Contemporary Readings in Law and Social Justice
ISSN: 1948-9137, e-ISSN: 2162-2752
Vol 17 (01), 2025
pp. 1037 - 1042

The Legal Protection of the Child in Algerian Legislation – The Case of Health Care

Dr. Kiari Asma [1], Pr. Abbar Omar

[1] Faculty of Law and Political Science , Djillali liabes University Sidi bel abbes, Algeria

[2] Faculty of Law and Political Science, Djillali liabes University Sidi bel abbes, Algeria

Email: mariarihem@hotmail.fr ; abbar.omar@gmail.com

Abstract:

Algeria has made significant efforts to improve health care for special groups within society, particularly children, through a comprehensive legislative framework and the establishment of institutions dedicated to this category. This is reflected in the recognition of their right to health care in the highest legal text—the Constitution—followed by the extension of this protection and care to other laws.

This reflects the firm commitment to ensuring the rights of this segment of society and the need to provide adequate protection through intensified efforts, which has led most countries to ratify major international conventions concerning children by enacting specific laws for their benefit.

Keywords: Children- Care- Rights- Protection- Legislation

Received: 12/03/2025 **Accepted:** 24/08/2025 **Published:** 28/09/2025

INTRODUCTION

The child is considered an important and sensitive element in society, as childhood represents the first stage of life and a fundamental and crucial phase in human development. During this period, the child's character is shaped and prepared to face the coming stages of life with strength and determination. Therefore, it is incumbent upon the Algerian legislator to ensure legal protection for this category in general, and health care in particular.

The jurist Barker defines childhood as *"the early stage in the human life cycle characterized by rapid physical growth of the child and a striving to include children in preparation for adult roles and responsibilities through play and formal education, in most cases."* [1]

Psychologists, on the other hand, consider the child to be a fully created and formed human being, endowed with mental, emotional, physical, and sensory capacities, which only require maturity and social interaction to be activated and developed, enabling the child to become an adult.

To shed light on the health care of the child, the following main question arises:

To what extent has the Algerian legislator succeeded in ensuring health care for the child?

Accordingly, this research paper is divided into two main sections:

- **First Section:** The Concept of the Child in National and International Legislation.
- **Second Section:** Health Protection of the Child in Algerian Legislation.

First: The Concept of the Child in National and International Legislation

A. Definition of the Child in Algerian Legislation

The Algerian legislator defined the child in Law No. 15-12 relating to the Child Protection Law, in its Article 2, as follows: "For the purposes of this law, the term 'child' means every person who has not reached the full age of eighteen (18) years."

The term minor (hadath) conveys the same meaning. [2]

In addition, Civil Law No. 10-05, enacted in 2005, stipulates that "a person under thirteen years of age is considered incapable of discernment." Here, discernment is linked to the notion of maturity in terms of awareness and perception. This is confirmed by Article 40, paragraph 2, which states that "the age of majority is nineteen full years." The Nationality Law also refers to the age of majority as defined by the Civil Code.

B. Definition of the Child in International Legislation

The international community's concern for the child emerged rather late, as attention to the need for protecting this category only appeared at the beginning of the last century. Even then, the community did not attempt to establish a single abstract definition that would clearly distinguish between those who are considered children and those who are not.

Although the term "child" appears in many international documents, its exact meaning is not explicitly defined in their texts—with the exception of the Convention on the Rights of the Child (CRC). According to Dr. Hassanain Al-Mohammadi Bouadi, the CRC is the first international instrument to provide a clear and explicit definition of the child. However, Professor Mohamed El-Said Al-Daqqaq argues that the wording of this article remains somewhat ambiguous and hesitant.

The 1989 Convention on the Rights of the Child defines the child in Article 1 as follows: "A child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier."

Accordingly, for an individual to be considered a child protected under this Convention, two conditions must be met:

1. **The first condition:** The person must *not have reached the age of eighteen*. This establishes an international standard, implying by contrast that any person who has exceeded eighteen years of age is considered an adult and no longer qualifies as a child.

2. **The second condition:** The phrase *"unless majority is attained earlier under the law applicable to the child"* reflects a national criterion, meaning that a person is considered a child until they reach the age of majority according to their country's law, even if this occurs before turning eighteen. Conversely, anyone who has reached the age of majority under their national law is no longer regarded as a child. [3]

The United Nations Human Rights Committee drafted an international convention on the rights of the child, which came into effect on November 20, 1989, and became part of international law during the World Summit for Children on September 2, 1990.

Furthermore, the African Charter on the Rights and Welfare of the Child, in Article 2, Part I, defines the child as "every human being below the age of eighteen years."

Several other international conventions have also addressed the definition of a child or minor. For example, the United Nations Convention on the Prohibition of the Worst Forms of Child Labour stipulates in Article 2 that: "The term 'child' shall apply to all persons under the age of eighteen."

Similarly, the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, in Article 1, states:

"States Parties shall take all feasible measures to ensure that members of their armed forces who have not attained the age of eighteen years do not take a direct part in hostilities." [4]

Second: Health Protection of the Child in Algerian Legislation

Every child has the right to receive the necessary health care to ensure survival, growth, and the reduction of mortality rates.

