

## Scientific Plagiarism in Legislative and Regulatory Texts: A Comparative Study Between Algeria and Tunisia

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### Abstract

The aim of this article is to carry out a comparative study between the Algerian and Tunisian legislative and regulatory rules related to the phenomenon of plagiarism. To do this, we examined the legislative rules contained in the official journals of the Republic of Algeria and that of the Republic of Tunisia. We then extracted all the rules dealing with the phenomenon, approached the formal analysis of these rules and compared the content of the Algerian and Tunisian texts. The study revealed that the Tunisian legislator had tackled the problem by promulgating a presidential decree issued in 2008 on the proposal of the Minister of Higher Education, Scientific Research and Technology. The Algerian legislator, by cons, has been contented with regulatory texts, among which is the ministerial decree published in 2016 setting the rules on the prevention and fight against plagiarism. The study also concluded that the rules of the Tunisian text on punitive measures impose sanctions according to the extent to which plagiarism affects the substance and value of scientific production, whereas Algerian rules do not take into account this element.

**Keywords:** Plagiarism; Legislative texts; Regulatory texts; Algeria; Tunisia

### 1.Introduction

There are numerous expressions describing the plagiarism phenomenon such as scientific theft, scientific robbery, academic fraud... Despite this, it is similar in its general meaning which is to unlawfully attribute other's work to oneself. Despite the efforts made to limit it, it has come to include all academic work: students' research and graduation theses and even the various degrees of work for professors and research professors. Scientific plagiarism is considered a type of plagiarism that touches many fields among which the literary and the public sphere.

The term plagiarism in French corresponds to the term Plagiat. It is a word derived from the Latin Plagiarius, which means "to kidnap". Most sources agree that the term Plagiat was first used in the first century when the poet Martial used it to criticize another poet who attributed his poems to himself. The first article published on this subject, was titled "Complement or plagiarism". It was published by Science in 1896 (Roka, 2017, p 2).

The Dictionary of Information Science and Technology defines plagiarism as "The use of ideas from an existing source directly and without attribution" (Marshall, 2005, p. 525). As stated in the ODLIS Dictionary, the term plagiarism refers to "copying or closely imitating the work of another writer, composer, etc., without permission and with the intention of passing the results off as original work". We may conclude starting from the two definitions that plagiarism is a phenomenon that may affect text as well as ideas.

And this is what Simonnot (2014, p.222) referred to in her classification of forms of plagiarism where she distinguished between copying - pasting parts of texts or the entirety of text or images without mentioning their source and placing the excerpted text between quotation marks and the second form which is reformulating the ideas of others without adding personal input. The researcher may also attribute to himself the works and ideas of others, or he may reattribute his personal works in what is known as self-plagiarism, considered as one of the most common types of plagiarism. A more common occurrence is self-plagiarism, especially when the earlier paper is in a conference proceeding and the later paper is in a peer reviewed journal. (Chaddah, 2012).

Plagiarism is considered more dangerous in the scientific field compared to other fields, so not mentioning sources will lead to the obstruction of the course of scientific development, while plagiarism in other fields will only harms the person who has been subjected to it (Smara, 2016). Add to that, not referring to the source will deprive the reader of returning to the original text: the quotation isolates the quoted paragraph from the full text, and by respecting the quotation criteria, we allow and help the reader find the intended document (Bergadaà, 2014). In addition, plagiarism damages the reward system in sciences and corrupts research ethics by denying the meritocratic their rights (Resnik, Zeng, 2009).

The spread of this phenomenon is due to many reasons, among which are the following mentioned by Debnath (2016, p. 165): the ease to access information, the acute pressure to publish in academic circles for the purpose of career promotion, the lack of self-confidence and quasi absence in writing skills, especially among young researchers, writing the article in a hurry or under pressure to achieve a given goal, lack of awareness about what constitutes plagiarism... All this has led to the necessity to confront urgently these behaviors that are detrimental to the ethics of scientific research and fight all the forms they take, and deal with them with all the appropriate rigor and severity to be able to protect the university environment from this scourge.

## **2.The study's problematic**

In publish or perish era, abiding to the strict conditions of scientific writing, adhering to honesty and seriousness have become secondary concerns to some researchers. This has led to a decline in originality in scientific research and the spread of the copying and pasting of the ideas of others' phenomenon. This is because these researchers prefer the quantity over quality, violating the rights of others out of ignorance sometimes and deliberately at other

times, with no respect to what is allowed at the ethical academic conventions. Addressing this phenomenon takes two dimensions, the first is morally governed by regulatory texts enacted by academic bodies in order to preserve their integrity, as scientific plagiarism is not only considered a disgrace to the researcher who has committed it, but may even harm the reputation of the university to which he belongs and undermines its credibility deeply.

