

WITCHCRAFT FROM THE PERSPECTIVE OF ARTICLE 252 PARAGRAPH (1) OF THE 2023 CRIMINAL CODE AND ITS IMPLICATIONS FOR LEGAL CERTAINTY

Muhammad Iqbal Rifai¹, Chairuni Nasution², Sumarno³

Universitas Pembangunan Panca Budi

Jl. Jend Gatot Subroto Km 4,5 Medan

E-mail: p9702390@gmail.com^{1*}, chairuni.nasution@yahoo.com², sumarno@dosen.pancabudi.ac.id³.

Received : 20 March 2026

Accepted : 17 April 2026

Revised : 30 March 2026

Published : 16 May 2026

Abstract

The regulation of witchcraft under Article 252 paragraph (1) of the 2023 Criminal Code represents a criminal law response to a social phenomenon that continues to exist within Indonesian society. Witchcraft is often associated with supernatural practices that may generate fear, social conflict, and potential violence; therefore, the state considers it necessary to establish legal norms to regulate such practices. This study aims to analyze the juridical basis of the article, the elements of the criminal offense as formulated, and its implications for legal certainty and law enforcement practices. The method employed is normative legal research using statutory and conceptual approaches through a literature review. The results indicate that the criminalization of witchcraft in the new Criminal Code does not focus on proving the existence of supernatural powers, but rather on the act of a person who declares or offers services by claiming supernatural abilities that may cause suffering, illness, or death. This formulation categorizes Article 252 as a formal offense, thereby directing proof toward the perpetrator's observable actions. This regulation is intended to protect society from fraud, psychological manipulation, and social conflict. However, the norm still has the potential to create multiple interpretations if not accompanied by clear interpretative guidelines, particularly in distinguishing between personal beliefs and criminal acts.

Keywords: Witchcraft, 2023 Criminal Code, legal certainty, criminal evidence.

INTRODUCTION

Criminal law essentially functions to protect public interests from harmful acts and to maintain public order through the regulation of prohibited conduct and the sanctions attached to it. Law is an inseparable part of social life, in which legal norms always coexist with the society itself (*ubi societas ibi ius*). As emphasized by Fatmawati et al. (2023), law seeks to maintain a balance between individual interests and collective interests to prevent conflict; thus, in essence, law must be certain and just in order to function properly. One of the fundamental principles in criminal law is the principle of legality and legal certainty, which requires that any punishable act must be formulated clearly, explicitly, and in a manner understandable to the public. Indonesian law faces a unique challenge in balancing traditional values with the inevitable tide of modernization. In this context, law plays an important role in ensuring that values living within society remain relevant and receive legitimate legal recognition amid changing times (Syafiri & Hakim, 2025). The emergence of the regulation of witchcraft as a criminal offense under Article 252 paragraph (1) of the 2023 Criminal Code constitutes an important and controversial legal phenomenon, as it concerns acts that have traditionally existed within the domains of belief, culture, and spiritual practices in society (Puspitasari & Arzaqi, 2025).

Conceptually, witchcraft is understood as a supernatural practice believed to harm others through mystical powers. In Indonesian society, belief in witchcraft persists and has developed across generations, particularly within traditional communities. Although it is metaphysical in nature and cannot be scientifically proven, accusations of witchcraft often produce tangible consequences, including fear, social conflict, persecution, and even violence against those accused of practicing it (Jannah & Hapsari, 2023). From a broader perspective, conflict resolution in Indonesian society does not rely solely on formal judicial systems. Fatmawati et al. (2023) note that beyond state courts, there are also non-formal mechanisms operating based on the *living law*, where dispute resolution is oriented toward restoring social harmony rather than merely imposing punishment. The restorative justice approach offers a more humane alternative to the conventional judicial system, emphasizing the restoration of victims' losses,

perpetrators' accountability, and the active participation of family and community. At its core, this concept rests upon awareness and reconciliation as the foundation for restoring social relations disrupted by criminal acts (Ginting, Siregar & Fikri, 2025). Thus, witchcraft is not merely a matter of belief but has evolved into a social and legal issue that requires state intervention. From the perspective of criminal policy, the inclusion of witchcraft in the 2023 Criminal Code represents a criminalization policy aimed at protecting society from fraud, extortion, and the spread of fear by individuals claiming to possess supernatural powers. Article 252 paragraph (1) of the 2023 Criminal Code does not criminalize mystical powers themselves, but rather the act of a person who claims to have supernatural abilities and offers services to harm others with the intent of gaining benefit or causing certain consequences. This policy seeks to prevent society from becoming victims of psychological and economic exploitation by parties who take advantage of belief in witchcraft.

