

Cyberbullying Between the Sufficiency of Traditional Criminal Provisions and the Necessity of Legislative Innovation: An Analytical Approach in Algerian Criminal Law

التنمر الإلكتروني بين كفاية النصوص الجنائية التقليدية وضرورة الاستحداث التشريعي:
مقاربة في القانون الجنائي الجزائري

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Date of Submission 02-04-2026 Date of Final Acceptance 12-05-2026 Date of Publication June 2026

Abstract :

This research addresses the phenomenon of Cyberbullying as an emerging crime resulting from the misuse of information and communication technologies, with a focus on the Algerian legal system. The study aims to evaluate the adequacy of traditional penal codes such as defamation, harassment, and blackmail in addressing cyberbullying against vulnerable groups, particularly women and children. The study concludes that while Cyberbullying is not explicitly defined in Algerian legislation, general penal provisions provide partial protection. This necessitates legislative intervention to enact specialized laws that keep pace with rapid technological advancements and ensure comprehensive protection for victims in virtual spaces.

Keywords : Cyberbullying; Legal Characterization; Criminal Legality; Algerian Legislation.

ملخص:

تناول هذا البحث ظاهرة التنمر الإلكتروني كأحد المستجدات الإجرامية الناتجة عن إساءة استخدام تكنولوجيات الإعلام والاتصال، مع التركيز على المنظومة التشريعية الجزائرية، حيث هدفت الدراسة إلى تبين مدى كفاية النصوص التقليدية في قانون العقوبات مثل المواد المتعلقة بجرائم السب والقذف، التحرش، والابتزاز في استيعاب صور التنمر الرقمي الواقعة على الفئات الخاصة بالأطفال والنساء، وقد خلصت الدراسة إلى أنه رغم عدم إدراج مصطلح التنمر صراحة في التشريع الجزائري، إلا أن القواعد العامة ربما توفر حماية جزئية، مما يستوجب تدخلا تشريعيا لسن نصوص خاصة تواكب التطور التقني السريع وتوفر حماية متكاملة للضحايا في الفضاء الافتراضي.

الكلمات المفتاحية: التنمر الإلكتروني؛ التكييف القانوني؛ الشرعية الجنائية؛ التشريع الجزائري.

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Introduction:

The contemporary technological revolution has generated an unprecedented expansion in the use of information technology. Its applications now extend to commercial, administrative, and social fields, making it an indispensable part of daily life. This widespread integration is largely due to the accessibility of these technologies as means of communication through social media platforms. Communication has consequently shifted from traditional forms to interactive digital spaces that rely on audio and visual interaction, bringing individuals and groups together within a shared virtual environment. This transformation has enabled the rapid dissemination of information across geographical boundaries, particularly with the spread of fifth-generation networks that have significantly reduced temporal and spatial distances. As a result, some users have developed the mistaken belief that the digital sphere constitutes a law-free zone characterized by absolute freedom and the absence of oversight.

However, it is a well-established legal and social principle that wherever freedom exists, the potential for abuse also arises. Despite the advantages of the digital environment, the misuse of social networking platforms has generated numerous harmful practices. Platforms originally intended for interaction and knowledge exchange have in some cases become tools for undermining state security, damaging the honor and reputation of individuals, or violating public order and societal morals. This development has made the regulation of digital freedom an inevitable task for the Algerian legislator, especially given the universal accessibility of these technologies across all segments of society.

Among the most significant manifestations of this emerging form of cybercrime is cyberbullying. Acts of bullying, harassment, and humiliation directly threaten the security, stability, and welfare of individuals and communities. Although bullying has existed throughout human history as a form of aggressive behavior, it has acquired new dimensions in the digital era, characterized by anonymity, speed, and an increased capacity to cause psychological harm.

The importance of addressing this phenomenon lies in the fact that the stability and progress of Algerian society depend on safeguarding the rights and dignity of its members. Among the most fundamental of these rights are honor, reputation, and human dignity, which modern legal systems seek to protect through strict legal frameworks. Cyberbullying constitutes a direct violation of these rights, particularly in light of the widespread use of social media in Algeria and the limited legal and ethical awareness among some users.

The significance of this study therefore appears on both scientific and social levels. Scientifically, the topic remains relatively new within Algerian legal scholarship, as existing literature provides limited analytical discussion linking the concept of bullying with current criminal provisions. Socially, cyberbullying represents a serious threat to mental health, producing long-term psychological consequences for victims and, in extreme cases, leading to tragic outcomes such as suicide.

