

The Crime of Discrimination and Hate Speech : Between Preventive Mechanisms and the Necessity of Combating It - A Study in Light of Law No. 20-05-



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Abstract :

Among the new and dangerous phenomena that have appeared recently in society and which have spread remarkably and terrifyingly in most countries, is the phenomenon of discrimination and hate speech. This phenomenon has allowed anyone to say whatever he likes, thereby transgressing all legal, ethical, and professional limits. Thus, people can also publish various content and topics rife with all kinds of insults, slander, cursing, and harsh criticism that incites resentment and fanaticism, ultimately devastating the entire fabric of society, potentially leading it into bloody and intense crises and conflicts.

Therefore, the growing threat has prompted the international community to adopt a series of agreements to combat this phenomenon. Many countries' legislation has also regulated it within their domestic laws, including Algerian legislation, which has dedicated a distinct law to prevent it, on the one hand, and combat it, on the other hand.

Accordingly, this research paper aims to shed light on Algerian legal texts that criminalize discrimination and hate speech, and mechanisms to prevent it in a way that promotes the values of tolerance and reconciliation in the Algerian society.

Key Words : Discrimination ; hate speech ; prevention ; criminalization ; tolerance.

جريمة التمييز وخطاب الكراهية: بين آليات الوقاية وضرورة المكافحة

- دراسة على ضوء القانون رقم 20-05-

ملخص: ظهرت في الآونة الأخيرة ظواهر جديدة وخطيرة على المجتمع، من بينها والتي انتشرت بشكلٍ لافتٍ ورهيبٍ في غالبية الدول ظاهرة التمييز وخطاب الكراهية، حيث أتاحت لكل شخصٍ قول ما يحلو له، متجاوزًا بذلك كل الحدود القانونية والأخلاقية والمهنية المفروضة عليه، كما أصبح الباب مفتوحًا على مصراعيه ومتاحًا لعامة الناس نشر مضامين ومواضيع مختلفة تعجّ بكل أصناف السب والقذف والشتم والنقد اللاذغ المثير للضغينة والتعصب لدى الطرف أو الأطراف المستهدفة مما يعصف في النهاية بكيان المجتمع كله الذي قد تدخله في أزمات ونزاعات دامية وحادة.



لهذا، دفع الخطر المتزايد المجتمع الدولي إلى إقرار مجموعة من الإتفاقيات من أجل مكافحة هذه الظاهرة، كما نظمتها العديد من تشريعات الدول ضمن قوانينها الداخلية بما فيه التشريع الجزائري الذي خص لها قانون متميز من أجل الوقاية منها من جهة، ومكافحتها من جهة أخرى. وعليه، تهدف هذه الورقة البحثية إلى تسليط الضوء على النصوص القانونية الجزائرية التي تجرم ظاهرة التمييز وخطاب الكراهية، وكذا سبل الوقاية منها بما يعزز قيم التسامح والتصالح في المجتمع الجزائري. الكلمات المفتاحية: التمييز، خطاب الكراهية، الوقاية، التجريم، التسامح.

Le délit de discrimination et le discours de haine : entre mécanismes de prévention et nécessité de les combattre - Étude à la lumière de la loi n° 20-05-

Résumé :

Parmi les phénomènes nouveaux et dangereux qui sont apparus récemment dans la société figure le phénomène de la discrimination et des discours de haine. Ce phénomène a permis à chacun de s'exprimer librement, transgressant ainsi toutes les limites légales, éthiques et professionnelles. En conséquence, le grand public peut également publier des contenus et des sujets truffés d'insultes, de calomnies et de critiques virulentes, qui attisent le ressentiment et le fanatisme au sein du ou des partis visés, dévastant ainsi l'ensemble de la société et risquant de la plonger dans des crises et des conflits intenses et sanglants.

Par conséquent, cette discrimination croissante a incité la communauté internationale à adopter une série d'accords pour lutter contre ce phénomène. De nombreux pays l'ont également réglementée dans leur droit interne, notamment l'Algérie, qui a consacré une loi distincte pour la prévention et la lutte contre ce fléau.

