

Discrimination and Hate Speech in Algeria: Prevention and Combat

التمييز وخطاب الكراهية في الجزائر: الوقاية والمكافحة

Abdelmadjid RAMDANE *

University Kasdi Merbah -Ouargla (Algeria)

ramdane.abdelmadjid@univ-ouargla.dz

Date of send:09/12/2021 Date of acceptance:18/03/2022 Date of publication :15/06/2022

Abstract:

The purpose of this paper is to discuss the dangers of discrimination and hate speech in Algeria. The Algerian state has addressed hate speech, which threatens democratic values, social stability, and peace, by promulgating Law 20-05 on the prevention and fight against discrimination and hate speech which calls for the establishment of a national observatory to deal with the issue, amending and supplementing the penal code ordinance n° 66-156.

According to the findings of this study, preventing hate speech from expanding to dangerous levels is an urgent matter that the national observatory must address while battling discrimination, hatred, and violence in Algerian society.

However, many activists expressed concern that the bill criminalizing racism and hatred would be used as an excuse to further restrict freedom of expression and creativity, as well as to emphasize control over historical readings and literary contributions.

Keywords: Algeria- Combat- Discrimination- Hate Speech- Prevention.

* *Corresponding author*

Introduction

Hate speech, racism, and discrimination are not new issues. They've gone from being visible to being less apparent, and they're now showing up on the most popular social media platforms.

Hate crimes are acts of violence perpetrated as a result of bigotry. They are committed with varied degrees of regularity in all countries around the world. They have an impact on social stability and community cohesion. Because of that, enforcing a strong law is needful for individual and community security.

Hate crimes are linked to a specific social environment, which legislation must account for. Algeria has passed a new law, 20-05, in order to preventing and combating prejudice and hate speech.

The law criminalizing hate speech and racism was enacted at a time when hate speech was on the rise on social media, and it is in the interest of safeguarding individual rights, upholding the concept of equality, and maintaining national unity.

Given that hate crime legislation is only one tool among many that States can use to combat these phenomena, the Algerian government plans to create a national observatory for the prevention of discrimination and hate speech, which will work with other sectors such as education, religious bodies, and civil society to develop a national plan to combat discrimination-related violence.

The purpose of this article is to emphasize the importance of Algeria's law on the prevention of discrimination and hate speech in light of the phenomenon's growth on social media and its threat to national social peace and security, while also emphasizing the distinction between hate speech and freedom of expression based on respect for the other party and objective expression of opinions free of defamation or insult.

Problematic

Accordingly, an attempt will be made to address the problem according to the following question: What are the motivations and goals of Algeria's anti-discrimination and anti-hate speech efforts?

The problematic can be dismantled into several interrogation levels, from which the main contents of the study can be understood:

- What are the circumstances that led Algeria to issue a law to prevent and combat hate speech?
- What guarantees does this law give to freedom of expression?
- What is the expected role of the National Observatory for the Prevention and Combating Discrimination and Hate Speech in the future?

Hypothesis:

- Updating the penal code and issuing a law to prevent hate speech in Algeria would moralize public life and limit the spread of hate speech.
- The implementation of the law on hate speech prevention and control allows to lessen the severity of the problem in Algerian society.

- The law on hate speech prevention protects individual rights, defends the ideal of equality, and preserves national unity while having no impact on freedom of expression.

Methodology of analysis:

This study relies on the descriptive approach that is concerned with describing and defining the concepts of discrimination and hate speech, then formulating relations on the extent of the spread of the two phenomena in Algerian society and the extent of the impact of the new laws issued on these two phenomena, in the form of research questions.

The study also relies on the analytical method, which helps in achieving more accurate results through the evaluation of the problem and the depth of interpretation, meaning that the foundations of the analytical method complement the procedures of the descriptive method.

Plan of analysis:

To answer the problematic and address the hypothesis, the following elements will be analysed:

- Understanding discrimination and hate speech.
- Facts and reactions.
- Prevention of Discrimination and Hate Speech Act.
- The prevention of discrimination and hate speech act: general context.
- Hate Speech Law Controversy.
- The national observatory for the prevention of discrimination and hate speech:

Components and missions.

Firstly : Understanding discrimination and hate speech

There is no uniform definition of discrimination and hate speech, despite its widespread use in legal, political, and intellectual arenas. In international and regional human rights treaties, there are many rules for defining and restricting hate speech. As a result, each country's law reflects these differences. This explains a lot of ambiguity surrounding the phrase.

