

THE CRIME OF ENDANGERING OTHERS IN ALGERIAN PENAL LAW

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Abstract - The Algerian legislator, following the example of several legal systems, has criminalized the act of endangering others within the Penal Code. This offense, introduced by the French legislator in the new French Penal Code, arises from the belief that it is essential to protect individuals not only from harm to their life and body but also from potential dangers. This principle has gained increasing relevance in the context of the rapid development of human life and the rising dangers that accompany it. The global COVID-19 pandemic exemplifies such risks, prompting the Algerian legislator to introduce Article 290 Bis into the Penal Code in 2020. This provision aligns with contemporary trends in criminal policy that emphasize preventive criminalization. It criminalizes the intentional violation of safety rules, irrespective of whether harm has materialized, provided that these rules are codified. The law further stipulates specific circumstances under which the offense leads to enhanced penalties and extends liability to legal entities.

Keywords: Preventive Criminalization; Crimes of danger; Endangering Others; Article 290 Bis; Algerian Penal Code.

INTRODUCTION

Preventive criminalization¹ is one of the most contentious and widely debated concepts among legal scholars and researchers in the field of criminal law. This legal theory has evolved in response to various circumstances and developments over time. Its origins can be traced to the philosophical ideas of certain schools of thought focused on crime and the criminal, such as the Positivist School and the Social Defense School. These schools played a crucial role in establishing the primacy of protecting society and its interests, elevating these considerations above other factors.

This shift in focus contributed to a transformation in the legislator's perspective. For a long period, criminalization was restricted to actions that resulted in harm to legally protected interests. Over time, however, this scope broadened to include acts that pose a risk to individuals' lives and interests, now referred to as "crimes of danger." These offenses are defined as actions that should be criminalized not because they cause direct harm, but because they threaten individual rights, particularly life and bodily integrity, by preventing potential injury.²

In this paradigm, the legislator acts preemptively, intervening before harm occurs, marking a shift toward proactive legal measures. This approach has been incorporated into various criminal laws that now criminalize actions that, if carried out, would endanger individuals and their legally protected interests. The French legislator was among the pioneers in adopting such measures, with several other jurisdictions following suit, thereby reinforcing the necessity of protecting societal interests even before a crime is committed.

This growing emphasis on risk protection prompted the Algerian legislator to criminalize endangering others more broadly. The law now moves beyond merely addressing harm after it occurs, taking a proactive stance to anticipate potential damage and provide greater protection for societal interests. The theory of danger, once confined to civil law, has now also influenced the theory of civil liability. It has become imperative to establish legal principles that address both criminal law protection and responsibility. Therefore, this study seeks to explore the following key question: How does Article 290 Bis of the Algerian Penal Code address the crime of endangering others?

¹ Also known as preventive criminalization or preemptive criminalization, as it aims to prevent the result that would harm legally protected interests.

² Abdelhamid al-Jabouri, "Objective Criminal Policy of Prevention," PhD Thesis, University of Babylon, 2016, p. 10.



This issue will be explored in two parts: the first will define the concept of the crime of endangering others, while the second will examine.

1. The Concept of the Crime of Endangering Others

1.1. Definition of the Crime of Endangering Others

To define the crime of endangering others, it is necessary to examine the definition of this crime and understand the concepts involved. It is also useful to explore the definitions in criminal law and ultimately arrive at the legislative definition.

1.1.1 Doctrinal Definition

The definition of endangering others requires clarifying the concept of danger, which constitutes the basis for criminalization, as it forms the criminal result in such crimes. It refers to situations where the legislator considers a threat to a protected right or interest, without necessarily requiring actual harm or a criminal result.³ These are known as "dangerous crimes," which do not involve a specific result, unlike material crimes where a particular result must occur, connected by a causal link.

Danger has been defined as a real situation that manifests through a set of material effects, where there is a potential for an attack on the protected right.⁴ The danger is assessed in relation to a result that has not yet occurred but is merely possible. This definition clearly indicates that danger involves a potential result, not a certain one. Some scholars argue that the possibility is the highest degree of potential, emphasizing that the probability must be significant enough to be considered potential danger.

