

Received: 16 May 2024, Accepted: 10 September 2024

DOI: <https://doi.org/10.33282/rr.vx9i2.09>

The Protection of Women Journalists from External Interference in Algerian Law

Mesli Nouredine¹, Amraoui Khadidja²

Abstract:

The Algerian legislator defines a professional journalist as a person dedicated to the research, collection, selection, processing or presentation of news for or on behalf of a periodic publication, a news agency, an audiovisual communication service or online media. This activity is considered to be a regular occupation and a main source of income. A professional journalist is also defined as any permanent correspondent with a contractual relationship with a media organisation.

There are many forms of external interference in the field of media and journalism, and the pressures faced by Algerian women journalists are diverse. These pressures can come from various sources, including the state and pressure groups. Violence against women journalists is one of the most serious forms of interference, aimed at preventing their views from reaching the public. Therefore, without the protection and safety of women journalists, it is impossible to ensure the provision of information to the public with objectivity and media credibility.

Keywords: Female journalists, media and communication, external pressure, Organic Law 12/05 on the Media.

Introduction:

Since Algeria regained its independence, women have become an important element in society and a driving force in all political, social, economic and cultural fields. Education has become essential for women, opening up numerous opportunities in various scientific and practical disciplines. As a result, Algerian women have played an important role in the development of their communities as teachers, doctors, engineers, police officers and journalists. Women now compete with men in all fields.

¹- Mohammed Chérif msaadiya University of Soukahras(Algeria). **E-mail:** n.mesli@univ-soukahras.dz

²- Lecturer Class A, Abbes Laghrour University of Khenchela, Faculty of Law and Political Sciences, State Laboratory For Health and Nutrition Socail Security (Algeria). **E-mail:** Amraoui.khadidja@univ-khenchela.dz

A woman journalist is someone who is involved in journalism. When journalism became a profession, women were constrained by tradition and faced considerable discrimination within the profession. Nevertheless, women were working as editors, correspondents and analysts before the 1990s.

Women journalists are under pressure and face obstacles such as threats, murder, defamation and harassment as a result of their work, which often exposes many truths related to corruption, drug trafficking or witchcraft.

From this perspective, the following question can be asked :

To what extent does Organic Law 12/05 on the Media protect women journalists from outside interference? Given the importance of this issue, how does the nature of the journalist's role expose her to pressure and harassment in different spaces?

Aims of this research:

- To understand the role of Algerian women in the media and communication.
- To review the legal texts contained in Law 90/07 and the subsequent Law 12/05, which aim to protect journalists, both women and men, when providing information on certain issues.
- To encourage women journalists to continue their struggle and not to succumb to external pressure.

To address the research question, we will follow the following outline:

First section: The concept of women journalists

Most social studies indicate that the progress or regression of societies is measured by the status of women within them, the rights they obtain and the high positions they hold. Women are therefore considered to be half of society and the essential nucleus for building communities

The issue of women journalists raises several questions, as mass media and journalism are considered tools for development and human awareness. It is evident that Arab women are present and active in many sectors of the media industry.

First: Defining women journalists

Before looking at the definition of women journalists, it is important to clarify some key terms, including:

- **Journalism:** “It is one of the fundamental tools of communication, as it plays an important role in shaping and forming public opinion. This role goes beyond the mere transmission, presentation and commentary of news; journalism conveys a political, social and cultural message to citizens”. It is also defined as “the freedom to express opinions and ideas, which is a sacred human right. Individuals are not prohibited from sharing their thoughts and opinions, and journalism is free to publish these opinions within the limits of the law. Therefore, censorship is prohibited unless it is necessary to protect social order”¹.

- Most national and international laws do not provide a fixed and specific definition of the term “journalist”. Instead, they focus on the actions of journalists, their protection and the penalties for violations of the law².

A journalist can be defined as “any correspondent, informant, investigator, photographer or their technical assistants working for newspapers, radio or television, or those who pursue this activity as their main occupation”³.

