

Юридическое регулирование похищения и убийства детей в алжирском и международном праве

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Это исследование посвящено устойчивой проблеме похищения и убийства детей – преступлений, представляющих серьезную угрозу как для мирового, так и для алжирского общества. Из-за тревожных характеристик этих деяний ученые и практикующие юристы задаются вопросом, являются ли они результатом недостаточного правового сдерживания или же отсутствия четких юридических определений на национальном и международном уровнях.

С применением аналитического и сравнительного метода данная работа стремится выявить юридические элементы, характеризующие такие преступления, и ответить на фундаментальные вопросы, в том числе: как определяются похищение детей и их убийство в правовых системах Алжира и на международном уровне? Каковы основные причины, лежащие в основе растущей частоты этих преступлений?

В конечном счете, исследование стремится привлечь внимание к этому серьезному уголовному преступлению и внести, пусть и ограниченный, вклад в сокращение – и, в перспективе, искоренение – тяжких квалифицируемых правонарушений, таких как похищение и убийство детей, которые являются воплощением надежды и будущего каждой нации.

Ключевые слова: убийство, дети, похищение, права.

The Legal Treatment of Child Abduction and Homicide under Algerian and International Law

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This research focuses on the persistent issue of child kidnapping and murder, crimes that pose a serious threat to both global and Algerian societies. Because of the alarming nature of these acts, scholars and legal practitioners have questioned whether their continuation stems from inadequate legal deterrence or from the absence of precise legal definitions at the national and international levels.

Through the use of an analytical and comparative method, this paper seeks to uncover the legal elements that characterize such crimes and to respond to fundamental questions, including: How are child abduction and murder defined within Algerian and international legal systems? What are the underlying causes behind the increasing frequency of these offenses?

Ultimately, this study aspires to draw attention to this serious criminal offense and to contribute, even in a limited way, to the reduction and eventual eradication of the serious aggravated offenses of kidnapping and murdering children, who embody the hope and future of every nation.

Key words: killing, children, kidnapping, rights.

Introduction

The increasing occurrence of child kidnapping and murder has caused severe consequences, violating the fundamental rights of children and profoundly affecting both the young victims and their families. Beyond individual suffering, these crimes have affecting public security and undermining public order stability and public order stability, and causing disturbances to public order when abduction ends in the tragic death of a child.

Parents live in constant worry for their children's safety, while communities struggle under an atmosphere of uncertainty and fear.

Given the gravity and the rising incidence of these offenses across the international community, and particularly within Algeria, this research aims to explore the issue in depth. It seeks to clarify the legal definition of child kidnapping and murder, analyze their distinguishing characteristics, and examine the underlying causes contributing to their rising incidence.

Section I: Kidnapping And Killing Children

Despite the alarming rise in cases of child abduction and murder, scholarly research still lacks a clear and unified understanding of these two interconnected crimes. Furthermore, international legal frameworks have yet to establish a precise and comprehensive definition that encompasses both kidnapping and killing as a single criminal act.

In light of this gap, the present study seeks to place each offense within its legal and social context, examining them individually in order to better grasp their gravity and implications. Through this approach, the research aims to contribute to a deeper understanding of these serious aggravated offenses and to clarify the challenges they pose to both national and international law.

A) In International Law

International law has long recognized the importance of protecting children and childhood. Numerous human rights instruments-particularly those focusing on the rights of the child-explicitly condemn and criminalize the abduction and killing of children. However, there remains a need to clarify the precise legal meaning of these acts within international legal frameworks, which will be further examined below.

B) Abduction of Children under International Law

During its fourth session, the United Nations Human Rights Council, in implementation of the General Assembly Resolution of 15 March 2006 titled "Human Rights Council: Rights of the Child", adopted a practical definition of child abduction. According to this definition:

"Abduction refers to the transfer, detention, capture, taking, or arrest of a child under the age of 18, whether temporarily or permanently, through the use of force, threats, or deception, with the intent of associating the child with armed groups, changing their nationality, or leading to their forced disappearance or death" [Alston 2006: 05].

The **International Convention on the Rights of the Child** defines a child as "every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier."

Furthermore, on **18 December 1992**, the **United Nations General Assembly** issued a declaration affirming in Article 1, paragraph 1, that:

"Abduction constitutes an act of enforced disappearance and a crime against human dignity. It represents a denial of the principles of the Charter of the United Nations and a flagrant violation of human rights and fundamental freedoms as enshrined in the Universal Declaration of Human Rights."