Accordingly, the phenomenon raises important legal questions, especially since Algerian criminal legislation has not explicitly incorporated the term bullying. Given that many forms of cyberbullying resemble traditional offenses such as insult, defamation, threats, and violations of privacy, the central question of this study is the following: **To what extent has the Algerian legislator, through the provisions of the Penal Code and the laws governing information and communication technology crimes, succeeded in addressing the phenomenon of cyberbullying?**

The methodological approach adopted in this research is determined by the nature of the subject and its scientific objectives in order to ensure accuracy and objectivity. Given that this study focuses on

cyberbullying within the framework of the national legislative system, the descriptive method has been employed to describe the dimensions of the phenomenon, identify its characteristics, and examine the circumstances contributing to its spread. The analytical method has also been adopted to analyze Algerian legal texts and to identify both their strengths and their shortcomings in addressing such acts.

In addition, the deductive method has been used by attempting to derive the relevant legal rules contained in the Algerian Penal Code and related legislation and apply them to emerging forms of cyberbullying in order to reach an appropriate legal characterization of this phenomenon.

Section One: The Foundational Legal Approach to the Forms of Cyberbullying in Light of the Principle of Criminal Legality

In the contemporary world, social networking platforms constitute some of the most prominent and widely used digital environments, hosting millions of users from diverse social groups and backgrounds. This widespread presence has inevitably transformed these platforms into fertile environments and virtual arenas for the commission of numerous unlawful acts and practices that constitute a clear violation of the sanctity of individuals' private lives. The concept of privacy is not a modern creation; rather, it is an established and longstanding concept that dates back to the earliest stages of human existence. The protection of private life is therefore considered one of the rights inherently attached to human personality and constitutes a fundamental right alongside the right to liberty, the protection of personal honor, and the safeguarding of one's social reputation and dignity¹.

Within this context, the offenses of insult and defamation emerge as among the most prominent crimes affecting the honor and reputation of individuals. These offenses are also among the most widespread forms of misconduct in the digital environment, particularly in light of the expansion and influence of social media platforms. Such platforms have increasingly been exploited by certain individuals as tools to undermine the dignity of others and damage their social standing and personal reputation. In view of the legislative gap resulting from the absence of a specific and independent legal provision explicitly criminalizing cyberbullying, there appears to be no legal or doctrinal impediment to relying on the traditional legal provisions governing the crimes of insult and defamation in order to examine their capacity to encompass and regulate certain manifestations of cyberbullying. This is particularly relevant with regard to verbal cyberbullying, which includes various forms of verbal harassment such as insults, ridicule, abusive language, and defamatory statements.

If the general legal rules governing the crimes of insult and defamation are capable of addressing certain forms of cyberbullying and providing criminal protection against them, an important question arises concerning other patterns of this phenomenon. Do such acts remain outside the scope of criminalization and punishment when they occur beyond the narrow framework of the offenses of insult and defamation? This question becomes particularly relevant when addressing one of the most serious manifestations of cyberbullying, namely racial cyberbullying. In this regard, it may be argued that when acts of bullying involve manifestations of discrimination or racist tendencies, it becomes necessary to rely on the legal provisions enacted by the Algerian legislator to criminalize acts of discrimination and adapt them so that they extend to cover acts of racial cyberbullying. In this sense, racial cyberbullying can be considered the modern digital manifestation of the crime of discrimination.

A: The Legal Characterization of Cyberbullying within the Framework of the Offenses of Insult and Defamation

Many users and beneficiaries of social networking platforms hold a number of misconceptions regarding the nature of internet use. A common belief prevailing among some users is that the virtual world constitutes an open and autonomous space that is not subject to the authority of law or the oversight of the state. This misconception often motivates individuals sometimes out of curiosity and at other times with deliberate criminal intent to engage in conduct that constitutes fully formed criminal offenses under criminal legislation, thereby exposing themselves to strict legal and criminal liability².

The offenses of insult and defamation are among the most widespread crimes committed through the internet in general, and through social networking platforms in particular. These offenses are primarily committed with the aim of undermining the dignity of individuals and harming their honor and reputation. Consequently, most modern legal systems have moved toward criminalizing acts of insult and defamation and establishing deterrent sanctions for them. The Algerian legislator has likewise adopted this approach by providing explicit provisions within the Penal Code regulating these offenses, particularly in Articles 296 and the provisions that follow. The law distinguishes between offenses affecting reputation and the contravention of non-public insult, while also keeping pace with technological developments by sometimes considering the use of electronic means as an aggravating circumstance³.

Nevertheless, the rapid evolution of criminal phenomena has produced new forms of aggressive conduct based on the use of words and expressions capable of harming the dignity of individuals. Despite their seriousness, some may assume that such conduct remains outside the scope of legal accountability because the term bullying does not appear explicitly in Algerian criminal legislation. Such a perception is flawed. The absence of an explicit legal term does not imply that such acts remain beyond punishment, particularly given the significant moral and psychological harm they may inflict upon victims and the potentially serious consequences for their personal well-being and future. Accordingly, Algerian courts may rely on the general rules of criminal law to classify acts of cyberbullying brought before them as either insult or defamation, depending on the nature of the expressions used⁴.

To clarify this argument more precisely, a comparative analytical approach will be adopted by examining the constituent elements of the offenses of insult and defamation alongside the elements of bullying as recognized in comparative legislation, particularly Egyptian law, and applying these elements to the Algerian legal context.

