

كلية الحقوق والعلوم السياسية
جامعة عبد الرحمان ميرة-بجاية



المجلة الأكاديمية
للبحث القانوني

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التعريف بالمجلة

المجلة الأكاديمية للبحث القانوني هي مجلة علمية دولية سداسية متخصصة في المجال القانوني، تصدر عن كلية الحقوق والعلوم السياسية لجامعة عبد الرحمان ميره، بجاية (الجزائر). منذ نشر العدد الأول منها في جوان 2010، ركزت المجلة على نشر الأبحاث العلمية والأكاديمية الرصينة في المجال القانوني بثلاث لغات: العربية والفرنسية والإنجليزية. تهتم المجلة بنشر الدراسات المحترمة لمعايير النشر الدولية من أصالة وأمانة علمية. وهي مفتوحة للأكاديميين والباحثين المتخصصين في المجال القانوني بفروعه المختلفة. وهي مهتمة بالبحث والدراسات القانونية، والتعليقات على النصوص القانونية، والأحكام والقرارات القضائية، وتعمل على تطوير الثقافة القانونية على نطاق واسع. وهي موجودة منذ إنشائها سنة 2010 على البوابة الجزائرية للمجلات العلمية.

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تدعو هيئة تحرير المجلة الى التقيد بالضوابط الأخلاقية للبحث العلمي واحترام المواثيق والقوانين والأعراف المنظمة لهذا المجال، وتلتزم بالعمل على تسخير جهود كل الفاعلين في تحرير ونشر المجلة لخدمة هذا الهدف، وتسعى لتحقيقه من خلال جملة من الالتزامات التي يجب أن يتحلى بها كل طرف.

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بداية يسرنا أن نعلم القراء الأعزاء بأنّ المجلة الأكاديمية للبحث القانوني قد نجحت في تحقيق معايير اعتماد معامل أرسيف ARCIF المتوافقة مع المعايير العالمية، والتي بلغ عددها (32) معياراً وأنه وفقاً للمعايير المعتمدة، فقد صنفت في تخصص القانون ضمن فئة (Q1) وهي الفئة الأعلى، وبهذه المناسبة نتقدم بالشكر والامتنان لكل من ساهم في تحقيق هذه النتيجة، لا سيما المؤلفين والمراجعين (المحكمين) وأعضاء الهيئة العلمية الاستشارية وأعضاء اللجنة التقنية.

استمراراً في النهج المعتمد من طرف المجلة، يتضمن هذا العدد (40) مقالاً باللغات الثلاث: العربية والفرنسية والإنجليزية، من إعداد مؤلفين من مختلف الجامعات الجزائرية، إلى جانب تسع مقالات لمؤلفين من الجامعات الأجنبية، منها ثلاث مقالات من دولة الكاميرون، مقال واحد من دولة مصر، وخمس مقالات من دولة العراق، وهو ما يدعم ويؤكد انفتاح مجلتنا على المساهمات الأجنبية الرصينة. تتناول المقالات المنشورة في هذا العدد مواضيع قانونية هامة ومتنوعة شملت مختلف فروع القانون.

في الأخير، نجدد ترحيبنا بمشاركة كل الأساتذة والمشتغلين في البحث العلمي من داخل الوطن وخارجه، كما نتمنى مطالعة مفيدة للجميع.

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الدكتور تعويلت كريم

يتحمل أصحاب المقالات مسؤولية الآراء المعبر عنها في مقالاتهم

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La Revue Académique de Recherche Juridique, est une revue scientifique internationale, semestrielle, spécialisée dans le domaine juridique, éditée par la faculté de droit et des sciences politiques de l'Université Abderrahmane Mira- Bejaia (Algérie). Depuis la publication du premier numéro en juin 2010, la revue s'intéresse à la publication de toutes les recherches scientifiques et académiques dans le domaine juridique en trois langues: arabe, français et anglais. Le périodique publie des études respectant les normes internationales de publication : authenticité, originalité et éthique. Elle est ouverte aux universitaires et chercheurs spécialisés dans le domaine juridique dans ses diverses branches. Elle s'intéresse aux recherches et études juridiques, commentaires sur les textes juridiques, jugements et arrêts, et concours au développement de la culture juridique à grande échelle. Elle est d'accès libre depuis sa création en 2010 sur Algerian Scientific Journal Platform asjp.cerist.dz.

Ethique de publication

Le comité de rédaction de la revue appelle à l'adhésion aux règles éthiques de la recherche scientifique et au respect des chartes, lois et coutumes régissant ce domaine, et s'engage à exploiter les efforts de tous les acteurs dans la publication et la rédaction de la Revue afin d'atteindre cet objectif.

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سعادة أ. د. رئيس تحرير المجلة الأكاديمية للبحث القانوني المحترم
جامعة عبد الرحمان ميرة بجاية، كلية الحقوق و العلوم السياسية، الجزائر
تحية طيبة وبعد،،،

يسر معامل التأثير والاستشهادات المرجعية للمجلات العلمية العربية (ارسييف - ARCIF)، أحد مبادرات قاعدة بيانات "معرفة" للإنتاج والمحتوى العلمي، إعلامكم بأنه قد أطلق التقرير السنوي السابع للمجلات للعام 2022.

يخضع معامل التأثير "ارسييف Arcif" لإشراف "مجلس الإشراف والتنسيق" الذي يتكون من ممثلين لعدة جهات عربية ودولية: (مكتب اليونيسكو الإقليمي للتربية في الدول العربية ببيروت، لجنة الأمم المتحدة لغرب آسيا (الإسكوا)، مكتبة الاسكندرية، قاعدة بيانات معرفة). بالإضافة للجنة علمية من خبراء وأكاديميين ذوي سمعة علمية رائدة من عدة دول عربية وبريطانيا.

