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## **Text N°: 01**

### **Public international law**

Public international law, also known as the law of nations, is a set of norms aimed at regulating the interaction between the subjects of international law that participate in international relations. Public international law norms create a common framework within which the subjects of international law operate and contribute to the existence of generally stable, organized, and consistent international relations.

Public international law can be defined also as a set of legal rules that govern the relations between subjects of public international law and define the competences and obligations of each. Or it is the set of legal rules governing relations between the subjects of the international community.

#### **The difference between public and private international law:**

While public international law governs the relationship between the subjects of international law, such as States, private international law addresses the private law rights of natural or legal persons. Private international law consists of a set of conflicts of laws rules applicable in international cases. These rules determine the applicability of a certain law in circumstances involving a choice between the municipal law of different States.

#### **Branches of Public International law:**

International law of the sea

International space law

International environmental law

International humanitarian law

International air law

International human rights law

#### **Sources of public international law:**

We can identify the sources of public international law through Article 38 of the statute of the international court of justice which states the following:

The function of the Court is to decide disputes submitted to it in accordance with the provisions of international law, in this regard, it shall apply:

- International agreements, whether general or particular, which establish rules expressly recognized by the disputing States.
- International customs in force, recognized as law by frequent use.
- Principles of public law recognized by civilized nations.
- Judgments of courts and doctrines of leading authors of public international law in various nations.
- Principles of justice and equity if agreed to by the disputing parties.

### Legal terms

Public international law	القانون الدولي العام	Rule	قاعدة
Public	عام	Certain law	قانون معين
Private	خاص	Circumstances	ملابسات-ظروف
Nation	أمة	Municipal	محلي
Norms	القواعد	Branches	فروع
To aim	يهدف	International law of the sea	القانون الدولي للبحار
To regulate	ينظم	Convention	اتفاقية
The interaction	تقاول	United nations	الأمم المتحدة
Subjects	أشخاص	International space law	القانون الدولي للفضاء
International relations	العلاقات الدولية	Environmental law	قانون البيئة
Commun	مشترك	International humanitarian law	القانون الدولي الانساني
Framework	إطار	International air law	القانون الدولي الجوي
To operate	يعمل-يجري	International human right law	القانون الدولي لحقوق الإنسان

To contribute	يساعد-يعاون	Sources	مصادر
Organize	ينظم	To identify	يعرف
Consistent	متسق - متناغم-متناقض	Statute of the international course	نظام المحكمة الدولية
Legal rules	قواعد قانونية	Judicial organ	عضو قضائي
To govern	ينظم - يحكم	Function	وظيفة
Competences	الكفاءات-القدرات	Disputes	المنازعات
Obligations	الالتزامات	To state	ينص
International community	المجتمع الدولي	Submitted	ترفع
Right	الحق	Provisions	الأحكام
Duty	الواجب	The court	المحكمة
Natural	طبيعي	Apply	تطبق
Legal persons	أشخاص قانونية	Convention	اتفاقية
Private international law	القانون الدولي الخاص	Particular	الخاصة
Consist	يتكون من- يشمل	Expressly	صراحة
Conflicts	المنازعات	States	الدول
Applicable	ينطبق	Recognized	معترف بها
Cases	حالات	Subsidiary	احتياطية
Civilized nations	الأمم المتقدمة	Custom	العرف
function	وظيفة	Provisions	الأحكام

## Text N°2

### Civil law

**Civil law definition:** Civil law as a legal system is an essential branch of the law that governs disputes between private parties it provides a legal framework for resolving disputes and unlike criminal law doesn't involve the state prosecuting an individual for a crime.

Civil law can be defined as a body of laws that deal with non- criminal disputes between private individuals corporation's entities, it encompasses various legal areas.

In this system the parties to a dispute bring their case before a court or a tribunal and a judge determine the rights and obligations of each party based on existing laws and precedents.

**Key principles and characteristics of civil law systems:** Civil law systems are based on several key principles and characteristics which are fundamental to their functioning these include:

**Codification:** the laws in civil law system are usually contained in a comprehensive code which serve as the primary source of legal authority. These codes are regularly revised and updated to keep the law current and in line with societal changes.

**Legal certainty:** civil law provides predictability and clarity by establishing and following clear rules and procedures enabling individuals to know their rights and obligations in advance.

**Judicial discretion:** judges in civil law systems have more limited discretion in interpreting the law as they are primarily bound by the codes and must apply the legal provisions consistently; this principle is designed to ensure fairness and consistency in legal decisions.

**Inquisitorial process:** in contrast to the adversarial system found in common law jurisdictions civil law systems follow an inquisitorial process where the judge plays a more active role in investigating the facts and applying the law to the dispute at hand.

**Civil law purpose and scope:** The primary purpose of civil law is to provide a legal framework that enables parties to resolve their disputes in a fair predictable and efficient manner. The scope of civil law encompasses a variety of legal issues including:

**1-Contract law:** which deals with creation interpretation and enforcement of contracts between private parties governing aspects such as performance breach and remedies for non-performance.

**2- Tort law:** this branch of civil law concerns civil wrongs that cause harm and injury to others including negligence. victims of torts can seek compensation for the damages suffered as a result of the wrongful conduct of another party.

**3-Property law:** civil law in this area governs the ownership use and transfer of property both real estate and personal property. property law principles regulate various aspects including: property rights leases and mortgage agreements.

### Legal terms

Civil law	القانون المدني	Case	القضية
Legal	قانوني	Tribunal	المجلس
System	نظام	Court	المحكمة
Essential branch	فرع أساسي	Judge	القاضي
Govern	يحكم	Rights	الحقوق
Disputes	المنازعات	Obligations	الالتزامات
Private parties	أطراف خاصة (الخواص)	Party	الطرف
Provide	يوفّر	Exiting laws	القوانين الحالية
Legal framework	إطار قانوني	precedents	السابقون
Criminal law	القانون الجنائي	characteristics	خصائص
State	دولة - حالة	fundamental	أساسي
prosecuting	مقاضاة	Codification	تقنين
individual	فرد	Code	قانون - قانون
Crime	جريمة	Primary source	مصدر أساسى
Non-criminal	غير جنائي	Legal authority	سلطة قانونية

Corporations	جماعات	Regularly	بانتظام
Entities	كيانات	Revise	يراجع
Legal areas	مجالات قانونية	Update	يحدث
Legal certainty	يقين قانوني	Current	الحالي
predictability	تنبؤات	Societal changes	التغيرات المجتمعية
clarity	وضوح	Inquisitorial	تحقيق
procedures	إجراءات	Process	عملية- أسلوب
individuals	أفراد	Common law	القانون العام
Judicial	قضائي	jurisdiction	السلطة القضائية
discretion	تقدير	Investigation	التحقيق
Interpreting	تقدير	facts	الواقع
Ensure	ضمان	Dispute	النزاع
Fairness	العدالة	purpose	الهدف- الغاية
Efficient	كفاءة	Contract	العقد
Issues	القضايا	enforcement	تنفيذ
Aspects	جوانب	Performance	الأداء
Tort law	المسؤولية التقسيمية	Civil wrongs	الأخطاء المدنية
Harm- injury	الضرر	Cause	يسبب
negligence	الإهمال	breach	إخلال
Victims	الضحايا	Torts	الضرر
Compensation	التعويض	Damages	الأضرار
result	النتيجة	conduct	سلوك
Property- ownership	الملكية	govern	ينظم

Real estate	العقارات	leases	عقود الإيجار
mortgage	الرهن الرسمي	transfer	نقل

### Text N°:03

#### **Obligations**

Obligation is a legal bond of financial value between two or more parties, whereby one of them, called the debtor, is obligated to perform a certain act, give something, do something, or refrain from doing something, for the benefit of another party, called the creditor.

