



Crimes of Insult Committed Against Citizen in Algerian Legislation

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Abstract

The citizen has come to occupy an important social and legal status within the Algerian state, reflected in the legislator's commitment to providing the highest degree of legal, especially criminal, protection for the individual's personality in both its material and moral aspects, by criminalizing all forms of assault against it. The Algerian legislator has recognized the necessity of protecting the citizen's right to dignity, honor, and reputation, as this protection is no less important than the right to life and bodily integrity. Accordingly, criminal protection has been provided for the citizen's dignity, honor, and reputation by criminalizing acts of insult to which a citizen may be subjected. The legislator distinguished between two types of crimes: the crime of insult committed against a citizen by a public official or someone in a similar position, and the crime of insulting a citizen who is charged with performing a public service.

Keywords: Citizen; Insult; Crime; Public Official; Dignity.

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Introduction:

The citizen has come to occupy an important social and legal position in the Algerian state, reflected in the legislator's concern to provide the highest degree of legal, particularly criminal, protection for the human personality in both its material and moral aspects, by criminalizing all forms of assault against life, bodily integrity, honor, dignity, and reputation.

The criminal protection of the human personality in its moral aspect requires the criminalization of acts that violate a person's honor and reputation. The legislator has recognized the necessity of protecting human honor and reputation, as this protection is no less significant than the protection granted to the right to life and physical safety. The right to honor and reputation is inherent to the legal personality and stems from it, regardless of one's social status.¹

Ensuring human rights, freedoms, life, health, and well-being has become one of the most critical issues in today's globalized world. In this regard, the protection of human honor and

dignity plays a crucial role. It is not merely an indicator of an inalienable human right but also reflects the cultural, moral, and ethical level of a modern society.²

The right to preserve dignity, honor, and reputation is no less important than the right to life and physical integrity. Thus, all Algerian constitutions, including the most recent amendment of 2020³, have stipulated in Article 39/2 that: "Any physical or moral violence, or any violation of human dignity, is prohibited." Given the citizen's position as a member of the people one of the fundamental pillars of the state it became necessary to guarantee his right to life, bodily integrity, dignity, honor, and reputation.

Human rights, freedoms, life, health, and safety have always been urgent issues. Protecting the citizen's honor and dignity remains among the most essential and inalienable rights. Since ancient times, philosophers such as Socrates, Heraclitus, Democritus, Plato, Aristotle, Seneca, and Cicero have discussed these values.⁴

While honor is preserved through laws against defamation and slander, dignity is safeguarded by criminalizing acts of insult, ensuring that every individual is treated with the respect and esteem they deserve as citizens.

Both honor and dignity possess a unique quality tied to their holder and a social dimension focused on the esteem and respect granted by others. From a legal perspective, an attack on the honor of a natural or legal person constitutes an insult when the statements are degrading, offensive, or use obscene language.⁵

This topic derives its importance from its focus on the crime of insulting a citizen an essential component of the state since his dignity, honor, and reputation form part of the state's own dignity and standing. The rights to dignity, honor, and reputation are inherent to every human being and are recognized by all international conventions and national constitutions. The crime of insulting a citizen is one of the offenses that violate these rights, which makes it a significant yet underexplored subject of study.

The Algerian legislator has ensured criminal protection for the citizen's dignity, honor, and reputation by criminalizing acts of insult to which a citizen may be exposed, distinguishing between two types of crimes:

- The crime of insult committed by a public official or a person in an equivalent position against a citizen.
- The crime of insult directed at a citizen performing public service duties.

However, the legislator differentiated between these crimes in terms of legal classification: the insult committed by a public official or equivalent is considered a *misdemeanor*, while the insult committed against a citizen performing a public service is considered merely a *contravention*. This distinction raises the question: what is the rationale behind this differentiation? Hence, the central research question arises: **How has the Algerian legislator organized crimes of insult committed against citizens?**

To answer this question, the descriptive and analytical methods were adopted, as they are most suitable for such studies. The descriptive method is used to present the basic definitions and

concepts, while the analytical method is employed to interpret and explain the legal provisions governing the crime of insulting a citizen.

The study is divided into two main parts:

- The first part examines the crime of insult committed by a public official or someone in a similar capacity against a citizen.
- The second part addresses the crime of insulting a citizen who is entrusted with performing a public service.

1. The Crime of Insulting a Citizen by a Public Official or a Person in an Equivalent Position:

Studying this crime requires identifying its legal elements, followed by the criminal penalty prescribed for it by law.

1.1 The Legal Elements of the Crime:

The crime of insulting a citizen by a public official or a person in an equivalent position is constituted by the essential elements of legality, material element, and moral element. In addition to these general elements, the legislator requires two further elements specific to this crime: the status of the victim as a citizen, and the status of the perpetrator as a public official or a person in an equivalent position. This may be considered a very particular case in which the legislator requires the presence of two special elements together in the same crime; usually only one special element is required either the status of the perpetrator or that of the victim whereas for this crime both must be present.