1: The Elements of the Offenses of Insult and Cyberbullying

A comparison between the elements of the offenses of insult and bullying necessarily requires an examination of the components of both the material and moral elements of each offense.

1.1 The Material Element of the Offenses of Insult and Cyberbullying

It is well established in legal doctrine and jurisprudence that no crime exists without a tangible external act committed by the offender and perceptible to the human senses. The material element of a crime is generally defined as the collection of material acts or omissions that together constitute the criminal conduct. The existence of this element depends on three fundamental components: the criminal act, the causal relationship, and the criminal result.

Upon examining the material element of the offense of insult under Algerian law, particularly pursuant to Article 298 of the Penal Code⁵, it appears that it consists of any expression that harms the honor or reputation of the victim. Such an expression may take any form through which thought

can be communicated⁶. In essence, insult refers to any offensive expression or statement containing contempt or disparagement that does not involve attributing a specific and determined fact to the victim. The material element of this offense is therefore based on two principal components: the act of attribution and the identification of the victim, in addition to the requirement of publicity when the offense constitutes the misdemeanor of public insult punishable by law⁷.

The element of attribution is fulfilled when the perpetrator directs expressions that harm the honor or reputation of another person or subject that person to ridicule in the eyes of others. This element is satisfied merely by directing words that offend the victim's dignity without attributing a specific fact to them, such as describing the person using insulting terms or labeling them with degrading descriptions. It is irrelevant whether the insult is expressed directly and explicitly or indirectly and implicitly, so long as the meaning conveyed by the context implies an affront to personal dignity.

In addition, the material element requires the identification of the victim. The offensive conduct must be directed toward a specific person or group of persons, or at least toward individuals who can be identified through the context. It is not necessary for the victim's full name to be mentioned; it suffices that third parties can identify the person intended without significant difficulty. Furthermore, the material element requires the presence of the element of publicity, which in the digital environment may be realized through social media posts or comments accessible to the public. As for the criminal result, the offense of insult is categorized among formal offenses, meaning that its legal existence does not depend upon the occurrence of a tangible material result. The mere commission of the conduct itself is sufficient regardless of whether actual harm has occurred⁸.

With regard to the offense of cyberbullying, and by reference to comparative legislation such as Egyptian law, particularly Article 309 bis B of the Egyptian Penal Code⁹, the material element consists of any statement, demonstration of power or control by the offender, or exploitation of the victim's weakness or a circumstance that the offender believes may harm the victim, such as race, religion, physical characteristics, or social status¹⁰. The aspect most relevant to this discussion is the act of speech, which encompasses any verbal expression issued by the bully, whether in the form of a full statement or a single word, and whether expressed directly or through sarcastic language¹¹.

Accordingly, verbal cyberbullying inevitably involves conduct that constitutes insult and abusive language. This allows such conduct to be legally characterized under the provisions governing insult within Algerian law, since the common element in both cases is the use of expressions that offend dignity and cause psychological harm to the victim. The impact on the victim is largely identical in both situations, particularly when bullying is practiced repeatedly and habitually.

1.2 The Moral Element of the Offenses of Insult and Bullying

A crime is not legally established merely by the commission of the material act; the act must also be committed by a person possessing legal capacity and must be attributable to that person from a moral perspective. A fundamental principle of criminal law provides that there is no crime without a moral element that determines the responsibility of the perpetrator. Both the offenses of insult and bullying are considered intentional crimes, which require the existence of criminal intent. Criminal intent is established when the perpetrator directs their will toward achieving the result consisting of harming the victim's honor or reputation. In the case of bullying, intent is manifested in the deliberate infliction of verbal harm upon the victim with the purpose of insulting them and diminishing their value in their own eyes and in the eyes of others. This is typically achieved through the use of abusive expressions and digital insults.

2: The Elements of the Offenses of Defamation and Bullying

A comparison between defamation and bullying requires adopting the same analytical approach in order to determine the extent to which the provisions regulating the offense of defamation in Algerian legislation are capable of encompassing acts of bullying.

2.1: The Material Element of the Offenses of Defamation and Bullying

The Algerian legislator defines defamation in Article 296 of the Penal Code as any allegation of a fact, or attribution thereof to a person or entity, that is capable of harming their honor or reputation. The material element of defamation requires the presence of several components:

- **Attribution:** This refers to attributing a specific act or fact to a particular person through any means of expression, including speech, publications, images, or videos. Attribution may occur whether the statement is expressed with certainty or doubt¹², and whether it originates from the perpetrator's own initiative or merely involves the reposting of previously published information. Legal doctrine confirms that attribution may occur either directly or through the transmission of information from another source¹³.
- **Identification of the Person:** The defamatory statement must be directed toward a specific individual or a group that can be identified. It is not necessary for the person's name to be explicitly mentioned as long as they can be recognized from the context.
- **Specification of the Alleged Fact:** This element constitutes the fundamental distinction between defamation and insult. In defamation, the perpetrator must attribute a specific act to the victim that may constitute a punishable offense or a morally reprehensible act¹⁴, such as accusing the victim of bribery or treason. Determining whether the alleged fact is sufficiently specified falls within the discretion of the trial judge. Under Algerian law, the statements must harm the honor or reputation of the victim. This approach is consistent with Egyptian legislation, which also requires that the alleged fact be capable of subjecting the victim to punishment or social contempt¹⁵.
- **Publicity:** Publicity constitutes an essential condition for the offense of defamation. In the context of cyberbullying, publicity may be realized through digital platforms and social media¹⁶ networks that allow third parties to access and view the defamatory content.

With respect to the material element of bullying, comparative legislation identifies several forms of conduct, most notably statements intended to degrade the victim, socially isolate them, or disturb their sense of security. Accordingly, bullying through defamation occurs when a harmful allegation is attributed to the victim via social media platforms with the aim of damaging their honor and reputation. When these conditions are satisfied, the conduct represents one of the clearest forms of verbal cyberbullying¹⁷, which may be legally characterized under the provisions governing defamation. Both defamation and bullying are considered conduct-based offenses that do not require the occurrence of a specific material result.

2.2: The Moral Element of the Offenses of Defamation and Bullying

Defamation, like bullying, is an intentional offense requiring criminal intent, meaning that the perpetrator must have knowledge of the elements of the crime and the will to commit it. Criminal intent in defamation is established once the perpetrator publishes the harmful statement while being aware that it damages the victim's honor or reputation. The motives behind the act whether joking, revenge, or otherwise are irrelevant, as malicious intent is presumed in cases of public defamation. In the context of bullying, however, the offense requires general criminal intent composed of knowledge and will, as well as a specific criminal intent manifested in the deliberate intention to

inflict particular harm upon the victim, such as subjecting them to ridicule or socially excluding them. Although some comparative legislations explicitly require this specific intent, the provisions governing defamation within Algerian legislation remain sufficiently flexible to encompass acts of bullying, since the decisive factor is the conduct that produces the same harmful effect¹⁸.

B: Cyberbullying as an Emerging Form of Hate Speech and Racial Discrimination

The technological revolution in digital communication media, together with the rise of social networking platforms as key actors in shaping the public sphere, has contributed to the spread of multiple and overlapping forms of discourse. Within these spaces, legitimate criticism and the exercise of freedom of opinion and expression often intersect with more harmful forms of speech. The boundary separating these legitimate expressions from hate speech is frequently thin and susceptible to misuse. From a legal perspective, freedom of opinion and expression is recognized and protected under international instruments, particularly the International Covenant on Civil and Political Rights. However, this freedom is not absolute; it is limited by the obligation to respect the rights, dignity, and reputation of others. Unfortunately, social media platforms have increasingly become fertile grounds for the proliferation of hate speech, as such discourse often transcends the limits of peaceful expression and enters the sphere of incitement to violence and the degradation of the social standing of individuals and groups¹⁹.

In light of this rapidly evolving reality, the principle of non-discrimination emerges as a fundamental cornerstone of modern democratic systems and one of the most essential principles of human rights. It constitutes a general right from which all other human rights and public freedoms derive and represents the true starting point for achieving genuine equality within society. Recognizing the dangers posed by these phenomena and in fulfillment of its international obligations, Algeria has sought to harmonize its legislative framework with international human rights standards. The Algerian Constitution explicitly affirms the prohibition and combat of all forms of hatred and discrimination based on gender, color, belief, social or regional affiliation, disability, or any other personal status regardless of its nature²⁰.

1: The Legal Basis for the Criminalization of Cyberbullying under the Law on Combating Discrimination and Hate Speech

Within this sovereign legislative framework, the Algerian legislator has elevated the fight against discrimination and hate speech to a legislative priority and has established specific criminal protections that extend beyond the general provisions of the Penal Code through the enactment of specialized and stringent legislation. In this regard, Law No. 20-05 on the Prevention and Combating of Discrimination and Hate Speech constitutes the primary legal reference within Algerian legislation for addressing these phenomena²¹.

An examination of the provisions of this law reveals that the legislator has provided a comprehensive definition of discrimination in Article 2, defining it as any distinction, restriction, or preference based on gender, origin, color, sectoral affiliation, or regional belonging.

Furthermore, Article 34 of the same law criminalizes acts of incitement to discrimination and hatred. These provisions align closely with the doctrinal foundations relevant to cyberbullying, particularly where such conduct involves expressions intended to degrade or marginalize individuals or groups. In addition, Algerian legislation regulating the digital sphere reinforces these protections. Article 70 of the Media Law and related legislation emphasizes that electronic publications and media content must be free from statements that incite hatred or discrimination between individuals. The law also provides for financial penalties and custodial sanctions proportionate to the gravity of the offense and the means through which it is committed.