In paragraph 2 of the same declaration, it is further emphasized that:

"The act of forced abduction deprives individuals of legal protection and inflicts severe suffering on both the victims and their families. It violates the core principles of international law that guarantee, among other rights, the recognition of legal personality, personal liberty and security, protection from torture and other cruel or inhuman treatment, as well as the right to life itself [Alston 2006: 259].

While international law has not yet provided a specific and unified definition of **child abduction**, it has consistently condemned and prohibited such acts across various conventions and treaties. These instruments offer a relative and practical understanding of the concept, grounded in the broader framework of international child protection.

Section II: Killing of Children under International Law

A) Genocide

According to international legal instruments, genocide occurs when an individual intentionally kills one or more persons belonging to a specific national, ethnic, racial, or religious group, with the intent to destroy that group, wholly or partially. Such actions must be directed against the group as part of a broader pattern of conduct aimed at its extermination [UN General Assembly 1998].

B) Crimes Against Humanity

Crimes against humanity include the intentional killing of one or more persons as part of a widespread or systematic attack targeting civilian populations. The perpetrator must act knowingly and willingly as part of that broader attack [UN General Assembly 1998].

C) War Crimes

War crimes encompass the unlawful killing of individuals protected under the 1949 Geneva Conventions, with full awareness of their protected status. Such acts must occur in the context of an international armed conflict, and the perpetrator must possess knowledge of the conflict's circumstances and implications [UN General Assembly 1998].

Although international law strongly condemns these acts, it does not provide a **specific or unified definition** of the killing of children. Instead, existing conventions emphasize the obligation to respect the **child's right to life, survival, and development**, particularly for those under the age of eighteen-or younger where domestic laws recognize puberty as a legal threshold of adulthood.

From a legal and humanitarian perspective, the killing of children can thus be understood as the **unlawful loss of a child's life**, whether in times of peace or war, resulting from acts of cruelty, torture, or other inhumane treatment leading to death.

In conclusion, it is essential for the **international community** to work towards developing a **clear and unified definition** that explicitly criminalizes and reflects the gravity of child kidnapping and killing. Such a definition would reinforce

international protection mechanisms and affirm the collective responsibility to safeguard children-the most vulnerable members of humanity.

Section III: Kidnapping and Killing of Children in Algerian Law

The crimes of **abduction and murder of children** are among the most serious offenses addressed by the Algerian Penal Code. Their definitions and legal implications can be clarified as follows:

A) The Crime of Abduction of Children in Algerian Law

In Algerian criminal legislation, **abduction and kidnapping** are treated as a single crime. Although the Penal Code does not provide a specific legal definition, the nature of the offense can be inferred from Articles **291 to 294** and **326 to 329**. According to these provisions, "anyone who arrests, imprisons, or removes another person from his natural environment to an unknown destination, or arbitrarily detains him for a period of not less than ten days, or abandons him for purposes such as ransom, revenge, extortion, or any unlawful objective-whether by violence, threat, or deception-commits an offense."

Furthermore, the law considers as kidnapping "any criminal act involving the deprivation of liberty of a minor who has not yet reached the age of majority, by removing him from his environment through physical means such as violence or through moral means such as deception, in order to achieve certain purposes." [Chiaoui 2019:62]

Thus, the **Algerian legislator** explicitly criminalizes the act of child abduction and provides for severe penalties not only for those who commit the act but also for those who attempt to do so. This demonstrates the legislator's commitment to protecting minors against all forms of violence and exploitation.

B) The Crime of Murder of Children in Algerian Law

According to **Article 254** of the Algerian Penal Code, murder is defined as "the deliberate killing of a human being." In **Article 259**, the legislator specifies that the killing of children constitutes "the premeditated murder of a newborn." From a legislative standpoint, the killing of a child is thus treated as **intentional homicide**, given its gravity and the similarity of its legal elements with those of ordinary intentional murder.

A distinctive feature, however, is the **element of newborn status**, which remains subject to judicial interpretation. The legislator has not explicitly determined the circumstances under which a child is considered a newborn, leaving such assessment to the **discretion of the judge**.

Based on these provisions, the killing of children can be defined as "the deliberate and premeditated taking of the life of a minor under the age of 18, for various motives or purposes."¹

C) Legislative Approach and Observations

The Algerian legislator has **both criminalized and strictly punished** the acts of **kidnapping and killing of children**, establishing legal frameworks for **aggravating and mitigating circumstances**. However, there remains a certain **ambiguity in defining the explicit and comprehensive concept** that reflects the gravity of the combination of these two crimes, particularly when they intersect and target innocent children.

