

Legal protection of the right to privacy in light of technological development

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Abstract---The right to privacy has been affected by technological development, which has a wide scope of use. Modern technology has become a new method of communication between individuals and a field for exchanging information and secrets. It later became clear that individuals' data and information are vulnerable to dissemination and exploitation. Therefore, laws have been enacted to address these violations through the legislation of countries, as well as international and regional organizations, to confront modern electronic crimes imposed by technological development. Algeria, like many other countries, has faced electronic attacks on the right to privacy and combated electronic crime through its Penal Code and criminalized every violation of the right to privacy.

Keywords---Privacy, Technology, Right, Personal Data.

Introduction

Human beings cannot live without their rights, which include both shared rights with those around them and human rights, known as the right to privacy. It is associated with the individual and has a crucial impact on their dignity. The right to privacy is inherently linked to human existence and gained greater attention in the 19th century due to technological and scientific advancements, as well as the rise of new communication methods. The continuous development of information technologies represents a significant advancement in individuals' lives and nations, which negatively impacts certain aspects, leading to numerous violations and assaults on individuals' private lives. Given the statistics indicating that more than half of the world's population has access to the internet, these figures demonstrate the

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profound impact of technology on people's lives and the threat to their privacy rights, which have crossed national boundaries.

01-Importance of the study :

- The impact of technology on the right to privacy and its forms of violation, as technological development has led to the emergence of what is known as cybercrime.
- The efforts of the Algerian legislator to protect this right and criminalize many acts considered an assault on it .
- National, regional, and international efforts to find appropriate and effective legal frameworks to preserve this concept and to align laws with the fast-evolving landscape of technology.

02- Research problem

The right to privacy has encountered many differences in its definition. It has also undergone numerous developments until it reached its current state, influenced by technology, which has created the new forms of violations and assaults .

What is the right to privacy, and how has modern technology impacted it?

03-Research methodology:

The appropriate methodology for this study, which involves analysis and critique, is the descriptive-analytical approach. This method has been adopted to describe, analyze, perform, and organize information in a way that serves the subject matter.

04-Research outline :

First part: The nature of the right to privacy.

Second part: The impact of Modern Technology on the right to privacy.

First part: The nature of the right to privacy.

Scholars and researchers have put much effort into studying it, understanding its details, and exploring its differences. This right has witnessed numerous efforts to define its features, elements, and boundaries. The right to privacy is as old as humanity itself, although it didn't get attention as it does today. Studies have confirmed that Islamic law is the only legal system that truly values and protects this right. With the development of national and international legislation, both at the global and regional levels, efforts have been made to regulate and protect this concept. we will delve into the nature of the concept to confidentiality legally and its definition, then identify its elements, and finally examine the limitations imposed on it within Islamic Law and Algerian law.

First: Its definition and legal nature.

Researchers and jurists have been unable to provide a unified definition of the right to privacy, leading to multiple and varied definitions across different legal systems. As for legislation, its interpretation has been left to jurists.

1- Definition of the right to privacy:

Privacy in linguistic terms:

It refers to stability, obligation, justice, and certainty, and it's the opposite of what is false. As for "privacy" in linguistic terms, it comes from "private, which is the opposite of "public.". It is said that someone is privileged with something or specialized in something. It is also said that a person is "assigned to a matter," meaning they are specifically chosen or set apart for it. "Private" refers to what is exclusively for oneself¹.

¹ Ben DhiabAbdelmalek, The Right to Privacy in Algerian Penal Legislation, Master's Thesis, Faculty of Law and Political Science, Department of Law, University of HadjLakhdarBatna, 2013, p. 9.

Privacy as a term:

It's a flexible idea that varies from one society to another. Additionally, it is difficult to establish a definitive legal standard in this regard to determine it. Some jurists referred to the broad concept of this right, which was created by the American Law Institute and has gained significant importance in the United States. This concept refers to privacy in terms of its violation, declaring that any person who seriously violates another person's right to keep their affairs and conditions private and exposes their image to public view is liable to the person who was harmed." his interpretation is not different from the concept of freedom. Therefore, Egyptian jurists have argued that the essence of freedom can be synonymous with privacy in its meaning, considering that freedom is the ability to ask for non-interference.

