



The Crime of Witchcraft in the Perspective of Islamic Law

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Abstract

The crime of witchcraft is a problem that has religious, social, and legal dimensions because its practice can cause physical, psychological, and social harm. This research aims to analyze the crime of witchcraft from the perspective of Islamic law, especially regarding the form, elements, and sanctions against the perpetrators. This research uses a normative juridical method with a conceptual and legislative approach. Data was obtained through the study of the Qur'an, hadith, jurisprudence, Islamic legal literature, and relevant laws and regulations. The results of the study show that magic in Islamic law has various forms and characteristics so that criminal liability is determined based on the form of the act, the elements of the offense, and the consequences caused. Acts that contain elements of disbelief or shirk have different legal consequences than practices that cause harm to the victim. If the practice of magic causes death and fulfills the element of murder, the responsibility can be analyzed through qishash-diyat, while an act that does not meet these elements can be subject to ta'zir. These findings show that the handling of witchcraft crimes from the perspective of Islamic law emphasizes the certainty of deeds, proof, accountability, and protection of the community.

Keywords: Islamic Law; Jinayah; Magic; Criminal Sanctions

Abstrak

Kejahatan sihir merupakan persoalan yang memiliki dimensi keagamaan, sosial, dan hukum karena praktiknya dapat menimbulkan kerugian secara fisik, psikologis, maupun sosial. Penelitian ini bertujuan untuk menganalisis kejahatan sihir dalam perspektif hukum Islam, khususnya terkait bentuk, unsur, dan sanksi terhadap pelakunya. Penelitian ini menggunakan metode yuridis normatif dengan pendekatan konseptual dan perundang-undangan. Data diperoleh melalui kajian terhadap Al-Qur'an, hadis, fikih, literatur hukum Islam, serta peraturan perundang-undangan yang relevan. Hasil penelitian menunjukkan bahwa sihir dalam hukum Islam memiliki berbagai bentuk dan karakteristik, sehingga pertanggungjawaban pidana ditentukan berdasarkan bentuk perbuatan, unsur tindak pidana, dan akibat yang ditimbulkan. Perbuatan yang mengandung unsur kekufuran atau syirik memiliki konsekuensi hukum yang berbeda dengan praktik yang menimbulkan kerugian terhadap korban. Apabila praktik sihir menyebabkan kematian dan memenuhi unsur pembunuhan, pertanggungjawabannya dapat dianalisis melalui konsep qishash-diyat, sedangkan perbuatan yang tidak memenuhi unsur tersebut dapat dikenai sanksi ta'zir. Temuan ini menunjukkan bahwa penanganan kejahatan sihir dalam perspektif hukum Islam menekankan kepastian mengenai perbuatan, pembuktian, pertanggungjawaban, serta perlindungan terhadap masyarakat.

Kata Kunci: Hukum Islam; Jinayah; Sihir; Sanksi Kriminal

Introductiona

Magic, witchcraft, pellets, the use of amulets, spells, and various forms of practices that are categorized as magic by some people.¹ This practice develops in social life and in certain conditions related to domestic conflicts, economic competition, health problems,

¹ Stephen A. Mitchell, "26- Magic and Religion," dalam *The Pre-Christian Religions of the North*, ed. oleh Jens Peter Schjødt dkk. (Brepols Publishers, 2020), <https://doi.org/10.1484/M.PCRN-EB.5.116953>.

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hostility, to attempts to harm or influence other parties.² This phenomenon shows that the problem of magic has a social and legal dimension that needs academic attention, especially when the practice causes harm to certain parties.

The problem becomes more complex when someone is accused of witchcraft against another person. In people's lives, these accusations are sometimes based on conjectures, informal testimony, confessions of certain parties, objects that are considered to be magic mediums, or the victim's belief that he or she has been the target of the practice.³ From a legal perspective, a criminal charge must be supported by evidence that can be legally accounted for. The difficulty of proving a causal link between a person's actions and the consequences believed to be the influence of magic can raise serious problems, especially when the accusation develops into social exclusion, family conflicts, loss of livelihood, and even acts of violence against the person considered to be the perpetrator.