In practice, however, this regulation faces significant challenges. Society often perceives witchcraft as a real supernatural force, while law enforcement authorities can only act based on verifiable evidence. This discrepancy creates the potential for misalignment between public belief and legal standards of proof. Moreover, this provision risks being misused to accuse others based merely on suspicion, resentment, or social conflict, thereby threatening legal certainty and the protection of human rights (Santoso, 2022). Moreover, one of the fundamental challenges in the Indonesian legal system is the insufficient understanding and awareness among the public and law enforcement officials regarding norms that govern traditional beliefs and practices. This inadequate understanding has the potential to trigger conflict between state law and the social realities of the community (Syafiri & Hakim, 2025).

The main issue in regulating witchcraft lies in the aspect of evidentiary proof. Criminal law requires that every criminal offense must be proven with valid forms of evidence, such as witness testimony, expert opinion, documents, indications, and the statement of the defendant. However, witchcraft as a metaphysical phenomenon cannot be empirically tested. Therefore, the evidentiary focus in Article 252 paragraph (1) of the 2023 Criminal Code shifts from proving the existence of supernatural powers to proving statements, claims, and actions of offering services to harm others. Nevertheless, this shift still raises the question of whether the formulation of the norm is sufficiently clear to distinguish between criminal acts and mere expressions of belief or cultural traditions.

The phenomenon of witchcraft is not merely a traditional belief, but a social reality with tangible impacts on public security and order. Social survey data indicate that more than 50% of Indonesians still believe in witchcraft as a cause of illness or death. In addition, the National Commission on Human Rights (Komnas HAM) records that more than 40% of violence cases based on accusations in rural areas are triggered by issues of witchcraft and black magic practices. On the other hand, thousands of fraud cases involving witchcraft and supernatural healing schemes each year cause financial losses to the public amounting to hundreds of billions of rupiah. However, prior to the enactment of Article 252 of the Criminal Code, most of these reports could not be processed criminally due to the absence of a clear legal basis, resulting in a legal vacuum and uncertainty in public protection.

A survey conducted by the Pew Research Center shows that belief in supernatural phenomena and mystical powers remains very strong in Indonesia compared to other countries in Southeast Asia and globally. For instance, approximately 69% of respondents in Indonesia state that they believe in the existence of supernatural powers or black magic, significantly higher than in neighboring countries such as Malaysia (49%) and Thailand (17%), reflecting the strong dominance of magical beliefs within Indonesian culture. This belief is also evident in social phenomena where accusations of witchcraft frequently trigger conflict and violence in local communities, demonstrating the relevance of cultural beliefs to the formulation and implementation of criminal law norms governing witchcraft offenses (Center PR, 2023).

The high level of public belief in supernatural powers and mystical practices, as indicated by the Pew Research survey, not only reflects socio-cultural realities but also directly influences the construction of legal problems within society. Strong belief in witchcraft and black magic allows accusations against individuals as perpetrators of witchcraft to develop easily, often leading to conflict, social exclusion, and even violence. In this context, criminal law faces a dilemma between the need to protect society from unrest caused by witchcraft practices and the obligation of the state to ensure legal certainty and the protection of human rights. This social reality forms an important background for various previous studies examining how Indonesian positive law responds to the phenomenon of witchcraft, particularly from the perspectives of criminalization, evidentiary proof, and legal protection for the parties involved. Several studies have examined the phenomenon of witchcraft-related offenses from both the perspectives of positive law and Islamic criminal law. Meilina E.D. and Setyadji S. (2025), in *Legal Protection for Victims of Witchcraft*, emphasize that although witchcraft is supernatural in nature, it has real social and psychological impacts on victims. This study highlights that the state is obliged to provide legal protection to victims, particularly through the recognition that witchcraft constitutes a form of non-physical violence that harms

human rights. However, this research focuses more on victim protection and does not comprehensively address the technical issues of evidentiary proof in criminal proceedings. Furthermore, Jannah and Hapsari (2023), in *The Criminalization of Witchcraft Perpetrators under Positive Law in Indonesia*, examine the urgency of criminalizing witchcraft within the national legal system. They explain that the criminalization of witchcraft through Article 252 of the Criminal Code represents a form of penal policy aimed at providing legal certainty for acts that are socially perceived as causing harm. The study emphasizes that the state does not assess the truth of supernatural powers themselves, but rather focuses on the impact and the perpetrator's claims that generate fear and public unrest. However, this research does not elaborate in detail on how the provision is implemented in evidentiary practices before the courts.