Ainsi, cette étude vise à éclairer les textes juridiques algériens qui criminalisent la discrimination et les discours de haine ; et les mécanismes pour les prévenir qui consistent dans l'instauration des valeurs de tolérance et de réconciliation dans la société Algérienne.

Mots Clés : discrimination ; discours de haine ; prévention ; criminalisation ; tolérance.



Introduction:

The Algerian legislator has adopted through Law n° 20-05 legal preventive and deterrent mechanisms to confront the phenomenon of discrimination and hate speech. This comes after Algeria ratified several international human rights agreements and the frightening spread of this phenomenon, which has become a concern in Algerian society, particularly in sports, the media, political discourse, and electoral campaigns, which are replete with content that incites discrimination and hatred.

All of these reasons prompted the Algerian legislator to address them through a special law that includes a national strategic plan for prevention, taking the form of preventative and institutional measures, being considered a qualitative addition in the field of supporting and preserving human rights.

Because the phenomenon of discrimination and hate speech is relatively new to Algerian society, having become more prominent with the development of technology and media and communication, the Algerian legislator's intervention to confront it was initially limited to the Penal Code, where Article (295) bis 1, 2, and 3 were devoted to it, and Article (298) pursuant to Law No. 14-01 amending the Penal Code.

However, with the alarming growth of this phenomenon and its impact on societal morality and cohesion, the Algerian legislator has labeled it a crime. This was also confirmed in the preamble to the 2020 constitutional amendment, which stated that the people are determined to protect Algeria from sedition, violence, hate speech, and all forms of discrimination.

Accordingly, the importance of the subject is evident in the fact that discrimination and hate speech are phenomena alien to Algerian society, having spread remarkably in most areas and across various fields. This may cause fragmentation and a widening gap between its members, potentially leading to hostility, violence, and fanaticism.

The study also aims to shed light on the preventive measures and deterrent mechanisms established by Law No. 20-05 to face the crime of discrimination and hate speech, particularly in light of the growing prevalence of this phenomenon in society due to the development of media and technology, where certain explicit or implicit terms and expressions are used under the cover of so-called "freedom of expression".

Accordingly, and in order to encompass the various aspects of the study, we decided to address the subject according to the following question : **What preventive measures and deterrent mechanisms have Algerian lawmakers enacted under Law No. 20-05 to combat the crime of discrimination and hate speech in Algerian society ?**



In order to answer the problem raised, we relied on an analytical approach based on analyzing legal texts that establish preventive and deterrent mechanisms for the crime of discrimination and hate speech.

To study the subject, we will address the preventive mechanisms against the phenomenon of discrimination and hate speech, which are represented in the general principles for establishing a strategy to prevent them, as well as the institutional mechanisms for implementing them on the ground (**the first topic**). Then we will move to the deterrent mechanisms for the crime of discrimination and hate speech through analyzing the punitive policy against their perpetrators (**the second topic**).

THE FIRST TOPIC:

Legal Mechanisms To Prevent The Crime of Discrimination And Hate Speech

In line with Algeria's ratification of the majority of international human rights instruments, particularly those against racial discrimination and incitement to hate speech, the Algerian legislator was required to address this crime with a specific text containing a set of general principles that embody a preventative strategy against the crime of discrimination and hate speech (**First requirement**), in addition to adopting new institutional mechanisms to prevent them (**Second requirement**).

First requirement : General principles for implementing the strategy to prevent the phenomenon of discrimination and hate speech

It is stipulated by Law No. 20-05, and it is represented by the intervention of the state, public administrations and institutions (**First section**), the principle of involving civil society (**Second section**), and the media in preventing discrimination and hate speech (**Third section**).

First Section : The principle of public bodies' intervention in the strategy to prevent the crime of discrimination and hate speech.

Article (5) of Law n° 20-05¹ granted the state, institutions and public administrations the authority to develop a national strategy for the prevention of discrimination² and hate speech¹. Article (6) thereof has identified the measures that the state and public institutions must take, which are :

¹- Law n° 20-05 of April 28, 2020 on the prevention and combating of discrimination and hate speech, JORA n° 25 of April 29, 2020.

