of custody. This raises questions: What is meant by custody? What are its conditions? Who is most entitled to it? And what are its challenges?

A- Definition, Ruling, and Nature of Custody

One of the most important legal consequences of dissolving the marital bond is placing the child with the person most capable of caring for them, supervising their affairs, and ensuring their well-being. Custody is a form of such care, as it guarantees proper upbringing, sound morals, and a degree of psychological stability lost after the parents' separation. So, what is custody, and what is the wisdom behind legislating it?

First: Definition of Custody

Linguistically: Custody (*ḥaḍāna*) derives from the words *ḥāḍin* (custodian) and *ḥāḍina* (female custodian). The term *maḥāḍin* refers to places where a pigeon incubates its eggs. To "embrace a child" (*ḥaḍana al-ṣabī*) means to raise him¹. Thus, linguistically, custody conveys the meaning of embracing, protecting, and showing compassion.

Terminologically: Custody is the act of caring for a minor (male or female) or a mentally incapacitated person who cannot manage their own affairs, protecting them from harm, and preparing them physically, mentally, and emotionally to face life's responsibilities.²

Legally: The Algerian legislator defined custody in Article 62 of the Family Code: "Custody is the care of the child, his education, and upbringing according to his father's religion, while ensuring his protection, health, and morals." Thus, custody is both care and affection toward the child. Since custody results from divorce, it is legislated to protect the child after the parents' separation.³

Second: The Legal Ruling on Custody

Since custody is the care and protection of the child, is it considered a right of the custodian, the child, or both?

Al-Shāfi'ī, Aḥmad, al-Thawrī, and a narration from Mālik held that custody is the custodian's right, which she may relinquish at any time and cannot be compelled to exercise.⁴

Some jurists considered it the child's right, compelling the mother to exercise it if she refuses (a view held by some Ḥanafīs and a narration among the Ḥanbalīs).

The majority of jurists (Ḥanafīs, on the sound opinion, and others) held that custody is a right of both custodian and child. Ibn Qudāma stated: "The child's care and custody are obligatory, for he would perish if neglected. Preserving him from destruction is as obligatory as providing for him."⁵

AbūZuhra explained: "Custody is first established as obligatory upon women, because the child at this stage of life needs two forms of care."⁶

A narration from 'Amr ibn Shu'ayb, from his father, from his grandfather, relates that a woman said: "O Messenger of God, this son of mine—my womb was his vessel, my breast his source of nourishment, and my lap his shelter. His father divorced me and now wishes to take him away." The Prophet ﷺ replied: "You are more entitled to him as long as you do not remarry."⁷

⁽¹⁾ Ibn Manzur, op. cit., Vol. 2, p. 911.

⁽²⁾ Al-SayyidSabiq, *Fiqh al-Sunnah*, Vol. 2 (1st ed.; Lebanon: Dar Al-Fikr, 1977), p. 288.

⁽³⁾ HishamDhabih, "Protection of the Child in the Algerian Family Code and Penal Code in Light of Custody Provisions," *Jeel Human Rights Journal*, Issue 14, Beirut, 2016, pp. 58–59.

⁽⁴⁾ Abu ZakariyaYahya ibn Sharaf al-Nawawi, op. cit., Vol. 2, p. 177.

⁽⁵⁾ Ahmad ibn Muhammad ibn Qudamah, *Al-Mughni*, Vol. 8 (n.d.; Egypt: Al-Imam Press, n.d.), p. 212.

⁽⁶⁾ Muhammad Abu Zahra, *Personal Status Law* (3rd ed.; n.p.: Dar Al-Fikr Al-Arabi, 1957), p. 406.

⁽⁷⁾ Muhammad ibn Abdullah al-Hakim, *Al-Mustadrak 'ala al-Sahihayn*, Vol. 2 (n.d.; n.p.: Dar Al-Kitab Al-Arabi, n.d.), p. 207.

Legally: Custody is primarily the child's right. The Algerian legislator emphasized the child's best interest above all else, mentioning it in five articles. The child's interest may override general provisions. For example, custody may be granted to the mother, but if the judge deems it in the child's best interest to remain with the maternal aunt, custody is transferred to her, even if it overrides the mother's right (Article 64 of the Family Code). Thus, custody is first and foremost the child's right, and secondarily the mother's right. The mother cannot waive custody in exchange for divorce settlement (e.g., khul'). If custody lapses or is relinquished, it passes to the next eligible custodian.

Third: The Legal Nature of Custody

Although there is consensus on the meaning of custody, jurists and courts have differed on its legal nature:

Many French jurists and some Egyptian jurists¹ considered custody an effect of marriage², since it relates to the child born of the marital bond, and thus subject to the law governing marriage. This view was criticized, as marriage ends with divorce, making it illogical to treat custody as a marital effect.

