

Manifestations of Modern Preventive Criminal Policy in Confronting Emerging Crime

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Received: 10.03.2026 Accepted: 19.08.2026 Publishing: 23.09.2026

Abstract :

Criminal policy is one of the important topics in criminal law, as it is the map that illustrates the strategy pursued by countries in combating criminal phenomena and preventing them. As a result of the failure of the traditional experience of criminal policy in addressing crime, which was based on studying the criminal's personality without investigating the material and moral factors that led to the commission of the crime, modern criminal policy has aimed to establish legal rules and develop them intentionally to achieve proactive or preventive protection that prevents the commission of the crime or stops it altogether. With the world's technological and technical development and the emergence of a new global system and the economic liberation experienced by most countries, this development necessitated the emergence of new patterns of crime known as emerging crimes, which differ in nature, content, and perpetrators from traditional crimes. Not to mention the adoption by the criminal legislator of an exceptional approach in determining the criminal responsibility of crimes committed by legal persons within the framework of what is known as criminal responsibility for the act of others as one of the modern trends of criminal responsibility.

This research paper aims to highlight the preventive role of modern criminal policy, demonstrate the aspects of crime prevention in light of Algerian legislation, study the patterns of emerging crime and their implications for criminal law, and address the modern trends of criminal responsibility for legal persons.

Keywords : Criminal Policy, Preventive Policy, Emerging Crime, Criminal Phenomenon, Criminal Responsibility.

Introduction :

Each country has a strategy it adopts in combating criminal phenomena and addressing them, through criminal policy that outlines the possible map to combat crime in its various forms. In light of the developments and changes witnessed by the world as a whole at the beginning of the third millennium and the economic openness experienced by most countries, and the emergence of the features of the new world order, traditional criminal policy has needed to develop its legal principles and search for new alternatives to contain criminal behaviors, due to the shortcomings and failures of the traditional policy in keeping pace with the crisis of

criminal justice, legislative inflation, and the excess in the policy of criminalization and punishment as a weapon used by the legislator.

For this reason, contemporary criminal policy, within its strategies, has turned to the adoption of new mechanisms and measures that work to achieve proactive protective protection from crime by searching for the causes and factors leading to it, and then eradicating it and preventing it from spreading in society. This serves the desired goals of modern criminal policy, which aims to prevent crime and involve actors in society, including national organizations, bodies, and civil society, in preventive policies against various crimes.

The recent trends of criminal policy have been associated with the emergence of new patterns of modern crime characterized by their seriousness, novelty, and difference in terms of nature, content, cunningness of the perpetrators, and their ability to plan and conceal. The modern crimes have deviated criminal law from its traditional familiar principles, whether in terms of criminalization and punishment, or in terms of adopting administrative and social measures away from criminal sanctions, which used to be a shield for the perpetrators of crimes, especially the modern ones. Therefore, it has become imperative for modern criminal legislation to keep pace with these changes to align with its internal laws and the state's pursued strategy.

The global developments have not excluded any field, but also included economic, industrial, and commercial fields, resulting in serious behaviors and deviations. This necessitated the need to readjust the system of criminal responsibility based on the principle of personal criminal responsibility and to broaden the scope of the latter to include holding the responsible person or the employer accountable for the crimes committed by their subordinates within the framework of what is known as criminal liability for the act of others by the legal person. Therefore, the study of this subject was a main problematic issue, namely :

What are the aspects of the modern trend of objective criminal policy in Algerian legislation in light of the emergence of the new global system and the development in various fields?

To answer the main problem, we divided the subject of our study into three axes. The first relates to the preventive role of criminal policy, and the second addresses the patterns of emerging crime and its departure from the traditional rules of criminal law, while the third requirement will be devoted to studying criminal responsibility for the act of another person.

The First Axis :

The Preventive Role of Criminal Policy

Criminal policy is considered one of the subjects that have concerned those interested in the legal field in general, as it is the means aimed at developing the rules of criminal law and protecting the fundamental interests and values of society according to a strategy or map adopted by the state in combating crime and addressing it. It is undeniable that criminal policy used to be based on studying the criminal's personality without investigating the motives and reasons for committing the crime. This experience has proven its failure in addressing the criminal phenomenon. Modern criminal policy has turned to the idea of preventive prevention of crime and its prevention from occurring in the first place. To delve into this topic, we address in the first branch the concept of criminal policy, then in the second branch, we move on to the approach of preventive policy before the commission of the crime.

First Branch : The Concept of Criminal Policy

It is known that before delving into any topic, we must define the terms surrounding it and formulate the related concepts to the subject of study, as concepts are intellectual tools that must be understood. Therefore, when discussing criminal policy, it requires us to first define it, and then address its fundamental topics.

First : The Meaning of Criminal Policy

Criminal policy, in general, can be traced back to the German jurist (Feuerbach), who is considered the first to use this term in the early 19th century AD, where he defined it as the set of means that can be taken at a certain time and in a country in order to combat crime¹.

Criminal policy is known as the science that explores the best means to combat criminal phenomena in order to determine the best criminal texts that can be applied in the conditions of a specific country to resist and eliminate crime².

The jurist Marc Ancel defined criminal policy as the policy that ultimately aims at the best formulation of statutory law rules and guides both the legislator who lays down the law, the judge who applies it, and the punitive administration responsible for executing what this judge orders³. As for criminal policy as a procedural concept, it is "those ideas and principles defined by the state or authority in order to guide the law, whether in its establishment phase or in its application within the framework of the state's political orientation."⁴

Based on the previous definitions, they addressed criminal policy from the perspective of criminalization and punishment in addressing criminal phenomena. This tends towards the traditional concept of criminal policy. However, the modern concept of criminal policy includes interest in the causes and factors leading to the commission of the crime, the study of the social environment in which the crime arises, as well as the study of the criminal's personality in order to determine the hidden criminal danger in his person and treat it.