²- The second paragraph of Article (2) of Law n° 20-05 on the prevention and combating of discrimination and hate speech defines "discrimination" as "any distinction, exclusion, restriction or preference based on gender, race, colour, lineage, national origin, gender, language, geographical affiliation, disability or health status, which aims to or entails disrupting or obstructing the



- Developing educational and training programmes for sensitization and awareness.
- Spreading a culture of tolerance
- Monitoring the causes of discrimination and incitement and attempting to address them.
- Promoting institutional cooperation.

Despite the importance of these measures in preventing discrimination and hate speech, Algerian lawmakers have not established means for their implementation or evaluation. This could make them a means for the state and some public administrations to restrict constitutionally guaranteed public freedoms. This is evident in the state's tightening of censorship of social media networks, restricting freedom of expression therein.

Second Section : The principle of involving civil society in the strategy to prevent the crime of discrimination and hate speech.

Article (7) of the same Law stipulated the involving of civil society in preparing and implementing the national strategy for preventing discrimination and hate speech. This proposal is in line with the requirements of Paragraph (11) of the preamble to the 2020 constitutional amendment, which affirmed that the Algerian people have struggled and are still struggling for freedom and democracy, and intend to build, through this constitution, effective institutions, based on the participation of all citizens and civil society, in managing public affairs in a manner that achieves social justice and equality and guarantees freedom for every individual².

Accordingly, civil society is considered an effective partner, and indeed one of the most important and prominent strategies for preventing the crime of discrimination and hate speech. In order for it to be able to perform its assigned tasks as a partner contributing fundamentally to the success of the process, it must be provided with certain components, the most important of which is a framework free from political and social conflicts that might undermine its integrity and neutrality.

recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal footing in the political, economic, social, cultural or any other area of public life".

¹- The first paragraph of Article (2) of Law n° 20-05 on the prevention and combating of discrimination and hate speech defines "hate speech" as "all forms of expression that spread, encourage or justify discrimination, as well as those that include contempt, insult, hostility, hatred or violence directed at a person or group of persons on the basis of gender, race, colour, lineage, national origin, gender, language, geographical affiliation, disability or health status".

²- The Constitution of the People's Democratic Republic of Algeria promulgated by Presidential Decree n° 96-434 of December 7, 1996, JORA n° 47 of December 8, 1996, **amended and supplemented.**



The term "civil society"¹ is widely used in discourses across the country. It is found in more than one context, such as in the discourses of unions, associations, and political parties. Therefore, it is a common and familiar expression, and therefore accepted in the writings of the Arab press and other audio and visual media. What is interesting is that even in the official discourses of the state and on the tongues of its senior officials, the attractiveness of talking about the role of civil society does not escape us, which makes it unnecessary to say finally about its importance in preventing the crime of discrimination and hate speech².

Third Section : The role of the media in the strategy of preventing the phenomenon of discrimination and hate speech.

Spreading hatred and incitement to violence is inconsistent with international human rights conventions³. Therefore, the Algerian legislator, pursuant to the second and third paragraphs of Article (5) of Organic Law No. 12-05, obligated the media to work to consolidate the principles of the republican system, the values of democracy, human rights, tolerance, and the rejection of violence and racism, while promoting the spirit of citizenship and the culture of dialogue⁴.

With the spread of electronic journalism and its potential contribution to preventing discrimination and hate speech and spreading a culture of dialogue, tolerance and acceptance of other opinions, the Algerian legislator issued Executive Decree No. 20-322, which defines the procedures for practicing online media activity and publishing responses or corrections via the website⁵. It stipulates the conditions for practicing media activity via the Internet. It also requires the head of the online

¹- Civil society institutions are defined as a group of voluntary organizations, bodies, and associations independent of government authority. Their members embrace common goals achieved through collective action and conscious participation in various economic, cultural, religious, social, humanitarian, and other fields, relying on themselves to the extent that these organizations, bodies, and associations become a social force alongside state authority. They may also sometimes act as a supervisor over them and their actions. See : Israa Alaa El-Din Nouri, "The Role of Civil Society Institutions in Combating Corruption," Tikrit University Journal of Legal and Political Sciences, Issue 6, 2020, p. 375.