1.1.1 The Element of Legality of the Crime:

Before the amendment of the Penal Code by Law 24-06, the Algerian legislator punished the crime of a public official insulting a citizen under Article 440 bis, which provided: "Any public official who, in the performance of his duties, insults or curses a citizen or humiliates him by any offending expressions shall be punished with imprisonment from one month to two months and a fine from DZD 10,000 to DZD 20,000, or with one of these two penalties." However, the amendment entirely repealed this legal article and, instead, added Article 148 bis, which stipulates: "Shall be punished with imprisonment from six (6) months to three (3) years and a fine from DZD 300,000 to DZD 500,000 any public official referred to in Article 144 of this law who, in the performance of his duties, insults a citizen by any expressions injurious to his honor or reputation, or threatens him".

This article refers, for determining the perpetrator in this crime, to Article 144 of the Penal Code, which states: "Shall be punished with imprisonment from six (6) months to three (3) years and a fine from DZD 100,000 to DZD 500,000 anyone who insults a judge, a public official, or a public officer by words, gestures, threats, sending or delivering items to them, or by non-public writing or drawings, during or on the occasion of the performance of their duties, with the intent of undermining their honor, reputation, or the respect due to their authority.

The penalty shall be imprisonment from one (1) to three (3) years and a fine from DZD 200,000 to DZD 500,000 if the insult directed at a judge or one or more sworn members occurs in a court or judicial council session.

The same penalty applies if the insult is directed at an imam or at the corps of professors and teachers during or on the occasion of the performance of their duties”.

Article 148 bis derives its existence from Article 26 of the 2020 Algerian constitutional amendment, which states: “The administration is at the service of the citizen,” whereby the constitutional framer, through this principle, obliges the administration with all its departments and employees to be at the citizen’s service, to meet his needs and provide him services with efficiency and transparency. The citizen must be treated not merely as a recipient of service but as a partner, which necessitates treating him with full respect.

1.1.2 The Material Element of the Crime:

The material element of the crime of a public official or a person in an equivalent position insulting a citizen is inferred from the wording of Article 148 bis: “... **any public official referred to in Article 144 of this law who, in the performance of his duties, insults a citizen by any expressions injurious to his honor or reputation, or threatens him.**” This means that the material element of this crime requires the following components:

– First: The criminal conduct in the crime:

which may occur in a positive form as well as in a negative form. The positive conduct consists of the act of a public official or a person in an equivalent position insulting a citizen by any expressions injurious to his honor or reputation, or threatening him, and that the assault on the citizen occurs while the official is performing his duties.

However, it is noted that the Algerian legislator has neglected the situations in which the criminal conduct may occur in a negative form, and has been satisfied with the positive conduct only for the material element of the crime.

a. Insulting the citizen by expressions injurious to his honor or reputation:

The criminal conduct is realized in these instances by any words or expressions issued by the public official or a person in an equivalent position and directed at the citizen who is requesting services from that official, department, or facility where he works, which carry within them the meaning of insult, as the Algerian legislator expressed it by the phrase “... injurious to his honor or reputation...”. Examples are numerous: directing words injurious to the citizen’s honor, shouting in his face, sighing at him in contempt, cursing him, or describing him with the worst attributes, etc. The Algerian legislator required that the expressions directed by the official or equivalent to the citizen be injurious to his honor and reputation; therefore, if the expressions are not so i.e., they do not undermine the citizen’s honor or reputation the crime of insult is not constituted in this case.

The law grants the citizen the right to preserve his honor, reputation, and the social standing he occupies, and guarantees this right by criminalizing acts that diminish his honor and reputation and harm his social standing.⁶

It is customary to associate insult with slander and defamation because each of these acts targets the same aim: diminishing the person's right to the respect or esteem due to him as a human being.⁷ Often, insult additionally entails diminishing the respect due to the human being not only as a human but also considering a fundamental attribute in him,⁸ which here is the status of "citizen."

Linguistically, "insult" denotes belittlement and contempt; it occurs through any act, words, or gesture whose apparent meaning conveys contempt and belittlement of the victim to whom the words or gestures are directed, thereby infringing his honor and reputation,⁹ or lowering the dignity and worth of the person addressed, diminishing his value in the eyes of society, and reducing the social standing he enjoys.

Insult may also be defined as a word, act, or conduct that entails disparagement of another person and diminishing his value or wounding his feelings in a humiliating or offensive manner that often leads to infringing his right to dignity, honor, and reputation, as these are rights inherent to the human personality.

The Algerian legislator overlooked situations in which the criminal conduct is committed by acts rather than words, such as when a public official or equivalent closes the window of a public service office or facility (e.g., a municipality or post office) in the citizen's face, or turns his face away when the citizen addresses him, or looks at his watch or phone while speaking to him.

The legislator likewise overlooked the case where the public official or equivalent makes a gesture that implies an infringement of honor and reputation such as answering the citizen's question or request by shaking the head or hands, or using only the lips to express acceptance or refusal, etc. Many such examples occur and recur almost daily in our lives. Here, the official does not utter any expressions injurious to the citizen's honor and reputation, but by such an act or gesture he achieves the same meaning and produces the same effect required for the crime of insult to be established, namely infringing the citizen's honor and reputation.