The second approach is based on Arrow's perspective. Certain legal scholars have interpreted the right to private life in a more restrictive and limited framework. This can be categorized into two key dimensions: the right to solitude and the right to confidentiality. Regarding solitude, it is viewed as essential for the enhancement of human ideas, self-reflection, and emotional growth. It is also a means of joy and spirituality. The right to solitude is a natural human right. Some French legal scholars have linked the concept of privacy to solitude, suggesting that every person has a private life that is exclusive to them, where others shouldn't enter without permission. Solitude may involve a person living alone for a period, or it could mean being with a few trusted individuals. On the other hand, Confidentiality reflects an individual's right to keep information related to their private life secret. Some Egyptian scholars, like Dr. Ahmed Fathi Surour, believe that private life is an important part of a person's identity. If it were taken away, a person would lose their ability to create and be themselves. People naturally have secrets, emotions, relationships, and unique traits that are best protected in a private space.²

2- Its legal nature : Certain scholars believe that a person owns their private life and has full **control** over their body. However, this view has been criticized because property rights usually apply to physical things. The second view sees privacy as a personal right linked to identity. It includes protecting their name, honor, communications, family life, and anything else that affects their personal life.

As for the Algerian legislator, he admitted a set of rights associated with a person's identity in Article 47 of the Algerian Civil Code: "Anyone who faces an unlawful attack on one of their personal rights can ask for the attack to stop and for compensation for any harm caused." This means that the right to privacy is considered a personal right in Algerian law³.

From what has been said, the right to privacy means both physical and personal rights, including secrecy, which can have different meanings depending on the person, place, and time⁴.

Second: Its elements:

1- Integrity of the Dwelling:

The integrity of the home is a significant aspect of many laws. A home is any enclosed space used for living, regardless of how long someone stays there. No one can enter without the owner's permission because it is a private space. The law protects homes not just as buildings but also because they provide privacy and security. It does not matter what the home looks like, what it is made of, or whether the person living there owns or rents it—as long as it protects their privacy⁵. The Algerian Constitution guarantees the inviolability of the home in Article 48 of Presidential Decree 20-251, stating that "the state ensures that homes are not violated"⁶.

² An article by Kawthar Abdel Hadi Muhammad Al-Haf entitled "Definition and Concept of the Right to Privacy and its Regulation in Constitutional Law" on the website <https://www.mohamah.net/law> dated 05/24/2023 and was accessed on 11/13/2023 at 37:18.

³ Muhammad Bin Haida, *The Right to Private Life within the Framework of Algerian Law*, (PDF), Dar Houma for Printing, Publishing and Distribution, Algeria, 2018, pp. 95-100.

⁴ Jalila Bint Saleh Noman, *The Right to Privacy: A Comparative Study between Islamic Jurisprudence and Positive Law - Algerian Law as a Model -*, *Sharia and Economics Journal*, Volume 5, Issue 10, 2016, p. 221.

⁵ Muhammad Bin Haida, the previous reference, pp. 137-138.

⁶ Article 48 of Presidential Decree 20-251 dated 27 Muharram 1442 AH corresponding to 09-15-2020, which includes summoning the electoral body for a referendum on the draft constitution.

2- The Right to Privacy in Messages and Calls:

Messages include all written communication, whether sent by mail or directly between people, including telegrams. They express personal thoughts and should stay private between the sender and receiver. If someone else reads them, it is a violation of privacy. Calls and online conversations also contain private information. Since they can include personal secrets, they are an important part of privacy and are legally protected⁷.

3- The Right to Health Privacy:

A person's health, medical history, illnesses, treatments, and medications are private matters. Most people prefer to keep this information secret. That's why the law forbids sharing someone's health details without their permission⁸.

4- Image Privacy:

A person's image is part of their privacy, and using it without consent is a violation. This applies to all types of photography, whether traditional or digital. In Egyptian law, privacy depends on where the photo is taken. Taking pictures in private places without permission is illegal, but photos in public spaces are generally allowed⁹.

5- The Right to Work Privacy:

Laws protect work-related secrets, and sharing them without permission is a crime. If someone reveals confidential information from their job on purpose, they can be punished by law¹⁰.

6- The Right to Family Life:

This means that personal information about a person's family should only be shared with their permission. People have the right to keep family matters private, including things like parentage or the mother's name, to protect the family's reputation. French courts have ruled that revealing private details, like someone's romantic relationships or pictures of a celebrity on their deathbed, without permission¹¹, is an invasion of privacy. This right also continues after death, as sharing family secrets of the deceased can harm their heirs' reputation¹².

Third: Restrictions on Privacy Rights

Freedom means doing what doesn't harm others, and it's based on justice, as the saying goes, "Don't do to others what you don't want done to you." Freedom isn't absolute and has limits. This also applies to the right to privacy, which can be claimed against anyone—individuals, society, governments, or businesses.

However, the right to privacy is not unlimited and can be restricted in certain situations. We will now look at the limitations on privacy rights in Islamic law and Algerian law.