Others classified custody as an effect of lineage (nasab), since it constitutes an obligation upon whoever is legally recognized as the child's parent. This view was also criticized, as lineage concerns legitimacy of children, not their care.

The jurist Bartin classified custody under guardianship of property, but this was rejected since guardianship of property concerns preserving and managing the child's wealth, not their upbringing.³

The prevailing and most accepted view, adopted by most legislations, is that custody is an effect of divorce, since disputes over custody arise only upon dissolution of marriage. This is the view adopted by Algerian Family Law, which regulates custody under Chapter Two, titled Effects of Divorce.

First: Those Most Entitled to Custody

After the dissolution of marriage between husband and wife, whether through divorce (ṭalāq) or annulment (khul'), custody must be assigned to those entitled to it. So, who is most entitled to custody of the child, and what is the order of custodians?

Legally: The Algerian Family Code No. 84/11 (amended and supplemented) grants the right of custody to the mother under Article 64, which states: "The mother is most entitled to custody of her child..." This reflects the legislator's recognition that the child's best interest is best served with the mother, who is the most compassionate, patient, and caring toward her child.⁴

Article 64 further establishes the order of custodians as follows: "The mother is most entitled to custody of her child, then the father, then the maternal grandmother, then the paternal grandmother, then the maternal aunt, then the paternal aunt, then the closest relatives in degree, with consideration of the child's best interest."

⁽¹⁾Ahmad Muslim, A Brief of Private and Comparative International Law in Egypt and Lebanon (n.d.; Cairo: Dar Al-Nahda Al-Arabiyya, 1966), p. 228.

⁽²⁾Fatima Al-Zahra Jandouli, Dissolution of the Marital Bond in Private International Law, Master's Thesis in Private International Law, Faculty of Law and Political Science, AbouBekrBelkaid University, Tlemcen, Algeria, 2010-2011, pp. 33-34.

⁽³⁾KahlaGhali, "Legal Issues Concerning Custody after Divorce in Mixed Marriage," Law Journal, Issue 9, University of Oran, December 2017, p. 160.

⁽⁴⁾Ahmed Shami, Algerian Family Law According to the Latest Amendments (n.d.; Alexandria: New University House, 2010), p. 304.

If the first custodian is deemed unfit, custody passes to the next in line, and so forth¹. Importantly, the article concludes with: “with consideration of the child’s best interest.” This emphasizes the child’s protection from emotional or psychological harm. For example, if the child prefers to remain with the maternal aunt, custody may be granted to her, even if others are legally entitled. The judge has discretionary authority to assign or revoke custody, but the guiding principle remains the child’s best interest.

Thus, Article 64 provides necessary protection for the child. If the first custodian (the mother) mistreats the child, for instance, by exploiting them for begging, or if her morals are found to be corrupt, custody is transferred directly to the father, and so on.

Islamically: Islamic law, in harmony with reason and natural disposition, grants custody first to the child’s female relatives (maḥārim). The mother is given priority, with maternal kin preferred over paternal kin.²

Ḥanafīs, Mālikīs, Shāfi‘īs, and Zāhirīs: All agree that the mother is most entitled to custody. If she is absent or unfit, custody passes to her mother (the child’s maternal grandmother)³. The Ḥanafīs prioritize female relatives over paternal kin: the maternal grandmother, then the paternal grandmother, then sisters, their daughters, maternal aunts, paternal aunts, and finally paternal kin according to inheritance order, excluding paternal cousins.⁴

Mālikīs: The order is: mother → maternal grandmother → maternal great-grandmother → maternal aunt → maternal grandaunt → paternal grandmother → father → sister → paternal aunt → maternal aunt → guardian → brother → paternal grandfather. If multiple candidates are equal, preference is given to the one who offers better care and compassion; if equal, the elder is preferred.⁵

Shāfi‘īs: The order is: mother → maternal grandmother → then the closest relative. If neither mothers nor fathers are available, three views exist:

1. Women are more entitled than male kin.
2. Male kin are more entitled.
3. Priority is given to whichever side is closer; if equal, women are preferred.

Ḥanbalīs: The order is: mother → maternal grandmother → closest female relatives → paternal grandfather → his female relatives → sisters → maternal aunts → paternal aunts → maternal aunts of both parents → paternal aunts of both parents → nieces (daughters of brothers and sisters) → daughters of paternal uncles and aunts, and so forth. Male kin are not entitled to custody until all female relatives listed above are exhausted. This reflects the principle of closest relative first.⁶

⁽¹⁾Rachid Ben Shouikh, *Explanation of the Amended Algerian Family Code* (1st ed.; Kouba, Algeria: Dar Al-Khaldounia, 2008), p. 256.