We notice that regulatory texts differ from country to country and from one university to another. Some of them confront the problem by imposing varying penalties, such as refusing to allow the thesis defense (viva), lowering the academic degree or withdrawing the diploma. Some of them go as far as dismissing the researcher and, pushing it farther, correspond with other universities asking them not to accept the researcher and reject his research papers (in fact blacklisting them). In the other hand, some universities are lenient with the perpetrators to the point that scandals related to these acts fill the newspapers.

Punitive actions purely based on ethics may not be acceptable to all and may be difficult to implement, unless supported by law (Saha, 2017, p. 2375), which is considered the second dimension in confronting the phenomenon and the most effective in fighting it. And since scientific plagiarism is one of the most serious crimes threatening scientific research, it has become of the utmost importance in order to confront those who do not care about the instructions academic institutions have approved in this matter to call upon the legislative authority to intervene urgently to implement legal rules that criminalize the act and specify explicitly disciplinary, preventive and punitive measures in order to restore faith in the status of honest scientific research and exclude wrongdoers.

The literature related to the subject indicates the existence of laws related to plagiarism, either directly or implicitly. Among the implicit laws are those related to intellectual property rights, considering plagiarism as a violation of author's rights and copyright. The concept of copyright violation and plagiarism overlap, and are manifestations of the wider concept of intellectual property, they are easily confused because most common examples of plagiarism are also violation of copyright. (Marshall; Garry, 2005). Analyzing the relationship that exists between intellectual property laws and plagiarism in a different way, Saunders (2010) indicated that an author may be a plagiarist, but not an infringer of copyright, while another author may infringe copyright, even though he is not a plagiarist, because he has provided an acknowledgement.

Saunders describes this situation as ambiguous and this leads us to the conclusion that there is a conceptual difference between intellectual property laws and plagiarism that makes their implementation inappropriate in some cases. This has led Bast and Samuels (2008) to assert that the age of information sharing signals the need for greater attention to setting standards of intellectual honesty through a clarification of the concept of plagiarism because copyright law cannot carry the burden alone." As a result, to all these issues, we have ourselves asked the question on the situation of the means undertaken to fight plagiarism in Algeria and Tunisia. Is this being undertaken starting from regulatory or legislative texts? Or both? Which leads us to also ask the following question: have the Algerian and Tunisian legislators singled out scientific plagiarism with specific texts or were they implicit texts that were included while talking about intellectual property rights?

### 3.Previous studies

The subject of plagiarism represents quite big numbers of references in the literature. As an example; in the JSTOR database alone the keyword “plagiarism” yields the respectable number of 25,247 documents. The topic itself has been addressed by researchers coming from different majors that include: language and literature, history, education sciences, arts, sociology, law, and library and information science. The literature on the subject touched on different issues related to the phenomenon and approached it from different angles. We see that, before dealing with some of them, we must examine the foundational books of the field of library and information science.

These books dealt with the issue of plagiarism, as Gabriel Naudé referred to it in his book *Advis pour dresser une bibliothèque*, published in 1627 and in which he wrote the following: ” While most serious authors suffer from marginalization, we find new authors replacing them who practice censorship and plagiarism and get rich on their [serious authors] ruins “2 (Naudé, 1627, p. 66). Paul Otlet, the famous theorist of library and information science, discussed the phenomenon also in his famous book and considered it [a phenomenon] that has been present since ancient times providing some examples of authors who committed plagiarism such as Voltaire and Alexandre Dumas (Otlet, 1934, p. 182).

The literature in the field of library and information science has extensively dealt with the subject under consideration and that was from different and various angles and the role that the librarian can play in order to curb the phenomenon is among the most cited. Singh (2004) sees that librarians may play a vital role and that would be by providing their services to faculty to help them solve some of their plagiarism problems. Singh believes that detection is not the main objective in a campaign against plagiarism, but it should go further and educate students and employees about what does plagiarism mean and ways to detect it and avoid it. He went on indicating that librarians can help scientific journals’ peer reviewers take the right decisions and detect and reduce plagiarism, given the skills they possess and that make them able to find information.

In the academic and educational context, Hawley (1984, p. 35) indicated that plagiarism is not new and may be as old as education itself. Park (2003) emphasized the preponderance of the phenomenon among university students and its worsening, especially with the ease to access digital resources. According to Park, there are many reasons that have led students to plagiarize, among which belittling its importance. He, at the end of his research, concluded that there is a need to develop coherent frameworks to deal with the phenomenon among students. These frameworks would be based on prevention and would be supported by systems for detecting scientific plagiarism and should implement harsh and transparent punishments with their continuous implementation. Nonis and Swift (2001) found out in a study they undertook that a student, who lacks academic integrity and honesty, may carry on the same behavior once he moves to the professional world. They also concluded that students who participated in immoral actions were more prone to engage in unethical actions once they enter their professional life; they suggested some methods that would discourage this behavior in the classroom.