But, to put it another way, "hate speech" refers to any form of discriminatory hatred directed at others. Beyond these basic criteria, there is disagreement over what constitutes hate speech and when it should be prohibited.¹

Negative speech or behavior directed to a group or a person perceived to belong to it is referred to as discrimination. Discrimination occurs when an individual is treated unfairly because of his or her actual or perceived membership in one of the social groups, like gender, age, or ethnic origin.²

The concept of discrimination on social media and the internet in general is "cyberhatred", which refers to "expressions of hatred (bullying, insults, discriminatory remarks) on the Internet against people on the basis of their skin color, alleged race, origin, gender, philosophical or religious beliefs, disability, illness, age..."³

On social networks, and on the Internet in general, the concept encompassing discrimination is that of "cyber hate", which refers to "expressions of hatred

(bullying, insults, discriminatory remarks) on the Internet against people because of their skin color, their alleged race, their origin, their sex, their sexual orientation, their philosophical or religious convictions, their handicap, their illness, their age ... It can also be anti-Semitic or negationist remarks.⁴

Hate speech is intended to injure, dehumanize, harass, intimidate, debase, degrade and victimize the targeted groups, and to foment insensitivity and brutality against them.⁵

Hate crimes are crimes done for a discriminatory motive, which distinguishes them from other types of crimes. Intimidation, threats, property destruction, assault, murder, or any other criminal act can all be considered hate crimes. As a result, hate crimes have the potential to disrupt the social fabric and cause community divisions.⁶

Hate speech is defined by the United Nations as any offensive communication or conduct, whether oral or written, that uses derogatory or discriminatory language against a person or group based on their identity; in other words, religious affiliation, ethnic origin, nationality, race, skin color, ancestry, gender, or other factors that constitute identity. These debates are frequently both the outcome and the source of prejudice and hatred, and they can be insulting and alienating in some situations.⁷

It is defined under article 2 of algerian Law No. 20-05 on the Prevention and Combat of Discrimination and Hate Speech:⁸

-Hate speech: any expression that promotes, encourages, or justifies discrimination, including contempt, humiliation, hostility, hatred, or violence directed to a person or group of people based on their sex, race, color, descent, national or ethnic origin, language, geographical affiliation, disability, or health status.

-Discrimination: any distinction, exclusion, restriction, or preference based on sex, race, color, descent, national or ethnic origin, language, geographical affiliation, disability, or state of health that impedes or impairs the equal recognition, enjoyment, or exercise of human rights and fundamental freedoms in the political, economic, social, cultural, or any other field of public life.

-Forms of expression: words, writings, drawings, signs, photographs, songs, comedies, or any other form of expression, regardless of the medium used.

Secondly: Facts and Reactions

Algeria has experienced a wave of hate speech via electronic media in the previous decade, both between individuals and authorities. The horrific events in the Ghardaia region of southern Algeria (2013–2015) are the most famous example. Posts on YouTube and Facebook inciting violence between “Mozabites” and “Arabs” had a big influence in inflaming the situation and spreading hate speech, hatred, and racism between the two cohabiting communities. This resulted in the burning and destruction of hundreds of homes and shops, and dozens of deaths.

Recently with the emergence of Covid-19 in China, and its spread around the world, crazy rumors and hate speech have accompanied it. In Algeria, since the registration of the first case on the national territory, a significant number of false information and rumors have continued to spread on social networks. Public opinion

is left to devotees of rumor and speculation. The number of people infected with the coronavirus is amplified on social media. Facebook pages, or even websites having a significant influence on tens of thousands of Algerian fans, are engaged in sharing false information on the evolution of Covid-19 in Algeria or in the world.⁹

Another example of this occurrence is the assassination of the young Jamal bin Ismail by a group of radicals in the Kabylie region in the summer of 2021. He was suspected of burning forests. Algerians were outraged by this crime, which prompted a harsh response from the Algerian authorities. Everyone condemned the horrific conduct, which was widely publicized on social media and was accompanied by words of contempt and hate directed at one another.

According to witnesses, in terms of the situation that prompted the government to act and to issue a law, was the Algerian popular movement "hirak" (2019-2020). It has devolved into slander and defamation over time, with some demonstrations virtually devolving into clashes between parties with opposing political, intellectual, and cultural stances.

