

The Death Penalty Between Legal Texts and Practical Application: An Analytical Study

عقوبة الإعدام بين النصوص القانونية والتطبيق العملي: دراسة تحليلية

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الملخص:

تتناول هذه الورقة عقوبة الإعدام من منظورين اثنين: قانوني وتطبيقي. فهي تحلل الإطار الدستوري والجزائي المنظم لعقوبة الإعدام، إلى جانب التزامات الجزائر الدولية في مجال حقوق الإنسان. وتعرض الدراسة أصناف الجرائم المعاقب عليها بالإعدام، والإجراءات والضمانات الممنوحة للمحكوم عليه بها، وقواعد التنفيذ. كما تستكشف البعد التطبيقي من خلال تتبع مآل أحكام الإعدام، سواء بتنفيذها فعليا، أو باستبدالها بعقوبة أخف، أو بتجميدها مع استمرار النص القانوني عليها. وتخلص النتائج إلى إبراز النهج العام للدولة في الموازنة بين الضغوط الدولية الداعية إلى الإلغاء أو التجميد، والاعتبارات الوطنية التي تبرر استمرار الإبقاء على العقوبة ولو في نطاق محدود.

الكلمات المفتاحية: عقوبة الإعدام؛ حقوق الإنسان؛ التنفيذ، التجميد؛ الاستبدال.

Abstract:

This paper addresses the death penalty from two perspectives: legal and practical. It analyzes the constitutional and criminal framework governing the death penalty, in addition to Algeria's international human rights obligations. The study presents the categories of crimes punishable by death, the procedures and safeguards granted to those sentenced to it, and the rules of implementation. It also explores the practical dimension by tracing the fate of death sentences, whether through actual execution, substitution with a lighter penalty, or suspension while maintaining the legal provision. The findings highlight the state's general approach to balancing international pressures calling for abolition or suspension and national considerations that justify retaining the penalty, even within a limited scope.

Key words: Death Penalty; Human Rights; Implementation; Suspension; Substitution.

Introduction:

The death penalty is considered one of the harshest and most severe punishments, as it aims to take the life of the convicted person, being the ultimate penalty prescribed by law to confront the most serious crimes. It is one of the oldest punishments known to humanity and continues to exist in the legislations of many states, including Algerian legislation, which has maintained its presence in criminal laws, albeit within a more limited scope compared to the past.

Algeria has applied the death penalty in all the stages the state has gone through, even before the issuance of national criminal laws, and it continued to be maintained despite the numerous amendments made to the laws. However, over time, the scope of crimes punishable by death and the actual implementation of the penalty have both been reduced. This has occurred under the influence of internal and external factors: at times, popular demands push for the activation of this penalty during periods of increased organized crime, kidnapping, and murder; while at other times, international obligations, especially in the field of human rights, impose growing pressures toward the abolition of this penalty or at least the suspension of its implementation. Thus, the state's stance oscillates between internal requirements that justify maintaining the legal provision for the penalty and external pressures that push toward its suspension or abolition.

Based on the above, the main question arises: What is the place of the death penalty within the national legal system, and to what extent is this reflected in its practical application?

This study relies on the descriptive method to identify the legislative framework regulating this penalty and to trace the manifestations of its practical application, in addition to the analytical method, which allows for the study and analysis of the relevant texts to uncover the Algerian legislator's orientation between retaining the penalty or moving toward its abolition. This is addressed according to a plan consisting of two points: the first point is devoted to the legal framework of the death penalty, while the second point focuses on the implementation of this penalty in practice.

1- The Legal Framework of the Death Penalty

The legal framework of the death penalty extends to include a set of national and international texts related to the right to life and the safeguards established to protect it, whether through the constitution and ratified international conventions, or through national laws that define crimes punishable by death and the methods of carrying out the penalty.

1.1- The Death Penalty in the Constitution and International Conventions

1.1.1- The Death Penalty in the Constitution

Unlike some European constitutions that prohibit the death penalty or restrict its practical application to exceptional circumstances such as wartime¹, Algerian constitutions did not, for a long time, contain explicit provisions regarding the death penalty or even the right to life. However, the 2020 Constitution addressed this deficiency through Article 38, which stipulates that “the right to life is inherent to the human being; it is protected by law, and no one may be deprived of it except in cases defined by law².”