ومن الجدير بالذكر بأن معامل "ارسييف Arcif" قام بالعمل على فحص ودراسة بيانات ما يزيد عن (5100) عنوان مجلة عربية علمية أو بحثية في مختلف التخصصات، والصادرة عن أكثر من (1400) هيئة علمية أو بحثية في (20) دولة عربية (باستثناء دولة جيبوتي وجزر القمر لعدم توفر البيانات). ونجح منها (1000) مجلة علمية فقط لتكون معتمدة ضمن المعايير العالمية لمعامل "ارسييف Arcif" في تقرير عام 2022 .

ويسرنا تهنئتم وإعلامكم بأن المجلة الأكاديمية للبحث القانوني الصادرة عن جامعة عبد الرحمان ميرة بجاية، كلية الحقوق و العلوم السياسية، الجزائر، قد نجحت في تحقيق معايير اعتماد معامل "ارسييف Arcif" المتوافقة مع المعايير العالمية، والتي يبلغ عددها (32) معياراً، وللاطلاع على هذه المعايير يمكنكم الدخول إلى الرابط التالي:

<http://e-marefa.net/arcif/criteria/>

و كان معامل "ارسييف Arcif" العام لمجلتكم لسنة 2022 (0.2071).

كما صنفتم مجلتكم في تخصص القانون من إجمالي عدد المجلات (100) على المستوى العربي، مع العلم أن متوسط معامل ارسييف لهذا التخصص كان (0.135).

وبإمكانكم الإعلان عن هذه النتيجة سواء على موقعكم الإلكتروني، أو على مواقع التواصل الاجتماعي، وكذلك الإشارة في النسخة الورقية لمجلتكم إلى معامل "ارسييف Arcif" الخاص بمجلتكم.

ختاماً، نرجو في حال رغبتكم الحصول على شهادة رسمية إلكترونية خاصة بنجاحكم في معامل "ارسييف"، التواصل معنا مشكورين.

وتفضلوا بقبول فائق الاحترام والتقدير

أ.د. سامي الخزندار

رئيس مبادرة معامل التأثير "ارسييف Arcif"



التاريخ: 2022/11/14

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سعادة أ. د. رئيس تحرير المجلة الأكاديمية للبحث القانوني المحترم
جامعة عبد الرحمان ميرة بجاية، كلية الحقوق و العلوم السياسية، الجزائر
تحية طيبة وبعد،،،

في ضوء إطلاق معامل التأثير والاستشهادات المرجعية للمجلات العلمية العربية "Arcif"، التقرير السنوي السابع للمجلات للعام 2022. والذي شمل العمل على فحص ودراسة بيانات ما يزيد عن (5100) عنوان مجلة عربية علمية أو بحثية في مختلف التخصصات، ونجح منها (1000) مجلة علمية فقط لتكون معتمدة ضمن المعايير العالمية لمعامل "Arcif" في تقرير عام 2022.

وسبق لنا إعلامكم بأن **المجلة الأكاديمية للبحث القانوني** الصادرة عن **جامعة عبد الرحمان ميرة بجاية، كلية الحقوق و العلوم السياسية، الجزائر**، قد نجحت في تحقيق معايير اعتماد معامل "Arcif" المتوافقة مع المعايير العالمية، والتي يبلغ عددها (32) معياراً. كما تم إبلاغكم بقيمة معامل "Arcif" الخاص بمجلتكم للعام 2022.

ومن المهم التنويه إلى أن **المعايير والسياسات الجديدة والمعتمدة لتصنيف مجلات تقرير "Arcif" (للعام 2022) إلى فئات Quartile (في مختلف التخصصات)**، أصبحت على النحو التالي:

أولاً: إجمالي عدد الاستشهادات التي حصلت عليها المجلة. ثانياً: قيمة معامل "Arcif" (متوسط آخر 3 تقارير).
ثالثاً: تخصص المجلة (منفرداً، أو ثنائياً، أو متداخلاً). رابعاً: الالتزام بمواعيد الصدور، وأخيراً، تاريخ تأسيس واستمرارية المجلة (العراقية).
وللاطلاع على تفاصيل حول هذه المعايير وسياسة التصنيف للمجلات يمكنكم الدخول إلى موقع "Arcif" التالي: <http://e-marefa.net/arcif>
وفي ضوء هذه المعايير يسرنا إعلامكم بأن مجلتكم قد صُنفت في تخصص القانون ضمن الفئة (Q1)، وهي الفئة الأعلى.

وبإمكانكم الإعلان عن هذه النتيجة سواء على موقعكم الإلكتروني، أو على مواقع التواصل الاجتماعي، وكذلك الإشارة في النسخة الورقية والإلكترونية لمجلتكم إلى معامل "Arcif" وفئة التصنيف الخاص بمجلتكم.

وتفضلوا بقبول فائق الاحترام والتقدير

أ.د. سامي الخزندار

رئيس مبادرة معامل التأثير "Arcif"



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The role of Algerian legislation in protecting the family from crime

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Summary:

Family is the meaning of individuals meeting in affection and mercy, its objective is to build a strong society based on cohesion and unity through the formation of the good individual, but it may not succeed in this endeavor and instead produce criminals who work to undermine the basic pillars of society, Therefore, the Algerian legislator addressed all forms of crime through many legislative texts that were aimed at prevention and deterrence.

This is evidenced by allocating punitive texts for transgressing the foundations of the family, such as criminalizing family neglect and non-payment of alimony, On the other hand, the legislator tried to address some of the reasons that may contribute to the spread of crime that affects the family, by ensuring the improvement of the economic and social life of the individual through support projects, housing, free education, vocational training, Which remains insufficient and must be reviewed periodically in order to improve family conditions, in order to reduce crime that may affect the family in order to preserve the cohesion of society.

Keywords:

Family, crime, divorce, school dropout, free education, social housing.