And criminal policy, according to its modern scientific concept and its content of concepts, is planned on the basis that crime is a social phenomenon with its social and environmental causes (surrounding the crime and the criminal). Therefore, the process of combating crime is not limited to restricted or limited means of imposing or implementing punishment only, but it includes the development of a future strategy to combat crime by drawing up general principles in the field of criminalization and punishment. Thus, criminal policy from this perspective indicates the formulation of the motive for protecting the individual and the community, while defining the goals that must be achieved to secure this protection, within the state's public policy

¹ _Ahmed Fathi Sorour, Principles of Criminal Policy, First Edition, Dar Al Nahda Al Arabiya, Cairo, Egypt, 1982, p. 13.

² _Sabah Mesbah Mahmoud Al-Hamdani, Nadia Abdullah Al-Latif Ahmed, The Nature of Preventive Criminal Policy, Tikrit University Journal of Law, Volume 7, Issue 1, Part 1, September 2018, p. 39.

³ _Oussama Salah Mohamed Bahaa El-Din, The Place of Reform and Rehabilitation in Contemporary Criminal Policy, Journal of Higher Studies, Nilein University, Human Development University, College of Law and Politics, Kurdistan Region, Iraq, 2016, p. 07.

⁴ _Oussama Salah Mohamed Bahaa El-Din, Ibid, p. 06.

in the social, economic, and political fields¹, while keeping pace with the developments in various fields and the changes occurring in society.

Through the previous definitions of criminal policy, it can be defined as the policy pursued by the state according to the specificity of each society in order to confront crime and combat criminal phenomena in its various forms, according to a plan that includes measures, mechanisms, and principles studied not only for criminalization and punishment, but also for crime prevention and prevention of access to it through the means used in the application of this criminal policy.

Secondly : Criminal Policy Issues

Criminal policy aims to combat crime, delinquency, and confront all forms of traditional and emerging criminality. Therefore, it is characterized by the feature of development according to the developments that occur in society and the evolution of legal rules, especially criminal law. Hence, the topics addressed by criminal policy vary to include criminalization and punishment within the framework of a policy to reduce crime and punishment, and the prevention aimed at establishing a proactive and preventive policy before the commission or occurrence of the crime.

1. Criminalization :

The aim is to rationalize the use of criminalization authority in society, so that it is only used when necessary, and with restrictions and controls to ensure that the use of criminalization authority in society is not abused². Within the framework of modern criminal policy trends, many conferences have called for the need to limit criminalization as it is not the solution to combating crime, including the Sixth Conference of Ministers of Justice in Europe, the Third Scientific Seminar of International Associations Concerned with Criminal Sciences held in Italy in 1973, and the Fifth International Conference on Crime Prevention and Treatment of Offenders in Geneva held by the United Nations in 1975³.

From the perspective of protecting the legitimate interests of society, criminalization policy aims to criminalize actions that affect these interests. This policy includes social interests in both their individual and collective aspects, such as assaults on them. Criminal policy imposes on the criminal legislator the need to balance between the individual's interest and the community's interest in order to achieve stability within the society. In light of this, criminal policy is not limited to defining the necessary principles to prevent crime and impose the prescribed punishment, but also extends to defining the principles of criminalization and punishment in the early stages⁴.

¹ _ Zarrouki Faiza, Bouras Abdelkader, Contemporary Criminal Policy between Humanizing Punishment and Developing Justice Rules, Journal of Law and Humanities, Ibn Khaldun University of Tiaret, Volume 14, Issue 03, Algeria, 2021, pp. 293, 296.

² _Adham Hashish, Criminal Policy in Some Arab Laws, A Critical and Prospective Study, Kuwait International Law College Journal, Special Issue, Ninth Year, Serial Number 35, Iraq, June 2021, p. 144.

³ _Ben Jeddou Amal, Limiting Criminalization and Punishment in Contemporary Criminal Policy, Journal of Legal Studies and Research, University of Algeria 1, Faculty of Law, Tenth Issue, Algeria, September 2018, p. 189.

⁴ _Ghoul Amina, Fariha Mohamed Karim, The Role of Criminal Policy in Combating the Criminal Phenomenon, Al-Risala Journal for Human Studies and Research, Baji Mokhtar University Annaba, Volume 06, Issue 04, Algeria, December 2021, p. 473.

Therefore, criminalization policy primarily aims to establish criminal protection of social interests according to the requirements of each society, which will only be achieved by choosing the possible methods and means that translate into the most effective measures to protect those interests that the state is concerned with within the framework of its functions.

2. Punishment :

The policy of punishment complements the policy of criminalization. After identifying the interests worthy of criminal protection and criminalizing them through the policy of criminalization, the stage of arranging penalties for violating criminal texts and assaulting protected interests comes. This means that criminalizing a specific assault must be associated with a specific penalty when the violation occurs. Therefore, it can be said without any doubt that there is no importance to any legal rule if not followed by a penalty¹.

In this regard, Professor Ali Hussein Al-Khalaf says : "A crime is nothing but a violation of the sanctity of ethical rules, provoking the anger and resentment of the human conscience. Criminal punishment is only a counterpart to those unethical acts." Therefore, punishment complements the process of criminalization, and without it, the purpose of criminalization is also eliminated².

