

Freedom of Expression in International Conventions and Algerian Legislation – Media Legitimacy Between Freedom and Legal Responsibility-

حرية التعبير عن الرأي في المواثيق الدولية والتشريع الجزائري
-المشروعية الإعلامية ما بين الحرية وقيد المسؤولية القانونية-

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Abstract:

The Algerian legislator has enshrined the principle of the constitutional right to freedom of expression, supplementing it with legal and procedural safeguards to ensure its practical implementation. This framework aims to protect the individual's human dignity and uphold media, religious, and moral freedoms—within the boundaries imposed by respect for national security, state sovereignty, and territorial integrity. Reflecting this vision, this approach embodies the Algerian legislator's commitment—amid the construction of the "New Algeria"—to guaranteeing and regulating fundamental individual rights, with a particular emphasis on safeguarding freedom of expression. This right was explicitly granted constitutional status under Article 54 of the 2020 Algerian Constitution. Furthermore, the Algerian legislator has criminalized all forms of expression that involve blatant violations of national security, sovereignty, or territorial unity, seeking to preserve public interest and social cohesion. Thus, it can be said that Algeria's constitutional framers have achieved a notable balance in establishing a precise legal equilibrium—one that delineates the boundary between exercising the right to free expression and the accompanying limits of responsibility.

Keywords : Freedom of expression; belief; the media; rights; legal restrictions.

Introduction:

The 2020 constitutional amendments enshrined press and media freedoms as an integral component of the broader right to freedom of expression, marking a pivotal step in Algeria's legal framework. This revision constituted an unequivocal recognition of the principles enshrined in international human rights instruments, particularly those safeguarding civil liberties and freedom of opinion. Consequently, citizens were constitutionally empowered to exercise their right to free expression across all domains—including political discourse, economic analysis, social commentary, cultural critique, and historical interpretation—through any legitimate means of communication. This progressive development was strategically aligned with Algeria's democratic aspirations, as formally articulated in Article 1 of the revised constitution: "**Algeria is a democratic and popular republi**"¹.

A rigorous analysis of Article 54(7) of the 2020 Algerian Constitution—which stipulates that "freedom of the press shall not be exercised in a manner prejudicial to the dignity, liberties,

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" Freedom of Expression in International Conventions and Algerian Legislation – Media Legitimacy Between Freedom and Legal Responsibility"

or rights of others"—establishes that the right to freedom of opinion and expression is subject to permissible limitations under law. This right is not absolute, particularly where its exercise may result in the infringement of individual rights, public order, or national security. This interpretation gives rise to the following legal observation:

The Constitution strikes a deliberate balance between safeguarding freedom of expression and imposing necessary restrictions to prevent harm. By expressly proscribing the dissemination of discriminatory or hate speech, it seeks to cultivate a democratic society grounded in the principles of human dignity, equality, and social cohesion. This framework ensures that such freedoms are exercised in conformity with legal norms, thereby reinforcing the rule of law while maintaining public order and national security.

This constitutional approach reflects a dual commitment: to uphold fundamental freedoms while mitigating risks to societal harmony. It affirms that freedom of expression, though a pillar of democracy, must be construed within the bounds of statutory and constitutional constraints.

In light of the foregoing, the following legal inquiry emerges:

How does the 2020 Algerian Constitution reconcile its guarantee of freedom of opinion and expression with contemporary democratic standards, particularly regarding media regulation?

RESEARCH METHODS

The researcher employed a descriptive approach in this research paper, focusing on several considerations. Firstly, data collection was conducted to gather relevant information pertaining to the study's subject. Additionally, an analytical method was utilized to analyse legal texts concerning international conventions and the Algerian constitution successively. This was aimed at examining the provisions and areas concerning the guarantee of the right to freedom of expression. The objective was to construct a comprehensive legal framework to regulate the legal nature of media freedom.

ANALYSIS AND DISCUSSION

What distinguishes this study is the exploration of some new developments compared to previous topics. Algeria has focused on ensuring and guaranteeing the right to freedom of opinion and expression through the Algerian Constitution of 2020.

To address this issue, the study was divided into two main axes:

1. Guaranteeing the institutionalization of freedom of opinion and expression.

Democratic systems recognize freedom of opinion and expression as a cornerstone of democracy - a principle firmly endorsed by the international community and explicitly adopted by Algeria. The Algerian legal framework safeguards fundamental rights including freedom of assembly and association, privacy rights, access to information, the inviolability of correspondence, and freedom of belief and religion. These protections were constitutionally enshrined as early as the 1963 Algerian Constitution under Article 11.

Algeria's constitutional provisions notably incorporate the essence of Article 10 of the Universal Declaration of Human Rights (December 10, 1948), which affirms that "Everyone has the right to freedom of opinion and expression." This integration demonstrates Algeria's commitment to institutionalizing fundamental rights within its legal system. By constitutionalizing these principles, Algeria not only aligns itself with international human rights standards but also reinforces its dedication to building a society that protects and promotes individual freedoms

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The Algerian legislature has undertaken sustained initiatives as part of its "New Algeria" vision to guarantee and regulate fundamental individual rights while enhancing media empowerment - recognizing its crucial role in advancing constructive societal practices. This commitment finds

" Freedom of Expression in International Conventions and Algerian Legislation – Media Legitimacy Between Freedom and Legal Responsibility"

clear expression in the constitutional codification of media rights and the substantive strengthening of their protections under Article 54 of the 2020 Algerian Constitution.

By constitutionally anchoring both press freedoms and corresponding responsibilities, Algeria's legal system affirms the vital role of an independent yet accountable media in promoting transparency, good governance, and social development. Article 54 not only formally recognizes the media's function but also institutes robust safeguards to preserve its autonomy and ethical standards, consistent with the nation's democratic transformation. These constitutional provisions demonstrate Algeria's comprehensive approach to reinforcing democratic values while balancing rights with social responsibilities.³

1.1 Guarantees of embodying freedom of opinion and expression in Algerian legislation

1.1.1 Dimensions of freedom of expression

Article 52 of the 2020 Algerian Constitution enshrines the fundamental rights of "freedom of expression, freedom of assembly, and peaceful demonstration, exercised subject to prior declaration, with statutory law delineating the conditions and procedural modalities governing their implementation." This constitutional provision further extends to encompass ancillary liberties, including freedom of opinion, press freedom, and the right to access information, which shall be examined in detail hereunder.