²- Hocine Marwan, "Civil Society from Concept to Practice", Journal of African and Nile Basin Studies, Volume 2, Issue 6, Arab Democratic Center, Berlin, Germany, 2019, P. 131.

³- CHETTY Naganna, ALATHUR Sreedjith, "Hate Speech Review In The Context Of Online Social Networks", Aggression And Violent Behaviour, National Institute of Technology, Volume 40, Karnataka, Surathkal, India, 2018, P112.

⁴- The second and third paragraphs of Article (5) of Organic Law n° 12-05 of January 12, 2012 on the media, JORA n° 2 of January 15, 2012, stipulate that : "The practice of media activities contributes in particular to the following : - Promoting the principles of the republican system, the values of democracy, human rights, tolerance, and the rejection of violence and racism. - Promoting the spirit of citizenship and the culture of dialogue".

⁵- Executive Decree n° 20-322 of November 22, 2020, determining the procedures for practicing online media activity and publishing responses or corrections via the website, JORA n° 70 of November 25, 2020.



media apparatus to have a university degree and to have no criminal record regarding the crimes of slander, insult, discrimination, hate speech or incitement to them. In our estimation, these are indispensable conditions for anyone who wants to practice honest and clean media service, as they can consolidate a culture of rejecting all forms and images of discrimination and hate speech.

However, the effectiveness and efficacy of these principles and strategies adopted by Algerian lawmakers to prevent discrimination and hate speech remains dependent on their implementation on the ground, in a serious and rigorous manner, so that they can serve as important safeguards that can be relied upon to protect the victims and those harmed by this crime.

Second requirement : institutional response to the crime of discrimination and hate speech

The Algerian legislator has created institutional mechanisms to implement the strategy for preventing discrimination crimes, namely the National Observatory for the Prevention of Discrimination Crimes and Hate Speech (**First section**) and the National Authority for the Prevention of Information and Communication Technology-Related Crimes (**Second section**).

First Section : The National Observatory as a mechanism for preventing the crime of discrimination and hate speech

Law No. 20-05 defined the composition of the Observatory (A) and its powers (B).

A- The composition of the National Observatory for the Prevention of Discrimination and Hate Speech

There is no doubt that the establishment of this observatory was prompted by the increasing prevalence of various forms and manifestations of discrimination and hate speech within Algerian society¹. The legal system alone is insufficient to address these phenomena and their resulting effects, which necessitated its creation as the most comprehensive institutional framework for combating this phenomenon and for fostering a culture of tolerance and dialogue.

This observatory consists of (16) sixteen members with competencies and experience, (6) of whom are chosen by the President of the Republic, while the rest are from among the representatives of some bodies, in addition to four representatives of the associations active in the field of the observatory's intervention. Some representatives of the relevant sectors and bodies may also attend the various works and activities carried out by the observatory as an advisory member.

¹- Given that it includes all visual and audio media, see in this regard : MC GONAGLE Tarlach, "The council of Europe against online hate speech : Coundrums and challenges", Expert paper, n° 5, 2013, P135.



However, for the observatory to be able to carry out its duties, a presidential decree defining its composition is required. This decree has not yet been enacted, making it difficult for researchers to assess its work.

B- The powers of the National Observatory for the Prevention of Discrimination and Hate Speech

According to Article (10) of the aforementioned law, the Observatory is responsible for identifying the causes of the phenomenon and proposing the necessary measures to prevent it. It also offers opinions and recommendations on issues related to discrimination and hate speech, develops awareness-raising programs on the dangers of this phenomenon, and undertakes other tasks that we deem difficult, requiring the Observatory's financial and human resources.

Most importantly, the Observatory is responsible for proposing a national strategy to prevent discrimination and hate speech and implementing it in cooperation with the relevant public authorities and various stakeholders in this field. It also submits an annual report to the President of the Republic on its implementation and the difficulties encountered.

