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## LEGISLATIVE MECHANISMS FOR CURBING HATE SPEECH: BETWEEN SHARIÂ AND LAW

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**Abstract.** This research paper labeled "*Hate Speech between Legislation and Prevention Mechanisms in Sharia and Law*", addresses the concept of hate speech in Islamic jurisprudence, which is enshrined in international law as well as Algerian law, and the most important images related to it, and how Islamic jurisprudence has addressed the phenomenon of hate speech, whether related to the Qur'anic text or the speeches and news received in the Prophet's Year, as well as the guarantees put in place by the international legislature to reduce the phenomenon of discrimination and hate speech in societies and ways to counter them. The research also addressed the concept of discrimination and hate speech in Algerian law and the legal texts that had initiated in order to address this phenomenon to reduce and combat it, and also addressed some of the mechanisms through which the phenomenon of hate speech could be eliminated or reduced in society. Hate speech poses a threat to democratic values and social stability. It fuels hatred and resentment, exacerbating internal conflicts. Hate speech manifests itself through verbal violence, contemptuous and marginalizing rhetoric, and harassment and threats. It carries extremist sentiments in any form of expression, inciting individuals and groups with animosity and fueling hatred within a society based on ethnicity, gender, language, religion, or geography. Hate speech not only incites violence and contributes to societal division and discord, but it can also lead to murder and genocide. Furthermore, its dissemination through global media can ignite civil wars, as has occurred in some parts of the world.

**Keywords:** Hate speech, Discrimination, Prevention, Mechanisms

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## ЗАКОНОДАТЕЛЬНЫЕ МЕХАНИЗМЫ ПРОТИВОДЕЙСТВИЯ ЯЗЫКУ НЕНАВИСТИ: МЕЖДУ ШАРИАТОМ И ПРАВОМ

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**Абстракт.** Данная научная работа под названием «Язык ненависти между законодательством и механизмами предотвращения в шариате и праве» посвящена анализу понятия языка ненависти в исламской юриспруденции, а также его закреплению в международном и алжирском праве. В исследовании рассматриваются основные формы проявления языка ненависти и то, каким образом исламское право противодействует этому явлению на основе коранических текстов и сунны Пророка (мир ему). Кроме того, анализируются правовые гарантии, предусмотренные международным законодательством для сокращения дискриминации и языка ненависти в обществе, а также способы борьбы с этими проявлениями. Особое внимание уделяется алжирскому законодательству, его правовым нормам и механизмам, направленным на предупреждение и пресечение языка ненависти. Язык ненависти представляет серьезную угрозу демократическим ценностям и социальной стабильности, поскольку он подпитывает враждебность, усиливает социальные конфликты и разрушает общественное согласие. Он проявляется в форме вербального насилия, уничижительной и маргинализирующей риторики, угроз и преследований. Любая форма выражения, основанная на этнической принадлежности, поле, языке, религии или географическом происхождении и направленная на разжигание ненависти, относится к языку ненависти. Его распространение может привести не только к насилию и социальной дезинтеграции, но и к таким крайним последствиям, как убийства и геноцид. Более того, распространение языка ненависти через глобальные медиа может спровоцировать гражданские войны, как это уже происходило в некоторых регионах мира.

**Ключевые слова:** язык ненависти, дискриминация, предотвращение, механизмы

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## NİFRƏT NİTQİNİN QARŞISININ ALINMASI ÜÇÜN QANUNVERİCİLİK MEXANİZMLƏRİ: ŞƏRİƏT VƏ HÜQUQ ARASINDA