a. Freedom of Opinion

Freedom of opinion constitutes an inalienable right permitting individuals to articulate thoughts, convictions, and viewpoints free from undue restraint or duress. This liberty is exercised within the confines of established legal parameters and democratic norms, uniformly applicable to all societal constituents without derogation. It ensures unimpeded discourse in accordance with democratic tenets while mandating due regard for the rights and dignity of others.

b. Legal Safeguards and Limitations

The constitutional guarantee of this right fosters an environment conducive to pluralistic dialogue, intellectual enrichment, and the consolidation of democratic governance. Nevertheless, such freedom is not absolute; it is circumscribed by proportionate restrictions necessary to prevent incitement to harm, safeguard public order, and protect national security. This equilibrium between individual liberty and collective interests is indispensable for sustaining social cohesion, upholding the rule of law, and preserving the foundational principles of equity and justice within a democratic framework.⁴

Article 51 of the 2020 Algerian Constitution unequivocally proclaims: **"No encroachment upon the sanctity of freedom of opinion..."** This constitutional provision enshrines an expansive guarantee, extending protection to all manifestations of opinion, including written, visual, artistic, and other forms of expressive conduct, subject only to limitations prescribed by prevailing statutory norms and established societal customs.

1. The Dual Constitutional Framework

The phrase **"No encroachment upon the sanctity of freedom of opinion"** reflects a deliberate constitutional duality:

- **Subjective Dimension:** The affirmation of individual autonomy, enabling persons to actualize their identity through unfettered self-expression, provided such expression remains within legally recognized boundaries.
- **Objective Dimension:** The institutionalization of this liberty, ensuring its exercise is channeled through structured, socially meaningful discourse.

2. Legal Boundaries and Societal Harmony

This framework underscores Algeria's commitment to balancing expressive freedoms with

" Freedom of Expression in International Conventions and Algerian Legislation – Media Legitimacy Between Freedom and Legal Responsibility"

collective interests. While the Constitution safeguards the individual's right to intellectual and artistic liberty, it simultaneously mandates adherence to legal and cultural parameters that preserve public order, national cohesion, and shared values. Such equilibrium is indispensable to sustaining a pluralistic democracy that harmonizes personal freedoms with civic responsibility.⁵ The provisions of Paragraph 1, Article 51 underscore the constitutional imperative to empower individuals in the exercise of their expressive liberties, encompassing the full spectrum of intellectual freedoms—including belief, thought, and ideological orientation. This expansive guarantee aligns with the jurisprudential perspective articulated by the eminent jurist Jacques Robert, who characterized such liberty as "a holistic entitlement enabling individuals to adopt intellectual, cultural, and political dispositions without restraint."

Robert's doctrinal position frames this freedom as inherently tied to the **"juridical concept of rightful belief,"** affirming the individual's sovereign autonomy in formulating convictions and worldview. This interpretation elevates freedom of opinion beyond mere expression, recognizing it as a foundational pillar for self-determination and participatory democracy.

Implications for Constitutional Governance

By enshrining this right, the Algerian Constitution institutionalizes a framework that:

1. **Protects Individual Autonomy:** Guarantees citizens' unfettered capacity to explore, articulate, and develop intellectual and cultural identities.
2. **Promotes Democratic Pluralism:** Cultivates a society where diverse viewpoints coexist, enriching public discourse while maintaining adherence to shared legal and ethical norms.

Robert's thesis reinforces that authentic liberty resides in the individual's capacity to shape perspectives autonomously, thereby contributing to societal progress within a balanced framework of rights and responsibilities.⁶

Press Freedom in Algeria: Algeria has exhibited a steadfast commitment to institutionalizing press freedom within the governance of public and media affairs. Analysts monitoring Algeria's legislative developments have observed the nation's pronounced emphasis on countering constraints imposed upon media institutions and journalists. This commitment is enshrined in the constitutional framework, particularly under **Article 54**, which expressly stipulates:

"Freedom of the press in its written, audiovisual, electronic, and digital forms is guaranteed."

This constitutional provision underscores the imperative of safeguarding press freedom across all media platforms, ensuring unimpeded operation for journalists and media entities free from unjustified restrictions or censorship. By codifying this principle at the highest legal level, Algeria reaffirms its dedication to cultivating a transparent and accountable media landscape—a cornerstone of democratic governance. The constitutional guarantee of press freedom not only reinforces the role of journalists as societal watchdogs but also facilitates citizens' access to pluralistic and credible information, thereby enriching public discourse and enhancing democratic engagement.⁷

From this analysis, it is evident that the exercise of press freedom through journalism serves as a fundamental pillar of democracy by countering defamation, abuse, religious intolerance, violations of human dignity, and attacks on sacred religious principles. The practice of media activities demands professional journalistic standards that transcend hate speech and racial discrimination, thereby ensuring what is recognized as media legitimacy.

Consequently, based on this examination, it must be unequivocally affirmed that press freedom in Algeria cannot be wielded to infringe upon the dignity, freedoms, or rights of others. This restriction, as enshrined in **Article 54(7) of the 2020 Algerian Constitution**, functions as a

" Freedom of Expression in International Conventions and Algerian Legislation – Media Legitimacy Between Freedom and Legal Responsibility"

safeguard to preserve the essence of free expression while protecting individual rights and public dignity.

By striking this balance, the constitutional framework ensures that press freedom is exercised with due responsibility, fostering a democratic society that harmonizes individual liberties with collective values. This approach reinforces the principle that a free press is not merely a democratic cornerstone but also an instrument for advancing social cohesion, tolerance, and human rights observance.

The **2020 Algerian Constitution** explicitly addresses press freedom—encompassing written, audiovisual, electronic, and digital media—under **Article 54**, employing the term **"guaranteed."** This signifies the constitutional drafters' deliberate establishment of media legitimacy at the national level, ensuring press immunity from prior censorship except where necessary to protect individual dignity, freedoms, and rights. **Article 54(6)** expressly delineates these boundaries, mandating that media operations respect both personal rights and public order. By codifying this guarantee, the constitution underscores the indispensable role of a free yet responsible press in a democratic society. It affirms that while the media must operate without undue interference, it remains bound by ethical and legal obligations to prevent harm to individuals or the broader societal framework. This equilibrium reflects Algeria's commitment to cultivating a media environment that upholds transparency, accountability, and human dignity while safeguarding national interests.⁸

The Legal Framework of Media Freedom in Algeria Within this context, Algeria's media landscape, as delineated above, is characterized by the following principles:

1_Constitutional and Statutory Guarantees

Media freedom is a constitutionally enshrined right under the 2020 Algerian Constitution, subject to statutory regulations that safeguard individual dignity and freedoms. It is expressly shielded from prior censorship or arbitrary legal constraints. Reinforcing this principle, Article 40 of the 2012 Media Law upholds journalists' freedom to report news and facts without undue interference, as evidenced by the provision:

"The regulatory authority overseeing the written press is an independent body vested with legal personality and financial autonomy."

