

THE MEDIA MUST RESPECT THE RIGHT TO PRIVACY IN INTERNATIONAL LAWS AND ALGERIAN LAW

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Abstract:

Following the catastrophic consequences of the First and Second World Wars, the international community turned its focus towards establishing a robust legal framework dedicated to the protection of human rights and promoting a culture of safeguarding these rights across nations on a global scale. Among the rights addressed by international, regional, and Algerian legal systems are the right to information and the right to privacy. However, these legal frameworks differ in how they link these two rights. While some laws recognize privacy as a general right that must be respected by all entities, whether natural persons or legal entities, public or private, others—particularly Algerian media laws and certain international laws specific to the media—further specify that privacy, in addition to being a general right, constitutes a distinct obligation that media institutions and professionals must uphold.

Keywords: Right to information, Right to privacy, Media obligations, International laws, Algerian laws.

INTRODUCTION

The right to information emerged alongside humanity itself, as individuals cannot coexist without a means of communication. Among these means, media has played a pivotal role in sharing and disseminating news and events. As societies evolved, so did this right, gaining broader philosophical, religious, and legal justifications. Philosophers, theologians, and legal scholars alike have examined this right, recognizing its foundation in diverse fields and its openness to discussion across these domains. Following the devastation of the First and Second World Wars, the international community sought to humanize international law, leading to the establishment of numerous legal frameworks safeguarding human rights. Among these was the right to information, enabling individuals to seek, receive, and impart information and ideas across boundaries through various media and formats, including written, printed, artistic, or other forms of expression.

The inherent interconnectedness of rights necessitates that the right to information be balanced against the rights of others, whether natural or legal persons, public or private. This is particularly crucial in the realm of human rights, where the protection of individuals' private lives becomes imperative to avoid a clash between exercising the right to information and safeguarding the right to privacy.

The right to privacy, akin to other human rights, derives its legitimacy not only from legal principles but also from religious foundations. It is a religious obligation before being a legal entitlement, enshrined in the various sources of Islamic law, including the Qur'an and Sunnah. For example, the Qur'an states: "Allah does not like the public mention of evil except by one who has been wronged. And ever is Allah Hearing and Knowing." (An-Nisa, 148), and "And do not insult one another and do not call each other by [offensive] nicknames. Wretched is the name of disobedience after [one's] faith. And whoever does not repent - then it is those who are the wrongdoers." (Al-Hujurat, 11). Moreover, it advises: "Do not spy or backbite one another" (Al-Hujurat, 12). Prophet Muhammad (peace be upon him) also said: "Whoever conceals the faults of a believer, it is as if he revived a buried infant" (Narrated by Abu Dawood and An-Nasai)¹.

¹ Mohammad Mounir Hijab, *Media and Objectivity* 266 (Dar Al-Fajr for Publishing & Distribution 2010).

Legal scholars have proposed various definitions of the right to privacy, often linking it to the concept of withdrawal from the public sphere and associating it with seclusion or solitude. The primary objective of this right is to ensure peace and tranquility for this private sphere, free from unauthorized scrutiny or disclosure. When violated, the right to privacy empowers individuals to object and claim their entitlements².

Several issues arise as a result of the interrelation and complementarity between the right to information and the right to privacy: In what ways do Algerian and international laws maintain a balance in the exercise of these rights? What is the effect of this equilibrium on the media's function in the dissemination of news and information? What are the exceptions to these principles?

I. The Media's Obligation to Respect the Right to Privacy in International Laws

The evolution of international law from its traditional conception, where individuals became pivotal subjects of interest—despite some criticisms—has made human rights a central focus of this legal domain. The significance of international law lies in its commitment to a broad spectrum of rights, ensuring that no single right overshadows others. This dual commitment is evident in the recognition of both the right to information and the right to privacy.

1. General International Laws

The international community has established numerous global and regional laws that address the right to information while balancing it with the right to protect individuals' private lives. Below, we examine some of the most prominent international legal frameworks.

1.1 Universal International Laws

Many universal international laws recognize the right to information, though they differ in the extent to which they address the relationship between media and the respect for privacy. Here, we explore these variations in key legal instruments:

1.1.1 Universal Declaration of Human Rights (UDHR):

The UDHR underlines certain rights, notably the right to information, which provides upon each individual the liberty of opinion and expression. This includes the liberty to express thoughts without obstruction and to pursue, obtain, and disseminate information across boundaries via any medium.³

The UDHR also recognizes the right to privacy as a general right, requiring respect from all individuals and entities, without singling out media as uniquely obligated. The declaration prohibits arbitrary interference with an individual's private life, family, home, or correspondence, and protects against attacks on honor and reputation. Legal protection is mandated against such violations⁴. Furthermore, the UDHR refers to laws that define obligations related to exercising rights, including the right to information. It stipulates that this exercise must respect the rights and freedoms of others, adhere to moral values, public order, and the welfare of society within a democratic framework⁵. This indirectly emphasizes the connection between the obligation to respect privacy and the right to information.