Following a strong start to the popular movement "hirak" that drew international attention to the country's unity, a slew of "racist" and "discriminatory" labels appeared, and "hate" language became more severe due to differences in attitudes and opinions on key issues. This unusual occurrence demonstrated an inside-and-outside strategy to incite internal conflict among Algerians by contesting a region's identity, distorting another's history, or questioning a party's patriotism.

This "war" took place on social networking sites, and as a result of insults, cursing, and slandering, it sometimes developed into deadly situations. So, weeks after the movement began, ethnic, regional, and sectarian expressions took dangerous dimensions, showing that the affair was premeditated.¹⁰

Abusive phrases, blunders, abuses, and racial remarks have multiplied thanks to social media platforms that encourage the immediacy of the formula while ignoring its scope and the reactions it elicits.

In consequence, social networks have deregulated the information market, resulting in a mash-up of the craziest rumors and the most impossible lies. False information swarms the Internet and audience records, causing uncertainty among users who are left to their own devices.¹¹

Faced with this heinous freedom of expression, which exposes prejudice, it was imperative that voices be spoken strongly, which they did, albeit a little late in comparison to some countries on the north shore.

For that reason, in April 2020, Algeria passed two laws to preventing and combating prejudice and hate speech, as well as modifying the Penal Code.¹²

According to the country's authorities, these two laws can "strengthen the legal system with measures capable of dealing with events and emergencies". These two laws are extremely important for Algeria and society, as they will have a direct impact on public morality and the attainment of security, stability, and social justice.¹³

These laws will also play a key role in the moralization of social networks, which have become a means for the propagation of many types of discrimination and hatred, which have a direct impact on Algerian society's stability and contribute to the development of violence and intolerance.

In compliance with these rules, massive efforts have been undertaken by the national gendarmerie's cybercrime brigades and security services in various wilayas to combat bogus news that sows uncertainty and panic among civilians.

This has enabled the propagators to be apprehended and brought before investigating judges of the courts, who have ordered their placement under arrest warrants in the majority of cases for the dissemination of subversive publications that call for hatred and discord among citizens for the purpose of propaganda, leaflets likely to harm the national interest, and contempt of officials with the intent of harming their honor and respect due to their authority.

Thirdly: The prevention of discrimination and hate speech Act: general context

Hate crime legislation is crucial. By criticizing discriminatory behaviors, they send a message to offenders that such behavior will not be tolerated in a just and humane society. They give victims and their communities the certainty that they are protected by the criminal justice system by recognizing the harm done to them. The values of a society are expressed through laws, notably criminal law.

Laws against hate crimes uphold the idea of social equality while also promoting the development of social values, assuming that they are adequately executed; otherwise, all legislation is respected, undermining the rule of law principle.¹⁴

According to Law 20-05, the Algerian State is implementing a national strategy for the prevention of discrimination and hate speech with the goal of moralizing public life, spreading a culture of tolerance and debate, and eliminating violence in society. It requires public agencies and entities to take the required steps to combat prejudice and hate speech, including:

- the creation of awareness-raising and information-gathering education and training programs.
- dissemination of a human rights and equality culture.
- the establishment of a culture of tolerance, discourse, and acceptance of others who are different.
- the implementation of tools for vigilance, alerting, and early detection of discrimination and hate speech's causes.
- information and education on the dangers of prejudice and hate speech, as well as the consequences of their spread via information and communication technology.
- the encouragement of inter-institutional interaction.

Articles 7 and 8 of the same law stipulate that civil society and the private sector are involved in the development and implementation of the national strategy for the prevention of discrimination and hate speech, and that the media must include the dissemination of a culture of nondiscrimination, tolerance, and human values in their programmes.

According to Article 3, the provisions of this law n° 20-05 do not apply to discrimination based on:

-the state of health, which includes operations intended at preventing and mitigating death, threats to a person's bodily integrity, and risks of incapacity for work or handicap.

-the state of health and/or disability, when the rejection to hire is based on medically determined incapacity, either under labor law or under the general statute of the civil service.

-sex, in the context of employment, where membership of either sex is a necessary requirement for the performance of a job or professional activity under current legislation.

-nationality, if it is a requirement for employment, in conformity with current legislation.

Fourthly: Hate Speech Law Controversy

In accordance with Article 4 of the same law (20-05), freedom of opinion cannot be used to justify discrimination or hate speech. This right to freedom of expression cannot be used to justify the publication of discriminating or hateful material. Most countries, including Algeria, have approved this regulation, particularly condemning the promotion of hate or discriminatory speech.