#### **Characteristics of obligation:**

The term "obligation" refers to a binding relationship between individuals: it means that the obligation is a legal relationship between two parties: the creditor and the debtor, in which the debtor is bound to perform an action, refrain from performing an action, or deliver something for the benefit of the creditor.

The subject of the obligation is to perform a specific financial duty: this duty may involve the debtor providing something or performing a specific act for the benefit of the creditor, such as paying a sum of money or providing an item. It could also involve refraining from a particular act, such as a specific trader (debtor) refraining from competing with another trader (creditor) in a certain business activity. What distinguishes this performance is that it can be assessed in monetary terms, thereby differing from general legal duties, such as the obligation to perform national service. For this reason, some legal scholars consider an obligation a specific legal duty.

**An obligation is a legal bond:** Obligation is a legal bond means that it is legally binding, representing a legal duty upon the debtor. Should the debtor fail to fulfill this duty voluntarily, the creditor has the right to compel its execution through legal means. This distinguishes a legal obligation from a moral or religious obligation and from a natural obligation.

**Kinds of obligations:** there are three kinds of obligations, which are:

**1-In terms of legal protection:** obligations can be categorized into civil and natural obligations based on the legal safeguards afforded to the creditor.

**A civil obligation:** it means that comprises both the elements of liability and indebtedness. Therefore, based on the element of liability, the creditor has the right to compel the debtor to fulfill the obligation through legal means. Consequently, the creditor enjoys adequate legal protection to ensure that he can recover the debt from the debtor.

**The natural obligation is:** that obligation which consists solely of the element of indebtedness and lacks the element of liability. If the debtor does not voluntarily fulfill the obligation, the creditor cannot compel him to do so due to the absence of liability. Therefore, we can state that the natural obligation does not enjoy legal protection.

**2- The obligation in terms of its subject matter:** The obligation is divided into three types, represented by:

**The obligation to give something:** refers to the obligation to establish or transfer a real right, such as the obligation of the owner to create a servitude or the obligation of the seller to transfer ownership of the sold item.

**Obligation to Perform an Act:** The subject of the obligation may involve the debtor performing a specific act for the benefit of the creditor or another party. This applies in cases where the debtor commits to engaging in a particular activity for the creditor, such as an artist undertaking to create a specific painting for a designated individual. Similarly, this act may be physical, but it can also be a legal act, such as the obligation of an agent to execute a specific legal transaction on behalf of the principal and for their account.

**Obligation to refrain from an Act:** In this type of obligation, the debtor undertakes not to do a certain act, such as a person's commitment not to build a wall on his land, because this construction would obstruct air and light to his neighbor. In this case, the person is considered to be compliant as long as he does not construct the wall. However, if he built the wall, he would be in breach of his obligation, and in this case, the creditor can demand obliging the debtor to remove the construction.

**3- The obligation to achieve a result or to exercise care:**

An obligation to achieve a result" is one in which the substance of the debtor's obligation represents the goal that the creditor seeks to accomplish by binding the debtor. For example, the seller's obligation to transfer ownership and the buyer's obligation to pay the price.

**The obligation of due diligence:** this is an obligation in which the debtor's performance is not the final aim or goal that the creditor seeks to achieve by obligating the debtor. Instead, it represents only the means that ultimately leads to the creditor's aim and his final purpose, for this reason, this obligation is called "obligation of mean," as an example, the issue of doctor's responsibility, he does not undertake to cure the patient (the creditor), but only undertakes to provide the necessary care to treat patient until he is fully recovered.

**Sources of Obligation:** Sources of Obligation are:

**1- A contract:** the Algerian legislator defined the contract in the Article 54 of the Civil Code which state: "a contract is an agreement by which one or more persons commit themselves towards one or more other persons to give, do, or refrain from doing something."

**2- Unilateral will:** it is a legal action undertaken solely by the will of one party, aimed at producing specific legal effects independently, without requiring the concurrence of another party's will.

**3-Tort liability:** it refers to the penalty resulting from a breach of a general legal obligation, which is the duty to avoid causing harm to others.

The Algerian legislator addressed this liability in the first section related to the sources of obligation, specifically in Chapter Three, under the title "Act Entitling Compensation." From Article 124 to Article 140 bis 1 of the Algerian civil law. This chapter is divided into three sections as follows:

**Section One:** Responsibility for Personal Action: articles from 124 to 133 of the Algerian civil law.

**Section two:** Responsibility for the action of others: articles from 134 to 137 of the Algerian civil law.

**Section 3:** Responsibility for things: articles from 138 to 140 bis 1 of the Algerian civil law.

**4-unjust enrichment:** Article 1 of the Algerian Civil Code states: Anyone who, in good faith, gains from the work of another or from something of his that has no justification shall be obligated to compensate the person at whose expense the enrichment occurred, to the extent that he gained from the work or thing.

**5-Law:** Article 53 of the Algerian Civil Code states that: The legal texts that it has established shall apply to obligations arising directly from the law (and no other).

### Legal terms

Obligation	الالتزام	individuals	الأفراد
Financial value	قيمة مالية	Subject of the obligation	محل الالتزام
Parties	أطراف	Duty	واجب
Debtor	مدين	Paying a sum	دفع مبلغ
Creditor	دائن	Particular act	عمل معين
To perform	يؤدي - يقوم بـ	Trader	التاجر
Act-action	فعل - عمل	Competing	التنافس
Refrain to do Something	الامتناع عن القيام بشيء ما	Business activity	نشاط تجاري
Benefit	مصلحة	National service	الخدمة الوطنية
Voluntarily	إراديا - طوعية	To compel	يجر
Execution	تنفيذ	distinguishes	يميز
Moral	أخلاقي - معنوي	religious	ديني
Natural	طبيعي	Kinds of obligation	أنواع الالتزام
Safeguards	ضمانات	Civil obligation	الالتزام المدني
Liability	المسؤولية	indebtedness	المديونية
Fulfill	تنفيذ	Legal means	الطرق (الوسائل) القانونية
Adequate	مناسب	Protection	حماية
Establish	إنشاء	owner	مالك
Servitude	الارتفاق	transfer	ينقل

Seller	البائع	undertaking	يتعد
Agent	الوكيل	neighbour	الجار
Compliant	منفذ-مطيع- مذعن	In breach of his obligation	في خرق لالتزامه
Structure	البناء	Achieve a result	تحقيق نتيجة
Transfer the ownership	نقل الملكية	buyer	المشتري
Price	الثمن- السعر	Due diligence	العناية المطلوبة- المناسبة-
Final aim	الغاية النهائية	To lead to	يؤدي إلى
Similar	مشابه	guarantee	ضمان
Patient	المريض	contract	العقد
Agreement	اتفاق	commit	يرتكب
Will	إرادة	action	تصرف
Legal effect	أثر قانوني	undertaken	تم التعهد به
Independently	بصفة مستقلة- منفردة	concurrence	توافق- تطابق-منافسة
Penalty	العقوبة	General legal obligation	التزام قانوني عام
Causing	يسبب	Act entitling compensation	الفعل المستحق للتعويض
Responsibility	المسؤولية	Personal action	الفعل الشخصي
Unjust enrichment	الإثراء بلا سبب	Good faith	حسن النية
Gain	ينال- يكسب	compensate	يعوض- يكافي
Expense	نفقة	enrichment	إثراء
To the extent	إلى الحد- بقدر	apply	يطبق

## Text N°4

### The classification of contracts:

The number and variety of contracts are infinite. However, several classification can be established, according to different criteria.