2: Criminal Conduct of Cyberbullying under Law No. 20-05 on the Prevention and Combating of Discrimination and Hate Speech

Under this legal framework, criminal liability for cyberbullying arises whenever conduct involves incitement to racial discrimination or violence against a person or group of persons based on their national origin, ethnic background, or religious affiliation. In this context, the deterrent strength of Algerian legislation becomes evident, as the legislator has not confined protection to general provisions but has also reinforced criminal protection through amendments to the Penal Code, particularly those introduced by the 2020 legislative reforms²².

These provisions criminalize acts that constitute incitement to discrimination or hatred and impose significant custodial sentences and financial penalties on anyone who incites discrimination or hatred by any means whatsoever. The penalties are aggravated when the act is committed through electronic media or any medium that satisfies the condition of publicity, which corresponds precisely to the environment in which cyberbullying typically occurs²³.

Accordingly, this legislative overview demonstrates the extensive protection afforded by the Algerian legislator to the principle of non-discrimination and the fight against hate speech. This raises an important legal question concerning the extent to which these criminal provisions are capable of encompassing acts constituting racial cyberbullying despite the absence of the term bullying as an explicit legal concept within Algerian legislation.

Answering this question requires analyzing the constituent elements of racial bullying and comparing them with the acts that constitute the offense of discrimination under Algerian law. By referring to comparative legislation, such as Article 309 bis B of the Egyptian Penal Code, bullying is defined as any act whereby the perpetrator believes that their conduct harms the victim because of gender, race, religion, or physical characteristics. When applying this definition to Algerian Law No. 20-05, a clear convergence becomes evident. Acts of bullying that incite hatred or demean individuals because of their origins or disabilities fall directly within the scope of the provisions criminalizing discrimination.

The principle of non-discrimination is therefore a fundamental constitutional principle that cannot be undermined under the pretext of digital freedom of expression. Owing to its breadth and flexibility, this principle is capable of encompassing any conduct aimed at undermining human dignity and personal identity. Consequently, racial cyberbullying may be regarded as the modern digital manifestation of the traditional crime of discrimination.

Section Two: Emerging Forms of Cyberbullying Targeting Certain Vulnerable Groups

At the outset of this study, it was emphasized that cyberbullying constitutes one of the most serious contemporary social phenomena, affecting all members of society without exception. This aggressive behavior does not discriminate among its victims on the basis of age, gender, or social status; rather, it affects individuals of all backgrounds and manifests itself in varying forms and levels depending on the means used and the underlying objectives. Within the vast and expanding virtual environment, and with the remarkable growth in the use of modern electronic communication tools, cyberbullying has spread to encompass all age groups, educational levels, and social classes within Algerian society. Virtually everyone has become susceptible to disturbing online campaigns that fall within the scope of digital bullying, particularly when such acts are characterized by repetition, persistence, and offensive verbal content, or when they involve significant elements of insult, humiliation, and harm to personal reputation. The scope of targeting has also extended to include celebrities, influencers, and public figures who increasingly become victims of systematic online harassment for various reasons, most notably because they share

aspects of their personal or professional lives on social media platforms, which often becomes a pretext for violations of their privacy²⁴.

Although cyberbullying affects individuals across all age groups and social categories, young people and minors in particular remain among the most vulnerable and most affected groups. Their close relationship with technology and their prolonged presence in virtual spaces increase their exposure to this phenomenon. Nevertheless, online harassment is not limited to children and adolescents; it also significantly affects adults²⁵, particularly women, who are frequently subjected to what is commonly referred to as cyber harassment. In such cases, perpetrators often described as online stalkers engage in systematic efforts to damage women's reputations and undermine their dignity and honor within the digital environment.

A: Cyberbullying Directed Against Women

Violence against women remains one of the most persistent and widely documented issues across societies worldwide. No society is entirely free from this phenomenon, which has become a matter of significant concern within legal and human rights agendas due to its transnational nature. With the emergence of digital globalization and its increasing penetration into Algerian society characterized by the rapid dissemination of information and the reduction of time and effort required for communication the internet has become, for many women in Algeria and across the world, a genuine space for freedom and a platform for expression, communication, and professional engagement. These opportunities might not have been accessible to them in the physical world without the presence of these technologies. However, this openness has simultaneously created a gateway for a new and particularly aggressive form of violence directed against women²⁶.

Contemporary crises have further exacerbated this phenomenon. In particular, the period of confinement during the COVID-19 pandemic contributed to a significant increase in digital violence against women, bringing previously hidden forms of abuse into greater public visibility. Terms such as digital violence, technological violence, information and communication technology facilitated violence, cyberbullying, and cyber harassment are often used interchangeably to describe this phenomenon. While some of these terms may be too narrow to capture the full range of digital abuse, others may be broader but lack legislative precision when addressing specific forms of violence²⁷.