Moreover, successive Algerian constitutions since 1996 have established the principle of the supremacy of treaties ratified by Algeria over the law³, which makes international conventions an integral part of the national legal system. In addition, constitutional texts have recognized the right to pardon, reduction, or substitution of penalties⁴. This also applies to the death penalty in terms of the possibility of substituting it with other penalties.

1.1.2- The Death Penalty in International Instruments

When states ratify international conventions, they assume legal obligations regarding the rights and guarantees they contain. Since Algeria has ratified the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights⁵, it is bound by the provisions regarding the right to life: Article 3 of the Declaration and Article 16, paragraph 1 of the Covenant.

Although the Universal Declaration does not address the death penalty, the United Nations General Assembly has, since 1959, called for a study of the death penalty and the impact of its abolition on crime rates⁶. This was later reflected in the International Covenant on Civil and Political Rights, which did not explicitly prohibit the penalty in paragraph 2 of Article 16, but restricted it with key safeguards, including:

- Limiting the application of the death penalty to the most serious crimes.
- Not carrying it out except pursuant to a final judgment issued by a competent court.
- Enabling the convicted person to seek pardon or commutation of the sentence.
- Prohibiting the sentencing of persons under the age of eighteen to death and its execution on pregnant women.

The Human Rights Committee clarified in its General Comment No. 6 that state parties are not required to completely abolish the death penalty, but they must restrict its use⁷.

The international community has established legal safeguards to ensure that those sentenced to death are not deprived of the right to appeal, and that the sentence is not carried out until the right to appeal and pardon procedures have been exhausted. Furthermore, there is a tendency to gradually reduce the number of crimes punishable by the death penalty⁸.

In the same context, Algeria has ratified the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child, both of which categorically prohibit the application of the death penalty to children⁹.

However, Algeria has not ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, which aims at the total abolition of the death penalty. This means that Algeria is not obligated to abolish it¹⁰, but remains bound by the treaties it has ratified. This, in turn, is reflected in national legislation relating to this penalty.

1.2- The Death Penalty in National Laws

The national texts regulating the death penalty include two main sections: the rules of criminalization and punishment, and the rules relating to the implementation of the penalty.

1.2.1- Rules of Criminalization and Punishment

The Penal Code is primarily responsible for defining the crimes punishable by the death penalty, as well as the circumstances that may aggravate or mitigate the penalty. Article 5 of the Penal Code stipulates that the death penalty is one of the principal penalties prescribed for

felonies. Its application is excluded for minors aged between 13 and 18 years, for whom it is substituted with imprisonment ranging from ten to twenty years¹¹.

A- Crimes Punishable by Death

Algerian law currently contains approximately 48 provisions prescribing the death penalty, distributed across several laws: the Penal Code (23 articles), the Military Justice Code (19 articles), the Law on Narcotics and Psychotropic Substances (3 articles), the Law on the Prevention of Kidnapping Crimes (one article), and the Maritime Code (two articles).

These crimes can be divided into three main categories:

- **Felonies against state security:** such as treason and espionage, conspiracy, attacks against the integrity of the state and national territory, the dissemination of sabotage and killings, terrorist crimes, insurrection, as well as insulting public officials and state institutions if this leads to death.
- **Felonies against individuals:** such as premeditated and deliberate murder, the killing of ascendants or descendants, poisoning, murder associated with another crime, violence against a minor if it results in death and the perpetrator is a parent, and castration leading to death.
- **Felonies against property:** such as destruction or explosion if it results in death, or the use of violence and threats to seize control of an aircraft carrying passengers¹².

The Military Justice Code deals with death penalty crimes of a military nature during peacetime or wartime, such as desertion, looting, destruction, and insurrection. It overlaps with the Penal Code in felonies against state security, such as treason, espionage, and military conspiracy¹³.