This clause highlights Algeria's dual commitment to press freedom and institutional independence in media governance. By mandating an autonomous regulatory entity, the state ensures a media environment that balances liberty with accountability—enabling the press to function transparently, scrutinize power, and uphold ethical standards that protect both individual rights and the public interest. Such a framework not only fortifies democratic norms but also cultivates mutual trust among media institutions, the state, and civil society.

2_Citizens Right to Expression and Information

Press freedom in Algeria extends to citizens, empowering them to articulate opinions, thoughts, and convictions within legally defined parameters. Article 2 of the Media Law explicitly affirms:

"The media is founded on the citizen's right to comprehensive access to facts and opinions of domestic and international relevance."

This provision codifies the public's entitlement to unbiased and complete engagement with information critical to societal discourse. By enshrining this right, Algeria's legal framework ensures citizens remain informed, active participants in democratic deliberation, and capable of holding institutions to account. This dedication to transparency and the free flow of information underscores Algeria's adherence to foundational democratic tenets—press freedom and the public's right to know—which collectively underpin an open and participatory society.⁹

The Algerian constitutional framer enshrined this principle within the scope of the 2020 constitutional reforms under **Article 55 of the Algerian Constitution**. A comprehensive and

" Freedom of Expression in International Conventions and Algerian Legislation – Media Legitimacy Between Freedom and Legal Responsibility"

unequivocal equilibrium has been struck between guaranteeing citizens the right to access and disseminate information, on one hand, and upholding individual privacy, safeguarding institutional interests, and reinforcing national security imperatives, on the other.

By institutionalizing this balance, the Constitution emphasizes the dual imperatives of **transparency and accountability**, while ensuring the protection of **fundamental rights and public interests**. This framework demonstrates a commitment to cultivating an **open and participatory society**, wherein citizens can engage in civic discourse and demand institutional accountability—without infringing upon personal privacy, undermining institutional integrity, or jeopardizing state security. Such an approach is consonant with **democratic governance**, ensuring that the exercise of informational freedoms remains both **responsible and aligned with overarching societal values**.¹⁰

Nevertheless, the researcher contends that this approach gives rise to persistent legal concerns, particularly regarding the sanctions imposed for breaches of media regulations. An examination of Paragraph 8 of Article 54 reveals a broad stipulation: **"The dissemination of discriminatory or hate speech is expressly prohibited."** While this provision underscores the necessity of clear, precise legislative measures and proportionate penalties to deter violations effectively, its vagueness in enforcement mechanisms risks inconsistent judicial interpretation.

By explicitly banning hate speech and discrimination, the constitutional text seeks to cultivate a media landscape rooted in respect, inclusivity, and social cohesion. However, the lack of detailed statutory guidelines or graded sanctions may result in arbitrary adjudication, undermining legal certainty. Consequently, there is a pressing need for a comprehensive regulatory framework that:

1. Defines the scope of permissible media expression,
2. Specifies punitive measures for non-compliance, and
3. Institutes mechanisms for accountability.

Such precision would not only safeguard individuals from defamation and incitement but also reinforce the media's function as a credible and ethical pillar of democracy. Clarifying these provisions would enhance public confidence in media institutions while upholding constitutional guarantees of equality and justice.¹¹

We maintain that the media's national function—encompassing investigative journalism and public information dissemination—must inherently adhere to the principles of privacy protection, individual dignity, religious sanctities, and societal ethics, alongside national security, public order, and judicial impartiality. This framework serves as a fundamental mechanism for harmonizing media legitimacy with personal life ethics and the right to information access in Algeria. By preserving this equilibrium, the media can meaningfully contribute to public discourse while reinforcing the values of respect, confidentiality, and collective welfare.

This model ensures that the media fulfills its constitutional and democratic mandate as a public watchdog without infringing upon ethical or legal boundaries or jeopardizing individual or societal interests. It underscores the necessity of responsible journalism, which:

- **Upholds human dignity,**
- **Safeguards religious and cultural norms, and**
- **Complies with statutory and ethical obligations.**

Such an approach not only enhances institutional credibility but also cultivates a culture of accountability and public trust. Striking this balance is indispensable for fostering a media ecosystem that advances transparency, social cohesion, and fundamental rights, while simultaneously preserving national stability and constitutional order.¹²

" Freedom of Expression in International Conventions and Algerian Legislation – Media Legitimacy Between Freedom and Legal Responsibility"

Legislative Response to COVID-19: Balancing Public Health and Fundamental Freedoms

In response to the epidemiological crisis precipitated by COVID-19, the Algerian legislature enacted approximately **22 executive decrees** to reconcile **public order imperatives** with the **preservation of freedom of opinion and expression**. These measures addressed the pandemic's adverse effects on **information accessibility** and **civic trust**, particularly amid heightened public skepticism toward state institutions. To safeguard constitutional rights while mitigating health risks, Algeria implemented the following initiatives:

- **Transparency in Public Health Communications:** Mandating the disclosure of virus-related data to ensure accountability and informed decision-making.
- **Protection of Digital Freedoms:** Guaranteeing uninterrupted access to digital platforms for information dissemination and communication.
- **Regulation of Information Flows:** Combating the uncontrolled spread of destabilizing content to preserve national stability and social cohesion.
- **Anti-Disinformation Measures:** Countering fake and misleading news to prevent public panic and uphold credible health directives.
- **Safeguarded Freedom of Assembly:** Facilitating lawful gatherings in compliance with epidemiological precautions.

These actions reflect Algeria's dual commitment to **crisis management** and **rights preservation**, fostering state-citizen trust during exceptional circumstances.