⁽²⁾Muhammad Muhy al-Din Abd al-Hamid, *Personal Status in Islamic Sharia* (n.d.; Beirut: Scientific Library, 2007), p. 406.

⁽³⁾Muhammad Mahmoud ibn al-Husayn al-Astrawshi, *Jami‘ Ahkam al-Sighar*, Vol. 1 (1st ed.; Egypt: Al-Azhar Press, n.d.), pp. 98–99.

⁽⁴⁾Ala’ al-Din al-Samarkandi, *Tuhfat al-Fuqaha’*, Vol. 2 (2nd ed.; Beirut: Dar Al-Kutub Al-Ilmiyya, 1994), p. 340.

⁽⁵⁾Abu al-Barakat Ahmad al-Dardir, *Al-Sharh al-Saghir*, Vol. 3 (n.d.; Lebanon: Al-Risala Foundation, n.d.), p. 634.

⁽⁶⁾Abdullah ibn Ahmad ibn Qudamah al-Maqdisi, *Al-Mughni*, ed. Abdullah ibn Abd al-Muhsin al-Turki, Vol. 7 (n.d.; Cairo: Dar Hajar, n.d.), p. 223.

Second: The Right to Visit the Custodial Child and Its Role in Achieving Family Upbringing

After a judgment dissolving the marital bond, the judge rules on custody for one of the spouses or another party, and correspondingly grants the right of visitation to the other spouse. This protects the child and ensures a balanced family upbringing. Visitation is of great importance, as it plays a vital role in the life of both the child and the custodian. For example, if custody is granted to the father, the mother must be granted visitation rights. So, what are the rules governing visitation?

1. Definition of the Right of Visitation

Visitation is of significant importance because it contributes to shaping the personality of the child under custody¹, keeping them connected to both parents, and ensuring social and emotional stability. This promotes continuity and integration into society. Its definition can be outlined as follows:

Linguistically: Ziyāra (visit) means “to intend” or “to go to someone.” In common usage, it refers to visiting someone out of respect or companionship.

Terminologically: Visitation of the custodial child means approaching the child from their custodian to see them, check on them, and spend time with them for a limited period.²

Legally (Algerian Family Law): The legislator did not define visitation but required the judge to grant it. Article 64 of the Family Code, paragraph 2, states: “When ruling on custody, the judge must also rule on visitation rights.” Thus, when custody is granted to the mother or another party, the father must automatically be granted visitation at specific times and places. Conversely, if custody is granted to the father, the mother must be granted visitation rights under similar conditions.

It is noteworthy that Article 64 addresses visitation in only one phrase, leaving its organization to the judge’s discretion³. This is because visitation, like custody, is rooted in the child’s best interest. The judge must therefore exert considerable effort in determining the duration, frequency, and location of visits to ensure the child’s welfare.

From the wording “...the judge must...” in Article 64, several conclusions can be drawn:

1. Visitation is mandatory, not optional.
2. The judge must grant visitation even if the parties do not request it. A ruling on custody without visitation is defective, since the child’s interest requires maintaining ties with family.
3. Visitation is not limited to the parents; it may extend to grandparents, uncles, aunts, or any person with a legitimate interest in maintaining contact with the child.⁴

Importance of the Right of Visitation

Visitation is crucial for the child’s upbringing. It is a right established by Islamic law and guaranteed by civil law. It represents a form of kinship connection between parent and child, reinforcing the child’s welfare as emphasized in custody provisions. Custody ensures care from the custodian, while visitation strengthens this care from the non-custodial parent.

Visitation is also a protective measure, safeguarding the child’s emotional and social development¹. Both father and mother have the right to see their child, regardless of who holds

⁽¹⁾Rachid Ben Shouikh, Explanation of the Amended Algerian Family Code, op. cit., p. 258.

⁽²⁾Abdullah ibn Muhammad ibn Sa’d Al-Khunayn, “Enforcement of Custody and Visitation Rulings,” Conference: The Impact of Contemporary Changes on Custody Rulings, organized by the Islamic Fiqh Council of the Muslim World League, Umm Al-Qura University, Makkah, Saudi Arabia, 1436 AH, p. 7.

⁽³⁾Ahmed Shami, The Discretionary Power of the Family Affairs Judge, op. cit., p. 418.

⁽⁴⁾BadisDiabi, Effects of the Dissolution of the Marital Bond (n.d.; Algeria: Dar Al-Huda, 2008), p. 90.

custody. The father's visitation allows him to supervise the child's education and discipline, while the mother's visitation maintains maternal affection.