1.1.2 International Covenant on Civil and Political Rights (ICCPR):

The ICCPR underscores the right to freedom of expression, which includes the freedom to seek, receive, and disseminate information and ideas across borders through various media.

The covenant also imposes restrictions on the exercise of this right, including the right to privacy. These restrictions must be legally prescribed and necessary to respect the rights or reputations of others. This confirms the obligation of media entities to respect privacy as an essential individual right⁶.

1.2 Regional International Laws

² Hani Sawadkia, Protection of the Right to Privacy, J. Legal & Pol. Research & Studies, no. 3, 86 (2012).

³ Universal Declaration of Human Rights, art. 19.

⁴ Universal Declaration of Human Rights, art. 12.

⁵ Universal Declaration of Human Rights, art. 29, § 2.

⁶ International Covenant on Civil and Political Rights, art. 19, § 2.

Regional legal frameworks, akin to their global counterparts, have also developed laws addressing human rights. Some of these regional instruments predate global ones, reflecting the regions' prioritization of human rights protection. Key regional frameworks include:

1.2.1 European Convention on Human Rights (ECHR):

The ECHR guarantees the right to information, including the freedom to receive and impart information without interference or geographic constraints. Although it does not explicitly mandate media respect for privacy⁷, it imposes obligations to uphold others' rights and reputations. This can be interpreted as a requirement for media to respect privacy as part of its professional responsibilities.

1.2.2 Charter of Fundamental Rights of the European Union:

The Charter of Fundamental Rights of the European Union states the right to media freedom, affirming that every individual possesses the right to freedom of expression. This right encompasses the liberty to own opinions and to obtain and disseminate information and ideas without interference from public authorities and irrespective of borders.

The Charter of Fundamental Rights of the European Union does not explicitly mention the right to privacy. However, it does state that nothing in the Charter should be interpreted as limiting or adversely affecting human rights and fundamental freedoms recognized in areas where EU law, international law, and international agreements to which the Union or its member states are parties apply. This includes the European Convention on Human Rights and fundamental freedoms, as well as the constitutions of the member states⁸. It is clear here that the Charter relies on a system of referral to other laws, as its provisions cannot contradict international laws and the constitutions of member states. We can almost certainly conclude that these various legal sources stipulate the obligation to respect the right to privacy, either directly or indirectly.

1.2.3. American Convention on Human Rights (ACHR):

The right to freedom of thought and expression is guaranteed to all individuals by the American Convention on Human Rights. This right encompasses the right to pursue, receive, and transmit a variety of information and ideas to others, regardless of boundaries, whether orally, in writing, in print, in the form of art, or by any other method selected by the individual. It also indirectly encompasses the right to privacy by emphasizing the necessity of respecting the rights or reputation of others.⁹

1.2.4. African Charter on Human and Peoples' Rights:

The African Charter on Human and Peoples' Rights stipulates the right to information, granting every individual the right to access information, express their thoughts, and publish them within the framework of laws and regulations. It also emphasizes the media's duty to respect the rights of others¹⁰. From this provision, it is evident that the Charter indirectly acknowledges the media's obligation to respect the right to privacy. Moreover, it indirectly relies on a referral system by outlining the components of the right to information, which must be exercised in accordance with laws and regulations¹¹. These regulations can directly and specifically include the media's duty to respect the right to privacy.

1.2.5. Arab Charter on Human Rights:

The Arab Charter on Human Rights stipulates the right to information, granting individuals the right to seek, receive, and disseminate news and ideas by any means, without regard to geographical boundaries¹². The 2004 version of the Arab Charter on Human Rights, unlike its earlier version, outlined obligations that the media must adhere to, including respecting the rights or

⁷ European Convention on Human Rights and Fundamental Freedoms, art. 10, § 2.

⁸ Charter of Fundamental Rights of the European Union, art. 53.

⁹ American Convention on Human Rights, art. 13, §§ 1, 2.

¹⁰ African Charter on Human and Peoples' Rights, art. 9, § 1.

¹¹ African Charter on Human and Peoples' Rights, art. 9, § 2.