A. Health Care for the Child Before the School Stage

The Algerian legislator has established a set of legal provisions that make the right to health care for children an obligation, with penalties for those who neglect or refuse it. Among the most important health rights of the child are the following:

❖ **Vaccination Against Contagious Diseases**

Since independence, the Algerian legislator has adopted a mandatory vaccination schedule against several deadly diseases. This schedule has undergone multiple updates—additions and removals—depending on the epidemiological and health situation of the population. The legislator has also required the establishment of vaccination centers and stations with technical standards that consider population density, ensuring that all families can fulfill this obligation.

The most recent update of the National Vaccination Schedule took place in 2007, with the addition of a new vaccine against Haemophilus influenzae. Alongside mandatory vaccinations for all children, those with chronic diseases are entitled to additional vaccines, such as the seasonal influenza vaccine.

To ensure health protection, strengthen immunity, and compensate for missed vaccinations, the Algerian legislator occasionally issues new provisions to guarantee full child protection through catch-up vaccination campaigns, such as campaigns against tetanus, measles, and polio. [5]

Article 214 of Law No. 18-11, dated 18 Shawwal 1439 AH (July 2, 2018), relating to health, states in paragraph 9:

"A vaccine, serum, or toxin intended for human use aims to produce active or passive immunity, or to diagnose the state of immunity."

Thus, the vaccine is legally considered a medicine.

Although Articles 40–41 of Health Law No. 18-11 do not provide a precise definition of vaccination, they regulate the process by conferring it with a mandatory status, given its importance for public health. Article 40 refers to vaccination as being "for the prevention of diseases."

The first legal text establishing a mandatory vaccination schedule was Decree No. 88-69 of June 17, 1969 (Official Journal No. 53, dated June 20, 1969), later amended and supplemented.

Subsequent ministerial orders followed:

- **Order of July 15, 2007**, defining the schedule of mandatory vaccinations against certain communicable diseases (Official Journal No. 75, December 2, 2007).
- **Order of November 24, 2014 (1 Safar 1436 AH)**, updating the same (Official Journal No. 75, December 28, 2014).
- **Order of July 3, 2018 (19 Shawwal 1439 AH)** (Official Journal No. 49, August 8, 2018).
- **Order of November 6, 2021 (1 Rabi' al-Thani 1443 AH)**, amending the 2018 order (Official Journal No. 56, August 31, 2022).

It is noteworthy that in 2018, some parents refused to vaccinate their children against rubella, fearing for their safety after rumors spread that the imported vaccine had caused several child deaths in Algeria. As a result, vaccination became optional in such cases, requiring parents to sign a written authorization before their children could be vaccinated.

❖ **The Health Record (Medical Card)**

In Algeria, it is customary for every newborn to be issued a health record, delivered to the parents or guardian. This record contains all the child's personal and medical information, including:

- Child's name, sex, date and time of birth, weight, and distinguishing physical characteristics.
- Father's name and date of birth.
- Mother's name and date of birth.
- Place of birth.
- Entity supervising the delivery and the name and qualification of the person who performed it.
- Whether the birth was natural or otherwise.
- The child's blood type. [6]

The health record is of great importance, as every newborn child has the right to possess one. It accompanies the child throughout childhood and even into primary education, since no child can be enrolled in school without presenting this document.

❖ **Healthy Nutrition**

Malnutrition is one of the most common causes of high infant and child mortality rates in developing or poor countries. Studies have shown that many diseases and congenital deformities in children are the result of nutritional and psychological factors affecting the mother during pregnancy.

Breast milk is considered the best food for the child, as it provides all essential nutrients and constitutes a complete diet. The child does not require additional foods before four months of age. After that, the mother should gradually introduce complementary foods alongside breastfeeding to ensure healthy and balanced growth.

Unfortunately, many mothers neglect natural breastfeeding, preferring artificial milk, which poses health risks to the child. This practice reduces the child's immunity and increases susceptibility to diarrhea and respiratory infections. [7]

Nutrition experts have developed lists of balanced and integrated diets for children, dividing nutrients into essential groups: carbohydrates, proteins, fats, vitamins, minerals, fibers, and water. These components help build and maintain body tissues, provide sufficient energy, and regulate body temperature and movement. [8]

B. Health Care for the Child in the School Environment

Several legal texts aim to protect the health of the child in the school environment, most notably Law No. 08-04 of 15 Muharram 1429 AH (January 23, 2008), containing the Guiding Law on National Education (Official Journal No. 04, dated 19 Muharram 1429 AH / January 27, 2008*).

❖ **School Medicine**

The Algerian legislator has established a joint legal framework between the Ministry of Health and the Ministry of National Education, obliging both parties to ensure full protection and promotion of children's health through the following measures:

- **Mandatory Medical Examination for All Students:** This examination is usually conducted at the beginning of the school year for all primary grades. Each pupil has the right to undergo a comprehensive medical check-up, and a second examination may be conducted at the end of the school year.
- **Mandatory Vaccination:** In accordance with the national vaccination schedule, pupils must receive the required vaccines within educational institutions to prevent infectious and fatal diseases that may spread due to close contact among children in schools.

