

LEGAL ENSHRINEMENT OF THE PRINCIPLE OF FREEDOM OF BELIEF FOR CHILDREN IN ALGERIAN LEGISLATION

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Abstract:

This study aims to examine the extent to which Algerian legislation recognises children's freedom of belief, reconciling foreign and domestic texts and respecting innate aspects that do not conflict with public order and public morals, considering that children's freedom of belief is moral in nature before being a legal obligation, and how this right is exercised, especially for foreigners, with regard to the practice of religious rites for non-Muslims, on the basis that Algeria has ratified the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and African and Arab international conventions, which required their inclusion in its constitutions, from the 1963 Constitution to the 2020 Constitution.

Key words: freedom of belief of children; public order; public morals; religious demonstrations; religious practices.

Introduction:

The right to freedom of belief for children is enshrined in various international conventions, divine religions, and various constitutions and domestic legislation. It is one of the most sacred human freedoms, based on the appropriate and convincing belief of each person. Belief is innate and an authentic human tendency in the human soul. Innate nature is what God Almighty created in the souls of all human beings, and belief is one of the characteristics that distinguishes humans from other creatures. Belief is the greatest factor in human life, as it elevates the human soul above a materialistic life similar to that of animals.

The international community has addressed the freedom of belief of children in numerous human rights and freedoms charters and conventions, and has established numerous mechanisms to protect this freedom. Protecting and respecting the freedom of belief of children is not merely a matter of political rhetoric or the issuance of numerous conventions and charters affirming it. but rather, the most important thing is to document it and make it a reality so that individuals can actually exercise it and those who violate it are punished.

As a member of the international community and a party to most international conventions and covenants, Algeria has enshrined this right in its successive constitutions in order to fulfil the international obligations it undertook when it ratified these covenants and conventions.

Study objectives:

- Define the concept of freedom of belief.
- Address international conventions and Algerian laws enshrining freedom of belief.
- Legal restrictions and manifestations affecting children's freedom of belief.

Research question: Based on the above, the main research question of this study is: What is meant by freedom of belief for children and how is its practice guaranteed? This question branches out into several sub-questions, the most important of which are:

- What is the concept of freedom of belief?
- What is the legal basis and legal foundation for freedom of belief for children in international conventions?
- Manifestations and controls of the legal enshrinement of children's freedom of belief in Algerian legislation?

Study methodology: In order to understand and comprehend the subject of the study, a descriptive and analytical approach was adopted, as these are appropriate to the nature of the subject and the objectives set. The descriptive approach was used to define certain concepts, such as freedom of belief for children, while the analytical approach was used to examine the international legal texts contained in international conventions on freedom of belief for children. A comparative approach was also used to balance the legal aspects and legislative provisions.

Study plan: In order to answer the proposed question, in accordance with the above methodological plan, the research paper was divided into two sections. The first section provides a conceptual framework for explaining children's freedom of belief and opinion, while the second section addresses the manifestations of children's freedom of belief in Algerian legislation through the practice of religious rites by non-Muslims in Algeria.

First requirement: The concept of freedom of belief.

This requirement will address the definition of a child's right to freedom of belief, discussing the linguistic and terminological definition in the first section, followed by the foundations derived from Islamic law in the second section.

Section One: Definition of a child's freedom of belief.

Given the legal, practical and cognitive value of defining and clarifying terms, this study requires, first, a definition of freedom of belief and, second, an examination of the justifications for freedom of belief.

First: Definition of a child's freedom of belief.

1-Definition of freedom: Since ancient times, many scholars and researchers have attempted to provide a linguistic definition of freedom, and their definitions have varied. The Iraqi researcher and writer Sheikh Al-Qarashi says (Freedom in language refers to liberation from slavery, so one who is free is said to be unenslaved. It also refers to liberation from bondage and captivity. In Islam, freedom sometimes refers to liberation from slavery, so one who is free is said to be unowned, and sometimes it refers to consent and choice, so one who is free is said to be uncoerced¹. The free person is the opposite of the slave, and freedom is the choice of people. The free person is free from everything that enslaves him, and the word freedom in all its linguistic forms refers to meanings that go back to the meaning of salvation and purity².

2- Definition of belief in language and terminology:

A- Definition of belief in language: Belief comes from the word 'aqd (covenant), and this word and its derivatives have meanings such as: covenant, bond, pact, firm opinion³, and belief is what a person believes in such a way that he does not accept doubt.