Sarofah (2023), in her study on *Witchcraft as a Criminal Offense under Article 252 of the Criminal Code from the Perspective of Islamic Criminal Law*, demonstrates that the concept of witchcraft is also recognized in Islamic law as an act of sorcery (*sihir*) that is prohibited due to its harmful effects on others. This research enriches the conceptual foundation by showing that the prohibition of witchcraft is derived not only from positive law but also from moral and religious values. However, the study is primarily normative-religious in nature and does not address the technical aspects of evidentiary proof within the modern criminal justice system.

The issue of evidentiary proof is specifically discussed by Pratama and Budiarsih (2024) in *Obstacles in the Evidentiary Process of Witchcraft-Related Offenses under the Old Criminal Code*. They find that prior to the enactment of Article 252 of the new Criminal Code, law enforcement officials faced serious difficulties due to the absence of an explicit legal basis to classify witchcraft as a criminal offense. The main obstacle lay in the inability to scientifically establish causality between supernatural acts and their alleged consequences. This study indicates that modern criminal law requires normative formulations that do not depend on metaphysical proof, but rather on facts that can be legally verified.

In line with this, Choirul Anam (2024), in his thesis *An Analytical Study on the Evidentiary Process of Witchcraft Offenses under Article 252 of the Criminal Code*, asserts that proof in witchcraft-related offenses is not directed toward establishing the truth of supernatural powers, but rather toward proving the act of claiming such powers, the presence of criminal intent (*mens rea*), and the resulting effects in the form of fear, unrest, or tangible harm to victims. This research emphasizes that Article 252 of the Criminal Code is designed as both a preventive and repressive norm to protect society from fraud, extortion, and terror based on supernatural claims.

Based on these previous studies, it can be concluded that research on witchcraft has evolved from normative and sociological perspectives to criminal policy analysis. However, there remains a research gap, particularly in the implementation of Article 252 of the Criminal Code in judicial practice, especially regarding how judges, prosecutors, and investigators prove the elements of witchcraft-related offenses from a juridical standpoint without having to prove the actual existence of supernatural powers. Therefore, this study is important to fill that gap by further examining the mechanisms of proof and the application of Article 252 within the context of Indonesian criminal procedure law.

Based on the mapping of previous studies, it can be concluded that research on witchcraft-related offenses in Indonesia is still dominated by normative discussions on criminalization and the challenges of evidentiary proof, both from the perspectives of positive law and Islamic law. However, most of these studies have not comprehensively linked the issue of evidentiary proof in witchcraft cases with its implications for legal certainty, the protection of human rights, and the potential misuse of law in enforcement practices. Therefore, this study is significant in addressing this gap by analyzing more deeply how the legal construction of witchcraft, particularly under Article 252 of the Criminal Code, can be applied fairly, rationally, and proportionally amid the strong societal belief in supernatural practices, so that the law does not instead become a tool for legitimizing stigma, wrongful criminalization, or social violence. The objective of this study is to analyze the regulation of witchcraft, assess its compatibility with the principle of legal certainty, and examine its implications for the protection of human rights and public order.

METHOD

This study employs normative legal research, which examines law as a set of norms or rules within the positive legal system. It focuses on the regulation of witchcraft as a criminal offense as stipulated in Article 252 paragraph (1) of the 2023 Criminal Code, as well as relevant principles of criminal law, particularly the principle of legality and the principle of legal certainty. Through a normative approach, this research analyzes statutory regulations, scholarly doctrines, and concepts of criminal law to assess whether the regulation of witchcraft has been

formulated clearly, rationally, and in accordance with the principles of the rule of law. Accordingly, this study does not utilize field data but relies on relevant legal materials to address the legal issues examined. This research adopts a descriptive-analytical approach. Descriptive means that the study aims to systematically and objectively describe the regulation of witchcraft under Article 252 paragraph (1) of the 2023 Criminal Code. Analytical means that the study not only presents the applicable legal norms but also evaluates and analyzes their consistency with the principle of legal certainty and the principle of legality.

