

Work for the Public Good as an Alternative to Custodial Sentences: A Study in Light of Law No. 24-06 Amending the Algerian Penal Code

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Abstract

Work for the public good is one of the systems applied in modern penal policies aimed at mitigating the disadvantages associated with short-term imprisonment. Algeria has adopted this development in penal policy by incorporating work for the public good through amendments 09-01 and 24-06 to the Penal Code. This system is intended to contribute to reducing prison overcrowding, preventing the association of first-time offenders with hardened criminals, and facilitating the rehabilitation of convicted persons.

Keywords: Convicts, Alternative sanctions, Public good, Imprisonment, Deprivation of liberty.

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Introduction

Alternative sanctions represent a recent development that legislatures have actively sought to adopt and render applicable. These measures are typically employed for first-time or non-dangerous offenders, primarily aiming to empower judges to substitute short-term custodial sentences—often applicable as penalties for misdemeanors and petty offenses (contraventions)—with non-custodial sanctions involving the deprivation or restriction of certain rights. The Algerian Penal Code incorporates such alternative sanctions, including electronic monitoring, introduced by Article 5 bis 7 under the 2024 amendment to the Penal Code, and the sanction of work for the public good.

The sanction of work for the public good is considered one of the modern innovations integrated into penal legislation. The Algerian legislator introduced the sanction of work for the public good via the amendment to the Penal Code, Law No. 09-01 dated 25 February 2009². This was subsequently amended by Law No. 24-06 dated 28 April 2024³, which amends and supplements Ordinance No. 66-156, containing the Penal Code, thereby establishing it as an alternative sanction to short-term imprisonment.

The subject of our study in this research paper holds considerable importance within modern penal studies investigating alternatives to short-term imprisonment, an area currently undergoing significant evolution. These alternatives, enshrined by the legislator within the Penal Code, include measures such as electronic monitoring and, as the specific focus of this study, the sanction of work for the public good.

Furthermore, this study aims to elucidate the role of one of the key sanctions applied within Algerian penal legislation—work for the public good. The objective is to demonstrate its potential in reducing reliance on correctional institutions for offenders with limited criminal histories, facilitating their social rehabilitation through work, and mitigating the negative effects associated with incarceration.

Our research addresses and originates from the central research question concerning the effectiveness of the sanction of work for the public good as a mechanism for reducing prison overcrowding caused by short-term sentences and for rehabilitating convicted persons.

This central question encompasses several subsidiary research questions: What constitutes the concept of the sanction of work for the public good? How has the Algerian legislator regulated the sanction of work for the public good under the amendments introduced by Law No. 09-01 and Law No. 24-06?

² Law No. 09-01 dated February 25, 2009, amending and supplementing Ordinance 66-156 containing the Penal Code, Official Gazette of the People's Democratic Republic of Algeria, Issue No. 15, published on March 8, 2009.

³ Law No. 24-06 dated April 28, 2024, amending and supplementing Ordinance 66-156 containing the Penal Code, Official Gazette of the People's Democratic Republic of Algeria, Issue No. 30, published on April 30, 2024.

To address the research questions articulated in this paper, we will employ descriptive and analytical methodologies. These will be utilized to analyze and delineate the legal provisions introduced by the Algerian penal legislator concerning work for the public good as an alternative sanction to imprisonment. The research will adhere to a structure wherein Chapter One examines the concept of the sanction of work for the public good, and Chapter Two addresses the provisions governing its application.

I. The Concept of the Sanction of Work for the Public Good

Contemporary thinking trends towards attempting the rehabilitation of the convicted person through various methods hoped to achieve this goal. The general circumstances surrounding the individual may provide reassurance that it is in their interest to be kept away from prisons and association with offenders⁴. Among the most significant systems that prevent the convicted person's association with inmates is the system of work for the public good as an alternative sanction to short-term imprisonment, aimed at avoiding the negative effects on the convicted person resulting from short-term confinement. Therefore, in this chapter, we will address the definition and characteristics of the sanction of work for the public good, followed by its legal nature.