#### **A. The different classifications of contracts:**

##### **1. Classification according to the content of the obligation :**

The parties to the contract freely enter the obligations contained there in, provided that they comply with laws and regulations.

##### **1. A distinction is made according to the content of the contract:**

- \* **unilateral contracts:** contracts which only give rise to obligations for one party. : Ex The donation
- \* **Bilateral contracts at the synallagmatic:** contracts that give rise to obligations for both parties (reciprocal obligations) Ex: sales contract.
- \* **Contracts for value:** contracts which oblige each of the parties to give or do something: Ex: transport contract.
- \* **Free contracts:** contracts which oblige only one of the two parties to give or to do something. Ex : The donation
- \* **Instant execution contracts:** a contract in which the obligations are executed instantly (simultaneously). : cash selling ;
- \* **Successive performance contracts:** contracts for which the performance of obligations is staggered. Ex: Rental contract, subscription contract;
- \* **Commutative contracts:** contract whose obligations are known from the conclusion of the contract. Ex : sales contract
- \* **Random contracts:** contracts whose obligations are not known at the time of their conclusion. Their execution depends on a hazard, Ex : Insurance contract.

##### **2. Classification according to the method of formation of the contract:**

The contract offer and its acceptance do not always meet under the same conditions. The way to enter into a contract is not always the same. The contract formation conditions make it possible to distinguish:

- **Consensual contracts:** contracts formed upon the exchange of consents, without the need to observe a particular form (eg: verbal sale of furniture);
- **Formal contracts:** which can be of two kinds: real contracts, contracts which require, in addition to the consent of the parties, the material delivery of the thing (the object of the contract) or solemn contracts, contracts which are only formed. " on condition that they are made in the form of written deeds, most often drawn up before a notary (Ex :Donation, mortgage)
- **Over-the-counter contracts:** contracts the content of which is freely debated by the parties (eg: the employment contract in certain cases);
- **Membership contracts:** contracts in which one of the economically stronger parties imposes its conditions on the other party, who only signs up (eg purchase of a train ticket, bank loan).

### **3. Classification according to the scope of the contract:**

In principle, most contracts only have effect between the parties, but this is not always the case: some contracts may directly concern people who have not signed them. So we can distinguish.

- **Individual contracts:** which only give rise to obligations that are the responsibility of the two parties who concluded them (eg: sale, transport, insurance, etc.)
- **Collective contracts,** the obligations of which extend beyond the persons who concluded them (eg: collective convention)

### **B - Benefits of the distinction between contracts:**

#### **1. Different contracts, different legal regimes:**

The legal regime of a contract is the set of rules that it must respect. It was unimaginable that each contract had its own legal regime, or vice versa, all had an identical legal regime. Hence the interest in classifying them according to specific criteria. In particular, this allows the legislator and the judge to exercise some control over their validity.

#### **2. Interest of distinctions**

Each classification corresponds to a particular concern of the legislator or the judge. The legislator exercises its control through the regulations it imposes. The judge exercises his control during disputes between parties

### Legal terms

The classification of contracts	تقسيمات العقود	The offer and the acceptance	الايجاب والقبول
The content of the contract	محتوى (مضمون) العقد	Consensual contracts	العقود الرضائية
To contract	يتعاقد	The exchange of consents	تبادل الرضا
Provided that	شرط أن	Verbal sale of furniture	بيع الاثاث شفويًا
To comply (compliance)	توافق (الامتثال)	Formal contracts	العقود الشكلية
Law and regulations	القانون والتنظيمات	Real contracts	العقود العينية
Unilateral contracts	العقود الملزمة لجانب واحد	The material delivery	التسليم المادي
The donation contract	عقد الهبة	Solemn contracts	عقود رسمية
Bilateral contracts(synallagmatic)	العقود الملزمة لجانبين	To draw up	تحرر
Reciprocal obligations	الالتزامات المتبادلة	Mortgage contract	عقد الرهن العقاري
Sales contracts	عقود البيع	Over-the counter contracts	عقود المساومة
Contracts for value	عقود المعاوضة	Membership contracts	عقود الازعان
Transport contract	عقد النقل	Bank loan	قرض بنكي
Free contracts	العقود المجانية	The scope of the contract	نطاق العقد
Instant execution contracts	العقود الفورية	Individual contracts	العقود الفردية
Successive performance contracts	العقود الزمنية (المستمرة)	To conclude the contract	يبرم العقد
Rental contracts	عقود الاجار	Collective contracts	العقود الجماعية
Subscription contracts	عقود الاشتراك (الاكتتاب)	Collective convention	اتفاقية جماعية

Commutative contracts	العقود المحددة القيمة	Legal regimes	أنظمة قانونية
Conclusion of the contract	ابرام العقد	The set of rules	مجموعة القواعد
Random contracts	عقود الغرر (الاحتمالية)	The legislator	المشرع
Insurance contract	عقد التامين	Disputes	منازعات
Control	رقابة	Parties	أطراف

### Text N°5

#### Commercial law

Commercial law is a branch of private law, which came to regulate an important economic sector, which is trade, it is the product of the commercial environment, arose and developed under the pressure of economic needs, the practical necessities that necessitated the subjection of a certain category of transactions are businesses and a certain group of persons are merchants for a special legal regulation that is consistent with the requirements and demands of trade.

The term commercial law appeared at the end of the eighteenth century, and it is currently the commercial law that issued by Napoleon in 1807. Before this date, there was talk about the law or customs of merchants, which consists mainly of customs and judicial rulings.

Jurist Ali Al-Baroudi defines commercial law as « a branch of private law that governs commercial businesses and The activity of merchants in practicing their trade », as defined by the jurist Mustafa Kamal Taha, is « a branch of private law includes a set of legal rules that apply to businesses and merchants ».

Dr. Farha Zarawi Saleh defines it as « part of the private law related to legal processes done by merchants among themselves or with customers ».

Jurists Jacques Mestre and Marie-Eve Pancrazi define it as: « a branch of private law,

related to the legal operations carried out by merchants, whether among themselves or with their customers, so this is called Business operations are ultimately related to the practice of trade ».

## **II- Characteristics of commercial law (justifications for the emergence of commercial law) :**

Commercial law as a branch of private law is not severable from private law, however, This does not negate the fact that commercial law has its own characteristics and the importance of a process that imposed its existence, which is essentially represented in the features of speed and credit.

**A- Speed:** Unlike civil works, which characterized by slowness and are not performed in an individual's life except at intervals –Divergent, and therefore those concerned resort to discussion, dialogue, and caution in accepting conditions offered to them, Business is characterized by speed, as it follows one another a lot in the life of the merchant since it responds to goods, It is vulnerable to damage and price fluctuations, which imposes special rules that differ from the rules of civil law and among these rules:

**1- Freedom of proof in commercial matters:** If the general rule for proof in civil matters is the necessity of writing in contracts and legal transactions worth more than 100,000 DZD (one hundred thousand Algerian dinars) or If the value is not specified, proof in commercial materials is free, so proof of contracts and legal commercial transactions is available by witness testimony, invoices, commercial books, and correspondence, methods of proof, even in all cases which its value increased from one hundred thousand (100,000) Algerian dinars.

**2- Trading fixed rights in instruments:** It is done easily, such as: trading commercial papers, securities...ect.

## B-Credit :

Merchants are linked to each other by successive ties based on credit and trust, so if one of them violates this trust and falls behind fulfilling his debt when the deadline comes, this leads to disruption in transactions and tracks the inability of others to fulfill their debts.

