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Model of Paranormal Testimony as Evidence in the Crime of Witchcraft from the Perspective of Legal Certainty

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Abstract

General Background: The criminalization of black magic presents complex challenges at the intersection of law, culture, and religion. **Specific Background:** Article 252 of Indonesia's National Criminal Code regulates black magic based on claims of supernatural power, punishable by imprisonment or fines. **Knowledge Gap:** However, there is limited clarity on the role of paranormal witnesses in the evidentiary framework of such crimes, particularly from the perspective of legal certainty. **Aims:** This study aims to design a model for utilizing paranormal witnesses as supporting evidence in black magic cases. **Results:** Employing a sociolegal method with legislative and conceptual approaches, supplemented by interviews with East Java Regional Police investigators and religious figures, findings reveal that scientific investigation methods are prioritized over paranormal testimony. In Islamic law, proving black magic requires confession, valid witness testimony, or strong qarinah, with input from ruqyah experts serving only as reinforcement. **Novelty:** The study introduces a model that aligns with Article 184(1) Jo. 183 of the Criminal Procedure Code, positioning paranormal testimony as non-autonomous, corroborative evidence. **Implications:** The research proposes establishing a certified paranormal association to ensure formal legality and regulated participation in criminal investigations involving supernatural claims.

Highlights:

- Legal evidence for black magic relies on scientific and sharia-valid proof.
- Paranormal testimony serves only as supporting (non-primary) evidence.
- Certified paranormal associations are proposed for formal legal legitimacy.

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Introduction

The Criminal Code is used as the basis for criminal law in force in Indonesia. Criminal law is seen as a punishment imposed on the perpetrator for committing a crime [1]. According to Remmelink, criminal law is intended to uphold legal order and protect society. Maintaining social order is highly dependent on coercion [2]. The existence of strict criminal law regulations is needed to regulate acts that are categorized as criminal acts and the threat of sanctions for perpetrators of crimes.

On December 6, 2022, Law Number 1 of 2023 concerning the Criminal Code (National Criminal Code) was passed, and enacted on January 2, 2023. One form of crime that is still being debated is the use of supernatural powers in committing crimes.

The problem of supernatural things, in each region has a different name. In West Java it is called "Teluh", in Central Java it is known as "Tenung", and in East Java it is known as "Santet" [3].

The term santet is also used to refer to the practice of inserting foreign objects into the victim's stomach, a type of magic where the shaman must meet directly with the victim to treat the sick body part with pepper seeds while reciting a spell silently [4]. The definition of black magic includes asking for help from a heretical spirit to kill or harm another person. In the daily BERNAS, October 11, 1998, there was an article about paranormal Bambang Yuwono stating that the power of black magic lasts up to 40 days. According to him, the purpose of black magic is to kill or paralyze the victim. The paranormal is willing to treat the victim as long as they are given sufficient compensation.

The National Criminal Code refers to black magic as supernatural power, regulated in Article 252 paragraph (1), that: "Any person who claims to have supernatural powers, informs, gives hope, offers, or provides assistance to others that because of their actions can cause illness, death, or mental or physical suffering of a person, is punished with a maximum imprisonment of 1 year 6 months or a maximum fine of category IV".

The provisions of the crime of black magic can lead to an attitude of taking the law into one's own hands in society and are not legally justified. Since the existence of a community agreement, every act that is detrimental to society is handled by the state, so that society may not take unilateral action [5]. Black magic as part of divination science cannot be explained medically and scientifically. Medically, foreign objects such as nails, needles, wires or hair cannot enter a person's body by themselves [6]. The formal legal system only recognizes external acts that can be empirically identified and proven as causal. Acts that are mystical, supernatural, or metaphysical are legally difficult to prove.

Previous research by Ade Sathya Sanathana Ishwara, et al, entitled Criminal Law Reform: A Legal Study of Proving the Crime of Witchcraft in the New Criminal Code.

The formulation of the problem in this study is how is the policy of criminalizing the crime of witchcraft in criminal law reform regarding its proof that can be used at the investigation level to the court process?

In conclusion, proving the crime of witchcraft is very difficult, therefore a future criminal policy is needed to overcome the crime of witchcraft in society that is preventive (prevention). Witchcraft as a formal crime does not require the death of someone who is cursed as a result, but the relationship between the witch doctor and the person who hired him. That relationship will be seen as a criminal act of conspiracy.