Therefore, punitive policy is a means of implementing a specific part of criminal policy, which is primarily related to criminal law. It reveals the principles on which sanctions depend and their application, complementing the criminalization policy, which does not stand alone without the imposition of punishment. The punishment policy consists of stating the basic principles on which the determination, application, and implementation of sanctions depend, in accordance with the text of the first article of the Algerian Penal Code : "No crime or punishment or security measure without a law."³

3. Crime Prevention :

Preventive or precautionary policy is of great importance before the commission of the crime, as this policy focuses on the stage preceding the commission of the crime because punishment alone is not sufficient. This policy is manifested through the procedures and measures taken to prevent criminal behavior. It also examines the factors that create opportunities and push for the commission of the crime, all from the standpoint of the principle that prevention is better than cure⁴.

Modern criminal legislation adopts a proactive preventive policy within its laws in order to identify the factors leading to crime and confront the criminal danger inherent in the perpetrator, where these modern laws focus on the personality of the criminal, their environment, the surrounding circumstances, and the study of the crime from its various aspects in order to surround it with a legal fence that ensures the protection of interests on one hand, and intervention before the commission of the crime by taking a series of preventive measures and procedures. This is what the Algerian legislator has adopted, similar to other criminal legislations, by issuing laws to combat some prevalent crimes through prevention, such as the

¹ _ Zarrouki Faiza, Bouras Abdelkader, op. cit. p. 298.

² _ Oussama Salah Mohamed Bahaa El-Din, op. cit., p. 14.

³ _ Ghoul Amina, Fariha Mohamed Karim, op. cit., p. 474.

⁴ _ Ghoul Amina, Fariha Mohamed Karim, op. cit., p. 457.

anti-corruption law, the law on prevention and combating of drugs and psychotropic substances, and recently the law on prevention of abduction of persons, and other laws related to the policy of prevention and deterrence.

The Second Branch : The Trend towards Precautionary Preventive Policy before the Occurrence of the Crime

Among the results of the international dynamism in international and regional conferences calling for sustainable solutions to combat criminal phenomena is the trend towards a precautionary preventive policy before the occurrence of the crime and preventing it. Modern criminal legislation has shown great interest in this policy by adopting the comprehensive concept of crime prevention, including taking all possible measures to prevent the occurrence of the crime. Prevention has taken precedence in the concerns of countries and justice sector officials due to the role of preventive and precautionary policy in addressing crime from its roots by examining the causes leading to it and reducing the opportunities for its commission. Therefore, in this branch, we will address the nature of precautionary preventive policy (firstly) and then delve into the aspects of precautionary preventive policy in Algerian legislation (secondly).

First : Precautionary Preventive Policy

First, it is necessary to understand the concept of crime prevention as a newly emerging term, where the term indicates preventing the occurrence and commission of crime by addressing the fundamental causes responsible for the formation of criminal behavior. This also extends to preventing the formation of criminal personality as a fundamental step to prevent the causes and factors that drive the person to commit the criminal act¹.

The term prevention refers to taking a set of measures based on a scientific planning approach to confront an expected problem or face the complications of a problem that has already occurred, or both. It precisely means preventing the occurrence of an undesirable event or preventing it from happening².

As for preventive policy itself, it means a comprehensive vision of the objectives that are in the mind of those planning for them, in order to achieve security, safety, and stability for the citizens within the society. It also means the policy of prevention in specifying the methods and means leading to achieve these visions, while ensuring the security dimension of the development process in all its forms, meaning that we ensure social, economic, and cultural development plans are preventive from crime³.

The United Nations Economic and Social Council adopted in its resolution No. 13/2002 dated 24 July 2002, concerning measures to enhance crime prevention effectively, the United Nations guidelines for crime prevention and control. In these principles, crime prevention policy was defined as "strategies and measures aimed at reducing the likelihood of crime and its harmful

¹ _ Sabah Mesbah Mahmoud Al-Hamdani, Nadia Abdullah Al-Latif Ahmed, op. cit., p. 47.

² _ Ibid, p. 48.

³ _ Mohamed Said Turki, Nassiga Faisal, Crime Prevention and Prevention Policy, Journal of Research and Studies, University of Biskra, Faculty of Law and Political Science, Volume 15, Issue 01, Algeria, Winter 2018, p. 237.

effects on individuals and the community, including the fear of crime, by influencing its multiple causes."¹

The preventive role lies in creating the necessary conditions to prevent crime, as each crime has causes and predisposing factors. Criminology has enabled the detection of some factors that indicate the commission of a crime. Prevention, therefore, should be based on these causes and factors, through intervention before the commission of the crime, to combat its causes by identifying specific measures that must be in place to confront the social risk inherent in the individual in order to prevent them from committing the crime.²

It is clear from the above that preventive policy focuses on preventing crime in general, working to prevent it, intensifying efforts to achieve this, and this task is a shared responsibility, not just the responsibility of the competent authority. It is the responsibility of all members of society and active bodies, including civil society, media, educational and university institutions, government bodies, and others, in application of the known rule "prevention is better than cure". In this way, preventive policy takes a forward-looking perspective that focuses on the criminal phenomenon itself, departing from the traditional rules of criminal policy, which previously focused on studying the personality of the perpetrator, their environment, and applying appropriate treatment to them.