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**Abstrakt.** Bu tədqiqat işi “Şəriət və Hüquqda Qanunvericilik və Qarşısının Alınması Mexanizmləri Kontekstində Nifrət Nitqi” mövzusunda həsr edilmişdir və İslam fiqhində nifrət nitqi anlayışını, onun beynəlxalq hüquq və Əlcəzair qanunvericiliyində təsbit olunma formalarını, eləcə də bu anlayışla bağlı əsas təzahürləri araşdırır. Tədqiqatda nifrət nitqinin Qurani-Kərim mətnlərində və Peyğəmbər (s) sünnəsində necə qiymətləndirildiyi, həmçinin İslam hüququnun bu fenomenə qarşı tətbiq etdiyi normativ yanaşmalar təhlil edilir. Bununla yanaşı, beynəlxalq qanunvericiliyin ayrı-seçkilik və nifrət nitqinin azaldılması məqsədilə müəyyən etdiyi hüquqi təminatlar və bu hallarla mübarizə üsulları araşdırılır. Tədqiqat həmçinin Əlcəzair qanunvericiliyində ayrı-seçkilik və nifrət nitqi anlayışlarını və bu fenomenin qarşısının alınması üçün qəbul edilmiş hüquqi mexanizmləri təhlil edir. Nifrət nitqi demokratik dəyərlər və sosial sabitlik üçün ciddi təhlükə yaradır, cəmiyyətdə düşmənçilik və nifrəti gücləndirərək daxili münaqişələri dərinləşdirir. Bu fenomen verbal zorakılıq, alçaldıcı və kənarlaşdırıcı ritorika, habelə təhdid və təzyiq formalarında özünü göstərir. Etnik mənsubiyyət, cins, dil, din və ya coğrafi amillər əsasında nifrət və düşmənçiliyi təşviq edən istənilən ifadə forması nifrət nitqinə daxildir. Nifrət nitqi təkcə zorakılığa təhrik etmir, həm də sosial parçalanma, hətta qətl və soyqırım kimi ağır nəticələrə gətirib çıxara bilər. Onun qlobal media vasitəsilə yayılması isə bəzi regionlarda baş verdiyi kimi vətəndaş müharibələrinin alovlanmasına səbəb ola bilər.

**Açar sözlər:** nifrət nitqi, ayrı-seçkilik, qarşısının alınması, mexanizmlər

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## **1. Introduction**

Hate speech is spreading like wildfire across the globe, and the language of exclusion and marginalization has infiltrated media outlets, online platforms, and national policies. Societies face complex levels of intolerance, including rising Islamophobia, as well as hatred of other religions, intolerance towards others, and the persecution of other religious and social groups.

The term "hate speech" is, in fact, foreign to Muslim societies and Arab legislation. Arab laws and legal texts are almost entirely devoid of reference to this type of crime, while the term is present in most Western legal systems, such as those of the United States and Britain. Hence the importance of this research, as it clarifies the general concept of hate crimes, their nature, forms, elements, and subject matter, and explains the position of Islamic law on them.

The study is also important because it addresses a crucial topic related to discrimination and incitement to hatred, which is particularly relevant given the use of the internet and media as primary platforms for disseminating hate speech, incitement to discrimination, and violence. This necessitated efforts to combat hate speech, both within individual societies and on a broader international scale, through the enactment of laws and the establishment of mechanisms to prevent its spread. International agreements have been concluded that seek to prohibit incitement to hatred by focusing on the protection of human rights in general, rather than solely addressing and combating hate speech specifically. This contrasts with the Algerian legislature, which enacted Law No. 20-05. This paper, which focuses on preventing and combating discrimination and hate speech, is specifically designed to address this crime due to the recent escalation of hate speech in Algeria. It aims to put an end to this phenomenon, given its serious implications for Algerian society. Due to the differences between international law and national laws, there is inevitably a gap in how international law and Algerian legislation address hate speech. This necessitates a comparative study to determine the extent of agreement and disagreement in addressing hate speech, both in terms of defining and criminalizing it, and in terms of mechanisms for preventing and supporting its victims. Therefore, I wanted to contribute my perspective and dedicate this study to this specific aspect, hence the title of this research paper: "Hate Speech: Between Legislation and Mechanisms for its Prevention in Sharia and Law." We will shed light on the nature of hate speech, a frequently raised and increasingly pressing issue related to human rights. Based on the idea of protecting Islam and the positive laws of societies from this phenomenon, the question we wish to explore is: To what extent does international law and Algerian law protect societies from hate speech? And what mechanisms have been put in place to combat it?

To answer the questions and issues raised, we divided this research into two main sections. We began by examining the concept of research terminology, addressing the concept of discourse linguistically and technically. We then defined hate speech as a compound term (first subsection), followed by an explanation of some forms of hate speech (second subsection). Next, we moved to the second section, which addressed the legal treatment of this phenomenon in international law (first subsection), then the legal safeguards established by the Algerian legislator to combat hate speech (second subsection). Finally, we presented some mechanisms that can be used to reduce the phenomenon of hate speech (third subsection). We concluded the research with a summary of the most important findings and our proposed recommendations.

## **2. Section One: The Nature of Hate Speech**

The definitional concept of hate speech stems from clarifying the factors that may contribute to the emergence of forms of racial discrimination and hate speech, as well as the methods and means of addressing them. Combating hate speech through legal and regulatory means that ensure effective measures at the local, national, regional, and global levels is crucial to guaranteeing the principles of human rights and the supremacy of their values. However, the absence of a fixed and precise definition poses a significant obstacle in addressing this societal phenomenon. Therefore, in this section, we will attempt to define hate speech linguistically and terminologically, both in jurisprudence and law.