A number of references (McKenzie, 1998; McLafferty and Foust, 2004; Ganitz and Loewy, 2007) contend that the old method used by students for scientific plagiarism was more difficult and required a certain degree of skill. It was also relatively easy to discover by faculty members. On the contrary; plagiarism in the age of the Internet has become very simple, due to its tempting nature and speed and ease of access. Most of the references having

dealt with plagiarism within the educational and academic context have dealt with the digital side and while some members of the faculty welcomes the widespread use of mobile technologies and the ease of access to wireless internet [...] some fear that the phenomenon may increase in students' work (Thomas, Sassi, 2011).

Others, including Katju (2011) theorized that the rising trend of scientific theft in foreign universities is due to the exponential increase in information available thanks to the Internet, and he quoted in his article on a report issued in January 2003 that one third of the works presented in German universities stems from the Internet and that it has become a routine. A report on plagiarism in the UK published in 2004 stated that it is common and is becoming more and more so. In the digital age, plagiarism is worse than plagiarism in the paper world, because students have electronic means that allow them to store vast amounts of information with little reading, effort and authenticity (McKenzie, 1998).

Some researchers have, in another context, studied the link between scientific plagiarism, ethnic affiliation and cultural values. For example, Sowden (2005, p.226) considers that cultural values of multilingual students are greatly different compared to the existing academic practices in Western countries, especially in countries of Anglo-Saxon heritage. He presented a number of cultural characteristics of students originating from different cultures. These students view plagiarism under a different angle if compared to students in Western countries. Sowden also suggested the appropriate method for lessening the cultural gap facing those students and that would be by encouraging them to adopt the cultural values of the host country. Click (2012) also confirmed that generally non-English speaking students often deal with issues of academic integrity and plagiarism in a peculiar way.

They resort to these phenomenon for different and various reasons, intentionally and sometimes unintentionally and that is due to their ignorance or lack of skills related to bibliographic citations. Martin et al (2012) investigated the subject from the same angle (ethnic affiliation) using the behavioral criteria to study the relationships between ethnic affiliation, cultural integration and plagiarism. They found a significant difference between plagiarism behavior and that was based on the student's level of cultural integration and not on the basis of race. Phan Le Ha (2006, p. 76) pointed out that culture is not the only factor affecting plagiarism and opposed the excessive accusation of Asian students regarding the phenomenon.

Marshall; Garry, (2005), Saunders, (2010), and (Saha, 2017), studied from the legal point of view the relationship existing between intellectual property rights and plagiarism. Some researchers such as Green (2002) have studied the relationship between criminal law and plagiarism. He asked the central question that says why plagiarism should be of interest to those who are specialized in criminal law since the phenomenon has not and will not be prosecuted as theft? However, he believes criminal law can help understand plagiarism (through the use of some words such as intentional, willful ignorance, acceptance, harm, and the distinction between error of law and error of action). He believes that the concept of plagiarism can help understand important criminal law issues as such (including the issue of knowledge of "properties" that may be stolen). Al-Kilani (2019) in a recent study demonstrated the nature of the criminal responsibility resulting from plagiarism in Islamic jurisprudence and law, and the system of some universities in Palestine, Egypt and Jordan. He further found out that there is a clear difference in the punishment for plagiarism between different laws, and the absence of clear regulations in some universities regarding the protection of the researchers' intellectual rights.

#### 4. The study's methodology

To achieve this study, we undertook the following steps:

1. Viewing the general legislative rules and special legislative rules for higher education published in the Official Journal of the Algerian Republic<sup>3</sup> and in the Official Journal of the Republic of Tunisia<sup>4</sup>.
2. Searching the portals of the Algerian Ministry of Higher Education<sup>5</sup> and the Tunisian Ministry of Higher Education<sup>6</sup> for leaflets and instructions related to how to combat plagiarism
3. After examining all the general and personal legal rules pertaining to each country and studying their contents, we undertook to compare them following the criteria in the table below.

Comparison standard	Indicators
Formal aspects	Nature of the text
	Issue date
	Issuing body
	Text's subdivisions
Content	Plagiarism cases
	Preventive measures
	Punitive measures
	Notification procedures

Table 1. Evaluation criteria

#### 4.1 Subject under study

The subject under study is represented in the following:

- Legislative and regulatory texts published in the Official Journal of the Algerian Republic and in the Official Journal of the Republic of Tunisia.
- Leaflets and instructions issued by both the Algerian and Tunisian ministries of higher education

#### 4.2 The study's sample

The research's sample encompasses the Algerian and Tunisian general and personal legal rules geared to address the phenomenon of plagiarism. There are seven texts (7) for Algeria and four texts (4) for Tunisia.

We relied during comparison, on the personal rules, implementing the principle that says " the personal restricts the public."7.