¹² Arab Charter on Human Rights, art. 32.

reputations of others. The charter is considered to have indirectly emphasized the media's duty to respect the right to privacy in general.

International Media-Specific Laws

Given the critical role of media as the "fourth estate" alongside the legislative, executive, and judicial branches, it wields significant influence over both national and international communities. Media coverage can lead to events such as the fall of governments, dismissal of high-ranking officials, enactment or repeal of laws, and even changes in political systems. This immense power necessitates a dedicated legal framework to govern its practices. Hence, international bodies have adopted specialized laws addressing various aspects of the media, complementing broader human rights laws that touch on media within their provisions.

2.1 Global Media-Specific Laws

International bodies have developed specific laws to enable the exercise of the right to media at both international and national levels. Below are the most prominent of these laws:

2.1.1. Declaration of International Principles on Professional Journalistic Ethics (1983):

The United Nations, through UNESCO, issued this declaration, which emphasizes professional journalistic ethics. Among its principles is an explicit mandate to respect privacy and human dignity. This aligns with international and national laws requiring respect for the rights and reputations of others. Thus, the declaration reinforces media obligations regarding privacy, as seen in other global and regional human rights laws.

2.1.2. Declaration on Fundamental Principles Concerning the Contribution of the Media to Strengthening Peace, International Understanding, Human Rights, and Combating Racism, Apartheid, and War Propaganda:

UNESCO also issued this declaration to define the media's role in fostering various values, including peace, international understanding, and human rights. While addressing numerous aspects, the declaration highlights the media's duty to respect the rights and dignity of nations, peoples, and individuals without discrimination based on race, gender, religion, language, or nationality. Although it does not explicitly mention privacy, its emphasis on respecting individual dignity indirectly supports this principle, as seen in several other international laws.

2.2 Regional Media-Specific Laws

Similar to global efforts, regional bodies have enacted laws to establish principles for exercising the right to media within their respective areas.

2.2.1. The Munich Declaration (1971):

Major European journalistic unions convened in Munich and issued a declaration outlining journalists' duties and rights. Among the ethical principles it articulated is the obligation of media professionals and organizations to respect individuals' private lives¹³. By this, the declaration explicitly requires media to uphold privacy rights.

2.2.2. Constitution of the General Union of Arab Journalists:

The General Union of Arab Journalists was established following a preparatory conference in Cairo (February 19-21, 1964). The Union subsequently adopted a constitution recognizing every individual's right to express opinions through various means, such as speech, writing, photography, or illustrations.

The constitution imposes both general and specific restrictions on media activities, including a prohibition against infringing upon individuals' private lives¹⁴. Thus, it obligates media to respect privacy rights as part of its professional functions.

2.2.3. Arab Journalist Code of Ethics:

This code was established based on recommendations from Arab regional organizations such as the League of Arab States, the Arab Media Council, and the Permanent Committee for Arab Media. It acknowledges the right to information as a fundamental right for individuals. However, it also

¹³ Abd al-Razzaq al-Dulimi, *Akhlaqat al-'Ilam wa Tashri'atihi fi al-Qarn al-Hadi Ashar* [Ethics of Media and Its Legislations in the 21st Century], 136 (Dar al-Yazuri Scientific Publishing, 2015).

¹⁴ Constitution of the General Union of Arab Journalists, art. 14.

obliges journalists and media organizations to avoid using unlawful methods to obtain news, images, or documents.

Although the code does not explicitly mandate respect for privacy, it implicitly addresses it. Violations of privacy generally involve illicit means, contravening national and international legal standards. Across Arab nations, constitutions and laws consistently uphold individuals' privacy rights, prohibiting breaches even under the pretext of exercising the right to media. For instance, a journalist cannot access someone's bank account details under any circumstances, as privacy protections extend universally to individuals and entities, public or private.

II. The Duty to Respect Privacy Rights in Algerian Media Laws

Algeria has regarded the media as the "fourth estate," akin to other countries, as reflected in its legal framework that addresses various aspects of media. These laws have diverse sources, with constitutions at their forefront, ensuring they address media-related matters. This section explores Algerian laws concerning media, focusing on their treatment of privacy rights as a duty imposed on the media to respect.

1. Algerian Constitutions

Algeria has enacted numerous media-related laws, including legislative and executive laws, alongside adopting a code of ethics to regulate the journalism profession. Below, we examine the legal frameworks governing media rights in relation to judicial oversight within these laws.

1.1 Pre-Multiparty System Era

Algeria went through transitional phases that influenced the content of its laws. Media laws during the socialist system differed significantly from those enacted after abandoning this system. Below, we discuss the impact of this era on media laws, particularly regarding the duty to respect privacy rights.