1- Islamic Law:

Islamic law protects people's privacy and forbids spying or exposing personal matters. It sets rules for privacy, and if someone crosses those limits and harms others, they are responsible for the harm caused. These restrictions are as follows:

Protecting the Public Interest:

If there are reasons to violate someone's privacy, they must serve a greater and more important interest than the individual's. This means that the public interest is prioritized over the individual's interest. Islamic law has a principle for balancing conflicting interests: "Necessity makes the forbidden permissible."

⁷ Awda Youssef Salman, Crimes against the sanctity of private life that occur through modern information technology means, Al-Mustansiriyah University Law Journal, Volume 16, 2017, p 6.

⁸ Ali Jaafar, Modern Information Technology Crimes against Individuals and the Government, - A Comparative Study -, First Edition, Zain Legal and Literary Library, Lebanon, 2013, pp. 394-399.

⁹ Ahmed Mohamed Attia, The Essence of the Right to Image "Present Problems and Tomorrow's Challenges", Helwan Law Journal for Legal and Economic Studies, Volume 43, 2020, p 205.

¹⁰ Awda Youssef Salman, previous reference, p 7.

¹¹ Mohamed El-Shahawy, Criminal Protection of the Sanctity of Private Life, d-t, Dar Al-Nahda Al-Arabiya, Egypt, 2005, pp 191-192.

¹² Awda Youssef Salman, previous reference, p 6.

Islamic law sets strict conditions for violating privacy in order to protect the public interest¹³.

These conditions are:

- The necessity must be real, not just a possibility.
- The benefit must be greater than the harm, following the principle: "When two harms conflict, the lesser harm should be chosen."
- There should be no other way for the person in need to avoid the harm. "What is permitted by necessity should be limited to what is necessary."
- The person in need should not violate Islamic law in protecting the rights of others, as harm cannot be removed by causing a greater or equal harm.
- The leader (or authority) must verify that there is clear injustice or harm in the case of a general necessity¹⁴.

Exposing and Removing Wrongdoing:

In cases where a sin is openly visible, Islamic law allows entering another person's home to expose the wrongdoing, even without permission, as part of the effort to prevent sin. Some scholars differentiate between hidden wrongdoing, which should not be exposed unless it is cleansed, as stated in the verse "Do not spy on others," while visible wrongdoing can be addressed by the enforcer of good, even if it means violating privacy.

Consent of the Right owner :

it's mentioned in the Quran, like in the verse: O you who have believed, do not consume one another's wealth unjustly but only [in lawful] business . Indeed, Allah is ever merciful to you.(Surah An-Nisa, 29) Another example is: "And if they both desire weaning by mutual consent and consultation, there is no blame upon them" (Surah Al-Baqarah, 233)¹⁵.

- The Authorization must come from someone who has the authority to give it .
- The person giving the permission must be capable of doing so. If the permission involves a reward, it must come from somebody who can engage in such transactions, or if it's a simple permission, it must come from someone who can make gifts.
- The permission must be for something that can be allowed. No one has the right to allow others to see their private parts or take pictures of them.
- The permission should not cause harm to others¹⁶.

2- Algerian Law: The legislator has set limits on the right to privacy because if individuals were left unchecked, they might ignore the public interest. These limits are exceptions where private information can be revealed, but they also help regulate the freedom to act. These restrictions are as follows:

Exceptional Circumstances:

In normal situations, the state must follow the rule of law. However, in some cases, the state may face serious threats to public order. To protect the country, the government may take actions that would usually be against the law. The Algerian constitution explains these special situations, such as a state of emergency, a state of siege, and a state of exception. These situations are covered in Articles 97-99 of Presidential Decree 20-251, which talks about calling for a referendum on the new constitution. The decree sets rules for these situations, allowing the president to take necessary actions to protect the country's independence and institutions¹⁷. Exceptional circumstances include events like riots, revolutions, coups, or any other serious situation that threatens public order. These situations are

¹³ Boulqrinat Ikram, Sanctity of Private Life between Legal Protection and Islamic Law, Journal of Jurisprudential and Legal Incidents, Issue 1, December 2017, p. 306.

¹⁴ Saleem Jallad, The Right to Privacy between Guarantees and Controls in Algerian Legislation and Islamic Law, Master's Thesis, Faculty of Humanities and Islamic Civilization, University of Oran, 2013, pp 143-155

¹⁵ Saleem Jallad, the previous reference, pp 143 -155.

¹⁶ Ibrahim bin Suleiman bin Abdullah Al-Shaya, The Right to Privacy in Islamic Jurisprudence, Master's Thesis, Department of Comparative Jurisprudence, Imam Muhammad bin Saud University, Kingdom of Saudi Arabia, 2007, p 159.