In special laws, the Maritime Code provides for the death penalty for the crime of ship destruction, as well as for a ship captain who deliberately dumps radioactive waste into Algerian territorial waters¹⁴. The Law on the Prevention and Fight Against Kidnapping Crimes prescribes the death penalty for kidnapping if it results in the death of the kidnapped person¹⁵.

It is worth noting that since the beginning of the 2000s (in 2001 and 2006), the Algerian legislator has moved toward reducing the number of crimes punishable by death, excluding some crimes such as embezzlement, forgery, armed robbery, and fraud in goods if it results in death¹⁶. However, this trend witnessed a setback in 2014 with the imposition of the death penalty for the crime of kidnapping if it resulted in death, was accompanied by torture, or was motivated by ransom payment¹⁷. Again in 2025, it was reinstated for certain drug and psychotropic substance crimes when they lead to death or cause serious harm to public health¹⁸.

B- Circumstances for Mitigating the Death Penalty

Mitigating circumstances refer to substituting the original penalty of the crime with a lighter one¹⁹. The law allows for substituting the death penalty with a lighter penalty if the court finds mitigating circumstances. In such cases, the sentence may be reduced to temporary imprisonment of between 10 and 20 years, or to life imprisonment, as decided by the Supreme Court²⁰. However, it cannot fall below the minimum threshold of ten years, as stated in

Article 53 of the Penal Code. This is subject to the judge's discretion, without the obligation to provide justification for the mitigation²¹.

However, going below this minimum threshold is considered a misapplication of the law, as the Supreme Court has ruled in its decisions annulling sentences reduced to five years in cases of premeditated murder²².

1.2.2- Rules for the Implementation of the Death Penalty

The first text governing the implementation of the death penalty was Law No. 64-193, which stipulated that execution is to be carried out by firing squad, thereby abolishing the use of the guillotine inherited from French law²³. Decree No. 64-201 determined the place of execution (in the vicinity of the court or a nearby town), the execution squad composed of twelve members of the national security forces armed with rifles, and the procedures for notifying the condemned person of the rejection of their pardon request²⁴.

This is the method followed for carrying out death sentences issued by military courts according to the Military Justice Code, except regarding the formation of the execution squad²⁵.

As for sentences issued by ordinary courts, these were governed by Ordinance No. 72-02 of February 10, 1972, on prison organization, and Decree No. 72-38 of February 10, 1972, regarding the implementation of the death sentence. Both were repealed by Law No. 05-04 of February 6, 2005, without the issuance of new implementing regulations.

Execution takes place—when necessary—after the rejection of the pardon request by the President of the Republic, in the presence of a judicial panel, representatives of the public prosecution and the defense, the warden of the prison where the execution takes place, a clerk, a religious figure, and a physician, and away from the public. No statement regarding the implementation of the death penalty may be published, except for the execution report and the communiqué issued by the Ministry of Justice.

The death penalty may not be carried out on pregnant women, persons suffering from serious illnesses, or those with mental disorders. Execution is also prohibited on religious or national holidays, Fridays, or during the month of Ramadan²⁶.

Despite the persistence of legal provisions, the legislative trend since 2005 clearly shows a tendency toward suspending executions through:

- Removing explicit references to the means of execution.
- Omitting detailed regulatory texts.
- Rewording the title of the chapter on implementation to “Special Provisions for Those Sentenced to Death” instead of “Implementation of the Death Penalty.”
- Subjecting those sentenced to death to solitary confinement day and night for five years, followed by daytime group confinement with the same category of prisoners, indicating a practical emptying of the penalty of its implementation²⁷.

2- The Application of the Death Penalty

It is clear from legal texts and judicial rulings that the death penalty in Algeria has gone through two main phases: the implementation phase (1964–1993) and the suspension or freezing phase (since 1993 to the present). In the first phase, some sentences were carried out

on a limited scale, while the second phase was marked by an unwritten political decision that halted executions completely, rendering the penalty suspended in practice.

2.1 - The Implementation of the Death Penalty

The implementation phase was characterized by the rarity of executions before 1992. Then, the number of issued and executed sentences increased significantly in the early 1990s due to the wave of terrorist crimes that struck the country²⁸. Nevertheless, the absence of official statistics prevents precise knowledge of the number of sentences issued or carried out. As a result, Supreme Court rulings or the human rights organizations' reports are used as substitutes.

