

Criminalization and Punishment of Witchcraft and Sorcery Under Law No 24-06

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Received
23/04/2026

Accepted
30/09/2026

Published
31/10/2026

Abstract:

This study focuses on the new legislative approach adopted by the Algerian legislator under Law 24-06, amending and supplementing the Penal Code. This law explicitly criminalizes acts of sorcery and witchcraft in its sixth section, defining the scope of this criminalization as the act of being involved and engaging in these practices. It also extends criminal protection to include related offenses such as fortune-telling and divination, and criminalizes the deliberate fostering of these acts by all means.

This supports the legislator's inclination towards adopting the concept of "crimes of danger" to protect individual security and societal stability through a penal policy that combines primary and aggravated penalties with supplemental measures, aiming to contain this phenomenon and uphold public order provisions.

key words: Sorcery-Witchcraft- Criminalization- Penalties- Crimes of Endangerment.

Introduction:

Witchcraft and sorcery are old social phenomena known to several human communities, including the Algerian one. They have evolved significantly from primitive practices to criminal behaviors, engendering a crisis with widespread insecurity and public disorder. The quintessence of this crime lies in its deceptive and fraudulent nature, involving the pretense of possessing supernatural abilities to influence others, with the aim of unjustly dispossessing money and dismantling family ties.

Faced with this blatant threat, the Algerian legislator responded with strict legislation through Law 24-06, switching these acts from a superficial description to an explicitly criminalized system, thus stipulating in Section Six the acts of magic and sorcery, dividing them into crimes of practicing witchcraft and sorcery, such as the crime of engaging in witchcraft and sorcery as a profession, and the crime of performing an act of witchcraft and sorcery. It also includes related crimes such as the deliberate fostering of witchcraft and sorcery, as well as the crimes of fortune-telling and divination. The law further clarifies the penalties for these acts, categorizing them as primary, simple, aggravated, and supplemental.

Therefore, the core problem addressed by this study revolves around the following main question: To what extent is the legal framework and penal system established by the Algerian legislator under Law 24-06 effective in combating the crime of witchcraft and sorcery and containing its destabilizing effects on social security? To fully explore this topic, we have adopted a descriptive analytical approach.

We have divided the study plan into two sections as follows:

Section I : The Legal Framework for Criminalizing Acts of Witchcraft and Sorcery in Law 24-06

Section II:The Penal System Prescribed for Acts of Witchcraft and Sorcery

Section I: The Legal Framework for Criminalizing Acts of Witchcraft and Sorcery in Law 24-06

Acts of witchcraft and sorcery are considered negative phenomena and serious crimes prevalent in most societies, including Algerian society. The Algerian legislator has sought to curb them through amendments to the Penal Code. Therefore, in this section, we will clarify the concept of witchcraft and sorcery; and then address the criminalized acts according to Article 303 bis 42 and bis 43.

A) The Concept of Witchcraft and Sorcery:

We will address the definition of witchcraft and sorcery and then its historical development.

1- Definition of Witchcraft and Sorcery

Witchcraft and sorcery are very dangerous acts and practices for both individuals and societies

First: Definition of Sorcery

a-Linguistically speaking, sorcery has several meanings that vary according to the diacritics and pronunciation of the word. Its three-letter root is: Seen, Haa, and Raa. It is also used to describe a man, as in "a sorcerer" (from the root "sahara")¹. It is: "Anything whose cause is not understood and whose true nature is veiled, but rather it is perceived as deception²."

b- Sorcery in its technical sense:

Contemporary scholars define it as: "Subtle and deeply hidden matters that can be acquired through learning, operating through deception and trickery, emanating from an evil soul with knowledge of direct or indirect elements." Regarding the legal definition, among the most important reasons that led to the spread of magic and sorcery are religious reasons such as lax religious sense and remoteness Quran and Sunnah fundamentals as taught by the prophet.

¹Muhammad ibn Mukarram ibn Manzur, Lisan al-Arab, Volume 4, First Edition, Dar Sader, Lebanon, p. 349.