1.1.1. The 1963 Constitution:

The 1963 Constitution guaranteed freedom of the press and other media. However, it did not explicitly impose specific obligations on the media but mentioned certain rights that everyone must respect regardless of their status.

Among these rights were the sanctity of the home and the confidentiality of correspondence for all citizens. Additionally, it emphasized the state's duty to protect the family as the fundamental unit of society. The Constitution identified defending freedom and respecting human dignity as primary goals of the Algerian Democratic and Popular Republic¹⁵.

The 1963 Constitution did not explicitly address privacy rights either generally or specifically in relation to media obligations. It only included a few articles discussing rights broadly, covering some aspects of privacy but not all.

1.1.2. The 1976 Constitution:

The 1976 Constitution did not explicitly recognize the right to media but affirmed that everyone has the right to freedom of opinion and expression. Consequently, it did not stipulate any specific obligations for the media to adhere to during its operations.

Although it did not recognize privacy rights as a specific obligation for the media, it did acknowledge these rights generally, emphasizing that they must be respected by everyone, including the media. Unlike the 1963 Constitution, it explicitly prohibited violations of citizens' private lives and honor, ensuring the confidentiality of all forms of personal correspondence and communications under the law's protection¹⁶.

1.2 Post-Multiparty System Era

Global events that shifted the balance of power prompted Algeria to reconsider its socialist system, opting to replace it with a capitalist one. This transition aligned Algeria with international efforts to develop laws emphasizing human rights, as discussed earlier. This shift necessitated that Algerian constitutions reflect its commitment to protecting human rights. Consequently, Algeria introduced the 1989 and 1996 Constitutions, amending them several times to improve rights and freedoms.

¹⁵ Constitution of 1963, arts. 14, 17, art. 10, para. 5.

¹⁶ Constitution of 1976, art. 49.

Below, we examine how this transformation impacted media and privacy rights, considering them as obligations media must respect.

1.2.1. The 1989 Constitution:

The 1989 Constitution guarantees every individual the freedom of opinion, as well as intellectual, artistic, and scientific creativity. It also stipulates that no publication or any other means of communication and media can be seized except by court order¹⁷, thereby recognizing the right to information.

The 1989 Constitution does not specify particular regulations that the media must adhere to, but it does outline some general rights that can be related to the media, especially in the context of privacy and its relationship with the media. The Constitution ensures that fundamental freedoms and the rights of individuals and citizens are guaranteed, and that they are a shared heritage among Algerians. It is their duty to pass this heritage on from generation to generation in order to preserve its integrity and prevent its violation. Additionally, the Constitution guarantees that the state will ensure the protection of human dignity and prohibits any moral violence against individuals under penalty of law¹⁸.

The 1989 Constitution explicitly protects the right to privacy by stating that the sanctity of an individual's private life and honor cannot be violated, under legal protection provisions. It also ensures the confidentiality of correspondence and private communications in all their forms¹⁹.

1.2.2. The 1996 Constitution:

The 1996 Constitution, even after the amendments of 2002 and 2008, remains consistent with the 1989 Constitution, particularly regarding the right to information and the right to privacy. It does not specify any particular obligations related to exercising the right to information, nor does it explicitly recognize privacy as a right that media should particularly consider when performing their duties.

The 2016 constitutional amendment marks a turning point in the media domain, as it gives greater attention to the right to information compared to previous constitutions. This shift also reflects increased emphasis on the right to privacy as a protected right. This is evident in numerous provisions aimed at protecting privacy. The amendment stipulates that freedom of the press cannot be used to harm the dignity, rights, or freedoms of others. It also guarantees citizens' right to access information, documents, and statistics, with the provision that the exercise of this right cannot infringe on the private lives or rights of others. The state is also tasked with ensuring the protection of human dignity, prohibiting any form of moral or physical violence, as well as any degrading, inhuman, or cruel treatment, all of which are punishable by law. The law also punishes violations against rights and freedoms, particularly those that affect physical and moral integrity²⁰. Additionally, the 2016 amendment explicitly addresses the right to privacy, though it does not tie it directly to media rights. It states that the sanctity of an individual's private life and honor cannot be violated, and the law protects them. The confidentiality of correspondence and private communications in all forms is guaranteed, and no action may infringe upon these rights without a justified court order. Violations of these provisions are subject to legal punishment. The amendment also affirms that the protection of personal data is a fundamental right guaranteed by law, with penalties for violations²¹.