The second study by Faisal, Derita Prapti Rahayu, et al. entitled "The Meaning of Criminal Policy on Witchcraft in the Draft Criminal Code". The formulation of the problem in this study is the construction of values and the meaning of criminal policy on witchcraft. The conclusion, normative meaning, witchcraft is a formal crime that is prohibited is the act, not the consequences it causes. The similarity between previous studies and the current study is that both focus on the crime of witchcraft, but the difference is that this study focuses on the Design Model for the Use of Paranormal Witnesses as Evidence in Witchcraft Crimes from the Perspective of Legal Certainty.

The third study by Nur Falikhah, entitled "Witchcraft and Anthropology of Religion". The formulation of the problem in this study is how witchcraft is reviewed from the perspective of anthropology and religion. The conclusion is that the existence of witchcraft is believed to occur, the intent and purpose of the perpetrator of witchcraft is for negative purposes, to hurt, damage, or be destructive, by inserting objects into the victim's body with the help of supernatural beings, namely jinns and demons. The elements that must be present, namely who does it, how to do it, how the ritual or ceremony is, the objects or tools used and how the spells are. The similarity with this study is that both focus on studying the problem of witchcraft, but the difference is that previous research focused on witchcraft from the perspective of anthropology and religion, while the current study focuses on the law of evidence with the concept of paranormal witnesses as evidence in witchcraft crimes.

Evidence is important because evidence is the core stage of a criminal case investigation. Through the court process, it will be determined whether a person can be sentenced to a criminal offense or not. If the guilt is not proven, the defendant will be released (vrijspraak), or free from all legal charges (onslag van alle rechtsvervolging [7]. Determination of guilt based on the law and the judge's conviction. Article 183 paragraph (1) of the Criminal Procedure Code, that "The judge cannot impose a sentence unless at least two valid pieces of evidence he obtains the conviction that a crime has occurred and the defendant is guilty".

The provisions of Article 252 of the National Criminal Code only state a person's statement, namely a statement from a

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person who states that he has supernatural powers, informs, gives hope, offers, or provides assistance to others that because of his actions can cause illness, death, or mental or physical suffering of a person, is threatened with imprisonment or a fine.

Phyllis B. Gerstenfeld defines an expert witness as a witness who is qualified to be an expert in his field such as a scientist, technician, medical expert, and other specialist experts [8].

Evidence in criminal procedure law is a central aspect that determines the fulfillment of the principle of legal certainty in handling a crime. However, in crimes related to supernatural or supernatural powers such as black magic, the evidence process faces serious challenges because of its invisible nature and is difficult to measure with conventional positive legal instruments.

If a crime of black magic occurs, how is the case proven? Meanwhile, if it is associated with the types of valid evidence regulated in Article 184 of the Criminal Procedure Code, it consists of witness statements, expert statements, letters, clues, and statements from the defendant. Furthermore, in the Draft Criminal Procedure Code it is regulated in Article 252, where the evidence consists of: (a) witness statements; (b) expert statements; (c) letters; (d) statements from the defendant; (e) evidence; (f) electronic evidence; and (g) anything that can be used for the purposes of proof during a court hearing as long as it is obtained in a lawful manner.

Based on the background above, as proof of the crime of black magic, a concept of paranormal witness evidence is proposed which is not yet included in the types of evidence in criminal procedure law.

Methods

The method used in this study is socio-legal, which focuses on the behavior of individuals or society in relation to the law, especially provisions on supernatural powers (black magic). Based on this, the most frequent topics in socio-legal research are the problems of the effectiveness of legal rules, compliance with legal rules, the role of legal institutions or institutions in law enforcement, implementation of legal rules, the influence of legal rules on certain social problems or vice versa, the influence of certain problems on legal rules [9]. Socio-legal or non-doctrinal research is a research that uses methods taken from other disciplines to produce empirical data that answers research questions. This can be in the form of policy issues, or reforms to existing laws. The approach used is the legislative approach, conceptual approach, and supported by research at the East Java Regional Police, in-depth interviews with religious figures related to the problem of supernatural powers or black magic and how to handle them. Because the law consists of abstract ideas and concepts, to obtain an overview of how these ideas are realized in practice [10].

