

Addressing Law 24-06 on Witchcraft and Sorcery as Crimes that Require Deterrent Penalties

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مخبر القانون المقارن، والدراسات الاجتماعية

والإستشرافية

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ABSTRACT:

ملخص باللغة العربية:

Restrictions on judicial systems hinder addressing magic and witchcraft crimes. Islamic religion prohibits such rituals, considering them a threat to faith. Law No. 24-06 in Algeria introduced amendments to combat magic and witchcraft, defining concepts and specifying penalties.

القيود المفروضة على الأنظمة القضائية تعيق التصدي لجرائم السحر والشعوذة. ويحرم الدين الإسلامي مثل هذه الطقوس، أدخل القانون رقم 24-06 في الجزائر تعديلات على مكافحة السحر والشعوذة، حيث حدد المفاهيم وحدد العقوبات.

Keywords: (Magic and Sorcery ; Penal Podes ; Algerian Legislation ; Rituals .

كلمات مفتاحية: السحر والشعوذة؛ قانون العقوبات؛ التشريعات الجزائرية؛ الطقوس.

Introduction:

In some cases, restrictions are imposed on judicial systems that hinder their ability to address unclear and unestablished crimes, including acts of magic and witchcraft. Investigating and prosecuting these phenomena can be genuinely challenging due to legal and legislative constraints, as well as difficulties in gathering evidence and confronting these complex practices. However, the Islamic religion prohibits the practice of such rituals as they impact faith and belief, are considered as associating partners with Allah, and pose a threat to social and religious values. Law No. 24-06, issued in April 2024, introduced new amendments to the Penal Code, dedicating a section to combatting acts of magic and witchcraft in Algeria. This study aims to review the provisions of the new legal amendments, particularly defining the concepts of magic and witchcraft and specifying deterrent penalties for offenders. It also analyzes the legal texts aimed at introducing punishments and penalties to protect citizens and enhance justice.

Magic and witchcraft are generally defined as a set of beliefs and practices related to supernatural powers and abilities that are not understood by traditional science. These beliefs and practices have evolved over the ages and have varied in forms and methods across different cultures and traditions.

It is astonishing that beliefs and practices related to magic and witchcraft still have an impact in many countries around the world today. Despite scientific and technological advancements,

there are still people who believe in the existence of supernatural forces that can influence their lives and decisions¹.

Unfortunately, these beliefs and practices often lead to serious violations of laws. By exploiting individuals who resort to magic and witchcraft, fraudulent individuals can gain financial benefits at the expense of victims. There are also cases where individuals deceive others by claiming to possess hidden supernatural powers that can benefit or harm them, manipulating their future decisions or instilling fear.

The following article explores the legal aspects surrounding magic and witchcraft, particularly in light of recent amendments to the penal code in Algeria. It aims to examine the definitions, penalties, and provisions introduced to combat these practices, with a focus on protecting citizens and promoting justice. By addressing the legal challenges associated with magic and witchcraft, it seeks to shed light on the measures taken to prevent the exploitation and harm caused by these beliefs and practices.

The main problem lies in the lack of a strong legal response by countries to address these violations. Often, judicial systems fail to prevent, investigate, or prosecute these violations. This can be attributed to several reasons, including legal and legislative constraints, as well as difficulties faced by authorities in gathering evidence and confronting phenomena that are often mysterious and complex. However, on the other hand, the Islamic religion prohibits the practice of such rituals due to their effects on faith, deviating from belief, and even

¹ Fakhr al-Dim Muhammad bin Omar al-Tamimi al-Razi, *Keys to the Unseen*, first edition, part two, Dar al-Kutub al-Ilmiyyah, Beirut, Lebanon, 2000, p. 154.

associating partners with Allah, which undermines the social and religious values upon which Algerian society is based.

The recent legal amendment to the Penal Code, Law No. 24-06, dedicates a complete section under the title of the sixth section to acts of magic and witchcraft. This raises the following question:

What are the new provisions introduced by Law No. 24-06, issued on April 28, 2024, amending and supplementing Order No. 66-156 issued on June 8, 1966, which includes the Penal Code, regarding the fight against acts of magic and witchcraft?