2.1.1- Appeals in Cassation Against Death Sentences

When examining the judgments issued by criminal courts that were appealed in cassation before the Supreme Court, it appears that there are approximately 28 cases published in the *Judicial Journal* or the *Supreme Court Journal*, from 1964²⁹ up to 2019³⁰. This limited number reflects the rarity of cassation appeals in death penalty cases and does not allow reliance on it to know the actual number of sentences issued or executed.

From these published cases, the following observations can be recorded:

- Most cases involve premeditated and deliberate murder, often associated with aggravated theft, the use of brutal methods, or rape (21 cases)³¹.
- The remaining cases are distributed as follows: killing of ascendants (1 case)³², poisoning (1 case)³³, assault on state authority and participation in an armed gang, conspiracy (1 case)³⁴, terrorist crimes and involvement in a terrorist group (3 cases)³⁵, in addition to one case involving deliberate murder and arson³⁶.
- The Supreme Court upheld 16 death sentences and annulled the rest with referral to a different formation. Meanwhile, it overturned five judgments on legal grounds, such as lack of reasoning or contradictions in the wording of the judgment³⁷.

It can be inferred that cassation appeals contribute to limiting the implementation of some sentences, but they do not provide an accurate indicator of the actual number of sentences. In the absence of official statistics, some estimates indicated that the number of people sentenced to death between 1989 and 2010 reached around 432³⁸. Approximate data from Amnesty International showed that the number of death sentences issued during the period 2009–2024 was 693, most of them in absentia in cases related to terrorism³⁹.

These figures indicate that the number of death sentences in Algeria is relatively limited, averaging no more than 30 sentences per year.

2.1.2- Executed Death Sentences

The Prison Organization Law criminalizes the publication or circulation of any information related to the implementation of the death penalty, except for the execution report and the official statement issued by the Ministry of Justice⁴⁰. This explains the scarcity of official information on this matter. Nevertheless, there are some documented cases, the most prominent of which are:

- A pardon decree issued in 1984, whose second article referred to the execution of the death penalty in 1964 against eight people, including one person sentenced by a military court and seven others by the Revolutionary Criminal Court in Algiers⁴¹. This decree shows that the executions were carried out within extremely short periods, as one person was executed on the same day the sentence was issued, while the time between sentencing and execution for the others ranged between 13 days and 5 months.
- The case of the Houari Boumediene Airport bombers, who were sentenced to death by a special judicial council and executed in December 1993⁴².

From these two cases, it can be said that the implementation of the death penalty in Algeria was limited to very few incidents, carried out under exceptional circumstances and through exceptional judicial bodies. This reflects a general trend toward avoiding the execution of this penalty in practical application.

2.2- Suspension of the Execution of the Death Penalty

The trajectory of the death penalty from independence to the present day shows a gradual tendency toward suspending its execution or replacing it with imprisonment, which in practice is equivalent to its abolition. Since 1993, no death sentence has been carried out, and this is due to a political decision issued by the executive authority.

2.2.1- Freezing the Execution of the Death Penalty

The execution of death sentences was frozen in 1993 without the issuance of any decree or decision related to this, except for what is said about the existence of a memorandum issued by the High Council of State. This document is not legally binding, and this decision is attributed to the human rights pressures that followed the execution of death sentences in the case of the Houari Boumediene Airport bombing⁴³.

This trend became a fixed policy, confirming the exclusion of any return to executions, which made the penalty practically abolished in reality. It is a useful and accurate indicator of the state's future behavior⁴⁴. This orientation is also reinforced by Algeria's consistent voting from 2007 to 2020 in favor of the United Nations General Assembly resolutions related to the suspension of the death penalty, contrary to some Arab countries that opposed⁴⁵ or abstained from voting. This leads to the conclusion that the current direction is toward reconsidering this penalty⁴⁶.