Other scholars have defined danger as a potential harm that threatens a legally protected interest⁵. These definitions suggest that danger is the step before the harm occurs, a precursor to potential damage. While these definitions are primarily based on the probability of danger, some scholars have used the concept of possibility instead, meaning the potential for harm to occur.⁶

This approach defines danger as a situation that involves the possibility of harm⁷, as understood by humans, and the awareness of a threatening situation⁸. However, this view has been criticized for expanding the scope of danger too broadly, sometimes including actions that should not be subject to criminalization.⁹

It can be said that the crime of endangering others is based on the reality of danger, not on hypothetical or imaginary threats. It is the physical presence of material effects in the external world that creates the potential for harm, forming the material result of the crime of endangering others.¹⁰ This crime occurs when physical actions or omissions create a potential risk to others, regardless of the type of danger involved.

1.1.2 Legislative Definition

Due to the recent criminalization of actions leading to potential harm in comparative legislations, this crime was first recognized by the French legislator in the new Penal Code.¹¹ However, the

³ Hassan Khinjar Ajil Sadik, Youssef Khalaf, "Exposure of Others to Danger in the Iraqi Penal Code," *Al-Muhaqqiq al-Hilli Journal of Legal and Political Sciences*, Issue 1, Volume 12, Iraq, 2020, p. 380.

⁴ Ali Hamza Asal al-Khafaji, Saad Saleh Mahdi al-Ziyadi, "Criminal Responsibility for Exposing Others to the Danger of AIDS Transmission," *Al-Kufa Journal*, Issue 22, Volume 1, Kufa, 2015, p. 150.

⁵ Mahmoud Najib Hosni, "Criminal Law," Unpublished Edition, Dar Al-Nahda Al-Arabiya, Cairo, 1983, p.48.

⁶ Moataz Hamdallah Abu Suwailam, "Criminal Responsibility for Potential Crimes," Master's Thesis, Faculty of Law, Middle East University, 2014, p. 54.

⁷ Ahmed Fathi Sorour, "The Mediator in Criminal Law," Unpublished Edition, Publisher Unknown, Cairo, 1991, p.35.

⁸ Rasim Masir, "Criminal Dangerousness and Ways to Address It," *Al-Yarmouk University Journal*, Issue 1, 2013, p.5.

⁹ Hassan Khinjar Ajil Sadiq, Youssef Khalaf, "Exposure of Others to Danger in the Iraqi Penal Code," *Op. Cit.*, p.380.

¹⁰ *Ibid*, p. 380.

¹¹ Article 223-1 of Law No. 92-684 of July 22, 1992, amended by Law No. 2011-525 of May 17, 2011: "The act of directly exposing another to an immediate risk of death or injuries likely to cause mutilation or permanent



concept of criminalization was not absent, as it appeared in various specific laws such as those concerning labor, health, consumer protection, firearms, and fraud. What was missing was a general provision that addresses the criminalization of actions endangering the lives and physical safety of others.¹²

The UAE legislator also addressed this crime by criminalizing actions that endanger others, in line with modern criminalization trends that go beyond general harm crimes. However, the context of the article differs from the French approach, as the French legislator limited the scope of criminalization to intentional violations of safety regulations, while the UAE law criminalized any actions that could endanger others, regardless of whether they are linked to specific laws or safety regulations.¹³

Other legislations, such as in Egypt, only addressed the crime in specific laws like traffic laws and health regulations, as well as the crime of endangering children. They did not adopt the French approach of general criminalization in the Penal Code.

As for the Algerian legislator, it initially followed the Egyptian approach, addressing specific actions that endanger others in particular laws like traffic and health laws, as well as in the Law for the Protection of Children, which extensively protects children from various physical and moral danger.

However, with the amendment of the Penal Code through Law No. 20-06 of April 28, 2020, the Algerian legislator introduced a general provision criminalizing endangering others in Article 290 bis, which clarifies that endangering others means violating safety regulations, provided that the violation is evident, as indicated by the term "clear." Furthermore, the danger must be direct. This provision represents the first general criminalization of a crime endangering others' lives in the Algerian Penal Code and is classified under non-intentional crimes.