- **Right to a School Health File:** The school health file contains all the child's previous medical records and follows the pupil from one educational level to another.

These measures were established by a joint ministerial circular among the Minister of the Interior, the Minister of National Education, and the Minister of Health, Circular No. 01 of April 6, 1994, concerning the reorganization plan of school health.

In 1995, the legislator also required the creation of school health screening and monitoring units within educational institutions, according to a joint ministerial instruction No. 02 of February 27, 1995, defining the methods of establishment, management, and operation of these units. They must be equipped with all necessary medical tools to provide health services to pupils, including dental care, as stipulated in the joint ministerial circular of May 7, 2001, concerning the National Program for Oral and Dental Health in the School Environment.

- **Right to Vision Assessment:** School medical services are responsible for diagnosing visual impairments among pupils and referring them either for medical treatment or for the prescription of corrective lenses, in order to prevent total vision loss. [9]

When the child enters school, they face a new environment that must provide all necessary physical and psychological conditions to ensure proper health care and well-being.

❖ **School Nutrition**

While children need a balanced and complete diet, it is equally essential that the food provided in schools be safe and hygienic, which is the responsibility of the educational institution offering school meals.

As consumers of food products essential for their growth, children may suffer harm from contaminated or spoiled food, such as milk and its derivatives, meat, fish, or water, if found unfit for consumption.

To prevent harm, school meal supervisors must regularly inspect school canteens, ensuring cleanliness, proper ventilation, and medical examinations for kitchen staff and assistants to verify their physical health and the absence of contagious skin diseases (e.g., eczema or infections). Additionally, food quality, hygiene, and expiration dates must be monitored to guarantee healthy and preventive school nutrition.

❖ **Physical Education in Schools**

The practice of school sports is highly important, especially for children under the age of ten, as it helps identify their interests and preferred types of physical activities.

Physical education significantly contributes to behavioral development and allows the early detection of certain health issues such as heart disease or breathing difficulties.

School sports play a vital role in improving concentration, intelligence, self-reliance, and confidence. They are supervised by specialized teachers trained in professional institutions and appointed according to the needs of schools.

CONCLUSION

Despite the remarkable progress made in protecting children and ensuring special attention to their needs, it remains essential to provide comprehensive care, as the child represents the foundation of society's development — from birth until reaching the age of discernment. Efforts must focus on reducing mortality rates, increasing immunization coverage, reducing malnutrition, expanding access to basic education, and ensuring its compulsory and free nature.

However, despite Algeria's achievements thus far, these measures are no longer sufficient to fully ensure child care, especially health care, given the rapid global changes and their negative repercussions. This situation requires the development and implementation of new mechanisms to sustain, strengthen, and advance these rights for the better protection and well-being of children.

FOOTNOTES:

[1] Hussein Al-Khuza'i & Taha Imara, Social Legislation and Human Rights, no edition, Dar Yafa Publishing, Amman, Jordan, 2009, p.113.

[2] Law No. 15-12 dated 28 Ramadan 1436 AH corresponding to July 15, 2015, concerning the protection of the child, Official Journal No. 39 dated 03 Shawwal 1436 AH corresponding to July 19, 2015.

[3] Bouswar Maysoum, The Criminalization of Violations of Children's Rights in International Law, Doctoral Thesis in Public Law, Faculty of Law and Political Science, Abou Bekr Belkaid University, Tlemcen, Academic Year 2016–2017, p.11.

[4] Belkacem Souikat, Criminal Protection of the Child in Algerian Law, Master's Thesis in Law, Specialization in Criminal Law, Kasdi Merbah University – Ouargla, Faculty of Law and Political Science, Department of Law, Academic Year 2010–2011, pp.09–10.

[5] Seddiki Mohamed, Master's Degree in Islamic Economics, Head of Office at the Directorate of Health and Population of Adrar Province, Article: "Children's Health Rights in Algerian Legislation", Jil Center for Scientific Research, Proceedings of the 6th International Conference: International Protection of the Child, Tripoli, 20–22/11/2014, p.03.

Vaccination: a preventive measure consisting of administering a serum to protect against certain contagious epidemic diseases.

[6] Fatima Shehata Ahmed Zeidan, Childhood Legislation, Faculty of Law, Alexandria University, New University House for Publishing, 2008 Edition, p.95.

[7] Abdelrahman Obeid Mosaiker, Child Nutrition in the Arabian Gulf: Its Social and Educational Implications, Kuwaiti Association for the Advancement of Arab Childhood, Kuwait, no edition, 1990, p.07.

[8] El-Arabi Kheira, Civil Rights of the Child in Algerian Law, Doctoral Thesis in Private Law, Faculty of Law, University of Oran, Academic Year 2012–2013, p.273.

[9] Seddiki Mohamed, Children's Health Rights in Algerian Legislation, op. cit., p.04.