Second Section : The National Authority for the Prevention of Crimes Related to Information and Communication Technology

The Algerian legislator established, by Law n° 09-04, a specialized body with a preventive dimension against crimes of discrimination and hate speech. It was organized by Presidential Decree No. 19-172, which defined its composition (A) and its powers (B).

A- The composition of the National Authority for the Prevention of Crimes Related to Information and Communication Technology

It was established pursuant to Article (13) of Law n° 09-04¹, and was organized pursuant to Presidential Decree n° 19-172². It is a public institution of an administrative nature, with a legal personality, independent financial status, and the capacity to litigate. It is placed under the supervision of the Ministry of National Defense.

This body consists of two main bodies³. The first is called the "Orientation Council"⁴, the second is named the "General Directorate", which includes a technical

¹- Law n° 09-04 of August 5, 2009, containing special rules for the prevention and combating of crimes related to information and communication technology, JORA n° 47 of August 16, 2009.

²- Presidential Decree n° 19-172 of June 6, 2019, defining the composition of the National Authority for the Prevention and Combating Crimes Related to Information and Communication Technology, its Organization and Operation, JORA n° 37 of June 9, 2019.

³- See : Article (4) of the previous decree.

⁴- Revise :Article (5) of the same decree.



directorate, an administration and means directorate, in addition to a group of means and interests under the management of the general director¹.

B- The powers of the National Authority for the Prevention of Crimes Related to Information and Communication Technology

They were determined by Article (14) of Law No. 09-04 and Presidential Decree No. 19-172, which can be divided into preventive and deterrent powers or measures.

Among the preventive measures are raising awareness among information and communication technology users of the potential risks and seriousness of crimes they may be exposed to as a result of their use of these technologies, activating and coordinating efforts to prevent and combat technology crimes, exchanging information with foreign counterparts and ensuring cooperation between them, preserving digital data for use in legal proceedings, as well as administrative and financial powers.

This, in addition to its oversight powers, the Authority may conduct inspections and seizures within information systems, such as electronic surveillance, within the framework of investigations and inquiries requested by Algerian or foreign judicial authorities, within the framework of international cooperation aimed at exchanging information in accordance with relevant international and bilateral agreements.

THE DECOND TOPIC : Mechanisms To Combat Discrimination And Hate Speech

Considering the seriousness of this crime to society as a disease that requires treatment, most international human rights agreements have criminalized this phenomenon. Given that Algeria has ratified most of them, the Algerian legislator has considered it among the newly introduced crimes (**First requirement**), requiring punishment for its perpetrators (**Second requirement**).

First requirement : The legal basis for criminalizing the phenomenon of discrimination and hate speech

Many international legal texts have declared that discrimination and hate speech are serious crimes against humanity and against the peace and security of any country in which they are committed (**First section**). This is a position that has influenced the Algerian legislator through the Penal Code and the law against these crimes (**Second section**).

¹ - Compared to Presidential Decree n° 15-261, we note that the Algerian legislator, in addition to changing the legal status of this body, which under this decree was subordinate to the Minister of Justice, has significantly reduced its composition, which included a number of bodies, including two judges from the Supreme Court.



First Section : Criminalizing the phenomenon of discrimination and hate speech in international law

International legislation does not deny that discrimination and hate speech are punishable crimes¹. This is inferred from the Universal Declaration of Human Rights of 1948². They included the most important rights and fundamental freedoms of the individual, without any preference of colour or sex. It also allowed member states to intervene to prohibit hate speech³.

Article (20) of the International Covenant on Civil and Political Rights⁴ and Article (4) of the Convention on the Elimination of All Forms of Racial Discrimination⁵ prohibited any call for war or national, racial or religious hatred that leads to discrimination.

There is no doubt that discrimination and hate speech are also prohibited by the American Convention on Human Rights, prohibiting discrimination, hatred, or intolerance against any person or group on the basis of race, color, religion, or language⁶. As well as the European Convention⁷. This is the same position with regard to the African Charter on Human and Peoples' Rights, which, although it does not explicitly stipulate discrimination and hate speech, includes in its Article (28) the necessity of respecting others and maintaining relationships aimed at strengthening the values of respect⁸.