With the increasing prevalence of digital violence against women, the concept of sexual cyberbullying has emerged. In the absence of an explicit legislative provision within Algerian law that directly uses the term bullying, the issue of legal characterization becomes particularly significant. Consequently, this study seeks to provide a legal analysis of acts of sexual cyberbullying directed against women by drawing upon the provisions of the Algerian Penal Code, particularly the amendments related to the protection of women, which may provide multiple forms of criminal qualification.

1: The Extent to Which Sexual Harassment Provisions Encompass Cyberbullying Against Women

The offense of sexual harassment has received considerable attention in recent amendments to Algerian criminal law as well as in the legislation of various Arab countries. Sexual harassment may be defined as a form of violence manifested through various behaviors and actions whether explicit, implicit, or suggestive that contain an unwanted sexual dimension. Electronic sexual harassment represents one of the modern forms of criminal behavior that emerged as a consequence of the information technology revolution. Through electronic means, perpetrators may send or receive written messages, images, or engage in real-time audio-visual communication, which has become one of the most commonly used channels for such conduct. This technological environment

has provided certain offenders with opportunities to pursue their criminal intentions through the misuse of digital tools²⁸.

Recognizing the seriousness of sexual harassment within the digital sphere, the Algerian criminal legislator has sought to keep pace with technological developments by strengthening the punitive framework through stricter criminal provisions. Law No. 15-19, which amended and supplemented the Algerian Penal Code²⁹, introduced important measures aimed at combating violence against women, whether in the form of physical violence or sexual harassment occurring in public spaces or through electronic means and social networking platforms. Accordingly³⁰, this study undertakes a comparative analysis between the elements of sexual harassment and those of sexual cyberbullying.

1.1: The Material Element of Sexual Harassment and Sexual Cyberbullying

The Algerian legislator regulates the offense of sexual harassment under Article 341 bis of the Penal Code³¹. An examination of this provision indicates that it criminalizes acts of harassment involving the abuse of authority or professional position. With the evolution of Algerian legislation, courts have been granted broad discretionary authority to apply these provisions to various forms of harassment³², including those committed through social media platforms³³.

Legal doctrine generally distinguishes between two forms of sexual harassment. The first is *quid pro quo* harassment, which involves conditioning professional or personal benefits upon compliance with sexual demands. The second is coercive harassment, in which the perpetrator threatens the victim with the loss of a benefit or the infliction of harm if they refuse to submit to such demands³⁴.

An analysis of Algerian criminal provisions introduced to protect women from harassment through electronic means reveals that the material element is satisfied by any act involving persistent harassment through actions, statements, or gestures of a sexual nature, or through the sending of electronic messages, recordings, or images containing sexual content³⁵. When these elements are compared with acts of sexual cyberbullying, several similarities become apparent. In many cases, the victim is a woman, and the psychological consequences often involve feelings of humiliation and social exclusion. Moreover³⁶, the element of exploitation and the pursuit of the perpetrator's personal desires constitute a shared objective in both behaviors. The acts constituting sexual cyberbullying such as sending unwanted sexual messages closely resemble those constituting sexual harassment³⁷. Consequently, the legal provisions governing sexual harassment in Algerian law necessarily encompass acts of sexual cyberbullying, since bullying may often manifest itself through harassment³⁸.

1.2: The Moral Element of Sexual Harassment and Cyberbullying

Both sexual harassment and cyberbullying are intentional offenses that require the existence of criminal intent. Intent determines the legal character of the act, and criminal liability arises only when the perpetrator's will is directed toward harming the victim, infringing upon their dignity, and violating their sexual freedom while knowing that the victim does not consent to such conduct. The offense therefore requires both general intent, consisting of knowledge and will, and specific intent, manifested in the deliberate aim of the bully or harasser to achieve a particular objective either to satisfy personal desires or to degrade and humiliate the woman on a sexual basis³⁹.

2: Sexual Extortion and Cyberbullying

In recent years, numerous cases of sexual extortion have emerged in which both women and men fall victim to individuals who lure them into intimate situations that are recorded and later used to extort them financially or morally. The Algerian legislator has criminalized such acts in several provisions of the Penal Code, particularly within the sections relating to felonies and misdemeanors against property, such as theft and extortion, as well as within the provisions concerning violations

of privacy and offenses related to automated data processing systems, notably in Articles 394 bis and the provisions that follow⁴⁰.

2.1: The Material Element of the Offenses of Extortion and Sexual Cyberbullying

The material element of electronic sexual extortion is realized through intimidation and threats, whether expressed directly or conveyed through messages containing threats and coercion aimed at obtaining money or sexual favors. This conduct closely resembles the behavior of a cyberbully who may publish images or videos of the victim in compromising situations⁴¹, or who may hack the victim's device in order to obtain private data and use it as a means of domination and coercion. In this context, the offense of extortion is considered a result-based crime that requires criminal conduct capable of producing a tangible impact on the victim's will.