### 5. Analysis

After reviewing all the legislative and regulatory texts published in the Official Journal of the Algerian Republic and in the Official Journal of the Republic of Tunisia as well as all the instructions and leaflets for each state, the following points regarding plagiarism were reached:

#### 5.1 Plagiarism in the Algerian legislative and regulatory texts

With the extraordinary spread of the phenomenon of plagiarism in scientific works, the Algerian authorities did not stay inactive but rather addressed it through their implementation of legislative and regulatory texts. They could be addressed as follows:



### **The 2016 Constitution<sup>8</sup>**

The Constitution is the origin of legislation in Algeria. It is the supreme law in the land that defines the basic rules for the form of the state. It also defines the system of government, as well as the form of government. It organizes the public authorities of the state in terms of makeup, specialization, relations between authorities, the limits of each authority and the duties and basic rights of individuals and groups. Algeria has, since its independence in 1962, had seven constitutions, three of which are amended (1988, 2002, and 2008). Regarding the confrontation of the plagiarism's phenomenon, the current Constitution has put two articles through which it provides physical and moral protection for the persons and freedom of intellectual, artistic and scientific innovation.

This appears in the first Chapter entitled "General Principles". The Chapter governs the Algerian society, specifically in Chapter IV on rights and freedoms within Article 41, where it is stated: " The law punishes violations of rights and freedoms and all action affecting a person's physical and moral integrity ".The article 44 says explicitly :” The freedom of intellectual, artistic and scientific innovation is guaranteed to the citizen. Copyright is protected by law. It is not allowed to seize any publication, any registration, or any other means of reporting and information except by virtue of a court order “. We conclude from the two cited articles that combating plagiarism lies in the protection of moral integrity and protection of copyrights protected by law. Therefore, copyright and moral integrity are a constitutionally guaranteed right. Violating them will lead to the implementation of legal penalties, and plagiarism being a type of assault that affects the right of authorship and moral integrity, the judicial authority has only to implement the penalties that result from that.

### **Ordinance 03-05<sup>9</sup>**

Issued on 19 July 2003; it is related to author's rights and related rights. It contains 164 articles distributed into seven chapters. Each chapter deals with two sections or more. According to its rules, conditioning plagiarism is considered an infringement of copyright. Therefore, both terms (plagiarism and copyright infringement) are illegal acts. The first is attributing a given person's intellectual production to a person who does not have the right to the use of that intellectual production. Copyright violation, in the other hand, represents the unlawful exploitation of the intellectual author by publishing or marketing an intellectual product without obtaining the express permission to do that.

From here, we can see the difference between the infringements of copyright that preserves the proportion of the same work to its original owner, unlike plagiarism [that violate the whole work]. Therefore, we personally think that the term copyright violation is too general of a term whose adaptation does not correspond to the term under consideration [plagiarism]. The term plagiarism could also in this text be entangled with another term, which is "imitation ". The concept of imitation refers to the fraudulent transfer or reproduction of a work, with or without modification, in order to make others mistake and confuse the imitation with the original work. Regarding the article that seeks protection from plagiarism, we find it in the first chapter titled "Protection of works and author's right, specifically the first chapter on protected works under Article 04. It says:” The following in particular are considered as protected literary and / or artistic works: written literary works such as literary essays, scientific and technical research, novels, stories, poems, computer programs, and oral works such as lectures, speeches, and other similar works. The significance of countering plagiarism in this article describes scientific research as protected works.

**Executive decree related to training in doctorate, post-graduate specialized training, and university qualification<sup>10</sup>.** The Algerian legislator punishes the perpetrator of plagiarism through the Executive Decree 98-254 dated on August 17 1998 related to doctoral training, post-graduate specialist training and university qualification. This decree issued under the classical system [system used before the actual LMD]. In its article 88 stipulates that “ any [mis]conduct, attempt to plagiarize, results falsification, or fraud related to the scientific works claimed in the thesis and that is legally established during or after the thesis defense, exposes its perpetrator to nullifying the thesis or taking away the title he has earned without prejudice to the penalties stipulated in legislation and regulation in addition “. This article is in chapter four and is devoted to the doctoral thesis; it is a legislative rule that has an official character ( published in the Official Journal of the Algerian Republic n° 60 August 19, 1998). Its general idea is that the perpetrator of plagiarism in his doctoral thesis exposes himself to the nullification of the discussion by force of law as if it were not in existence at all.

**Executive decrees pertaining to the researcher's law<sup>11</sup>.** The Algerian legislation has also tried to thwart the phenomenon of plagiarism in three texts (executive decrees that were published in 2008 in the same number of the Official Journal). These decrees include, respectively, the basic law for the university hospital researcher, the basic law for the researcher professor and the basic law for the permanent researcher. The three texts used the same methodology in presenting their materials, i.e. the same sections with the same chapters. The article containing plagiarism was repeated in the three decrees in section eight of chapter one with regard to each decree. It says the following:” In addition to the provisions of articles 178 to 181 of ordinance n°. 06-03<sup>12</sup> of 19 Jumada al-Thani 1427 July 15, 2006, and in implementation of the provisions of article 182 thereof, is considered a fourth degree professional violation for the professors or their proven participation in work of impersonation and falsification of results or cheating in the scientific works related to doctoral theses or in any other scientific or pedagogical publications”.