1.2. Nature of the Crime and Its Characteristics

Undoubtedly, this crime continues to receive significant attention from researchers because it is one of the newly introduced crimes, stemming from ideas propagated by different schools that advocate for protecting physical and financial safety and freedoms from all actual and potential dangers¹⁴. Therefore, the nature of this crime has sparked considerable debate among many scholars, in addition to the fact that it possesses several characteristics that distinguish it from other conducts.

1.2.1 Nature of the Crime of Endangering Others

The nature of the crime of endangering others has generally sparked significant disagreement in both legal theory and even in French jurisprudence, which was the first to address this issue judicially. The root of this disagreement lies in whether the crime is intentional or unintentional, particularly since the legal text was amended in 1996, which led to the emergence of various opinions and theories on the matter.

- The Crime of Endangering Others as a Codification of the Concept of Probabilistic Intent

disability by the manifest and deliberate violation of a special obligation of caution or safety imposed by law or regulation is punishable by one year of imprisonment and a fine of 15,000 euros."

¹² For more details about the recommendations that contributed to the inclusion of this crime in French law for the first time, see Rana Atour, "Exposure of Others to Danger in the French Penal Code," *Sharjah University Journal of Shari'a and Legal Sciences*, Volume 8, Issue 2, June 2011, p. 151.

¹³ Article 348 of the UAE Penal Code: "Anyone who intentionally commits an act that exposes the lives, health, property, or freedoms of others to danger shall be punished by imprisonment and a fine, or by one of these penalties. The imprisonment penalty shall apply if the act results in any harm, without prejudice to any more severe penalty stipulated by law."

¹⁴ Article 290 bis of Ordinance 66/159 of June 8, 1966, amending and supplementing the Algerian Penal Code: "Anyone who exposes the life and physical safety of others to danger by deliberately violating a duty of precaution and safety imposed by law or regulation shall be punished by imprisonment for a period of 6 months to 2 years and a fine ranging from 60,000 DZD to 200,000 DZD. The penalty shall be imprisonment from 3 to 5 years and a fine from 300,000 DZD to 500,000 DZD if the act is committed during a period of quarantine or during a natural, biological, technological, or other disaster. Legal entities that commit the crime described in this article shall be punished according to the provisions of this law."



Supporters of this view argue that the French legislator adopted the concept of probabilistic intent, distinguishing between two types of unintentional crimes: those based on unconscious lack of foresight and those based on conscious lack of foresight.¹⁵ According to this approach, the legislator differentiates between the crime of endangering others (which involves probabilistic intent) and mere carelessness, recklessness, or negligence.

The situation of unconscious lack of foresight occurs when an individual commits an act that results in harm beyond their control, and they are responsible only for the harm caused by their actions. In contrast, conscious lack of foresight means the offender commits a dangerous act with deliberate intention but without awareness of the potential result.¹⁶

An example of this could be a case where a person unknowingly infects a child with a virus by giving them a contaminated mask to play with. The person is aware of the potential danger but does not intend to cause harm, although they proceed with the action anyway.

- The Crime of Endangering Others as a Crime with a Special Nature

Supporters of this view argue that this crime lies between intentional and unintentional crimes, possessing a nature that places it in a unique category of crimes that are neither fully intentional nor purely based on negligence.¹⁷

- The Crime of Endangering Others as an Intentional Crime

In this view, the act may be a serious mistake that the individual intended to commit, but they did not intend the resulting harm. This argument is supported by the fact that the French legislator included this crime in the context of violating safety and precautionary duties. The offender intends to create a danger but does not intend to cause harm or a particular result.

The French Court of Cassation, as well as lower courts, have taken different approaches: sometimes classifying the crime as having a special nature, other times considering it as involving probabilistic intent, and in some instances treating it as an intentional crime.¹⁸

The difficulty in determining the nature of this crime is believed to stem from the disagreement among scholars regarding the nature of the danger itself. There are two main perspectives: one side argues that danger does not have a real, tangible existence but is a set of feelings and reactions to an uncertain situation, which is the subjective view.