From the perspective of Islamic law, the issue has its own complexity because magic is discussed in Islamic literature in relation to aspects of faith, morality, and criminal law.⁴ Scholars have different views on the nature of magic, the classification of its acts, the legal consequences it causes, and the types of sanctions that can be imposed on the perpetrators.⁵ This difference in perspective is important to be studied systematically because a practice that is referred to by the community as magic needs to be analyzed based on the characteristics of the act, the element of intentionality, the purpose of the perpetrator, the consequences caused, and the mechanism of proof before determining the criminal consequences according to Islamic law.

Research on magic from the perspective of Islamic law has been conducted by several researchers with different focuses. Meitria Cahyani et al., in his research on the crime of witchcraft according to Islamic law explained the position of magic as an act that can cause harm to humans. The research discusses the form of sanctions and proof against witchcraft perpetrators based on the concept of *jinayah*.⁶ This study is an important basis for research

² "Magic | Definition, Types, History, & Facts | Britannica," diakses 19 Agustus 2026, <https://www.britannica.com/topic/magic-supernatural-phenomenon>.

³ Mukhsin Nyak Umar dkk., "Criminal Responsibility for Santet Practices in Simeulue Regency from the Perspective of Islamic Criminal Law," *Legitimasi: Jurnal Hukum Pidana dan Politik Hukum* 14, no. 1 (2025): 204–21, <https://doi.org/10.22373/legitimasi.v14i1.30122>.

⁴ Arrahman Aji Prabowo dan Nawir Yuslem, "A Study of the Thematic Interpretation of Wahbah Az-Zuhaili on Magic and Santet Verses in the Socio-Religious Context in Indonesia," *QiST: Journal of Quran and Tafseer Studies* 4, no. 2 (2025): 429–54, <https://doi.org/10.23917/qist.v4i2.10673>.

⁵ Hendrik Hendrik dkk., "The Criminal Policy On Regulation Concerning Black Magic In Indonesian Law," *International Journal of Multi Discipline Science (IJ-MDS)* 1, no. 1 (2018): 36, <https://doi.org/10.26737/ij-mds.v1i1.418>.

⁶ Meitria Cahyani dkk., "THE RENEWAL OF THE EVIDENTIARY PROCESS FOR THE CRIMINAL ACT OF SUPERNATURAL PRACTICES: Analysis Article 252 of Law Number 1 of 2023 Concerning The Criminal Code," *Journal of Indonesian Comparative of Syari'ah Law* 8, no. 3 (2025): 719–32, <https://doi.org/10.21111/jicl.v8i3.14534>.

that discusses witchcraft as a criminal issue in Islamic law. Houra Habibi and Mohammad Mehdi Naderi, research on magic from the perspective of the Qur'an emphasizes more on the concept and position of magic based on the verses of the Qur'an. The results of the study show that magic is a practice that is prohibited in Islam and can have various impacts on human life.⁷ The research focuses more on theological and normative aspects so that it has not specifically discussed the elements of criminal acts and the accountability of the perpetrators. Research on witchcraft has also been conducted by comparing Islamic criminal law and positive law.

Some studies show that *santet* is related to the concept of magic in Islamic law, while in positive Indonesian law the regulation is directed to concrete acts in the form of offering or providing services that are claimed to cause suffering to others. The study shows that the main problem in the criminalization of witchcraft or witchcraft lies in the limitations of the act and its proof. Nonetheless, these studies tend to focus on one particular aspect. The study of magic in the Qur'an emphasizes the theological dimension, while the research on witchcraft is more directed at criminalization and its relevance to Article 252 of the Criminal Code. Thus, there is still academic space to study magic as a criminal act in the construction of Islamic law more comprehensively, especially by linking the form of acts, elements of criminal acts, accountability, proof mechanisms, and sanctions.

The position of this research is different from previous research because it uses magic as the main object of study, not merely witchcraft as a certain form of magic practice or the provisions of Article 252 of the Criminal Code. This research is directed to look at the normative construction of when a practice can be categorized as a witchcraft crime in Islamic law, how the criminal elements can be formulated, how the responsibility of the perpetrator is determined, and how sanctions can be constructed based on the principles of *jinayah*. Thus, the novelty of the research lies in the effort to integrate aspects of the form of acts, criminal elements, proof, accountability, and sanctions into one systematic Islamic legal analysis framework.