Despite the importance of these instruments in combating the crime of discrimination and hate speech, they remain subject to multiple interpretations when implemented by their member states, leading to a failure to comply with their obligations. This is due to the absence of an explicit text criminalizing hate speech, on the one hand, and the non establishment of specific international standards to define the basic minimum for freedom of expression, on the other. This calls for the development of a specific international agreement to regulate the issue and to serve as

¹- TRUBEK David M, The Rule of Law in Development Assistance : Past Present and Future, University of Wisconsin-Madison, USA, 2003, P11.

²- See : Articles (1) and (2) of The Universal Declaration of Human Rights. See web site : <https://www.un.org> . Accessed on July 1, 2025.

³- TRUBEK David M, op.cit., P11.

⁴- See the contents of the article on : <https://www.treaties.un.org>

⁵- For more details, see the web site of the convention : <https://www.treaties.un.org>

⁶- American Convention on Human Rights, issued on November 22, 1969, See web site : <https://www.achr.org> . Accessed on June 20, 2025.

⁷- See : The Council of Europe Report on Discrimination and Hate Speech, issued in May 2010, published on the website : <https://www.coe.int> . Accessed on June 21, 2025.

⁸- The African Charter on Human Rights, issued on June 27, 1981, was ratified by Algeria by Decree n° 87-37 of February 3, 1987, JORA n° 6 of February 4, 1987., See web site : <https://www.african-court.org> . Accessed on June 20, 2025.



a general framework and global instrument to be relied upon when developing national legal texts on this context.

Second Section : Criminalizing the phenomenon of discrimination and hate speech in Algerian law

In recent years, irrational ideas and discourses filled with hostility, contempt, and discrimination have been on the rise, using words and phrases with direct and indirect connotations, either intentionally or unintentionally, in a way that leads to incitement, misleading, or influencing the public¹. This prompted the Algerian legislator to issue Law No. 14-01 amending and supplementing the Penal Code, which included some scattered and brief provisions that are insufficient to confront this phenomenon, which has developed and spread in a frightening manner. This forced the legislator to pay more attention to it through Law No. 20-05.

In addition to the mechanisms to prevent discrimination and hate speech, the Algerian legislator has criminalized this phenomenon under the aforementioned law, given the danger it poses to the security and stability of Algerian society, especially given the presence of media platforms and a fertile communication environment that facilitate its spread.

Therefore, the crime of discrimination and hate speech are among the newly created crimes pursuant to the amendment to the Penal Code No. 14-01 through Article (295) bis 1².

Because the phenomenon of discrimination and hate speech has expanded in scope and severity, Algerian legislator has reorganized it with a special text, Law No. 20-05, which criminalizes this phenomenon and stipulates strict penalties for its perpetrators.

This proposal was reaffirmed in the seventh paragraph of the preamble to the 2020 constitutional amendment, which affirmed that the people are obliged to protect Algeria from sedition and violence, and from all forms of extremism, hate speech, and discrimination, by adopting spiritual and civilizational values and the language of dialogue, reconciliation, and brotherhood.

On the other hand, Article (58) of the same constitutional amendment confirmed that freedom of the press cannot be exploited to violate the dignity, freedoms and rights of others.

Second requirement : the legal regulation of the crime of discrimination and hate speech

¹- WANG Lu-In, "Hate Crime and Everyday Discrimination ", Rutgers Race and L. Rev, Volume 4, Issue 1, USA, 2002, P20.

²- Order n° 66-156 of June 8, 1996, containing the Penal Code, JORA n° 49, dated June 11, 1966, amended and supplemented by Law n° 24-06 of April 28, 2024, JORA n° 30 of April 30, 2024.



This crime is considered like any other crimes that must have specific elements (**First section**) and the penalties imposed on its perpetrators (**Second section**).

First Section : The elements of the crime of discrimination and hate speech

This crime is determined by three elements the material (A), the moral (B), and the legal (C).