As preventive policy is concerned with preventing crime before it occurs, it has an independent nature that distinguishes it from similar terms. Preventive policy differs from crime fighting, which occurs after the crime is committed, using crime detection techniques, collecting criminal evidence, and the subsequent investigation and trial procedures. Preventive policy intervenes primarily before the crime occurs. On the other hand, it differs from therapeutic policy, which comes at a later stage after the crime is committed and aims to reform and treat the perpetrator and ensure their reintegration. It focuses on protecting society from the criminal, not the crime itself, by examining the personality, determining their criminal danger, and treating it. Preventive policy precedes these measures and focuses its tasks on the crime itself, not the criminal.³

Secondly : Aspects of proactive preventive policy in Algerian legislation

Algeria has not been immune to the exacerbation of the criminal phenomenon in its various traditional, new and emerging forms associated with the technological and information revolution, and the Algerian legislator, like other legislations, has given great importance to the special prevention of crime, and those who study the legal texts issued in various laws realize this importance given by the Algerian legislator to crime prevention, which aims to amputate and eradicate criminal factors and not leave gaps and opportunities for criminals to commit a crime, and in order to illustrate the manifestations of the proactive preventive policy, it is necessary to present the typical experience adopted by the legislator in Algeria.

1. Prevention of drug and psychotropic substance crimes :

Algeria has intensified its efforts in international and regional efforts to prevent the phenomenon of narcotic drugs and psychotropic substances as a result of its unprecedented

¹ _ Sabah Mesbah Mahmoud Al-Hamdani, Nadia Abdullah Al-Latif Ahmed, op. cit. p. 51 p. 52.

² _ Ghoul Amina, Fariha Mohamed Karim, op. cit., p. 475.

³ _ Sabah Mesbah Mahmoud Al-Hamdani, Nadia Abdullah Al-Latif Ahmed, op. cit., p. 53.

increase, and this was embodied in the promulgation of Law No. 04-18 on the prevention of narcotic drugs and psychotropic substances and the suppression of their illicit use and trafficking, dated December 25, 2004¹, which contains 39 articles divided into four chapters, the Algerian legislator has set prevention as the first objective in this law, which is evident from the text of the first article of the law.

Chapter II of Law 04-18 is devoted to preventive and therapeutic measures against narcotic drugs and psychotropic substances in Articles 06 to 11. However, a closer look at the aforementioned legal texts shows that they do not mention preventive measures, but rather deal with therapeutic measures that are imposed after committing the criminal behavior.

2. Prevention of Corruption Crimes :

Law 06-01 dated February 20, 2006, concerning the prevention and combating of corruption, established societal mechanisms for the prevention of corruption crimes and other preventive measures related to the public and private sectors². The second chapter includes preventive measures in the public sector, such as consideration of competence, integrity, and transparency in employment, as well as honesty, integrity, declaration of assets, and declaration of conflicts of interest, as stipulated in Article 4 of the aforementioned law.

As for the private sector, Law 06-01 has established proactive prevention, generally embodied in auditing, accounting, monitoring, and reporting suspicions³. In furtherance of proactive preventive policy in corruption crimes, the Algerian legislator has established societal mechanisms, represented by social institutions such as family, school, university, local communities, media, mosques, and civil society. These entities and institutions are tasked with monitoring, raising awareness, and educating about corruption crimes, their dangers, and their negative impact on society.

3. Prevention of Cybercrimes :

As a result of the proliferation of serious crimes in data processing systems and cybercrimes in general, the Algerian legislator enacted Law 09-04 dated August 5, 2009, which includes specific rules for preventing crimes related to information and communication technologies and combating them. The law introduced preventive mechanisms for these crimes, including electronic monitoring in specific cases, as stipulated in Article 4 of the aforementioned law, as well as a mechanism for inspecting information systems entrusted to the competent judicial authorities and judicial police officers⁴, in addition to a mechanism for seizing information data that helps uncover crimes or their perpetrators⁵.

4. Prevention of Discrimination and Hate Speech :

¹ _ Law No. 04-18, relating to the prevention and suppression of the illicit use and trafficking of narcotic drugs and psychotropic substances, first edition, National Bureau of Educational Works, Ministry of Justice, Algeria, 2005.

² _ See Article 3 of Law 06-01 of 21 Muharram 1427, corresponding to February 20, 2006, on preventing and combating corruption, Official Gazette, No. 14, dated 8 Safar 1427, corresponding to March 8, 2006.

³ _ See Articles 13 and 14 of Law 06-01, op. cit.

⁴ _ See Article 5 of Law 09-04 dated 14 Shaaban 1430, corresponding to August 5, 2009, containing rules for the prevention and control of crimes related to information and communication technologies, Official Gazette, No. 47, dated 25 Shaaban 1430, corresponding to August 16, 2009.

⁵ _ See Article 6 of Law 09-04, op. cit.