Method

This research uses normative legal research methods with a conceptual approach, a legislative approach, and a *fiqh* approach.⁸ The research is directed to analyze the position of magic as a criminal act in the perspective of Islamic law, especially related to the form of acts, elements of criminal acts, accountability, proof, and sanctions against the perpetrators.

⁷ Houra Habibi dan Mohammad Mehdi Naderi, "A Comparative Study of Magic from the Perspective of the Qur'an and the Testaments," *Asian Journal of Research in Social Sciences and Humanities* 11, no. 9 (2021): 23–33, <https://doi.org/10.5958/2249-7315.2021.00032.0>.

⁸ Putri Wulandari, "Normative Legal Research Methodology from the Experts' Perspective: A Comparative Analysis of Concepts and Approaches," *Archipel: Journal of Indonesian Interdisciplinary Studies* 1, no. 6 (2026): 12–25, <https://doi.org/10.65739/archipel.v1i6.34>.

The research data source consists of primary, secondary, and tertiary legal materials. Primary legal materials include the Qur'an, hadith, jiyah fiqh books, as well as relevant criminal law provisions. Secondary legal materials are books, scientific journal articles, research results, and academic works that discuss magic, witchcraft, criminal acts, proof, and Islamic criminal law. Tertiary legal materials are used to help explain terms and concepts related to the object of research.

The collection of legal materials is carried out through literature studies by searching, identifying, and classifying various sources relevant to the focus of the research. The legal materials obtained are then analyzed qualitatively-descriptively through the interpretation of Islamic legal norms and concepts.⁹ The analysis was carried out by connecting the concept of magic in Islamic law sources with the principles of jinayah, especially regarding the elements of criminal acts, mistakes, responsibility, proof, and sanctions. The results of the analysis are presented systematically and argumentatively to obtain conclusions about the position of the practice of witchcraft as a criminal act in Islamic law as well as the forms of accountability and sanctions that can be applied based on the views of scholars and the principles of Islamic criminal law.

Results and Discussion

The Concept of Magic in the Perspective of Islamic Law

The discussion of the crime of witchcraft in Islamic law needs to begin with an understanding of the concept and limitations of magic as stated by scholars. This definition is important because it is the basis for determining the characteristics of actions that can be categorized as magic and its legal consequences. Ibn Qudamah explained that magic includes buhul, incantations, spoken or written speech, as well as certain actions that are performed to influence a person's body, heart, or mind without direct contact.¹⁰ According to him, magic has an essence and can cause various impacts, such as illness, death, disturbance of relationships between husband and wife, the emergence of hatred, and the emergence of affection between a person and another person.

This definition shows that magic in Ibn Qudamah's view has the characteristics of an act that is done deliberately with the aim of influencing others.¹¹ These influences can be related to a person's physical, psychological, and social relationships. Thus, from the perspective of Islamic criminal law, the concept has relevance to identify the acts, goals, and consequences that the practice of witchcraft entails. A more specific view is put forward by Wahid Abdussalam Baali who defines magic as an agreement between a sorcerer and a demon, when the perpetrator commits an unlawful act or shirk in exchange for the help

⁹ Wulandari, "Normative Legal Research Methodology from the Experts' Perspective."

¹⁰ AMAA Ibn Qudamah, "al-Mughni," *Dar'Alam al-Kutub*, 1997.

¹¹ Ibn Qudamah, "al-Mughni."

and obedience of the devil to the perpetrator's request.¹² This definition places the element of intentionality, forbidden acts, and the purpose of obtaining help through means contrary to the Shari'ah as important characteristics in the practice of magic. From the point of view of Islamic law, this element is relevant in examining the relationship between the perpetrator's actions and the legal liability that can be imposed on him.

Based on these two definitions, magic can be understood as a certain practice that is carried out in a hidden way and aims to influence others through means that are contrary to the provisions of the sharia. Forms of influence associated with magic can be in the form of physical disorders, psychological disorders, relationship breakdowns, the emergence of hatred, or other forms of suffering. Therefore, the discussion of magic in the perspective of Islamic law is related to the protection of the soul, intellect, honor, family, and the benefit of society.