The Algerian legislator also overlooked situations in which the criminal conduct occurs in a negative form, i.e., when the official or equivalent does not utter any words injurious to honor and reputation but is content with silence only, such as when the official or equivalent refrains from replying to a question, inquiry, or request addressed to him by the citizen, while being capable of replying, yet deliberately abstains from answering. Such silence or refusal to respond constitutes insult because it carries within it an infringement of the citizen's honor and reputation, just as uttering injurious expressions would.

b. The occurrence of the insult by threat:

In this case, the public official or equivalent threatens the citizen who is requesting a service from that official or his administration with inflicting serious harm upon him, obstructing his

interest, or refusing to carry it out; he may even threaten to summon security or the police if the citizen does not leave the premises, saying for example: “I swear I will not process your request,” “I will not handle your matter,” “I will not let you meet the person in charge,” “If your matter is processed, it will not be by me...,” and other words and expressions that result in infringing the citizen’s honor and reputation. “Threat” means warning or menacing the citizen with causing harm to his person or family, inflicting serious damage to his person or property, divulging some harm, publishing a scandal, attributing disgraceful matters to the citizen, or implicating him in a certain matter. Examples include the official or equivalent threatening to expropriate a certain property, demolish his house, deprive him of a grant or certain allowance, etc. The threat in these cases may occur by words, writing, gesture, or even by using symbols or slogans.

The threat intended here is an act or statement directed at the citizen that carries the meaning of insult and results in infringing his dignity, honor, and reputation. It is not the crime of threat provided for in Articles 284 to 287 bis of the Algerian Penal Code.¹⁰

c. Assault on the citizen occurs while the public official or equivalent is performing his duties:

For the crime of a public official or equivalent insulting a citizen to be constituted, the act of insult must occur while the perpetrator is performing his function, in accordance with Article 148 bis: “... any public official referred to in Article 144 of this law who, in the performance of his duties, insults a citizen...”. The time of performing the function is usually determined by specific working hours that begin and end at set times; however, some functions and circumstances do not require adherence to specific hours. Accordingly, the Algerian legislator links the commission of the act of insult with the performance of the function, punishing the crime of insult whenever it occurs during the performance of duties; otherwise, there is no punishment. If the insult occurs during the performance of work, it does not matter whether it was due to that work or for other reasons; it may occur for a personal reason or otherwise the important thing is that it occurs during the performance of the function. This is logical, because when working hours end, the status is stripped from the official or equivalent, and he likewise becomes an ordinary citizen practicing his life normally.

If the citizen meets the public official or equivalent after working hour seven near the workplace—and insults him, this precludes punishment for the crime of insulting a citizen, since the assault did not occur during the performance of duties.

Performance of duties is determined by time, not by place. The assault may occur on the occasion of performing work when the official is on a mission outside the administration for example, a tax administration official, a land survey administration official, or a trade directorate official often performs much of his activity outside the administration premises.¹¹ If he insults a citizen, he is punished because it occurred during the performance of duties, even if it took place outside the work place on condition that the nature of the function requires the official or equivalent to be outside the workplace while performing his duties; otherwise, the crime of insult is not constituted.

– **Second: The criminal result:**

The criminal result in this crime consists in infringing the person's right to dignity, honor, and reputation, as these are rights inherent to the human personality.

A human being is entitled to have his cherished dignity respected and to receive the esteem he deems he deserves from society in light of his social standing,¹² whereas "reputation" represents the social aspect, meaning the esteem granted by society to the person in light of his occupational and social position.¹³ This social function is embodied in the citizen's standing in his community as a principal element in its formation.

Dignity in its broad sense rests on the intrinsic value of every individual; it exists by virtue of possessing the quality of being human and does not depend on morality, social status, or intelligence. Every human being is born enjoying the same degree of dignity.¹⁴

– **Third: The existence of a causal link between the criminal conduct and the criminal result:**

For the material element to be constituted, there must be a causal link between the criminal conduct and the criminal result, such that the perpetrator's conduct is the cause of that result, or that the result is the fruit and effect of the criminalized conduct.

Accordingly, if this link is absent because the result occurred due to other conduct, the material element is not complete and the crime is not constituted legally. Therefore, the infringement of the citizen's honor, dignity, and reputation must have resulted from the expressions or threat directed at him by the public official or equivalent.

1.1.3 The Status of the Perpetrator as a Public Official or a Person in an Equivalent Position:

Referring to Article 144 of the Penal Code, to which Article 148 bis refers, the persons mentioned therein are: the public official, the judge or sworn member, and the public officer, as well as the imam, professors, and teachers. These are the very persons whom the Algerian legislator has granted criminal protection against the act of insult, intending primarily to protect them from citizens, since all these categories are commonly exposed to the crime of insult committed by citizens.