¹⁷ Presidential Decree 20-251 dated 27 Muharram 1442 AH corresponding to 09-15-2020, including the summoning of the electoral body for a referendum on the draft constitution.

temporary but can be a big risk to the country's survival, independence, and stability. Among these, a state of siege is the most dangerous and threatens national security the most¹⁸. The government may restrict rights and freedoms, including the right to privacy. For instance, searches may be allowed at any time, day or night, in both public and private spaces, including homes. This can violate the privacy of people's homes and lives¹⁹.

The Right to Information(media) and Evidence:

- **Information (media):** This refers to sharing news and facts with others. It plays a key role in revealing the truth and exposing wrongdoing. According to Article 03 of Law 90-07 on Information, the right to access news sources does not allow journalists to publish or disclose information that could harm citizens' rights or personal dignity²⁰. Article 36 of the same law further states that journalists cannot publish information that would violate citizens' constitutional rights.

Information is vital for conveying the truth, as long as it follows professional standards like objectivity, balance, accuracy, and neutrality, without sensationalism. One of the tools used by media is images, which are an important part of the right to privacy. Any image of a person must be published with a clear purpose and in line with ethical standards of publication²¹.

There are exceptions to the "Access to information," allowing the publication of a person's image or specific information, even if it is private, when justifying the investigation of events, facts, or crimes in society. This exception is used when it is necessary to report on issues, even if the person objects to the publication of their image, name, or private information through any form of media, especially online platforms²².

- **Evidence:**

Each party seeks to prove their rights using all available means. A debate may arise regarding the evidence obtained through spying and its legitimacy. Algerian law accepts evidence gathered during preliminary investigations. This applies to crimes caught in the act, drug crimes, transnational organized crime, crimes related to automated data processing systems, money laundering, terrorism, and offenses related to currency regulations. All of these serious crimes are considered exceptions that may violate the right to privacy²³.

Consent of the Right Holder:

Consent doesn't create any permanent rights or obligations. It is given by a person (whether from private or public law) to others to do something that might cause harm or require compensation for that harm. This action could be a crime if it weren't for the consent.

For consent to be valid, the person giving it must have the right to allow their own right to be harmed or changed. The key point is that consent doesn't conflict with the law, as long as it involves rights that the law allows to be given up or changed²⁴.

Second part: The impact of Modern Technology on the right to privacy

Modern technology has greatly impacted the right to privacy, creating new challenges due to digitization in recent years. This impact has led to new types of violations of people's freedoms, personal information, communications, and private lives. Protecting privacy for users of advanced technology is not easy and cannot be done through scattered laws. Efforts must be well-coordinated, both

¹⁸ Sami Al-Wafi, "The Theory of Exceptional Circumstances" dated 09-01-2020 on the website <https://mail.almerja.com/> and was accessed on 11-15-2023 at 49:19.

¹⁹ Ahsan Gharbi, Exceptional Cases in Light of the Constitutional Amendment of 2020, Comprehensive Law Magazine, 2021, p. 45.

²⁰ Articles 3-36 of Law 90-07 dated Ramadan 8, 1410 corresponding to April 3, 1990 related to the media.

²¹ article by Nahla Abdelkader Al-Moumni entitled "The Right to Privacy and Publication Ethics" published on the website <https://alghad.com> on 12-31-2022 and accessed on 11-17-2023 at 57:12.

²² article by Hussein Nawara entitled "Mechanisms for Regulating the Algerian Legislator's Crime of Violating the Right to Private Life Electronically" dated 4-27-2017 on the website <https://jilrc.com> and accessed on 11-17-2023 at 43:14.

²³ Mohamed Ben Haida, the previous reference, p. 321.

²⁴ Article entitled "Does the victim's consent affect criminal liability" dated 5-25-2023 on the website <https://www.mohamah.net> and was accessed on 11-17-2023 at 24:12.

internationally and locally. The international and regional community has tried to reduce privacy violations through agreements or laws that create a legal framework to keep up with technological changes. Countries, including Algeria, have included this approach in their national laws. This second chapter discusses how modern technology affects the right to privacy, its legal protection in Algerian law, and key regional and international laws.

First: The influence on Its Concept

The development of modern technology has had a major impact on the concept of the right to privacy. Privacy now has a new form brought about by this technology, along with concepts related to information technology. This new form has also led to new violations and attacks on privacy rights, particularly through what is known as cybercrime linked to computer systems. This has affected the personal freedoms of individuals, which will be explained further later.