Constitutional Foundations and Limitations

Article 55 of the Algerian Constitution enshrines the **right to access, obtain, and disseminate information**, affirming its role in promoting **transparency**, **civic participation**, and **institutional accountability**. However, this right is not absolute; it is bounded by **legitimate restrictions** to protect:

- **Individual privacy,**
- **Institutional interests,** and
- **National security imperatives.**

This **equilibrium** ensures that democratic freedoms are exercised **responsibly**, without compromising **public safety** or **societal values**. By institutionalizing such safeguards, the constitutional framework strengthens **public trust**, reinforces **ethical journalism**, and upholds the **rule of law**—key pillars of a resilient democracy.¹³

This assertion emphasizes the indispensable function of journalists in delivering a holistic analysis of societal matters, underscoring the imperative to safeguard them as a cornerstone of informational empowerment. The dissemination of political, economic, social, cultural, and historical truths is deemed fundamental to preserving the cohesion of the human collective and averting the erosion of civic participation in governance. To this end, it is imperative to consolidate, broaden, and ensure the accessibility of all media modalities—audio, visual, print, and digital—within journalistic operations, thereby reinforcing fundamental human liberties through a plurality of communicative platforms.¹⁴

In this regard, I have sought to examine a series of statutory instruments that codify this right, including:

-Law No. 11-10, dated June 12, 2011, pertaining to municipalities, which expressly enshrines the right of citizens to access information. **Article 14** stipulates: "Every individual shall have the right to consult the minutes of municipal council sessions and municipal decisions. Any concerned party may obtain, at their own expense, a complete or partial copy thereof, in accordance with the provisions of Article 56."

This legislation underscores the imperative of transparency in municipal governance, ensuring that citizens can meaningfully participate in local democratic processes by exercising their right to

" Freedom of Expression in International Conventions and Algerian Legislation – Media Legitimacy Between Freedom and Legal Responsibility"

access official municipal record¹⁵
Executive Decree No. 16-190 enshrines the right of citizens to access information pertaining to municipal council deliberations.

From a personal legal standpoint, I contend that Algeria's legislative framework on this issue suffers from a **lacuna**, as it lacks an explicit statutory regime to comprehensively regulate the right to access information. While the aforementioned legal instruments are significant, they remain **insufficient** to fully realize the principles of informational empowerment and transparency.

Nevertheless, the Algerian constitutional legislator has taken **proactive measures** to rectify this gap by initiating efforts to codify the right to access information and public documents. I regard this development as a **substantive advancement** in the democratization process. It is anticipated that this will serve as the foundation for **ordinary and organic legislation**, as well as **executive regulations**, to **institutionalize, safeguard, and operationalize** this right effectively.

However, it must be emphasized that the right to access and disseminate information is **not absolute**; its exercise must be balanced against considerations of **functional confidentiality, professional secrecy, and the tenets of good governance**.

1.1.2 Limitations on Freedom of Opinion and Expression

The principle of freedom of expression possesses universal application, encompassing both freedom of thought and belief. This fundamental right permits the articulation of ideas and the formation of convictions to be freely disseminated through diverse mediums without undue constraint. Such protection finds its foundation in Article 55 of the Universal Declaration of Human Rights.¹⁶

The recognition of individuals' freedom of expression is not an absolute right. Accordingly, the inviolability and safeguarding of religious symbols constitute permissible restrictions that may be imposed on individuals. In this context, the legal provisions articulated under Article 144 of the Penal Code codify such restrictions, which we categorize as protective measures for religious observances rather than an infringement upon press freedoms. This underscores the imperative of preserving public order and religious sanctity while striking an equilibrium between the exercise of free speech and the reverence for religious values.¹⁷

The Algerian legislature has adopted a punitive approach toward offenses against religious beliefs, potentially creating a tension between reinforcing religious protections under domestic law and broader international standards of freedom of expression. In this regard, the Penal Code categorizes the criminalization of religious offenses as a protective mechanism for religious doctrines, sacred institutions, and affiliated individuals—framing it not as a restriction on free speech, but as a safeguard for faith-based values.

Conversely, concerning fundamental personal freedoms, Algeria has instituted Law No. 18-07 on the protection of individuals in the processing of personal data. This legislation establishes a critical regulatory framework to ensure data privacy and security in an era of rapid digital transformation. It governs the collection, processing, and dissemination of personal data, thereby reinforcing individual rights and preserving privacy in the digital sphere.¹⁸

We classify Law No. 18-07 as a pivotal legal instrument for shielding private life amid technological and media advancements. By aligning with digital evolution, the law provides a structured approach to data protection while balancing dignity, privacy, and public freedoms. Central to this framework is the requirement of explicit consent for data processing, as enshrined in Article 06 of Law No. 18-07.

Algerian legislators have defined personal data as any information—direct or indirect—pertaining to an identified or identifiable natural person. This definition grants data subjects a suite of enforceable rights, including the right to information, access, rectification, objection to processing,

" Freedom of Expression in International Conventions and Algerian Legislation – Media Legitimacy Between Freedom and Legal Responsibility"

and restriction of direct marketing activities. These provisions embody a robust data protection regime that ensures individual autonomy over personal information while addressing the complexities of the digital era.

The legislative intent behind Law No. 18-07 demonstrates Algeria's commitment to fortifying its juridical framework, with particular emphasis on protecting fundamental rights and freedoms in the realm of data protection. This framework operates in concert with ancillary legislation, including the Penal Code, the Code of Criminal Procedure, and statutes governing cybercrimes, collectively forming an integrated legal architecture to confront digital-age challenges and preserve citizen privacy.

This legal edifice received constitutional anchorage through Article 47(3) of the Algerian Constitution, which enshrines data protection as a fundamental right. Such constitutional codification not only elevates the primacy of personal data safeguards but also reaffirms the state's obligation to protect individual privacy and civil liberties amidst rapid technological transformation.¹⁹

Protection of Individuals' Honor and Private Lives Numerous media laws have swiftly advanced to uphold the right to privacy, affirming that "every individual has a private life, which they are entitled to shield from public exposure and defamation."²⁰

In this context, the Algerian legislator, under Article 93 of the 2012 Organic Media Law, established a substantive provision prohibiting intrusion into private life. Recognizing that privacy safeguards impose ethical constraints on journalistic professionalism, and as part of its broader efforts to protect personal rights, the Algerian legal framework reinforces the importance of respecting religious and cultural values, national identity, and individual and collective freedoms. This principle is explicitly enshrined in Article 2 of the Algerian Information Law.

This comprehensive legal provision underscores the Algerian legal system's commitment to striking a balance between journalistic rights and responsibilities while upholding societal values. By codifying these principles, the law ensures that media professionals operate within a structured framework that safeguards both individual liberties and collective well-being. This approach not only preserves journalistic integrity but also reinforces the media's role as a responsible and ethical institution that upholds democratic values, social harmony, and national stability.