– **First: The public official:**

According to Article 4 of the General Statute of the Civil Service:¹⁵ "Every agent appointed to a permanent public position and confirmed in a rank in the administrative hierarchy." This definition applies to agents working in public institutions and administrations. "Public institutions and administrations," according to Article 2/2 of the aforementioned law, refers to public institutions; the state's central administrations and their decentralized services; regional collectivities; public administrative institutions; public institutions of a scientific, cultural, and professional nature; public institutions of a scientific and technological nature; and any other public institution whose employees may be subject to the provisions of this statute.

However, for objective considerations relating to the public interest, the Algerian legislator may broaden the definition of “public official.” If we return to Ordinance 06-01 of 20 February 2006,¹⁶ on the prevention and fight against corruption, we find that it defines the “public official” in Article 02 as:

“1- Any person holding a legislative, executive, administrative, or judicial office, or in one of the elected popular councils, whether appointed or elected, permanent or temporary, paid or unpaid, regardless of rank or seniority.

2- Any other person who, even temporarily, assumes a function or mandate, paid or unpaid, and in that capacity contributes to serving a public body or public institution or any other institution in which the state owns all or part of the capital, or any other institution providing a public service.

3- Any person defined as a public official or equivalent according to the applicable legislation and regulation.”

Pursuant to the above, a member of the People’s National Assembly is considered a public official, as is a member of the Council of the Nation, and the scope extends to include the judge, a member of the municipal popular council, and a member of the provincial popular council. It does not matter whether the function is permanent or temporary, paid or unpaid; rank and seniority do not matter; nor does it matter whether one is appointed or elected.¹⁷

– **Second: The judge:**

The person qualified and mandated by the state to hear disputes and litigations and decide them on the basis of law; his mission is to apply the law and achieve justice among individuals, bodies, and institutions.

The judge is legally accountable for his actions and conduct within the scope of performing his judicial duties and is subject to legal accountability in the event of committing any crime, pursuant to Article 30 of the Basic Law of the Judiciary,¹⁸ which provides: “A judge shall be prosecuted for committing a felony or misdemeanor in accordance with the provisions of the Code of Criminal Procedure.” This is confirmed by Article 63 of the same law: “A judge who commits a serious disciplinary fault shall be subject to the penalty of dismissal.

Any judge who has been subjected to a criminal penalty or a penalty of imprisonment for an intentional misdemeanor shall also be punished by dismissal.”

A sworn member in the formation of the Criminal Court, whether at first instance or on appeal, is assimilated to a judge for the purposes of the crime of insulting a citizen.

– **Third: The public officer:**

By “public officer” is meant the notary competent to draw up deeds, as expressly stated in Article 03 of the Algerian Notarial Law,¹⁹ which stipulates: “The notary is a public officer commissioned by the public authority to draw up deeds.” It may also refer to the judicial officer pursuant to Article 4 of the Law regulating the profession of judicial officer in Algeria,²⁰ which provides: “The judicial officer is a public officer commissioned by the public authority.”

The Supreme Court ruled in a decision issued on 30/09/2015 by the Criminal Chamber as follows: “The judicial expert enjoys the status of a public officer, and the crime of insulting a public official during the performance of his duties is made out against him in the event of insulting or assaulting him with violence.” ²¹

– **Fourth: The imam:**

The person who leads people in prayer and is permanently or temporarily present in the mosque, whether performing the imamate in an official functional capacity or as a mere volunteer.

– **Fifth: Professors and teachers:**

the persons who carry out teaching and educational duties. A “teacher” is one who teaches pupils at the primary level, whereas a “professor” is one who teaches at the remaining educational levels—middle, secondary, and university.

The application of this article does not exclude teachers and professors who practice teaching in private educational institutions, as well as private institutes and schools for languages, sciences, and other specializations, in addition to the various vocational training and apprenticeship centers and institutes.

1.1.4 The Status of the Victim as a Citizen:

A citizen is any person who belongs to a particular state by virtue of its nationality and feels his identity and affiliation to it, and who usually enjoys national, civil, and political rights, such as the right to vote and to run for elections. He also performs duties and bears responsibilities under the laws of that state, such as performing national service, paying taxes, respecting the laws, and others; and he feels belonging and loyalty to that homeland.

This citizen may have a certain functional or professional status, but that does not matter so long as his presence before the public official or equivalent, or before the department, administration, or public facility to which he is applying for a particular service, strips him of his position and function or status, and he is considered a “citizen” only.

The squandering of dignity or lack of respect, and the flagrant and continuous violation of citizens’ rights and dignity, injustice, and tyranny may lead to an explosion, then to rebellion and resistance, and then to revolution. Therefore, the state must build its institutions in accordance with the constitution and the law in order to provide fair opportunities in development, services, and work, thereby ensuring respect for human dignity and the proper treatment of citizens. ²²

1.1.5 The Moral Element in the Form of Criminal Intent:

The crime of a public official or a person in an equivalent position insulting a citizen is an intentional crime that requires the presence of the moral element in the form of criminal intent. This intent is present when the perpetrator is aware of the elements constituting the crime and his will is directed to committing it, thereby forming general criminal intent. The will of the public official or equivalent is thus directed at insulting the citizen, while being aware of the

meaning and substance of the expressions he addresses to him and of the extent to which these expressions infringe the citizen's honor and reputation; despite this, his will remains directed at addressing those expressions to the citizen or threatening him.