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دور التشريع الجزائري في حماية الأسرة من الإجرام

الملخص:

الأسرة هي معنى لالتقاء الأفراد في مودة ورحمة، وهدفها بناء مجتمع قوي يقوم على أساس التلاحم والوحدة من خلال تكوين الفرد الصالح، غير أنّها قد لا تتجح في هذا المسعى وتنتج بدل ذلك مجرمين يعملون على تقويض الدعائم الأساسية للمجتمع، ولذلك تصدّى المشرع الجزائري لكل أشكال الإجرام من خلال العديد من النصوص التشريعية التي كانت تهدف إلى الوقاية والزّرع، ويظهر ذلك بتخصيص نصوص عقابية جزاء التعدي على أسس قيام الأسرة، كتجريم الإهمال العائلي وعدم تسديد النفقة، وبالمقابل حاول المشرع معالجة بعض الأسباب التي قد تُسهم في تقشّي الإجرام الذي يمس الأسرة، من خلال التكفل بتحسين الحياة الاقتصادية والاجتماعية للفرد عبر مشاريع الدّعم، السكن، التعليم المجاني، التكوين المهني، والتي تبقى غير كافية ويتوجب إعادة النّظر فيها دوريا بغرض تحسين الظروف الأسرية، من أجل الحدّ من الجريمة التي قد تمسّ الأسرة حفاظا على تماسك المجتمع.

الكلمات المفتاحية:

الأسرة، الجريمة، الطلاق، التسرب المدرسي، التعليم المجاني، السكن الاجتماعي.

Le Rôle De La Législation Algérienne Dans La Protection De La Famille Contre La Criminalité

Résumé :

La famille est le sens de la rencontre des individus dans l'affection et la miséricorde, et son objectif est de construire une société forte fondée sur la cohésion et l'unité à travers la formation du bon individu, mais elle peut ne pas réussir dans cette mission et produire au contraire des criminels qui travaillaient à saper les piliers fondamentaux de la société, Par conséquent, le législateur algérien a abordé toutes les formes de criminalité à travers de nombreux textes législatifs qui visaient la prévention et la dissuasion, en témoigne l'attribution de textes punitifs pour transgression des fondements de la fondation familiale, comme la criminalisation de la négligence familiale et du non-paiement de la pension alimentaire, d'un autre côté, le législateur a tenté de traiter certaines des raisons qui peuvent contribuer à la propagation de la criminalité qui affecte la famille, En assurant l'amélioration de la vie économique et sociale de l'individu par des projets d'accompagnement, de logement, d'enseignement gratuit et de formation professionnelle, qui restent insuffisants et doivent être revus périodiquement afin d'améliorer les conditions familiales, pour réduire la délinquance pouvant affecter la famille afin de préserver la cohésion de la société.

Mots clés : Famille, criminalité, divorce, décrochage scolaire, enseignement gratuit, logement social.

Introduction:

There are many forms of crime in Algeria, with many causes, the criminal has become the perpetrator of the crime according to many ways that vary according to the environment in which he grew up, as well as according to the available data, where crime has become an aspect of the development witnessed by modern life in Algeria.

However, there are essential factors that directly contribute to the formation of the criminal's personality and help to develop his criminal thought, and among the most important of these factors is the family environment in which he grew up, Just as the family is the title of safety and guarantee of affection and mercy, it may turn into a place of origin or stimulus to commit crime because of its deviation from its normative role of caring for the formation and upbringing of the individual, which requires a legislative treatment that is compatible with the contribution of the Algerian family in creating crime and criminals.

The topic of the role of Algerian legislation in protecting the family from crime is of great importance, given the growing phenomenon of crime produced by some families, even some families have become a symbol of crime because many of its members committed many crimes in light of the failure of those responsible for it to guide and educate their children proper upbringing, Therefore, the role of Algerian legislation emerges of its various types in an attempt to confront various types of aggression against others in the form of crimes that have become subject to significant harm to the state and the individual, and put in place all legislative measures to deter crime and provide alternatives to prevent its occurrence in the future.

The reasons for choosing the topic are divided into subjective and objective reasons, as for the subjective reasons, they are due to the personal tendency to approach such sensitive topics that have weight in society and their relationship to the pivotal role of the family in creating criminal individuals instead of raising good and productive individuals in society and the legislator's response to that, and objectivity is represented in addressing the multiple aspects that show the transformation of the family from an institution that educates generations to a producer of criminals who threaten the stability of society and undermine the foundations of public order, and the necessary deterrent and preventive legislative measures to discourage them from criminality due to the failure of parents to properly raise their children.

The role of the family environment in the growth of criminality has become a worrying reality for society and a cumbersome work for the state in its response to the phenomenon of crime, given that the family is the basic cell for the formation of society, which prompts us to pose the following problem: Was legislative protection in Algeria enough to address crime as deterrence and prevention?

The discussion of this subject requires reliance on the descriptive and analytical method, the discussion of this subject requires reliance on the descriptive and analytical method. the descriptive method is to describe all the details related to the numerous legislations that accompany family crime and try to put an end to it, by deterring criminal practices on the one hand, and on the other hand, providing different solutions in many places that make the family a component of criminals instead of forming good individuals, which may constitute the beginning of the formation of the criminal thought of the individual belonging to the family, and this is shown by describing several factors that seriously affect the production of crime, such as poor relations within the family, as well as financial aspects, and the educational level, the analytical approach is also relied upon by detailing and analyzing each part that may be a cause of criminal behavior by highlighting, for example, the role of divorce in changing the behavior of children, as well as detailing the impact of the strength of the family relationship on criminal behavior and the impact of its deterioration as well, and the role of legislation in treatment of these various imbalances which ultimately leads to it being a tool for the upbringing of criminals.

To study these details, this topic will be divided into two sections, where each section contains two subsections, and each subsection has two branches; the first section is to talk about the impact of family relationships on criminal behavior and the role of legislation in controlling it, by studying this relationship in terms of its strength or its deterioration in the criminal behavior of the family, where the role of the impact of family relationships on criminal behavior in the first subsection will be highlighted and the extent of the legislation's contribution to preserving it, and clarifying the opposite situation by highlighting the impact of family imbalances on criminal behavior in the second subsection and the role of legislation in alleviating the impact of family imbalances, as for the second section, the focus will be on the impact of the family's standard of living on criminal behavior and the role of legislation in maintaining and improving it, by explaining the impact of the economic aspects of the family on criminal behavior in the first subsection and clarifying legislative solutions in this regard, as well as the impact of the educational aspects of the family on criminal behavior in the second subsection, and the legislator's attempt to find alternatives in case of academic failures.