In order to prevent acts of discrimination and hate speech, which have become a real concern for the cohesion and unity of society, causing a significant division within it, the Algerian legislator sought to address this emerging criminal phenomenon in the digital environment by enacting Law 20-05 dated April 28, 2020. This law includes preventive mechanisms such as the implementation of educational and awareness programs, the adoption of vigilance and early warning mechanisms¹, and the early detection of the causes of discrimination and hate speech. It also promotes institutional cooperation, involves civil society and the private sector in the preventive policy adopted by the state, and assigns media the task of promoting a culture of prevention of all forms of discrimination and hate speech, while establishing a culture of tolerance and human values.²

5. Prevention of kidnapping crimes :

The phenomenon of kidnapping is one of the current serious issues as it affects physical safety, human dignity, and has negative effects on the kidnapped person, their family, and the society as a whole. In an effort to contain this phenomenon and prevent it in the first place, the Algerian legislator, by virtue of Law 20-15 dated December 30, 2020, has established preventive mechanisms to prevent the crimes stipulated in this law. These mechanisms include the adoption of vigilance, warning, and early detection mechanisms, as well as the implementation of awareness programs and the organization of cultural or media activities aimed at informing about the risks of kidnapping crimes and preventing them. Additionally, studies are conducted on the reasons behind this phenomenon to understand the motives for committing it, as well as to promote institutional cooperation, ensure the exchange of information, and provide balanced security coverage for the entire national territory, not to mention the continuous security protection of educational and educational institutions, daycare centers, and any other place that receives children.³

The second axis :

Patterns of modern crime and their departure from traditional criminal law rules

There is no doubt that the new global system and the developments it has produced in the field of communication, technology, movement of capital, and economic openness have greatly contributed to the emergence of contemporary patterns of crime to the extent of modernity, danger, rapid development, and spread. These are the modern and emerging crimes that differ in their nature, components, and the characteristics of their perpetrators from traditional crimes. It has become imperative for criminal legislation to develop the strategy followed in combating and preventing crime and keeping pace with the developments in the field of criminal law, whether in terms of its traditional rules and the need to develop them or with regard to criminalization and punishment policy within the framework of what is known as the globalization of criminal law. We will focus on studying the legal framework of traditional,

¹ _ See Article 6 of Law 20-05, dated 5 Ramadan 1441, corresponding to April 28, 2020, on preventing and combating discrimination and hate speech, Official Gazette, No. 25, dated 6 Ramadan 1441, corresponding to April 29, 2020.

² _ See Articles 8 and 7 of Law 20-05, op. cit.

³ _ See Article 7 of Law 20_15, dated 15 Jumada I 1442, corresponding to December 30, 2020, concerning the prevention and combating the crime of kidnapping, Official Gazette, No. 81, dated 15 Jumada I 1442, corresponding to December 30, 2020.

modern, and emerging crimes in the first Branch, then we will address the implications of modern crime on the rules of criminal law in the second Branch.

The First Branch : The Legal Framework for Traditional, Emerging, and Novel Crimes

Most criminal legislations have adopted the approach of not defining crime-specific terms. Instead, they enumerate the acts that constitute prominent crimes, their elements, types, and the penalties incurred upon their commission. As the law evolves with the development and change of society, modern terms have emerged to express new patterns of crimes, such as emerging and novel crimes, which differ in their elements and perpetrators from traditional crimes. Therefore, in order to clarify the intended meaning, it is necessary to delve into these definitions, which we will address in this Branch. First, we will distinguish between traditional, emerging, and novel crimes, and then we will delve into the forms of emerging crimes.

First : Distinguishing Between Traditional, Emerging, and Novel Crimes

Traditional crime refers to those crimes recognized by law for punishment due to their infringement upon the paramount interest of protection and care, reaching the degree of punishment for violating the required behavioral norms in society. Traditional crimes encompass all crimes recognized in the Penal Code and its complementary laws that affect individuals, wealth, or the fundamental interests of society¹. They encompass any violation directed at one of the rules of public or private law and its various branches applied in a particular society. Examples include various forms of theft, murder, breach of trust, fraud, corruption, and drug crimes.

As for modern crime, it means a set of actions and behaviors that constitute a new criminal pattern that was not familiar before. It is that kind of crime in which modern criminal methods are used to commit known crimes. Modern crimes are a form of advanced criminalization due to the rapid developments in scientific fields².

It is worth mentioning that modern crime is not a legal term that defines the elements of a specific crime governed by the law, but it is a description of different patterns of crimes, the only commonality among them being their modernity, size, severity, the type of criminals involved, their methods, and techniques³. In essence, modern crimes are traditional crimes that have evolved due to the technological and informational revolution and developments in various fields, adopting modern means and methods in their commission.

Modern crimes are diverse in terms of their commission methods and the personality of the perpetrator, including crimes such as cyber fraud, electronic terrorism, human organ trafficking, internet crimes, white-collar crimes, aircraft hijacking, emerging economic crimes such as speculation, industrial and commercial espionage, and environmental crimes.

¹ _ Said Bouali, Commentary on the Algerian Penal Code, without edition, Dar Belkis, Dar El-Badida, Algeria, 2017, p. 43.

² _ Sabrina Ben Said, Rafika Biskri, The impact of the new crime on the criminal text, Journal of Legal and Economic Studies, Volume D05, Issue01, Algeria, 2022, p. 1914.

³ _ Belaid Elham, "Emerging Crimes," Journal of the Researcher for Academic Studies, El Hadj Lakhdar University of Batna 1, Faculty of Law and Political Science, Vol. 09, No. 02, Algeria, 2022, p. 518.

Therefore, the relationship between modern and traditional crimes is close and largely similar, as they share general and specific elements, as well as the presence of ethical commitment that falls on members of the community to respect the norms, orders, and public order, not to mention that both reflect the criminal danger available to the criminal regardless of the type and nature of the committed crime.¹

And many legal scholars and researchers use the term "modern crimes" to express contemporary or newly emerged crimes, considering that they have the same meaning and connotation. However, from our perspective, modern crimes refer to criminal phenomena associated with the changes that have occurred in the social, economic, and cultural aspects of the community, evolving as a result of these changes and proliferating in an unprecedented manner, such as insider trading, kidnapping, and emerging economic crimes.