As mentioned earlier, the text of the above article is of a legislative nature, being a legal rule taken from executive decrees. The source of this rule - the text of the article related to plagiarism - was published in the decrees referred to above and it is in the three texts that are in section one entitled General Provisions in chapter eight related to discipline. The publication of this rule came in implementation of the provisions of articles 3 and 11 of Ordinance 06-03 of July 15, 2006, which regulates the general basic law for public office. Each of the three decrees aims to clarify the special provisions applicable to civil servant belonging to the university hospital researchers, the research professors and the permanent researchers. It also defines the code associated with it, the conditions for joining the position and the corresponding job positions. The article is made up of one paragraph, but it can be divided into two distinct paragraphs, linked by "or". The first part relates to the professor's practice of plagiarism. The second paragraph concerns the professors' participation in a work in which scientific plagiarism is proven. Let us just point out that the text of the article has an official character and its credibility stems from its appearance in the Official Journal.

**Decree n° 933 July 28<sup>th</sup>, 2016 defining rules relating to the prevention and control of plagiarism<sup>13</sup>.** Dated on July 28, 2016, this decree defines the rules relating to the prevention and control of scientific plagiarism. It aims, according to the first article, to define the rules related to the prevention and control of scientific theft, and according to its last article (article 39), The General Director of Higher Education and Training, the General Director of



Scientific Research and Technological Development and also officials of higher education and research institutions have all the duty to ensure its implementation. The ideas contained in this text can be inferred from the chapters' titles and the headings of the sections of the latter. After the first chapter, which included general provisions, the subsequent chapter, in its first paragraph, dealt with the definition of scientific plagiarism as stated in the aforementioned legislative texts (Executive Decree 2008-129 / 2008-130 / 2008-131). It also determined the persons to be punished having practiced the act [of plagiarism]. The second paragraph dealt with the forms of plagiarism that are considered scientific theft. The rest of the text's ideas dealt with the preventive and punitive measures, and also the procedures followed for informing about the plagiarism involved.

## 5.2 Plagiarism in Tunisian legislative and regulatory texts

Like his Algerian colleague, the Tunisian researcher is not immune himself of the plagiarism's phenomenon which also spread in all academic circles. This has required the Tunisian authorities to intervene to reduce it by developing legislative and regulatory texts. We will see them below:

**The Constitution**<sup>14</sup> The Tunisian legislator preceded the Algerian legislator in enshrining the right to property in its constitutions and in the Post-Revolution constitution, where it stipulated that: "Intellectual property is guaranteed". Thus, intellectual property in Tunisia does not suffer from a legislative void with its two main branches: literary and artistic property on the one hand and industrial property on the other side. It is protected by laws that, overall, are in line with the obligations of countries having ratified agreements related to this field. The protection appears in the 2014 Constitution of Tunisia in article 41, which states the following:" The right of ownership is guaranteed.

It cannot be undermined except in cases and with guarantees established by law. Intellectual property is guaranteed". And chapter 42, in which came the following:" The right to access culture is guaranteed. Freedom of creativity is guaranteed. The state encourages cultural creativity. It supports national culture in its originality, diversity and renewal, in a way that promotes tolerance ...." It is understood from this rule that intellectual property, which carries with it industrial property, literary and artistic property, is a right protected by the Constitution, and therefore every holder of this right and whose work has subjected to violation, has the Tunisian legislator standing by him to protect and restore his right.

**Law n°. 36 of the year 1994**<sup>15</sup>. Article 51 of this law of February 24, 1994 relating to literary and artistic property, which was revised in Law n° 33 of 2009<sup>16</sup>, fines the perpetrators of intellectual thefts, and stipulates that these rights cannot be prescribed , assigned or disposed of, they cannot also be transferred by virtue of inheritance or will. The new chapter 52 of the same law specifies also that financial penalties could be incurred in case of violation. These fines range from one thousand dinars (1000) to fifty thousand dinars (50 000) for everyone who exploits a protected work without obtaining a license in accordance with the provisions of this law, but taking into account some of the exceptions contained therein. When the matter is repeated, the penalty is doubled with a prison sentence ranging from one month to a year, or only one of two penalties.

**Decree n°. 2422 of the year 2008**<sup>17</sup>: Published on 23 June 2008, it relates to plagiarism in the field of higher education and scientific research. This text contains fifteen (15) chapters. Let us point out here that the term "chapter" corresponds to the term article in the Algerian legislation. It is also worth signaling that the Tunisian legislator did not list the articles of the

text within chapters. This order regulates, in its first chapter, the cases of scientific plagiarism and the measures to be taken once committed and, according to the last chapter (chapter 15), the Minister of Higher Education, Scientific Research and Technology is the institution that is in charge of its implementation.