To answer this question, we divided the topic into two axes. In the first part, we discuss the concept of magic and witchcraft in light of Law No. 24-06. As for the second part, we focus on the issue of deterrent penalties for sorcerers and practitioners of witchcraft according to Law No. 24-06¹

THE FIRST TOPIC

The Concept Of Magic And Sorcery In Light Of Law 24-06.

Beliefs and practices related to magic and witchcraft vary significantly between countries and even within different ethnicities within the same country. This diversity reinforces the challenges faced by legal professionals and the judiciary in understanding and addressing these phenomena. Their understanding is often limited, and these beliefs may be

1 Law No. 24-06 issued on: Shawwal 19, 1445, corresponding to April 28, 2024, amending and supplementing Order No. 66-156, issued on June 8, 1966 containing the Penal Code, Official Gazette No.: 30 issued on: Shawwal 21, 1445, corresponding to April 30 Year 2024.

interpreted based on religious explanations without considering the legal interpretation. As a result, numerous legal and judicial problems arise concerning magic and witchcraft. It is difficult for legal professionals and judges to determine whether these practices constitute legally punishable crimes or not. The undefined and often invisible nature of these acts increases the complexities and challenges faced by judges in addressing complaints and lawsuits related to this phenomenon.

***First Requirement:
The Linguistic And Terminological Definition Of
Magic And Sorcery.***

***First section:
linguistic definition***

There are multiple meanings for the word "magic" in the Arabic language, and it can vary depending on its formation and context.

In Arabic, a man who possesses magical abilities is commonly referred to as a "sahir" . This term is derived from his practice and ability to utilize magic¹.

In addition, the term "magic" is used in the Arabic language to refer to anything hidden or occurring due to unseen forces. For example, something may be described as "hidden in fear of magic" to signify that it is considered a hidden cause influenced by invisible forces.

1 Mohammed bin Makram bin Mandhour, *Lisan al-Arab*, vol. 4, d. Issued, Beirut, Lebanon, p. 349.

Furthermore, the term "magic" is also used to indicate an action that is done secretly, often during late hours of the night. It emphasizes the specific time period in which it takes place. Additionally, the term "al-suhur" is used to describe magical acts, given their secretive nature that occurs in darkness¹.

In English, the linguistic definition of "magic" and "witchcraft" can be explained as follows:

1. Magic: It refers to the practice of using supernatural or occult powers to influence or manipulate natural forces, events, or individuals. Magic often involves rituals, spells, illusions, or the invocation of spirits or supernatural entities.
2. Witchcraft: It involves the use of magical or supernatural powers and practices associated with witches. Witches are believed to possess the ability to cast spells, perform divination, communicate with spirits, and manipulate energies or forces for both beneficial and malevolent purposes.

These terms are used to describe mystical or occult practices that are believed to transcend the laws of nature. They are often associated with folklore, mythology, and different cultural and religious beliefs. The understanding and interpretation of magic and witchcraft may vary across different cultures, traditions, and historical periods.

1Omar Soulaïmen Al-Ashqar, *The Worker of Magic and Sorcery*, 3rd Edition, Dr. Al-Nafas Publishing and Distribution, Jordan, 1997, pp. 69-70.

Section Two: Terminological definition

The terms "magic" and "witchcraft" refer to the use of supernatural powers or magical rituals to achieve an effect or change in the natural world by manipulating hidden forces or invisible entities. Witchcraft is often interpreted as the use of magical rituals or actions to influence people, events, or objects, usually through the use of specific words, symbols, or commands¹.

The terms "magic" and "witchcraft" are used to refer to incomprehensible processes or unusual phenomena that are believed to interfere with the laws of nature. They are often discussed in cultural, religious², and folkloric contexts as rituals or practices performed with the aim of achieving magical or symbolic purposes. The interpretation of magic and witchcraft varies from culture to culture and from religion to religion, and they are sometimes used more generally to refer to deception, unethical actions³, or mysterious and magical operations⁴.

1 Mohammed Mahmoud Al-Bawi, *Magic in the Rule of Sharia and Law*, Dr. The Numbers, Abi Al-Arqam, Lebanon, 2002, p. 12.

2 Mohammed Mahmoud Al-Bawi, *ipid*, p. 12.

3 Manal Marwan Munjid, *Criminal Confrontation of Crimes of Witchcraft and Sorcery in the UAE Penal Code, (A Comparative Analytical Study)*, Sharjah University Journal of Legal Sciences, United Arab Emirates, Volume 15, Issue 02, 2018, pp. 228-229.