However, the suspension of executions may place those sentenced to death in a situation that could be harsher than execution itself, as it effectively converts the sentence into life imprisonment. This penalty is among the harshest, given the negative psychological effects it entails, in addition to its contribution to worsening prison overcrowding. Nevertheless, these effects can be mitigated by replacing life imprisonment with fixed-term custodial sentences through mechanisms such as pardon, as demonstrated in practice. For example, in 2003, a presidential decree was issued to substitute life imprisonment with fixed-term sentences for 78 individuals⁴⁷. This indicates that commuting the death penalty may ultimately lead to the possibility of release, particularly if the convicted person demonstrates improved behavior

during the period of incarceration.

2.2.2- Clemency for the Death Penalty and Its Replacement

The President of the Republic has the authority to grant clemency or commute the sentence, and in practice, several decrees have been issued granting clemency or commuting sentences.

2.3- Clemency for the Death Penalty

The right to clemency for those sentenced to death can be decided upon their request, according to Article 155 of the Law on the Organization of Prisons, and clemency can also be granted on the initiative of the President of the Republic.

However, clemency decrees that were actually issued were always on the initiative of the President of the Republic. These decrees are characterized by the following:

- They were limited in number, with three cases of individual clemency (1966–1980)⁴⁸ and one case of general clemency (1984)⁴⁹.
- The individual clemency decree grants clemency to one named person.
- The decree refers to the death sentence issued, the court that issued the sentence, and the crime committed.
- They involved cases related to state security, all of which were issued by revolutionary courts.

As for general clemency (collective clemency), it is characterized by the following:

- It specifies the cases but does not specify the persons.
- It relates to state security and assault cases and was issued by the revolutionary criminal courts in 1965 and 1969.

In general, clemency for the death penalty represents a very small percentage (only 3 persons in the case of individual clemency) and a limited number of cases in the case of general clemency. Despite the limited numbers, these decrees had particular importance considering that they were issued by exceptional courts that lacked fair trial guarantees.

2.4- Replacement of the Death Penalty

It was often replaced by life imprisonment, and sometimes by temporary imprisonment for 20 years⁵⁰.

Cases of replacing the death penalty are characterized by the following:

- The replacement of the death penalty is often issued on the initiative of the President of the Republic, but it was issued once upon the request of the concerned person, and it involved a murder case⁵¹.
- The commutation of the sentence may be subject to certain conditions (especially in collective clemency), such as excluding felonies classified as acts of terrorism or sabotage⁵², or not applying it to sentences issued by military courts and the State

Security Council⁵³, or requiring the beneficiary to serve a certain period in prison⁵⁴.

- Decrees commuting the sentence include the names of the individuals benefiting from clemency.

In general, 18 decrees commuting the sentence to life imprisonment and 4 decrees commuting it to 20 years were recorded, covering 288 persons, in addition to the beneficiaries of collective clemency decrees.

It is noted that this practice has been repeated at all stages from 1964 to 2022⁵⁵, which confirms a consistent approach toward limiting the implementation of this penalty. It follows from this that the mechanisms of clemency and commutation have constituted the practical means of suspending the death penalty in the absence of its official abolition from legal texts.

Conclusion:

It is clear at the end of this study that the death penalty still retains its place within legal texts, but in practice, it has been almost suspended for more than three decades. It has only been implemented in exceptional cases related to extraordinary circumstances. The prevailing trend is to keep it as a symbolic option that balances the requirements of protecting society from the most serious crimes with the state's obligations in the field of human rights.

Findings:

- The national legal system retains the death penalty for a wide range of crimes.
- The penalty has only been implemented in exceptional cases, especially in cases related to state security.
- Appeal mechanisms, clemency, and sentence commutation have contributed to reducing the resort to execution.
- The effective suspension since 1993 has made the penalty practically abolished, despite its continued presence in the law.
- The persistence of the death penalty in legal texts alongside its systematic non-enforcement reflects a form of normative inconsistency. This duality raises the question of whether the Algerian legal system is moving toward a de facto abolition without formal legislative reform. Such a situation may undermine legal certainty and calls into question the coherence of criminal policy.

Recommendations:

- The list of crimes punishable by death should be reduced and limited to the most serious crimes that directly affect the right to life (premeditated murder and any crime that leads to death).
- The death penalty should be replaced with life imprisonment for other crimes, in line with international trends and human rights standards.