Scholars have different views on the nature and influence of magic. The first opinion states that magic has a nature and can have a real influence on humans.¹³ This opinion is the view of the majority of scholars. They argue that magic can cause a person to experience health problems, suffering, breakdowns in the household, and even death.¹⁴ This view was put forward by a number of scholars from the Malikiyah and Shafi'iyah circles, among others. The basis of this group's thinking is related to QS, among others. Al-Baqarah [2]:102 which explains that the practice of magic can be used to separate a person from his partner.

The second opinion states that magic has no essence and does not exert any real influence. According to this view, the phenomenon of magic is more related to illusions, deception of vision, or manipulation of one's perception. This opinion is attributed to a number of scholars, including Ibn Hazm al-Zhahiri, some Mu'tazilah scholars, and the Qadariyah group. These differences of view show that the question of the essence of magic is a theoretical debate in the treasures of Islamic law and thought.¹⁵

In the context of this study, the view that magic has an essence and can exert real influence becomes the basis of the analysis while still affirming the theological principle that magic does not have absolute power.¹⁶ The abilities associated with the practice of magic cannot be equated with the power of God. Thus, the influence of magic, as understood in some of the literature of fiqh and commentary, remains in the will and power of Allah. Ali al-Shabuni also considers that the opinion of the majority has a stronger

¹² Wahid Abdussalam Bali, "Ash-Sharimul Battar fit Tashaddy Lis Saharatii Asyrar," Terj. Arif Mahmudi, Tolak Sihir cara Islam. Solo: Aqam, 2008.

¹³ I. C. Jarvie dan Joseph Agassi, "The Problem of the Rationality of Magic," *The British Journal of Sociology* 18 (1967): 55, <https://doi.org/10.2307/588590>.

¹⁴ Jarvie dan Agassi, "The Problem of the Rationality of Magic."

¹⁵ Ibn Hazm, *al-Muhalla* (al-Muniriyyah, 1934).

¹⁶ Mahir Apak dan Ulvi Murat Kilavuz, "The Magic of the Babylonians in Islam: Discussion in the Context of al-Baqara 2:102," *Religions* 17, no. 8 (2026): 876, <https://doi.org/10.3390/rel17080876>.

argument because the Qur'an explicitly mentions the influence of magic, especially in the context of hatred and separation between husband and wife.¹⁷ From the perspective of criminal acts, this concept is important because an act can be analyzed based on the elements of the act, intentionality, purpose, consequences, and accountability of the perpetrator. The practice of magic that is done intentionally to harm, hurt, influence, or harm another party has a different legal dimension from actions that are simply related to illusions or performances. Therefore, the categorization of magic as a criminal act in Islamic law needs to consider the form of the act, the intention of the perpetrator, the means used, the consequences caused, and the proof of the act.

Forms and Characteristics of Magic Practices

In the perspective of Islamic law, the practice of magic is understood as an act that is done through certain means with the aim of gaining influence over others.¹⁸ Wahid Abdussalam Baali explained that the practice of magic in Islamic literature is often associated with the involvement of Satan and the use of various actions that are contrary to the provisions of the Shari'a.¹⁹ These forms of actions include insulting religious symbols, the use of certain objects or media, the implementation of rituals that contain elements of sharia, and the use of mantras or writings that contain meanings that are contrary to the principles of monotheism. The description shows that the characteristics of the practice of magic from the perspective of Islamic law are related to the method used, the purpose of the perpetrator, and the form of deviation from religious norms.

Based on this description, the practice of magic can be classified into several forms based on the purpose and consequences it causes. Among them are practices aimed at separating the relationship between husband and wife, causing unnatural love or attraction, providing psychological disorders, causing illness, causing certain suffering, or causing rifts in social relationships. The classification suggests that the practice of magic has an orientation towards changing a person's condition or relationships through means that are believed to be outside of the usual cause-and-effect mechanisms.

In the context of criminal acts, this classification is important because the consequences caused are one of the aspects that need to be analyzed in determining the level of responsibility of the perpetrator.²⁰ Practices that are directed to separate domestic relationships, cause health problems, create psychological suffering, or harm someone have different legal consequences when compared to acts that simply contain elements of fraud

¹⁷ MuhammadAli Al-Sabuni, *Rawa'i al-bayan: Tafsir ayat al-ahkam min al-Qur'an* (Alim al-kutub, 1986).