For this reason, commercial law supports credit with a set of rules, the most important of which are:

**1 Assuming solidarity between debtors with commercial obligations** : when they are multiple, without the need for an explicit agreement or text in law.

**2 Bankruptcy system**: which is based on liquidating the funds of the merchant who has stopped paying, collective liquidation, and distributing the result from this liquidation for creditors, each in proportion to his right before the debtor, and this system is also characterized by strictness in its provisions, as it results the debtor being unable to manage and dispose of his money and even losing some of his civil and political rights.

## Legal terms :

Commercial law	القانون التجاري	To resort	تلجأ
Private law	قانون خاص	Accepting conditions	قبول الشروط
To regulate ( to govern)	تحكم ( تنظم)	Vulnerable to damage	معرضة للتلف
Trade( commerce)	تجارة	Price fluctuations	تقلبات الاسعار
The subjection	إخضاع	Special rules	قواعد خاصة
Category	فئة- طائفة	The rules of civil law	قواعد القانون المدني
Transactions	المعاملات	Freedom of proof	حرية الإثبات
Businesses	الاعمال	Commercial matters	( المواد- المسائل) التجارية
Merchants	التجار	The general rule	القاعدة العامة
Special legal regulation	تنظيم قانوني خاص	Civil matters	المواد المدنية
Consistent	متوافق ( متسق)	legal transactions	المعاملات القانونية

The requirements(Demands)	متطلبات وشروط	Worth more than	تزيد قيمتها عن
The law of customs of merchants	قانون أعراف التجار	Free	مطلق-حر ( غير مقيد)
Customs rulings	أحكام عرفية	Legal commercial transactions	المعاملات القانونية التجارية
Judicial rulings	أحكام قضائية	Witness testimony	شهادة الشهود
Commercial businesses	الاعمال التجارية	Invoices	الفواتير
The activity of merchants	نشاط التجار	Commercial books	الدفاتر التجارية
Practicing the trade	ممارسة التجارة	Correspondence	راسلة
Jurist	الفقيه( رجل قانون)	Methods of proof	طرق الثبات
A set of legal rules	مجموعة من القواعد القانونية	Trading fixed rights	تداول الحقوق الثابتة
Apply	تطبيق	Commercial papers	سرقة بالسلاح سطو مسلح
Legal processes	عمليات قانونية	Securities	السندات والأوراق المالية
Customers	عملاء ( زبائن)	Credit and trust	الائتمان والثقة
Legal operations	عمليات قانونية	To violate	خرق- انتهاك- مخالفة
Carried out( carrying out)	تنفذ	Falls behind fulfulling his debt	عاجز عن تسديد دينه
Business operations	عمليات تجارية	deadlines	الاجال
Characteristics	خصائص	Assuming solidarity between debtors	افتراض التضامن بين المدينين
The emergence	بروز ( ظهور)	Commercial obligations	الالتزامات التجارية
Speed and credit	السرعة والائتمان	An explicit agreement	اتفاق صريح
Civil works	الاعمال المدنية	Bankruptcy system	نظام الافلاس
Collective liquidation	تصفية جماعية	the funds of the merchant stopped paying	اموال التجار المتوقف عن الدفع
The result of liquidation	ناتج التصفية	The debtor	المدين

Creditors	الدائنين	Strictness in its provisions	الصرامة في أحكامه
In proportion to his right	كل حسب حقه	Being unable to manage his money	عاجز عن ادارة اموال (غلت يده عن إدارة أمواله)
Being unable to dispose	عاجز عن التصرف	Losing political and civil rights	فقد الحقوق السياسية والمدنية

## Text: 06

### The scope of commercial law

Commercial law is based on one of two theories: personal (subjective) theory and materialist (objective) theory.

**I -Personal theory:** It states that commercial law limits the application of its provisions to those in charge of professions, The commercial profession means merchants, so it does not include anyone else. As for anyone other than the merchant, the commercial law has nothing to do with him, so it does not apply only to those who acquire the status of a merchant because they have mastered one of the crafts that the legislator considers commercial.

Commercial law arose based on personal theory, and its provisions crystallized in the Middle Ages between Sects of merchants, so it was a sectarian or professional law specific to merchants alone.

This theory of modern legislation was embraced by the German legislator under the German codification issued in 1897, as well as the Syrian legislation issued in 1881, and the Italian legislation issued in 1942.

Personal theory is criticized for being inaccurate because it requires setting a standard that differentiates between merchant and non-merchant by identifying the commercial professions that give those who practice them the status of merchants, this is difficult to achieve, because

It is difficult to list all the commercial crafts.

Also, the merchant's activity in life is not limited to the commercial aspect, but there is civil activity related to his private life and his living needs, and thus logic dictates that these actions should not be subject to commercial law, even if he did them a dealer. In addition, a non-merchant may engage in speculation and make a profit, which requires him to be subject to the Commercial law, as it is not acceptable to say that this work is subject to civil law because the one who did it is not a merchant

Especially with the generalization of taking commercial means between individuals, whether merchants or non-merchants (banking operations and commercial papers).

**II- Materialist (objective) theory:**

This theory is based on business as the axis that revolves about it the rules of commercial law, regardless of the status of the person in charge of it, meaning that commercial law applies on commercial businesses, even if the person in charge is a civilian, and the Civil Code applies to civil businesses, even if the person in charge of it was a merchant. This theory is concerned with defining and identifying businesses that are considered commercial, so it can be said that Commercial law is the law of commercial work, not the law of merchants. It was said in justifying this theory that it is more in line with the principle of equality between citizens and the principle of freedom of trade.

This theory is criticized for the difficulty of defining businesses in advance, or at least setting a standard by which to guide them to distinguish commercial work from civil work, it also has the disadvantage of expanding the scope of application of commercial law without justification: Commercial law arose as a specific law for merchants and must remain so. It must be applied to Commercial profession, not commercial work.

### **III - The position of the Algerian legislator:**

Anyone who browses the provisions of Algerian commercial law will notice that the Algerian legislator has adopted both materialist and personal theories, The first theory appears in Articles 02 and 03 through his enumeration of business, while the personal theory appears by taking the merchant system in the first article and the theory of accessory business in the article 4 from the Algerian commercial law, meaning that there is an interaction between the two theories.

#### **Legal terms :**

The scope of commercial law	نطاق القانون التجاري	The application of provisions	تطبيق الأحكام
Personal(subjective) theory	النظرية الشخصية (الذاتية)	merchants	التجار
Materialist(objective) theory	النظرية الموضوعية (المادية)	The status of a merchant	صفة التاجر
To be crystallised	تبلور	The Algerian legislator	المشرع الجزائري
Sectarian law	قانون طائفي	The provisions	نصوص- أحكام
The issued codification	النفاذ الصادر	To adopt	تبني
Non-merchant	غير التاجر	articles	المواد

Commercial crafts	الحرف التجارية	Enumeration of businesses	تعداد الاعمال التجارية
Merchant's activity	نشاط التاجر	Merchant system	نظام التاجر
Be subject to commercial law	يُخضع للقانون التجاري	Accessory businesses	الأعمال التجارية بالتبغية
Banking operations	العمليات البنكية	Principle of equality between citizens	مبدأ المساواة بين المواطنين
Commercial papers	أوراق تجارية	Principle of freedom of trade	مبدأ حرية التجارة

## Text N°7

### Sources of commercial law

Article 1 bis of the Algerian Commercial Code states: « Commercial law applies to relations between traders, and in the absence of a text therein, the Civil Code and professional customs shall apply when necessary »

Sources of commercial law, like other laws, are of two types: official sources and interpretive sources.