These principles serve as fundamental safeguards for personal rights and align with the 2020 Constitutional Framework, particularly Paragraphs 2, 6, and 7 of Article 54, which emphasize the legal imperative to balance freedom of expression with the protection of individual rights and public order.

Consequently, press freedom is constitutionally guaranteed—provided it respects privacy through:

- Journalists' right to access information within legal boundaries.
- The right to publish news, ideas, images, and opinions in accordance with the law, while honoring the nation's foundational principles, religious ethics, and cultural values.
- The prohibition of press freedom being exploited to violate the dignity and rights of others.

Balancing Freedom of Expression and the Protection of Individual Rights²¹

Given the enduring strength and stability of its constitutional framework, the Algerian Constitution of 2020 firmly upholds the protection of privacy and private life. Beyond safeguarding personal freedoms, it explicitly guarantees the inviolability of domicile and correspondence, as enshrined in Article 47.

The Algerian legislator has established privacy protection as a fundamental principle, shielding individuals from undue interference. Accordingly, personal data protection is recognized as an inherent right, which may only be restricted under legally justified circumstances.

" Freedom of Expression in International Conventions and Algerian Legislation – Media Legitimacy Between Freedom and Legal Responsibility"

Building upon this foundation, numerous legal provisions have been enacted to harmonize media freedoms with the protection of individual rights. These measures reflect Algeria's commitment to striking a balance between press freedom and the preservation of personal dignity and privacy. By setting clear legal boundaries, the constitution and supporting legislation ensure that media operations remain responsible and ethical, fostering a democratic society rooted in transparency, accountability, and respect for human rights.

Further reinforcing these protections, Article 296 of the Penal Code criminalizes any infringement upon an individual's honor or dignity—whether through speech, writing, print media, audiovisual platforms, or digital communication. Violations are punishable by imprisonment of up to six months, a fine ranging from 25,000 to 50,000 Algerian dinars, or both.²²

Additionally, the Algerian legal system treats slander, defamation, hate speech, and incitement to racial, religious, or ethnic hatred as aggravated offenses, particularly when they threaten social cohesion. These provisions are explicitly outlined in Articles 298(3) and 298 bis of the Penal Code.

In conclusion, the Algerian legislature has taken proactive measures to establish a legal equilibrium between media legitimacy and the safeguarding of individual privacy, ensuring that freedom of expression is exercised responsibly within the bounds of the law.

1.2 International Guarantees for Freedom of Opinion and Expression

Article 19 of the Universal Declaration of Human Rights (UDHR) enshrines the fundamental right to freedom of expression, ensuring its protection without restrictions or conditions. This universal guarantee allows individuals to exercise this right in all circumstances—whether ordinary or exceptional.

By affirming the freedom to hold and express opinions without interference, as well as the right to seek, receive, and impart information through any media and across borders, this provision highlights the essential role of free and open discourse in advancing democracy and human rights. It establishes a global standard, emphasizing that the unimpeded flow of ideas is vital for an informed and engaged society.²³

The preceding analysis demonstrates that Article 19 enshrines the right to freedom of opinion and expression through a dual framework. The first component establishes a universal guarantee of this right, transcending territorial limitations, thereby affirming its recognition as an internationally protected fundamental freedom. The second component encompasses safeguards for individuals exercising this right, serving as a legal reinforcement to ensure its practical realization.

In essence, Article 19 not only codifies the transnational protection of free expression but also mandates legal defenses for those who avail themselves of this right, thereby fortifying its juridical enforcement.

Comparative Legal Provision (Algerian Penal Code, Art. 144 – Amended):

"Whoever commits an act of insult against the Prophet Muhammad (peace be upon him), other prophets, or derides essential religious tenets or Islamic ritual symbols—whether through written, graphic, verbal, or any other means of expression—shall be subject to imprisonment for a term of three (3) to five (5) years and a fine ranging from 50,000 to 100,000 Algerian dinars, or either penalty exclusively."

This statutory provision underscores the Algerian legislature's intent to preserve religious sanctities, particularly within an Islamic context, by criminalizing acts deemed derogatory toward sacred religious figures, doctrines, or symbols. It further illustrates the legislative effort to harmonize the protection of religious sentiments with the broader framework of expressive freedoms under domestic law.²⁴

" Freedom of Expression in International Conventions and Algerian Legislation – Media Legitimacy Between Freedom and Legal Responsibility"

Algeria's accession to the Universal Declaration of Human Rights (UDHR) through Law No. 89-08 establishes it as a foundational instrument for safeguarding freedom of expression in its broadest sense. This demonstrates the Algerian legislature's deliberate intent to institutionalize this right. However, a stark contradiction arises with Article 144 of the Algerian Penal Code, which criminalizes acts deemed offensive to religious beliefs and Islamic rituals—a provision that directly conflicts with Article 19 of the UDHR, guaranteeing unrestricted freedom of expression. This legal dissonance fuels substantive jurisprudential and philosophical debates concerning the reconciliation of free speech with the protection of religious sanctities. While international human rights law advocates for minimal restrictions on expression, domestic legal systems, including Algeria's, often impose limitations to uphold religious values, social cohesion, and public order. This reflects a persistent global tension between secular human rights norms and religious safeguards embedded in national legislation.

The crux of this contradiction lies in the criminalization of "insult" under Article 144, which penalizes perceived offenses against dignity and religious sensibilities. Conversely, Article 19 of the UDHR enshrines an absolute right to freedom of opinion and expression, unbound by subjective interpretations of offense.

For journalists, this presents a profound legal and ethical quandary. In exercising their professional duties, they risk facing judicial action under Article 144 for content construed as inflammatory or blasphemous. The vague and expansive definition of "insult" in the penal provision invites arbitrary enforcement, potentially stifling press freedom and inhibiting robust discourse on matters of religion and public interest.

Thus, this conflict underscores a broader legal and ideological struggle: how domestic jurisdictions reconcile the primacy of free expression with the imperative to protect religious and cultural values from perceived disparagement.