¹⁸ Michael Muhammad Knight, *Magic in Islam* (Penguin Publishing Group, 2016).

¹⁹ Bali, "Ash-Sharimul Battar fit Tashaddy Lis Saharatii Asyrar."

²⁰ Mohammad Salem Al-Shahin dkk., "Challenges in applying criminal liability rules to unlawful acts committed by artificial intelligence," *Corporate Law & Governance Review* 8, no. 2 (2026): 29, <https://doi.org/10.22495/clgrv8i2p3>.

or showmanship. Therefore, legal assessment of the practice of magic needs to consider the relationship between the act, purpose, effect, and mistake of the perpetrator.

The literature on magic also describes a number of characteristics that can be used to identify shamanic practices or practices associated with magic.²¹ These characteristics include requests for personal information of the victim, the use of objects that have been used by the victim, the use of objects related to a person's body, the giving of certain amulets or writings, the use of spells that cannot be understood in their meaning, the performance of certain rituals, and the use of certain objects or materials as part of ritual practices. In legal research, these characteristics cannot be automatically positioned as evidence that a person has committed a criminal act of witchcraft. These characteristics are more appropriately understood as an initial indicator that requires further proof.

This is important because the practice that people refer to as magic can have various forms and not all have the same characteristics. The use of certain objects, writings, prayers, mantras, or rituals can also be found in religious practices as well as traditional medicine. Therefore, clear normative boundaries are needed to distinguish between religious practices, traditional medicine, shamanic fraud, and practices that can be categorized as criminal acts according to Islamic law. This distinction is necessary to avoid baseless accusations and maintain the principle of justice in the application of the law.

One of the important issues in the practice of magic is the use of certain amulets, writings, spells, or objects that are believed to have the power to provide protection, bring benefits, or cause harm.²² From the perspective of monotheism, the belief that an object has absolute power beyond the will of Allah is a serious problem.²³ However, in the context of criminal law, these aspects of belief need to be distinguished from concrete actions taken by a person. Criminalization requires a basis in the form of provable acts, the fault of the perpetrator, and the fulfillment of the elements of the criminal act based on the legal norms used.

Another practice mentioned in literature is the use of certain animals or objects in rituals associated with offerings to other than Allah. From the perspective of Islamic law, the act of offering worship to someone other than Allah is seen as a form of deviation from the principle of monotheism. Abdurrahman Hasan Ali Shaykh in *Fath al-Majid* explained that the act of getting closer to other than Allah through slaughter or other forms of worship

²¹ Thomas Aneurin Smith dkk., "'What Kind of Witchcraft Is This?' Development, Magic and Spiritual Ontologies," *Third World Thematics: A TWQ Journal* 2, no. 2–3 (2017): 141–56, <https://doi.org/10.1080/23802014.2017.1411209>.

²² Figen Balamir dan Selman Yılmaz, "Religious Healing in the Modern World: Faith, Culture, and Social Dynamics," *Religions* 16, no. 7 (2025): 883, <https://doi.org/10.3390/rel16070883>.

²³ G. Hussein Rassool, "Monotheism as the Foundation of Islāmic Psychotherapy," dalam *Exploring the Intersection of Islāmic Spirituality and Psychotherapy*, oleh G. Hussein Rassool (Springer Nature Switzerland, 2024), https://doi.org/10.1007/978-3-031-72724-5_2.

is an act that contains elements of *shirk*.²⁴ In the context of this study, this view is relevant to explain the normative dimension of witchcraft practice, while the determination of criminal liability still requires an analysis of the elements of the act and *the applicable* provisions of *jinayah*.

Other characteristics found in literature are the use of certain rituals, the seclusion of a person, the giving of objects to be planted or burned, the use of certain writings or symbols, as well as the transmission of information about a person's personal life that is claimed to have been obtained through the help of supernatural powers. This phenomenon shows the existence of two possible legal characters. First, the practice can be seen as an act related to the violation of religious norms. Second, if the perpetrator gains economic benefits by using claims of supernatural abilities to deceive someone, his actions can also be analyzed from the perspective of fraud, unauthorized profit-taking, or other forms of lawlessness.