**1- Official Sources:** They are represented by legislation, custom and commercial habits.

**1st legislation:** Commercial legislation and civil legislation include:

**A/Commercial Legislation:** The commercial legislation currently applied in Algeria is issued by the Ordinance No. 75/59 of September 26, 1975, as amended and supplemented by Law No. 87-20 of December 25, 1987 containing the Finance Law of 1988 and Legislative Decree 93/08 of April 25, 1993, Ordinance No. 96-23 of July 9, 1996 and Ordinance 96-27 of December 9, 1996 Law No. 05/02 of 06/02/2005 and Law No. 15/20 of 12/30/2015, and Law No. 22/09 of May 5, 2022.

The meaning of commercial legislation also refers to all the specific texts that complement it, the most important of which are:

Law - 90/22 of 08/18/1990 relating to the commercial register.

The Ordinance 03/11 of August 26, 2003 relating to cash and loans.

Law No. 01/13 of August 7, 2001 containing directing and regulating land transport.

The law 04 - 08 of August 14, 2004 relating to the conditions for practicing commercial activities.

Law No. 04/02 of June 23, 2004 setting out the rules applicable to commercial practices.

Law - 09/03 of February 25, 2009 on consumer protection and suppression of fraud.

Law No. 18/05 of May 10, 2010 relating to electronic commerce.

Ordinance No. 96/23 of July 9, 1996 relating to the judicial agent.

Ordinance No. 03/06 of July 19, 2003 relating to marks.

Ordinance No. 03/07 of July 19, 2003 relating to patents.

Ordinance No. 03/08 of July 19, 2003 relating to the protection of formal designs of integrated circuits.

**B/Civil legislation :** It means the texts issued by the Ordinance 75/58 of 09/26/1975 containing the Civil Code amended and supplemented several times, the last of which was to Law 05/07 Issued on 05/13/2007, and as general Sharia law, the texts of the Civil Code are applicable in the absence of a provision in commercial legislation and its complementary texts, the provisions of the Civil Code do not It inevitably applies in commercial matters whenever commercial legislation is devoid of special texts, but rather its application requires that It is fully consistent with the requirements of the business environment based on speed and credit, whether the Civil law rule is contrary to the necessities of commercial life and must be excluded from the scope of commercial law.

If a conflict occurs between a civil text and a commercial text, the commercial text must be applied, as there is no place for application Civil text is the general rule when there is a commercial text and a special rule, regardless of date of the two texts.

**2<sup>nd</sup> commercial custom:** Commercial custom is a rule that merchants have followed for a long period of time, believing that it is obligatory and necessary respect it.

Although the abundance of legislation and the ease of issuing it are narrow within the scope of the customary rule, it is still customary. It has a special importance in commercial law that exceeds its importance in any other branch of law.

Examples of customary commercial rules include the principle of purification of defenses and the principle of independence of signatures in commercial papers.

Custom is a law that the judge applies whenever the interested party is able to prove it or whenever the judge clarifies it, whether by his own initiative himself or from the testimony of experts, and as a law it is subject to the supervision of the Supreme Court.

### **3<sup>rd</sup> commercial habits :**

Commercial habit differs from commercial custom in that it does not acquire the force of binding except from the will of the contracting parties. It is a rule that is followed regularly without any belief in its obligation or the necessity of respecting it. Habits are of great importance in commercial matters, for two reasons:

1-The speed with which business operations are characterized

2-Since commercial transactions take place between merchants, there is no need for them to be included in their contracts, all the usual familiar conditions between them.

### **2- Interpretive resources :**

**First: Judiciary:** Contrary to what is known in Anglo-Saxon countries, where case law is considered binding: The judiciary in countries of the Germanolatin regime, such as Algeria, is not considered an official source, but only an interpretive one, However, the rulings of the judiciary, especially the rulings of the Supreme Court, have a great moral impact that reaches all other judges to the extent of stable respect for the above judicial principles.

**Second: Jurisprudence:** Jurisprudence helps and complements the judiciary, because the judge decides on a specific dispute that arises in action. As for jurisprudence , It specializes

in explaining the generalities and explaining the principles, and each judge and jurist needs the other.

### Legal terms:

To state( to stipulate)	تنص	The principle of independence of signature in commercial papers	مبدأ استقلالية التوقيعات في الاوراق التجارية
Trader(s)	التجار ( التجار)	The principle of purification of defenses	تطهير الدفع
Professional customs	الاعراف المهنية	To prove (The proof)	اثبت (اثبات)
Official sources	المصادر الرسمية	Testimony of experts	شهادة الخبراء
Interpretive sources	المصادر التفسيرية	The supervision of the supreme court	اشراف المحكمة العليا
Legislation	التشريع	The force of binding	قوة الالزام
Customs	الاعراف	The will of the contracting parties	ارادة الاطراف المتعاقدة
Commercial habits	العادات التجارية	Followed regularly	المتبعة بانتظام
The ordinance	الامر	Belief in its obligation	الاعتقاد بالزاميتها
Amended and supplemented	المعدل والمتمم	Business operations	العمليات التجارية
Containing the finance law	المتضمن قانون المالية	Commercial transactions	المعاملات التجارية
Specific texts	نصوص خاصة	Judiciary	القضاء
To complement	تكميل	Anglo-saxon countries	الدول الانجلو-سكسونية
Commercial register	السجل التجاري	Case law	السابقة
Cash and loans	النقد والقرض	Is binding	ملزمة
Directing and regulating land transport	توجيهه وتنظيم النقل البري	Germano-latin regime	النظام الجرمانو لاتيني

Conditions for practicing commercial activities	شروط ممارسة النشاطات التجارية	The rulings of the judiciary	أحكام القضاء
The rules applicable to Commercial practices	القواعد المطبقة على الممارسات التجارية	Judicial principles	المبادئ القضائية
Consumer protection and suppression of fraud	حماية المستهلك وقمع الغش	Jurisprudence	الفقه (الاحتماد الفقهي)
Electronic commerce	التجارة الالكترونية	Disputes	المنازعات
Judicial agent	الوكيل المتصرف القضائي	Explaning generalities	تفسير وشرح الاصول
Commercial marks	العلامات التجارية	Excluded	مستبعدة
Patents	براءات الاختراع	The scope of commercial law	نطاق القانون التجاري
Protection of formals designs of integrated circuits	حماية التصاميم الشكلية للدوائر المتكاملة	Conflict	النزاع
Complementary texts	نصوص تكميلية	Be applied	تطبق
Commercial matters	المواد (المسائل التجارية)	Commercial customs	الاعراف التجارية

## Text №: 08

### criminal law:

**Definition of Criminal law:** Criminal law is a set of legal rules that regulate the principles of criminalization and punishment and determine the acts that constitute crimes. It also regulates the procedures for investigating and prosecuting crimes, the rules of the trial, and the execution of punishment.

The criminal law is a branch of public law, that includes both penal code which is a set of legal rules that define the crime and shows its prescribed punishment, and the criminal procedure code, which includes a set of legal rules that indicate the procedures that must be followed from the time of the occurrence of the crime until the perpetrator is punished

**The purpose of criminal law:** The criminal law aims to protect society from harm from criminal behavior by deterring people from committing crimes, by punishing those who commit crimes, and by rehabilitating those who have been convicted of crimes.

**There are two types of deterrence:** General deterrence and specific deterrence.

General deterrence can be defined as the impact of the threat of legal punishment on the public at large, but private deterrence is the effect of punishing people who have committed crimes.