The 2020 constitutional amendment largely mirrors the 2016 amendment in terms of the right to information and privacy. It does not significantly alter the right to information, except in areas unrelated to its relationship with privacy, especially concerning the obligations placed on the media.

2. Legislative and Executive Laws

¹⁷ Constitution of 1989, art. 36.

¹⁸ Constitution of 1989, arts. 31, 33.

¹⁹ Constitution of 1989, art. 37.

²⁰ Constitutional Amendment of 2016, art. 50, para. 2; art. 51, paras. 1, 2; art. 40.

²¹ Constitutional Amendment of 2016, art. 46

Recognizing media as the fourth estate, Algeria has established various legislative and executive laws addressing media, some of which specifically deal with the right to privacy as it relates to media practices. Below is a discussion of the key laws that pertain to media, with a focus on their provisions regarding the protection of privacy.

2.1. Media-Related Laws

2.1.1 1968 Basic Law for Journalists

Algeria faced a legal vacuum in the media sector for six years post-independence until the adoption of the 1968 Basic Law for Journalists. However, this law primarily framed journalists as political activists serving state interests and offered limited guidelines for their professional conduct. It made no reference to privacy rights, whether general or specific, leaving the protection of such rights to the constitutions of 1963 and 1976. This situation persisted until the enactment of the 1982 Media Law.

2.1.2. 1982 Media Law

Many governmental and non-governmental entities in Algeria have called for the regulation of the media sector through legislation, especially since the 1968 Journalists' Code was brief and focused primarily on positioning journalists as political activists, overlooking many principles and provisions that are relevant to the media sector.

In our study of the 1982 Media Law, we found that it outlined certain principles and obligations that media professionals must respect, including the right to privacy. The law stated that professional journalists have the right and full freedom to access news sources within the scope of the powers granted to them by law. However, this freedom is limited if the information provided to the journalist infringes upon the dignity of the citizen or their constitutional rights²². It is clear from this that the law referred to the Constitution to determine the rights that the media must respect. During this period, the 1976 Constitution was in effect, and among its provisions, as we have seen, was the prohibition on violating the sanctity of a citizen's private life or honor. The law also protected the confidentiality of correspondence and communications in all forms. Therefore, the right to privacy is a general obligation that must be respected by everyone, including journalists and the media, in accordance with the Constitution, which referred the Media Law to specify the rights that journalists must uphold.

2.1.3. 1990 Media Law

Before 1990, the media in Algeria was entirely state-controlled. Private individuals were not allowed to own written or audiovisual media, except for specialized publications related to culture, economics, and children, without the right to establish general news publications. However, with the 1990 Media Law, private individuals were allowed to own written media outlets, though audiovisual media remained under state control, as a way of implementing the pluralism introduced by the 1989 Constitution.

The 1990 Media Law established several provisions related to the media sector, including media obligations. Among these provisions, it granted journalists the right to access news sources, but it prohibited journalists from publishing information that could violate the rights or constitutional freedoms of citizens. Furthermore, professional journalists were required to strictly adhere to the ethics and standards of the profession, ensuring respect for the constitutional and individual rights of citizens²³.

It is evident from the above that, despite its legal significance, the 1990 Media Law did not explicitly include the right to privacy as a specific obligation for the media. Instead, it indirectly referred to this right, following the same approach as the previous law (the 1982 Media Law), by relying on a system of referral to the applicable constitution. The constitutions in effect at the time—the 1989 and 1996 Constitutions—recognized the right to privacy as a general right, stating that the sanctity of an individual's private life and honor could not be violated under the legal

²² Law No. 82-01 on Media *art. 29 (1982)*.

²³ Law No. 90-07 on Media *art. 36, para. 3; art. 40, para. 2*.

protection provisions. They also ensured the confidentiality of correspondence and private communications in all forms.

2.1.4. 2023 Media Law

The 2012 and 2023 Media Laws were introduced as reforms to the media sector after Algeria and the Arab world experienced events known as the "Arab Spring." As a result, one of the most significant steps was the liberalization of the audiovisual sector, ending the state's monopoly and allowing private individuals to own audiovisual media outlets. This development made it essential to focus on the obligations that the media must adhere to, as the media landscape would undergo significant changes under these laws, potentially affecting how media professionals and organizations comply with the obligations that must be considered by them.

The 2023 Media Law explicitly addresses the right to privacy, prohibiting the violation of individuals' private lives. However, it does not specifically address the privacy of public figures, either directly or indirectly, as was done by the Algerian legislator under the 2012 Media Law²⁴.