Secondly : Images of Emerging Crimes

In parallel with the new global system and the economic liberation experienced by the world as a whole, the images of emerging crimes have diversified and multiplied, transcending temporal and spatial boundaries. They no longer recognize geographical lines as is the case with traditional crimes usually committed in a single country. Emerging crimes may be committed in several countries and at different times, and may involve several material acts that collectively constitute emerging crimes. Therefore, we will try to highlight the most prevalent emerging crimes that have appeared recently as follows :

1. Emerging Crimes Against Property :

Emerging crimes are considered property crimes when their subject matter is money. They are among the most prominent motivations that drive offenders to achieve financial gains and illicit profits without exerting minimal effort. What encourages these offenders is the difficulty of being detected, in contrast to traditional property crimes². Some of the most notable examples of these crimes include:

A. Organized Crimes :

Organized crimes are criminal organizations that consist of individuals and groups operating in a systematic manner to obtain financial benefits through illegal activities. Their members work through a precise and complex organizational structure. Examples include money laundering, terrorism, human trafficking, and corruption crimes³. Organized crimes are classified as a category of emerging crimes that have proliferated at an unprecedented rate, characterized by their global nature and meticulous organized planning.

B. Drug Crimes :

One of the most dangerous afflictions of our time facing societies, whether developing or advanced, is drug and psychoactive substance crimes in their various forms. This category of crime is characterized by continuous activity with the emergence of new types of drugs and psychoactive substances that have varying mental effects. Their production is now taking place in laboratories and factories that have managed to obtain the necessary financial resources and

¹ _ Belaid Elham, op. cit. p. 520.

² _ Mohammed Al-Shibli Al-Atoom, Crimes of Information Technology, General Theory of Cyber Crimes, First Edition, Dar Al-Thaqafa for Publishing and Distribution, Amman, Jordan, Year 2021, p. 24.

³ _ Ilham Belaid, Op. Cit., p. 522.

raw materials to manufacture many types. Additionally, they take on many forms, the latest of which is digital drugs that consist of audio clips that affect the human mental apparatus and aim for the same objectives as traditional drugs. This has led to these crimes being classified as newly emerging and among the most dangerous to society.

C. Cyber Extortion Crimes :

Cyber extortion is considered a modern criminal phenomenon that has been rapidly escalating in the digital environment, showing a dangerous upward trend in societies, especially in Arab communities due to prevailing customs and values. Cyber extortion is a method of pressure and coercion, where the extorter pressures another person, the victim, through threats and intimidation. This is done by threatening to publish images, information, or videos that the victim does not wish to be revealed. The perpetrator's goal is to achieve their criminal objectives and reach a target that may be material or moral. If the victim does not comply with the extorter's demands, they will publish this confidential information on any social media platform, prompting the victim to meet the extorter's demands out of fear for their reputation or status in society.¹

2. Emerging Crimes Against Individuals :

Among the most prevalent are the following:

A. Human Trafficking Crimes:

These involve the recruitment, transportation, and coercion of individuals through force, intimidation, or deception for the purpose of exploitation in various forms², including sexual exploitation of women, forced labor, compulsory service, slavery, and organ trafficking. Recently, these types of crimes have escalated, affecting all age groups, including women and children, who are exploited for illicit purposes such as sexual activities, pornography, begging, and trafficking of their organs.

B. Human Smuggling Crimes :

Commonly referred to as illegal immigration, this phenomenon is alarmingly widespread in developing countries, particularly in Maghreb nations. Individuals are smuggled and displaced from their homelands in exchange for monetary payments, often with their destination being Europe in search of livelihood, educational opportunities, or other benefits. The methods of human smuggling vary, whether through boats and vessels at sea, overland via trucks and vehicles designated for this purpose, or by air using forged or fictitious documents belonging to someone else.³

C. Cyber Crimes :

These are among the most important and dangerous newly emerging crimes, as they involve criminal activities that use digital electronic technology directly or indirectly as a means to carry out the targeted criminal act. These crimes have emerged due to technological

¹ _ Saif Majid Al-Ani, User Criminal Liability for Social Media Crimes (Comparative Study), unpublished, Darub Al-Ma'arifa for Publishing and Distribution, Alexandria, Egypt, 2022, p. 111.

² _ Warda Charef al-Din, Procedural Rules for Combating Human Trafficking Crimes Committed via Information Technology, Journal of Judicial Efforts, Mohamed Khider University of Biskra, Faculty of Law and Political Science, Issue 16, Algeria, March 2018, p. 95.

³ _ Kahina Salam, Younes Ajjal, Illegal Immigration and Mechanisms to Combat It in Algerian Legislation, Journal of Law and Society, University of Algiers 3, Volume 09, Issue 01, Algeria, 2021, p. 361.

advancements that have made the world a small village. They also manifest in various forms and types, the most notable of which include hacking, cyber terrorism, defamation, slander, and contempt online, among others.¹

The Second Branch : The Implications of Emerging Crime on Criminal Law Principles

The new patterns of emerging crime that have been witnessed globally and their dire consequences on the security and economy of nations have led to a change in the criminal policies adopted to confront and address all its forms, both in terms of preventive measures and in terms of criminalization and punishment. Accordingly, in this section, we will discuss the impact of emerging crime on preventive policy first, and then we will address the impact of emerging crime on criminalization and punishment second.