1- Personal Data :

Information privacy is another term for personal data. It is closely connected to the protection of personal life. American authors like Weston and Miller have defined information privacy, with Miller saying it is the ability of individuals to control how their personal information is shared²⁵.

The initial guidelines from the Organization for Economic Cooperation and Development (OECD) in 1980 described personal data as "any information ties to an individual who can be identified." This includes data like numbers, dates, and addresses, which can help identify someone. However, this definition left out other types of data that could also identify a person²⁶. Tracking personal data started after World War I with the use of computers and electronic systems. Data collected includes information about people's physical, mental, and cultural traits²⁷. In Algeria, personal data is defined in Law No. 18-07 as "any information related to a person who can be identified, directly or indirectly, through things like their ID number, physical characteristics, or even their psychological or social identity"²⁸.

So, personal data has two main points: first, it relates to a person's identity and life, and second, it helps identify a person through different methods²⁹.

2- Analyzing private data :

Definition: The analysis of private data refers to any operation performed by a natural person or entity that leads to modifications, changes, or use of the data, whether for a specific purpose or not³⁰. Collecting personal data from users is not inherently prohibited. Therefore, actions taken by social media sites, such as gathering, recording, saving, storing, or any other operations performed on personal data provided by users, come under the scope of personal data processing³¹.

Article 3 of Law No. 18-07 defines private data treating as any action done on personal data, whether done automatically or manually. This includes activities like collecting, recording, organizing, storing, changing, viewing, using, sharing, or publishing the data. It also covers actions like encrypting, deleting, or destroying the data³².

Conditions for Processing Personal Data:

²⁵ Rabehi Aziza, *Information Secrets and Their Criminal Protection*, PhD Thesis in Private Law, Faculty of Law and Political Science, University of Tlemcen, 2018, pp. 49-50.

²⁶ Mona Al-Ashqar Jabour and Mahmoud Jabour, *Personal Data and Arab Laws*, Arab Center for Legal and Judicial Research, First Edition, Lebanon, 2018, pp. 75-76.

²⁷ Brigitte Juanals, *Protection of personal data and TIC at the heart of societal and globalization encroachments: mechanisms of distributed control*, TIC&Society [Online], Vol. 8, No. 1-2 | 1st semester 2014, PP235-236.

²⁸ Article 3 of Law No. 18-07 of 25 Ramadan 1439 corresponding to 10 June 2018 relating to the protection of natural persons in the field of processing personal data.

²⁹ Khaled Suwailem Muhammad Suwailem, *Legal Protection of Electronic Personal Data "A Comparative Study"*, Legal Journal, Volume 14, Issue 6, 2022, p. 1889.

³⁰ Youssef Zarrouk, *Protection of Personal Data in Algeria in Light of Law No. 18-07*, Maalem Journal for Legal and Political Studies, Issue 5, December 2018, p. 119.

³¹ An article by Raed Muhammad Falih Al-Nimr entitled *The Nature of the Privacy of Social Media Users in Light of Legislation in the Kingdom of Bahrain* dated 2019-08-07 on the website <https://jilrc.com/archives> and was accessed on 2023-11-10 at 05:11.

³² Article 3 of Law No. 18-07.

Authorization and Licensing:

- The Algerian legislator sets out particular regulations for crimes associated with information and communication technology and their prevention .It emphasizes the principle of maintaining the confidentiality of communications, except in cases specified by law.
- Furthermore, the law states that electronic communications surveillance is permitted only in cases of serious threats, considering the importance of national interests. The law ensures judicial safeguards to protect individual freedoms, requiring that any surveillance be conducted under judicial supervision and with prior authorization.
- In cases where individual freedom conflicts with national security, public security takes precedence over personal freedoms, as public interest outweighs private interest.
- authorization request must be submitted to the National Authority for the Protection of Personal Data.
- There are two types of authorization:
- Regular authorization, which requires the submission of all data specified in Article 14 of Law 18-07³³.

License for Processing Personal Data

According to Article 17 of Law No. 18-07, a license is required to restrict the processing of sensitive data in certain cases.

Additionally, Article 21 states that the National Authority for Data Protection can grant a license to process personal data if it serves the public interest, such as for research, studies, and evaluations³⁴. The difference between authorization and licensing:

- Authorization (declaration): A notification submitted to the National
- Authority before processing personal data. License: A formal decision issued by the National expertise , providing clear consent to process personal data.³⁵.