A research approach refers to the perspective or method of analysis used to examine and understand the legal issues under study. In normative legal research, several approaches are commonly recognized, including the statutory approach, conceptual approach, historical approach, comparative approach, and case approach (Peter Mahmud Marzuki, 2005: 133). The collection of legal materials in this study is conducted through library research, by identifying, inventorying, and examining various legal sources related to witchcraft as a criminal offense and the principle of legal certainty. These legal materials include statutory regulations—particularly the 2023 Criminal Code—criminal law textbooks, scientific journals, articles, and relevant scholarly doctrines.

The analysis of legal materials in this study employs qualitative analysis, by interpreting, constructing, and correlating the collected legal materials in order to answer the research questions systematically and logically. The analysis is carried out using legal reasoning toward the norms governing witchcraft under Article 252 paragraph (1) of the 2023 Criminal Code, as well as the principle of legal certainty in criminal law.

RESULT AND DISCUSSION

Witchcraft in Social and Legal Perspectives and Legal Certainty under Article 252 of the 2023 Criminal Code

The discussion of witchcraft from both social and legal perspectives, as examined in various scientific literatures, indicates that this phenomenon lies at the intersection between the cultural realities of society and the rationality of modern law. Priambodo and Nugroho (2024) assert that witchcraft cannot be separated from the social construction of Indonesian society, which still strongly adheres to traditional belief systems. In this context, witchcraft is understood not only as a supernatural practice but also as a social phenomenon that has real impacts on interpersonal relationships. Belief in witchcraft can influence social behavior, create fear, generate conflict, and even trigger acts of violence. Therefore, from a criminological perspective, witchcraft is not merely viewed as a mystical phenomenon but as a social phenomenon that may produce legal consequences.

In line with this, Faisal et al. (2023) explain that the criminal policy regarding witchcraft in the reform of the Criminal Code represents the state's response to such social realities. According to them, the regulation of witchcraft is not intended to prove the existence of supernatural powers, but rather to control human behavior that uses such claims as a means to instill fear or cause harm. In other words, the focus of criminal law policy does not lie in metaphysical aspects, but in behavior that produces social impacts. This approach reflects a modern criminal policy paradigm that places the protection of society as the primary objective of criminal law. A similar view is expressed by Anwar (2021), who highlights the evolving interpretation of witchcraft within the reform of Indonesian criminal law. He argues that national criminal law faces epistemological challenges when regulating phenomena that cannot be scientifically verified. Nevertheless, lawmakers do not assess witchcraft based on empirical truth, but rather on its social consequences. Therefore, criminalization is not directed at witchcraft as a supernatural force, but at individuals who claim to possess such powers and offer them to others. This analysis demonstrates that Indonesian criminal law seeks to maintain legal rationality without disregarding the social realities of society.

From a normative perspective, Muliati and Irfan (2020) emphasize that the regulation of witchcraft in the Draft Criminal Code can also be seen as a form of harmonization between positive law and religious values. They compare the concept of witchcraft with the concept of sorcery in Islamic law, where practices that harm others may be sanctioned as they are considered dangerous acts. However, they stress that in both Islamic law and positive law, the imposition of sanctions still requires clear proof. This indicates a shared principle that punishment must be based on evidence, not merely on accusations or subjective beliefs.

Furthermore, Ghazy Putra (2025) analyzes Article 252 of Law Number 1 of 2023 from the perspective of legal certainty. He considers that the regulation of witchcraft in the new Criminal Code is a progressive step because it provides a legal basis for law enforcement authorities to address practices that previously existed in a legal gray area. However, he also criticizes that the provision still has the potential to create multiple interpretations if not accompanied by clear interpretative guidelines. Ambiguity may arise particularly in interpreting the element of "claiming to possess supernatural powers" and in distinguishing between personal belief and criminal conduct. Without clear boundaries, there is a risk of legal uncertainty and potential misuse of the provision.