On the other hand, the 2023 Media Law stipulates penalties, including fines ranging from one hundred thousand dinars (100,000 DZD) to two hundred thousand dinars (200,000 DZD), for anyone who publishes or broadcasts the content of discussions held by judicial bodies issuing a judgment, if their sessions are secret and/or reports about pleadings related to individuals' private lives and honor, or any news or documents that may harm the confidentiality of an ongoing preliminary investigation into crimes. Although the goal of preventing the publication of investigation secrets is to avoid harming the investigation process, it also serves to protect individuals' private lives, as the investigation involves the private lives of the victim, the accused, and those surrounding them, including their families, friends, and others.

2.1.5. Audiovisual Activity Law and Press Law

The 2023 Press Law (23-19) and Audiovisual Activity Law (23-20) do not directly address privacy but defer to the 2023 Media Law (23-14) to avoid redundancy.

2.1.6. Executive Decree No. 16-222

This decree was issued to define the obligations that must be included in the terms and conditions of the general broadcasting service for television and radio. The decree contains several rules and obligations related to the right to privacy that must be adhered to by media bodies and journalists. It specifies that media must avoid including testimonies that transform events related to individuals' private lives without their explicit consent and in a manner that respects their dignity. It also calls for avoiding the trivialization of human suffering and its exploitation for promotional or advertising purposes, as well as any treatment that diminishes the individual or reduces them to something of no value. Furthermore, it stresses the importance of not limiting the participation of non-professionals in discussions, interactive shows, or entertainment programs by requiring them to permanently and definitively waive their basic rights, particularly the right to privacy and the right to appeal in case of violations. The decree also prohibits broadcasting shows, images, discussions, statements, or documents that discuss matters under judicial review, and mandates that this right be exercised in accordance with the presumption of innocence, the right to privacy, and the confidentiality of investigations. It further prohibits broadcasting any information, news, or images that could harm children or adolescents, or their families or peers, even if their identity is not disclosed or their images are blurred²⁵.

It is clear from the above that Executive Decree 16-222, related to the general terms and conditions of television and radio broadcasting services, is one of the most detailed laws for defining the contents of the right to privacy that the media must respect. It includes preventing violations of individuals' private lives in various forms and contexts, such as when a person is a child, a defendant in a judicial proceeding, or even a guest on a broadcast or radio show. However, what is striking about this decree is that it does not consider the right to privacy, which the media must respect, as

²⁴ Law No. 23-14 on Media, art. 34; Law No. 12-05 on Media, art. 93.

²⁵ Executive Decree No. 16-222, arts. 28, 41 § 1, 43 § 5.

a matter of public order. In other words, an individual can waive their right to privacy if they are a guest on a broadcast or radio program.

2.2 Non-Media Laws

The issue of the right to privacy intersects with various topics, and we will explore the most significant of these laws, focusing on their stance on privacy rights.

2.2. 1. Organic Law 21-01 on the Electoral System

The Organic Law 21-01 was introduced to define the provisions related to the electoral system, and during our examination of its articles, we found provisions addressing the relationship between voters and the media during the election campaign period. However, we did not find any article specifically discussing the right to privacy of voters. Given this situation, we can conclude that the general provisions are applicable, as voters, according to Algerian law, enjoy the right to privacy, which must be respected by media outlets. This right, however, has certain exceptions where the media is allowed to delve into specific aspects, particularly regarding the legal obligations of the voters that must be respected to ensure the legitimacy of their candidacy and political positions. One such exception is the requirement for candidates to disclose their real estate and movable property, both within the country and abroad²⁶. In this case, the media is allowed to investigate these properties, even though it falls under the private life of the candidates. However, running for a particular political office effectively waives this right for the sake of combating corruption and allowing public scrutiny of the individual.

It is worth noting that in foreign countries, particularly in the context of election campaigns or holding high political positions, the right to criticism and preemptive scrutiny allows the media to delve into the private lives of officials. For instance, the media uncovered the sexual relationship between U.S. President Bill Clinton and a woman, as well as the legal accusations against President Donald Trump during his election campaign, where he was accused of paying bribes to conceal the affair. Here, we observe a stark contrast between foreign and Arab countries when it comes to the issue of the right to criticism, where it is severely suppressed, even by media outlets, especially when it concerns public figures.

2.2.2. Penal Code

The Penal Code considers the violation of the right to privacy a crime punishable by criminal penalties. It stipulates the criminal protection of this right, regardless of the perpetrator, whether the violation is committed by the media or others. According to Article 303 bis of the Penal Code, anyone who deliberately infringes on the sanctity of private life using any technology, such as capturing, recording, or transmitting private or confidential conversations or talks without the consent of the individual, or by taking or recording a person's image in a private place without their permission, will be punished with imprisonment for a term of 6 months to 3 years, and a fine ranging from 50,000 DZD to 300,000 DZD. The attempt to commit the offense described in this article is also punishable by the same penalties as the completed crime.