Right to access Information :

The right to information means that individuals must be clearly informed in advance about the management of their private data. Article 32 of Law No. 18-07 demands the data controller or their representative to inform individuals without ambiguity when collecting their personal data. However, Article 33 outlines exceptions where informing the individual is not necessary, such as:

- When it is impossible to inform the person, in which case the National Authority must be notified with a valid reason.
- When data processing is done in compliance with the law.
- When data is used for journalistic, artistic, or literary purposes. Individuals retain the right to object to the processing of their personal data for valid reasons, especially when used for advertising or commercial purposes³⁶.

Public Authorities' Oversight of Data Processing

European guidelines organizations must follow basic data protection rules. However, this does not apply to data processing by security and defense agencies or for criminal records. For example, the European Court of Justice reviewed a case where an Austrian citizen asked to delete his personal data, including his entry and exit records from Germany and deportation decisions. The court ruled that this

³³ TabashEzzeddine, Criminal Protection of Personal Data in Algerian Legislation, a Study in Light of Law 18-07 on the Protection of Natural Persons in the Processing of Personal Data, Academic Journal of Legal Research, Issue 2, 2018, p. 40. Articles 13-14 of Law 18-07.

³⁴ Articles 17-21 of Law No. 18-07.

³⁵ TabashEzzeddine, previous reference, p. 40.

³⁶ Articles 32-33 of Law No. 18-07.

data is used for immigration control, crime prevention, and public safety, so its processing is necessary for the public interest³⁷. Similarly, Algeria allows exceptions to personal data protection, including:

- family use of data.
- Gathered data and processed for national defense and security.
- Data used for crime prevention, prosecution, and judicial records.

These exceptions let authorities process data for security and law enforcement while still protecting personal data in other cases³⁸.

Second :Impact of Modern Technology on the Right to Privacy in Algeria

Algeria, like other neighboring countries, has been affected by the digital revolution, which pushed lawmakers to amend the Penal Code to protect privacy rights. These changes were included in the constitutional amendment and the Penal Code, particularly in Section “Seventh bis” under the title “Offenses Against Automated Data Processing Systems.”. These amendments show that Algerian law respects privacy, with the latest example being Law No. 18-07, which protects individuals in personal data processing. This Act contains:

- A chapter dedicated to the National Authority for Personal Data Safeguarding .
- A section outlining criminal penalties for violating the Act.

However, modern technology has also allowed criminals to misuse digital data and violate people’s privacy. The digital revolution has created new crimes, known as cybercrimes, where criminals target individuals using technology³⁹.

Some examples of these crimes include:

1- Crime of Intercepting, Recording, or Transmitting Private Conversations

A conversation is part of a person’s private life and includes any words, sounds, or expressions that have meaning, even if they are symbols or gestures. Algerian law punishes sharing private conversations based on their confidentiality , not where it happens. This means that even if a personal conversation takes place in a public area, it is still protected by law⁴⁰.

This crime happens when someone listens, eavesdrops, intercepts, records, or transmits private or secret conversations without the owner’s consent, using any method. This includes:

- Writing them down.
- Recording with a listening or recording device.
- Checking phone logs.
- Any other means.

However, Algerian law states that if the victim forgives the offender, the legal case is dropped⁴¹.

In contrast, French law considers that if the criminal act occurs in the presence of the concerned parties and they do not object, despite being able to, it is seen as consent.

For minors, only a parent or legal guardian can give consent. Additionally, if the crime is committed by the victim’s spouse or partner, the punishment is doubled⁴².

³⁷ Mona Al-AshqarJabour and Mahmoud Jabour, previous reference, pp. 99-100.

³⁸Article 6 of Law No. 18-07.

³⁹Electronic crime is defined as “a set of illegal acts and actions that are carried out via electronic equipment or devices or the Internet or through which their contents are broadcast. It is the type of crime that requires special knowledge of computer technologies and information systems to commit or investigate them and prosecute their perpetrators.” See KawtharMazouni, Cybercrime, First Edition, Dar Al-Khaldounia Publications, Algeria, 2022, p. 342

⁴⁰Rawahna Nadia and others, The Crime of Violating the Sanctity of Private or Secret Calls or Conversations in the Algerian Penal Code, Al-Fikr Magazine, Issue 2, Volume 17, 2022, pp. 316-318.

According to Article 303 bis of the Penal Code, anyone who deliberately violates a person’s privacy by intercepting, recording, or transmitting private or secret conversations without permission will be punished with prison from six (6) months to three (3) years and a fine between 50,000 DZD and 300,000 DZD.Article 303 bis, paragraph 1 of Order No. 66-156 dated Safar 18, 1386 AH corresponding to June 8, 1966, including the amended and supplemented Penal code.