The reason for choosing the type of socio-legal research is because research on black magic, from a legal aspect, Article 252 of the National Criminal Code has regulated it, with the term "supernatural powers", which are threatened with criminal penalties even though the act is supernatural and difficult to accept logically, and from the side of the proof it is also not easy. Sociological aspect, the crime of black magic is very disturbing to society, which can cause victims to suffer from illness, even cause death, but it is not easy to reveal it. Therefore, the approach used is a mixed method, because it combines legal (legislation, namely provisions in the National Criminal Code), and sociological (research at the Directorate of Criminal Investigation of the East Java Regional Police and digging up information from religious figures who understand about supernatural powers, such as black magic, witchcraft, sorcery, and others).

This study begins with a hypothesis. To test these hypotheses, data is needed. Data collection techniques are carried out by means of interviews and observations. The data collection technique was carried out through FGDs held in the East Java Regional Police Meeting Room, on May 22, 2025, starting at 12.00 WIB, and ending at 15.00 WIB. The FGD activities were carried out by the research team with the ranks of East Java Regional Police Investigators, with questions and answers from the research team to the Investigators, observations, and discussions about cases related to supernatural powers (witchcraft, magic). Data collection was continued by holding a webinar event via zoom meeting, which was held on May 24, 2025, at 18.30-21.00 WIB, with investigators and religious leaders as resource persons. Religious figures were involved in this study because the focus of this study is on witchcraft (supernatural powers) as regulated in Article 252 of the Criminal Code, and the concept proposed is paranormal as evidence of witnesses in witchcraft crimes from a legal certainty perspective.

Result and Discussion

A. Paranormal Concept

According to the Great Dictionary of the Indonesian Language (KBBI), a paranormal is a person who has the ability to understand, know, and believe in things that cannot be explained scientifically. Another opinion states that a paranormal is a person who has supernatural knowledge obtained through mystical means and the person uses it to help society. A paranormal or more commonly referred to as a "shaman" is someone who has extraordinary powers, is attached to spells and mystical matters. A paranormal generally uses their fame and knowledge to make a living by helping and assisting people around them who are in need of their help. The social role of a paranormal, in society they participate in matters related to society, especially those related to the mystical world [11].

Paranormal is closely related to occult science. Paranormal in most cases, is a person who claims to have supernatural

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abilities that are often associated with occult practices such as fortune telling, healing, or things related to supernatural beings. Occult science is a phenomenon that is beyond the limits of scientific understanding, involving supernatural powers and supernatural beliefs. In Indonesia there are many people who have paranormal abilities, both those who are already famous such as Agung Yulianto or better known as Ki Joko Bodo and Nuryanto or better known as Mbah Bejo. Both of them are engaged in the spiritual world with certain goals. Ki Joko Bodo has wealth because of his paranormal practices and has many clients from among artists, officials, and businessmen[12].

B. Evidence and Proof

Evidence can be defined as anything that can be used to prove the truth of an event in court [13]. James B. Thayer menyatakan bahwa “Evidence is any matter of fact which is furnished to a legal tribunal, otherwise than by reasoning for a reference to what is noticed without proof, as the basis of inference in ascertaining some other matter of fact” [14]. Evidence is any fact made for the judicial process, other than by reason of reference to the action that must be considered without evidence, as a basis for conclusion in ascertaining some other thing of fact. Evidence can consist of two categories, namely direct evidence, namely evidence that can be directly trusted to solve a problem or case. Direct Evidence is often interpreted in contrast to circumstantial evidence, namely evidence that cannot answer a problem or case directly unless supplemented with other evidence or other information [15]. On that basis, not all evidence has a more important position than other evidence, it all depends on the proof of a case in court [16].

The types of valid evidence are regulated in Article 184 of the Criminal Procedure Code, consisting of witness statements, expert statements, letters, clues, and statements from the accused. Based on the results of research through a Focus Group Discussion, which took place in the Meeting Room on the 7th floor of the East Java Regional Police Criminal Investigation Directorate, on May 22, 2025, at 13.00-15.00 WIB, together with the ranks of East Java Regional Police Investigators, that in relation to crimes through supernatural powers or black magic, the evidentiary system will still be based on the types of valid evidence as regulated in Article 184 paragraph (1) of the Criminal Procedure Code. Regarding evidence of witness statements, according to Article 1 number 26 of the Criminal Procedure Code, a witness is a person who can provide information for the purposes of investigation, prosecution and trial regarding a criminal case that he himself heard, saw himself, and experienced himself. Likewise, expert testimony must meet the qualifications stipulated in Article 1 number 28 of the Criminal Procedure Code, namely that what is meant by expert testimony is information or opinion provided by someone who has special expertise in a particular field, which is needed to clarify a criminal case in the context of the examination process.