### **First Section: The Concept of Hate Speech**

In this section, we will examine the concept of hate speech in both its linguistic and technical senses to understand the meanings of this compound term and its denotative connotations.

#### **Section One: Defining Hate Speech Linguistically**

Reaching a comprehensive definition of what is called hate speech may seem difficult and complex, given that this phenomenon encompasses diverse concepts related to many issues, as well as including two terms. Therefore, we will attempt to define each term separately before defining the compound term. First: Definition of speech in the Arabic language: The word "speech" in Arabic comes from the three-letter verb "khaba," meaning to speak or address a group of people about something, or to deliver a speech [Abu Bakr Muhammad bin Al-Hasan bin Bandar Al-Azdi, Jamharat Al-Lughah, edited by: Ramzi Yamani Munir Ba'labaki, Dar Al-Ilm Lil-Malayin, Beirut, 1st edition, 1987 AD, Vol. 1, p.312].

It also means: A matter or affair. Al-Layth said: "Al-Khatb is the cause of the matter." You say: "What is your matter?" meaning: "What is your affair?" And you say: "This is a serious matter" and "This is a minor matter." Its plural

is khutub [Al-Harawi, Abu Mansur, Tahdhib al-Lughah, edited by Muhammad Awad Murab, Dar Ihya al-Turath al-Arabi, Beirut, 1st edition, 2001 AD. Vol. 1, p.416].

The word "khitab" (speech) in the language also means "mukhatabah" (addressing) and "khitab" (speech), and they are addressing each other. "Mukhatabah" is a reciprocal form of "khitab" and "mushawarah" (consultation). He meant: You are one of those who address people and urge them to go out and gather for sedition [Ibn Manzur, Lisan al-Arab, Dar Sader, Beirut, 3rd edition, 1114 AH. Vol. 1, p.396].

Secondly: The linguistic definition of hatred: The word "hatred" in Arabic is derived from the root "karaha," meaning to dislike or hate something, the opposite of loving it. Therefore, something that is disliked or hated is called "kareh" disliked [Anis, Ibrahim. Al-Mu'jam Al-Wasit. Arabic Language Academy, Al-Shorouk International Library, Cairo, 2004 AD, p.785].

The word for hatred is also known linguistically: the letters kaf, ra, and ha form a single, correct root, indicating the opposite of satisfaction and love. It is said: I hated the thing. I hate it with hatred. It is also said: hatred and aversion, and the intensity of war [Ahmed Bin Fares, Dictionary of Language Standards, Dar Al-Fikr for Printing and Publishing, Beirut, 2007, vol. 5, p.172].

The second branch: Defining discourse technically:

There are many definitions related to discourse, including: Discourse is a coherent set of sentences, texts, and statements; or discourse is a method of researching materials composed of distinct and interconnected elements, whether language or something similar to language, and containing more than one initial sentence; or any utterance or speech act that presupposes the presence of a narrator and a listener, and in which the narrator intends to influence the recipient; or a text governed by a clear overall unity consisting of successive expressive forms issued by a single speaker conveying a message [Heba Abdel-Moez Ahmed, Discourse Analysis, Al-Nour Foundation for Culture and Media, Cairo, 1st edition, 2004, p.112].

Third Branch: Defining Hate Speech as a Compound Term:

There is no clear definition of what is called hate speech in international law. This often leads to the application of this concept in a way that imposes numerous restrictions on freedom of expression. Furthermore, the absence of such a definition has caused confusion between several concepts, especially given the evidence in reality that fuels rumors and false accusations, and reinforces stereotypical images of a particular society as practicing violence and racial discrimination against its members [Council of Europe, Manual on Hate Speech, September 2009; or OSCE Hate Speech on the Internet, July 2011, p.13].

Article 19 of the organization defined "hate" based on the Camden Principles on Freedom of Expression and the Right to Equality, which the aforementioned organization, in conjunction with a number of legal experts, formulated as "a state of mind characterized by an irrational and unfounded hostility, hatred, and contempt towards the group or person against whom the hate is directed [Camden Principles, op, cit, Principle 12.1, p.19].

The difficulty in defining hate speech precisely lies in the fact that some types of speech fall within the realm of public debate, which should not be restricted. For example, speech that incites hatred of the police force due to its use of torture against citizens, or speech that incites hatred of the government due to the corruption of its members. Therefore, it was necessary for Article 20, paragraph 2, of the International Covenant on Civil and Political Rights to specify the necessary criteria for distinguishing between different forms of hate speech.