⁴¹Abdel Rahman Khalfi, The Right to Private Life in Algerian Penal Legislation - A Comparative Analytical Study -, Communication Journal in Economics, Administration and Law, Issue 45, 2016, pp. 77-78.

⁴²Article 226/1 The original French code was modified by noon 936-2020 on July 30, 2020. In other words, it is necessary to provide the fair, the consent of this person is given.

2- Crime of Capturing, Recording, or Transmitting an Image

Algerian law considers violating a person's right to their image a punishable crime, as it is part of their privacy. This crime includes:

- Capturing an image – taking a picture using a camera or any recording device.
- Recording an image—saving the picture for viewing or broadcasting later.
- Transmitting an image—sending or sharing the image with others, like in TV broadcasts⁴³.

This applies to anyone who deliberately violates a person's privacy by capturing, recording, or transmitting their image in a private place without their permission⁴⁴.

Similarly, French law (Article 226/1 of the Penal Code) also enforces strict penalties for this offense⁴⁵.

Third: Impact of Modern Technology on International Protection of Privacy Rights

There are efforts to protect people's secrets, as reflected in the international agreements.

1- International Charters and Agreements

International organizations have played a key role in maintaining security and stability against cybercrime by adopting various agreements, especially those that protect privacy and personal data from the impact of technology advancements.

Many institutions and international bodies have contributed to establishing these protections through:

United Nations

the United Nations General Assembly issued a resolution on privacy in the digital age. The resolution expressed serious concern about the growing ability of government agencies to access individuals' private information.

The resolution focused on two key points:

1. Confirming individuals' right to privacy in the digital era. It specifically referenced:

- Article 12 of the Universal Declaration of Human Rights
- Article 17 of the International Covenant on Civil and Political Rights, both of which protect privacy and require international compliance.

2. Ensuring international law applies to technology and communications, particularly under the United Nations Charter. To reinforce digital data protection, the High-Level Committee on Management (HLCM) of the UN adopted a set of principles on October 11, 2018, which established a framework for handling personal data by the UN and its agencies. The principles aim to:

- Facilitate automated data processing.
- Ensure respect for human rights, freedoms, and privacy.
- Require countries to provide safeguards for digital privacy⁴⁶.

Report by the High Commissioner at the Human Rights Council

In Resolution 68/167, the UN General Assembly requested the Office of the High Commissioner for Human Rights (OHCHR) to submit a report on privacy protection to:

- The Human Rights Council (27th session)
- The General Assembly (69th session)

Lorsque les actes mentionnés au présent article ont été accomplis sur la personne d'un minor, le consentement doit émaner des titulaires de l'autorité parentale.

When the faits are connected to the connection or the container The victim or his partner is subject to a civil action for damages, the pain is punishable by imprisonment for two years and by 60,000 euros per annum.

⁴³Abdelkader Rahal, The legal structure of the crime of taking and publishing a photo in Algerian and French legislation - a comparative objective procedural study -, Journal of Law and Human Sciences, Issue 1, Volume 15, 2022, pp. 352-353.

Article 303 bis of the Penal Code imposes strict penalties for this crime:prison from six (6) months to three (3) years and a fine between 50,000 DZD and 300,000 DZD

⁴⁴Article 303 bis, paragraph 1 of Ordinance No. 66-156, as amended and supplemented.

⁴⁵Article 226/1 of the French penal code amended by law No. 2020-936 of July 30, 2020" It is a penalty of imprisonment and a fine of 45,000 euros for the act, by any means, of voluntarily wearing a garment in violation of the privacy of another person:

⁴⁶By fixing, recording or transmitting, without the consent of the person concerned, the image of a person found in a private place.

⁴⁶Ghazal Aisha, International Protection of the Right to Privacy in the Digital Domain, Al-Mi'yar Magazine, Issue 4, Volume 27, 2023, pp. 411-412.

On February 24, 2014, the High Commissioner presented a key report during an expert seminar titled "The Right to Privacy in the Digital Age," co-sponsored by Germany, Brazil, Switzerland, Mexico, Norway, and Austria.

The report stated that:

- Electronic data surveillance can be a necessary and effective measure for law enforcement and intelligence purposes .
- Any surveillance program must be:
- Based on a clear and publicly accessible law.
- Aligned with the country's constitutional system and international human rights laws.
- Article 17(1) of the ICCPR states:
- "No one shall be subjected to arbitrary or unlawful interference with their privacy."
- "Everyone has the right to be protected by law against such interference or attacks."

2- Regional Charters and Agreements

In addition to global efforts to establish legal frameworks for privacy protection against all forms of online interference, regional collaborations have also emerged among countries with shared interests.