4 Wahid bin Abd Essalem Al-Bayel, *Al-Sarim Al-Battar in Confronting Magicians and Evil People*, 3rd edition, Al-Tabi'in Library, Cairo, Arab Republic of Egypt, 1992, p. 15.

Second Requirement: The Legal Definition Of Magic And Sorcery

According to paragraph 4 of Article 303 bis 42 of Law 24-06, "magic and witchcraft" are defined as creating hope or fear of the occurrence of a fictitious accident or other event through the illusion of possessing imaginary powers or falsely assuming a characteristic. This definition includes acts of fortune-telling and predicting the unseen.

Under this legal definition, magic and witchcraft are considered acts aimed at deceiving others and creating an illusion of possessing supernatural or imaginary abilities. This may include practices of fortune-telling and making predictions about future events through non-scientific or deceptive means.

This definition reflects the specific legal wording regarding magic and witchcraft in this particular law, and it may vary from one law to another depending on the laws and regulations in each country or region¹.

The paragraph stated in the legal article defines magic and witchcraft within the context of the article itself. It states that the purpose of magic and witchcraft is to create expectations or fears about the occurrence of events in the near or distant future, or unexpected fictitious incidents that were previously unknown. This is done through practiced methods that involve deceiving others with imaginary abilities or unreal authority, or pretending to possess false qualities related to knowledge, control, and manipulation of thoughts. Additionally, the mentioned legal

1 See Article 303 bis 42 of Law No. 24-06 issued on: Shawwal 19, 1945, corresponding to: April 28, 2024, amending and supplementing Order No. 66-156, issued on June 8, 1966 containing the Penal Code, op. cit.

article indicates that acts of fortune-telling and prediction fall under the category of magic and witchcraft as supernatural phenomena. Therefore, they are part of the concept of magic and witchcraft according to this definition¹.

The definition implies that individuals who practice magic and witchcraft use unreal means to influence and mislead others, leading to false expectations or fears of unreal events. This can include pretending to have supernatural powers or non-existent special abilities, such as the ability to predict the future or communicate with spirits. It can also involve exploiting individuals by claiming to remove supposed spells or curses in exchange for monetary compensation.

Indeed, these definitions aim to delineate the scope of actions that individuals may be subjected to and that are considered to fall under the category of magic and witchcraft according to the law. This is done in order to achieve justice and protect society from manipulation and fraud resulting from these practices. By clearly defining and identifying what constitutes magic and witchcraft, the legal system can establish guidelines, regulations, and penalties to address and deter such activities. This helps maintain social order, protect vulnerable individuals from exploitation, and ensure the fair administration of justice.

THE SECOND TOPIC: Deterrent Penalties For Witches And Sorce

In the absence of effective legal measures, institutional failure perpetuates the impunity of suspected individuals and fraudsters. The lack of strong deterrent measures means that

¹ Op.cit.

these individuals continue to commit their violations without serious legal consequences. This negatively affects trust in justice and impacts the rights of victims who do not find the protection and justice they deserve.

It is evident that there is an urgent need to enhance legal and legislative measures to combat violations related to magic and witchcraft. States should adopt stringent legislation to protect citizens from scams and fraud based on supernatural beliefs. Additionally, raising awareness and educating the public about the potential dangers of these practices and their legal consequences is crucial. This is what the Algerian legislature has sought to achieve by adopting deterrent penalties under Law No. 24-06, issued on April 28, 2024, amending and completing Order No. 66-156, issued on June 8, 1966, which includes the Penal Code.

***First Requirement:
Penalties For Practicing Magic, Sorcery, And
Harming Persons In Algerian Legislation***

The Algerian constitution guarantees the sanctity of human beings and prohibits any violation thereof, including physical or moral violence and any act that undermines human dignity, regardless of its form.

The constitution also imposes penalties on anyone who treats others with cruelty or inhumanity. As the supreme law of the state, ensuring the integrity of this matter serves as a guarantee of individual dignity. In this context, actions related to witchcraft and sorcery are considered crimes that violate the dignity of individuals.