**Publication n° 62<sup>18</sup>** Dated July 24, 2008, issued by the General Administration of Higher Education, this publication came to implement the provisions of Decree n°. 2422 of 2008 dated June 23, 2008 related to scientific plagiarism in the field of higher education and scientific research. It was sent from the Minister of Higher Education, Scientific Research and Technology to the university presidents, the deans and directors of higher education and research institutions, the general directors of research centers and institutes. It is a very short text that contains the procedures that must be taken in order to define the requirements of this order, and it includes three points through which it seeks to inform the university community about the matter and define its requirements.

## 6. Results

### 6.1 Comparison between Algerian and Tunisian legislative rules

We will specifically compare personal rules, and not the general one, implementing by that the principle of the personal restricting the public. This is due to the fact in that the general rules we see a will to protect intellectual creativity, whether in constitutions or in copyright and related rights laws. As for the Algerian executive decrees (08/129, 08/130 and 08/131), plagiarism is considered a fourth-degree professional violation when emanating from hospital researchers, research professors and permanent researchers, according to the text of articles 22, 24 and 31 respectively in the executive decrees enumerating the basic laws for this category of researchers. The article 181 of Ordinance 06/03 containing the general basic law for public service (referred to in Articles 22, 24 and 31 above); defines the different forms of professional errors and violation under fourth degree. That include:” falsification of certificates or qualifications or every document that allows the perpetrator to access employment or be promoted “.

We conclude that in general plagiarism in scientific research nullify the legitimacy of diplomas and qualifications obtained by the plagiarist in the field of scientific research. This include the certificate, the degree or any qualification obtained by the researcher after his thesis defense including all certificates, qualifications, degrees and promotions that he obtained after that. This shows also that the nullifying of the scientific title obtained also applies to all other scientific titles obtained subsequently. And this is the logical legal effect of the criminalization of plagiarism in scientific research, and that results in a disciplinary punishment taken for professional wrongdoing of the fourth degree according to article 163 paragraph 1 of ordinance 06/03 and that is demotion to the lowest level or firing.

As for the text of article 88 of the executive decree 98-254, we find that the perpetrator of plagiarism in the doctoral thesis could have his thesis defense void by the force of law as if it never existed if proven that he committed scientific theft during his thesis defense. It seems though that in this case, it can be defended again, provided that a new research (new thesis) is undertaken in accordance with the conditions put forward by the scientific body of the university institution to which he belongs. It may also take any measure it sees in accordance with regulations going as far as excluding him it from the thesis defense. Either the scientific title he acquired is withdrawn from him if it is proven that he committed a scientific theft after the thesis defense then one of the two penalties shall be applied to him. Here, in turn, the

effect of the nullification applies to all the scientific titles he has acquired from the date of his thesis defense.

Regarding circular n° 62 of July 24, 2008 published by the General Administration of Higher Education in Tunisia, is nothing but an executive text of the provisions of Ordinance n° 2422 dated of June 23, 2008 related to scientific plagiarism in the field of higher education and scientific research which aims at presenting the requirements of this order and the measures that are to be taken.

Following what has preceded, the comparison will be between the articles of decree n° 933 dated on July 28, 2016, presenting and explaining the rules relating to the prevention and control of scientific theft emanating from the Algerian Ministry of Higher Education and Scientific Research and the articles of decree n°. 2422 of 2008 dated on June 23, 2008 relating to scientific plagiarism in the field of Higher Education and Scientific Research emanating from the Tunisian legislative body and that according to table 01.

### **6.1.1 Comparison between the Algerian legal rules and the Tunisian legal rules in terms of form**

The Algerian text could be considered an organizational nature text, as it is a decision emanating from the Minister of Higher Education and Scientific Research dated on the 28<sup>th</sup> of July 2016. It contains thirty-nine articles divided into six chapters, which, in turn, have been subdivided into branches with the exception of the first and second chapters. It was issued in order to limit the negative repercussions of the phenomenon and its impact on the level of the Algerian University, more specifically when it comes to the quality of higher education and the originality of scientific research.

The text has also an official character as it is published in the Official Bulletin of Higher Education and Scientific Research. The Tunisian text is of a legislative nature emanating from a legislative body represented by the President of the Republic of Tunisia after proposal from the Minister of Higher Education, Scientific Research and Technology, the text is of an official essence and has the credibility of appearing in the Official Journal of the Tunisian Republic in n° 52 dated June 27, 2008. The circumstances of its publication result from the plagiarism's phenomenon that became widespread in institutions of higher education in Tunisia, the text deals with fifteen (15) chapters.

### **6.1.2 Comparison between the Algerian legal rules and the Tunisian legal rules in terms of the objective aspect**

The Algerian ministerial decision in article three listed the cases of scientific plagiarism in 12 cases. The main occurrences of these cases are: the use of information or scientific research results without mentioning its original sources, translation from one of the languages into the language used in the research, the researcher's inclusion of another name that has not participated in the work, as well as the researcher use of the work of their students and adopting as their own projects, and the inclusion of the names of experts and peer reviewers as members of scientific committees of national or international forums or in journals and periodicals in order to attain credibility without the knowledge, approval and written consent of their persons cited or without their actual participation in its work, is considered a case of plagiarism. The Tunisian text dealt with cases of scientific plagiarism in two occurrences: firstly, the failure to cite accurately and honestly the source of information. This case included five sub-cases, among which was the word by word transfer of texts or the use of theoretical

or applied scientific research results, etc. Secondly, not putting citations taken from other authors and their translation between square brackets.