Section I: The role of Algerian legislation in controlling family relations in order to avoid criminal behavior

The family consists of a group of individuals united by a kinship and marital relationship, among whom are relations based on mutual respect, affection and mercy, so that the members of this family feel stability away from the influences that may lead to the division of the same family and the replacement of problems in a quiet family atmosphere, and the possibility of

criminal delinquency among its members, as individuals influence and are affected by all that may happen within the family in terms of benign human relations, as well as the problems that occur between its members and the interference of Algerian legislation in achieving stability, therefore, we will talk about the impact of Algerian legislation on the cohesion of relations to avoid criminal behavior in the first Subsection, and in turn, the impact of the disruption of these relationships on criminal behavior and the legislative treatment of that in the second subsection.

Subsection 1: The impact of Algerian legislation on the cohesion of relations to avoid criminal behavior

The relationship between members of the same family has a great impact on their attitude, behavior and even their criminality, because the family environment is the first starting point for social relations between individuals, in this regard, a good relationship between members of the same family may have a significant impact on the good upbringing of children and their safety from all external influences, this is demonstrated by focusing on the relationship with parents in the first branch, and the relationship with husbands in the second branch.

A- The impact of the relationship with parents on criminal behavior and the Support of family legislation for that

A good relationship between parents is of pivotal importance in creating a calm atmosphere within the family, this is reflected in the behavior of children, following their origin, as some research indicated that the behavior of children is related to the extent to which parents treat them.

Some mentioned that they receive more sympathy and affection from the mother, as 50% of them believe that the fathers treat them based on neglect, and that more than 23% of them are treated harshly, while 26% of them are treated with normal treatment characterized by kindness and tenderness on the other hand, the treatment of mothers differs from that of fathers; This is because 65% say that they receive good treatment from mothers based on kindness and tenderness, 24% have been neglected, and 10% have not received harsh treatment from mothers¹.

It is clear from these numbers the extent to which parents' treatment of their children contributes to the formation of their belief about the extent to which they are subjected to good or bad treatment, and the impact of this on their psyche and the sense of how keen parents are to get close to them, as well as the emergence of the importance of emotional closeness to parents from children, evidenced by the feeling that mothers are kinder they have, even if the parental

¹ Abdallah Morkes Rabi, Family factors for crime - a field study -, Al-Rafidain Literature Journal, University of Al Mosul, vol 2, 2006, p 430.

treatment leads to good upbringing and guidance for the children, which should not exceed the limits of discipline so as not to give counterproductive results.

The relationship between the parents is also important in controlling the behavior of the children as they are the direct role models for them, they are the ideal reference for their children, because the bad relationship between the parents makes the child disturbed behavior and trying to escape from this reality to other alternatives, which may be criminality one of them.

The legislator worked through the Family law to clarify the importance of the family, its stability and importance by defining it within the scope of article two by stating : "The family is the basic cell of society and it consists of people who are linked by marriage and kinship ties."², he also clarified the importance of marriage in creating affection and mercy between spouses and preserving lineages through article four, which stipulates:" Marriage is a consensual contract between a man and a woman in a legal way, among its objectives is the formation of a family based on affection, mercy, cooperation, immunization of spouses, and preservation of lineage"³.

The child resorts, directly or indirectly, to take advice and correct ideas and solve problems from his parents, this is shown through the situations of fighting with his friends and dealing with others, this is what makes the children imitate the behavior of their parents in all their attitude, whether good or bad words and actions, this is because the child does not really evaluate the extent of the correctness of the attitude of his parents, and he is not aware sometimes of the relationship that exists between them, whether it is normal or tense, a child may imitate one of his parents regarding any attitude, even if it is bad, for example, smoking or even drug or alcohol abuse, parents' behavior in the field of deviation is a shock to children, making them imitate them for the purpose of imitating them or taking revenge on them in some cases because they were not a good role model for them⁴.

² Law N° 84-11 of June 09, 1984, Containing the Algerian Family Code, Official journal, N°24 of June 12, 1984, amended and supplemented, p: 910.

³ Ordinance N° 05-02 of February 27, 2005, Amending the Algerian Family Code, Official journal, N° 15 of February 27, 2005 p. 19, approved by Law N° 05-09 of May 04, 2005, Official journal, N° 43, of June 22, 2005.

⁴ Amina Tazir, The family and its relationship to drug abuse in Algerian society - from a criminological perspective- An intervention presented to participate in the national forum entitled: "The National Forum on: Drug Abuse in Algerian Society - Causes, Effects - Methods of Prevention and Treatment", Faculty of Humanities and Social Sciences, University of May 08, 1945 Guelma, October 15, 2018, p7.

B- The impact of the relationship between spouses on criminal behavior and the role of family legislation in protecting it.

Marriage is considered a legitimate and legal relationship for the meeting of a man and a woman in order to form a family based on affection and mercy, when the relationship between the spouses is good, moral and material stability is achieved.

There were many problems in which husbands and their children fall due to the deterioration of the relationship between spouses, and according to some field studies, the existence of a conflict between parents leads to the occurrence of 78% of family disintegration cases, where we find in the first place intentional beatings by 100% among three respondents, In the second place was murder with a rate of 87.5% among eight respondents, and in the third place was marital infidelity by 82.5% out of seventeen respondents, and in the fourth place was theft, adultery and rape by 75%⁵.

These numbers clearly reflect the extent of the impact of the marital relationship on the criminal behavior of the spouses or children, many crimes related to the stability of marital life appear, including betrayal, theft and assault due to the absence of strong family ties that would preserve the family from loss and the children's impact as a result.

The Algerian legislator worked within the scope of regulating the human relationship between spouses in order to create an ideal family environment away from quarrels and problems, he referred in the family law to the duties of each of them, especially what was referred to in article 37, which stipulated: "The spouses must: 1- Preserve marital ties And the duties of a common life, 2- Respectful association, mutual respect, affection and mercy, 3- Cooperating in the interest of the family, caring for children and raising them well, 4- Consultation in managing family affairs and spacing births...".