Article 39 of the amended Algerian Constitution of 2020 has enshrined this issue by stating: « Article 39: The state guarantees that human sanctity will not be violated. Any physical or moral violence, or any violation of dignity, is prohibited. The law punishes torture, cruel, inhuman or degrading treatment, and trafficking With humans. »¹

According to Article 303 bis 42 of Law No. 24-06, issued on April 28, 2024, amending and completing Order No. 66-156, issued on June 8, 1966, which includes the Penal Code, the Algerian legislator imposes a penalty of imprisonment ranging from one to three years and a fine ranging from 100,000 to 300,000 Algerian dinars on anyone who makes witchcraft and sorcery their profession or engages in any of its practices with the aim of obtaining material or moral benefit.

On the other hand, the Algerian legislator has established a penalty of imprisonment ranging from three to seven years and a fine ranging from 300,000 to 700,000 Algerian dinars if witchcraft and sorcery result in physical or moral harm, according to the second paragraph of Article 303 bis 42 of the aforementioned law, without prejudice to the penalties associated with more serious acts as stipulated in other provisions of this law, in accordance with their form and nature.

Furthermore, the penalty becomes much more severe if acts of witchcraft and sorcery violate the sanctity of private life, honor, dignity of individuals, or involve fraud and deception. The third paragraph of Article 303 bis 42 establishes a penalty

1 See Article 39 of the Constitution, Presidential Decree 20-442, dated 15 Jumada Al-Awwal 1442, corresponding to 30 December 2020, regarding the issuance of the Constitutional Amendment of 2020, Journal No. 82, issued on 15 Jumada Al-Awwal 1442, corresponding to 30 December 2020.

ranging from five to ten years of imprisonment and a fine ranging from 500,000 to 100,000 Algerian dinars.

The legal texts related to witchcraft and sorcery in Algeria are issued by the legislator with the aim of achieving several social and legal objectives and benefits. These texts primarily aim to protect society from the negative effects of witchcraft and sorcery, by regulating and criminalizing these practices to limit their spread and harmful impact on individuals and society as a whole. In doing so, social stability is enhanced, and public order is preserved¹.

On another note, the legal texts aim to protect individuals on both personal and physical levels. When the appropriate laws are applied, individuals who exploit witchcraft and sorcery to harm others are prevented and punished. Consequently, the rights of individuals are enhanced, and they are protected from the harmful effects of such practices.

Additionally, the law and the prescribed penalties serve as a means of deterrence. Strict penalties play a role in intimidating individuals and raising their awareness that engaging in witchcraft and sorcery carries serious legal consequences. Thus, the deterrent effect is achieved, promoting respect for the law and limiting the spread of such practices².

1 See Article 303 of Law No. 24-06 issued on: Shawwal 19, 1945, corresponding to: April 28, 2024, amending and supplementing Order No. 66-156, issued on June 8, 1966 containing the Penal Code, op. cit.

2 Hadj Ali Badr Eddine, *Acts of Magic and Sorcery between Penalization and Criminalization*, Journal of Law and Political Science, Naama University Center, Volume 08, Issue 02, 2022, p. 31.

In general, the issuance of these legal texts reflects the commitment of the Algerian legislator to protect society and achieve justice. They work to prevent and punish sorcerers and witches and deliver justice to the community, thereby contributing to enhancing security, social stability, and legal order in the country.

***Second Requirement:
Combating The Promotion Of Witchcraft And
Sorcery Under Law 24-06.***

The law did not overlook the provisions of Law No. 24-06, issued on April 28, 2024, which amends and supplements Order No. 66-156, issued on June 8, 1966, containing the aforementioned Penal Code, regarding the issue of promoting witchcraft and sorcery due to its utmost importance. This is particularly relevant considering the use of electronic means by sorcerers to lure their victims, engage in deception and fraud, and exploit social media platforms to deceive and disseminate ideas related to myths and metaphysics.

The Algerian legislator stipulated through Article 303 bis 43 that anyone intentionally promoting crimes related to witchcraft and sorcery shall be punished with imprisonment ranging from two (02) to five (05) years and a fine ranging from 200,000 Algerian dinars to 500,000 Algerian dinars.