B- Freedom of belief in terminology: Freedom of belief, in its comprehensive terminological meaning, is defined by Imam Muhammad al-Ghazali as the correct and acceptable belief that comes from intellectual insight and heartfelt conviction⁴, and Sheikh Muhammad Abu Zahra (may God have

¹ Nadir Al-Khazraji, The Concept of Freedom Among Islamic Thinkers, Al-Naba Magazine, Issue 82, 2006, p. 58.

² Saïd Dali, Freedom of Belief between International Law and Algerian Legislation, Master's thesis in law, specialising in international human rights law, Department of Public Law, Faculty of Law and Political Science, University of Akli Mohand Oulhaj Bouira, defended on 17 July 2019, p. 15.

³ Salima Boulteif, 'The Distinction Between the Terms Freedom of Belief and Freedom of Religion in Algerian Legislation,' Al-Bahith Journal for Academic Studies, Issue 6, 2015, p. 202.

⁴ Muhammad al-Ghazali, Human Rights Between the Teachings of Islam and the United Nations Declaration, 8th ed. Dar Al-Nahda for Printing, Publishing and Distribution, Cairo, 2005, p. 76.

mercy on him) defined it as 'Islam respects freedom of belief and bases belief on choosing the religion one desires without coercion, basing one's choice on sound reasoning and protecting the religion one has chosen, so that one is not forced to do otherwise'⁵. In another definition, John Locke included freedom of belief within religious tolerance, defining it as follows: "No person has the right, under any circumstances, to harm or destroy the civil property of another on the grounds that the other person professes a different religion or practises different rituals; all of his rights must be preserved as they are not subject to religion, and care must be taken to avoid committing any violence or harm against him; that is, the rights of the person, regardless of his religion"⁶.

It is clear from these definitions that a child's freedom of belief is twofold: first, freedom of faith, meaning that a person is free to choose their religion without coercion or pressure; and second, freedom of worship, meaning the freedom to practise the religious rites of the religion and creed that they believe in, either privately or publicly.

Second: Justifications for freedom of belief for children.

1- Religiosity is innate in the human soul, due to its sense that there is a tremendous power controlling the universe and its creatures, and religious sentiment is a basic instinct in humans, because God Almighty created humans and created with them religious sentiment, which differs from one person to another; It is born and lives with it, and it is not a social phenomenon created by societies, but rather an innate nature. In this regard, God Almighty says: (And when your Lord took from the children of Adam, from their loins, their descendants, and made them testify against themselves, saying, 'Am I not your Lord?' They said, 'Yes, we testify.' Lest you say on the Day of Resurrection, that we were unaware of this.)"⁷.

2- The roots of the protection of these sacred sites go back a long way, and this protection was mainly established after the world witnessed the enormous destruction during the First World War. Calls for the protection of religious sites increased after the Second World War, when the world witnessed horrific images of the destruction of these sites, such as in the former Yugoslavia in 1992 and the armed conflict that took place in the Arabian Gulf region beginning in 1991.

3- Every inch of any homeland is considered sacred in itself because it has been watered with the blood of martyrs, has nurtured the civilisation of its people, and has seen the hopes of generations flourish within its borders. Hence, sanctity is attributed to what our ancestors created after they passed away, and what they left behind has immortalised their memory for successive generations.⁸

4- Perhaps what helps to highlight the importance of studying religious sanctities from an international perspective is the Islamic influence on the new international order, which has paved the way for the transmission of Islamic sentiments and feelings to positively influence the development of public international law. This is confirmed by the Statute of the International Court of Justice, which allowed the adoption of new legal rules from the world's major legal systems. Undoubtedly, the adoption of such rules from non-European legal systems opens up opportunities for the Islamic community to express its ideas and feelings and influence modern international law.

5- International rules include a set of provisions that protect religious sanctities in general during international armed conflicts or periods of military occupation, as well as in times of peace. In fact, the international legal system includes a set of rules specific to international responsibility for violating international protection rules for places of worship. It does not include rules specific to

⁵ Maaziz Katia, Madour Salima, 'Freedom of Belief in International Human Rights Law,' Master's thesis, Faculty of Law and Political Science, Abdelrahman Mira University, Bejaia, 2016, p. 19.

⁶ Nabil Qarqour, (Criminal Protection of Freedom of Belief – A Comparative Study), Doctoral Thesis in Law, Specialisation: Public Law, Faculty of Law and Political Science, Mohamed Khider University, Biskra, 2013/2014, p. 41.