Thus, the practice of magic in this study is not solely understood based on claims about the existence of supernatural powers, but is analyzed based on concrete actions carried out by the perpetrator, the purpose of the act, the means used, the consequences caused, and the relationship between the act and the loss experienced by the victim. This approach is needed so that the study of witchcraft crimes has an objective legal basis and can be accounted for academically.

Based on this description, it can be formulated that the characteristics of the crime of witchcraft in the perspective of Islamic law include several main aspects, namely (1) the existence of intentional acts; (2) the use of means or means that are contrary to the principles of sharia; (3) there is a purpose to influence other parties; (4) the existence of consequences or potential losses to the victim; and (5) the fulfillment of the element of accountability according to Islamic criminal law. These five aspects are the basis for determining whether a practice can be placed as a criminal act of witchcraft or even included in other categories of acts in Islamic law.

Sanctions for the Crime of Witchcraft in the Perspective of Islamic Law

In Islamic criminal law, an act can be categorized as *jarimah* if there is a sharia prohibition that is violated and the perpetrator can be held accountable. In general, *jarimah* is classified into three groups, namely *hudud*, *qishash-diyat*, and *ta'zir*.²⁵ This classification is the basis for determining the type and level of sanctions for a criminal act. In the context of the crime of witchcraft, scholars have differences of opinion regarding the basis of punishment and the types of sanctions that can be applied. The difference is mainly related

²⁴ Abdurrahmān bin Ḥasan Ali Syaikh, "Fath al-Majīd Bi Syarḥ al-Tawḥīd," *Kairo: Dar al-Aqīdah*, 2006.

²⁵ Arifin Siahaan dan Mhd Yadi Harahap, "The Penal System in Islamic Law: The Concepts of Jarimah, Uqubat, and Ta'zir," *Jurnal Cendikia ISNU SU* 3, no. 1 (2026): 72–77, <https://doi.org/10.70826/jcisnu.v3i1.1315>.

to the status of witchcraft as an act that can cause disbelief, cause death or harm to the victim, or as a forbidden act whose sanctions are left to the authority of the judge.

A study of fiqh literature shows that the discussion of magic is contained in several chapters of Islamic law. Some scholars discuss it in the chapter of *jinayat*, while others include it in the discussion of *hudud*, especially regarding *riddah*.²⁶ The difference in classification is related to different views on the basis of the perpetrator's responsibility. In a certain perspective, the sanction against witchcraft is associated with disbelief or apostasy if the practice contains elements of shirk or insult to religious teachings. In another perspective, sanctions are associated with the concrete consequences caused by the practice, especially if the act of magic causes death or harm to the victim.

In the perspective of Islamic law, the status of a sorcerer cannot be determined solely on the basis of the claim that a person is practicing magic. Determining legal status requires identifying the form of the act, the underlying beliefs, the perpetrator's goals, and the consequences caused.²⁷ This is important because the practice referred to as magic has various forms. If a practice contains elements of shirk or disbelief that are clearly contrary to the principle of monotheism, the problem can be related to the law of *riddah*. On the other hand, if the act does not meet the element of kufr, but is still a prohibited act and harms other parties, the sanction can be analyzed in the framework of *jinayah* and *ta'zir*.

A number of scholars, such as Imam Malik,²⁸ Abu Hanifah,²⁹ and Ahmad ibn Hanbal,³⁰ are of the view that the practice of magic under certain conditions can be severely punished. This view is based, among other things, on QS. Al-Baqarah [2]:102 which links the practice of magic with disbelief, as well as a number of narrations about the actions of the Companions against witchcraft. In this construction of opinion, severe punishment is mainly associated with conditions when the practice of witchcraft is accompanied by an act that causes disbelief or shirk. Thus, the basis for the punishment is not solely because of the use of the term "magic", but because there are acts or beliefs that meet the category of gross violations in Islamic law.

Meanwhile, Imam al-Shafi'i and some other scholars have placed restrictions on the application of the death penalty. According to this view, witchcraft is not automatically sentenced to death just for practicing witchcraft. The death penalty can be applied if the practice is accompanied by an act that causes disbelief or if the magic results in the death

²⁶ Salma Salma dkk., "The Other Side of the History of the Formulation of Aceh Jinayat Qanun," *AHKAM: Jurnal Ilmu Syariah* 22, no. 1 (2022), <https://www.academia.edu/download/104029674/21000-81998-1-PB.pdf>.