In conclusion, the Algerian Penal Code provides a **legal foundation for repressing** these serious aggravated offenses, yet a **clearer and more unified legal definition** would enhance the understanding of their true nature and assist in developing **effective preventive and punitive measures** to combat this alarming phenomenon [Glossary of Legal Terms 1999: 616].

Section IV: Characteristics of the Crime of Kidnapping and Killing Children

Based on the preceding analysis, this study identifies several distinctive characteristics that set the crime of kidnapping and killing children apart from other criminal acts. These characteristics can be examined through three main elements:

A) A Composite Crime

A composite crime is one that involves the commission of multiple material acts of different natures, which may be separated in time or place but together constitute a single offense. In the context of **kidnapping and killing children**, the perpetrator commits two or more distinct criminal acts. The first act-the **abduction**-involves forcibly removing or transporting the minor from his or her habitual environment, an act that already constitutes a criminal offense under the law. The second act-the **killing**-involves the deliberate taking of the child's life, which represents a further violation of human sanctity.

Often, this sequence of crimes is marked by extreme brutality and inhuman or degrading treatment, such as **torture, sexual assault, mutilation, or physical dismemberment** prior to death. For this reason, the offense is regarded as a **composite or compound crime**, as it combines multiple grave violations culminating in the destruction of a human life.

B) An offense committed within a short timeframe

Another distinctive feature of this offense lies in the **speed and immediacy** with which it is carried out. The perpetrator often acts within a very short timeframe to minimize the risk of detection and to prevent potential intervention by the authorities or the community. This haste reflects both the criminal's intent to conceal the act and the desire to avoid public outrage, especially considering the legal timeframe for reporting missing children.

¹ Intentional homicide is the voluntary and unlawful destruction of human life by another human being and consists of three elements:

(A) a physical act which is naturally capable of causing death;

(B) personality or human nature;

(C) The perpetrator of the physical act intended to cause death

In many cases, the offender exploits the **vulnerability and innocence** of the child, using deception, coercion, or manipulation to lure the victim. Once control is established, the criminal proceeds swiftly to commit the fatal act, making this offense one of the most **rapid and covert crimes** in practice. The calculated use of time and the premeditated nature of the act underscore its particularly dangerous and reprehensible character [Ezzedine 2023: 51].

C) A serious aggravated offense

The gravity of kidnapping and killing children extends beyond individual harm-it constitutes a **serious offense against society as a whole**. In criminal law, serious offenses are those that result from acts posing imminent or actual harm to individuals or the community. In this sense, the abduction of a minor is inherently perilous, as it directly endangers the child's safety and integrity.

The seriousness of the crime is also reflected in the **severe penalties** prescribed by Algerian law. According to **Article 30 of the Algerian Penal Code**, kidnapping and killing a child are treated as **felonies**, with punishments equivalent to those imposed for completed crimes, even if the attempt alone is established.¹

Furthermore, the offense of child abduction is often a **precursor to other grave crimes**, such as **murder, rape, physical assault, extortion, or unlawful detention**. The combination of these acts highlights the exceptional nature of the crime and the deep social and moral danger it represents.

Consequently, the **kidnapping and killing of children** must be recognized as a **crime of special character**, defined by its composite structure, rapid execution, and severe consequences for both the individual victim and society at large.

Section V: The Factors Behind the Crime of Kidnapping and Killing Children

The factors contributing to the crime of kidnapping and killing children can be divided into several categories, primarily social and psychological.

A) Social Factors

Social factors encompass all the influences that surround a person from birth until full maturity - including their interactions with others, their relationships, and the ways they learn to solve problems. These influences begin within the basic social unit - the family - then extend to school and ultimately to the broader community. Together, these environments shape individual behavior and can, in some cases, motivate certain criminal acts.

1. The Family

The family environment plays a crucial role in shaping a child's personality and behavior. Children who experience physical² or emotional³ abuse, neglect, or lack of parental attention often suffer deep psychological harm. When parents fail to provide basic needs such as food, housing, medical care, or emotional support, children grow up without the necessary foundation for healthy social integration. Exposure to family conflicts, pressure, and instability can also distort a child's moral development [Nabih 2008: 112].

Criminal behavior is often linked - directly or indirectly - to the individual's social surroundings. Criminologists distinguish between two main types of offenders. The first is the **morally corrupted criminal**, who grows up in an environment devoid of values and ethical guidance. Such an environment weakens the child's conscience, depriving him of the inner restraint that prevents deviant acts. The second is the **urban criminal**, whose actions are shaped by social pressures and traditions within the community. In both cases, crime may emerge as a distorted response to social tension - an attempt to achieve balance between personal desires and societal constraints [Jazar 2012: 31].