Female Journalists: A female journalist is a correspondent for various newspapers, news agencies, radio, television and all women working in this vast media sector, whether they work in print or broadcast media. The concept of a woman journalist is derived from the nature of her task, which focuses on providing the public with an accurate and sincere account of events, rather than the medium she uses to carry out this unique and sacred mission. The emphasis is on the individual journalist rather than the means used to carry out this task⁴.

Arab women have managed to break through on many fronts previously reserved for men, venturing into battlefields to gather and report the news. However, a woman’s work is not without risk, prejudice and competition with men. This issue is not only linked to the male-dominated nature of Arab society, as discrimination against women is widespread in all communities. Sexual and intellectual exploitation and various pressures on women are also widespread.

- **Freedom of the journalist:** This is an aspect of women’s freedom and their ability to exercise their right to express their opinions in newspapers and magazines, as well

as their right to publish whatever they wish within a certain framework without censorship by local authorities, provided it serves this purpose and is not abused. It is also defined as “the right to publish their views and news by means of printing in various forms, whether in newspapers, magazines, books or advertisements, without prior authorisation or censorship, except for civil or criminal liability that may follow publication if there is cause”⁵.

Second: Rights and Duties of Female Journalists

Female journalists have a set of rights while performing their duties, including:

1. Definition of Discrimination: Article 1 of the CEDAW Convention defines discrimination against women as "any distinction, exclusion, or restriction based on sex that aims to undermine the recognition of women, based on the equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, and civil fields, or in any other field, or to abolish the recognition of women's rights or their enjoyment and exercise, regardless of their marital status." From this article, we conclude that discrimination against women is merely the limitation or exclusion of women due to their gender in any domain of life, which they are capable of engaging in.

2. Algerian Constitution: Article 12 of the Algerian Constitution of 1963 states, "All individuals of both sexes have the same rights and duties." Additionally, the 1976 Constitution in Article 42 emphasizes "the legal protection available for the social practices of Algerian women" and affirms the concept of Algerian women as citizens enjoying all the rights that men have in public life. Article 81 of the same Constitution states that "Algerian women should be able to actively participate in political activity."

3. Constitutional Amendments of 2016: The 2016 constitutional amendment equates women and men according to Article 32 and guarantees equality between citizens in rights and duties (Article 34). Article 51 affirms the freedom of the written and audiovisual press, stating that offenses related to journalism should not be subject to imprisonment.

4. Additional Rights: Female journalists also have the right to retire upon reaching a legally specified age, social security rights, trade union rights, and the right to express opinions regarding work methods and conditions.

5. Professional Identification: They have the right to obtain a professional identification card.

6. Freedom of Expression: The right to express convictions and reject signing anything that contradicts those convictions.

7. Intellectual Property Rights: The right to literary, intellectual, artistic, and scientific rights over journalistic works

8. Supplementary Insurance: Coverage during risks and exceptional circumstances.

9. Training and Promotion: The right to benefit from training and career advancement.

10. Protection from Violence: Protection from violence, aggression, intimidation, and pressures.

11. Authority in the workplace: The right to refuse instructions from anyone other than one's direct supervisor in the organisation.

Duties of women journalists:

Women journalists have several roles, including:

- Contribute to improving performance.
- Follow instructions and refrain from publishing news that could harm the organisation and keep information confidential.
- Collaboration with other media organisations requires the approval of the employing institution.

Article 22 requires the organisation and the journalist to abide by an employment contract signed by both parties. According to Article 23, the journalist may be subject to a probationary period of three months, which may be extended only once. The organisation cannot require the journalist to work night shifts from 9 pm to 5 am. The agreement guarantees the right to annual and special leave, as well as compensation for such leave. The journalist cannot be dismissed for minor mistakes, but she can resign with one month's notice. Article 59 provides for various allowances, including a lump sum for each shift, a documentation allowance, an exclusive news allowance and allowances for telephone, transport, meals and responsibility⁶.