The analysis of Priambodo and Nugroho (2024) reinforces this argument by stating that the criminalization of witchcraft in Indonesian criminal law is formulated as a formal offense. The concept of restorative justice, which has developed since the 1960s, offers an alternative approach to responding to criminal offenses by emphasizing the involvement of victims, offenders, and the community in restoring relationships damaged by crime (Fatmawati et al., 2023). The United Nations defines restorative justice as a way of responding to criminal behavior by balancing the needs of society, victims, and offenders. This approach is relevant in understanding why the regulation of witchcraft under Article 252 of the 2023 Criminal Code should not be solely punitive in nature, but must also take into account aspects of social restoration. Justice does not merely determine winners and losers within an adversarial system, but rather seeks to facilitate dialogue among all parties affected by the crime — victims, perpetrators, their supporters, and the broader community — to collectively resolve the matter and consider its future implications (Ginting, Siregar & Fikri, 2025). This means that the elements of the criminal offense are fulfilled not because of the proven existence of supernatural effects, but due to the act of declaring or offering witchcraft services. This formulation is viewed as a legislative solution to overcome the difficulties of metaphysical proof. By classifying witchcraft as a formal offense, the law is still able to prosecute perpetrators without having to prove the truth of supernatural elements. This approach demonstrates that lawmakers seek to align legal norms with the principle of rational proof within the criminal justice system.

Faisal et al. (2023) further emphasize that the criminal policy on witchcraft is part of an effort to protect society from potential psychological manipulation and fraud. They note that individuals who claim to possess supernatural powers often exploit public beliefs to gain economic benefits or social influence. In such situations, criminal law functions as an instrument to prevent the exploitation of public fear. Thus, the criminalization of witchcraft can be understood as a form of protection of societal legal interests, rather than as a recognition by the state of the existence of the supernatural. However, several studies also highlight potential problems in the application of this norm. Anwar (2021) argues that incorporating the concept of witchcraft into criminal law carries philosophical risks, as modern law is fundamentally grounded in scientific rationality. If the norm is not formulated strictly, the law may fall into the realm of subjective belief. Therefore, he emphasizes the importance of clear normative boundaries so that the law does not prosecute individuals based solely on public perception or belief. This view aligns with the principle of legality, which requires clarity in the formulation of offenses as a fundamental condition for legal certainty.

Muliati and Irfan (2020) add that from a comparative law perspective, the regulation of witchcraft must consider a balance between protecting society and respecting freedom of belief. They warn that certain spiritual or religious practices may be misinterpreted as witchcraft in the absence of clear definitions. Therefore, the application of witchcraft provisions must be carried out cautiously to avoid criminalizing legitimate cultural or religious practices. Meanwhile, Ghazy Putra (2025) emphasizes that the successful implementation of Article 252 largely depends on the consistency of law enforcement authorities in interpreting the elements of the offense. He argues that legal certainty is determined not only by the wording of legislation but also by law enforcement practices in the field. If authorities have differing interpretations, court decisions may become inconsistent. Therefore, uniform interpretative guidelines are necessary to prevent disparities in judicial decisions.

From the overall literature, two main academic perspectives can be identified. First, the view that supports the regulation of witchcraft as a means of protecting society from fraud, intimidation, and social conflict. Second, the critical view that highlights its potential to create legal uncertainty and over-criminalization. These two perspectives are not contradictory, but rather indicate that the regulation of witchcraft is a complex issue requiring a cautious approach. In synthesis, the literature shows that the concept of witchcraft in legal perspective is not understood as a supernatural phenomenon, but as a form of social behavior that may produce legal consequences. The state does not adjudicate the existence of supernatural powers, but rather the actions of individuals who exploit such claims. Thus, the criminal law approach to witchcraft is pragmatic and functional, oriented toward the protection of society and the maintenance of public order.

The Juridical Basis of Article 252 Paragraph (1) of the 2023 Criminal Code

Based on the analysis of Ghazy Putra (2025), this provision emerged as part of the reform of national criminal law aimed at providing legal certainty for practices that were previously not explicitly regulated under the old Criminal Code. The regulation is not intended to prove the existence of supernatural powers, but rather to govern the behavior of individuals who claim to possess such abilities and use them for certain purposes that may harm others or create public unrest.

Normatively, Article 252 paragraph (1) essentially stipulates that any person who declares themselves to possess supernatural powers, informs, offers, or provides services to others claiming that such acts can cause illness, death, or physical or mental suffering may be subject to criminal sanctions. This formulation indicates that the focus of regulation lies in the communicative acts of the perpetrator, rather than in proving the existence of supernatural powers. Thus, criminal law adheres to the principle of rational proof, as what is assessed is the tangible act of making statements or offering services, not metaphysical phenomena that are difficult to verify. The elements of the criminal offense under this provision include the subject, the act, and the intended purpose or claimed consequence. The element of “any person” indicates that the legal subject is general without exception. The element of the act includes declaring, offering, or providing services related to supernatural abilities, meaning that this offense emphasizes the active conduct of the perpetrator. Meanwhile, the element of the claimed consequence—namely the ability to cause illness, death, or suffering—demonstrates that the law takes seriously the social and psychological impacts that may arise from such claims. Ghazy Putra considers this construction to indicate that Article 252 constitutes a formal offense, as the crime is deemed complete at the moment the statement or offer is made, without the need to prove the occurrence of any supernatural effect.