- Preventive measures

The Algerian text enacted a set of preventive measures in order to counter the phenomenon of scientific theft. These are represented by sensitization and awareness, and this by organizing training courses for the benefit of students, professors and permanent researchers on the rules of scientific documentation, the best ways to avoid scientific theft, the inclusion of a course pertaining to the ethics of scientific research and documentation in all stages of education. Last, it is advised to undertake the preparation of supporting media guides on documentation methods and how to avoid scientific plagiarism in scientific research. As for the Tunisian text, the supervisory professor has been directed to do his best to lead the student to research in innovative fields and advise him on necessity to avoid scientific plagiarism and make the principles of scientific integrity his goal. He should also clearly distinguish between his personal additions and data and information taken from others.

- Punitive measures.

The Algerian text decided of penalties for the student and for the teacher distinctively. The first consisted in canceling the thesis defense and withdrawing the position that goes it. As for the second, the penalties consisted in canceling the thesis defense and voiding the title that goes with it or stopping the publication of those works or withdrawing them from publication. In the other hand, in the Tunisian text the established penalties are proportional to the degree of its influence on scientific research. In the case of plagiarism touching on the substance of scientific production and its scientific value, the penalty will be refusing the thesis defense for research students and also refusing the assignment or promotion to the rank for which the work is presented. In the case of scientific plagiarism that does not affect the essence of scientific production and its scientific value, the penalty is to postpone the discussion for research students and hand a first-degree penalty to the candidates for the promotion.

- Notification and disciplinary procedures

The Algerian text contains procedures specific to the student and others procedures that are specific for the professor. The Tunisian text, in turn, contains procedures that are specific to plagiarism affecting the essence of scientific research and other procedures that pertain to cases where plagiarism does not affect the essence of scientific research. Regarding the Algerian rules, and after it is notified of the scientific theft from either the student or the professor, the body in charge shall carry out the necessary investigations and inquiries pertaining to the case .Once and if the occurrence is proven, the student or professor's disciplinary bodies proceed to take the necessary measures. A disciplinary session is held in which the members hear the report that documents and substantiates the occurrence of scientific theft. The person accused (be it a professor or a student) get a chance to defend himself presenting his observations and arguments; he may bring a person to accompany him and defend him. In case of his inability to be present, a written request from the head of the Education and Research Unit could be brought in by his defender. At the hearing's completion, the disciplinary authority renders a judgment about the case and takes a decision against the accused then informs him. He has, in turn, the right to appeal. From the Tunisian rules standpoint, if plagiarism is proven, regardless of it having an impact on the substance of scientific production and its scientific value or not, the committees of thesis defense, of end-of-studies projects, of master and doctoral discussion committees, of qualification committees, of assignment and promotion committees, and advisory committees undertake its appraisal.

Then it sends a detailed report- including the measures undertaken- to the Minister in charge Higher Education, Scientific Research and Technology when the cases pertain to professors of higher education dependant of scientific research institutions and to the president of the university whenever the case relates to a student researcher, to take the necessary disciplinary measures.

## 7. Discussion

The Algerian and Tunisian legislators tried to address the plagiarism's phenomenon within the general rules, which are constitutional rules guaranteeing the protection of intellectual creativity. The two countries' legislation also guaranteed protection by the laws related to literary and artistic property rights and including scientific research with the works protected by these laws, therefore assaulting these works is a crime punishable by law. Plagiarism has been dealt with by the Algerian legislator in four executive decrees in which the first relates to training in the doctorate, after specialized graduation and university qualification. In this decree, the thesis defense is nullified by the force of law; there is also the possibility of withdrawing all the scientific titles acquired from the date of defense of the doctorate.

As for the three executive decrees related to the basic laws of the university hospital researcher, the research professor and the permanent researcher, they also included an article that qualifies plagiarism as a fourth-degree professional error. The decision taken by the Algerian Ministry of Higher Education and Scientific Research is considered the only text that removed ambiguity of what is plagiarism. It gave a clear definition of it and included a set of measures in order to address it and combat it through its approval of preventive and punitive measures.

Despite the lack of its legislative texts compared to the number of Algerian legislative texts, the Tunisian legislator addressed also the phenomenon. In addition to the general rules with a legislative text coming within the first texts, and according to the principle of the graduation of legislation, there is also the order issued by the President of the Tunisian Republic. This a clear proof of the extent of the Tunisian legislator's interest in combating the phenomenon and punishing the perpetrators, by an order emanating from the highest institution of the country that is the President of the Republic. The Minister of Higher Education, Scientific Research and Technology, following the President of The Tunisian Republic issued a publication in which he informed the university community of the requirements of this matter according to the procedures specified in this publication.