The opposing, objective view holds that danger is a real and tangible situation, without which the law would not criminalize certain dangerous conducts because the legislator does not forbid something that does not exist. The key point is that in unintentional crimes, the punishment is for the conduct, which involves the risk of a result, even though the offender did not intend the result itself.¹⁹

As for the Algerian legislator, it has adopted nearly the same definition of the crime as the French, and thus all the views and arguments outlined above apply, pending judicial applications. However, in our opinion, the crime of endangering others can be considered an intentional crime regarding the conduct involved. If the violation is not intentional, then the crime would be reduced to recklessness and a lack of precaution, and thus would fall within the category of actions committed by mistake.

1.2.2 Characteristics of the Crime of Endangering Others

As a formal crime, the crime of endangering others is distinguished from other crimes by several features, which are reflected in the following points:

The crime of endangering others is a formal crime, meaning that it is not completed through the usual stages of commission that other harm-based crimes undergo. This category of crime is

¹⁵ Rana Atour, *Op. Cit.*, p. 155.

¹⁶ Ali Hamza Asal al-Khafaji, Saad Saleh Mahdi al-Ziyadi, *Op. Cit.*, p. 151.

¹⁷ Rana Atour, *Op. Cit.*, p. 155 and also Ali Hamza Asal al-Khafaji, Saad Saleh Mahdi al-Ziyadi, *Op. Cit.*, p. 152.

¹⁸ For more details about French judicial trends on the nature of the crime, see Ali Hamza Asal al-Khafaji, Saad Saleh Mahdi, *Op. Cit.*, pp. 155-156.

¹⁹ Hassan Khinjar Ajil, *Op. Cit.*, p. 385.



considered complete as soon as the criminal conduct begins. Its defining characteristic is that the result of the crime appears immediately upon the initiation of the act.²⁰

This means that the attempt is not applicable in this case, as the act itself is criminalized the moment it is carried out. Once the act is completed, it falls under more severe punishment. Some legal scholars argue that the attempt in these types of crimes begins as soon as the preparatory actions are completed, and at that moment, the crime immediately becomes a full offense.²¹

Causality is the connection that links the result of the crime to the conduct, establishing that the conduct led to the outcome. However, in endangerment crimes, this concept of causality is insufficient. The result here is different from the typical outcome seen in harm-based crimes.

This crime is also characterized by the fact that it does not require proof of a causal relationship between the conduct and the result, since the result itself is absent in these crimes²². Thus, there is no need to investigate the causal link between the conduct and the result, as one of them is not present. This view is widely supported by criminal law scholars.²³

Another characteristic of this crime is that it cannot occur by mistake. It is an intentional crime, meaning it cannot occur without the perpetrator's knowledge and will.

2. Provisions of the Crime of Endangering Others

Article 290 Bis of the Algerian Penal Code defines the crime of endangering others and their safety, along with the applicable legal provisions. Like other crimes, the crime is established when all its elements are fulfilled.

2.1. Elements of the Crime of Endangering Others

The legal element of the crime of endangering others is provided in Article 290 Bis. This article is referred to by the judge in accordance with the principle of criminal legality. Therefore, we will focus on explaining both the material and mental elements of the crime while highlighting the specific aspects raised by this crime.

2.1.1 Material Element(Actus Reus)

The material element in the crime of endangering others is achieved through the presence of the conduct, without regard to the result or the causal link, because it is not like other crimes. It is a formal crime. To complete the material element of this crime, it is enough that the criminal conduct occurs, whether it is active or passive.

When the legislator considers that the protected interest is exposed to danger, the material element in this type of crime is fulfilled the moment the conduct begins. Therefore, we will outline the elements of the material element involved in endangering someone's life through the violation of safety and precautionary rules.²⁴ These can be analyzed in the following key points:

First: Violating Safety and Precautionary Duties Imposed by Law or Regulation

This violation can occur through either a positive act or by failing to act, where the conduct is considered negative, such as breaking a safety rule like exceeding the speed limit on highways or failing to assist those in need during accidents. The legislator has framed this conduct in a way that its consequences are immediate, occurring from the very moment the act begins.²⁵

This is a form of conduct that cannot be divided into stages, it either happens or it doesn't. The legislator further includes the condition that this violation must be clear and apparent, leaving no

²⁰ Adam Simian Dhiab al-Azizi, "Special Descriptions of Early Completion Crimes," Tikrit University Journal of Law, Year 2, Volume 2, Issue 2, Part 1, December 2017, p. 28.