²Shams al-Din Muhammad ibn Ahmad al-Khatib al-Shirbini al-Misri, Mughni al-Muhtaj ila Ma'rifat Ma'na Alfaz al-Minhaj, Part 4, Dar al-Kutub al-'Ilmiyya, Beirut, n.d., p. 138.

Criminalization and Punishment of Witchcraft and Sorcery Under Law No 24-06

Economic reasons also do contribute, in the desire to earn money and acquire wealth effortlessly, as well as the prevailing belief that sorcerers and witches have extraordinary abilities to help individuals succeed and gain money. This boosts the feat of sorcerers and witches, leading them to pursue such unhealthy practices¹. In addition, there are social reasons, foremost among them hatred, malice, resentment, and envy, where some individuals wish for the loss of blessings upon others and thus resort to sorcery or witchcraft to ruin others' lives.

The Algerian legislator addressed the definition of sorcery and witchcraft as follows: "Creating aspiration or fear of the occurrence of a fanciful event or incident."

Another method is through deception, by feigning imaginary power or authority, or by assuming a false identity².

Secondly : the definition of witchcraft :

a- Linguistic definition:

The term **Witchcraft** (shawadha) de notes the act of fraud,deception and the deliberate misleading of others.from a linguistic perspective, it suggests the use of trickery to create a false impression. To say a person practiced witchcraft implies they have employed deceptive manoeuvres to make something baseless or false appear,as if it were authentic and true

b- Technical definition:

Witchcraft is defined as aspecific method of fraud and artifice, It relies primarily on the practitioners agility and manual dexterity (sleight of hand) to create illusions.

These technique are used to manipulate the observers perception, leading them to believe they are witnessing phenomena that contradict the actual reality of the situation¹.

¹ Usama ibn Yasin al-Mu'afi, *Al-Sawa'iq al-Mursala fi Tasaddi al-Mushawwadin wa al-Sahara*, Dar al-Ma'ali, Amman, 2000, p. 203.

²See Article 303 bis 42 of Law 24-06 dated 19 Shawwal 1445 AH, corresponding to April 28, 2024, amending and supplementing Order No. 66-156 containing the Algerian Penal Code, Official Gazette of Algeria, No. 30, issued on April 30, 2024.

2-The Historical Development of Magic and Sorcery.

Magic and sorcery have been practiced since ancient times by individuals whose sole concern was achieving material or moral gains. Ancient societies were known for their extensive reliance on witchcraft and sorcery due to widespread ignorance and a lack of faith and belief. Among these societies were the Babylonians, Persians, and ancient Egyptians. These practices are also found in some contemporary societies, such as those² in Africa, Europe, Asia, and America. In the context of the historical and legislative blossoming of efforts to combat these phenomena, we notice that the Algerian legislator did not act in a vacuum, but rather based their actions on a solid constitutional³ framework that rejects all practices that infringe upon human dignity, beliefs, or moral security.

B-TheCriminal acts according to Articles 303 bis 42 and 43:

The criminal acts according to Articles 303 bis 42 and 43 are crimes of witchcraft and sorcery, including the crime of practicing witchcraft and sorcery, as well as the crime of performing any act of witchcraft and sorcery, in addition to related crimes such as fortune-telling and divination, and the crime of intentionally promoting witchcraft and sorcery.

1: Crimes of Witchcraft and Sorcery

We will explain both the crime of practicing witchcraft and sorcery and the crime of performing any act of witchcraft and sorcery.

First-The Crime of Practicing witchcraft and Sorcery:

The Algerian legislator addressed the acts of witchcraft and sorcery, clarifying that anyone who adopts witchcraft and sorcery as a

¹Bouhentala Yassine, Dhibih Hicham, "Criminalizing Acts of Magic and Sorcery in the Algerian Penal Code," National Journal of Academic Scientific Studies, 2024, Volume 7, Issue 2, p. 775

²Omar Suleiman Al-Ashqar, The World of Magic and Sorcery, 3rd Edition, Dar Al-Nafas for Publishing and Distribution, Jordan, 1997, pp. 3-21

³ See: Constitution of the People's Democratic Republic of Algeria of 1996, as amended by Law No. 20-01 of December 30, 2020, Official Gazette, No. 82.

profession is considered to have literally committed the crime of practicing witchcraft and **sorcery as this will be explained below:**

a - Definition of the Crime of Practicing witchcraft and Sorcery. To earn a comfortable living, people need to have subsequent money and wages by doing legitimate and lawful professions. However, sometimes, in pursuit of wealth and increased money, some may resort to illegal and criminal methods, including adopting witchcraft and sorcery as a business.