2.2: The Moral Element of the Offenses of Extortion and Sexual Cyberbullying

The establishment of the moral element in both offenses requires the presence of criminal intent in both its general and specific forms. General intent refers to the perpetrator's awareness that their actions constitute a form of threat or intimidation, while specific intent refers to the intention to obtain the victim's property or to exploit the victim sexually. Accordingly, Algerian criminal provisions regulating extortion such as Article 371 and Article 447 bis are sufficiently broad to encompass acts of sexual cyberbullying within their scope of punishment, thereby providing the necessary legal protection despite the absence of a specific legislative provision explicitly referring to the concept of bullying.

b: Cyberbullying Against Children

Childhood represents one of the most critical and formative stages in human life. Children constitute the generation of the future and the driving force of societal development, upon whose shoulders the continuity of human progress and the advancement of civilization depend. Childhood is therefore a fundamental stage in the life of every individual, as the foundations of personality and identity are shaped during this period. At this stage, the child is particularly sensitive and highly observant, while simultaneously being exposed to various familial and social influences⁴², as well as the psychological and behavioral transformations associated with adolescence. All these factors interact to shape the child's personality, making childhood an especially delicate and decisive stage of human development⁴³.

Childhood occupies a special status because it represents the human capital of every nation and the essential foundation for both the material and moral development of society. Due to the sensitivity and importance of this stage, human civilizations and the international community have surrounded children with a comprehensive framework of care and protection. In this context, children's rights⁴⁴ have received extensive international attention, most notably through the adoption of the Convention on the Rights of the Child by the United Nations General Assembly on 20 November 1989⁴⁵.

With the continuous expansion of modern communication technologies, and given that the use of these technologies is no longer limited to any specific age group, both adults and children now maintain accounts on various social media platforms. Despite the numerous benefits these technologies have provided to humanity, they have also created new opportunities for criminal exploitation. As a result, children have increasingly become vulnerable to a range of emerging forms of crime that use social media platforms as their operational environment.

In this context, several types of cybercrimes have emerged that specifically target children, including online child trafficking, digital recruitment through online networks, and other serious offenses. Nevertheless, cyberbullying remains one of the most prominent and widespread forms of

cybercrime affecting children in recent years. With the widespread accessibility of the internet, bullying is no longer confined to the traditional school environment; rather, it has expanded into the digital sphere, entering households through virtual platforms.

Consequently, the necessity of addressing the phenomenon of cyberbullying targeting children and minors has become increasingly urgent. This concern reflects the growing attention given by public authorities and legal scholars in Algeria to expanding the scope of criminal law intervention in order to ensure effective protection for children. Legal doctrine has increasingly referred to the concept of a specialized criminal law framework for children, recognizing that this field does not constitute a departure from the general rules governing adult criminal responsibility but rather represents a specific legal model that takes into account contemporary social transformations and international legal standards requiring states to provide special protection for children.

It is also noteworthy that most comparative criminal legislations, including Algerian law, contain explicit provisions addressing crimes committed against children. This reflects a clear legislative evolution aimed at strengthening and expanding the scope of criminal protection provided by penal legislation⁴⁶. Algerian society, like many others, has witnessed a significant spread of cyberbullying against children. In the absence of a specific provision in the Algerian Penal Code explicitly referring to bullying, an important legal question arises regarding the appropriate legal framework capable of addressing such acts when they are committed against minors.

Given the special legal status accorded to children within Algerian law, acts of cyberbullying cannot be allowed to go unpunished. Among the most relevant criminal provisions capable of encompassing such acts are those relating to the sexual exploitation of children. Methods of sexual exploitation have evolved significantly through the use of the internet, posing serious threats to children, particularly through the production and dissemination of pornographic content.

In recognition of the seriousness of such conduct, the Algerian legislator has criminalized acts of sexual exploitation and incitement involving minors under Article 334 of the Penal Code and the subsequent provisions relating to the protection of minors. These provisions impose custodial penalties on any person who incites a minor under the age of eighteen to engage in debauchery or moral corruption, encourages such behavior, or facilitates it. When applied to the digital environment, it becomes evident that the legislator did not restrict the means through which such incitement may occur. This legislative approach is sound because it allows acts committed through social media platforms to fall within the scope of criminalization.

Acts of incitement associated with cyberbullying may take several forms, including:

- **The organization of online sexual interactions or digital sexual encounters.** In such cases, children may become easy targets for promoters of pornographic content on the internet. These platforms often facilitate real-time or simulated sexual communication intended to lure children into engaging in inappropriate or indecent acts⁴⁷.
- **The production and dissemination of pornographic images involving minors.** This may occur when perpetrators create, record, or transmit explicit images of children for digital distribution, using computer technologies, digital manipulation, and editing techniques to produce sexually explicit content involving minors, which may subsequently be reused as a tool for ongoing sexual cyberbullying against the child.