**Definition of the crime:**

a crime is an illegal act or default which is an offence against the public and renders the person guilty of the act or default liable to legal punishment.

A crime is a legal wrong that remedied by punishing the offender in the courts of the state.

“An act or abstention from act in the violation of criminal law without justification and sanctioned by the law as felony or misdemeanour.

Whatever definition of a crime may be adopted, we can say that the crime is;

- an act or omission

-Prescribed by the state

- has a penalty determined by law

**Classifications of Crimes:**

Criminal law categorizes crimes to reflect their severity, it recognizes three categories of crimes: felonies, misdemeanors and infractions.

Felonies represent the most serious crimes and include crimes such as murder, rape, and armed robbery. Severe penalties often accompany these crimes. Penalties can include long-term imprisonment and capital punishment.

Misdemeanors are less severe than felonies but more serious than infractions, Examples of these crimes include vandalism and petty theft. typical penalties may include society service, fines, or shorter jail terms.

Infractions are the least serious category of crimes, these crimes usually involve minor offences, such as public nuisance or traffic violations, they may be punishable by jail or a fine.

Article 27 of the Algerian Penal Code stipulates that crimes are divided, according to their seriousness, into felonies, misdemeanors and contraventions.

### **Crime Penalties: Original penalties:**

**Felony penalties:** according to the article n 5 of the Algerian penal code, the original penalties in felonies are:

- Death penalty
- Imprisonment for life
- Interim imprisonment for a period ranging from 5 to 20 years.

**misdemeanour Penalties:** The penalties for misdemeanors are:

Detention for a period exceeding two months to five years, except in cases where law stipulates other limits.

- A fine exceeding 20000 dinars

The penalties for contraventions are:

- Detention for a period of one day at least to two months
- A fine from 2000 dinars to 20000 dinars.

**Additional penalties:** Article number 9 of the Algerian penal code has defined the additional penalties as follows:

- Legal interdiction
- interdiction of exercising national and civil and family rights
- Determine of residence
- Prohibition of residence

- Partial confiscation of properties
- Temporary forbid to practice a profession or activity
- Closing the establishment
- Exclusion from public deals
- interdiction of issuing checks and/or using payment cards
  - Suspending, withdrawing or canceling the driving license with preventing the issuance of a new licence
- Withdrawal of passport
- Publishing or displaying the conviction judgement or decision.

### Legal terms

Criminal law	القانون الجنائي	Acts	أفعال
Legal rules	قواعد قانونية	constitute	يكون
Principles	مبادئ	crime	جريمة
Criminalization	تجريم	Regulate	ينظم
Punishment	عقاب	Procedures	إجراءات
Determine	يحدد	investigation	بحث- تحقيق
Trial	المحاكمة	Penal code	قانون العقوبات
Implementation	تطبيق - تنفيذ	Legal rules	قواعد قانونية
To protect	يحمي	prescribed	المقرر
Society	المجتمع	Criminal behavior	السلوك الاجرامي
deter /deterrence	ردع	rehabilitating	إعادة التأهيل
convicted of crime.	أدين بجريمة	impact	تأثير
Threat	تهديد	Legal punishment	عقوبة قانونية
Public deterrence	ردع عام	Default	تضليل
Private deterrence	ردع خاص	Offence	جريمة

Guilty	متهם	offender	الجاني
Violation	مخالفة-خرق-انتهاك	sanction	عقوبة(جزاء)
Felony	جناية	misdemeanour	جنحة
To adopt	يتبنى	omission	امتناع
Prescribed by the state	مقررة من الدولة	murder	قتل
Rape	اغتصاب	armed robbery	سرقة بالسلاح سطو مسلح
Severe penalties	عقوبات شديدة	Long term	مدة طويلة
Imprisonment	سجن	capital punishment	إعدام
Vandalism	تخريب	petty theft	سرقة بسيطة
typical penalties	عقوبات نموذجية	society service	خدمة المجتمع (النفع العام)
Fine	غرامة	Jail	حبس
Infraction	مخالفة	Minor offences	جرائم بسيطة
Traffic violation	مخالفة المرور	Stipulate	ينص
Death penalty	الإعدام	Imprisonment for life	السجن مدى الحياة
Interim imprisonment	الحبس المؤقت	Detention	الحبس- الاحتجاز- الاعتقال
A fine exceeding 20000 dinars	غرامة تتجاوز 20000 دج	Additional penalties	عقوبات تكميلية
Legal interdiction	الحجر القانوني	Temporary forbid to practice a profession or activity	المنع المؤقت من ممارسة مهنة أو نشاط
interdiction of exercising rights	الحرمان من ممارسة الحقوق	Closing the establishment	إغلاق المؤسسة
Determine of residence	تحديد الإقامة	Exclusion from public deals	الإقصاء من الصفقات العمومية
Prohibition of residence	المنع من الإقامة	interdiction of issuing checks	الحظر من إصدار الشيكات
Partial confiscation of properties	المصادرة الجزئية للممتلكات	payment cards	بطاقة الدفع
Suspending	تعليق	withdrawing	سحب

driving license	رخصة السيارة	preventing	منع
issuance of a new licence	إصدار رخصة جديدة	Withdrawal of passport	سحب جواز السفر
Publishing	نشر	displaying	تعليق
conviction judgement	حكم الإدانة	Decision	قرار

## Text: 09

### Elements of the crime

**Elements of the crime:** The elements of crime are defined as the components that must be proven in order for a judge to establish the guilt of the defendant in committing a crime and achieve a conviction.

The material element means the external appearance or material behavior as defined by the text of the law and considered a crime, and through it the attack on the interest protected by law is achieved under the rule “There is no crime without a material element.”

**Elements of the material element:** The material element consists of three elements:

Act, effect (result) and causal relationship between them

**Act:** is the behavior or action that the perpetrator performs, which is the external physical activity of the crime, or the perpetrator's voluntary movement that results in a change in the external world.

The crime goes through three stages:

**The first stage:** The stage of thinking and determination

**The second stage:** Preparatory stage of the crime

**The third stage:** is the beginning of executing the crime (the attempt)

The first stage is not punishable by the legislator because it is related to intention and thinking only.

The second stage, which is the stage of preparatory work for the crime, is not punishable by the legislator unless the crime is committed

**Example:** Buy sleeping pills, wire, rope, or a knife

**The third stage:** is the beginning of executing the crime.

**Elements of the material element of the crime:**

Criminal behavior may be positive or negative

**Positive behavior:** This behavior involves using some parts of the body, such as moving the hand to hit, steal, or forge. It may also involve using all parts of the body, such as crimes of violating the sanctity of the home or illegal immigration.

**Negative behavior:** This behavior is represented by the act of leaving or refraining from doing a positive action, and it is of two types:

**Abstention that constitutes a crime in itself:** The law considers this abstention a crime regardless of whether or not a harmful result occurs, such as:

Article 136 of the Algerian Penal Code, which stipulates that any judge or administrative employee who, under any pretext, refuses to decide between the parties after being asked to do so and insists on his refusal after being warned by his superiors, may be prosecuted and punished with a fine of 20000 to 100000 dinars, and deprivation from practicing public service for a period of five to twenty years.

Article 327 of the Penal Code states: Anyone who does not hand over a child under his care to the persons who have the right to claim him shall be punished with imprisonment from two to five years.