1. Definition and Characteristics of the Sanction of Work for the Public Good

We will initially address the legislative definition and some jurisprudential definitions, then turn to the characteristics that distinguish and particularize the sanction of work for the public good from other alternative sanctions.

1.1 Definition of the Sanction of Work for the Public Good

Legislatively, work for the public good refers to the sanction issued by a competent judicial authority, consisting of the performance of work by the convicted person for the public benefit without remuneration⁵, as an alternative to placement in a correctional institution to serve a custodial sentence. Some legal scholarship defines it as obliging the convicted person to complete uncompensated work for the benefit of society instead of entering prison, for a specific duration determined by the court in its decision imposing this measure. This sanction is characterized by providing special penal treatment that involves discipline through work, thereby leading to rehabilitation without entailing the deprivation of liberty. There are cases of minor offending among certain societal groups where it is preferable, considering the individual's personality and circumstances, for the convicted person to remain at liberty within the community while undergoing rehabilitation and guidance. This is achieved by obliging them to participate in social

⁴ Abdullah Suleiman, *Explanation of the Algerian Penal Code – General Section, Part 2*, 6th Edition, University Publications Office, Algeria, 2008, p. 595.

⁵ General Directorate of Judicial and Legal Affairs, *Part 2, Issue No. 64*, 2009, p. 83 .

Cited in: Mohamed Saghir Saadawi, *Community Service Penalty – Explanation of Law 01–09 Amending the Algerian Penal Code*, Dar Al-Khaldounia, Algeria, 2013, p. 94

and humanitarian activities that contribute to developing their sense of responsibility and their understanding that their conduct is socially unacceptable⁶. Historically, the idea of work for the public good traces back to the eminent Italian jurist Cesare Beccaria, who argued in his famous book *On Crimes and Punishments* (1764) that the most suitable penalty was a unique form of "just servitude, whereby the accused and their labor, under this system of servitude, serve the community. Thus, this state of complete dependency would act as compensation for the unjust caused by the individual through their violation of the social contract⁷.

1.2 Characteristics of the Sanction of Work for the Public Good

The sanction of work for the public good is distinguished by several characteristics, notably its alignment with the contemporary approach advocating for the rehabilitation of convicted persons and their social reintegration. In this respect, the sanction of work for the public good corresponds with Law No. 05-04 of 6 February 2005, concerning Prison Organization and the Social Reintegration of Inmates.

A. The Sanction of Work for the Public Good is predicated upon the concept of Social Defence. Article 1 of Law No. 05-04 stipulates that the concept of social defence establishes punishment as a means for protecting society and for the re-education and social reintegration of inmates⁸.

B. The Requirement of Rigorous and Comprehensive Assessment for Work for the Public Good.

This involves:

- Verification of the convicted person's suitability for the assigned work in terms of physical capacity, behavioural disposition, and vocational aptitude.
- Confirmation that the individual's presence within the community does not constitute a public disturbance or pose a risk to others.
- Enabling the court to mandate the form of work most suited to the convicted person's personality and social circumstances, and which possesses the greatest potential for effective rehabilitation.
- Identifying any difficulties the convicted person may face in interpersonal and social interactions, thereby allowing this information to inform the social reintegration process⁹.

Furthermore, it is characterized as a sanction that fosters a sense of community service without financial remuneration, potentially instilling a spirit of civic duty and a positive work ethic. It is also predicated on the principle that work for the public good is preferable to the deprivation of liberty.

⁶ Safaa Outani, Community Service in Contemporary Penal Policy – A Comparative Study, Damascus University Journal for Economic and Legal Sciences, Issue No. 02, 2009, p. 430.
Ibid., p.430.

⁷ Safaa Outani, Ibid, p.430.

⁸ Article 01 of Law No. 05–04 on the Organization of Prisons and the Social Reintegration of Prisoners.

⁹ Safaa Outani, Ibid, p.438

C. The Necessity of the Convicted Person's Consent and Agreement Prior to Sentencing. Across all jurisdictions that have adopted the sanction of work for the public good, this penalty cannot be imposed unless the convicted person is present at the sentencing hearing and consents to be subject to this measure. This is because the individual is required to perform voluntary work; consequently, its effective execution can only be ensured if they agree to it and are willing to undertake it¹⁰. The Algerian legislator has aligned with this legislative approach, with Article 5 bis [of the Penal Code, as amended] stipulating the explicit consent of the accused person.