- Continue to balance the protection of society from the most serious crimes with international obligations by keeping the penalty in legal texts while freezing its implementation.
- Strengthen transparency in the publication of official data and statistics related to death sentences, allowing for an accurate scientific understanding of the reality of the penalty and the trends of criminal policy.
- The legislature is called upon to address the legal vacuum surrounding the status of death row inmates under the current moratorium, either by providing for the automatic commutation of their sentences after a specified period, or by establishing a clear detention regime that safeguards their constitutional rights.

Citations:

- 1- Some constitutions explicitly stipulated the abolition of the death penalty, such as the Italian Constitution of 1947 in Article 27, the German Federal Constitution of 1949 in Article 102, and the French Constitution of 2007 in Article 66. See: Nasser Karimech Khudr Al-Jurani, *The Death Penalty in Arab Laws: A Comparative Study*, Dar Hamed for Publishing and Distribution, 1st Edition, Amman, Jordan, 2009, p. 43; Selini Nassima, *The Death Penalty under the Provisions of International Human Rights Law*, *Journal of Comparative Legal Studies*, Vol. 07, No. 1, 2021, p. 573.
- 2- The Constitution issued by Presidential Decree 20-442 dated 30/12/2020, Official Gazette No. 82 of 2020.
- 3- Article 154 of the Op. Cit.
- 4- See Article 91/08 of the Op. Cit.
- 5- See: Daghbouch Naaman, *International Human Rights Treaties Supersede the Law*, Dar Al-Hoda, Ain M'lila – Algeria, 2008, p. 37, 206.
- 6- See: Nasser Karimech Khudr Al-Jurani, *Op. Cit.*, p. 41.
- 7- Selini Nassima, *Op. Cit.*, p. 567.
- 8- Ahmed Fathi Sorour, *Al-Wasit fi Qanun Al-Uqubat – The General Part*, 6th Edition, Dar Al-Nahda Al-Arabiya, Cairo, 2015, pp. 963–964.
- 9- Article 37 of the Convention and Article 5/3 of the Charter. See: Presidential Decree No. 92-451 dated 19 December 1992, which includes the ratification of the Convention on the Rights of the Child adopted by the United Nations General Assembly on 20 November 1989 (Official Gazette No. 91 dated 23 December 1992, p. 2318); and Presidential Decree No. 03-242 dated 08 June 2003, which includes the ratification of the African Charter on the Rights and Welfare of the Child adopted in Addis Ababa in July 1990 (Official Gazette No. 41 dated 09 July 2003, p. 03).
- 10- AKSA Issaad, "The Death Penalty in Algeria between International Obligations and National Legislation," *Land Law and the Environment Review*, Vol. 10, No. 02, 2022, p. 469.
- 11- Article 50 of Ordinance No. 66-156 dated 08 June 1966, containing the Penal Code, as amended and supplemented (Official Gazette No. 49 dated 11 June 1966).
- 12- Articles related to state security crimes, in order: 61, 62, 63, 64, 77, 80, 81, 84, 86, 87 bis 1, 87 bis 7, 89, 90, and 148 of the Penal Code. Felonies against persons, in order: 261, 262, 263, 272, 274, and 399 of the same law. Felonies against property, in order: 401, 403, and 417 of the same law.
- 13- Articles 277 to 283 relate to felonies of treason, espionage, and military conspiracy. Military crimes include articles 265, 266, 273, 275, 287, 290, 291, 304, 308, 325, 331, and 332 of Ordinance No. 71-28 of 22 April 1971, which contains the Code of Military Justice, as amended and supplemented by Law No. 18-14 of 29 July 2018. (Official Gazette No. 47, dated 1 August 2018, p. 3).
- 14- Articles 481 and 500 of Ordinance No. 76-05 of 23 October 1976, relating to the Maritime Code, as amended and supplemented by Law No. 98-05 of 25 June 1998. (Official Gazette No. 47, dated 27 June 1998, pp. 3–31).