Consequently, this tension between press freedom, statutory safeguards, and religious sensitivities epitomizes a wider jurisprudential debate: the challenge of calibrating national legal frameworks to uphold both freedom of expression and the protection of religious and cultural values.²⁵

(B) Freedom of Opinion and Expression Under the International Covenant on Civil and Political Rights

Article 19(1) and (2) of the International Covenant on Civil and Political Rights (ICCPR) enshrines an absolute guarantee of the right to freedom of expression, applicable in all circumstances—ordinary or exceptional. This provision affirms the universality and inviolability of this right, ensuring individuals may freely seek, receive, and impart information and ideas across all media, unhindered by borders. Furthermore, it reinforces the principle of unrestricted global access to knowledge and discourse, a cornerstone of democratic societies.²⁶

The right to hold opinions attains its fullest realization when individuals can freely express their views, fostering not only personal growth but also societal transformation. This liberty serves as a catalyst for shaping ethical norms, humanistic values, and the collective consciousness of a nation.

Article 19(2) of the International Covenant on Civil and Political Rights (ICCPR) explicitly affirms this principle by guaranteeing the freedom to seek, receive, and impart information and ideas "regardless of frontiers...through any media of one's choice." This formulation enshrines the universal and borderless nature of free expression, enabling the free flow of ideas across geographical, cultural, and political divides.

However, this unfettered exchange of opinions may also give rise to cultural, ideological, and political divergences among global actors. Such disparities can lead to conflicting

" Freedom of Expression in International Conventions and Algerian Legislation – Media Legitimacy Between Freedom and Legal Responsibility"

interpretations of legal frameworks, traditions, and societal norms, potentially resulting in tensions within an interconnected world.

Legal Boundaries: Prohibiting Hate Speech and Discrimination Article 4 of Law No. 20-05 on the Prevention of Discrimination and Hate Speech establishes a critical limitation:

"Freedom of opinion and expression may not be invoked to justify discrimination or hate speech."

This provision codifies a fundamental legal doctrine: while freedom of expression is a cornerstone right, it is not absolute when it violates the rights and dignity of others. By criminalizing hate speech and discriminatory rhetoric, the Algerian legislature aims to:

- Uphold social cohesion
- Prevent targeted hostility based on race, religion, ethnicity, or other protected grounds
- Balance expressive freedoms with the imperative of safeguarding vulnerable groups

This legal framework reflects a deliberate effort to reconcile individual liberties with collective welfare, ensuring that freedom of expression does not degenerate into a vehicle for division or harm.²⁷

This analysis demonstrates that the Algerian legislator has established a clear legal distinction between defamation and the exercise of freedom of opinion and expression. The deliberate use of terms such as "*invoking freedom of opinion*" to justify discriminatory acts and "*justifying hate speech*" underscores a legislative intent to define strict legal parameters, thereby preventing the abuse of these fundamental rights.

Consequently, the constitutional framers codified these limitations under **Article 54(6)**, explicitly stipulating that freedom of expression may not be weaponized to disrupt societal cohesion or national unity. This provision operates in harmony with the broader constitutional architecture, particularly **Article 47**, which enshrines the principle that "Every individual possesses the inherent right to safeguard their privacy and personal dignity."

This legal framework highlights the persistent tension between hate speech and freedom of expression, particularly when weighed against the protection of individual liberties and bodily integrity. Given their profound implications for public order, resolving such conflicts necessitates constitutional adjudication and legislative precision.

By institutionalizing these safeguards within its juridical system, Algeria not only adheres to international human rights norms but also ensures that the exercise of free expression does not infringe upon social stability or fundamental individual rights.²⁸

On the other hand, regarding conformity, the researcher noted that this framework aligns with the guarantees of freedom of opinion and expression enshrined in Articles 51 and 52 of the Algerian Constitution. This alignment is substantiated by the explicit stipulation that the exercise of this right is conditional upon abstaining from discriminatory and hateful speech—a proviso that reflects the prudence of the Algerian constitutional drafters.

Furthermore, the researcher examined the trajectory of the Algerian legislator, who formalized Algeria's accession to the International Covenant on Civil and Political Rights (ICCPR) through Presidential Decree No. 89-67, dated May 16, 1989, published in the Official Gazette of the Algerian Republic (No. 20) on May 17, 1989. Non-Compliance and the Limits of Free Expression

Concerning non-compliance, it must be emphasized that regulating hate speech does not inherently constitute a restriction on freedom of expression under Article 19 (ICCPR). Instead, it serves as a necessary safeguard against discourse that incites religious intolerance, defamation of beliefs, or disruption of worship practices. Such measures are rooted in the imperative to prohibit violence, aggression, discrimination, and hatred—conduct unequivocally condemned under customary international law.²⁹

" Freedom of Expression in International Conventions and Algerian Legislation – Media Legitimacy Between Freedom and Legal Responsibility"

(C) Freedom of opinion and expression is protected under the European Convention on Human Rights.

Article 10, Paragraph 1 of the European Convention on Human Rights explicitly enshrines the right of individuals to exercise freedom of expression without undue restrictions, contingent upon ratifying states implementing comprehensive legal safeguards to uphold this right. In our analysis, we emphasized the imperative for the Algerian constitutional drafters to fully integrate this principle under all circumstances—ordinary or exceptional—as a foundational norm, subject only to permissible limitations necessary to protect public order, morality, national security, and territorial integrity.

Following the 2019 popular movement, legislative reforms in Algeria culminated in the adoption of **Law No. 20-05**, a targeted legal measure designed to counter hate speech and threats to national cohesion. **Article 2(1)** of this law delineates prohibited hate speech, encompassing expressions that **"incite, justify, or promote discrimination, contempt, insult, hostility, hatred, or violence"** against individuals or groups based on **sex, race, color, origin, nationality, ethnicity, language, disability, health status, or geographic affiliation**.

Further, **Article 2(3)** proscribes all forms of discrimination predicated on **race, gender, or social status**, where such acts impair fundamental human rights. This aligns with conventional and statutory mandates ensuring **unrestricted equality** across political, economic, social, and cultural spheres.

The substance of this provision adheres to the **principle of proportionality**, mirroring **Article 10 of the ECHR** in its rigorous calibration of liberty and accountability—particularly in safeguarding **public order, national unity, security, and territorial integrity**. However, the **broad construction of Article 10** has inadvertently facilitated its exploitation, permitting hate speech, religious disparagement, and discriminatory rhetoric under the guise of free expression. This legislative ambiguity, exacerbated by rapid technological advancements, underscores the necessity for a **more precise regulatory framework**.