2. The Legal Nature of Work for the Public Good

The system of work for the public good possesses a distinct hybrid nature, combining elements of both a sanction (punishment) and a measure. It is considered one of the alternative sanctions to the deprivation of liberty because it exhibits certain characteristics of punishment. It entails an element of affliction by restricting the convicted person's liberty for a defined period specified in the judgment of conviction, thus representing a physical and psychological obligation, duty, and compulsion imposed upon them.

However, what distinguishes the sanction of work for the public good from traditional punishment is that the latter's essence is primarily affliction¹¹. In contrast, work for the public good fundamentally aims to achieve two objectives: firstly, repairing the harm caused by the offense, and secondly, the social rehabilitation of the convicted person. Therefore, it overlaps with security measures, given its rehabilitative and preventive character. Nevertheless, work for the public good differs from a security measure in that it is not primarily intended to inflict suffering; its goal is the reform or treatment of the individual. A security measure, for instance, might potentially be imposed even on an individual who is acquitted, if an underlying criminal dangerousness is deemed present¹².

II. Provisions Governing the Application of the Sanction of Work for the Public Good

United Nations conferences have consistently emphasized the need for states to formulate policies and strategies that reduce recourse to short-term custodial sentences and move towards adopting alternative sanctions to imprisonment, foremost among them being work for the public good¹³. Algeria has aligned itself with this modern penal policy through the amendments to the Penal Code in 2009 and 2024, stipulating the sanction of work for the public good in Articles 5 bis 1 to 5 bis 6 of the Penal Code. Therefore, this chapter will address the conditions for applying the sanction of work for the public good, followed by its duration and implementation procedures.

1. Conditions for Applying the Sanction of Work for the Public Good

¹⁰ Safaa Outani, *Ibid*, p.438

¹¹ Mohamed Saghir Saadawi, *Op.cit*, p. 96.

¹² Mohamed Saghir Saadawi, *Ibid*,p.96.

¹³ Safaa Outani, *Op.cit*, p. 447.

For the sanction of work for the public good to be applied, certain conditions must be observed by the Algerian judge. These conditions pertain to the offender and their consent, while others relate to the offense and the sentence.

1.1 Conditions Related to the Offender and Their Consent

Article 5 bis 1 of the Algerian Penal Code outlines the conditions required concerning the offender for the imposition of the sanction of work for the public good. These include:

- That the offender is not less than 16 years of age at the time of the commission of the offense.
- The explicit consent of the offender to the sanction of work for the public good and their agreement to it, which necessitates their presence at the sentencing hearing, pursuant to the provisions of Article 5 bis of the Penal Code, as amended by Law No. 09-01, amending and supplementing the Algerian Penal Code.
- That the offender has not been previously sentenced to work for the public good and subsequently breached the obligations associated with it. This condition was incorporated into Article 5 bis 1, as amended by Law No. 24-06, amending and supplementing the Algerian Penal Code.

However, significant criticism was directed at the condition requiring the convicted person's acceptance in French legislation during the debates on the work for the public good bill in 1983. The argument was that public opinion would not be receptive to this condition, as justice among defendants would be severely compromised if one defendant refused such work while another accepted it. Furthermore, it was deemed legally unacceptable to allow the defendant to choose the penalty to which they would be subjected. The response to these criticisms was that the convicted person's consent serves as evidence of their sincere commitment to fulfilling the imposed obligations, especially since the nature of work for the public good precludes coercion. Consent is legally required, and no individual can be compelled to work forcibly¹⁴. From our perspective, we concur with this view, as it is not a principal but an alternative sanction, and thus should be subject to the offender's free will.