Subsection 2: The protection of legislation for the disruption of family relations and its impact on criminal behavior.

The balance of family relations would preserve its members from all dangers that involve the stability of the family and, consequently, society, therefore, any disruption of the cohesive system within the same family would cause it to disperse and exacerbate problems within it and the possibility of some of its members delinquency in the criminal circle. the role of legislation is highlighted in an attempt to address these imbalances and mitigate their impact on the family, and therefore the impact of the separation or absence of parents will be addressed. In family life and the role of legislation in controlling this in the first branch, neglect towards the family and its impact on family crime and

⁵ Sayed Ahmed Negaz, The Role of the Family Environment in the Emergence of Criminal Behavior within Algerian Society, Annals of Algeria 1, Ben Youssef Ben Khedda University, Algeria, Vol 17, N° 1, 2015, p 277.

the extent of the legislation's contribution to limiting the phenomenon through the second branch.

A- The effect of parental separation or their absence on criminal behavior and the role of legislation in controlling that.

The presence of the parents within the family is considered as a source of stability, as they represent the material and moral support for the children, and motivate them to succeed in their scientific, practical and even moral lives.

Therefore, divorce had negative effects on the divorced, especially its impact on the children, as the numbers of divorce in Algeria have become terribly growing annually, in light of the silence of the authorities about researching the real causes of the phenomenon and trying to find solutions to it, and the evidence for this is the numbers that develop every year and made specialists ring the bell The danger, as according to official figures, divorce cases developed within the framework of the natural movement of the population from 59.9% in 2015, and developed to reach 62.1% in 2016 and then 65.6% in 2017, and also the divorce rates rose frighteningly during the same years, the percentage was 16.23% In 2015, and in 2016, the percentage reached 17.42%, to develop in 2017 to 19.32%⁶.

These numbers reflect the extent of the seriousness of the phenomenon of divorce in Algeria, and its consequences that are mainly reflected in the attitude of children and the possibility of them entering the world of crime, in light of the preoccupation of the divorced with the possibility of starting a new married life or in light of the children being used as fuel for the continuation of the problems between them, and rather that they are expelled about all the problems between the two divorced, or even their families.

According to studies, the children used to feel safe and loved before the divorce, and after that they find themselves scattered between the father and the mother within the scope of custody and visitation, which would create a disturbance in the behavior of the child in custody that may be embodied in the form of psychological contracts that appear in the feeling of inferiority and lack of emotional security, and this may lead to them to social failure and become criminals⁷.

On the other hand, the Algerian legislator has taken care of the idea of the effects emanating from divorce and allocated to it several articles in the family law, which would preserve the family, and this appears by making divorce the last solution and the necessity of activating the reconciliation sessions, which is what the legislator referred to in Article 49 of the Family Code, which It states: "Divorce is not proven except by a ruling after several reconciliation attempts

⁶ National Office of Statistics, Algeria in Figures - Results 2015-2017, Bulletin N° 48, Year 2018, p 6 and 7.

⁷ Abdallah Morkes Rabi, op. cit, p 432.

made by the judge, without exceeding a period of three (3) months starting from the date of filing the lawsuit.... ”.

The Algerian legislator has also controlled the husband's divorce of his wife with certain conditions so that it is not considered abusive or else bear the consequences of that, which is indicated by Article 52 of the Family Code, which states: “If the judge finds the husband's arbitrariness in the divorce, the divorced woman shall be ordered to compensate for the harm inflicted upon her”.

The death of one or both parents may also affect the family and its members, and make their lives more fragile and more susceptible to deviation, taking into account their gender and age groups between minors and adults, especially if they are in adolescence and the sensitivity of this age in the attitude of children⁸.

The loss of one or both parents was and still is one of the reasons for the collapse of the family, in light of the family heterogeneity, which pushes some family members to enter the criminal world through the gate of murder or drugs, or the world of vice through prostitution due to the inability to provide the most basic needs of life. It was provided by the father or the mother, and in this regard, the state should intervene and place this group on its list of priorities, take care of their material demands and guide them morally in order to protect them, rather than entering the criminal world, because they are ultimately victims of conditions created by social life.

In order to activate the provisions of Islamic charia, which took into account the provisions of succession, which is considered one of the rights of the living to the money of the dead, the Family Law has been in line with the provisions of charia by clarifying the rights of the heirs, and this is clear through the third book of articles 126 to 183 which 57 articles⁹, an example of this is the text of article 127 of the family code, which clarifies the reason for entitlement to the inheritance, as it states: “The succession is entitled to the death of the real testator or as he is considered dead by virtue of a judge.”

The legislator has also tried to protect the inherited minor by following procedures supervised by the judiciary, which is what Article 181 of the Family Code referred to in its second paragraph, by stipulating: “In the event that there is a minor among the heirs, the division must be through the judiciary,” and in order to protect the inheritance, especially the preservation of the minor's money, the legislator was keen to adopt a set of measures, which is what Article 499 of the Civil and Administrative Procedures Law has taken, which states: “The family affairs judge may, by way of urgency, take all precautionary

⁸ Amina Tazir, op. cit, p 10.

⁹ Larbi Belhadj, The brief in inheritance and successions according to the new Algerian family law, 3rd edition, Dar Houma, Bouzareah, Algeria, 2018, p. 62.

measures, especially the order to place Seals, or appointing a receiver to administer the funds of the deceased until the liquidation of the inheritance.”¹⁰.

The legislator also arranged for the infringement of the inheritance penalties referred to in the Penal Code, in particular Article 363 which stipulates: "A penalty of imprisonment from two months to three years and a fine of 500 to 3,000 dinars is imposed on the partner in the succession or the claimant of the right to the inheritance of the one who fraudulently seizes the entirety of the succession or part of it before it is divided..."¹¹.

B- The effect of family neglect on criminal behavior and the legislation's treatment for that.