- 15- Law No. 20-15 of 30 December 2020, relating to the prevention and combating of kidnapping crimes. (Official Gazette No. 81, dated 30 December 2020, pp. 4–10).
- 16- Ahsan Bouskiaa, *The Abridged Text in General Criminal Law*, 21st ed., Dar Belkisse, Casablanca, Algeria, 2024, pp. 247–248; Hicham Bouhouch, “The Death Penalty in Algerian Legislation,” *Journal of Human Sciences*, Vol. 31, No. 4, December 2020, p. 131.
- 17- Ahsan Bouskiaa, *Op. Cit.*, pp. 247–248.
- 18- See: Article 16 bis 2 (final paragraph), Article 21 bis, and Article 21 bis 2 of Law No. 25-03 of 1 July 2025, amending and supplementing Law No. 04-18 of 25 December 2004 on the prevention of drugs and psychotropic substances and the suppression of their illicit use and trafficking. (Official Gazette No. 43, dated 13 July 2025, pp. 3–7).
- 19- Ouahibia Abdallah, *Explanation of the Algerian Penal Code*, National Printing Arts Corporation, Algeria, 2009, p. 401.
- 20- Supreme Court Journal, 2010, No. 2, p. 50.
- 21- Ahsan Bouskiaa, *Op. Cit.*, p. 326.
- 22- Judicial Journal, 1991, No. 1, p. 145.
- 23- Law No. 64-193 of 3 July 1964 concerning the implementation of the death penalty. (Official Gazette No. 11, dated 3 July 1964, p. 172). See also: Awatef Louz and Bouswara Abdelkader, “How the Implementation of the Death Penalty Was Halted in Algeria,” *Journal of Legal and Social Sciences*, Vol. 5, No. 3, September 2020, p. 686.
- 24- Decree No. 64-201 of 7 July 1964 concerning the death penalty. (Official Gazette No. 13, dated 10 July 1964, p. 199).
- 25- See Article 222 of Law No. 18-14, *Op. Cit.*
- 26- Ali Jeroua, *The Encyclopedia of Criminal Procedures*, Volume 3: On Trial, 2006 edition, no place of publication, pp. 730–732.
- 27- Awatef Louz and Bouswara Abdelkader, *Op. Cit.*, pp. 690–692.
- 28- Ahsan Bouskiaa, *Op. Cit.*, p. 249.
- 29- Cassation Appeal No. 01 × 64 dated 21 July 1964. Published in *The Fiftieth Anniversary of the Establishment of the Supreme Court*, 2 March 1964 – 2 March 2014, p. 400.
- 30- Decision No. 802931 dated 19/07/2012. Supreme Court Journal, 2019, Special Issue, p. 218.
- 31- See, for example: Decision No. 51166 dated 27/01/1987. Judicial Journal, 1990, No. 03, p. 249; and Decision No. 51166 dated 27/01/1987. Judicial Journal, 1990, No. 03, p. 249.
- 32- Decision No. 641893 dated 22/04/2010. Supreme Court Journal, 2011, No. 2, p. 359.
- 33- Decision No. 480850 dated 23/01/2008. Supreme Court Journal, 2008, No. 1, p. 293.
- 34- Decision No. 108129 dated 12/01/1993. Judicial Journal, 1993, No. 2, p. 163.
- 35- See, for example: Decision No. 313628 dated 24/06/2003. Judicial Journal, 2003, No. 1, p. 429.
- 36- Decision No. 613513 dated 20/05/2010. Supreme Court Journal, 2010, No. 2, p. 311.
- 37- As an example of a contradiction between the questions and the answers, the penalty after referral is life imprisonment. See: Decision No. 382661 dated 18/04/2007. *Judges’ Bulletin*, 2012, No. 67, p. 198.

38- Majidi Tarek, "The Death Penalty in Algeria Between Text and Application," *Journal of Legal Studies*, Vol. 06, No. 02, June 2020, p. 147. Another figure mentions that 1,127 death sentences were issued during the period between 1993 and 1994 after the declaration of the state of emergency, most of which were in absentia. See: Mostafa Ben Slimane Lghoulame, *Crimes Punishable by Death in Islamic Criminal Legislation and the Algerian Penal Code: A Comparative Study*, Doctoral Thesis, University of Ghardaia, 2019–2020, p. 54; Bouaziz Abdelwahab, *The Death Penalty Between Islamic Legislation and Positive Law: A Comparative Study*, Master's Thesis, Criminal Law Specialization, University of Badji Mokhtar, Annaba, 2008, p. 92.