²¹ Abd al-Fattah Mustafa Al-Sifi, "The Special Part of the Penal Code", Mansha'at al-Ma'arif, Alexandria, 2000, p. 24.

²² Somati Charifa, "Preventive Criminalization in Contemporary Criminal Policy," Voice of Law Journal, Volume 6, Issue 2, November 2019, p. 1208.

²³ However, another group of scholars argues that there is no act without a result, and that the result in these crimes appears differently from crimes classified as harm or those with material, tangible effects on the external world. In formal crimes, the legal result is reflected in the violation of a right or interest deemed worthy of protection by the legislator. See in this regard Adam Simian Dhiab, Op. Cit., p. 14.

²⁴ Adam Simian Dhiab al-Azizi, Op. Cit., p. 28.

²⁵ Ibid, p. 29.



room for doubt that the act was intentional. Examples of such violations are widely depicted in viral videos, such as individuals spitting on bus seats or a video from Iran showing a person causing damage to a shrine visited by hundreds daily.

It is important to note that Article 290 Bis clearly specifies the rules that, when violated, lead to the crime of endangering others. These include laws and regulations, with laws referring to ordinary or organic laws or any written legal provision that governs safety and precautionary measures.

The term "regulation" is also mentioned in the text, which raises questions about which regulatory texts, when violated, constitute the crime of endangering others. Given the recency of this provision, French judicial applications and some legal interpretations suggest that the term refers to regulatory texts issued at the municipal or provincial level. It excludes internal regulations of institutions or company rules.²⁶

In contrast, according to the text, any unregulated safety and precautionary rules, whether set by law or regulation, and even if aimed at maintaining public order, fall outside the scope of this crime unless they are explicitly incorporated into an official text. This maintains the foundational principle of criminal law, the principle of legality in crimes and penalties.

Second: Exposing Others to Danger

For the crime of endangering others to occur, it is necessary for the violation to directly expose others to danger. This involves an intentional and obvious violation that endangers others' lives. In other words, the perpetrator's violation of the imposed safety obligations must directly lead to the risk of death or bodily harm, such as an injury that could result in the loss of a limb or permanent disability, thereby posing a direct threat to the life or physical integrity of others.

French jurisprudence has seen numerous rulings on this, such as cases where a person participates in a race with two other cars on a poorly maintained road in a neighborhood where children play, with a speed limit of 40 km/h,²⁷ or when safety measures are not provided for workers in industrial plants²⁸, or when flammable materials are left in public spaces, all of which endanger others' lives. Thus, the general criminalization of endangering others' lives and physical safety targets any person from the public, without specifying their identity. A conduct that violates safety rules can expose anyone to danger, and the legislator has confined the damage to endangerment that threatens life or physical safety, explicitly excluding potential harm to property from the scope of protection.²⁹

The legislator requires that the exposure to danger must be direct, which raises questions about the meaning of this term, especially since the harm in this crime is probabilistic. It can be said that evaluating this element is subject to the discretion of the judge, as the violation of safety rules differs from one case to another, making it difficult to establish a uniform standard, which justifies giving the judge some leeway.

2.1.2 The Mental Element(Mens Rea)

The crime of endangering others is considered a formal crime and cannot occur by mistake. According to Algerian law, it is an intentional crime, meaning the perpetrator deliberately violates safety rules, which results in the presence of general criminal intent concerning the act of violation, which consists of knowledge and will. Some scholars argue that the intent in this case refers only to the deliberate will to act under circumstances that violate a duty leading to immediate risks, such as death or

²⁶ According to the Criminal Chamber, the term "regulation" as defined in Article 223-1 of the Penal Code refers to acts by administrative authorities of a general and impersonal nature, which is not the case with a prefectural order declaring a building unfit for habitation and imposing compliance works on the owner (French Cass. crim., May 10, 2000, No. 99-80784).