The prohibited conduct under this provision essentially consists of communicating claims of supernatural ability to others with a particular intent. This confirms that the law does not criminalize an individual’s personal belief in mystical matters, but rather the active use of such claims. This limitation is important to maintain a balance between law enforcement and the protection of freedom of belief. The prescribed sanctions, in the form of imprisonment or fines of a certain category, indicate that lawmakers consider such acts to be offenses that must be controlled, while still ensuring proportionality in punishment. From a juridical perspective, this provision reflects the state’s effort to align criminal law with social realities without abandoning the principles of legality and legal certainty. Article 252 paragraph (1) does not assess the truth of witchcraft practices, but rather evaluates human conduct associated with them when it has the potential to harm others. Therefore, the juridical basis of this provision lies in the protection of society, the prevention of social conflict, and the enforcement of clear legal norms that can be applied objectively.

The Evidentiary Aspect of Witchcraft in Judicial Proceedings

In the Indonesian criminal justice system, evidentiary proof constitutes a crucial stage in determining the guilt or innocence of the defendant. Rohman et al. (2024) explain that the Indonesian criminal evidentiary system adheres to the principle of *negative wettelijk bewijsstelsel*, meaning that a judge may only impose a sentence if there are at least two valid pieces of evidence accompanied by the judge’s conviction. This principle emphasizes that proof is not solely based on the quantity of evidence, but also on its quality and relevance to the elements of the alleged offense. In cases involving claims of supernatural powers, as regulated under Article 252 of the 2023 Criminal Code, the evidentiary process must still follow the general standards of criminal procedure law, with the focus directed toward the perpetrator’s concrete actions rather than the existence of supernatural elements themselves.

The relevant forms of evidence in such cases remain those recognized under criminal procedure law, namely witness testimony, expert testimony, documents, indications, and the defendant’s statement. Rohman et al. emphasize that the relevance of evidence is determined by its connection to the elements of the offense. In cases involving witchcraft claims, the most dominant evidence typically consists of witness testimony from individuals who heard or observed the perpetrator’s statements, documents or recordings indicating the offering of services, and electronic evidence such as digital messages, audio recordings, or online transactions. These forms of evidence are essential because they can objectively demonstrate the communicative actions of the perpetrator.

The main difficulty in proving cases involving supernatural elements lies in the nature of the phenomenon, which cannot be scientifically verified. Rohman et al. (2024) explain that modern criminal law requires rational and empirical proof, thus metaphysical elements cannot be directly established as objects of proof. Therefore, the evidentiary approach must focus on concrete facts that can be observed, such as statements, actions, or transactions indicating claims of supernatural ability. This challenge requires law enforcement officials to carefully distinguish between personal beliefs, which are not punishable, and actual conduct that fulfills the elements of a criminal offense.

In the evidentiary process, witnesses play a significant role, as their testimony can clarify the chronology of events and strengthen the link between the defendant’s actions and the elements of the offense. Witnesses may include victims, individuals who received service offers, or those who directly observed the perpetrator’s statements. In addition to witnesses, expert testimony also serves a strategic function, particularly in explaining psychological, linguistic, or digital forensic aspects related to the case. Rohman et al. emphasize that experts are not tasked with proving the truth of supernatural elements, but rather with providing scientific explanations of facts relevant to the

evidentiary process. In the digital era, electronic evidence plays an increasingly important role in criminal proceedings. Text messages, recorded conversations, social media posts, or transfer records can demonstrate the existence of service claims and the relationship between the perpetrator and other parties. Electronic evidence has valid probative value as long as it is obtained lawfully and its authenticity can be verified. In cases involving witchcraft claims, digital evidence often becomes the most objective form of proof because it directly records the perpetrator's statements without relying entirely on witness memory. Thus, the evidentiary aspect in judicial proceedings demonstrates that cases involving claims of supernatural powers remain within the rational framework of criminal law. The difficulty of proving metaphysical elements is addressed by focusing on the perpetrator's concrete actions that can be verified through lawful evidence. The roles of witnesses, experts, and electronic evidence are essential to ensuring that judicial processes are conducted objectively, fairly, and in accordance with the principle of legal certainty as upheld in the Indonesian criminal evidentiary system.