Visitation must occur in a safe environment, without prohibited seclusion or suspicion. If visits at the custodian's home risk impropriety, they should take place at the home of relatives or friends, ensuring proper supervision.²

2.2 The Role of Child Protection Laws in Achieving Family Upbringing

Algerian national legislation provides legal protection for children to ensure proper family upbringing and instill civic values. This is achieved through laws such as **Law No. 12-15 on Child Protection**³ and **Law No. 20-15 on Combating Kidnapping**⁴.

Definition of "Child":

Linguistically: A child (tifl) refers to a newborn or young person until puberty⁵, as in the Qur'anic verse: "And when the children among you reach puberty..." (Qur'an 24:59).⁶

Terminologically: A child is a young human being from birth until maturity. The term applies to both male and female⁷. Related terms include minor (small in size or age), newborn (recently born), and juvenile (young in age, used in legal contexts).⁸

Definition of Child Abduction: Abduction occurs when a child under the age of majority is forcibly taken or lured away through deception, for purposes such as adoption, exploitation, revenge, or concealment of a crime.

Article 2 of Law No. 12-15 on Child Protection⁹ defines:

Child: Any person under 18 years of age.

Child at risk: A child whose health, morals, upbringing, or safety are endangered, or whose living conditions expose them to harm. Examples include¹⁰:

- Loss of parents and lack of family support.
- Neglect or homelessness.
- Denial of education.
- Exploitation in begging.
- Parents' inability to control harmful behavior.
- Persistent neglect in care and upbringing.
- Abuse, torture, or deprivation of food.

⁽¹⁾IssaTuaiba, "The Right of Visitation of the Child in Custody and the Guarantees of Its Establishment and Enforcement in Light of the Family Code and Judicial Precedent," Journal of Law and Human Sciences, Vol. 11, No. 1, ZianeAchour University of Djelfa, January 2018, p. 271.

⁽²⁾Ramadan Ali Al-Sayyid Al-Sharnabasi and JaberAbd al-Hadi Salem Al-Shafi'i, op. cit., pp. 603–604.

⁽³⁾Child Protection Law No. 15/12 dated 13 Shawwal 1436 AH corresponding to July 19, 2015 (Official Gazette of the People's Democratic Republic of Algeria, No. 39).

⁽⁴⁾Law on the Prevention and Combating of the Crime of Kidnapping Persons No. 20/15 dated 15 Jumada al-Awwal 1442 AH corresponding to December 30, 2020 (Official Gazette of the People's Democratic Republic of Algeria, No. 81).

⁽⁵⁾Ibn Manzur, Lisan al-Arab, Vol. 11, n.d., Lebanon, 1999, p. 402.

⁽⁶⁾Surat Al-Nur, verse 59.

⁽⁷⁾Ibn Abi Bakr al-Razi, Mukhtar al-Sihah, Arab Book House, n.d., Libya, 1981, p. 418.

⁽⁸⁾NadhiraJabin, Children's Rights in Criminal Legislation, Master's Thesis, Prince Abdelkader University, Faculty of Fundamentals of Religion, Sharia and Islamic Civilization, Department of Fiqh and Its Principles, Algeria, 2001, p. 24.

⁽⁹⁾Child Protection Law No. 15/12 dated July 19, 2015 (Official Gazette of the People's Democratic Republic of Algeria, No. 39).

⁽¹⁰⁾Paragraph 2 of Article 2 of Child Protection Law No. 15/12.

- Victimization by crime, whether by a guardian or others.
- Sexual exploitation, including pornography and prostitution.
- Economic exploitation, such as child labor that harms health or education.
- Refugeestatus.
- Exposure to armed conflict or instability.

Juvenile offender: A child aged 10 or above who commits a criminal act, with age determined at the time of the offense¹.

Refugee child: A child forced to flee their country, crossing international borders to seek asylum or protection.²

International Law: The UN General Assembly adopted the **Convention on the Rights of the Child (1989)**, defining a child as “every human being below the age of eighteen years.”³

Concept of Legal Protection for the Child

Child abuse is a negative phenomenon with long-term consequences on the psychological, mental, and family upbringing of children. Repeated exposure to abuse, due to the failure of the family and society to address it, may lead to advanced and difficult-to-treat conditions. Therefore, legal protection must be provided to children to reduce such abuses, care for victims, and contribute to proper family upbringing by shielding the child from any harm.