A- The material element of the crime of discrimination and hate speech

It is based on criminal behaviour committed by a person motivated by hatred, racism, and fanaticism, whether through words, actions, writing, or visual representations, directly or indirectly, against a person or group of people, which leads to deprivation, obstruction, or disruption of the recognition of some of their rights, whether political, social, or economic, or restriction of some of their freedoms.

The Algerian legislator did not set out specific behaviours in Law No. 20-05 for the crime of discrimination and hate speech, but some of them can be inferred from the legal texts that stipulate certain discriminatory and racist practices or those that incite hate speech, such as offensive remarks and comments, derogatory and insulting, negative stereotyping, intimidating speech, and provocations that incite hostility and violence, especially those issued through traditional and electronic media, which cause division and fanaticism among the people of the same country and thus harm the institutions and components of society as a whole.

B- The moral element of the crime of discrimination and hate speech

Their establishment requires the presence of criminal intent, which is based on two elements knowledge and will¹. The perpetrator must know that the behaviour he has committed is criminal under the law and is likely to infringe upon one of the rights or freedoms of the individual or individuals addressed by it, or may lead to the incitement of discord and fanaticism among members of society. However, his will was directed towards committing it².

If some crimes require only general intent to be achieved, then this crime also requires special intent, which is what is understood from the wording of the text of Article (47) of Law No. 20-05.

C- The legal element of the crime of discrimination and hate speech

To qualify some of these acts as crimes, there must be a legal text that clearly criminalizes them and prescribes the punishment prescribed for them. Therefore, Law No. 20-05 is considered a strong legislative basis for combating this crime.

¹ - M. LAWRENCE Frederik, "Resolving the Hate Crimes -Hate Speech Paradox", Notre Dame Law Review, Volume 68, Issue 4, Indiana, USA, 1993, P692.

² - BLEICH Erik, "The Rise of Hate Speech and Hate Crime in Liberal Democracies", Journal of Ethic and Migration Studies, Volume 37, Issue 6, USA, 2011, P925.



Second Section : The punishment for the crime of discrimination and hate speech

Taking into account the text of Article (30) of Law n° 20-05, anyone who commits an act of discrimination and hate speech shall be punished with a misdemeanor, the penalty of which ranges from imprisonment for a period of **six** months to **three** years, and a fine of 60,000 DZD to 300,000 DZD. This penalty shall be increased from **one** year to **three** years and a fine of 100,000 DZD to 300,000 DZD in case of public incitement, praise or carrying out propaganda acts in order to commit this crime.

The penalty may also be increased to **five** years imprisonment and a fine of up to 1,000,000 DZD in case of financing or encouraging, by any means, the previously mentioned crime.

The perpetrator of the crime shall also be punished by imprisonment from **two** to **five** years and a fine from 200,000 to 500,000 DZD if this crime is committed in the following cases :

- If it is committed against a minor, a sick person.
- If the crime is committed by a group of people.
- If the crime is committed by using the media¹.

The Algerian legislator did not exempt from the scope of criminalization the legal person who commits the crime of discrimination and hate speech², nor did he for the attempted crime, with the same penalties mentioned above³.

Penalties may also be increased or doubled in case of recidivism⁴, in addition to imposing one or more additional penalties from among those stipulated in Article (9) of the Penal Code, such as confiscating the devices, programmes, websites, accounts, and means used in committing the crime and preventing the practice of a profession or activity related to the crime committed.

Conclusion :

Through our study of the subject, Law No. 20-05 can be considered a special legal framework for the crime of discrimination and hate speech, both in terms of prevention and deterrence. Accordingly, the law has adopted a well-thought-out strategy to prevent all forms of discrimination and hate speech, embodied in a set of

¹- The tightening in this case is the provisions of Article (58) of the Constitutional Amendment of 2020, which states that freedom of the press cannot be exploited to undermine the dignity, freedoms and rights of others, and it prohibits the dissemination of discriminatory and hate speech.

²- See : Article (38) of Law n° 20-05, previously mentioned.

³- See : Article (39) of the same law.