Practical Implications of the Regulation of Witchcraft in Indonesian Criminal Law

The regulation of witchcraft in criminal law, particularly through Article 252 of the 2023 Criminal Code, gives rise to various practical implications that can be observed from the perspectives of society, the criminal justice system, and the potential misuse of legal norms. Based on the analysis of various literatures discussed previously, including the studies of Priambodo and Nugroho (2024), Faisal et al. (2023), Anwar (2021), Muliati and Irfan (2020), and Ghazy Putra (2025), these implications indicate that the existence of the witchcraft provision is not merely symbolic, but carries real consequences in both social and legal practice.

From a societal perspective, the existence of such regulation can provide a sense of security, as it demonstrates the presence of the state in addressing phenomena that have long been considered disturbing. Many communities still believe in supernatural practices, and accusations of witchcraft often become a source of social conflict. Priambodo and Nugroho (2024) explain that the criminalization of witchcraft claims can function as an instrument of social protection by providing a formal legal avenue for individuals who feel threatened or harmed. With the presence of criminal provisions, conflict resolution is no longer carried out through vigilante actions, but through legitimate judicial mechanisms. This is particularly important considering that in many social cases, accusations of witchcraft may lead to social exclusion, mob violence, and even murder against those accused.

In addition to providing a sense of security, this regulation also functions as a tool of social control. Faisal et al. (2023) argue that criminal norms against witchcraft claims can suppress fraudulent practices that exploit public belief. Individuals who claim to possess supernatural powers often use such claims to gain economic benefits or social influence. With the existence of criminal sanctions, the law serves as a deterrent against such manipulative practices. In this context, criminal law functions not only as a repressive instrument but also as a preventive one, aimed at preventing crimes before they result in harm.

However, the social impact of regulating witchcraft is not always positive. Anwar (2021) emphasizes that legal norms related to belief-based phenomena carry the risk of misinterpretation within society. If the public does not properly understand the substance of the provision, it may lead to the assumption that all spiritual practices or traditional rituals are punishable. This could create new forms of fear and even horizontal conflict, particularly in culturally and religiously plural societies. Therefore, legal socialization becomes essential to ensure that the public understands that what is prohibited is not personal belief, but rather the act of claiming supernatural abilities for the purpose of harming others.

Table 1. Superstitions Among Muslims in Southeast Asia

	Indonesians (%)	Malaysian (%)	Thais (%)
Believe in jinn	53	77	47
Believe in witchcraft	69	49	17
Believe in the evil eye	29	36	11
Wear talismans (protection from evil)	4	3	3

From the perspective of the criminal justice system, the regulation of witchcraft carries significant consequences for law enforcement practices. Ghazy Putra (2025) argues that the existence of Article 252 provides a clear legal basis for law enforcement authorities to handle cases that were previously difficult to process due to the

absence of a normative foundation. Prior to this regulation, public reports related to witchcraft practices often could not be followed up because there was no specific provision governing them. With the introduction of this provision, authorities now have legal legitimacy to conduct investigations and prosecutions for acts that fulfill the elements of the offense. However, this regulation also requires the readiness of law enforcement officials to properly understand the construction of the offense. The witchcraft provision is formulated as a formal offense, meaning that proof must focus on the perpetrator's concrete actions rather than the existence of supernatural powers. This requires careful legal analysis so that investigators, prosecutors, and judges do not become entangled in proving metaphysical elements that are not legally relevant. In this regard, Rohman et al. (2024) emphasize that the success of law enforcement largely depends on the proper use of valid evidence, such as witness testimony, electronic evidence, and expert opinions. Without adequate understanding, the judicial process risks errors in assessing the elements of the offense.

In addition, the criminal justice system faces challenges in maintaining consistency in judicial decisions. Ghazy Putra (2025) highlights that norms with the potential for multiple interpretations may lead to disparities in law enforcement if not accompanied by uniform interpretative guidelines. Differences in understanding among law enforcement officials regarding the boundaries of conduct classified as witchcraft claims may result in inconsistent court decisions. This condition may undermine public trust in the judicial system. Therefore, continuous training and capacity-building for law enforcement officials are necessary to ensure that the application of the provision aligns with its intended purpose. Another equally important implication is the potential misuse of the provision. Muliati and Irfan (2020) warn that norms related to belief and spiritual practices are vulnerable to misuse, particularly when definitions are not clearly formulated. Accusations of witchcraft may be used as a tool to attack others in personal conflicts, economic competition, or social disputes. If law enforcement authorities are not cautious, this provision may be used as an instrument of criminalization against certain individuals based on non-objective accusations. Therefore, prudence and professionalism among law enforcement officials are essential to prevent such misuse.