Definition of Legal Protection

Linguistically: Protection (ḥimāya) derives from the verb ḥamā (to protect). To protect something means to prevent others from harming it or to defend it. For example, protecting a patient means preventing exposure to harmful factors⁴; protecting one’s family means defending them in war. Protection may also mean support, as in “I protected the people” meaning “I supported them.”⁵

Legally (Terminologically): Legal protection, in the context of law, means “preventing individuals from infringing upon each other’s rights through legal rules.” Protection varies depending on the rights safeguarded. In this context, legal protection refers specifically to civil and criminal protection of children subjected to abuse.

New Amendments under Law No. 20/15

The Law on the Prevention and Combating of the Crime of Kidnapping (No. 20/15) introduced several procedural, preventive, and punitive measures. Key features include:

Specificity of Law No. 20/15:

The Public Prosecutor may initiate proceedings even without a formal complaint.

Human rights associations and organizations may file complaints, join as civil parties, and claim compensation, not for the victim’s relatives, but for the association itself as a representative of civil society.

Perpetrators of kidnapping crimes are excluded from mitigating circumstances in certain acts, except as defined in Articles 35 and 36 of the law.

Convicted kidnappers are subject to a “security period,” meaning they cannot benefit from sentence adjustments such as parole, semi-liberty, external workshops, or open environments. They must serve their entire sentence in closed facilities.

⁽¹⁾Paragraph 3 of Article 2 of Child Protection Law No. 15/12.

⁽²⁾Paragraph 4 of Article 2 of Child Protection Law No. 15/12.

⁽³⁾Hamada Abu Najma, “Child Labor in International Conventions and Standards,” Wikipedia Encyclopedia (date accessed: 24/10/2018), website: Arabic Wikipedia.

⁽⁴⁾Ibn Manzur, Lisan al-Arab, 1st ed., Dar Sader, Beirut, n.d., p. 60.

⁽⁵⁾Ibn Al-Qatta’, Kitab al-Af’al, 1st ed., Alam Al-Kutub, Beirut, Lebanon, 1983, p. 243.

It is noted that while the law strengthens protection against kidnapping, it does not enforce the death penalty. Although courts may pronounce it, execution is suspended, leaving the convict imprisoned as if serving life. This omission has been criticized and calls for review in future legislation.

Objectives of Law No. 20/15

Article 1 states: "This law aims to prevent and combat kidnapping crimes." The law addresses kidnapping of both adults and children, male and female, without exception. It introduces preventive measures, procedural rules, and punitive provisions to combat the crime comprehensively.

Article 3 obliges all state institutions to mobilize human and material resources to prevent kidnapping, locate victims, and apprehend perpetrators. Article 4 requires the state to support victims' families by providing legal, psychological, and social assistance throughout investigations and until victims are found and offenders arrested.

Preventive Measures under Law No. 20/15 (Articles 5–8)

The law outlines how Algeria combats kidnapping through preventive strategies, summarized as follows:

1. Establishing a **national strategy** for preventing kidnapping crimes, implemented by competent public authorities.
2. Local authorities, in coordination with crime-prevention agencies, must develop **local strategies** and oversee their implementation.
3. Civil society and media are involved in preparing and executing national and local strategies.
4. Preventive measures include:
 - Early warning and detection mechanisms.
 - Awareness programs and cultural/media activities to highlight risks.
 - Studies on causes of kidnapping to inform policies.
 - Institutional cooperation, information exchange, and coordination among stakeholders.
 - Reporting suspected kidnapping acts to judicial authorities.
 - Balanced security coverage across the national territory.
 - Continuous security protection for schools, nurseries, and child-care facilities.
 - Standards and methods for prevention, and development of national expertise.
 - Measures to ensure effective prevention of child abduction.
 - Monitoring and evaluating prevention mechanisms, with adjustments for effectiveness.
 - Establishing a **national information system** on kidnapping crimes to guide preventive measures.

Conclusion

In light of the above, it becomes clear that family upbringing constitutes the solid foundation for instilling the values of citizenship in Algerian society. It represents the cornerstone in building a generation that is aware of its rights and duties, and capable of actively contributing to the consolidation of the principles of democracy and the rule of law. The family is the first school where the individual learns the values of belonging, respect for laws, commitment to duties, and the pursuit of rights within a framework of responsibility.

Moreover, the Algerian legal system has reinforced this role through laws and regulations that support the family in fulfilling its educational mission and guide it toward fostering legal and national awareness among the rising generations. Thus, the integration between the educational role of the family and the regulatory role of the law remains the essential pillar for building a cohesive society, governed by justice, enriched by national spirit, and shaped into a social environment

capable of facing contemporary challenges and achieving sustainable development. This ensures a prosperous future for both the nation and its citizens, while keeping pace with modern challenges and preserving national identity.

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