Business is defined as: "A job built upon a foundation of knowledge and experience, chosen appropriately according to its specific field. It requires particular skills and specializations and is governed by laws and ethics to regulate its practice¹." Thus, this definition makes it clear that a profession is governed by laws and ethics to regulate its practice, something unfound in the practice of witchcraft and sorcery. We neither imagine nor observe laws governing this reprehensible behavior. Therefore, the mere availability of experience and skills is insufficient for practicing a particular business in the absence of laws that regulate and control it. Moreover, a business has the following characteristics²: Its practice and full-time dedication; It requires specialized training and schools; It requires rules to regulate the activity; It banks on professional organizations; It enjoys legal protection to ensure its exclusivity; and It has a code of ethics. These characteristics are entirely absent from the practice of witchcraft and sorcery.

b-Elements of the Crime of Practicing Witchcraft and Sorcery:

We will explain both the material and moral elements. Regarding the legal element of the crime of practicing witchcraft and sorcery, the legislator stipulated it through amendments to the Penal

¹Mehenna - Wikipedia. Available at: [ar.m.wikipedia.org http://www](http://ar.m.wikipedia.org). Accessed February 22, 2026 Raya Abdel Sattar, Complete Lectures on Professional Ethics

²Al-Mustansiriya University, College of Law, 2019-2020

Code 24-06¹, which considers practicing witchcraft and sorcery a crime punishable by primary and supplementary criminal penalties.

- **The Material Element:** The material element of the crime of practicing witchcraft and sorcery is brought about by the presence of three essential components, as follows:

- **Criminal Conduct:** The criminal conduct in this crime is represented by the perpetrator embracing witchcraft and sorcery as his profession, such that these illegal practices become a means of earning a regular and continuous living, being the person's primary and permanent source of income².

Although the legislator deems a person who practices magic and sorcery as a profession has committed a crime, the prosecution faces difficulty in proving this, because one of the conditions of the profession is the existence of a code of ethics, which is incompatible with this crime.

- **The Outcome:** The crime of practicing witchcraft and sorcery is a formal crime, which does not require a specific result to be established. Once an individual embraces witchcraft and sorcery as a business, they are considered to have committed a crime of endangerment, which is established with no need for a specific result.

- **Causation:** Since this crime falls under the category of formal crimes, it does not require an examination of the causal relationship due to the absence of a criminal result in the first place.

- **The Mental Element:** The crime of practicing witchcraft and sorcery is an intentional crime, which requires knowledge and will. The perpetrator knows that the practiced act is illegal, yet their will is

¹Professional ethics is a set of standards, rules, and behavioral and moral principles that characterize an individual and govern their conduct in society. Among the most important sources of professional ethics are religious sources, as well as regulations, laws, and legislation, in addition to social customs and traditions. For more details, see Amal Bashi, "The Social Structure of Occupations in Algeria: A Socio-Anthropological Study of the Traditional Embroidery Craft in Touggourt," PhD thesis in Organizational Sociology, supervised by Khalifa Abdelkader, Kasdi Merbah University, Ouargla, 2018-2019, p. 87.

² See Articl303bis 42 of Law 24-06, previous source.

directed towards committing it, with the aim of achieving material and moral gains.

Secondly-The Crime of Practicing Sorcery and Witchcraft

a-Definition of the Crime of Practicing Sorcery and Witchcraft

The legislator did not define this crime, nor did they explain how it is practiced, nor did they enumerate the acts of sorcery and witchcraft. However, it is clear that the practice is closely linked to the demands of individuals, and thus the sorcerer or witch performs specific acts that align with the nature of these demands.

b-Elements of the Crime of Practicing Sorcery and Witchcraft

-The Material Element: Criminal Conduct The conduct in this crime consists of practicing any individual act related to sorcery or witchcraft, even if not regularly or as a permanent business. Rather, it includes performing any act of sorcery or witchcraft temporarily or occasionally, regardless of the frequency of these acts.