Accordingly, some legal scholars have defined hate speech as: "All forms of expression that promote, encourage, or justify discrimination, as well as those that include contempt, insult, hostility, hatred, or violence directed at a person or group of persons on the basis of sex, race, color, descent, national or ethnic origin, language, geographical affiliation, disability, or health condition" [Article 02 of Law No. 20/05, dated April 28, 2020, relating to the prevention and combating of discrimination and hate speech, Official Gazette of the People's Democratic Republic of Algeria, No. 25, issued on April 29, 2020, p.05].

The legal definition of hate speech is based on forms of racial discrimination, considered a consequence of several patterns mentioned above. These patterns lead to the emergence of hate speech within local environments across the national geographical scope of cities, or between neighboring countries that share common religious, civilizational, historical, and cultural ties. Hate speech, as a base moral value, transcends continental borders and contributes to the spread of violence, wars, conflicts, and international corruption among diverse societal entities with differing religions, customs, and social, moral, and customary behaviors.

Hate speech also aims to incite sectarian and regional conflicts, incite the denial and marginalization of the other, encourage violence, and accuse the other party of treason and corruption. Therefore, hate speech encompasses any expression laden with malice, resentment, and contempt directed at a group of individuals based on religion, race, or gender, and aimed at diminishing their rights and dignity. This fuels hatred and violence towards others.

### **Second requirement: Forms of hate speech**

Hate speech can be divided into three forms:

First: Incitement to violence:

The World Health Organization defines violence as "the intentional use of physical force or authority against a person or group in a way that results in injury, death, or psychological or physical harm" [The World Health Organization in the report world Report on Violence and 55 Health, 2002; p.37].  
Second: Incitement to hostility or hatred:

The Camden Principles for Freedom of Expression and the Right to Equality defined hostility as: "an act based on an extreme state of mind of hatred and loathing towards specific individuals or groups." This is the same definition the Camden Principles used for the term "hate." The terms "hostility" and "hate" are characterized by a high degree of ambiguity and lack of clarity, unlike incitement to violence and incitement to discrimination. This ambiguity can lead to broad interpretations that impose undue and unnecessary restrictions on freedom of expression [Article 19/ The Camden Principles on Freedom of Expression and Equality, 2003, p.16].

Third: Incitement to discrimination:

Incitement to discrimination is defined as: "Any call made to the public, by any means of publicity, to engage in any act that would weaken or prevent individuals or groups from enjoying, on an equal basis with others, human rights and fundamental freedoms, whether in the political, economic, social, cultural or any other sphere of public life" [Ali Al-Qahwaji, Explanation of the Penal Code of Egypt, Lebanon and France, Dar Al-Nahda Al-Arabiya, Cairo, Egypt, 1st Edition, 2009 AD, p.463].

### **3.Section Two: Guarantees for Protecting Society from Hate Speech**

Preventing discrimination and hate speech in Muslim societies has become a challenge and a critical issue. The state must develop a well-considered strategy to ensure the prevention and criminalization of hate speech within its territory, thereby guaranteeing fraternity and cohesion among its citizens. This is essential for implementing participatory democracy and national policies aimed at creating a secure environment. Therefore, this section will examine the guarantees established by Islamic jurisprudence to prevent and reduce the spread of hate speech and discrimination, as well as the legal safeguards for preventing hate speech.

First Requirement: Islamic Jurisprudence and its Approach to Hate Speech

First Subsection: The Quran's Approach to Combating Hate Speech

Islamic law seeks to counter hate speech by promoting tolerance, acceptance of others, establishing values of coexistence among different religions and civilizations, and rejecting hatred and violence. Therefore, God Almighty said: "And tell My servants to say that which is best. Indeed, Satan sows discord among them. Indeed, Satan is ever, to mankind, a clear enemy." [Al-Isra: 53]. Islam has forbidden hate speech and verbal violence, and this is evident in many Quranic verses, including, but not limited to, God Almighty's saying:

“And [recall] when We took the covenant from the Children of Israel, [enjoining upon them], ‘Do not worship except God; and to parents do good, and to relatives, orphans, and the needy.’” And speak good words to people, establish prayer, and give zakah. Then you turned away, except a few of you, while you were averse. [Al-Baqarah: 83] And likewise, the Almighty says: “O you who have believed, let not a people ridicule [another] people; perhaps they may be better than them; nor let women ridicule [other] women; perhaps they may be better than them. And do not insult one another and do not call each other by [offensive] nicknames. Wretched is the name of God.” And whoever does not repent - it is they who are the wrongdoers. [Al-Hujurat: 11] In the interpretation of this verse, Al-Qurtubi, may God have mercy on him, said, after mentioning the scholars' opinions on the reason for its revelation: "In short, no one should dare to mock someone he encounters if he sees him in a shabby state, with a physical disability, or lacking in eloquence. Perhaps that person is more sincere and pure of heart than someone who is the opposite. Thus, he wrongs himself by belittling someone whom God has honored and mocking someone whom God has exalted. The early Muslims were so cautious and careful about this that Amr ibn Sharhabil said: 'If I saw a man suckling a goat and laughed at him, I would fear that I might do the same.' And Abdullah ibn Mas'ud said: 'Misfortune is tied to speech. If I mocked a dog, I would fear that I might be transformed.'" Dog [Abu Abdullah Shams al-Din al-Qurtubi, *Al-Jami' li-Ahkam al-Qur'an = Tafsir al-Qurtubi*, vol. 16, p.324].

Islam also forbids the denigration of religions, as stated in the verse: “And do not insult those they invoke besides Allah, lest they insult Allah in enmity without knowledge. Thus We have made pleasing to every community their deeds. Then to their Lord is their return, and He will inform them about what they used to do.” [Al-An'am: 108].

Second Branch: The Methodology of the Prophetic Sunnah in Curbing Hate Speech

Hate speech aims to incite violence and spread enmity and hatred, while Islam aims to restrain tongues from speaking except what is good. Therefore, many hadiths and narrations in the noble Sunnah call for abandoning and rejecting hate speech. In the hadith on the authority of Abu Hurairah, may God be pleased with him, on the authority of the Prophet, may God bless him and grant him peace, he said: “Whoever believes in God and the Last Day should speak good or remain silent [Narrated by Muslim, Book: Lost and Found Items, Chapter: Hospitality and the Like, Hadith No. 14, Vol. 3, p.1352].

Also included in that is what Al-Bukhari narrated in his Sahih from the hadith of the Mother of the Believers, Aisha, may God be pleased with her; She says: “A group of Jews entered upon the Messenger of God, may God bless him and grant him peace, and they said: ‘Death be upon you.’ Aisha said: ‘I understood

them, so I said: ‘And upon you be death and the curse.’ She said: ‘The Messenger of God, may God bless him and grant him peace, said: “Take it easy, Aisha, God loves gentleness in all matters.” So I said: “O Messenger of God, did you not hear what they said?” The Messenger of Allah, may God’s prayers and peace be upon him, said: “I have already said: And upon you” [Narrated by Al-Bukhari, Book: Manners, Chapter: Gentleness in all matters, Hadith No. 6024, Vol. 8, p.12].

An-Nawawi said: It is permissible to begin greeting a gathering that includes both Muslims and non-Muslims, or a Muslim and a non-Muslim, intending to greet the Muslims, based on the authentic hadith that the Prophet (peace and blessings be upon him) greeted a gathering that included both Muslims and polytheists. His statement, "God loves gentleness in all matters," demonstrates the greatness of his character and the perfection of his forbearance. This hadith encourages gentleness, patience, forbearance, and treating people kindly unless there is a need for harshness. The hadith also indicates the desirability of virtuous people overlooking the foolishness of those who spread falsehood, provided no harm results from it. Ash-Shafi'i said: The truly wise and intelligent person is the one who is perceptive yet overlooks faults [Abdullah Al-Shawkani, *Nayl Al-Awtar*, vol. 8, p.75].

From this, we understand that, whatever the case may be, those who adhere to Islam, embody its ethics, and abide by its laws, do not initiate hate speech against anyone. The Quran has instilled in them the best of manners, and they have drawn from the light, wisdom, and forbearance of the Prophet Muhammad (peace and blessings be upon him), drinking from the cup of his patience and refinement.

#### Second Requirement: Legal Guarantees to Curb Hate Speech

A review of international law reveals that it does not address hate speech directly, precisely, and separately in its legal texts. Rather, it links it to intolerance and racism, which incite hatred and violence. Therefore, we will examine some international texts that address hate speech indirectly.

#### First Section: The Camden Principles

The Camden Principles on freedom of expression and equality are based on the idea that freedom of expression and equality are fundamental and essential rights. Freedom of expression and equality are complementary rights that play a vital role in protecting human dignity, ensuring democracy, and promoting international peace and security. The Camden Principles represent a progressive interpretation of international law and its norms, of accepted state practices, and of the general principles of law recognized by the international community. This document was developed to promote the widest possible global understanding of the relationship between respecting freedom of expression and promoting equality.