The absence of **clearly defined boundaries** in Article 10 has engendered systemic vulnerabilities, enabling the weaponization of free speech to the detriment of **social cohesion, religious sanctities, and cultural values**. While the provision seeks to protect expressive freedoms, its **overly permissive language** fails to mitigate the proliferation of harmful content in the digital age. Consequently, a **recalibrated legal approach** is imperative—one that harmonizes **individual liberties with societal protections**, ensuring freedom of expression is exercised responsibly without compromising collective welfare.

Certainly, it can be said that the Algerian legislator fully grasped the chain of events that fueled rising tensions threatening national unity in mid-2019. In response, they suspended the requirement to combat hate speech and discrimination as a condition for exercising media freedom. Regarding this approach, **Dr. Bouzid Lazhari** noted that it serves to safeguard individual rights, reinforce the principle of equality, and preserve national cohesion. ³⁰

2. Constitutional Frameworks Governing Freedom of Opinion and Expression in Algeria

An examination of Algeria's constitutional system reveals that restrictions on freedom of opinion and expression lack a purely constitutional basis. Instead, these freedoms remain protected unless they infringe upon fundamental individual rights. The Algerian Constitution, particularly Articles 51 and 52, seeks to ensure a balanced exercise of this right.

2.1- Constitutionalization of freedom of expression in Algeria

A close analysis of Article 10 of the European Convention on Human Rights reveals a lack of clear boundaries in regulating the forms and content of information and ideas. This ambiguity raises

" Freedom of Expression in International Conventions and Algerian Legislation – Media Legitimacy Between Freedom and Legal Responsibility"

concerns that the provision could be misused to undermine national unity and fundamental rights—particularly by enabling hate speech, discrimination, and attacks on religious sanctities. The article's broad phrasing, coupled with insufficient safeguards, becomes especially problematic in the era of rapid scientific and technological advancement, where harmful content spreads unchecked.

The absence of precise guidelines in Article 10 creates a legal loophole, allowing freedom of expression to be weaponized at the expense of social cohesion and cultural-religious values. While intended to protect free speech, its vague wording leaves it open to exploitation, necessitating a more balanced framework—one that upholds expression while preventing hate speech, discrimination, and attacks on sacred beliefs.

From a procedural perspective, **Article 18 of the ICCPR** guarantees freedom of belief and religious practice without restriction—except where national security, unity, or territorial integrity are at risk.

In response, **Algeria's Law No. 20-05** on preventing discrimination and hate speech strengthens state measures to combat these crimes through education, training, and awareness campaigns promoting tolerance and religious freedom.

Furthermore, **Article 51 (Paragraph 2)** of Algeria's constitution mandates state protection of places of worship from political or ideological influence, implying criminalization of attacks against them. This legal stance is reinforced by **Executive Decree No. 13/377 (2013)**, which establishes mosque regulations to counter acts like arson and bombings.

- **Sabotaging and desecrating mosques,**
- **Obstructing mosques from fulfilling their intended roles,**
- **Misusing mosques for purposes contrary to their original establishment.**

These acts constitute criminal offenses under Algerian penal law, as outlined in **Articles 396, 397, 398, 400, 87, 87 bis (repeated), and 495** of the **Algerian Penal Code**.

Moreover, the term "**places of worship**" encompasses **religious articles and symbols**. In this context, Algerian law safeguards the **Quran** under **Article 160 of the Algerian Penal Code**, which states: "Any person who intentionally or publicly vandalizes, defaces, damages, or desecrates the Quran shall be punishable by imprisonment for a period of five to ten years."³¹

To reinforce these protections, the Algerian legislature swiftly established the **National Observatory for the Prevention of Discrimination and Hatred**, a supervisory body defined under **Article 7 of Law No. 20-05 on preventing and combating discrimination and hatred**.

This observatory operates with **legal autonomy, financial independence, and administrative self-governance**. Its mandate includes **countering discriminatory practices and hate-driven activities**, serving as a **preventive mechanism** against threats to **national security and the Islamic faith**.

2.2- Destrating Freedom of Expression in Algeria

Article 52 of the Algerian Constitution stipulates: "Freedom of expression is guaranteed..."

The wording of this article appears intentionally **broad and unrestricted**, ensuring constitutional protection for freedom of expression **without explicitly imposing legal limitations**. The use of the term "**guaranteed**" signifies a **strong affirmative commitment** to this freedom, reflecting the constitutional framers' intent to safeguard it.

Moreover, the scope of **freedom of expression** encompasses **diverse forms of opinion-sharing**, as reinforced by the Constitution's inclusion of phrases such as "...freedom of assembly and freedom of peaceful demonstration are guaranteed..." This broad phrasing implies that **freedom of the press**—along with all forms of media, including **audiovisual, print, and digital platforms**—falls under this constitutional protection, even if not explicitly enumerated by the drafters.³²

" Freedom of Expression in International Conventions and Algerian Legislation – Media Legitimacy Between Freedom and Legal Responsibility"

In the same context, and as part of efforts to counter media propaganda—an extension of this freedom—the Algerian legislator swiftly criminalized acts of discrimination and hatred perpetrated through written, audio, visual, or electronic media under Article 30 of Law No. 20-05. Such acts are punishable by **imprisonment ranging from six months to three years**, along with a **fine of 60,000 to 300,000 Algerian dinars**. The penalty escalates to **three years of imprisonment** in cases involving **open incitement, endorsement, or propaganda**, with fines reaching up to **1,000,000 Algerian dinars**.

Notably, legal prosecution under these provisions applies **without exemption**, even to members of the general public. This clarification underscores that **media freedom, including press freedoms, remains subject to legal constraints**—a key consideration within the scope of this study.

Through this analysis, it is evident that the Algerian legislator has successfully harmonized constitutional guarantees of freedom of opinion and expression with the imperative to combat hate speech and discrimination, which threaten national unity.

This establishes a fundamental principle: **"Freedom of expression must actively uphold the ethics of public life, reject discrimination and hatred, and foster a culture of tolerance, friendship, peaceful coexistence, and dialogue ."**

CONCLUSION:

The Algerian constitutional founder has paid considerable attention to freedom of opinion and expression, ensuring its guarantee under all normal and exceptional circumstances. It has also dedicated the freedom of demonstration and assembly within legally allowed frameworks as a form of expressing opinion. While it is the general individual's right, particularly the journalist's, to freely express their opinion, the exercise of this right is contingent upon the condition of protecting personal freedom, private life, and human dignity, especially concerning ethnic, doctrinal, or religious affiliation, which is considered an aggravating circumstance if its purpose is to incite hatred.