Abstention is also considered a crime in other articles of the Penal Code, namely: 138-182- 331- 382

**Abstention is a means of committing a crime:** such as committing a crime in front of a person who could have done something to prevent it from being committed, such as the crime of not providing assistance to a person in danger - Article 182 of the Penal Code

**Criminal result:** The criminal result constitutes one of the elements of the material element and the purpose of criminalization because it shows the harm that affects the interests protected by the law, and shows the assault that threatens society. The result is the change that the crime causes in the outside world.

The result has two concepts, a material concept and a legal concept.

**The material concept of the result:** It is the material effect that occurs in the external world as a result of criminal behavior.

**Example:** The result of the crime of murder is the loss of life, the result of the crime of robbery is the transfer of possession, and the result of the crime of fraud is the acquisition of money.

**The legal concept of the result:** It is the harm or danger caused by the perpetrator's behavior that affects a legally protected interest. Example: The result in the crime of murder is an assault on the right to life, and the result in the crime of assault and hitting is an assault on the right to bodily integrity.

**Causal relationship between criminal behavior and the result:** This means that the criminal behavior carried out by the perpetrator is the reason for causing the crime, and this means that there is a causal relationship between the perpetrator's activity and the criminal result. Example: A person fired a bullet and killed a person. Most legislations have adopted the theory of appropriate causation, which means that the perpetrator is responsible for the resulting result if his action leads, according to the normal course of events, to causing this result.

**The attempt:** Attempt can be defined as starting to commit a crime without achieving the result due to a circumstance beyond the will of the perpetrator of the crime.

The Algerian legislator addressed the attempt to commit a crime in Article 30 of the Penal Code which stated: All attempts to commit a felony that begin with the commencement of execution or with unambiguous acts that directly lead to its commission are considered the same felony if they are not stopped or their effect does not disappear except as a result of circumstances independent of the will of the perpetrator, even if the intended goal cannot be achieved due to a material circumstance unknown to the perpetrator.

### **Provisions of the attempt:**

-Attempts are made in material crimes such as robbery and murder, but attempts are not conceivable in formal crimes.

-Attempts are made in positive crimes, but not in negative crimes.

-There is an attempt to commit intentional crimes, but there is no attempt in unintentional crimes

-The attempt to commit all felonies shall be punishable by the same penalty prescribed for the full felony in accordance with Article 30 of the Penal Code

-Attempting to commit a misdemeanor shall not be punishable unless there is an explicit law.

-Attempted contraventions are not punishable at all (articles 30-31 of the Penal Code)

**Conditions for the occurrence of an attempt:** There are two types of attempted crime: beginning the execution, and not completing the crime for a reason beyond the perpetrator's control, here we distinguish between the stopped crime and the failed crime

**Suspended crime (incomplete attempt):** Suspended crime is the crime in which the result is absent due to the suspension of the execution of the act for reasons beyond the perpetrator's control, where the perpetrator is unable to complete all of his activity.

**Example:** Someone who puts gasoline to burn crops and is unable to light the fire because someone else prevents him from doing so or someone who climbs the wall of the house and is then prevented from entering it to complete the robbery

**The failed crime:** failed crime is the crime in which the perpetrator exhausts his criminal activity, but the result is not achieved due to a reason beyond his control, such as:

-someone who shoots at someone but did not hit him, or someone who sets fire to the agricultural crop but the rain extinguishes it.

-A man shot a person but missed.

-A man shot and injured a person, but he was taken to the hospital and did not die

**The Impossible Crime:** the perpetrator has exhausted all activity and physical behavior towards achieving the result, but it is impossible to achieve it.

**Ex:** In the crime of murder: the perpetrator committed all the behavior except that the victim had been dead for some time.

Attempting to abort a woman who is not pregnant at all, as it is impossible to achieve the result

But jurisprudence raised a question about the possibility of punishing this person for attempting to do so

Here, a distinction is made between several concepts, namely:

**Legal impossibility:** Some have argued that if the impossibility is legal, then there is no punishment for attempting it.

Legal impossibility means the absence of one of the elements of the crime, which leads to the impossibility of its realization.

**Ex:** The absence of the element of life in the crime of murder makes it impossible to commit it

The absence of the pregnancy characteristic in the crime of abortion leads to the impossibility of its occurrence

**Material impossibility:** This is the impossibility related to the material aspects of the crime and not its legal elements, meaning that the circumstances only make it impossible for the result to be achieved.

Stealing money from an empty pocket

Stealing money from an empty pocket, here the result could have been achieved if there was money in the pocket, it is a material circumstance, not a legal circumstance

**The attitude of the Algerian legislator:** The Algerian Penal Code punishes the impossible crime as a general principle, and this is what is stated in Article 30, even if the intended goal cannot be achieved due to a material circumstance unknown to the perpetrator

There are some scholars who believe that the legislator has combined legal and material impossibility, for example, in Article 260 of the Penal Code, which stipulates that poisoning is an assault on a human life by the influence of substances that can lead to death, and therefore there is no attempt if the substances are not toxic.

**Contribution to crime:** Contribution is defined as the combination of several activities of several perpetrators to commit a single crime that could have been committed by one person

Criminal participation is achieved by the multiplicity of perpetrators and the unity of the crime, but it must be clarified that sometimes the multiplicity is necessary for the crime to occur, as the crime cannot occur without it. An example of this is the gathering and the crime of adultery, in which case participation is necessary

**Elements of criminal contribution:** Criminal contribution is based on two elements:

**Multiple perpetrators:** This means the contribution of more than one person. If it was one person, there would be no criminal contribution. It also does not mean that one person committed a group of crimes, because this situation is called multiple crimes.

**Crime unity:** Crime unity assumes that a group of people, each working towards achieving a single goal

**Ex:** In the crime of theft, criminal contribution is as follows:

One person guards the road, another climbs the wall, and another carries the means to help them climb, waits for them in the car, and transports the stolen goods.

Here, the two units must be present: the material unit, which is the carrying out of the agreed-upon activities, and the moral unit, which is the psychological link that exists between the perpetrators, as all their actions are directed towards achieving one goal and one result.

**Types of criminal contribution:**

**Original Contribution:** the original contributor is the one who carries out the crime in the main role. He is divided into three according to the Algerian legislator: the direct perpetrator, the instigator, and the moral perpetrator

**Direct perpetrator:** returning to the text of Article 41 of the Algerian Penal Code, a direct perpetrator is considered to be anyone who directly contributed to the execution of the crime, or anyone who carried out the material element of the crime. It is sufficient to return to the criteria of initiation to know the direct perpetrator of the crime. According to most jurisprudence, some resort to another complementary condition, which is the appearance of the perpetrator with his act at the crime scene, so his activity is contemporary with the time in which it occurred.

**The instigator:** unlike most legislations, the Algerian legislator made the instigator the main perpetrator and not the accomplice. Instigation is defined as creating the idea of the perpetrator in a criminally responsible adult, and this is by returning to the text of article 41, Instigation is based on three things

**Use of means of incitement:** these means are specified in the law in Article 41, namely: a gift (the instigator giving a gift to the person instigated), a promise (to give a reward when the crime is committed), threats (pressuring the instigator's will to kill or publish news or photos about him), abuse of authority whereby the instigator has legal authority over the incited, such as the authority of a superior over a subordinate, or a

servant over a master, fraud or criminal deception, lying or deception, such as falsely claiming to a son that his father was beaten by another person.

**The incitement must be direct:** that is, the idea of the crime is broadcast explicitly, so it is not considered an incitement that arouses hatred or loathing in the person's soul and leads to the commission of the crime.