Moreover, Article 303 bis 1 stipulates that anyone who retains, places, or allows the public or others to have access to, or uses in any manner, recordings, images, or documents obtained through the actions described in the aforementioned article, will be punished with the same penalties. The attempt to commit the offense outlined in this article is also punishable by the same penalties as the completed crime.

Under the Penal Code, the court may prohibit the convicted person from exercising one or more of their national, civil, or family rights for a period not exceeding five (5) years due to the crimes specified in Articles 303 bis and 303 bis 1. Additionally, the judgment may be publicly announced in accordance with the legal procedures. The disqualification includes:

- Removal or exclusion from all public positions related to the crime.

²⁶ Organic Law No. 21-01, art. 249 § 16.

- Disqualification from the right to vote or run for office, and from holding any medal.
- Ineligibility to be an assistant, juror, expert, or witness in any contract or in court, except for the purposes of providing information.
- Prohibition from carrying weapons, teaching, managing a school, or serving in an educational institution as a teacher, instructor, or supervisor.
- Ineligibility to be a guardian or trustee.
- Loss of parental authority in full or in part.

From the above, it is clear that the violation of the right to privacy is classified as a misdemeanor, and it is noteworthy that journalists are not subjected to imprisonment, while the penalties mentioned above apply. This is based on the fact that Media Law 12-05, the Audiovisual Activity Law 14-04, as well as the constitutional amendments of 2016 and 2020, each abolished the imprisonment penalty for media-related offenses.

2.2.3 The Code of Criminal Procedure

The Code of Criminal Procedure mandates that investigative and inquiry procedures must be kept confidential unless the law specifies otherwise, and without harming the rights of the defense. It requires that everyone involved in these procedures maintain professional secrecy under the conditions specified in the Penal Code, and failure to do so will result in the penalties outlined therein²⁷. Undoubtedly, investigation secrets often reveal the private lives of many people, whether suspects, victims, or those remotely involved in the crime. The Algerian legislator, through the Civil and Administrative Procedure Law, has prohibited the disclosure of investigation secrets, which indirectly serves to protect the right to privacy.

It is worth noting that the 2006 amendment to the Code of Criminal Procedure introduced an important exception regarding the disclosure of investigation secrets to the media. The law stipulates that in order to prevent the spread of incomplete or incorrect information or to preserve public order, the public prosecutor or the judicial police officer, after obtaining written permission from the public prosecutor, may disclose objective elements extracted from the investigation to the public. However, these disclosures must not include any assessment of the charges against the individuals involved²⁸. Therefore, the public prosecutor's office became the authority that could exceptionally disclose investigation secrets, while ensuring the legal guarantees in favor of the accused, such as respecting the presumption of innocence.

Conclusion:

The right to information has garnered significant attention from the international community and national societies due to the media's critical role in society, particularly during the events known as the "Arab Spring." Consequently, nations have concentrated on this domain by instituting various laws that govern it, adopting a more stringent approach to certain legal facets, particularly those pertaining to politics.

The constriction of media's focus within the political arena has resulted in an increased emphasis on the private lives of both ordinary citizens and public figures, frequently resulting in infringements of the right to privacy as enshrined in international and national legal frameworks, especially within constitutional provisions.

Through this study, which sought to mention the most important international, regional, and national laws of Algeria, and to understand their stance on balancing the exercise of the right to information and the right to privacy, we have arrived at the following conclusions:

- Some international laws, especially general laws, did not explicitly stipulate the right to privacy as a specific obligation for the media to respect but only mentioned it as a general right that must be respected by all individuals.
- International laws that did not specify particular restrictions on the exercise of the right to information relied on the system of referring to national laws to determine this, which may lead to

²⁷ Code of Criminal Procedure, art. 11, §§ 1-2.

²⁸ Code of Criminal Procedure, art. 11, § 3.

differences between countries and even insufficient protection of the right to privacy, especially in confronting media overreach in performing its duties.

➤ The various constitutions of Algeria prior to the 2016 constitutional amendment did not stipulate the right to privacy as a specific obligation for media to respect but rather recognized it as a general right that all natural and legal persons, both public and private, must observe. This is likely due to the political conditions in Algeria, which led the state to restrict media freedoms. On one hand, private individuals did not have the right to own audiovisual media until 2012. On the other hand, although the press was liberalized in 1990, it was not free in carrying out its duties due to the "Black Decade" Algeria experienced, a period that subjected the media to the state's control, which only allowed programming that avoided political content and violations of laws from various sources.