²⁷ French Cass. crim., September 27, 2000, No. 00-81.635.

²⁸ Regarding risks caused to others and workplace safety, the Court of Cassation censured a court of appeal that convicted an accused of violating workplace safety rules without establishing an immediate link between the violation of these rules and the risk to which the workers were exposed (French Cass. crim., February 16, 1999, No. 97-86.290).

²⁹ Liratni Fatima Zahra and Sufian Tasri, "Preventive Criminalization of the Random Firing of Ammunition During Celebrations," *Journal of Legal and Political Research*, Volume 8, Issue 3, December 2023, p. 223.

serious injury to others. In this crime, the focus is not on the damage itself but rather on the risk of damage.³⁰

First: Knowledge

Knowledge comprises two elements: knowledge of the facts and knowledge of the law. The general principle is that ignorance of the law is no excuse, specifically referring to the law that criminalizes the act. As for the safety and precautionary rules codified in legal texts or regulations, the phrase "intentional violation" implies that the perpetrator is fully aware of the safety rules and knows they are codified. However, they deliberately violate them.

The act results from a violation of safety rules, not mere recklessness or inattention. The perpetrator knows that this violation will expose others to danger. For example, in cases where a doctor, aware of the existence of an infectious patient in a crowded waiting room, fails to implement the required safety measures and preventative actions outlined in public health laws, this would constitute a violation with knowledge of the consequences.³¹

Second: Will

The element of will in this crime refers to the actor's intention to engage in the dangerous conduct, fully aware of the risks it creates, without desiring to cause harm but simply intending to violate the obligation of safety.³² Therefore, this conduct is intentional, without coercion, with the individual's will directed at committing the act, not at achieving a particular result³³. The violation is clear and intentional, reflecting the deliberate disregard of a specific safety or precautionary duty imposed by law or regulation, which creates an immediate risk of death or serious injury to others.³⁴

2.2. Penalties in the Crime of Endangering Others

The Algerian legislator classifies the crime of endangering others as a misdemeanor, but does not provide specific provisions regarding prosecution, investigation, statute of limitations, or jurisdiction. As a result, this crime falls under the general rules of criminal procedural law. Therefore, we will focus only on the penalties outlined in Article 290 Bis.

2.2.1 Penalties

The primary penalties for individuals committing this crime are imprisonment for a period ranging from a minimum of six months to a maximum of two years, along with a fine between 60,000 DZD and 200,000 DZD³⁵. These penalties are more severe compared to other crimes under the same section of the Penal Code.

This crime can also be committed by institutions and companies when they violate safety and precautionary rules, endangering others. The legislator has not overlooked the need to apply penalties to legal persons (such as companies or organizations). Therefore, Article 290 Bis refers to the provisions in the Penal Code regarding the penalties for legal entities. Accordingly, the fine for legal persons ranges from 200,000 DZD to 1,000,000 DZD, in addition to one of the complementary penalties listed in Article 18 Bis.³⁶

Attempting to commit this crime is not punishable, as it is classified as a "dangerous crime" that cannot be attempted. The penalties are subject to the statute of limitations for misdemeanors, which is set at five years.

2.2.2 Aggravating Circumstances in the Crime of Endangering Others

Article 290 Bis outlines certain circumstances that, when present, increase the penalty for committing this crime. If these circumstances are met, the penalty may rise to a prison term of 3 to

³⁰ Rana Atour, *Op. Cit.*, p. 157.

³¹ The judge is not required to ascertain that the offender knew the nature of the specific risk caused by their failure. However, it is their responsibility to establish an immediate link between the violation of regulatory prescriptions and the risk to which the victims were exposed (French Cass. crim., February 16, 1999, No. 97-86.290).

³² Rana Atour, *Op. Cit.*, p. 157.

³³ Ali Hamza Asal al-Khafaji, Saad Saleh Mahdi al-Ziyadi, *Op. Cit.*, p. 155.

³⁴ French Cass. crim., March 9, 1999, No. 98-82.269.