The Algerian legislator has enshrined media freedom by lifting all restrictions that would ensure **media legitimacy**, which we classify as a pillar guaranteeing freedom of opinion and expression. The Algerian legislator has followed the approach of comparative legislations in the field of practical implementation of **conditional media freedom** in exchange for protecting the state's sovereignty, security, and territorial integrity. Based on this foundation, I will initiate a presentation of a series of findings and suggestions as follows:

Firstly: Findings

Freedom of opinion and expression is constitutionally and legally enshrined in Algeria, in exchange for protecting privacy, honor, and human dignity. The Algerian legislator has moved to criminalize all expressive practices that constitute a clear infringement on public or private interest.

The criminalization of discrimination and hate speech is explicitly provided for by Law No. 20-05, aimed at protecting national interest and unity. The Algerian constitutional founder has achieved to the greatest extent a legal balance that delineates the boundaries between discrimination and hate speech and media freedom. The constitution and Algerian legislation guarantee freedom of expression, however, it is restricted when considering human freedom, making state intervention in such cases a manifestation of media legitimacy.

" Freedom of Expression in International Conventions and Algerian Legislation – Media Legitimacy Between Freedom and Legal Responsibility"

Secondly: Recommendations

_Given the supremacy of the constitutional document, we propose more detailed elaboration on the contents of Articles 51 and 52 respectively of the Algerian Constitution of 2020, by categorizing types of hatred and discrimination that align with the current technological and scientific system.

_In light of this, we propose the constitutionalization of the contents of Article 2, paragraph one of Law No. 20-05, related to the definition of hate speech, and Article 2, paragraph three of the same law, related to the definition of discrimination, as a measure that allows for the legalization of numerous legal texts in the field of protection and addresses the legislative gap in tackling this crime.

_Promote the Algerian initiative at the regional and international levels in the field of rejecting hatred and discrimination speeches in a manner that aims to protect personal freedom, private life, and human dignity.

_Generalize the conditioned media initiative to both public and private media outlets by involving them in launching the national strategy for preventing discrimination and hate speech.

_Support the activity of civil society as a tool concerned with undermining hate speech and discrimination, and promote the culture of human rights, equality, tolerance, and dialogue.

Citations:

¹ The Algerian Constitution of the year 2020, Official Gazette number: 82/2020.

² Karim Youssef and Ahmed Kashkash, "Freedom of Expression and Public Order," Journal of Rights and Liberties, Issue: 01/2014, pp. 21-22.

³ Article 54 of the Algerian Constitution for the year 2020 addresses the right to freedom of expression and the press. This article emphasizes the protection of freedom of expression, press freedom, and other media outlets. It also guarantees the protection of the right to research and express opinions without undue interference or unjustified restrictions from public authorities.

⁴ Ahmed Salim Saifan, "Public Freedoms and Human Rights," Al-Halabi Rights Publications, Part One, 2010, p. 134.

⁵ Hussein Abdelhamid, Ahmed Roushwan, "Democracy, Freedom, and Human Rights," Modern University Office, 2006, p. 87.

⁶ Abdel-Moneim Mahfouz, "The Individual's Relationship with Authority - Public Freedoms and Ensuring Their Exercise," Alam al-Kutub, First Edition, 1999, p. 100.

⁷ Article 54 of the Algerian Constitution for the year 2020 states: "Freedom of the written, audiovisual, electronic, and digital press is guaranteed within the framework of the law."

⁸ Paragraph 6 of Article 54 _ Algerian Constitution for the year 2020.

⁹ Article 02 of Law No. 12-05 dated January 12, 2012, which includes the Media Law published in the Official Gazette of the Algerian Republic, issue No. 02 dated January 15, 2012.

¹⁰ Article 55 of the Algerian Constitution for the year 2020.

¹¹ Paragraph 8 of Article 54 of the Algerian Constitution for the year 2020.

¹² Hamli, Mohamed. "Mechanisms for Establishing the Rule of Law in Algeria." PhD dissertation, University of Abi Bakr Belkaid - Tlemcen, 2011-2012, pp. 341-342.

¹³ Article 55 of the Algerian Constitution of 2020.

**" Freedom of Expression in International Conventions and Algerian
Legislation – Media Legitimacy Between Freedom and Legal Responsibility"**

¹⁴ International Federation of Journalists, International Standards and Media Laws in the Arab World, 2013, p. 93.

¹⁵ Please consult Article 14 of Law No. 11-10 regarding municipalities.

¹⁶ See Article 18 of the Universal Declaration of Human Rights for the year 1948.

¹⁷ Law No. 01/09 dated July 26, 2001, amending and completing the Algerian Penal Code, issued in the Official Gazette, Issue No. 34 for the year 2001.

¹⁸ Law No. 18-07, dated June 10, 2018, concerning the protection of individuals in the processing of personal data, was published in the Official Gazette of the Algerian Republic, Issue No. 34.

¹⁹ Article 47, Paragraph 3 of the Algerian Constitution for the year 2020.

²⁰ Kadhem Jamila, "Legal, Ethical, and Professional Standards of Media Performance in Algeria," Journal of Communication and Journalism, Volume 06, Issue 01, 2019, p. 22.

²¹ Paragraphs 2, 6, and 7 of Article 54 of the Algerian Constitution for the year 2020.

²² Article 47 of the Algerian Constitution of 2020.

²³ Article 19 of the Universal Declaration of Human Rights, dated December 10, 1948.

²⁴ Law No. 01/09 dated July 26, 2001, amending and completing the Algerian Penal Code, published in the Official Gazette, Issue No. 34 of the year 2001.

²⁵ Article 54, Paragraph 6 of the Algerian Constitution for the year 2020.

²⁶ The International Covenant on Civil and Political Rights, dated March 22, 1976.

²⁷ Law No. 20-05 dated April 28, 2020, regarding the prevention of discrimination and hate speech, issued in the Official Gazette of the Algerian Republic, Issue No. 25, dated April 29, 2020.

²⁸ Ahmed Ezzat, Fahd Al-Banna, Incitement Speeches and Freedom of Expression, pp.5-6.

²⁹ The Charlie Hebdo events in France occurred on January 7, 2015.

³⁰ Statement by Dr. Bouzid Lazhari, President of the National Human Rights Council, published on the official website of El Nasr newspaper on January 14, 2020.

³¹ Article 160 of the Algerian Penal Code states.

³² Article 52, Paragraph 2 of the Algerian Constitution for the year 2020.