1.2 Conditions Related to the Offense and the Sentence

Article 5 bis 1 of the Algerian Penal Code, as amended by Law No. 24-06, sets forth the conditions for imposing the sanction of work for the public good. Ministerial Circular No. 02, dated 21 April 2009, clarified the modalities and conditions for applying this sanction, considering its specific nature as an alternative penalty. The following must be observed:

- The pronounced sentence must not exceed one year of effective imprisonment. Similarly, French penal law recognizes the suspension of sentence execution coupled with an obligation to

¹⁴ Mohamed Saghir Saadawi, *Op.cit*, p. 105.

perform work for the public good for the benefit of a public legal entity or a qualified association, for a duration ranging from 40 to 240 hours¹⁵.

- Work for the public good shall only be applied after the judgment or decision has become final.
- The statutory penalty prescribed by law for the committed offense must not exceed five (5) years of imprisonment. This is in accordance with Article 5 bis 1, as amended by Law No. 24-06, amending and supplementing the Penal Code, increased from the three-year limit stipulated under the preceding Law No. 09-01 amending the Penal Code.

The judge must inform the convicted person that, should they breach the obligations incumbent upon them during the execution of the sanction of work for the public good, the original sentence that was substituted by work for the public good will be executed. This is pursuant to the provisions of Article 5 bis 1 of Law No. 09-01, amending and supplementing the Penal Code, referring to the substituted sentence, which would have a maximum term of one year imprisonment, or potentially less depending on the specific sentence that was substituted.

2. Duration of Work for the Public Good and Its Implementation Procedures

The legislator is required to specify the duration, in hours, for the execution of this sanction by the convicted person. This requirement serves to safeguard individual liberty and mitigate the potential for arbitrary action by judges or host institutions. The duration is accordingly defined by establishing minimum and maximum limits for the working hours. In France, for instance, since 1 January 2005, work for the public good for adults has been limited to between 20 and 120 hours for misdemeanors, and between 40 and 240 hours for petty offenses, to be completed within an 18-month period¹⁶, within a French public institution or an association legally authorized to implement work for the public good sanctions, pursuant to Article 131 [-8] of the French Penal Code. The Algerian legislator, in the Penal Code amendment 24-06, aligned with the French approach by adding¹⁷, alongside public law entities, associations whose activities are recognized as being in the public interest or for public benefit, within the text of Article 5 bis 1.

Under Algerian law, Article 5 bis 1, as introduced by the Penal Code amendment 09-01, establishes minimum and maximum limits for the duration of work to be served by the convicted person, applicable to both adults and minors. This duration is calculated at a rate of two hours for each day of the original prison sentence imposed, to be completed within a maximum period of eighteen (18) months. The judge must observe the following limits:

- The duration of work for the public good must range between a minimum of 40 hours and a maximum of 600 hours for an adult.

¹⁵ Ahsan Bousaqia, Concise Guide to General Criminal Law, Dar Belkess, Algeria, 2024, p. 402.

¹⁶ Mohamed Saghir Saadawi, Op.cit, p. 106.

¹⁷ Georges Vermelle, Le Nouveau Droit Pénal, Dalloz, Paris. 1994 p 114 .

- For minors, the duration of work for the public good must range between 20 and 300 hours.

The sentence enforcement judge oversees the implementation of the sanction of work for the public good and rules on any issues arising therefrom. This judge may suspend the application of the work for the public good sanction for health, family, or social reasons, in accordance with the provisions of Article 5 bis 3 of the Penal Code (as per amendment 09-01). During the period of work for the public good, the convicted person benefits from social protection in accordance with the legislative and regulatory provisions relating to health protection, safety, occupational medicine, and social security, pursuant to Article 5 bis 5, as amended by Law No. 09-01, amending and supplementing the Algerian Penal Code.

However, in the event the convicted person breaches the obligations arising from the sanction of work for the public good without serious justification, the sentence enforcement judge notifies the Public Prosecution Office to take the necessary measures to execute the prison sentence originally imposed, in accordance with Article 5 bis 5, as amended by Law No. 09-01, amending and supplementing the Algerian Penal Code. This is because the sanction of work for the public good was pronounced by the judge in the presence of the convicted person and with their acceptance. Furthermore, the judge had previously warned the convicted person, during the sentencing hearing for the work for the public good sanction, that failure to comply with the imposed obligations would result in the application of the substituted prison sentence.