First : The Impact of Emerging Crime on Preventive Policy

By adopting modern criminal legislation, including that of the Algerian legislator regarding proactive preventive policies against emerging crimes in particular, the legislator has deviated from the traditional principles of criminal law, which previously aimed to combat recidivism rather than addressing crime itself and preventing it from occurring fundamentally, according to the contemporary concept of proactive policy aimed at preventing crime.²

What confirms the Algerian legislator's departure from traditional criminal law principles is its reliance on administrative and social measures, such as involving associations, civil society, and national organizations in crime prevention, and establishing new institutional bodies specialized in combating and preventing emerging crimes, such as the National Office for Combating Smuggling, which is tasked with preventive measures against smuggling crimes and is granted broad powers in this area.³

The legislator has also adopted new preventive mechanisms that were not known under the traditional principles of criminal law, as it has moved towards a regulatory mechanism as an administrative function aimed at diagnosing weaknesses and errors, correcting them, and preventing their occurrence in the future. This interest first emerged in drug-related crimes through the activation of administrative control measures to prevent the illegal trafficking of precursors and chemical drugs, as stipulated in Executive Decree No. 07-228 dated July 30, 2007, which defined the procedures for granting licenses for the use of drugs and psychotropic substances for medical or scientific purposes.⁴

In the field of preventing money laundering and terrorist financing, the legislator has consistently activated banking control mechanisms by obligating banks and financial institutions to adopt a range of preventive measures and methods against such crimes. The same applies to the prevention of corruption crimes through enhancing the role of the Court of Accounts by expanding its supervisory powers over public funds under Ordinance 10-02 dated August 26, 2010.⁵

¹ _Abdallah Dib Mahmoud, Oussama Ismail Daraj, A Brief Guide to Cyber Crimes, First Edition, Dar Al-Thaqafa, Amman, Jordan, 2022, pp. 19, 26.

² _abrina Ben Said, Rafiq Biskri, Op.Cit, pp. 1918, 1920.

³ _ibid, p. 1920.

⁴ _Soumati Sharifa, The Policy of Preventing Emerging Crimes in Algerian Legislation, Journal of Legal and Political Research, Issue Six, Algeria, June 2016, p. 195.

⁵ _Ibid, P.196 .

Secondly : The Impact of Emerging Crimes on Criminalization and Punishment Policy

It is well known that the provisions of the Penal Code serve as a fundamental and strong pillar for social interests. One of the results arising from emerging crimes is the influence on criminalization and punishment texts due to the emergence of new offenses. Regarding criminalization, which is subject to the principle of legality according to the constitutional principle "No conviction except by a law enacted before the commission of the criminal act," we find that the executive authority cannot define crimes and their types except through a narrow delegation that responds to general rules and the spirit of the delegated legislation. However, in the case of emerging crimes, we observe the limitations of the legislative authority, which has become restricted to criminalizing acts in blank and has entrusted administrative authorities with defining the material element of many crimes, as is the case with smuggling offenses, where the executive authority is tasked with determining goods with high tariffs or those sensitive to smuggling according to the provisions of Article 220 of the Customs Law.¹

The newly developed criminal policy has worked to include every act that violates the social order in a legal text and to punish it, which has led to an increase in criminal legal texts and, consequently, the emergence of what is known as legislative inflation. This refers to the proliferation of criminal legal rules in a way that suggests a lack of control by specialists and an inability for ordinary individuals, who are subject to the criminal legal rule, to know all of them. The abundance of legal texts included in the Penal Code in Algerian legislation has resulted in the branching out into specific legal texts and consequently the emergence of many supplementary laws to the Penal Code.²

As for punishment, the Algerian legislator has adopted a punitive policy that tends towards severity concerning newly introduced crimes, in line with the seriousness of the committed crime and the degree of impact it leaves. The manifestations of this severity can be seen, for example, in the strictness of imprisonment for misdemeanors. It is generally accepted that the punishment for misdemeanors ranges from a minimum of two months to a maximum of five years. However, this duration has become inapplicable for certain newly introduced crimes, such as currency offenses, which have a maximum penalty of seven (7) years, and smuggling possession crimes, which can reach ten (10) years, in addition to corruption crimes.³

Moreover, among the manifestations of increased punishment is the application of recidivism provisions, where specific and exceptional rules have been established that deviate from the general rules, as indicated in Law 04-18 related to the prevention of drugs and psychotropic substances, which stipulates the application of special multipliers that can lead to life imprisonment when the crime is punishable by imprisonment from 10 to 20 years.⁴

Accordingly, the Algerian legislator has adopted the idea of abolishing the statute of limitations for certain crimes in its fight against emerging crimes and their prevention, particularly in the case of corruption crimes under Law 06-01 related to the prevention and combating of corruption. The legislator established that in cases of bribery and embezzlement

¹ _Sabrina Ben Said, a companion of Basakri, Op.Cit, p. 1921.

² _Ben Jdou Amel, Op.Cit, p. 196.

³ _Sabrine Ben Said, Rafiqa Baskri Op.Cit, p. 1925.

⁴ _Sabrine Ben Said, Rafiqa Baskri Op.Cit, P.1926.

of funds, the public prosecution is not subject to the statute of limitations. This also applies to crimes described as terrorist or destructive acts, as well as transnational organized crime.