For investigators, in handling crimes, the method used is scientific criminal investigation, namely criminal investigation using scientific methods, which involve the application of science and technology in the investigation and proof of criminal cases. Likewise, according to Immamudy, in the Webinar activity held via Zoom Meeting, May 24, 2025, at 18.30-21.00 WIB stated that "In handling black magic cases, it starts from the investigation, and if at least two pieces of evidence are met, it is upgraded to the investigation stage". Immamudy proposed the need to regulate evidence obtained from wiretapping as a step to reveal the truth, considering that black magic crimes are difficult to prove. This is in accordance with the purpose of procedural law, namely to seek and find material truth.

Meanwhile, according to religious figure Bustomi Arisandi, basing his argument on the perspective of Islamic law, that proving black magic in Islamic law is one of the most complicated aspects in the practice of criminal jurisprudence because it involves things that are not visible to the senses and enter the realm of the supernatural. Therefore, Islam still provides a clear framework of proof that can be accounted for according to sharia (legally). In the Islamic criminal law tradition, there are 4 (four) forms of evidence that are accepted, namely iqrar (confession), shahadah or bayyinah (testimony of two fair witnesses, qarinah (strong indication), and yamin (oath). However, in the context of magic, according to Bustomi Arisandi, the most frequently used testimony is confession, testimony (witness), and qarinah.

The perpetrator's confession is one of the strongest pieces of evidence that can be used to determine a sentence. The confession must be given voluntarily, without coercion, and in a conscious state. If the perpetrator of witchcraft admits directly to having committed the act, the judge has the right to impose a sentence according to the severity of the impact caused. This is in accordance with the words of the Prophet Muhammad: "Punish with evidence or confession" (HR. al-Bukhari and Muslim).

In addition to confessions, testimony can also be used as a basis for proof, namely on the condition that two just, mature, sane Muslim male witnesses are present, and they directly witness the act of witchcraft or real indications that show the perpetrator's involvement in the practice of black magic. In reality, this requirement is very difficult to fulfill because black magic is usually done in secret. Qarinah, or indirect evidence, is a very important alternative in cases of black magic. Qarinah can be in the form of finding black magic tools such as amulets, stabbing dolls, writings with strange symbols, or objects that are traditionally known as black magic media. Indications can also come from changes in the victim's condition that cannot be explained medically, especially if there is a causal relationship between the perpetrator's actions and the disturbance experienced by the victim. In some cases, the opinion of a ruqyah expert or Muslim healer who is an expert in handling black magic can be used as reinforcement (qarinah), although it is not the main evidence that stands alone. The opinion of contemporary scholars states that expert statements like this can only be used as support, and should not be the sole basis for imposing a sentence, unless supported by a strong confession or qarinah.

Furthermore, oaths (yamīn) are not the main evidence in criminal cases such as witchcraft, but can be used in minor disputes or as a complement if the main evidence is not available. Because of the hidden nature of witchcraft and the difficulty of empirically proving it, the majority of scholars emphasize the importance of caution in imposing punishment.

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The principle of fiqh rules, hudud must be rejected if there is doubt, is the main guideline so that judges do not rush in imposing severe sanctions such as the death penalty. Therefore, if the available evidence does not reach a strong level of certainty (yaqīn), then hudud sanctions may not be imposed, and the perpetrator can only be subject to ta'zir, which is a punishment adjusted by the judge based on the applicable conditions and interests. Thus, proving witchcraft in Islamic law requires a high standard of caution and can only be done with valid evidence according to sharia. When no confession, valid testimony, or strong qarinah is found, then severe criminal sanctions cannot be imposed, and the judge must take a proportional stance according to sharia rules.

Based on the description above, regarding the evidence in Article 184 paragraph (1) of the Criminal Procedure Code and evidence in Islamic criminal law related to the crime of black magic, the following table can be made:

Evidence in Article 184 paragraph (1) of the Criminal Procedure Code	Evidence in Islamic Criminal Law	Information
1. Witness Statement 2. Expert Statement 3. Letter 4. Instructions 5. Defendant's Statement	1. iqrar (confession), 2. shahadah or bayyinah (testimony of two fair witnesses). 3. qarinah (strong indication), 4. yamin (oath)	Opinions from ruqyah experts or Muslim healers who are experts in dealing with black magic can be used as reinforcement (qarinah), not primary evidence that stands alone. Expert statements like this can only be used as support, and should not be the sole basis for imposing a sanction.

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