For the moral element in this crime of insult to be constituted, a special criminal intent must also be present, namely that the perpetrator's will is directed at achieving the aim defined by law, which consists in the intention to infringe honor, reputation, or the respect due.²³

It has been ruled that the judge must take into account the circumstances surrounding the incident, the accused's mentality and psychological state at the time the insult was uttered, and the extent of his understanding of the meaning of insult and whether he intended the insult or not. Some offensive words, in certain circumstances, are indeed hurtful, insulting, and necessarily indicative of an intent to insult and disparage, whereas the same words, in other circumstances, are nothing but slips of the tongue revealing a habit formed by the environment in which the accused lived.²⁴

In any case, the matter is left to the trial judge, who determines the import of the expressions, acts, or threats in order to decide whether they constitute the crime of insult or not, a factual matter on which courts often differ in their explanation and determination. Not every word, gesture, or threat carries the meaning of insult. The judge is guided by the various circumstances time and place, the nature of relationships among people, the occasion on which or because of which it occurred, and the manner in which the statement, threat, movements, or acts were made. There is no difference whether the insult originated from the aggressor or was a response to an insult previously directed at him.²⁵

1.2 The Criminal Penalties Prescribed for the Crime:

The Algerian legislator classifies the crime of a public official or a person in an equivalent position insulting a citizen as a *misdemeanor*, and under the provisions of Article 148 bis prescribes a penalty of imprisonment from **six (6) months to three (3) years**, and a **fine ranging from DZD 300,000 to DZD 500,000**.

The Algerian legislator has limited punishment for this crime to **original penalties only**, represented here by imprisonment and fine as prescribed for misdemeanors, and has not provided for any **supplementary penalties**.

According to Article 31 of the Algerian Penal Code, which states: "*An attempt to commit a misdemeanor shall not be punishable unless expressly provided for by law,*" and since there is no explicit provision punishing the attempt to commit the misdemeanor of insult by a public official or a person in an equivalent position against a citizen, **there is no punishment for attempt or attempt thereof**. Therefore, for punishment to apply, the misdemeanor must be **fully consummated**; if it stops at the stage of attempt or preparation, **no penalty shall be imposed**.

2. The Crime of Insulting a Citizen Entrusted with Public Service Duties:

Studying this crime requires identifying its constitutive legal elements, as well as the criminal penalty prescribed for it by the Algerian legislator.

2.1 The Legal Elements of the Crime:

The crime of insulting a citizen entrusted with public service duties is based on essential general elements that must be met: the element of legality, the material element, and the moral element. In addition to these general elements, the legislator requires another special element specific to this crime, namely the status of the victim.

2.1.1 The Element of Legality of the Crime:

The Algerian Penal Code addresses the crime of insulting a citizen entrusted with public service duties in Section One concerning contraventions related to public order, from Chapter One concerning the single degree of first-category contraventions, in Book Four: Contraventions and their penalties.

The element of legality is embodied through Article 440 of the Penal Code, which provides: "Shall be punished by imprisonment for not less than ten days and not more than two months, and by a fine from 8,000 to 16,000 DZD, or by one of these two penalties, whoever insults by word, gesture, threat, non-public writing or drawing, or by sending any items for the same purpose a citizen entrusted with public service duties while performing his duties or on the occasion of performing them."

2.1.2 The Material Element of the Crime:

The material element of the crime of insulting a citizen entrusted with public service duties consists in the occurrence of an insult by one of the means or methods set out in Article 440 of the Penal Code namely, word, gesture, threat, non-public writing or drawing, or sending any items and that this be directed at a citizen entrusted with public service duties while performing the function or on the occasion of performing it.

This means that the material element of this crime requires the following components:

– First: The criminal conduct:

The criminal conduct can be realized by the act of insult committed by one of the means provided in Article 440, while the citizen entrusted with the public service is performing his duties or on the occasion thereof.

a. The act of insult:

The insult is constituted by any act or material conduct that carries the meaning of insult and whose apparent meaning conveys contempt and belittlement of the citizen entrusted with public service. For the crime to be made out in this case, it is sufficient that the conduct carries the meaning of offense, injury to feelings, or diminution of dignity, thereby infringing a right

protected by law either by nullifying it, reducing its benefit, or preventing its holder from exercising it as he wishes.

b. The means of the assault:

The Algerian legislator limited the means used to commit the crime of insulting a citizen entrusted with public service duties to those exhaustively listed in Article 440 of the Penal Code.

As a general rule, the means used to commit a crime are immaterial, since the law usually specifies the patterns of criminalized conduct without regard to the means employed by the perpetrator. However, this does not preclude the law from sometimes attaching special importance to the means by which certain crimes are committed.²⁶ This is what occurred here with respect to the crime of insulting a citizen entrusted with public service duties.

The legislator confined the means of commission to the following: word, gesture, threat, non-public writing or drawing, or sending any items.