The offence is a crime of imperilment, implemented at the time of its committing, regardless of whether there is an outcome or not. Material consequences (such as theft, illness, or death) serve as motivators for harsher penalties or a change in the legal classification, but they do not deny the formal nature of the underlying criminal acts.

Causation: As this is a formal crime, the causal relationship is a direct link between the perpetrator's actions and the result; it is presumed as soon as the act is committed.

-The Mental Element: In this crime, the mental element is a deliberate criminal intent based on the perpetrator's knowledge of the legal prohibition of witchcraft and their premeditated intention to practice it with the intention of influencing others or stealing their money.

2-Crimes Related to Witchcraft and Sorcery:

The crimes related to or associated with witchcraft and sorcery include: the crime of deliberately promoting witchcraft and sorcery, in addition to the crime of divination and fortune-telling.

First- The Crime of Deliberately Promoting Witchcraft and Sorcery

a- Definition of the Crime of Deliberately Promoting Witchcraft and Sorcery Promoting means any expression made by the perpetrator through any means by which meanings and feelings are transmitted among people, whether orally, in writing, through drawing, or otherwise¹.

b- Elements of the Crime of Intentionally Promoting Witchcraft and Sorcery The legal element of this crime is found in the provisions of Law 24-06, which amends and supplements the Penal Code. The legislator stipulated penalties applicable to anyone who intentionally promotes, by any means whatsoever, the crimes stipulated in the section on acts of witchcraft and sorcery. Regarding the material and moral elements, we will explain them as follows:

- The Material Element: The criminal conduct in this crime consists of the act of promotion, through the use of information and communication technologies or any other means such as distributing leaflets, posting signs, or making verbal announcements, which aim to inform the public about the abilities of the sorcerer or witch or incite them to seek their services. This is a formal crime that is committed as soon as the public announcement is made, without requiring a material result or the occurrence of victims.

As for the causal link in this crime, it is a presumed legal connection, as the legislator assumes that the mere act of the sorcerer, such as publishing online, has led to a result, namely, the disruption of public order and the general stability of the community. The judge needs no evidence.

¹ Sharifa Soumati, The Crime of Witchcraft and Sorcery in Amendment to the Algerian Penal Code No. 24-06, Journal of Human Rights and Public Freedoms, Volume: 09 - Issue: 02, Year: 2024, p. 627.

- **The Mental Element:** This crime is an intentional crime, which requires, in addition to general intent—represented by the perpetrator's knowledge that the act committed is criminal and yet his will is directed toward committing it—specific intent, which is the deliberate influence on individuals to induce them to resort to sorcery and witchcraft.

Secondly: The Crime of Divination and Fortune-telling

Subsequent to the fact that divination and fortune-telling have been deemed as criminal acts, the legislator, in Amendment 24-06, considered them to be within the category of sorcery and witchcraft.

a- Definition of the Crime of Divination and Fortune-telling

-**A fortune-teller is defined as:** "A person who claims the ability to know things through certain indicators, such as locating lost items or predicting future events." According to Ibn Taymiyyah, a soothsayer includes a priest, an astrologer, a sand diviner, and others who claim to possess knowledge of the unseen¹. Divination is among the practices aimed at predicting the future for commercial gain, and it is often confused with religious practices known as soothsaying².

-Predicting the unseen is something that only God knows, and attempting to predict the unseen is an affront to Islamic belief.

b: Elements of the Crime of Divination and Predicting the Unseen

- **The Material Element:** The criminal act is the use of any traditional or digital means. It is a formal crime that does not require the occurrence of physical or financial harm.

-**The Moral Element:** A deliberate criminal intent, which is represented by the perpetrator's knowledge that the act is prohibited, yet his will is directed towards practicing it with the intention of

¹ Sharifa Soumati, Ibid, p.626.