³⁵ Articles 288 and 289 of the Algerian Penal Code, relate to involuntary manslaughter and assault.

³⁶ Article 18 bis of the Algerian Penal Code.



5 years, with a fine ranging from 300,000 DZD (minimum) to 500,000 DZD (maximum). These circumstances are provided as examples and not as an exhaustive list, including situations like quarantine and national disasters.

First: Quarantine

The Algerian legislator did not define "quarantine" in Article 290 Bis or in the draft law. However, referring to the International Health Regulations adopted in Geneva in 2005,³⁷ quarantine is defined as the restriction of activities of persons who are not ill but are suspected of being infected, or of goods, containers, transport vehicles, or cargo suspected of being contaminated.³⁸

Therefore, individuals placed under quarantine are presumed to be potentially infected and their safety uncertain. A violation of quarantine rules is considered a crime of endangering others if the quarantine was imposed due to suspicion of a contagious disease.

Second: Disasters

In addition to quarantine, endangering the lives of others during disasters is considered an aggravating circumstance. The legislator lists various types of natural disasters, for example, but this list is not exhaustive. Natural disasters can be classified according to the factors causing the danger or disaster into geological disasters (earthquakes, tidal waves, volcanic eruptions), meteorological disasters (storms, floods, droughts, heatwaves, desertification), geomorphological disasters (landslides, rockfalls, subsidence, dune encroachment, coastal erosion), cosmic disasters (meteorite falls, cosmic rays), biological disasters (epidemics, locust plagues)³⁹, and technological disasters (e.g., caused by petroleum and gas activities or industrial plant operations, where humans are directly or indirectly responsible due to either their actions or the advancement of technology and failure to control it).⁴⁰

CONCLUSION

The Algerian legislator took over half a century to criminalize the act of endangering others in the Penal Code, despite addressing it in specific laws previously. Article 290 Bis represents a significant step forward in Algeria's criminal policy towards protecting individuals from actions that pose a danger to their safety. This coincided with the global pandemic of 2020, which significantly influenced the enactment of this provision. The findings of this study are as follows:

- The legislator classified the crime of endangering others in the Penal Code as a willful misdemeanor that requires general intent. Although it was placed within the section dedicated to crimes of injury and manslaughter by mistake, the essence of the text defines the act as the intentional violation of safety and precautionary rules, with the outcome being probabilistic.
- A person does not commit the crime of endangering others by merely violating unregulated safety and precautionary rules. Also, those who do not perform the act clearly are not subject to prosecution for this crime.
- Criminal responsibility for this crime applies equally to both natural persons and legal entities (such as companies or organizations).

To achieve better protection, we propose the following:

- It would be beneficial for the legislator to clarify the meaning of the word "regulation" in Article 290 Bis of the Algerian Penal Code. Is it meant to include all types of regulations, or is it limited to a specific category? This is important since the violation of such regulations leads to a criminal act

³⁷ The International Health Regulations (2005) provide the legal foundation for important health documents applicable to travel, transportation, and international health protection for airport, port, and land crossing users. These regulations were published in Algeria in Official Journal Presidential Decree No. 13-293 of August 4, 2013, Official Journal of 2013, Issue 43.

³⁸ Article 1, International Health Regulations, World Health Organization, 3rd Edition, France, 2016, p. 9.

³⁹ Azza Ahmed Abdullah, "Methods of Dealing with Natural Disasters," Journal of Police Research Center, Mubarak Academy for Security, Issue 21, Cairo, 2002, p. 531.

⁴⁰ Bousafsaf Khaled, "Legal Mechanisms for Preventing Major Natural and Technological Hazards and Disaster Management in Algeria," PhD Thesis, University of Mohamed Lamine Debaghine, 2019, p. 2.



that affects individual freedoms. To respect the principle of legality, it would be wise for the legislator to reconsider this point, pending the judicial interpretations of this provision.

- The text of Article 290 Bis contains some ambiguity, particularly regarding aggravating circumstances. It is advisable for the legislator to refine the general wording of "other disasters" and specify what is meant by this term.

- Additionally, it would be preferable for the legislator to broaden the scope of protection to include the safeguarding of property and personal freedoms.

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