⁴- See Articles (41) and (42) of the same law.



measures with awareness-raising and educational programmes, along with the adoption of mechanisms for vigilance, warning, and early detection of the causes of this phenomenon, with the involvement of civil society, the media, and public and private institutions.

Despite the importance of these preventative mechanisms, they do not deter criminals and do not reduce the seriousness of the crime of discrimination and hate speech due to the ambiguity of some provisions of Law No. 20-05. Legislative intervention to address the phenomenon is limited and does not accurately encompass all forms of discrimination and hate speech in Algerian society, especially in light of its changes and the influence of modern media and communication on its culture and behaviour, on the one hand.

On the other hand, we note that no presidential decree has been issued defining the composition of the National Observatory for the Prevention of Discrimination and Hate Speech. The latter has not yet seen light, making it difficult for researchers to evaluate its work.

This is in addition to the failure of many countries to comply with their international obligations related to the prevention and combating of the crime of discrimination and hate speech, and the fact that many of the relevant instruments are subject to multiple interpretations when applied by their member states.

Therefore, most countries' legislation, such as Algeria's, criminalizes discrimination and hate speech, according to specific conditions in Law No. 20-05.

On this basis, we have come up with a number of suggestions that may serve the subject, which are :

- The establishment of the National Observatory should be made possible by a constitutional text rather than by law, in line with the Paris Principles for conferring constitutional status. A presidential decree must also be issued specifying the composition of the National Observatory.
- The need to adopt a dedicated website as a mechanism for vigilance, warning, and early detection of the causes of discrimination and hate speech, directed to the public and civil society actors, to present the causes and factors behind the spread of this phenomenon and to propose appropriate solutions.
- Including a representative from the Supreme Youth Council within the Observatory's composition, with the aim of contributing to the promotion of national values.
- Enhancing international cooperation to combat the crime of discrimination and hate speech, especially judicial and security cooperation between countries.



- The necessity of implementing awareness and education programmes, and activating the role of civil society in this field.
- Establishing specialized judicial mechanisms to combat the crime of discrimination and hate speech, and training judges to adjudicate them.
- Establishing an international treaty that is agreed upon by all countries to combat the crime of discrimination and hate speech, and ensure its regular and precise implementation.
- Establishing unified international standards regarding actions and statements that fall within the category of crimes of discrimination and hate speech.

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1- Book :

- 1- TRUBEK David M, The Rule of Law in Development Assistance : Past Present and Future, Columbia University Press, New York, USA, 2003.

2- Journal Article :

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3- Legal texts :

A- The constitution :

- The Constitution of the People's Democratic Republic of Algeria promulgated by Presidential Decree n° 96-434 of December 7, 1996, JORA n° 47 of December 8, 1996, **amended and supplemented**.

B- Legislation :

- 1- Order n° 66-156 of June 8, 1996 on the Penal Code, JORA n° 49, of June 11, 1966, amended and supplemented by Law No. 24-06 of April 28, 2024, JORA n° 30, of April 30, 2024.
- 2- Law n° 09-04 of August 5, 2009 on special rules for the prevention and combating of crimes related to information and communication technology, JORA n° 47, issued on August 16, 2009.
- 3- Law n° 12-05 of January 12, 2012 on the media, JORA n° 2 of January 15, 2012.
- 4- Law n° 20-05 of April 28, 2020 on the prevention and combating of discrimination and hate speech, JORA n° 25 of April 29, 2020.
- 5- Presidential Decree n° 19-172 of June 6, 2019 on the composition of the National Authority for the Prevention and Combating Crimes Related to Information and Communication Technology, its Organization and Operation, JORA n° 37, of June 9, 2019.
- 6- Executive Decree n° 20-322 of November 22, 2020 on the procedures for practicing online media activity and publishing responses or corrections via the website, JORA n° 70, of November 25, 2020.

4- Other documents :

- 1- American Convention on Human Rights of November 22, 1969, See web site : <https://www.achr.org> . Accessed on June 20, 2025.
- 2- The Council of Europe Report on Discrimination and Hate Speech of May 2010, published on the website : <https://www.coe.int> . Accessed on June 21, 2025.