- **Word or speech:** The means of expression may be word or speech, whatever its length or form; it makes no difference whether the expression is a single sentence, part of a sentence, or a single term.²⁷ Speech is the primary and fundamental means of human expression and includes everything a person utters be it a word, lecture, sermon, story, song, poetry, prose, etc. It also includes what a person records on tapes or discs and then plays back to people by devices that reproduce the speech, as what is heard from the device is also speech attributable to its originator. The tone or language of the speech is immaterial. This includes chit-chat, talk, shouting, whistling in contempt,²⁸ as well as raising the voice or laughing loudly.
- **Gesture:** This means any gesture commonly used by members of society to express insult and contempt toward the addressee, such as movements of the head, shoulder, tongue, or eyebrows, pointing a finger at the citizen, and other gestures that carry the meaning of insult.
- **Threat:** This is usually by word, writing, or gesture. Including this as a means broadens the scope; if the threat occurs by writing, we are before insult by writing, and it is insult by speech if the threat occurs by words.²⁹
- **Writing:** The means of expression may be writing anything recorded in an intelligible language and conveying a comprehensible idea, whatever the language employed or the medium used, whether written on paper, wall, marble, glass, or anything else, whether handwritten or printed as a newspaper, magazine, or book, and whatever the method, so long as it conveys, immediately or ultimately, a certain meaning.³⁰

Referring to Article 323 bis of the Algerian Civil Code,³¹ it provides regarding writing: “Proof by writing results from a sequence of letters, descriptions, numbers, or any signs or symbols with an intelligible meaning, whatever the medium containing them and the methods of transmission.”

The scope of “writing” extends to include symbols as well—anything that conveys a certain meaning to the mind upon viewing it, such as forms, signs, insignia, and letters; for example, the skull symbolizes death.³² Symbols include marks that denote a real or imaginary idea, a stance, or a sign.³³

Electronic or digital writing is also recognized, pursuant to Article 323 bis 1 of the Algerian Civil Code, which states: "Proof by writing in electronic form is equivalent to proof by writing on paper, provided that it is possible to verify the identity of the person who issued it, and that it is prepared and stored under conditions that ensure its integrity."

- **Non-public drawing:** Particularly caricatures depicting things, persons, ornaments, and scenes by any tool and on any material, whether on paper, leather, or otherwise; whether by hand or printed by printing machines. Photographs are a branch of drawing. This includes cinematographic and television films and internet media if they contain disgraceful facts attributed to a specific person. ³⁴

The drawing must be non-public; otherwise the act becomes defamation. In all cases, the judgment of conviction must state the acts, words, and gestures used, otherwise the judgment is tainted by insufficiency. ³⁵

- **Sending any items:** For example, sending an envelope containing obscene or indecent images, or delivering to another a parcel containing a shroud or filth. ³⁶ The crime of insulting a citizen entrusted with public service duties is constituted when the perpetrator sends him repulsive or disgusting items that ordinarily provoke aversion.

However, it is not an insult to a citizen entrusted with public service duties if someone objects to the manner in which he performs that public service and informs him of dissatisfaction, or objects to being treated harshly, or warns that he will submit a complaint to the competent authorities due to the poor performance of the public service. Such matters and incidents do not, in themselves, carry the meaning of insult to the citizen entrusted with public service duties.

The meaning of insult is relative and varies according to circumstances and context. Offensive words may, in certain situations, be hurtful, insulting, and necessarily indicative of an intent to insult and disparage, while in other circumstances they may not have that character at all; conversely, insult may be present in a sequence of words that outwardly appear laudatory and approving, yet in reality were uttered with the intention to insult. ³⁷

In all such cases, the matter is left to the trial judge before whom the words, acts, or gestures are presented; he determines their import, guided by the various circumstances such as the time and place in which they were uttered, the identity of their source, the status of the person addressed, as well as the occasion, cause, the nature of social relations, and the manner of delivery. The judge must ultimately conclude that these words undoubtedly carry the meaning of offense, injury to feelings, or a lowering of the respect and dignity required. ³⁸

c. The insult should be directed at the citizen entrusted with public service duties while performing his duties or on the occasion thereof:

For the crime of insulting a citizen entrusted with public service duties to be made out, the insult by one of the means mentioned above must occur while that citizen is performing the public service duties. If the act of insult occurs even if by one of the forms or means defined by law outside the times during which the citizen performs the entrusted public service duties, or

for a reason unrelated to the performance of those duties, the crime is not constituted in such a case.

– **Second: The criminal result:**

This is realized by infringing a right protected by law. The right protected in this crime is the right to dignity, honor, and reputation. “Reputation” means the totality of a person’s moral, intellectual, and other qualities that determine his status in society and, consequently, the degree of respect required by that status.³⁹ It denotes the idea formed by others in society about the person according to the qualities accumulated regarding him, which determine the position he occupies in the society in which he lives and the degree of respect he ought to receive and be treated in accordance with.⁴⁰

Accordingly, for the material element in this crime to be established, the act of insult committed by one of the means or forms defined by law must lead to an infringement of the citizen’s right (entrusted with public service duties) to dignity, honor, and reputation.