⁷ Surah Al-A'raf, verse 172.

⁸ Ali Yahiaoui, Protection of Religious Sanctuaries in Non-Islamic Countries: A Comparative Study between Islamic Jurisprudence and Criminal Law, Master's Thesis in Islamic Sciences, Specialisation: Sharia and Law, Faculty of Social Sciences and Islamic Sciences, El Hadj Lakhdar University, Batna, 2010/2011, p. 24.

sacred religious sites, which is surprising and worthy of research, considering that all religious sites around the world have a special status for their owners, as they embody their religious and cultural beliefs and ideas. Consequently, they have become more important than life, money, and children⁹.

6- It is a religious and moral duty that cannot be ignored. We have read many historical books that indicate that this status and sanctity have been preserved in the past and present, and that it was common to all heavenly religions such as Christianity, Judaism, and earthly religions, as was the case with the Arabs before Islam, with the Kaaba, for example. The people of 'Ad, who preceded the advent of Abraham (peace be upon him) and the construction of the Kaaba, revered this sacred place and respected its heavenly and religious status. They understood that this place was sacred to Allah, the Almighty, and that their prayers would be answered when they called upon Allah, the Exalted, and asked for water from the dry land.¹⁰

Section II: Principles derived from Islamic law.

Many verses of the Qur'an and authentic hadiths guarantee the freedom of religious belief for children from the outset, without discrimination or distinction between individuals, regardless of their colour, gender or race; so that all people have the freedom to believe what they want, which reassures their consciences. This will be explained by referring to the texts of the Holy Qur'an and the Prophetic texts; within the authentic Sunnah, which addressed this issue with great clarity. Secondly, the most important traditions reported from the Companions, may Allah be pleased with them, regarding the principle of freedom of belief.

First: The principle of freedom of belief in the Qur'an and Sunnah.

1- **The principle of freedom of belief in the Qur'an:** Islamic law has established an important rule that no one should be forced to leave his religion and embrace Islam. Therefore, there is no compulsion in religion in the concept of the rulings and foundations of Islamic law. This is evident from the Almighty's saying: "There is no compulsion in religion. Righteousness has become distinct from error. So whoever disbelieves in false deities and believes in God has grasped the most trustworthy handhold with no break in it. And God is Hearing and Knowing."¹¹ And also His Almighty's saying: "So whoever wills - let him believe; and whoever wills - let him disbelieve."¹² And by way of all the more so, reviling it; By not insulting the religion and sacred beliefs of others, one preserves Islamic law, in accordance with the Almighty's saying: "And do not insult those they invoke besides Allah, lest they insult Allah in enmity without knowledge. Thus We have made pleasing to every community their deeds. Then to their Lord is their return, and He will inform them about what they used to do."¹³

In this context, we note that Islamic law is based on a kind of balance between obliging others not to violate Islamic law, whether in word or deed, and their freedom to practise their religious rites under the authority of the Islamic state. This clearly shows the extent to which Islamic law is keen to guarantee freedom of belief on the one hand, and to guarantee the sanctity of religions and the prohibition of insulting or disparaging them on the other, in accordance with the words of Allah: 'Will you then compel people to become believers?'¹⁴

That is, conversion to Islam is not based on coercion or intimidation, but rather on conviction and free thought. Therefore, the punishment for apostasy is severe, namely death. The significance of this is that Islamic law establishes the principle of deliberation and careful consideration, so that no one rushes into embracing Islam before they are fully convinced.

⁹ Ali Yahyaoui, op. cit., p. 24.

¹⁰ Ali Yahyaoui, the same reference, p. 25.

¹¹ Surah Al-Baqarah, verse 256.

¹² Surah Al-Kahf, verse 29.

¹³ Surah Al-An'am, verse 108.

¹⁴ Surah Yunus, verse 99.

2- The principle of freedom of belief in the noble Sunnah: The Sunnah, as a secondary source of Islamic legislation, contains many principles that permit freedom of belief and prohibit and forbid abuse and contempt of the heavenly religions, in line with the text of the Holy Qur'an, which confirms what is in the other heavenly books. Therefore, our noble Messenger came to convey the message to all people, regardless of their different religions and sects, and did not address people individually or a specific group of them, as was the case with the other prophets. This is because our noble Messenger came to lay the foundations and pillars of the doctrine of monotheism and to conclude the previous heavenly religions that were limited to specific nations, in accordance with the words of Allah: 'And We have not sent you except as a bringer of good tidings and a warner to all mankind, but most people do not know.'¹⁵ .