According to the Camden Principles, hate is a state of mind characterized by intense and irrational feelings of hostility, resentment, and contempt toward the group or person targeted [Al-Hawari, Shaimaa. The Concept of Hatred in International Law. Arab Democratic Center. Accessed:04/11/2021].

The Camden Principles, in Principle 12, state that all countries must adopt legislation that prohibits any advocacy of hatred on a national, racial, or religious basis that constitutes incitement to discrimination, hostility, or violence based on hate speech. National legal systems should explicitly or through official interpretation clarify the following:

-The term "hate" or "hostility" refers to strong and irrational feelings of contempt, hostility, or dislike towards the targeted group.

-The term "incitement" means the intention to promote hatred towards the targeted group in a public manner.

-The term "incitement" refers to statements about national, ethnic, or religious groups that create an imminent risk of discrimination, hostility, or violence against persons belonging to those groups.

-The positive promotion of the identity of a particular group does not constitute hate speech.

-States should prohibit the denial or condoning of genocide, crimes against humanity, and war crimes only when such statements constitute hate speech.

-States should not prohibit criticism or discussion of ideas, beliefs, ideologies, religions, or religious institutions except when such criticism or discussion constitutes hate speech as defined in Principle 12/01" [Article 12, Article 2009, 19 Camden Principles on Freedom of Expression and Equality. Accessed: 03/11/2021].

#### **4.Section Two: Guarantees of Protection Against Hate Speech in International Agreements**

International standards regarding the issue of "hate speech" have been established through the balance found in Articles 19 and 20 of the International Covenant on Civil and Political Rights. The aforementioned guarantees include: the right to freedom of expression, which encompasses the freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers.

Article 19 specifies the limitations that may be attached to this right, including "respect for the rights or reputations of others." Article 20 stipulates the following: [Article 20 of the International Covenant on Civil and Political Rights of 1966]

1.Any propaganda for war is prohibited by law.

2.Any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence is prohibited.

The American Convention on Human Rights requires states to declare that advocacy of hatred on national, racial, or religious grounds is a criminal offense. The European Convention on Human Rights and the African Charter on Human and Peoples' Rights do not require hate speech to be prohibited by law, but they allow it to be [See: The American Convention on Human Rights and Duties, adopted at the Organization's Special Conference on Human Rights held in San Jose, Costa Rica, November 22, 1969, and entered into force on July 18, 1978].

Numerous international agreements address hate speech, including Article 3, paragraph (c) of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, which states: The following acts shall be punishable:

1. Direct and public incitement to commit genocide
2. Direct and public incitement to commit genocide" [Bassiouni, Mahmoud Cherif, International Documents Concerning Human Rights. Dar Al-Shorouk, Algeria, 2003, Vol. 1, p.385].

Paragraph (a) of Article 4 of the 1965 International Convention on the Elimination of All Forms of Racial Discrimination considers any dissemination of ideas based on racial superiority or hatred, any incitement to acts of violence against any race or other ethnic group, and any assistance to such activities to be a criminal offense. The Convention imposes a broader prohibition. Article 4 requires all States Parties to the treaty to declare as a criminal offense: "any dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination... and the provision of any assistance to racist activities," and participation in "organizations, and the organization of all other propaganda activities which promote and incite racial discrimination" [The International Convention on the Elimination of All Forms of Racial Discrimination, adopted and opened for signature, ratification and accession by United Nations General Assembly resolution 2106, dated 21 December 1965, entry into force date: 4 January 1969].

### Third Section: Guarantees of Protection from Hate Speech in Algerian Law

In this section, we will address discrimination and hate speech through the 2020 Algerian Constitutional Amendment, the Algerian Penal Code, and Law No. 05-20 concerning the prevention and combating of discrimination and hate speech.

#### First: Hate Speech in the 2020 Constitutional Amendment.

The Algerian legislator did not define hate speech in the Constitution or the Penal Code. However, Article 54 of the Constitution prohibits the dissemination of discriminatory and hate speech, after also mentioning in the same article the right to publish news, images, and opinions, provided that the law is respected and that the nation's fundamental principles and religious, moral, and cultural values are not violated [The Algerian Constitution of 2020,

the 2020 constitutional amendments, the Constitution of the People's Democratic Republic of Algeria. Official Gazette].