² Mohamed Taher Rahal, "The Crime of Witchcraft and Sorcery in Algerian Legislation: A Study in Light of Law No. 24-06," Al-Bahith Journal for Academic Studies, Volume 12, Issue 1, 2025, p. 420.

influencing victims after deceiving them, affecting their will, or stealing their money.

Section II: The Penal System for Acts of Witchcraft and Sorcery

In a precedent, the Algerian legislator criminalized acts of witchcraft and sorcery by amending the Penal Code with Law 24-06, thereby establishing criminal penalties for all such acts. These penalties, which vary between primary and supplementary punishments, are as follows:

A-Primary Punishments and Aggravating Circumstances

The Algerian legislator imposed both simple and aggravated penalties in accordance with the nature of the crimes committed, as follows:

1- Primary Punishments

It is observed from the legal texts containing the primary punishments that the legislator gave the same description and the same penalties to perpetrators of the crime of practicing witchcraft and sorcery, as well as the crime of performing an act of witchcraft and sorcery, adding to these, the crime of fortune-telling and predicting the future. These penalties consist of imprisonment from one (1) to three (3) years and a fine from 100,000 to 300,000 Algerian dinars. However, different primary punishments were included for the crime of intentionally promoting witchcraft and sorcery.

The penalty is as follows: imprisonment from two (2) to five (5) years and a fine of 300,000 to 500,000 Algerian dinars.

Therefore, the legislator considers the deliberate promotion of witchcraft and sorcery to be more serious than the crimes themselves, as evidenced by the comparison of the original penalties applied to each type.

2-Aggravating Circumstances

The legislator imposed severe penalties on anyone who commits an act of sorcery or witchcraft, due to the presence of specific circumstances stipulated in the amendment to the Penal Code by Law No. 24-06. This is in consideration of the seriousness of the committed

act. Therefore, the legislator, through criminalizing sorcery, sought to protect the religious and social order.

The legislator did not merely impose the original penalty but also made it contingent upon strict aggravating circumstances, as follows:

First - The Circumstance of the Seriousness of the Resulting Harm: If sorcery or witchcraft results in physical or moral harm, unless the act constitutes a more serious crime: the maximum penalty is increased to range from imprisonment for three (3) to seven (7) years and a fine of 300,000 to 700,000 Algerian dinars.

secondly - The circumstance of violating moral rights and personal reputation: The acts stipulated in Article 303 bis 42, which violate the sanctity of private life, honor, and dignity of individuals, and involve fraud and deception, are punishable by imprisonment from five (5) to ten (10) years and a fine of 500,000 to 1,000,000 Algerian dinars. Therefore, Professor Ahcene Bousqia states: "The increased penalties for crimes of witchcraft and sorcery are not limited to protecting physical safety alone, but extend to include the moral rights and personal reputation of the victims. The legislator considers that the perpetrator's utilization of information related to private matters, or resorting to fraud or deception to harm the dignity of individuals, constitutes an aggravating circumstance warranting the maximum penalties, given the moral harm inflicted, which is no less serious than the material harm¹."

B)Supplementary penalties

Supplementary penalties in the crime of witchcraft and sorcery vary from confiscation to website closure to the closure of the establishment or place of exploitation, as follows:

¹Mohamed Rahal, Ibid. P.425

1-Confiscation

First-Definition of confiscation

It is defined as: "The transfer of ownership of funds or means related to the crime compulsorily to the state with no compensation. It is a financial penalty, as it applies to specific property belonging to the perpetrator, which is then added to state ownership."

The Algerian legislator¹ has enshrined the concept of confiscation as a final transfer of property, indicating that it is an in-kind penalty imposed on the same item or its comparable value, if necessary.