– **Third: The causal link between the criminal conduct and the criminal result:**

The existence of a causal relationship between the criminal conduct and the criminal result is necessary for the material element of the crime to be constituted. The perpetrator’s conduct must be the cause of the criminal result.

Therefore, if this relationship is absent because the result occurred due to other conduct the material element is incomplete and the crime is not constituted in law. Accordingly, the infringement of the dignity, honor, and reputation of the citizen entrusted with public service duties must have resulted from the act of insult directed at him by the perpetrator who may be a public official or a person in an equivalent position, or another citizen.

2.1.3 The Status of the Victim as a Citizen Entrusted with Public Service Duties:

For the victim in this crime, it is required that he be a citizen but not an ordinary one. In this case, the Algerian legislator protects, from the crime of insult, the citizen entrusted with public service duties.

A person entrusted with a public service refers to anyone to whom a public authority assigns a temporary task related to the public interest, whether the task is performed for remuneration or voluntarily.⁴¹ Examples include a bankruptcy trustee, a neighborhood head, or someone responsible for managing mosque affairs, zawiya, Quranic schools, and cemeteries if done voluntarily. It may also include a citizen who lights public lamps in his street, or others who volunteer to perform duties serving the public interest in their neighborhoods, villages, or elsewhere.

This generally applies to any citizen who either volunteers or is chosen by residents of a street, neighborhood, village, or even the municipality to perform an activity that benefits the public good.

Public service refers to all activities or services provided by the state or public bodies for the benefit of citizens, aiming to meet their basic needs and achieve public welfare. Such services

are generally non-profit and cover areas like education, health, transportation, electricity, water, and even security and maintenance all contributing to improving quality of life and promoting public interest.

In principle, it is the state, through its institutions and bodies, that undertakes public service duties. However, in certain cases, it delegates some minor tasks to citizens for social reasons for instance, due to their proximity to the service location, their desire to benefit from it personally and communally, or their ability to perform it efficiently (e.g., managing a cemetery).

It is required that the service performed by the citizen be public in nature; if it is private, it falls outside the scope of legal protection. It is also acceptable that the citizen derive some personal benefit from the service, as long as it retains a public character and benefits the community, the area, or at least a significant part of it.

A citizen entrusted with public service duties may, while performing or on the occasion of performing these duties, be subjected to threats, insults, defamation, or assault. Therefore, the state must extend to him the necessary legal protection to guarantee his right to honor, dignity, and reputation. This can only be achieved by criminalizing acts of aggression against him, which violate the respect due to him during the performance of his duties, thereby ensuring the proper execution of his responsibilities and the smooth operation of public service.

The Algerian legislator does not attach importance to the specific status of the offender, who may be either a public official or an ordinary citizen. The act of insulting a citizen entrusted with public service duties is criminalized regardless of the perpetrator's status.

2.1.4 The Moral Element in the Form of Criminal Intent:

Criminal intent consists in the perpetrator's will being directed toward committing a prohibited act — that is, both the will to act and to bring about the result and his awareness of the constitutive elements of the crime. Intent is excluded whenever either awareness or will, or both, are absent.⁴²

Criminal intent is established in the crime of insulting a citizen entrusted with public service duties when the perpetrator knows that the victim is such a citizen and that his words, actions, or gestures carry an insulting meaning, yet his conscious and deliberate will remains directed toward committing the criminal act.

Accordingly, if the perpetrator is unaware that his words, actions, or gestures carry an insulting meaning, or if he is unaware that the victim is a citizen entrusted with public service duties, then criminal intent is not established, and the crime of insult cannot be constituted due to the absence of the moral element. The same applies if the perpetrator is fully aware of all the elements of the crime and the circumstances constituting it, but his will is not directed toward insulting the citizen entrusted with public service duties.

Thus, the existence of the required criminal intent for the moral element to be fulfilled necessitates the presence of both awareness and will.

2.2 Penalties Prescribed for the Crime of Insulting a Citizen Entrusted with Public Service Duties:

According to Article 440 of the Algerian Penal Code, the legislator has prescribed for the crime of insulting a citizen entrusted with public service duties only original penalties, consisting of imprisonment for not less than ten (10) days and not more than two (2) months, and a fine ranging from 8,000 to 16,000 DZD, or one of these two penalties.

No supplementary penalties have been established for this crime, as is also the case with the crime of insulting a citizen by a public official or a person in an equivalent position.

However, the Algerian legislator has classified this crime merely as a contravention, which raises surprise at such a legal characterization. This classification does not correspond to the constitutional value and legal status afforded to the citizen, which require the highest degree of protection for all components of his personality, both material and moral. Therefore, it is hoped that the Algerian legislator will address this shortcoming and revise the legal classification of this crime, elevating it to at least a misdemeanor, like other insult-related offenses particularly the crime of a public official or equivalent insulting a citizen.