These efforts include:

European Union

The European Union (EU) has placed great emphasis on privacy protection by establishing clear regulations. Several directives have been issued to protect individuals from automated data processing, ensure data security, and address the technological advancements in data processing.

Key efforts include:

- The 1997 Data Protection Directive for Telecommunications: Focused on privacy protection in communication technologies and encouraged the development of regulations for international communications.
- The EU General Data Protection Regulation (GDPR): This regulation replaced earlier directives, establishing strict rules on how personal data should be collected, stored, and processed within the EU and beyond.

The EU continues to update and refine its privacy laws to adapt to new challenges in digital communication⁴⁷.

The European Convention on Data Protection was created by the European Council in Strasbourg, France. It included both European and non-European countries and started in 2004.

Later, the General Data Protection Regulation was introduced by the European Union on April 14, 2016. It was made to protect people's personal data and privacy. The law explains how personal data should be used, including names, online locations, and emails. It also gives people the right to control their data—they can choose to store or delete it. If a data breach happens, users can report it within 72 hours so that authorities can take action to preserve the information⁴⁸.

African Union Agreement on Cybersecurity and Personal Data Protection

This agreement was created to set rules for keeping data safe online and protecting people's personal information. It makes sure that member countries respect privacy rights.

- Article 1 explains how personal data should be used.
- Article 8 says every country must make laws to protect personal data, punish privacy violations, and allow data to move freely while keeping it safe⁴⁹.

By February 2020, five countries had officially agreed to follow the rules: (Senegal, Namibia, Ghana, Guinea, Mauritius.) At the same time, thirteen other countries had signed the agreement but had not yet fully approved it. These include: Benin, Chad, Comoros, Congo-Brazzaville, Guinea-Bissau, Mauritania,

⁴⁷ Zainab Muhammad Jamil Al-Danawi, Legal Protection of Privacy on the Internet in Light of International and Domestic Efforts, Scientific Research Generation Center - Conference Proceedings Book Series -, Lebanon, Issue 26, 2019, p 28.

⁴⁸ Khalafiya Huda, previous reference, p 46.

⁴⁹ Youssef Manasra, Crimes of Infringement of Automated Data Processing Systems, 1st ed., Dar Al-Khaldouniya, Algeria, 2018, p 416.

Rwanda, Sierra Leone, São Tomé and Príncipe, Tunisia, Zambia, and others. The second part of the agreement lists the main rules for keeping personal data safe. Any country that joins and approves the agreement must create laws to follow these rules. Article 8 confirms that these countries must also punish anyone who breaks privacy laws⁵⁰.

Conclusion:

Privacy rights is regarded as one of the most crucial subjects that requires attention, especially in light of the technological and scientific influence that has reflected both its positive and negative aspects on this right and given it a new image that is compatible with the digital world in force in the modern electronic technological world. We summarize the results and recommendations of this study as follows:

Results:

- 1- The great development of the right to privacy imposed by technological development, the latter of which created new mechanisms for electronic communication that made people's information and secrets vulnerable to danger and leakage.
- 2- Algeria's efforts to adapt the technological effects on privacy rights and criminalize them in the Penal Code any act that violates the private life of individuals.
- 3- The deterrence policy followed by the Algerian legislator to protect the right to privacy by tightening penalties that reach imprisonment.
- 4- The international endeavor to unify legislation in order to protect personal data and find mechanisms that limit attacks on it and ensure its protection, considering that cybercrime is a crime that knows no borders, and working on the other hand to implement international regional agreements and adapt their legislation to them.
- 5- The existence of many international and regional agreements that demonstrate international efforts to confront cybercrime and protect the right to privacy.

Suggestions:

- 1- Developing an awareness strategy in Algeria, whether in the family, educational or social environment, in order to make good use of modern technological means in personal correspondence and interaction between people in society.
- 2- Giving value to the issue of privacy protection in the academic sector, since teenagers and young people are the groups most interested in social networking sites, and they are also the least experienced and aware groups and the most vulnerable to exploitation and blackmail regarding their content and private information.
- 3- Holding conferences, forums, and studies to open the door to discussion on this topic to reduce these violations and crimes and find a common strategy that will push countries to adopt it in their legal policy.
- 4- Activating, applying, and amending laws constantly, making them keep pace with the speed of great technological development.
- 5- Expanding the scope of cybercrime because acts that violate the right to Privacy is constantly evolving, especially with the ability to use automated media and smartphones and their spread among all segments of society, and they are no longer limited to educated people only, and piracy operations are constantly increasing and expanding.

⁵⁰ Ghazal Aisha, previous reference, p 417.

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