Section Two: Protection of female journalists

The Algerian legislator has intervened with legal texts to protect journalists, whether male or female, from any external interference affecting their journalistic practice. This is an ethical responsibility for female journalists, as they should not succumb to external pressures and interventions.

First: Legal protection

The Algerian legislator has reaffirmed freedom of expression and the journalist's right to publish news and various information in Article 41 of the Constitution. In addition, Article 84 of Law 12/05 on the media recognises the journalist's right to access and publish information, provided that it does not harm the private or public interests of individuals.

Access to information is a right for journalists and also a right for citizens to receive this information, whether directly or indirectly. A balance is thus struck between the journalist's right to obtain information and the citizen's right to be informed⁷.

The right to publish news enjoyed by female journalists includes the right to publish what happens in public trials, as affirmed by the Algerian Constitution in Article 144, which explicitly states: "Judgments shall be reasoned and sessions shall be public." Since public access aims to reach the widest possible audience, written journalism serves to disseminate these public trials, thereby informing as many members of society as possible⁸.

Second: The protection provided by Law 12/05

The previous Law 90/07 on the media defined a professional journalist as: "Any person dedicated to the search, collection, selection, use and presentation of news as part of his or her journalistic activity, which he or she pursues as a regular occupation and main source of income". This law also specifies that the Supreme Media Council is the authority responsible for issuing journalists' identity cards⁹.

Article 32 of the same law provides for the protection of journalists against any threats or external interference, stating: "The employing body shall notify the competent judicial authority and represent the civil party if a professional journalist is subjected to violence, attempts at bribery, intimidation or open pressure in the course of his duties."

Despite the legal and judicial protections for journalists, regardless of gender, mentioned in this article, Algerian journalism faced prior censorship of media content, particularly security news, after the emergency events of 1992.

After some time, and pending constitutional amendments to amend the legal provisions, Organic Law No. 12/05 was enacted, which lacked any protective measures. Article 71 of the law states: “A professional journalist is any person who devotes himself or herself to seeking, collecting, selecting, processing or presenting news for or on behalf of a periodic publication, news agency, audiovisual communication entity or Internet media, and who makes this activity his or her regular occupation and main source of income”¹⁰.

Article 87 also states: “Every journalist employed in any media outlet has the right to refuse to publish or broadcast a news item bearing his or her signature if substantial changes are made to the news item without his or her consent.”

When analysing the content of this article, we find that it is vague in its wording, as it does not specify the authority responsible for altering news, nor does it define the type of alteration that could affect the essence of the news.

If we look at Article 126 of Law 12/05 on the Media, we see that it states: “Anyone who insults a journalist in the exercise of his profession or in connection with it through insulting gestures or harmful words shall be punished by a fine of thirty thousand (30,000) to one hundred thousand dinars (100,000 DZD)”.

It is noteworthy that this text does not define “insult”, as the previous text did, and limits it to gestures and offensive acts. A gesture is any movement of the body or sign that clearly expresses contempt or disdain for the journalist.

As for “harmful words”, it refers to any vocal expression that can reach the ear, including shouting, sneering, mocking, imitating animal sounds and whistling¹¹. There is no requirement for offensive words to be obscene or to express hatred or enmity, nor do they have to be accompanied by shouting; they can be uttered in a quiet manner but with derogatory meaning.

By addressing the requirements of offensive gestures and harmful words, it becomes clear that an insult occurs in the presence or hearing of the journalist, according to some opinions. However, this raises the question of whether these harmful statements or offensive gestures, if made in the absence of the journalist, constitute a criminal

offence. It is important to note that the text does not deal with this detail, leading to ambiguity in the application of the penal text in the area of criminalisation. The legislator should therefore further clarify this situation in order to reduce the burden on the judge in determining criminal liability.