It is clear from the above that freedom of expression and freedom of the press are constitutionally guaranteed, provided that the exercise of these freedoms does not lead to the dissemination of hate speech. This necessitates establishing boundaries between freedom of expression and hate speech.

Secondly: Hate Speech in Law No. 20-05 Concerning the Prevention of Discrimination and Hate Speech

The recent escalation of hate speech has prompted the Algerian legislature to enact a law to combat discrimination and hate speech. According to Law No. 20-05, “hate speech” encompasses all forms of expression that disseminate, encourage, or justify discrimination, as well as those that include contempt, insult, hostility, hatred, or violence directed at a person or group of persons based on gender, race, color, lineage, national or ethnic origin, language, geographical affiliation, disability, or health condition [Law No. 20-05 of 2020, the Law on the Prevention of Discrimination and Hate Speech, dated 05 Ramadan 1441 AH, corresponding to 28 April 2020 AD, Official Gazette of Algeria, No. 25, dated 29 April 2020 AD].

It is clear from the foregoing that the Algerian legislator addresses hate speech from angles that sometimes agree and sometimes differ from those of international conventions. The Algerian legislator links hate speech to discrimination based on sex, race, color, lineage, national origin, or ethnicity, combining both concepts in a single law to combat them both. In contrast, international law considers hate speech a cause of genocide and defines it as propaganda for war or incitement to national or religious hatred. Furthermore, some international conventions address racial discrimination, which is considered fertile ground for the spread of hate speech [Warida Jandlibint Mubarak, Addressing Hate Speech in International Law and Algerian Legislation: Legal Recognition and Means of Prevention, Arab Journal of Security Studies, Faculty of Law and Political Science, University of August 20, 1955, Skikda, Algeria, Volume 37, Issue 01, p.121].

Third requirement: Mechanisms for confronting hate speech

First branch: Family challenges in moderate religious upbringing and protection from extremism and hatred

Islam is a religion of truth, freedom, justice, civilization, and keeping pace with all times in its finest details. The structure of Muslim society cannot be destroyed by the narrow view of those who do not understand its rulings. Enlightenment, sound socialization, and good religious education are necessary to understand Islam in all its dimensions. The legitimacy of marriage came to entail a set of objectives in order to achieve the wisdom of this religious bond. There is responsibility, commitment, and trust towards the wife

and children in their upbringing and education. Among the objectives of Islamic law in marriage and family formation is the establishment of strong social bonds and kinship ties, which contribute to a more cohesive, stronger, and more cooperative Muslim society, fostering universal human brotherhood. The primary responsibility is to fear God in one's dealings with family and children, striving for their righteousness in this life and the hereafter. This is a duty, not an honor, for which both spouses will be held accountable. This is emphasized with a strong warning because it impacts the lives of the family and society; the well-being of the individual is reflected in the well-being of the family, which in turn leads to the well-being of society [Kass Abdelkader, Tayeb Ahmed, *The Role of Religious Education in Combating Extremism and Confronting Hate Speech*, *Journal of Islamic Sciences and Civilization*, Volume 06, Issue 02, Year 2021, p.216].

This is the gateway to moderation and balance, and to building the righteous Muslim individual who loves for others what he loves for himself, and whose heart is free from any trace of hatred, malice, violence, extremism, fanaticism, or any form of intolerance or disrespect for others. This is the cornerstone of combating extremism through the role of the family and the challenges posed by contemporary issues such as the mixing and convergence of societies and the intermingling of cultures, influenced by communication and information technology and cultural invasion. Therefore, we see that the family is the foundation and starting point in combating all forms of extremism, violence, hatred, and hostility, by instilling noble religious values that guide the individual's behavior towards moderation, tolerance, and love for others regardless of their gender, religion, or beliefs [Kass Abdelkader, Tayeb Ahmed, previous reference, p.217].

#### Section Two: The Role of Educational Institutions in Countering Hate Speech

The civilizational foundation upon which societies are built must stem from their unique cultural and civilizational characteristics, particularly those with social, ethical, and moral dimensions. Religion plays a crucial role in strengthening social and spiritual bonds. Therefore, socialization institutions, through integrated roles, aim to instill a set of values, feelings, emotions, attitudes, opinions, behaviors, and convictions, etc., regarding the cultural and civilizational heritage and what connects the nation to its present and future, as well as its relationship with others. This is especially true in religious, doctrinal, spiritual, and ethical matters, which are based on carefully considered and selected religious curricula that are relevant to every time and place.