Therefore, it can be said that "the family is both the foundation of health and a source of deviation." The family is the first society that embraces the child from birth. Thus, everything that happens within it - whether affection, harshness, care, or neglect - leaves a permanent mark on the child's personality and future behavior.

2. The School

The school environment also has a decisive influence on the moral and psychological development of children. Teachers who humiliate, abuse, or treat students harshly may unintentionally push them toward aggression and deviant behavior. Such mistreatment can plant the seeds of resentment and rebellion that later manifest in criminal tendencies.

Conversely, educators who promote respect, fairness, and encouragement help build strong, confident, and law-abiding individuals. Therefore, teachers must receive proper training and continuous supervision to ensure that their influence remains positive. The peer group at school is another critical factor: a child's behavior can be strongly affected by classmates. If one student adopts antisocial conduct, others may imitate it - what some researchers describe as the "infection effect" [Bouri 2019-2020: 210].

Modern studies emphasize that individuals' behaviors are profoundly shaped by their social groups. A child excluded or rejected by peers may experience deep emotional pain, leading to behavioral problems. The feeling of isolation or social rejection is one of the most severe punishments for a child, often leaving long-term psychological scars.

¹ See article 50 of the Algerian Penal Code.

² Physical exploitation is the occurrence of one of the children or any other adult in the home deliberately harming the child: burning, broken bones, bruises, and severe excitement that sometimes leads to permanent disabilities such as brain dysfunction.

³ Emotional exploitation: One parent constantly intimidates or humiliates the child or isolates him or her, resulting in a negative psychological impact on the child in the future.

For this reason, all institutions responsible for child care must fulfill their duties with sincerity and professionalism, ensuring the protection of children from kidnapping, murder, and any form of psychological or social harm that could foster future criminals.

It is also important to note that the decline of moral values and the weakening of religious faith are among the most influential factors leading to serious aggravated offenses such as kidnapping and killing children. Strong spiritual and ethical upbringing acts as a powerful shield against deviant behavior.

B) Psychological Factors

From a psychological perspective, human behavior is driven by a combination of innate and acquired motives. **Instinctive motives** - such as hunger, thirst, and the need for safety - arise naturally and do not need to be learned. However, when these instincts are distorted or unfulfilled, they can lead to frustration, aggression, or deviant behavior.

Certain psychological disorders, particularly those related to sexual instincts, can also lead to an offense of aggravated nature. A disturbed personality may struggle with inner conflicts between social values and deviant desires. When these conflicts are not properly managed, they may erupt into criminal acts, including sexual assault or revenge-driven violence.

Some offenders suffer from what psychologists describe as **"sycophantism"** - a state in which the individual's entire existence revolves around the pursuit of personal pleasure, regardless of moral or legal boundaries. Such individuals may commit serious aggravated offenses, including the kidnapping or killing of children, to satisfy distorted impulses.

For these reasons, every parent or guardian must closely monitor their child's development, relationships, and environment. Preventing children from exposure to harmful influences and family conflicts is essential to ensuring their growth in safety and peace - and to preventing the emergence of future offenders.

C) Economic Factors

1. Poverty

In many cases, the kidnapping and killing of children are motivated by financial gain - an attempt to seize another person's money or property. Such crimes are particularly prevalent in regions plagued by widespread poverty and unemployment, where individuals act out of economic desperation to meet their basic needs.

Poverty exerts an indirect yet profound influence on criminal behavior in society. Statistical evidence shows that nations suffering from poverty generally experience higher crime rates. People facing extreme deprivation may resort to illegal acts simply to survive.

However, poverty alone does not fully explain such crimes. It often interacts with other complementary elements such as social exclusion, lack of education, and economic inequality, which together foster frustration and resentment, ultimately pushing some individuals toward criminal acts like kidnapping or murder [Bouri 2019-2020: 229].

2. Rising Prices

Another significant factor is the continuous rise in the cost of living. Economic shifts have driven a large portion of the rural population to migrate to urban areas in search of better opportunities, concentrating most business activities in the cities.

This rural exodus has caused a severe shortage of agricultural labor and reduced agricultural production, which in turn has led to an increase in the prices of basic goods and necessities. As a result, the cost of daily living has become unaffordable for many, intensifying economic stress and hardship.

Population density in cities has also increased rapidly, creating additional social and financial pressures that often serve as catalysts for criminal behavior - including crimes against children [Nabih 2008: 29].