It is also necessary that these insults occur during the exercise of the journalist's profession or in connection with it, that is, during her work in the field or in her office, or during her professional activity if she is targeted outside of work but in connection with her work, for example, if she is insulted by someone during her days off because of an article she has written. In addition to the above conditions, the mental element must be established, i.e. there must be intent to insult, i.e. the offender must know that the person he is insulting is a journalist performing her duties or that the insult is directed at her because of her work.

Journalism is not an easy profession; the work of a journalist is demanding and requires considerable effort to convey news or information honestly and transparently. Information can be harmful if not properly conveyed, and adherence to ethical standards supports their duties, which include helping to uncover the truth and influencing public opinion within the law¹².

Conclusion:

The Algerian legislator has provided many guarantees for the work of the media, embodying in a more practical way many constitutional texts related to a fundamental freedom: freedom of opinion and expression. This can be seen in several aspects, in particular the elevation of the media law to the status of an organic law, after having been an ordinary law. This increases the protection of the general rights established in the Media Law, at least formally, in the sense that the law is subject to prior and subsequent constitutional review by the Constitutional Council.

From what we have studied in this research paper, we conclude:

- The Algerian legislator has overlooked the protection of women journalists from the external pressures they face in the exercise of their profession.
- Algerian media and journalism cannot develop without a certain level of freedom and rights, which is essential for credibility.

- The law represents a significant gain for women journalists in terms of expressing their opinions and is one of the most important political, media and technological changes to have been imposed on the Algerian authorities.
- The legislator did not define the offence of insulting a journalist, as it did not define insult or specify its objectives. This reflects the penal code, where insult has a relative meaning that needs to be clarified to facilitate the work of the judge.

Footnotes:

-
- ¹- Saadi Mohammed Al-Khatib, *Obstacles to Press Freedom in the Arab World*, 1st ed., Halabi Legal Publications, Beirut, Lebanon, 2008, p. 17.
 - ²- Khaled Mustafa Fahmy, *Civil Liability of Journalists for Their Journalistic Works*, Dar Al-Jamiaa Al-Jadida for Publishing, Alexandria, 2003, p. 15.
 - ³- Bassem Khalaf Al-Assaf, *Protection of Journalists (During Armed Conflicts)*, Zahran Publishing and Distribution House, Amman, 2010, p. 42.
 - ⁴- Mahmoud Mohammed Al-Juhari, *War Correspondent*, Dar Al-Ma'arif, Egypt, 1958, p. 12.
 - ⁵- Saad Saleh Al-Jubouri, *The Criminal Responsibility of Journalists for Publishing Crimes (A Comparative Study)*, 1st ed., Al-Muassasah Al-Hadithah for Books, Lebanon, 2010, p. 26.
 - ⁶- Abdel Alai Razaki, *The Profession of Professional Journalism*, Dar Houma for Printing, Publishing, and Distribution, Algeria, 2013, pp. 49-50.
 - ⁷- Kairielle Roland, translated by Mohammed Marshali, *Written and Audiovisual Journalism*, University Publications Bureau, Algeria, 1984, p. 151.
 - ⁸- Tarek Kour, *Journalism Crimes Supported by Judicial Precedents and Media Law*, Dar Al-Huda, Algeria, 2008, p. 70.
 - ⁹- Article 28 of Media Law No. 90/07 dated April 3, 1990. Official Gazette No. 14.
 - ¹⁰- Article 71 of Media Law No. 12/05, dated January 12, 2012, Official Gazette No. 20.
 - ¹¹- Hlasen Ben Sheikh Ath Melouia, *A Treatise on Press Offenses: A Comparative Legal and Judicial Study*, Algeria, Dar Houma, 2012, p. 271.
 - ¹²- Ben Mashri Abdel Halim, Farhati Omar, *The Legal Treatment of Media Crimes in Algerian Legislation*, Journal of Judicial Precedents, No. 10, 2014, p. 49.