Reforming educational curricula at all levels, both in form and content, is essential. These curricula should focus on the values of dialogue, acceptance of others, promoting a culture of coexistence, spreading the values of tolerance,

respecting human dignity, and upholding human rights. They should also avoid anything that incites sectarianism, hatred, and animosity among people. Therefore, national education curricula in societies must be built on religious and cultural dimensions, aiming for tolerance and the rejection of all forms of violence, extremism, fanaticism, and rejection of others, as well as all forms of hatred and hostility that may creep into the minds of young people as a result of a flawed and biased understanding of religion and its ideological and political uses [Muhammad As'ad Talas, *Education in Islam*, Cairo, Hindawi Foundation for Education and Culture, 2012, p.124].

The true goals of education in Islam are both religious and worldly, through its encouragement of knowledge, which is an obligation upon every Muslim, male and female. This refers to religious knowledge, which achieves balance between the heart and the mind. The solution lies in reviewing the curricula in Arab countries and purging them of anything tainted by hatred, incorporating topics and activities that promote a culture of acceptance of others, respect for differences and pluralism, and avoid inciting sectarianism and bigotry. It also involves developing reference guides for teachers to help them protect students against hatred and all forms of discrimination, emphasizing that difference and diversity are universal laws, and that humanity complements and cooperates with one another to develop and improve the earth, regardless of their beliefs, ethnicities, or genders [The same reference, p.126].

### **5.Third Section: Activating the Role of the National Observatory for the Prevention of Discrimination and Hate Speech**

Law 20-05 proposes the establishment of a National Observatory for the Prevention of Discrimination and Hate Speech, attached to the Presidency of the Republic. This national body will possess legal personality and enjoy financial and administrative independence. Its budget will be included in the state's general budget. Its mission will be to monitor and analyze forms and manifestations of discrimination and hate speech, identify their causes, and propose the necessary measures and procedures for their prevention. The organization and operation of the Observatory will be determined by regulation.

The draft law also defines the composition of the National Observatory for the Prevention of Discrimination and Hate Speech, which will be made up of national experts selected by the President of the Republic, representatives of the National Human Rights Council, the High Council for the Arabic Language, the High Commission for Amazigh Affairs, the National Authority for the Protection and Promotion of Childhood, the National Council for Persons with Disabilities, and associations active in the field, in addition to representatives of several ministerial sectors who attend the Observatory's

work in an advisory capacity. The Observatory will submit an annual report to the President of the Republic, which will include an evaluation of the implementation of the National Strategy for the Prevention of Discrimination and Hate Speech, as well as its proposals and recommendations for strengthening and promoting the national prevention mechanisms in place in this area. The Observatory will publish the report and inform the public of its contents in accordance with the procedures specified in its internal regulations [Samira Belamri, an article published in the daily newspaper Echorouk, "These are the mechanisms for combating discrimination and hate speech" - Echorouk Online (echoroukonline.com) dated: 10/03/2020, on the website: <https://www.echoroukonline.com/>, accessed on: 08/11/2021].

## **6. Conclusion**

Through our study, we have examined a crucial topic that dominates the international and national scene: hate speech and discrimination. This topic is addressed within Islamic jurisprudence, international law, and Algerian law, given its importance in our time and its significant repercussions on the legal, religious, and social spheres. This study focuses on a vital aspect of confronting extremism and eliminating hate speech in all its forms. We have arrived at several conclusions and recommendations, summarized as follows:

1. There is no comprehensive and precise definition of hate speech in Islamic jurisprudence, international law, or Algerian law. While Algerian law considers hate speech to be an incitement to genocide through propaganda for war or calls for hatred, the Algerian legislator defines hate speech based on discrimination based on gender, race, color, lineage, national origin, or ethnicity.

2. No country or society is free from hatred, and those belonging to national, ethnic, religious, and linguistic minorities are usually its targets. Hatred is typically shaped, fueled, sustained, and directed by specific individuals or groups against other individuals and groups who differ from the dominant ethnicity, language, or religion. Hate speech can find fertile ground in broader social, economic, or political problems or societal divisions. The root causes of hatred often lie in purely ethnic or religious differences.

3. Preventive and deterrent mechanisms aim to combat hate speech. The Algerian legislature established a national observatory to monitor and analyze the forms and manifestations of hate speech, identify its causes, and propose the necessary measures and procedures to prevent such manifestations. 4- The Algerian legislator has largely succeeded in establishing a special law to confront discrimination and hate speech, namely Algerian Law No. 20-05 relating to the prevention of discrimination and hate speech, which outlines some procedures that ensure the state's commitment to protecting them.

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