Should hate speech be banned? The debate on this question must be disaggregated into discrete analytical stages, to avoid the risk of its participants continue to talk one another. The first concerns the scope of the moral right to freedom of expression, and whether hate speech falls within the right's protective ambit. If it does, hate speech bans are necessarily unjust. If not, we turn to the second stage, which assesses whether speakers have moral duties to refrain from hate speech.¹⁵

The author Jeffrey W. Howard canvasses several possible duties from which such a duty could be derived, including duties not to threaten, harass, offend, defame, or incite. If there is a duty to refrain from hate speech, it is yet a further question whether the duty should actually be enforced. This stage depends on pragmatic concerns involving epistemic fallibility, the abuse of State power, and the benefits of counter-speech over coercion.¹⁶

In response to these questions, it can be said that hate speech law has been the subject of numerous principled objections. It has been denounced by some legal scholars and practitioners as, among other things, devastating to liberty, disrespectful to autonomy, stifling to the discovery of truth and the acquisition of knowledge, inhibiting to self-realization, contrasted to free participation in the formation of public opinion, a threat to the legitimacy of the State, ineffective, unnecessary, and responsible for chilling forms of valuable speech.

But at the same time, it is difficult to name a single country that possesses no hate speech law whatsoever or, at least, a country that possesses no

laws/regulations/codes that constrain uses of hate speech. If the detractors are to be believed, then almost the entire world is both deluded and gratuitously unfree.¹⁷

For their part, proponents maintain that hate speech law can, among other things, help to avert damage to people's health (psychological and physiological), safeguard autonomy (substantive, if not formal), reduce insecurity (objective and subjective), emancipate people from subordination, stand as a bulwark against oppression, underpin human dignity, protect and give public assurances of civic dignity, ensure recognition of cultural identity, facilitate respectful intercultural dialogue, and furnish real access to participation in the formation of democratic public opinion for all.

Not only that, many legislatures and courts across the world have determined that hate speech law can be effective, necessary, and limited in its chilling effects.¹⁸

In this regard, Algerian President Abdelmadjid Tebboune has asked government institutions to develop a draft law criminalizing all forms of racism, regionalism, and hate speech in the country.

This measure "comes after the increase in hate speech and incitement to sedition, especially on social media, and comes to block the door in the face of those who exploit the freedom and peaceful movement by raising slogans that threaten national harmony", the President of the Republic said in a statement. "Everyone is obligated to abide by the constitution and the laws of the republic, especially with regard to respect for the nation's constants and values, the core components of national identity, national unity, and the emblems of the state and the people", the Presidency of the Republic concluded.¹⁹

Fifthly: The national observatory for the prevention of discrimination and hate speech: Components and missions

Law 20-05 establishes a national observatory for the prevention of discrimination and hate speech, which has legal personality as well as financial and administrative autonomy. It is under the control of the President of the Republic.

1. The Observatory component

According to article 11 of Law 20-05, the national observatory will be composed of sixteen permanent members, including six (6) members chosen by the President of the Republic from a list of national competencies, and six (6) other representatives each from:

- the Higher Council of the Arabic language,
- the High Commission for Amazighity (HCA),
- the National Council for Human Rights,
- the National Body for the Protection and Promotion of Children,
- and the National Observatories.

In addition, four (4) representatives of organizations engaged in the field of observatory intervention, as nominated by the organizations to which they belong.

Advisory roles are played by representatives from several ministries and institutions in the observatory's operations: foreign affairs, interior, justice, religious

affairs, national education, higher education and scientific research, vocational training and education, culture, youth and sports, post and telecommunications, national solidarity, communication, and the ministry of labor and employment, as well as the command of the national gendarmerie and the Directorate General for National Security.

The observatory may also invite representatives of any public administration, public or private organization, and any qualified person who can assist it in the performance of its functions to participate in its work in an advisory capacity.

It may also request any information or document necessary for the discharge of his duties from any administration, institution, body, or service, which is required to answer to his correspondence within thirty (30) days.

2. The national observatory: Missions and tasks

Conforming to Article 10 of Law 20-05, the national observatory for the prevention of discrimination and hate speech is in charge of detecting and analyzing all forms and aspects of discrimination and hate speech, investigating the causes, and proposing the necessary measures and procedures to prevent them.

In this context, the observatory is in charge of:

- propose aspects of a national plan for the prevention of discrimination and hate speech and contribute to its implementation, in collaboration with competent public agencies, relevant partners, and civil society.

- early detection of incidents of discrimination and hate speech and notification of relevant authorities

- giving advice or making suggestions on any topic involving discrimination or hate speech.