39- See the legal study titled: *The Death Penalty Between Law and Practice*. Algeria. Available at: https://www.ecpm.org/app/uploads/2022/10/RFC_flyer-ALGERIE-090822_AR.pdf (Date of visit: 16 August 2025, 17:45). See also: "Algeria: At least 09 death sentences recorded in 2021." See: <https://www.aialgerie.org/ar/2022/05/24> (Date of visit: 20 June 2025, 08:45).

40- Article 168 of Law No. 05–04 dated 06 February 2005 containing the Law on the Organization of Prisons and the Social Reintegration of Prisoners (Official Gazette, No. 12, dated 13 February 2005, pp. 10–27).

41- Decree dated 24 October 1984 containing a general amnesty (Official Gazette, No. 51, dated 24 October 1984, p. 1813).

42- According to information lacking a reliable source, it is mentioned that 26 people were executed by firing squad in 1993. See: Bouaziz Abdelwahab, *Op. Cit.*, p. 92. Another figure (based on those who witnessed that period) mentions that 13 people were executed in one night (04 in Chlef, 02 in Constantine, and 07 in Algiers in the airport case), as Algeria was relying on legal mechanisms to confront the phenomenon of terrorism. See: Awatef Louz and Bouswara Abdelkader, *Op. Cit.*, footnote 01, p. 689.

43- Awatef Louz and Bouswara Abdelkader, *Op. Cit.*, p. 689. The Minister of Justice, in his response to the oral question regarding the suspension of the application of the death penalty, stated before members of Parliament in 2013 that "the death penalty has not been carried out in our country since 1993." See: *Official Parliamentary Debates Journal*, Third Year, No. 137, published on 15/12/2014, pp. 10–11.

44- Selini Nassima, *Op. Cit.*, p. 574.

45- AKSA Issaad, *Op. Cit.*, p. 469.

46- Ahsène Bousquiaa, *Op. Cit.*, p. 273.

47 -Decreen°03- 213, dated 08 may 2003 (Official Gazette, No. 33, dated 11 may 2003, p. 19).

48- Two decrees dated 11 August 1966 (Official Gazette, No. 71, dated 19 August 1966, p. 1078); Decree dated 31 October 1980 granting amnesty (Official Gazette, No. 47, dated 18 November 1980, p. 1695).

49- Decree dated 24 October 1984 granting a general amnesty (Official Gazette, No. 51, dated 24 October 1984, p. 1813).

50- In 2001, a decree was issued combining the substitution of the death penalty with both life imprisonment and temporary imprisonment. See: Presidential Decree No. 01-335 dated 28

October 2001, on the substitution of the death penalty with life and temporary imprisonment (Official Gazette, No. 63, dated 28 October 2001, p. 5).

51- Decree dated 3 September 1964 granting amnesty to a person sentenced to death (Official Gazette, No. 33, dated 18 September 1964, p. 500).

52- Decree dated 17 November 1979 (Official Gazette, Series 16, No. 48, dated 27 November 1979, p. 1285).

53- The restriction of the benefit applied to persons sentenced to death who had served twenty years in prison. See: Decree No. 20-37 dated 01 February 2020 (Official Gazette, No. 06, dated 02 February 2020, p. 6).

54- The restriction of the benefit applied to persons sentenced to death who had served twenty years in prison. See: Decree No. 20-37 dated 01 February 2020 (Official Gazette, No. 06, dated 02 February 2020, p. 6).

55- The decree issued in 1964 was published in the Official Gazette, whereas the decree issued in 2022 was not published. See: the aforementioned decree dated 3 September 1964. See also: Algeria Press Service, "President Tebboune signs 5 presidential decrees containing pardon measures." <https://www.aps.dz/ar/algerie/128809-60-5> Date of visit: 01 September 2025 at 10:00.