In many cases, once perpetrators obtain such images or videos, they engage in a form of digital domination over the child whether male or female forcing the victim to comply with their demands out of fear of exposure or scandal. This behavior corresponds to what Egyptian legislation describes in Article 309 bis B as a display of power or control by the perpetrator or the exploitation of the

victim's weakness. Consequently, sexual exploitation of children under Algerian law may in substance constitute a form of cyberbullying, particularly as it falls within the scope of Articles 333 bis and the provisions that follow in the Algerian Penal Code. This interpretation is consistent with the principle that the best interests of the child require protection from all forms of violence, intimidation, and exploitation.

Finally, it should be noted that such offenses are increasingly committed within organized criminal structures. The Algerian legislator has taken this reality into account through legislative provisions addressing criminal organizations and organized criminal groups. Under these provisions, penalties are significantly aggravated when such crimes are committed against children by organized criminal groups, with sanctions extending to lengthy custodial sentences and substantial financial penalties proportionate to the gravity of the offense.

Conclusion

At the conclusion of this in-depth study on cyberbullying, it becomes evident that this phenomenon can no longer be regarded as a mere series of isolated behaviors. Rather, it has evolved into an escalating threat to the social fabric of Algerian society. This reality confirms the impossibility of ignoring the phenomenon or addressing it solely through rigid traditional frameworks, or by relying exclusively on classical criminal provisions that may not fully capture the complexities of the digital environment.

Throughout the chapters of this study, we have examined how numerous countries both Arab and foreign have moved swiftly to adopt specific and independent legislation aimed at confronting the growing spread of this emerging phenomenon. Although the Algerian legislator has not yet explicitly incorporated the term bullying within the provisions of the Penal Code, this research has demonstrated that relying exclusively on traditional criminal provisions remains insufficient to encompass all dimensions of the phenomenon. While certain provisions of Algerian law have proven relatively effective in addressing specific forms of bullying such as those related to insult and defamation, sexual harassment, sexual extortion, and violations of privacy other forms of cyberbullying continue to fall outside the scope of legal accountability due to the difficulty of fitting them within the traditional elements of existing offenses.

Ultimately, it must be emphasized that cyberbullying has become a phenomenon that erodes the foundations of contemporary societies regardless of their cultural or ideological contexts. Addressing this emerging criminal behavior cannot be achieved solely through reliance on traditional legal provisions. Rather, the Algerian legislator must develop and modernize the legal framework in order to confront acts whose consequences may be accurately described as a psychological and moral graveyard for their victims.

Like all rigorous academic research, this study concludes with a set of findings and recommendations intended to shed light on the reality and implications of cyberbullying.

First: Findings and Conclusions

1. **Insufficiency of Traditional Legal Provisions:** Classical legal provisions have become insufficient to fully satisfy the requirements of criminal protection for individuals who are increasingly exposed to the risks associated with rapid technological development, which evolves more flexibly than the static nature of legal texts.
2. **Multiplicity of Methods and Means:** Cyberbullying manifests itself through a variety of methods and technological tools, including social media platforms, instant messaging applications, and anonymous or fictitious websites.

3. Universality of Victimization: Cyberbullying spares no one. It affects women and men, children and adolescents, and even prominent public figures and influential personalities, making it a broad societal threat.
4. Difficulty of Criminal Prosecution: Cyberbullying possesses a particular criminal characteristic arising from the perpetrator's ability to conceal their identity behind anonymous digital accounts and fictitious profiles, which requires enhanced technical and investigative efforts to identify the real offenders.

Second: Recommendations and Proposals

1. Raising Social Awareness: Civil society organizations and Algerian media institutions should collaborate in organizing seminars, workshops, and conferences aimed at raising awareness of the severe psychological and social consequences of cyberbullying.
2. Strengthening the Role of the Family: Public awareness campaigns should promote safe internet practices and encourage families to monitor and guide their children toward responsible use of digital technologies.
3. Educational and Academic Reform: It is recommended that educational curricula include courses on digital ethics at the pre-university level. Additionally, new academic specializations in Technology and Internet Law and information protection should be established within Algerian law faculties.
4. Value-Based and Educational Approaches: Emphasizing ethical and educational principles, including those rooted in Islamic moral teachings, can contribute to addressing issues related to childhood protection and promoting healthy psychological and social development.
5. Breaking the Culture of Silence: Victims of cyberbullying should be encouraged to report incidents immediately, while societal attitudes that perpetuate fear of scandal must be challenged, as such attitudes often enable perpetrators to continue their harmful behavior.
6. Psychological Support for Children: Children and adolescents should be encouraged to speak openly when they experience bullying, and psychological support mechanisms should be established to assist victims and rehabilitate young offenders.
7. Legislative Amendment: it is recommended that the Algerian Penal Code be amended to include a specific provision defining cyberbullying and prescribing its penalties independently, similar to the approach adopted in Egyptian legislation under Article 309 bis B.

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