Therefore, Muslims are charged by their noble Messenger to call to Islamic law without coercion or compulsion, in compliance with the words of the Almighty: 'The Messenger's duty is only to convey the message, and Allah knows what you reveal and what you conceal.'¹⁶ .

Examples of this include what is mentioned in the biography of the Prophet, peace be upon him, and his noble companions, such as the peace treaty signed by the Messenger, peace be upon him, with the Christians of Najran. where he wrote: "Najran and its surroundings are under the protection of Allah and the guarantee of Muhammad, the Messenger of Allah, over their wealth, lands, religion, those who are absent and those who are present, and their sales, and everything in their possession, whether little or much. No bishop among their bishops, no monk among their monks, and no priest among their priests shall be harmed, and they shall not be subject to the laws of ignorance."¹⁷

On this basis, the Prophet, peace be upon him, made a covenant with the tribe of Banu Damra, one of the Arab tribes, saying: This is a letter from Muhammad, the Messenger of Allah, peace be upon him, to Banu Damra, stating that they are secure in their wealth and persons, and that they will be victorious over those who attack them, unless they fight in the cause of Allah.... And if the Prophet, peace be upon him, calls them to victory, they shall respond to him with the covenant of Allah and His Messenger, and they shall have victory from those among them who are righteous and pious)¹⁸ . There is no clearer evidence of this than the Document of Medina, which is considered a covenant and a charter, indeed a constitution to be followed in the formulation of legislation and the establishment of rights and duties.

Second: The principle of freedom of belief in the conduct of the Companions.

We note that the Companions, may Allah be pleased with them, during the Islamic conquests, were very careful not to violate or abuse the sanctity of places of worship belonging to other nations, or to convert them into places of Islamic worship. This is confirmed by the behaviour of the Commander of the Faithful, Umar ibn al-Khattab, when he refrained from praying in the courtyard of the Church of the Holy Sepulchre, even though he was invited to do so by the priest of the church. He prayed outside the church, and when asked why, he said: If he prayed inside the church, Muslims after him would take it and say, "Here Omar prayed." He did not stop there, but advised Muslims not to pray except individually, not collectively, in the place where he prayed outside the church¹⁹ .

Perhaps this demonstrates that the prophetic biography and the biographies of his companions after him, peace be upon him, established the principle of respect and recognition of previous heavenly religions. There is no doubt that this means that Islamic law explicitly recognises the right of non-

¹⁵ Surah Saba, verse 28.

¹⁶ Surah Al-Ma'idah, verse 99.

¹⁷ Abu Bakr Al-Jaza'iri, This is the Beloved, O Lover, 3rd ed., Dar Al-Shuruq for Publishing, Distribution and Printing, Kingdom of Saudi Arabia, 1409 AH - 1989 CE, p. 457. Abdul Karim Alwan, The Intermediate Guide to Public International Law of Human Rights, Dar Al-Thaqafa, Amman, Jordan, 2004, p. 36.

¹⁸ Ali bin Burhan Al-Din Al-Halabi, The Halabi Biography in the Biography of Al-Amin Al-Ma'mun, vol. 2, Dar Al-Ma'rifah, Beirut, 1400 AH, p. 347.

¹⁹ Salah Ahmed El-Sayed Gouda, Freedom of Belief and the Practice of Religious Rites in Holy Places, Dar Al-Nahda Al-Arabiya, Cairo, 2001, p. 47.

Muslims to freedom of belief. This approach continued even after the conflicts and crusades that took place between Muslims and others, such as Jews and Christians.

The Prophet, peace be upon him, did not break any covenants or agreements; rather, he remained committed to the principle of peaceful coexistence and recognition of others, as long as they did not attack or pose a serious threat. Therefore, the principle and the basis of Islamic law is to treat non-Muslims well and not to force them to change their beliefs²⁰.

In this context, we also find the words of our master Umar ibn al-Khattab, may Allah be pleased with him, to the people of Jerusalem, in which he said: "This is what Abdullah Umar ibn al-Khattab, Commander of the Faithful, gave to the people of Jerusalem in terms of security; He gave them security for themselves, their money, their churches, their crosses, their sick and healthy, and all their community; that their churches would not be inhabited, demolished, or diminished, nor would their space be diminished, nor would they be forced to renounce their religion, nor would any of them be harmed, for it is said: 'And if your Lord had willed, all those on earth would have believed. Will you then compel people to become believers?'"²¹.