## 8. Conclusion

The Algerian legal rules are still weak in confronting the phenomenon of plagiarism. Through the texts issued by the legislative authority, one can say that the Algerian punitive legislation has fallen short regarding the criminalization of the act of plagiarism, leaving a huge legislative void allowing the spread of the phenomenon that has seen a worsening orientation especially in the era of technologies and open access. The same could be said for the Tunisian legislator, who although addressing the phenomenon by virtue of a single presidential order, has not approached the matter in a significant manner.

When one looks at these rules, whether Algerian or Tunisian, he cannot help to conclude that they are insufficient compared to the current information and knowledge overload. Add to that the fact that, the texts have not been updated or modified to respond with digital age,



which allowed the phenomenon to set foot solidly inside academia. In order to put an end to it, the legislative authorities and regulatory bodies must forget the culture of tolerance for the perpetrators of plagiarism and replace it with administrative and legal punishment so that everyone who tries to commit it gets punished in an era where some professors encourage plagiarism by approving theses they know are plagiarized

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## Citations

<sup>1</sup> The book consists of nine chapters, which Naudé concluded with a sentence of about 200 words in which he summarized the project that he came up with, which he called “Bibliotheca Memmiana”. He mentioned in this sentence that among the goals of his project is to shed light on the phenomenon of scientific plagiarism. More on this subject could be found in:

Akbal, Mehenni (2012). Sur une phrase de Gabriel Naudé, *Documentation et Bibliothèques*, Vol. 58, n°4, pp.198-203

<sup>2</sup> "De façon que la plus-part des bons Auteurs demeurent par ce moyen sur la grève abandonnez & négligez d'un chacun, pendant que de nouveaux Censeurs et plagiaires s'introduisent en leur place & s'enrichissent de leurs dépouilles"

<sup>3</sup> <https://www.joradp.dz/hfr/>

<sup>4</sup> <http://www.iort.gov.tn/WD120AWP/WD120Awp.exe/CONNECT/SITEIORT>

<sup>5</sup> <https://www.mesrs.dz/>

<sup>6</sup> <http://www.mes.tn/?langue=fr>

<sup>7</sup> Legal rules are divided into general and personal rules. The general rules organize and govern a group of cases without distinguishing between them, depending on the nature of the case being addressed. And this was mentioned in the civil law as the general Sharia, the constitution, the penal code, the rules of criminal procedures,

the law of civil and administrative procedures. Personal rules, in the other hand, are concerned with dealing with a specific case, so the legal rule relates to a specific case with one or several provisions, and also more detail are included. To name a few, these relate to labor law, traffic accidents, judicial regulation or higher education laws and other special laws that relate to specific legal issues. In case the general rule conflicts with the personal rule, " the personal restricts the public." rule should be implemented.

<sup>8</sup> Law n° 01-16 of 26 Jumada Al-Awla 1437 March 06, 2016 includes the amendment of the Constitution (Official Journal n° 14, March 07, 2016)

<sup>9</sup> Ordinance n° 03-05 July 19, 2003, relating to copyright and related rights (Official Journal n° 44, July 19, 2003)

<sup>10</sup> Executive decree n°. 98-254 of Rabi 'Al Thani 24, 1419, August 17, 1998, relating to training in the doctorate, post-graduate specialization and university qualification (Official Journal, n° 60, August 19, 1998)

<sup>11</sup> Executive decree n° 08-129 of Rabi 'Al-Thani 27, 1429, May 03, 2008, including the basic law of a university hospital researcher (Official Journal n°. 23, May 04, 1998)

<sup>12</sup> Ordinance 06-03 of 19 Jumada al-Thani 1427 July 15, 2006 containing the General Basic Law for the Public Service (Official Journal n°. 46, July 16, 2006)

<sup>13</sup> Decree n° 933 July 28, 2016 defining rules relating to the prevention and control of plagiarism

<sup>14</sup> The Constitution of the Republic of Tunisia 10 Rabi`al-Thani 1435 February 10, 2014 (the Official Journal special issue)

<sup>15</sup> Law n°. 36 of 1994 February 24, 1994, relating to literary and artistic property, (Official Journal Issue 17, March 01, 1994)

<sup>16</sup> Law n°. 33 of 2009 June 23, 2009, revising and completing Law n°. 36 of 1994 February 24, 1994 relating to literary and artistic property (Official Journal n°. 52, June 30, 2009)

<sup>17</sup> Decree n°.2422 of 2008 June 23, 2008 related to scientific plagiarism in the field of higher education and scientific research (Official Journal n°. 52, 27 June 2008)

<sup>18</sup> Circular n°. 62 dated July 24, 2008 published by the General Administration of Higher Education (July 24, 2008)