The responsibility of establishing a family is not a trivial matter, as parents should take care of their children and raise them in a sound attitude in line with societal values, and make them righteous individuals, because in the case of their neglect, the consequences of this will be dire for the children, especially in light of the weak parental guidance, children's upbringing and an explanation of right and wrong aspects.

Experience has shown that the families to which the criminals belong are broken families and are characterized by a lot of marital disputes¹², as the majority of juvenile delinquents very rarely come from happy families, in which a coherent emotional atmosphere prevails, and they lack parental authority to direct them, and they are children of morally unbalanced and socially unbalanced parents¹³.

The Algerian legislator has tried to control the family and make compromising its entity a crime punishable by law, In this sense, the husband's abandonment of his family role and leaving the marital home without a serious or legitimate reason for a period exceeding two months is considered a crime, especially if he did not leave them money to spend¹⁴, this is indicated by Article 330 of the Penal Code, which was amended in this regard by stating: "A penalty of imprisonment from six (6) months to two (2) years and a fine of 50,000 to 200,000 dinars shall be imposed on: 1- A parent who leaves his family

¹⁰ Law N° 08-09 of February 25, 2008, containing the Civil and Administrative Procedures Law, Official journal, N° 21 of February 25, 2008, p 41.

¹¹ Ordinance N°166-156 of June 8, 1966, containing the Penal Code, Official journal, N°49, of June 11, 1966, amended and supplemented, p 740.

¹² Bachir Saad Zaghloul, Lessons in Criminology, Dar Al-Nahda Al-Arabiya, Cairo, Egypt, 2007, p. 88.

¹³ Fatima Al-Zahra Khomein, Family and Crime, Journal of diligence for Economic and Legal Studies, Faculty of Law and Political Sciences, University Center, Tamanrasset, Volume 08, Issue 2, 2019, p. 181.

¹⁴ Abdel Aziz Saad, Crimes against the Family System, second edition, the National Office of Educational Works, 2002, p. 11.

headquarters for a period exceeding two months. (2) He forgoes all his moral and material obligations under parental authority or legal guardianship, without a serious reason, and the period of two (2) months shall not be interrupted except by returning to the family headquarters in a situation that indicates the desire to resume family life once and for all.

2- A husband who intentionally and for a period exceeding two months (2) abandons his wife for no serious reason¹⁵.

Also, the strictness of the Algerian legislator in this context has reached the conclusion that bad faith is assumed in the husband who left the marital home, and he must prove the existence of a serious reason, as it is a serious reason for the husband to leave to look for work if he continues to provide financially for his wife and children¹⁶.

Section 2: The impact of the family's standard of living on criminal behavior and the role of legislation in controlling it.

The hand of criminality can extend into the family through external variables. It appears through the financial gains of the family, and the educational level of its members, which are criteria that are considered relative in the behavior of the criminal path, as the financial need of members of a particular family may push them to commit crimes, and the same thing may happen with family members in financial comfort, and crime is not only a monopoly on families with a low educational level, and the perpetrator of the crime may even be among those with leading scientific competencies. From this point of view, the impact of the economic aspects of the family on criminal behavior and the role of legislation in finding some solutions will be addressed through the first subsection, and the idea of the influence of the educational level of the family on criminal behavior will be presented in second subsection, and what the legislator has monitored is the efforts to develop education as a solution to some cases that end in criminality.

Subsection 1: The impact of the economic aspects of the family on criminal behavior and the role of legislation in finding solutions.

The economic determinants have a serious impact on family crime, as it clearly shows the impact of the macroeconomic community on the micro economy of the individual, and therefore the contribution of economic conditions in directing the criminal corps of family members should be addressed, and this includes family incomes and their impact on the family in terms of living style, and the role of legislation in an attempt to improve these

¹⁵Law N° 15-19 of December 30, 2015, amending and supplementing Ordinance (66-156) of June 8, 1966 containing the Penal Code, Official journal N° 71 of December 30, 2015, p 4.

¹⁶ Ahcen Bouskiaa, The brief in Private Criminal Law, 18th Edition, Dar Houma, Volume 1, Bouzareah, Algeria, 2015, p 169.

conditions through the first branch, addressing the role of housing in determining the variables of criminality for family members, and the contribution of Algerian legislation to the enshrinement of the right to obtain housing, as a social solution to limiting family crime in the second branch.

A- The effect of family income on criminal behavior and the role of legislation in improving the standard of living.

The income generated by the various jobs and properties of the family is among the most important determinants of the lifestyle of family members, there is a direct relationship between the monthly income of the family and the standard of living of its members¹⁷, the feeling of being satisfied with the necessities on the part of family members, especially children, prevents them from resorting to illegal ways of earning in order to cover the increasing expenses of contemporary life.

However, this idea is not absolute as long as crime may be committed by individuals belonging to well-off families within the scope of what is known as the crime of the rich, but some crimes are considered the preserve of the rich class only, and for example is the use of some expensive drugs, and the poor cannot buy it because of their limited income.

The economic crisis experienced by the Algerian society has greatly affected the quality and structure of family relations and methods of socialization, and the need within the family may push some of its members to steal in response to their social and biological needs, or to escape from the low living reality through drug and alcohol abuse, which may push them to commit more serious crimes such as rape, murder and adultery, or to resort to borrowing and remain in the debt circle in light of unemployment and lack of a source of income¹⁸.

Through several texts, the Algerian legislator tried to encourage individuals to create projects in the form of enterprises ranging from micro, small and medium in order to create wealth at the level of the micro-economic level of the individual, and at the level of the macro-economic level of the state in light of the scarcity of resources, where many texts were monitored in this regard and an example this is the Investment development law, which gave a number of advantages and facilities to project owners, through exemption from customs rights with respect to non-excluded and imported goods that enter directly into investment, and exemption from the value-added fee with respect to non-excluded imported or locally acquired goods and services that directly enter in the realization of the investment, in addition to the exemption from paying the right to transfer ownership in compensation for all real estate holdings made

¹⁷ Abdallah Morkes Rabi, op. cit, p 435.