This shows the extent to which Islamic law is keen to guarantee freedom of belief on the one hand, and the sanctity of the heavenly religions on the other, as well as the prohibition of contempt for the sacred symbols of religions in general. This can be considered an important basis established by the principles and provisions of Islamic law in its various sources, especially those mentioned above, within the framework of what was decreed by the wise legislator in the Holy Qur'an, what was decreed by the Messenger, peace be upon him, in his biography, and what was followed by his companions, may Allah be pleased with them, after him.

Therefore, Islam, based on confidence in the sincerity of its message, its superiority, the completeness of its message, and the clarity and completeness of its evidence, does not force anyone to convert to its faith. Islam fought its enemies and raised the sword against its opponents in self-defence, to break down the barriers that prevented the message from reaching people, and to destroy the large cages in which peoples were imprisoned, preventing intellectual communication. However, it stops at this point and does not go beyond it, nor does it interfere in people's hearts and minds except through logic and persuasion. Islam, which is the call of truth, has never followed the methods of seduction, misguidance, embellishment, and false promises used by sects and parties. Rather, it has confronted its followers with realism and frankness. It has not been reported that the Messenger of Allah, peace be upon him, killed anyone from the People of the Book because they did not convert to Islam, nor is it known that he tortured anyone or prevented them from worshipping in their own way. Rather, we have heard that he showed great tolerance towards the People of the Covenant, to the extent that he allowed the Christians of Najran to pray in the mosque of the Messenger of Allah, peace be upon him.²²

Second requirement: Legal recognition of the principle of freedom of belief for children in positive law.

International law guarantees freedom of belief for every human being and does not permit acts of contempt, as stipulated in some constitutions, such as the UAE Constitution, which guarantees freedom of belief and at the same time criminalises the abuse of the beliefs of others, because there is a difference between freedom of opinion and expression and belittling the beliefs and religions of others, which is punishable by UAE law, international law and all human rights conventions, which guarantee this freedom and prohibit contempt of religion.

²⁰ Abdel-Samad Aqab, (International Responsibility for Offending Divine Religions), PhD Thesis in Law, Department of Public Law, Mouloud Mammeri University, Tizi Ouzou, 2015/2016, pp. 82-83.

²¹ Khaled Mustafa Fahmy, The Legal Protection of Beliefs and the Practice of Religious Rites and Non-Discrimination within the Framework of International Agreements, Positive Law, and Islamic Law: A Comparative Study, Dar Al-Fikr Al-Jami'i, 2012, p. 187; Surah Yunus, verse 99.

²² Ali Muhammad al-Sallabi, Freedoms from the Holy Qur'an, 3rd ed., Dar Ibn Hazm, Beirut, Lebanon, 2013, p. 75.

Accordingly, this requirement will be divided into two sections. The first section will address the legal recognition of the principle of freedom of opinion in international conventions, while the second section will examine the legal recognition of the principle of freedom of belief for children in Algerian legislation.

Section 1: Legal recognition of the principle of freedom of belief in international conventions.

The principle of religious freedom is based on a solid legal foundation, whether this foundation derived from various international laws or from national laws of varying degrees of binding force. To examine these foundations, we will first address those derived from international laws, then move on to a statement and extrapolation of those derived from national laws.

First: Legal recognition of the principle of freedom of belief in international conventions.

Freedom of religious belief for children has been enshrined in various international documents for the purpose of establishing a clear legal basis that the international community can use to prevent the abuse of divine religions, as the latter falls under the category of racial discrimination, which modern states have rejected. This was done at the very beginning of the current international organisation, with the first document in this context being the Universal Declaration of Human Rights, which clarified the sanctity of divine religions as one of the fundamental rights inherent to the individual²³. In addition to the above, the International Covenant on Civil and Political Rights also established this issue through the text of Article 18, which stipulates that the right to freedom of religious belief for children is guaranteed to every individual, This right shall be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others. The Human Rights Committee has also commented on this article, It emphasised that the restrictions imposed must be prescribed by law and must not be applied in a manner that nullifies the guaranteed rights.