3. Unemployment

Unemployment is another major contributor to criminality, particularly among youth. Young people without stable income or purpose often suffer from feelings of failure, frustration, and despair about their future. The abundance of idle time and the absence of productive activity can generate psychological distress and a loss of moral direction.

In such conditions, individuals may seek to satisfy their suppressed desires through deviant or violent behavior. Kidnapping children - who are vulnerable and unable to resist - may become a means to demand ransom, seek revenge, or even satisfy perverse impulses.

Rapid urbanization, population growth, and slow economic performance have exacerbated unemployment rates. In many societies, even the growing participation of women in the labor market has unintentionally increased competition for limited job opportunities, deepening the frustration among unemployed youth.

These accumulated economic pressures foster resentment, alienation, and, in some cases, hostility toward society. Consequently, unemployment remains one of the most serious factors threatening social stability, as it often leads to tragic consequences such as the abduction or murder of children.

D) Cultural Factors

Cultural factors also play an essential role in shaping criminal behavior. Among them, the **influence of the media** stands out as one of the most powerful and pervasive in contemporary society.

Media Influence

With the expansion of modern media - including television, cinema, the internet, and digital platforms - violent content has become widely accessible. Films, series, and even crime documentaries often depict scenes of murder, kidnapping, and other violent acts in a sensationalized way, inadvertently teaching methods of crime or normalizing violence.

This constant exposure to aggression and immorality can desensitize individuals, especially children and adolescents, to violence and distort their perception of right and wrong. In some societies, the unregulated diffusion of "sex culture" or explicit material imported from foreign media further contributes to moral decay and confusion about ethical boundaries.

Unfortunately, radio and television programs are rarely supervised by psychologists, sociologists, legal experts, or religious scholars. As a result, instead of promoting virtue and civic values, many media outlets broadcast content that fuels violence, extremism, and moral corruption.

Similarly, cinema and theatre often fail to serve educational or national purposes, opting instead for sensationalism that provokes base instincts and glorifies criminal behavior. The lack of proper oversight, combined with outdated and low-quality programming, has amplified the harmful impact of such media content on society.

For this reason, it is crucial to exercise **positive and responsible control over media platforms**, ensuring that they respect psychological, ethical, and religious principles. A balanced and constructive media approach can protect society from the negative consequences of harmful content and help reduce the spread of crimes – including the kidnapping and killing of children.

Conclusion

In conclusion, it can be affirmed that the various factors analyzed throughout this study collectively contribute to the emergence and persistence of the crimes of child abduction and murder. Economic difficulties, such as poverty, unemployment, and rising prices, often play a significant role in pushing individuals toward such acts. However, it is essential to emphasize that not every person living in poverty or facing hardship turns into a criminal. Human beings have been endowed by God Almighty with reason, patience, and compassion – values that must guide their actions and prevent them from harming others, especially vulnerable groups like children.

Furthermore, there is an urgent need to exercise proper control and responsibility over cultural and educational influences. In an age of rapid scientific and technological advancement, where human thought continues to evolve, the media and educational institutions should aim to promote positive values, awareness, and peace. Educational and cultural programs must be designed to cultivate tolerance and humanity, while avoiding the spread of violence, aggression, or criminal tendencies through entertainment and mass communication.

On the international level, the treatment of the crimes of kidnapping and killing children remains incomplete. International law has not yet established a specific or universally accepted definition of these crimes. Instead, it provides broad and practical descriptions, along with general criminalization under various charters, treaties, and conventions. This lack of precision underscores the need for a unified and explicit international framework that clearly defines and punishes these grave acts.

As for the Algerian legal system, it has generally followed the principles of international law by defining the legal age of a child and criminalizing acts of violence against them. However, these measures remain broad rather than specific, despite the existence of national laws designed to protect children. There is still a need for more detailed and specialized legislation to ensure the comprehensive protection of minors.

Ultimately, this study has highlighted the gravity and distinctive characteristics of the crime of kidnapping and killing children – its composite nature, its rapid execution, and the devastating harm it inflicts. It has also clarified the underlying social, economic, psychological, and cultural factors that foster its occurrence. Recognizing and addressing these causes through effective prevention, awareness, and legislative reform remain essential steps toward safeguarding the lives and dignity of children everywhere.

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Citation:

Меккауи Зубейр. Юридическое регулирование похищения и убийства детей в алжирском и международном праве // Юрислингвистика. – 2026 – 40. – С. 63-69.

Mekkaoui Zoubeyr. (2026) The Legal Treatment of Child Abduction and Homicide under Algerian and International Law. Legal Linguistics, 40, 63-69.



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