¹⁸ Sayed Ahmed Negaz, op. cit, p 278 and 279.

within the framework of the investment in question, in addition to that, after inspecting the project and for a period of 3 years, the investor is exempted from the tax on corporate profits, as well as the fee on professional activity, at the request of the investor¹.

B- The effect of housing on the criminal behavior of the family and the legislator's attempt to remedy this dilemma.

One of the means of decent living is the comfortable housing in terms of space and number of rooms and all the necessary facilities for a modern life that requires it, because the narrow housing that may not accommodate all family members, or was shared with other families may make the situation unstable and lead to the accumulation of problems, so the child tries, given the circumstances in which he lives due to the narrowness of the dwelling and the large number of its residents, seeks to spend his spare time by resorting to bad companions and immersing himself in the bosom of the street, and the possibility of joining gangs active in various aspects of crime².

The housing crisis in Algeria casts a shadow on the attitude of the individual through his refusal to marry and resorting to illegal methods, through adultery and reaching the limit of rape, which resulted in a social situation different from what the society was in Algeria, and the emergence of the category of illegitimate children and the spread of prostitution within Algerian Muslim society.

The Algerian legislator intervened in this regard, trying to find a solution to the housing dilemma through the policy of distributing social housing to groups with low incomes, which embodies the social policy of the Algerian state, which may be distinguished from other countries in granting housing in an almost symbolic way, which is indicated in Article two From the executive decree specifying the rules for granting social housing, as it states: "Public rental housing, within the meaning of this decree, means housing financed by the state or local groups, and directed only to people who are classified according to their incomes within the needy and disadvantaged social groups who do not have housing or they live in housing that is inappropriate and/or does not meet the minimum conditions of hygiene. The public rental housing can also be used to meet local needs resulting from exceptional circumstances or of definite public benefit³, although the demands are now directed to the necessity of updating and

¹ Law 01-18, of 12 December 2001, which includes the directive law for the promotion of small and medium enterprises, Official journal, N° 77, of 15 December 2001, as well as Law N° 16-09, of 03 August 2016, Related to the promotion of investment, Official journal, N° 46, of 03 August 2016.

² Amina Tazir, op. cit, p 11.

³ Executive Decree N° 08-142 on May 11, 2008, Setting the rules for granting public rental housing, Official journal, N° 24 of May 11, 2008, p 18.

and amending this decree regarding the minimum income subsection, which is an exclusionary condition from benefiting from social rental housing, according to Article 4, which caps it at 24,000 Algerian dinars.

Subsection 2: The impact of the educational aspects of the family on criminal behavior and the regulation of legislation for educational work.

The family is affected by the educational level of its members, as the majority of parents seek to educate their children qualitatively and provide them with all material and moral conditions to encourage them to reach the highest levels of education, hoping to obtain the best jobs that guarantee their future, and on the contrary, some may fail to reach the levels what is required, which may mortgage their chances of assuming positions that guarantee them a minimum of living dignity, and make them good and influential individuals in society, and instead they may deviate to crime and turn towards prohibited and commit acts that may lead them to prison, and the consequences of behavioral disturbances as a result of that. Therefore, it is necessary to talk about the impact of the educational level of the parents on the criminal behavior within the family in the first branch, in addition to addressing the educational failure and its role in the spread of criminality in the second branch.

A- The effect of parents' educational level on criminal behavior within the family and the role of legislation in controlling it.

The family is directly affected by the educational level of the parents because of their directives to their children to adopt the option to go further in the path of knowledge, because the ignorance of parents and their preoccupation with raising their children and their abandonment of some tasks is a problem that often leads to the delinquency of children towards delinquency¹.

The weakness and low educational level of the parents is primarily reflected in directing the individual behavior of the child. If the father is illiterate, the possibility of the child's criminality increases, and if the father is educated, the child's crime rate decreases².

The higher the educational level of the family and its members, especially the parents means the lower crime rate within the family with a higher cultural and educational³.

¹ Fatima Al-Zahra Khomein, op. cit, p 176.

² Sayed Ahmed Negaz, op. cit, p 278.

³ Amin Jaber Al-Chdeifat, Mansour Abdul Rahman Al-Rachidi, Social Factors Affecting the Perpetration of Crime in Jordanian Society from the Perspective of Convicts in Correction and Rehabilitation Centers, Studies, Humanities and Social Sciences, Deanship of Scientific Research and Quality Assurance, University of Jordan, Jordan, Volume N° 43, Supplement N°5, 2016, p 2131.

The pivotal role that parents play in guiding their children shows its manifestations through their educational level, as it is within this level that they work to push their children to school and not to the street, knowing that the school is an educational institution¹. It assumes a missionary role by teaching them the foundations of science and education, and teachers work with their experience in valuing the mental and educational capabilities of children and directing them to better levels, in preparation for university studies that are considered final before entering the world of work.

In the event that one or both of the parents has a low level of education, it may contribute to pushing the children away from the field of education thinking that it is not a priority in the lives of his children, which would push them to the street and there they may get lost in the cycle of crime and get out of parental control.

In this aspect, the Algerian legislator was keen on the necessity of directing children towards primary education, which is considered compulsory, and parents bear responsibility in the form of their negligence regarding the education of their children, this is what was indicated in Article two of the executive decree specifying the provisions related to compulsory basic education and the necessity of enrolling their children in schools, as it states: "Parents or guardians must register children upon reaching school age in the basic school of their geographical district..."².

The legislator also entrusted the Director of Education with the necessity of notifying the Public Prosecution Office of violations related to a student's repeated and unjustified absences, which was referred to in Article 11, which states: "In the event that students' repeated and unjustified absences are recorded for a period of one semester despite the provision of the excuse stipulated in Article 10 above, The state director of education informs the public prosecutor of any shortcomings..."

B- The role of academic failure in criminal behavior and the legislation's treatment of the phenomenon.

Ensuring that family members continue their education to reach the highest levels is something that may not be achievable for parents or children due to certain circumstances, which has negative repercussions that may cause children to drift towards crime to fill the void created by school dropout.