²⁷ Miranda Forsyth, "The Regulation of Witchcraft and Sorcery Practices and Beliefs," *Annual Review of Law and Social Science* 12, no. 1 (2016): 331–51, <https://doi.org/10.1146/annurev-lawsocsci-110615-084600>.

²⁸ Muḥammad'Alī Al-Shawkānī, "Nayl al-awṭār," *Miṣr: Dār al-ḥadīth, al-Ṭab'ah al-ūlā*, 1993.

²⁹ Ibnu Abidin dan Muhammad Amin, "Radd al-Muḥtār 'alā al-Durr al-Mukhtār Syarḥ Tanwīr al-Abṣār," *Beirut: Dār al-Fikr*, 1979.

³⁰ Muhammad Abdallah bin Ahmad Ibn Qudāmah, *al-Mughnī* (Maktabh al-Jumhuriyah al-'Arabiyah, 1980).

of the victim so as to fulfill the element of *qishash*.³¹ This view shows that there is a distinction between the act of magic as a forbidden act and the legal consequences caused by it.

These differences of opinion show that the sanctions for the crime of witchcraft in Islamic law are contextual based on the characteristics of the act and the consequences caused. If the perpetrator commits an act that meets the elements of kufr or apostasy, the legal consequences are related to the provisions of *riddah*. If the practice of magic actually causes the death of a person and the causal relationship between the perpetrator's actions and the death can be proven, then the problem can be analyzed based on the principle of *qishash-diyat*. As for if the practice is a prohibited act, but does not meet the elements of *riddah* or *qishash*, then the sanction of *ta'zir* is a form of accountability that can be considered.

The sanction of *ta'zir* has an important relevance in the discussion of the crime of witchcraft because it provides space for judges or rulers to determine the form and level of punishment based on the type of act, the level of error, the consequences caused, and the benefit of the community. In this context, the practice of magic carried out through fraud, manipulation, the administration of harmful potions, the use of certain objects to harm others, or other acts that cause harm can be analyzed as acts that require criminal liability. The form of sanctions is determined based on the level of violation and legally proven consequences.

Thus, the classification of sanctions for witchcraft crimes can be formulated in stages. First, if the practice of magic contains elements of disbelief or apostasy, then the legal consequences are analyzed in the framework of *riddah*. Second, if the practice causes the death of the victim and the elements of murder and the causal relationship are proven, then it can be subject to the provisions of *qishash* or *diyat* in accordance with the legal conditions. Third, if the practice of magic does not meet the elements of *riddah* and does not result in death that meets the requirements of *qishash*, but is still a forbidden and detrimental act, then it can be subject to *ta'zir*.

This construction shows that Islamic law has a classification mechanism that allows sanctions against the practice of magic to be determined based on the type of act, the element of error, the consequences caused, and the degree of violation of sharia norms. Therefore, the application of sanctions should not be based solely on accusations or public perceptions, but must go through a process of proof that can be accounted for. This principle is important to maintain a balance between the protection of the public from harmful practices and the protection of the rights of the person accused of being a perpetrator.

³¹ Hazm, *al-Muhalla*.

The Relevance of Witchcraft in Islamic Law to Indonesian Criminal Law

Based on the discussion of the concept, form, elements, and sanctions of the crime of witchcraft from the perspective of Islamic law, it can be understood that magic is a practice that has various characteristics. Some practices are associated with actions that contain elements of shirk or disbelief, while others are related to actions that aim to influence a person's physical, psychological, and social condition. These differences in characteristics have implications for the different forms of accountability and sanctions in Islamic law.

From the perspective of *jinayah*, the sanction for the practice of magic cannot be separated from the form of the act and the consequences it causes.³² Practices that contain elements of disbelief have different legal consequences than practices that cause harm to a person's soul or body. If an act of witchcraft is proven to cause death and meets the elements of murder, its criminal liability can be analyzed based on the provisions of *qishash-diyat*. Meanwhile, acts of magic that do not meet the elements of *hudud* or *qishash-diyat* can be placed in the category of *ta'zir*, with the form and level of sanctions determined based on the judge's consideration and the benefit of the community.