In this context, the Committee went further, stating that Article 18/3 requires a strict interpretation, such that under no circumstances may restrictions be imposed for unspecified reasons, even if they are permitted as restrictions on other rights protected in the Covenant, such as national security. Therefore, the restrictions imposed may only be applied for the purposes for which they were established, and it is not permissible to impose restrictions for discriminatory purposes or to apply them in a discriminatory manner²⁴.

At the same time, the United Nations General Assembly Declaration on the Elimination of All Forms of Discrimination and Intolerance Based on Religion or Belief is more explicit and detailed. When compared to the text of the Universal Declaration of Human Rights, Article 1 states that the right to freedom of religion is one of the most important foundations of human rights, considering that the latter is related to the rights that are inherent to human beings and are established for them as soon as they are born alive. Therefore, no one may be subjected to coercion, compulsion or measures that restrict their freedom to have a religion or belief of their choice. Consequently, it is prohibited to restrict a person's freedom to manifest their religion or beliefs, except within the limits and restrictions imposed by law that are necessary to protect public order²⁵.

More specifically, Article 6 of the above-mentioned Declaration is even more specific, considering that freedom to practise a religion or belief is among the freedoms that must be respected by the political authorities of the state. all states have a duty to respect the religious rites of all communities

²³ Ahmed Salim Saifan, Public Freedoms and Human Rights (A Comparative Historical, Philosophical, Political and Legal Study), Vol. 2, The Legal System of Public Freedoms in Comparative Law, Al-Halabi Legal Publications, Lebanon, 2010, p. 149.

²⁴ General Comment No. 22 of the Human Rights Committee on Article 18 of the International Covenant on Civil and Political Rights, adopted at its meeting of 27 May 2008.

²⁵ Article 1 of the Declaration on the Elimination of All Forms of Discrimination and Intolerance Based on Religion or Belief, United Nations General Assembly, 25 November 1981.

subject to their internal authority by taking the necessary measures to allow these groups to express their beliefs freely, without arbitrary restrictions beyond the scope of the law.

It should be noted that when regulating these freedoms, states are required to take into account the International Bill of Human Rights by adapting their domestic legal systems to the relevant international instruments²⁶.

Second: Legal recognition of the principle of freedom of belief in regional agreements.

The matter did not stop at international instruments with a global dimension, which established freedom of religious belief, but went beyond that to international instruments with a regional dimension. For example, the European Convention for the Protection of Human Rights and Fundamental Freedoms of 1945, concluded on 04/11/1950²⁷.

The same applies to the Arab Charter on Human Rights of 1994, which considers freedom of belief to be guaranteed to every individual whose identity has been established, affirming this principle it considers that the right to practise religious rites is guaranteed to all religious communities, so that they have the right to express their ideas through worship, practice or teaching, provided that this does not infringe on the rights of others. Conversely, the state is prohibited from imposing any restrictions on the practice and enjoyment of freedom of belief, except as provided for by law²⁸.

Section II: Legal recognition of the principle of freedom of belief for children in Algerian legislation.

This section will first explain that the Algerian Constitution does not disparage religions, and secondly, it will discuss the non-disparagement of religions under specific provisions, or rather its manifestations or applications in Algerian law.

First: The principle of freedom of belief in Algerian constitutions.

The Algerian constitutional legislator established the right to freedom of religious belief for children and the practice of religious rites, in accordance with the international instruments to which Algeria has acceded and ratified. It is clear to us that the Algerian constitution, like other Arab and Western constitutions, establishes the freedom of religious belief for children and recognises the practice of other heavenly religions, provided that their adherents comply with the legal regulations in force in response to the security requirements on which the state is based.

Accordingly, the 1963 Constitution stipulated that: 'Islam is the religion of the state, and the Republic guarantees every individual respect for his opinions, beliefs, and freedom to practise his religion'²⁹, while the 1976 Constitution stipulated that: "Freedom of belief and freedom of opinion shall not be infringed upon,³⁰ which is the same content referred to in both the 1989³¹ and 1996 Constitutions, which state that: 'The sanctity of freedom of belief and freedom of opinion shall not be infringed upon,³²" and the 2016 Constitution stipulates that: Freedom of belief and freedom of opinion shall

²⁶ Article 6 of the Declaration on the Elimination of All Forms of Discrimination and Intolerance Based on Religion or Belief, United Nations General Assembly, 25 November 1981.

²⁷ Article 9 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, 1950, 4 November 1950.