Since the crime of insulting a citizen entrusted with public service duties is classified merely as a contravention, attempt or attempt thereof is not punishable at all, pursuant to Article 31(2) of the Penal Code, which provides: **“An attempt to commit a contravention is not punishable at all.”**

Conclusion:

After reviewing the crimes of insult committed against citizens under Algerian legislation—whether those perpetrated by public officials or persons in equivalent positions, or those directed against citizens entrusted with public service duties—we have reached the following conclusions:

- The Algerian legislator classifies the crime of a public official or equivalent insulting a citizen as a misdemeanor, and prescribes for it only original penalties, consisting of both imprisonment and a fine.
- The Algerian legislator does not punish attempts to commit the misdemeanor of insult by a public official or equivalent against a citizen; therefore, the crime must be fully consummated for punishment to apply.
- When establishing the material element of the misdemeanor of insult by a public official or equivalent against a citizen, the legislator limited criminalization to verbal expressions injurious to honor and reputation, while neglecting to criminalize acts committed by officials or equivalents against citizens such as closing the service window (in a municipality or post office) in the citizen’s face, turning one’s face away when addressed by the citizen, and other daily behaviors and actions observed in public administrations and institutions. Likewise, the legislator failed to criminalize gestures that carry an insulting meaning, such as the official or equivalent shaking his head or shoulders when responding to a citizen, or cases where the offender adopts a negative attitude or deliberate silence, intentionally refraining

from replying to a citizen's question, inquiry, or request acts that inherently convey disrespect and humiliation.

- The Algerian legislator classifies the crime of insulting a citizen entrusted with public service duties merely as an infraction, assigning to it only principal penalties, consisting of imprisonment and/or a fine. This legal characterization is surprising and inconsistent with the constitutional value and legal status afforded to the citizen, which require the highest degree of protection for all components of his personality, both material and moral.

Accordingly, we put forward the following recommendations:

- We propose that the Algerian legislator amend Article 148 bis of the Penal Code by explicitly criminalizing acts, gestures, and all forms of conduct that infringe upon the honor, reputation, and dignity of citizens including cases of intentional refusal or failure to respond, as these constitute forms of offense and humiliation toward citizens seeking services or assistance.
- We also hope that the Algerian legislator will revise the legal classification of the crime of insulting a citizen entrusted with public service duties, upgrading it to at least a misdemeanor instead of a contravention, in line with other insult-related offenses.

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FOOTNOTES

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⁴Oleksii Humin, *op. cit.*, p. 189.

⁵Petru Tărchilă, “Respect for the Honor, Privacy and Dignity of the Human Person,” *AGORA International Journal of Juridical Sciences*, Agora University, No. 1, 2020, pp. 34–40, p. 36.

⁶Nabil Saqr, *Al-Wasit fi Jaraim al-Ashkhas*, Dar Al-Hoda, Algiers, 2009, p. 112.

⁷Laila Abdel-Meguid, *Media Legislation*, Cairo University Open Learning Center, Egypt, 2005, pp. 320–321.

⁸Abdelhamid Al-Shawarbi, *Expressive Crimes: Crimes of the Press and Publishing*, Mansha’at Al-Ma’arif, Alexandria (Egypt), 2004, p. 200.

⁹Hanaa Abdel-Hamid Ibrahim Badr, “The Crime of Insulting the Head of State between Criminalization and Exemption,” *Journal of Law for Legal and Economic Research*, Faculty of Law, University of Alexandria, Vol. 1, No. 1, 2015, pp. 181–297, Egypt, p. 185.

¹⁰Article 284, Algerian Penal Code: “Whoever threatens to commit crimes of murder, imprisonment, or any other assault on persons punishable by death or life imprisonment, whether through a signed or unsigned document, images, symbols, or slogans, shall be punished with imprisonment from two to ten years and a fine from 20,001 to 100,000 DZD if the threat is accompanied by a demand to deposit money in a specific place or to fulfill any other condition.”

¹¹Ammar Boudiaf, *Public Service in Algerian Legislation*, 1st ed., Jisour Publishing and Distribution, Algiers, 2015, p. 122.

¹²Hanaa Abdel-Hamid Ibrahim Badr, *op. cit.*, p. 248.

¹³*Ibid.*, p. 212.

¹⁴Salih Hussein Ali, “Legal Protection of the Right to Human Dignity,” *Philosophical Readings*, Vol. XIII, No. 4 (2021), pp. 1549–1550. <https://www.researchgate.net/publication/363383550> (Accessed 06/08/2025, 12:00).

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- ²⁷Fetouh Abdallah El-Shazly, *op. cit.*, p. 271.
- ²⁸Ahsan Bouskiaa, *op. cit.*, p. 232.
- ²⁹*Ibid.*, p. 233.
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- ³⁶Ahsan Bouskiaa, *ibid.*, *loc. cit.*
- ³⁷Hanaa Abdel-Hamid Ibrahim Badr, *op. cit.*, p. 263.
- ³⁸See also: Hassan Saad Sanad, *op. cit.*, pp. 68–69.
- ³⁹Fetouh Abdallah El-Shazly, *op. cit.*, p. 267.
- ⁴⁰*Ibid.*, *loc. cit.*
- ⁴¹Fetouh Abdallah El-Shazly, *op. cit.*, p. 301.
- ⁴²Abdallah Ouhaibia, *op. cit.*, p. 331.