Second: Provisions of confiscation

referring to the relevant legal texts, we find that the Algerian legislator has made confiscation in crimes of witchcraft and sorcery a dual tool (punitive and preventive). This is evident from the following provisions:

a- Legal nature:

It is a supplementary in-kind penalty consisting of the final and compulsory transfer of ownership of items related to the crime to the state without compensation.

b- The Objective Scope:

The objective scope of confiscation in cases of witchcraft and sorcery is determined according to two fundamental criteria linking the instrument and the result. The Algerian legislator, through the penal philosophy it adopted, did not merely punish the perpetrator for the act itself, but also sought to erase all material traces left by this act, regardless of whether these traces were the means used to commit the crime (the instrument) or the resulting profit (the result). This can be legally explained as follows:

- Confiscation of the Means Used (Criminal Instruments):

Confiscation applies to the means used in committing crimes of witchcraft and sorcery. Since the legislator did not limit, enumerate, or specify these means, the scope of confiscation extends to include

¹ See Article 303 bis 43 of Law 24-06, *ibid*

everything proven to have been used in witchcraft rituals. This allows the judge to confiscate anything proven to have been used, such as talismans, clothing, and physical traces like hair, etc. It should be noted that confiscation applies not only to the means used but also to those obtained after the crime has been committed and discovered.

-Confiscation of Funds and Proceeds (Criminal Proceeds):

This involves confiscating funds used in committing the crime, as well as the proceeds or criminal gains. The legislator has left the matter to the discretion of the judge, meaning the confiscation of funds used in the crime and/or those obtained from it.

- The Optional and Comprehensive Nature of the Subject Matter (and/or):

At this point, the legislator has left the discretionary power to the judge regarding the confiscation of the means and funds used in committing the crime. The judge may confiscate both the means and funds, or confiscate only the means and funds, at their discretion.

c - Protection of Bona Fide Third Parties:

The legislator has extended its protection to bona fide third parties regarding the issue of confiscation. The legal text begins with a phrase indicating this, as follows: “While preserving the rights of bona fide third parties...”

2 -Closing the Website

This refers to closing the website through which the crime was committed or making access to it impossible.

This includes closing a website used to disseminate witchcraft rituals, or closing accounts on a social media platform or making access to them impossible. This is because the website is a modern means of spreading ignorance and generating illicit profits, and shutting it down means limiting the spread of criminal influence to a wider audience.

3-Closing the Shop or Place of Exploitation.

The supplementary penalty in this case consists of prohibiting the practice of the activity in the location where the crime was committed.

This aims to eliminate the physical presence of this activity in that area. However, this closure is conditional upon the owner's knowledge of the crime. In other words, if the owner can prove that they were unaware that the premises or business they own were being used to commit the crime, then the closure is not required.

Conclusion

To conclude with, this study illustrates that the Algerian legislator has taken a significant step towards preserving society and its members, thus protecting them from any physical or moral harm that may be inflicted upon them through acts of witchcraft and sorcery. It also aims to safeguard their privacy, honor, and dignity, as well as to prevent them from being defrauded or scammed.

This is achieved by criminalizing acts of witchcraft and sorcery under Law 24-06 and by establishing penalties for them. Therefore.

1.Results

based on the foregoing, we have reached the following results:

- To prevent the perpetrators from being absolved under other pretexts, the legislator established a comprehensive and exclusive legal definition of the crime of sorcery and witchcraft, based on the element of deception and illusion.

- The legislator criminalized acts of sorcery and witchcraft by criminalizing the crimes and forms of sorcery and witchcraft, including the crime of practicing sorcery and witchcraft. This also includes crimes related to sorcery and witchcraft, such as promoting sorcery and witchcraft, and the crime of fortune-telling and predicting the future.

- Acts of sorcery and witchcraft are considered crimes of imperilment. Punishment does not require the occurrence of tangible

material harm; rather, the crime is considered implemented as soon as the acts of illusion and deception are performed.

-The legislator adopted a graduated and varied penal system that combines simple and aggravated primary penalties with various types of supplementary penalties.

2-Recommendations

In light of the study, we propose the following recommendations:

- The necessity of pursuing online fraudsters by training specialized teams for this purpose, in order to ensure the effective implementation of the article related to closing websites.

- Including the dangers of these crimes and clarifying the legal penalties within educational programs to instill a preventative legal culture.

- Activating coordination with financial institutions to track suspicious transfers, which facilitates proving theft of funds and implementing confiscation procedures.

- Intensifying legal and media awareness campaigns regarding the provisions of Law 24-06 to reduce the circulation of advertisements for fraud and prevent the spread of the crime of promoting it.

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