²⁸ Articles 26 and 27 of the Arab Charter on Human Rights of 1994.

²⁹ Article 4 of Decree No. 63-318 of September 10, 1963, containing the 1963 Constitution (Official Gazette, No. 64, 1963), which was suspended by Article 59 thereof on October 3, 1963.

³⁰ Article 53 of Ordinance No. 76-97 of 30 Dhu al-Qi'dah 1396 AH, corresponding to 22 November 1976, promulgating the Constitution of the People's Democratic Republic of Algeria (Official Gazette, No. 94, published 24 November 1976). Amended by Law No. 79-06 of 7 July 1979 (Official Gazette, No. 28, published 10 July 1979), by Law No. 80-01 of 12 January 1980 (Official Gazette, No. 3, published 15 January 1980), and by Law No. 88-223 of 3 November 1988 (Official Gazette, No. 45, published 5 November 1988)

³¹ Article 35 of Presidential Decree No. 89-18 dated 22 Rajab 1409 AH, corresponding to 28 February 1989, concerning the publication of the text of the constitutional amendment approved on 23 February 1989 (Official Gazette, No. 9, published 1 March 1989).

³² Article 36 of Presidential Decree No. 96-438 dated 26 Rajab 1417 AH, corresponding to 7 December 1996, concerning the amendment of the text of the Constitution approved in the referendum of 28 November 1996 (Official Gazette, No.

not be infringed upon, and freedom of worship shall be guaranteed in accordance with the law."³³ The 2020 Constitution affirms that: Freedom of opinion shall not be infringed upon. Freedom of worship shall be guaranteed and practised within the framework of respect for the law, and the state shall guarantee the protection of places of worship from any political or ideological influence."³⁴

Second: Permissibility of practising religious rites.

The Algerian legislature has approved the practice of religious rites by non-Muslims, as embodied in Decree No. 06-03 bis, which stipulates that: "The allocation of any building for the practice of religious rites is subject to the prior opinion of the National Commission for Religious Rites provided for in Article 09 of this Decree, which states: The practice of any activity within places designated for the practice of religious rites that is contrary to their nature and the purposes for which they were established is prohibited. Data designated for the practice of religious rites shall be subject to census by the state and shall benefit from its protection."³⁵

Decree No. 06-03 bis stipulates that the allocation of buildings for the practice of religious rites to non-Muslims shall be subject to the prior approval of the National Commission for Religious Rites. This is the case, and likewise with Muslims, places designated for the practice of Muslim religious rites are subject to prior approval. Article 4 of Decree No. 06-03 bis prohibits the use of religious affiliation as a basis for discrimination against any person or group.³⁶

From the above, it is clear at first glance that the Algerian legislator did not specify the nature of these buildings, and should have referred to them as churches, synagogues or temples. in accordance with Decree No. 75-79 on the burial of the dead³⁷, which states in its first article that it is not permissible to bury the dead in mosques, temples, synagogues, or, in general, any closed or locked building where citizens gather to worship, as well as within cities and villages. It should also be noted that the Algerian legislature has listed places of worship and places designated for the practice of religious rites, and it would have been preferable to do so in this decree concerning the organisation of religious rites for non-Muslims.³⁸

On this basis, Executive Decree No. 135-07 regulates the conditions and procedures for non-Muslim religious demonstrations³⁹, religious gatherings⁴⁰, as referred to in Article 08 of Decree No. 06-03 above, which is generally one of the tasks of the local governor pursuant to the provisions of Decree No. 81-386, which defines the powers and competences of the municipality and the province in the field of religious affairs⁴¹. This demonstrates the Algerian legislator's keenness to ensure consistency

76, published 8 December 1996). Supplemented by Law No. 02-03 dated 10 April 2002 (Official Gazette, No. 25, published 14 April 2002). Amended by Law No. 08-19 of November 15, 2008 (Official Gazette, No. 63, published November 16, 2008).

³³ Article 42 of Law No. 16-01 of Jumada I 26, 1437 AH, corresponding to March 6, 2016, containing the constitutional amendment (Official Gazette, No. 14, published March 7, 2016).

³⁴ Article 51 of Presidential Decree No. 20-442 dated 15 Jumada al-Ula 1442 AH, corresponding to December 30, 2020, concerning the promulgation of the constitutional amendment, approved in the referendum of November 1, 2020 (Official Gazette, No. 82, published on December 30, 2020).