➤ The Algerian media laws of 2012 and 2014 abolished all imprisonment penalties for journalists committing press offenses, which was also stipulated in the 2016 and 2020 constitutional amendments, and this has been reflected in the 2023 media laws.

➤ The specific media laws in Algeria consider the right to privacy as not subject to public order. In other words, individuals may waive this right before the media.

➤ Most international and Algerian laws have addressed the right to privacy in general, prohibiting interference with individuals' private lives and reputations. However, from a jurisprudential perspective, the topic of the right to privacy has many aspects that these laws have failed to define, which constitutes a shortcoming in the protection of this right, especially since international laws have relied on referring to national laws to define the obligations placed on the media.

➤ Both international and Algerian laws have not addressed the right to criticism, particularly regarding public figures, and have explicitly rejected it. This represents an injustice in balancing the rights—right to information, right to privacy, and right to criticism. The right to criticism is essential for exercising oversight over public figures, especially when linked to the media's primary functions of revealing the truth and overseeing state powers, as well as individuals' rights to know, monitor, and critique their representatives.

We did not find exceptions to the right to privacy in Algerian laws except in two cases. The first is the Electoral Law, which includes the obligation to publicly declare movable and immovable assets, implicitly allowing the media to exercise the right to critique and disclose information on this matter as a form of combating corruption and exercising public and media oversight over officials or candidates for political positions in the state. This constitutes an exception to the exercise of the right to privacy by revealing financial aspects to the public.

The second exception to the right to privacy is represented by the Criminal Procedure Law. Since 2006, the public prosecution has been able to disclose investigation secrets through the media if the case involves an issue that has stirred public opinion, under certain conditions.

Based on the results of our study on the position of international and Algerian laws regarding the right to privacy as an obligation that the media must respect, we concluded, in response to the raised issues, that international laws, in particular, have not balanced the right to information with the right to privacy. This is due to two reasons: the first is that they left the task of determining media obligations, including the right to privacy, to the national laws of countries, and the second is that they defined the right to privacy as a general right briefly, without specifying its various aspects and elements. The same is true for Algerian laws regarding the second point; they did not specify the aspects of the right to privacy except for Executive Decree 16-222, which pertains to the specifications manual that listed many aspects, but not all. Undoubtedly, all of this will impact the media's role, as defining the aspects of the right to privacy will depend on the interpretation of judicial bodies, leading to instability in the concepts that the media must understand accurately to know how to deal with them.

On the other hand, we concluded that the only two exceptions to the media's obligation to respect the right to privacy are: first, the exercise of the right to critique directed at public figures who aim to hold public office by revealing their financial matters, which they are required to disclose

publicly; and second, the possibility of the public prosecution disclosing investigation secrets through the media if the case involves a crime that has stirred public opinion.

Accordingly, we have reached several important points that must be considered, which are as follows:

- The necessity for international laws, as well as the Algerian Constitution, to explicitly recognize the right to privacy as a personal right that the media must respect, and for international laws to abandon the system of referring to national laws to determine the obligations imposed on the media, including the right to privacy.
- The necessity for international laws, as well as Algerian laws, to define the various elements of the right to privacy so that the concepts the media must respect are included. While the issue of protecting individuals' private lives may seem simple and clear, it is complex and involves many details. Therefore, international laws and national laws, especially Algerian laws, should study it more deeply to ensure its effective protection.
- The necessity of permitting the right to criticize exercised by the media as an exception to the right to privacy when directed at public figures, as a means of combating corruption and exercising oversight over them. This should be done by defining certain elements of the right to privacy in which such criticism is allowed, as is practiced in some advanced countries. Additionally, it is essential to clarify the concept of the right to criticize and set its conditions to balance its practice with the protection of the right to privacy.
- The necessity of consolidating various aspects of the right to privacy within media laws for each branch of media, including the elements of the right to privacy and the legal penalties for violations. This would make it easier for media professionals to understand and apply these laws, contributing to the protection of this right.
- The issue of protecting individuals' private life, although it may seem simple and clear, is complex and involves many details. Therefore, international and national laws, especially Algerian laws, must strive to study it more deeply to effectively protect it.
- The need to reconsider not regarding the right to privacy as part of public order, because the reality has shown that media, especially privately owned Algerian media, exploit individuals and violate their right to privacy in order to attract larger audiences. This has impacted their lives without their awareness of the dangers of exposing their personal secrets.

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