A study by the regional group of the National Gendarmerie in Algiers warned of the phenomenon of school dropout, stressing that most juvenile

¹ Rafika Ikhlef, The cultural level of the family and its impact on the children's academic achievement, Al-Hikma Journal for Educational and Psychological Studies, Al-Hikma Center for Research and Studies, Algeria, Volume 2, Issue 4, 2014, p 193.

² Executive Decree N°10-02, of January 4, 2010, defining the dispositions related to compulsory basic education, Official journal, N° 01, of January 6, 2010, p 5.

delinquents involved in committing criminal cases in society are of middle-level education who were affected by the phenomenon of early school dropout and the closure of the doors of education and vocational training in front of them, due to either their young age that is, they have not reached the age that allows them to practice training in the disciplines they desire, in addition to the fact that the required level of specialization does not match their educational level.

During the years 2010, 2011 and 2012, it was recorded that out of 11,556 crimes examined by the gendarmerie units in the capital, 4,487 crimes were committed by the segment of people with a limited educational level from primary, middle and secondary levels, who were not lucky to continue their academic career and were victims of school dropout on the one hand, and lack of sponsorship. On the other hand, this phenomenon had a significant impact on the high rate of delinquency, and the same study indicates that among the delinquents of those levels, juveniles who left school at the intermediate level are the most delinquent, as among the 4487 crimes they committed the category of people with limited education, 2485 crimes committed by those with a middle education level, followed by the category of primary education level with 1514 delinquents, then secondary education who were involved in 488 criminal cases¹.

The phenomenon of school dropout is considered an educational and social problem, as it transforms individuals into unproductive illiterates, or into perverts and spoilers, forming gangs of robbery and criminality that destabilize society².

Academic failure in many cases is considered a direct cause of criminalization, in light of the lack of alternatives such as employment, training or direction, and therefore the state had to take care of this category through financial and moral sponsorship for them through many programs and framing them and exploiting their energy instead of the trend to suppress them as criminals, because prevention than crime is better and less costly than repression.

In the face of this situation, the Algerian legislator tried to rectify the situation and recover those who failed to complete their academic path, in order to avoid the negative effects of school dropout, so the solution came in the form of professional formation of this category and preparing them to enter the world of work through their formation by specialists for a certain period, and the end

¹ Nawara Bachoush, 4,000 crimes committed by elementary and middle school students, an article published in Al-chorouk Daily newspaper, January 28, 2013, Al-chorouk website www.echoroukonline.com, visit date June 06, 2021, at 19:13.

² Houaria Hajj Ali, The phenomenon of school dropout in the Algerian educational institution, Educational Journal, Laboratory of Renewal of Research in Teaching Arabic in the Algerian Educational System, Faculty of Letters, Languages and Arts, University of Djilali Liabes, Sidi Bel Abbes, Volume 6, Issue 4, December 2019, p 187.

of this process by granting them Certificates proving that they have undergone training in various fields that are compatible with the demands of the labor market, which was indicated by Article Eleven of the Directive Law for Vocational Training and Education, which clarified the purpose of vocational education, stating: “Vocational education aims to prepare for the practice of a profession or a group of professions. To qualify for a vocational training that is an extension of the branch followed¹.

Conclusion:

The family, as the basic cell in the formation of society, has an active role in the upbringing of the individual who should be useful and positive. However, its role also appears central in the graduation of professional criminals if it deviates from the goals entrusted to it through the presence of some factors that mortgage its reformist role and make it limited to education, and this is evident through the internal factors represented in the nature of human relations between its members, especially between parents and its impact on children and their behavior, as well as the relationship between spouses whose deterioration may lead to entering the world of marital infidelity, and also shows the contribution of external factors such as material and educational aspects in the advancement of the individual or penetration into the world of crime, because the economic and educational factors, the greater the decrease in the crime rate, the legislative treatment came in accordance with each case through prevention and deterrence, especially the allocation of heavy penalties for assaulting the family system, and trying to find solutions related to improving the standard of living for the family, and reconciliation of spouses as well as trying to address school dropout, however, all these legislative measures remain deficient and need to be reconsidered and updated with what is being done, the most important results and the most important suggestions can be reached, according to the following:

First: the most important results.

- 1- The strength of family relations helps to reduce delinquency in criminal behavior, and in turn, its deterioration leads in many cases to criminality due to many problems and neglect, for that the Algerian legislator deliberately through the family law to clarify the rights and duties of each individual in order to preserve the family cohesion of the society away from crime.
- 2- The economic factors of the family affect the formation of the criminal thought of the individual because of the need that drives the behavior of crime. Therefore, the Algerian legislator worked to try to keep the individual away from need through social housing programs and job positions, in addition to

¹ Law N° 08-07, of February 23, 2008, containing the directive law for vocational training and education, Official journal, N° 11, of March 2, 2008, p 5.

creating development programs based on various formulas for emerging institutions.

3- The family is affected by the educational and cultural level of its members, as the higher the level of its members, the greater the reason for committing crime, and the reason for this is good guidance and education, and the Algerian legislator deliberately imposed basic education and punished parents who failed in educating their children, and made vocational training an alternative to the academic failure in preparation for their entry into the field of work.

Second: the most important proposals.

1- Serious work should be done to highlight the role of the family in reducing crimes through continuous awareness through holding seminars and media days for specialists in this regard, including judges, media professionals, psychologists, and imams.

2- The state should provide real support for needy families through in-depth and real investigations, allocating respectable sums of money and subsidies that are sufficient for the need, and the need to update the conditions for benefiting from social housing, especially the minimum wage, which is an exclusion condition for many who actually deserve housing.

3- The necessity of psychological accompaniment for family members, especially minor delinquents, and an attempt to retrieve them from the maze of crime before they actually enter it, by activating the role of mosques and psychiatric clinics in order to provide realistic solutions, and in return legislating deterrent laws to punish criminals against individuals and the state.

4- It is better to overcome investment procedures related to youth projects, accompany them effectively away from bureaucracy, facilitate entry into the field of vocational training, activate the real role of the school and make it more social, train teachers in the field of educational psychology, and punish parents of minors who neglect the education of their children, and their formation in the field of education.