Furthermore, the judicial authorities are empowered by law to seize the funds, means, and equipment used or obtained in the commission of these crimes, as well as to close the website associated with the promotion of the mentioned crimes, rendering it inaccessible. They are also authorized to close the premises or locations where the aforementioned crimes were previously committed.

Combatting the promotion of magic and sorcery carries numerous and highly important benefits. The use of electronic promotion by sorcerers to lure and defraud victims through the exploitation of social media platforms and the dissemination of myths and metaphysics necessitates strict legal measures to confront it. This issue is of great significance in Algeria. One of the main benefits of combating the promotion of magic and sorcery is the protection of potential victims from fraud and deception. By imposing harsh penalties on promoters, the opportunity for exploiting people is reduced, and they are protected from the financial and psychological harm caused by these crimes. Additionally, the funds and resources used by sorcerers in carrying out their illegal activities can be seized, thereby promoting justice and limiting their ability to engage in harmful practices.

Moreover, combating the promotion of magic and sorcery works to reduce fraud and deception. By shutting down websites associated with promoting these crimes and preventing the spread of misconceptions and misleading information through social media, the influence of sorcerers can be diminished, and a more aware and educated society can be achieved. This can be accomplished by providing accurate and reliable information about such practices and raising awareness about the methods used by sorcerers to gain individuals' trust and achieve illegitimate gains.

Another benefit of combatting the promotion of magic and sorcery is the regulation of activities and the reduction of the spread of misconceptions and deception associated with myths and metaphysics. By shutting down websites linked to the promotion of these practices and strictly regulating their activities, the ability of sorcerers and practitioners to spread their influence on people can be restricted. This can be achieved

through the implementation of strict laws and policies governing the activities of promoters and prohibiting their illegal practices.

Furthermore, enhancing cooperation among different entities such as the police, judicial authorities, and relevant organizations can bolster efforts to combat the promotion of magic and sorcery.

Additionally, combatting the promotion of magic and sorcery can contribute to enhancing awareness and education among people. Public awareness campaigns can be implemented to shed light on the harms of these crimes and provide accurate information about the myths and misconceptions associated with them. By promoting awareness, individuals become more capable of recognizing the signs of magic and sorcery promotion and safeguarding their well-being and protecting themselves from fraud.

In general, it can be said that combatting the promotion of magic and sorcery promotes justice and protection for potential victims of fraud and deception, while reducing the spread of misconceptions and deception. By implementing strict laws, regulating activities, and promoting awareness, we can build a more aware and educated society regarding these crimes, provide protection to individuals, and diminish the influence of sorcerers and practitioners.

Conclusion:

Unusually, Law 24-06 addressed the legal definition of witchcraft and sorcery, as well as imposing strict penalties for crimes associated with them. However, combating violations related to witchcraft and sorcery requires additional multi-faceted efforts, including awareness and education. These efforts

must be integrated and coordinated to ensure the protection of individuals and communities from exploitation and injustice. Additionally, international cooperation can contribute to combating violations related to witchcraft and sorcery. States should exchange information and expertise and enhance legal cooperation to combat this phenomenon across borders.

Common legal frameworks can be adopted to enhance cooperation and information exchange between countries to address these challenges. In general, governments, judicial institutions, and communities must collaborate effectively to address this issue, provide necessary support to victims, and promote justice. Emphasis should be placed on enhancing criminal investigations, avoiding impunity, and promoting the rights of victims and compensating them for the harm they have suffered.

It is also important for religious and spiritual institutions to fulfill their role in combating violations associated with witchcraft and sorcery. These institutions can raise awareness and knowledge about the potential dangers of these practices and promote religious teachings that emphasize justice and truth.

Furthermore, civil society and the media can play a crucial role in monitoring and documenting violations related to witchcraft and sorcery. They can raise awareness and disseminate stories and reports that expose fraud and exploitation associated with these practices. Therefore, the media should be careful to provide information objectively and balanced, while respecting the rights of victims and avoiding further promotion of illegal practices.

In conclusion, there must be a genuine commitment from everyone - governments, institutions, society, and individuals -

to combat violations related to witchcraft and sorcery. Law and justice must be strengthened to ensure the rights of individuals and protect them from exploitation and injustice. Through integrated efforts and collective action, we can achieve a more just and secure society for everyone.

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