- evaluate the effectiveness of legislative instruments and administrative actions in the sphere of anti-discrimination and anti-hate speech on a regular basis.

- to develop national expertise in the prevention of discrimination and hate speech by establishing standards and techniques.

- develop and coordinate information operations on the hazards of prejudice and hate speech, as well as their consequences for society.

- compile and organize data on discrimination and hate speech.

- to conduct studies and research in the field of prejudice and hate speech prevention.

- to make any proposal that would make the national normative framework for the prevention of discrimination and hate speech easier to understand and enhance.

- to foster collaboration and information sharing among the many national and international entities working in this field.

In accordance with the article 13, the president of the observatory and its members have all the safeguards necessary to carry out their duties with total independence, honesty, and impartiality. According to existing legislation, they are protected from threats, violence, and contempt.

The observatory submits an annual report to the President of the Republic that includes, among other things, an assessment of the national strategy for the prevention of discrimination and hate speech, as well as proposals and recommendations for strengthening and promoting the existing national mechanisms. It will publish it and make the contents available to the public in accordance with the rules of procedure set forth in its rules of procedure.

Sixthly: Discussion and Results

Although the spread of falsehoods or errors in the media is not a new phenomenon, the penetration power of social media, as well as the difficulty, if not impossibility, of removing inaccurate news or publishing corrections and erratums capables of repairing the damage, has increased the impact of this bad information to unprecedented levels.²⁰

In addition, while freedom of expression is one of the foundations of democracy and even one of the fundamental liberties, no freedom, no matter how basic, is absolute.²¹

Hate speech has the ability to incite violence, undermine social cohesion and tolerance, and cause psychological, emotional and physical harm through xenophobia, racism, hatred and other forms of intolerance and discrimination. To counter these hate speeches in Algeria, Political actors from various backgrounds, deputies and senators, members of civil society, religious leaders, high-level academics, and journalists have explicitly stated on several occasions that combating hate speech requires a concerted effort to address the origins and drivers of hate speech, as well as the consequences for victims and society at large.

Emphasis was placed on confronting hate speech because it is one of the foundations for maintaining the cohesion and harmony of Algerian society. This is reflected through:

- the adoption and respect by citizens of the values and norms of the Algerian social system, with their attachment to the national group and their participation in social life,
- the preservation of national unity in all its component, the moralization of political and public life and its protection against any drift,
- minimize disparities, and avoid polarization between all members of Algerian society.

However, combating hate speech necessitates a concerted effort to address the origins and drivers of hate speech, as well as the consequences for victims and society as a whole.

The establishment of a national observatory for the prevention of discrimination and hate speech in Algeria is an urgent necessity, given the scale and impact of digital technology, which has become so pervasive in our daily lives that social networks have become the primary source of information, true or false, a hub and a means of communication, but above all, a chapel where everyone preaches their speech, which does not detract, however, from the interest of exchanging.

Indeed, the fight against hate speech is no longer solely the job of the security services, and it will soon be the responsibility of the observatories in question, but rather of all governments, civil society organizations, and individuals.

Conclusion

Hate speech has major implications in all societies across the world, including Algerian society, endangering social stability and posing a threat to the country's national security.

As a result, a political, intellectual, and public discourse is required to transform the content of social media from hate speech and frustration to messages of elaboration of peace and prosperity, as required by law and our Islamic religion.

One of the approaches to counteract the phenomena of discrimination on social media is to empower and raise awareness among users about the information they share.

In light of the foregoing in this study, our findings support the validity of the hypotheses we advanced, as it was discovered that updating the Penal Code and enacting a law to prevent hate speech in Algeria would actually improve public life and limit the spread of hate speech, as evidenced by recent events in Algeria.

Thus, the implementation of the law to prevent and combat hate speech will allow alleviating the severity of the problem in Algerian society. Especially that the new law aims in general to protect individual rights, defend the principle of equality, and preserve national unity without compromising freedom of expression.

As a consequence, it is appropriate for Algeria's national observatory for the prevention of discrimination and hate speech to ensure that awareness-raising efforts in this field are redoubled in families, schools, and all socialization institutions (mosques, associations, sports clubs, etc.), with a particular focus on the youngest, who are voracious consumers of fake news.

Finally, the struggle against discrimination and hate speech necessitates a firm commitment, specific acts, as well as a persistent concern for raising awareness and guiding future generations toward mutual respect and acceptance.

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