This concept has relevance to the development of Indonesian criminal law, especially in an effort to provide legal protection to the public from practices that contain elements of fraud, exploitation of trust, threats, or actions that can cause physical and mental suffering. Indonesian criminal law in principle emphasizes liability on concrete acts that can be proved, not solely on a person's belief about the existence of supernatural powers. This approach has a meeting point with the need for proof in Islamic law, because the imposition of sanctions also requires a basis that can be accounted for the actions and mistakes of the perpetrators.

This relevance is increasingly seen in the regulation of practices associated with supernatural abilities in Indonesian criminal law. Provisions that regulate the act of offering or providing services that are claimed to cause illness, death, or physical or mental suffering indicate that there is legal attention to concrete acts committed by the perpetrator, especially when the practice is used to influence or harm others. The arrangement is in accordance with the principles in Islamic law which places the consequences of the actions and losses suffered by the victim as an important aspect in determining liability.

However, there is a fundamental difference between the construction of Islamic law and Indonesian criminal law. Islamic law discusses magic in a broader framework because it relates to aspects of faith, morals, criminal acts, and the benefit of society. Meanwhile, Indonesian criminal law requires the formulation of more concrete acts in order to meet the

³² Bertus De Villiers dkk., *Courts and Diversity: Twenty Years of the Constitutional Court of Indonesia* (Brill | Nijhoff, 2024), <https://doi.org/10.1163/9789004691698>.

principles of legality and legal certainty.³³ Thus, a practice that is religiously categorized as magic cannot automatically be punished in positive law if there is no act that meets the elements of criminal acts that have been formulated in laws and regulations. These differences show that the relevance of Islamic law in the issue of witchcraft crimes is more appropriately placed on the values and principles of punishment, especially the protection of soul, intellect, honor, family, property, and social order. This principle can be a normative perspective in understanding the dangers of witchcraft practice, while the application of sanctions in the national legal system must still be based on positive legal provisions and applicable evidentiary mechanisms.

Thus, the crime of witchcraft in the perspective of Islamic law can make a conceptual contribution to the development of Indonesian criminal law, especially in formulating the boundaries between religious practices, beliefs, fraud under the guise of supernatural abilities, and actions that actually cause harm to others. The approach also emphasizes that punishment must be directed at provable acts, the perpetrator's mistakes, the consequences caused, and the protection of victims, so that the application of the law remains within the corridor of justice and legal certainty.

Conclusion

Based on normative analysis, the crime of witchcraft in the perspective of Islamic law is an act that has religious, social, and criminal dimensions. Scholars have differences in understanding the nature of magic, but in general, magic is understood as a certain practice that is carried out in a hidden manner and can affect a person's physical, psychological, and social relationships. Therefore, the determination of the legal status needs to consider the form of the act, the purpose, the elements of the error, and the consequences caused.

From the perspective of *jinayah*, the sanctions against witchcraft are not single. Practices that contain elements of disbelief or shirk have different legal consequences than acts that cause harm to the victim. If magic is proven to cause death and meets the element of murder, its responsibility can be analyzed through the concept of *qishash-diyat*. As for acts that are prohibited but do not meet the elements of *hudud* or *qishash-diyat* can be subject to *ta'zir*. Thus, the imposition of sanctions must be based on concrete acts, the level of error, the consequences caused, and evidence that can be accounted for.

The crime of witchcraft has relevance to Indonesian criminal law, especially in the context of protecting the community from practices that cause physical, mental, social, and economic harm. Although there are similarities in the orientation of protection for victims, Islamic law and Indonesian criminal law have different constructions. Islamic law uses the framework of *hudud*, *qishash-diyat*, and *ta'zir*, while Indonesian criminal law requires

³³ I. Made Darma, "New Paradigm of Indonesian Criminal Law Policy to Formulate Sanctions for Cases of Customary Crimes," *PADJADJARAN Jurnal Ilmu Hukum (Journal of Law)* 8, no. 2 (2021): 275–91, <https://doi.org/10.22304/pjih.v8n2.a6>.

concrete acts that meet the elements of criminal acts based on laws and regulations. Therefore, the practice referred to as magic cannot be automatically punished without proof of its acts, mistakes, and legal consequences, so the normative approach to the crime of witchcraft needs to be based on justice, legal certainty, and community protection.

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