³⁵ Articles 3 and 5 of Order No. 06-03 mentioned above.

³⁶ Article 4 of Order No. 06-03 mentioned above

³⁷ Order No. 75-79 dated 12 Dhu al-Hijjah 1395 AH, corresponding to December 15, 1975, concerning the burial of the dead (Official Gazette, No. 104, published on December 26, 1975).

³⁸ Order No. 06-03 dated 29 Muharram 1427 AH, corresponding to 28 February 2006, establishes the conditions and rules for the practice of religious rites by non-Muslims (Official Gazette, No. 12, published on 1/3/2006).

³⁹ Executive Decree No. 07-135 dated 2 Jumada al-Ula 1428 AH, corresponding to 19 May 2007, establishes the conditions and procedures for the conduct of religious demonstrations by non-Muslims (Official Gazette, No. 33, published on 20/5/2007).

⁴⁰ Article 2 of Decree No. 07-135 defines a religious demonstration as: "a temporary gathering of persons organized by associations of a religious nature in buildings open to the public."

⁴¹ Decree No. 81-386 dated 29 Safar 1402 AH, corresponding to 26 December 1981, defines the powers and responsibilities of municipalities and wilayas in the religious affairs sector (Official Gazette, No. 52, published on 29/12/1981).

between foreign and domestic texts and to respect the innate nature of religion in a manner that does not conflict with the system and public morals, especially since respect for religious sanctities is a moral obligation before it is a legal one⁴².

Conclusion:

The study concluded with a set of findings (firstly) that generally answer questions related to the research topic, and some recommendations (secondly) that the researcher seeks to adopt in order to amend certain aspects related to children's freedom of belief, as follows:

First: Findings.

- The Algerian legislature has enshrined children's freedom of belief in its various constitutions, including the 2020 Constitution.
- The principle of freedom of belief is derived from the provisions of Islamic law and international conventions, whether global conventions, such as the Universal Declaration of Human Rights, or specific conventions, such as the Declaration on the Elimination of All Forms of Discrimination and Intolerance Based on Religion or Belief.
- The Algerian legislature issued Law No. 20-05 on the prevention and combating of discrimination and hate speech as a result of the growing wave of hate speech and discrimination, in line with international law and, before that, Islamic law. However, these guarantees are only valid within the framework of respect for the law and respect for the privacy of society.
- No society is free from religious diversity, and all attempts to eliminate pluralism and diversity from society are doomed to failure. Multireligious and multicultural societies face significant challenges in terms of creating a sense of unity among their citizens and preventing all forms of intolerance, hatred, discrimination and tribalism.
- The difficulty of separating freedom of belief from freedom of religious practice, which the Algerian legislature has recognised by combining these two freedoms into a single phrase, meaning that they are complementary, guaranteed, and inseparable.
- Challenges facing the international community if it adopts international legal rules to protect religious sanctities, given the religious diversity of different societies.

Second: Recommendations.

- The need to intensify awareness-raising efforts among the public, educating them about crimes of discrimination and hatred, especially crimes of contempt of religion, as well as the penalties imposed on perpetrators of such crimes, given the high rate of hate crimes and contempt of religion in foreign countries against Arabs and Muslims, and the exposure of some citizens of the state to attacks abroad because of their religion or origin, which requires follow-up at the international level.
- Tighten monitoring of social media sites and the destructive and dangerous ideas they spread, which threaten the security of society and social peace.
- Stipulate the need to distinguish religious sites, which are linked to the spiritual and religious values of society, with special protection, because the Hague Convention does not provide for special protection for such religious property.
- The treaty must include provisions to strengthen relevant national legislation and criminal laws to reflect the importance of protecting religious sites.
- Strengthening the role of the United Nations and UNESCO in protecting cultural property, and not limiting their role to recommendations, resolutions and appeals. Rather, these resolutions must be binding and have the authority to refer cases to the International Criminal Court for appropriate sanctions.

⁴² For further reading, see: Abdelkader Sadek and Regani Abdelmalek, article entitled: "Manifestations of the Practice of Religious Rites by Non-Muslims in Algerian Legislation (An Analytical and Evaluative Reading of Order No. 06-03 bis Defining the Conditions and Rules for the Practice of Religious Rites by Non-Muslims)," Journal of Law and Development, Tahri Mohamed University, Bechar, Volume 2, No. 2, December 2020, pp. 101-102.

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