Conclusion

We conclude from this study that the sanction of work for the public good, as an alternative sanction, is applied to convicted persons only with their consent and must be appropriate to their material and social circumstances, as well as their physical capacity. It stands among the alternative sanctions highly regarded by legislatures because it aims to instill a work ethic in convicted persons, thereby rendering them socially equipped for employment and earning a livelihood outside the sphere of criminality. Furthermore, it yields economic benefits for the state by reducing the incarcerated population, which otherwise imposes significant costs related to sustenance, healthcare, security personnel, staff, and other associated expenses. Consequently, it represents an effective penal policy, provided it gains societal acceptance. However, it cannot replace severe penalties, as it is a sanction reserved for offenses posing a lesser degree of danger to society.

The Algerian legislator, through the Penal Code amendment 24-06, indeed expanded the potential applicability of this sanction and relaxed its conditions. Notably, the requirement that an offender must have no prior criminal record to be eligible for work for the public good was abolished. Additionally, the maximum statutory prison sentence for the underlying offense rendering an offender eligible for this alternative was increased to five years, whereas under the preceding Penal Code amendment 09-01, the limit was three years.

Based on this study, we propose the following recommendations:

1. We suggest expanding the range of offenses eligible for the work for the public good sanction to potentially include offenses punishable solely by fines. Furthermore, the threshold for the substituted custodial sentence could be raised from one year to two years of imprisonment. This would grant judges broader discretion in its application and allow a larger number of convicted persons to benefit from this alternative.

2. We recommend that the pronouncement of the work for the public good sentence occur immediately following the convicted person's acceptance in court, without adjourning the sentencing hearing. This would help avoid situations potentially leading to judgments deemed rendered *in contradictorio* despite the offender's absence, given that the work for the public good sanction explicitly requires the offender's presence and consent at sentencing.

3. We propose promoting awareness regarding the benefits of work for the public good through initiatives led by civil society organizations, the media, and academic forums (such as study days at judicial councils and universities). The objective is to increase the number of convicted persons willing to accept work for the public good as an alternative to imprisonment.

4. We recommend ensuring that each convicted person is assigned to a work environment suitable to their individual profile and capabilities, and one that respects the social values of the community where the work is performed.

5. We suggest that the judicial authorities be encouraged to proactively propose the sanction of work for the public good to convicted persons in the majority of cases where the legal conditions for its application are met.

References :

Books

1. Ahsan Bousaqia, Concise Guide to General Criminal Law, Dar Belkess, Algeria, 2024.
2. Abdullah Suleiman, Explanation of the Algerian Penal Code – General Section, Part 2, 6th Edition, University Publications Office, Algeria, 2008.
3. Georges Vermelle, Le Nouveau Droit Pénal, Dalloz, Paris, 1994, p. 114.
4. Mohamed Saif Al-Nasr Abdel Moneim, Alternatives to Custodial Sentences in Modern Criminal Legislation, Dar Al-Nahda Al-Arabiya, Egypt, 2004.
5. Mohamed Saghir Saadawi, Community Service Penalty – Explanation of Law 01-09 Amending the Algerian Penal Code, Dar Al-Khaldounia, Algeria, 2013.

Articles

6. Safaa Outani, Community Service in Contemporary Penal Policy – A Comparative Study,

7. Damascus University Journal for Economic and Legal Sciences, Issue No. 02, 2009.
8. Laws, Law No. 09-01 , Dated February 25, 2009, amending and supplementing Ordinance 66-156 containing the Penal Code.
9. Official Gazette of the People's Democratic Republic of Algeria, Issue No. 15, March 8, 2009.
10. Law No. 24-06, Dated April 28, 2024, amending and supplementing Ordinance 66-156 containing the Penal Code.
11. Official Gazette of the People's Democratic Republic of Algeria, Issue No. 30, April 30, 2024.
12. Prison Organization Law No. 05-04
13. Issued on February 6, 2005, concerning the organization of prisons and the social reintegration of prisoners.

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