In addition to the above, the legislator has deviated from the conventional rules of criminal law, which stipulate a criminal penalty for committing legally defined criminal acts. Instead, it adopted an administrative penalty system, whereby the administrative authority imposes appropriate measures to suppress violations through regulatory enforcement. This grants the executive authority the power to issue penalties instead of the judicial authority, which is supposed to be primarily responsible for issuing and determining penalties for crimes based on the constitutional principle of the judiciary's exclusive authority to impose criminal penalties. Examples of this include granting the Customs Administration, Tax Administration, Forestry Administration, Competition and Pricing Administration, and public industrial and commercial facilities the authority to impose penalties that affect financial liabilities.¹

The Algerian legislator's departure from the traditional principles of criminal law is justified by the seriousness posed by newly emerging crimes in their various forms. This necessitated the need to combat and prevent them from the perspective of a strategy that aligns with the trend of preventive criminalization, involving the participation of all segments of society, national bodies, organizations, civil society, and stakeholders in the preventive process. Additionally, the legislator found that the penalties established in criminal law, in terms of punishment, no longer fulfill their purpose or achieve deterrence in both forms. This led to the establishment of stricter penalties that encompass both natural and legal persons, whereas the penal policy had previously been limited to natural persons only. All of this aims to protect the fundamental interests and values of society and to limit the unlawful use of technology and communication means, as well as to prevent the occurrence of newly emerging crimes.

Conclusion :

In conclusion, this study can state that the criminal policy adopted in combating crime in its various forms has increasingly focused on a proactive preventive role aimed at preventing crime from occurring or stopping it from happening again. This is achieved by implementing measures and mechanisms according to a well-thought-out strategy and involving all segments of society and its actors. This approach serves as an alternative to the traditional criminal policy, which has proven inadequate in addressing crime and has created problems at the legislative level, leading to an overburdened and crisis-stricken justice sector. Moreover, the proactive preventive approach is not limited to conventional crimes but also encompasses emerging crimes that have arisen from economic, social, and technological changes experienced worldwide in what is known as the era of globalization. Emerging crimes have deviated from the traditional rules of criminal law in terms of criminalization, punishment, and even prevention. Additionally, the economic liberalization and openness have also played a role in shaping modern criminal policy in response to the proliferation and escalation of economic crimes and others in the business sector, resulting in a contemporary outline for criminal responsibility and an expansion of its scope.

Based on the above, our study concluded with a set of results that serve as the foundation for recommendations that are worthy of consideration and implementation:

¹ _ Sabrina Ben Said, Bascri Companion, Op.Cit, p. 1927.

1- Results:

- Criminal policy is the roadmap drawn by the legislator, through which the state aims to confront and prevent crime using mechanisms and measures that enable its application and success in containing the criminal phenomenon.
- Traditional criminal policy represents a set of legal rules and strategies adopted regarding criminalization, punishment, and prohibition, while modern scientific criminal policy emerged to address the shortcomings left by its predecessor in translating the adopted strategy into reality. It focused on achieving proactive preventive protection from crime and preventing its occurrence or recurrence.
- Addressing the criminal phenomenon must combine both suppression and prevention, studying the material and moral influences that have driven or continue to drive offenders to commit crimes, and then eradicating or confronting them before criminal acts arise. This is what contemporary criminal policy aims for within the framework of establishing the rule of law as a societal project in which community members share with judicial authorities in eliminating the conditions that foster criminal behaviors surrounding individuals.
- The developments and changes witnessed in the world, under the emergence of the features of the new global system and economic liberalization, have been accompanied by the emergence of new patterns of crime characterized by a unique nature in terms of content, means, and the identity of the perpetrators, in addition to the multiplicity of its forms, techniques, and its transcendence of spatial and temporal boundaries.
- Many criminal legislations, including the Algerian legislator, have adopted criminal liability for the acts of others as an exceptional means of criminal responsibility. This change is a result of developments in the economic and industrial fields, as well as the massive revolution in business projects, which has led to the proliferation of serious criminal acts. Consequently, this necessitated the expansion of the scope of criminal liability to include holding the project or institution manager accountable alongside the employee or worker who committed the criminal act.

2. Recommendations:

- Strengthen the principle of proactive crime prevention and prioritize it in the adopted strategy by preparing awareness programs, study days, and campaigns about the dangers of crime and its severe impacts on individuals and society.
- The necessity of establishing a national observatory to reduce crime, especially newly emerging crimes, as well as kidnapping, drug trafficking, and human organ trafficking. The observatory should be tasked with monitoring the movements of individuals suspected of involvement in committing or planning crimes and should be granted electronic surveillance authority to gather necessary information and enable early detection of crimes.
- Empower civil society, organizations, and national bodies to actively participate in crime prevention policies by adopting the European experience in preventing economic, domestic, and newly emerging sexual crimes. This can be achieved by granting them the authority to conduct social research in residential neighborhoods on individuals suspected of involvement in criminal acts, such as child sexual harassment or what is known as pedophilia, which would help prevent future crimes against children.

- Exploiting spaces that attract large crowds of youth, such as sports fields and large cultural halls that host various events and festivals, to launch campaigns and initiatives that encourage young people to adopt positive behaviors and steer clear of the risks associated with criminal activities.
- It is essential to conduct studies on the capacity of the material and human resources responsible for preventive policies and how well they keep pace with the developments that arise in criminal phenomena, given that these phenomena are rapidly changing and evolving. Moreover, it is important to rely on the principles of efficiency, skill, and continuous training for human resources in performing their functions.
- Utilizing digital spaces such as social media and various online platforms to launch a series of short films, known as "court métrage," that address ways to protect children and women from kidnapping, extortion, sexual exploitation, and other crimes affecting these groups, as well as addressing newly emerging and invasive criminal behaviors in societies. This is particularly relevant as these short films have gained significant popularity in recent times within community circles, and this approach has proven successful in Germany, which launched a digital project called Dhar Mann, translated into several languages including Arabic.

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