**The incitement must be personal:** that is, it is directed to a specific person and not to all people.

**The moral perpetrator:** returning to the text of Article 45 of the Penal Code, the moral perpetrator is the one who creates the idea of the crime in a person who is not criminally responsible. the instigator shares with the moral perpetrator the fact that they both commit the crime through others, except that the instigator commits it through a person who is criminally responsible, while the moral perpetrator commits it through a person who is not criminally responsible, such as a young child or a madman.

**Affiliate contribution:** (Partner): the Algerian legislator stipulated the form of subsidiary contribution in Articles 42 and 43 of the Penal Code. The partner can be defined as someone who did not directly participate in the execution of the material acts, but who assisted the perpetrators in all ways that lead to the realization of the crime. Accordingly, it is clear that the role of the partner is completed in the stage of preparatory acts, or those that facilitate or implement the commission of the crime.

**Subscription forms:** through Articles 42 and 43, the subscription forms are clarified as follows:

**Assistance:** these steps are carried out during the preparatory work phase and can be carried out in all ways provided that they are limited to previous assistance (preparatory work) or contemporary assistance, whereby the partner is required not to be present at the crime scene, or subsequent assistance, which is after the crime is completed, such as the crime of concealing stolen items.

**Habitual harboring and hiding criminals:** returning to the text of Article 43 of the Penal Code, it becomes clear that there is a second form of participation, which is represented by what is called the legal partner, in which the habit of harboring and hiding criminal groups is required, with knowledge of their criminal plans.

**Punishment for criminal participation:** According to the Algerian Penal Code, the original perpetrator is sentenced to the penalty prescribed for the crime, whether he is

a direct perpetrator, instigator or moral perpetrator. If the instigator does not commit the crime, the instigator is punished because incitement is an independent crime in itself. As for the penalty for the accomplice, by returning to the text of Article 44 of the Penal Code, the accomplice in the felony or misdemeanor is punished with the penalty prescribed for the felony or misdemeanor, and participation in the contravention is not punished at all. As for personal circumstances, they do not affect and therefore only those who have them benefit from them without an accomplice; they are limited to their owners, whether mitigated, aggravated or exempted.

### Legal terms

Element of the crime	أركان الجريمة	To abort/ abortion	إجهاض/ يجهض
Judge	قاضي	Pregnant	حمل
Establish	يثبت	Jurisprudence	فقه
Guilt	ادانة	Distinction	تمييز
Defendant	متهم (المدعي)	Legal impossibility	استحالة قانونية
Commit	يرتكب	Characteristics	خصائص
Conviction	إدانة	Material impossibility	استحالة مادية
Material element	الركن المادي	Steal	استولى- سرق
Behavior	سلوك	The attitude of the Algerian legislator	موقف المشرع الجزائري
Text	نص	Poison	سم
Law	قانون	Influence	تأثير
Interest	مصلحة	Death	وفاة
Rule	قاعدة	Toxic	سام
Act	فعل	Contribution to crime	المساهمة الجنائية
Effect	نتيجة	Single crime	جريمة واحدة

Causal relationship	العلاقة السببية	Gathering	تجمهر
Action	ال فعل	Adultery	زنا
Perpetrator	الفاعل - الجاني	Multiple perpetrator	تعدد الجناة
Physical activity	النشاط المادي	Multiple crime	تعدد الجرائم
Crime	الجريمة	Crime unity	وحدة الجريمة
Result	النتيجة	Means	وسائل
determination	التصميم	Stolen goods	الأشياء المسروقة ( المسروقات )
Executing	التنفيذ	Moral unit	الوحدة المعنوية
Attempt	الشروع	Psychological link	الرابطة المعنوية
Punish	يعاقب	Main role	الدور الرئيسي
Legislator	المشرع	Direct perpetrator	الفاعل المباشر
Intention	النية - القصد	Instigator/ instigated	المحرض / من وقع عليه التحرير
Preparatory work	العمل التحضيري	Moral perpetrator	الفاعل المعنوي
Positive behavior	السلوك الإيجابي	Initiation	الشروع
Negative behaviour	السلوك السلبي	Complementary condition	شرط متم
Body	الجسم	Crime scene	مسرح الجريمة
Violating	انتهاك	Main perpetrator	فاعل أصلي
sanctity of the home	حرمة المنزل	Accomplice	شريك
immigration	الهجرة	Incitement	التحريض
Refraining to do an action	الامتناع عن القيام بعمل	Gift	هدية
Illegal	غير قانوني	Promise	الوعد

Forge	التزوير	Reward	مكافأة
Abstention	الامتناع	Threat	التهديد
Constitute	تشكل	Pressure	الضغط
Harmful	ضار	Abuse the authority	إساءة استعمال السلطة
Stipulate	تنص	Subordinate	المرؤوس
Administrative	إداري	Master	الرئيس
Pretext	حجة	Servant	الخادم
Parties	أطراف	Deception	التدليس
Superior	الرئيس	Lying	الكذب
Prosecute	يحاكم	Deception	التحايل
Fine	غرامة	Falsely claiming	الادعاء الكاذب
Deprivation	حرمان	Explicitly	صراحة
Public service	خدمة عمومية-مرفق عام	Hatred	الكراهية
Child	طفل	Loathing	البغض
Hand	يسلم	Saul	الروح - النفس
Right	حق	Personal	شخصي
Claim	مطالبة	Moral perpetrator	الفاعل المعنوي
Imprisonment	سجن	Criminally responsible	مسؤول جنائيا
Article	مادة	Affiliate contribution	مساهمة تبعية
Penal code	قانون العقوبات	Partner	الشريك
Providing assistance to a person	تقديم مساعدة لشخص	Stipulate	تنص
Assault	اعتداء	Subsidiary contribution	مساهمة تبعية

Material effect	النتيجة المادية	Assist	يساعد
Murder	القتل	Lead	يؤدي إلى
Robbery	السرقة	Realization	تحقيق-إنجاز
Possession	الملكية	Preparatory act	عمل تحضيري
Fraud	النصب	Stage	مرحلة
Material concept	المفهوم المادي	Facilitate	مساعدة
Legal concept	المفهوم القانوني	Subscription	الاشتراك
Right to life	الحق في الحياة	Phase	مرحلة
Bodily integrity	السلامة الجسدية	Previous assistance	مساعدة سابقة
Reason	السبب	Subsequent assistance	مساعدة لاحقة
Purpose	الهدف	Concealing stolen items	إخفاء أشياء مسروقة
Criminal result	النتيجة الاجرامية	Harboring	إيواء
Kill	يقتل	Hiding	إخفاء
Legislation	التشريع	Habitual	معتاد
Circumstances	الظروف	Criminal groups	جماعات إجرامية
Will	إرادة	Knowledge	معرفة
Felony	جناية	Criminal plans	مخططات إجرامية
Unambiguous	لا لبس فيها	Original perpetrator	الفاعل الأصلي
Independent	مستقلة	Sentence	عقوبة
Intended goal	الهدف المقصود	Penalty prescribed	العقوبة المقررة
Material crime	جريمة مادية	Misdemeanor	جنحة
Formal crime	جريمة شكلية	Contravention	مخالفة
Adopt	يتبنى	Personal circumstances	ظروف شخصية

Intentional crime	جريمة عمدية	Accomplice	شريك
Unintentional crime	جريمة غير عمدية	Aggravated	مشددة
Explicit provision	حكم صريح	Mitigated	خففة
Stopped crime	جريمة موقوفة	Exempted	معفية
Failed crime	جريمة خائبة	Legal partner	شريك حكمي
Suspended crime	جريمة موقوفة	Incomplete attempt	شروع ناقص
Exhausts the criminal activity	يستنفذ نشاطه الاجرامي	Impossible crime	جريمة مستحيلة