The potential for misuse may also arise in the form of false reporting. This is in line with the principles of restorative justice, which emphasize that offenders must take responsibility for repairing the harm they have caused, while also providing opportunities for all parties—including victims and the community—to participate in the process of resolving the issue (Fatmawati et al., 2023). Thus, the enforcement of Article 252 of the Criminal Code should ideally not be solely oriented toward punishing offenders, but also toward restoring the social trust disrupted by claims of supernatural powers. In societies where belief in witchcraft remains strong, individuals may report others based on such accusations even in the absence of sufficient evidence. This situation can burden the criminal justice system with cases that do not actually meet the elements of a criminal offense. In Indonesia, the concept of restorative justice has begun to be accommodated through several legal instruments, including the Juvenile Criminal Justice System Law and institutional regulations from the National Police, Attorney General's Office, and Supreme Court. However, its application has not been comprehensive, as it has not yet been fully regulated within the Criminal Code and Criminal Procedure Code, necessitating progressive legal reform to enable its systematic application across all stages of law enforcement (Ginting, Siregar & Fikri, 2025). Anwar (2021) emphasizes that to prevent this, law enforcement officials must adhere firmly to the principle of objective proof and must not be influenced by public opinion. Law enforcement must be based on facts and valid evidence, rather than on assumptions or collective beliefs.

On the other hand, Faisal et al. (2023) argue that the potential for misuse can actually be minimized if the norm is interpreted strictly in accordance with the elements of the offense. As long as law enforcement authorities only process cases that fulfill the elements of concrete conduct, the space for misuse can be reduced. This approach underscores the importance of legal interpretation grounded in the statutory text and the principle of legality. Thus, the existence of the witchcraft provision does not automatically create a risk of misuse, but rather depends on the quality of its implementation.

CONCLUSION AND SUGGESTION

The regulation of witchcraft under Article 252 paragraph (1) of the 2023 Criminal Code represents a criminal law policy aimed at protecting society from social impacts, conflicts, and potential fraud arising from claims of supernatural powers, without assessing the truth of the supernatural elements themselves. This provision emphasizes concrete conduct, thereby aligning with the principle of rational proof and the principle of legality. However, its effective implementation largely depends on the clarity of interpretation, consistency in law enforcement, and the prudence of authorities to avoid multiple interpretations or misuse of the provision. Based on the findings of this study, the regulation of witchcraft under Article 252 paragraph (1) of the 2023 Criminal Code must be accompanied by clear interpretative guidelines to prevent ambiguity in law enforcement practices. Law enforcement officials

should focus evidentiary efforts on concrete acts, such as statements or offers of services claimed to involve supernatural powers, rather than attempting to prove supernatural elements. In addition, public dissemination is necessary to prevent misunderstandings that this norm criminalizes personal beliefs or cultural practices. Strict oversight and the application of the precautionary principle are also essential to prevent potential misuse of the provision, ensuring that the objectives of social protection and legal certainty are achieved in a fair and proportional manner.

REFERENCES

- Anam, C. (2024). *Studi analisis terhadap pembuktian tindak pidana santet dalam Pasal 252 KUHP*. Universitas Islam Negeri Kiai Haji Achmad Siddiq Jember.
- Anwar, R. (2021). Eksistensi pemaknaan santet pada pembaharuan hukum pidana: Telaah Rancangan Kitab Undang-Undang Hukum Pidana Indonesia. *Islamitsch Familienrecht Journal*, 2(1), 1–15.
- Center PR. (2023). *Belief in witchcraft and supernatural forces in Indonesia* [Data set]. The ASEAN Post. <https://theaseanpost.com/article/black-magic-indonesia>
- Faisal, F., Rahayu, D. P., Darmawan, A., Irfani, M., & Muttaqin, A. (2023). Pemaknaan kebijakan kriminal perbuatan santet dalam RUU KUHP. *Jurnal Pembangunan Hukum Indonesia*, 5(1), 220–232.
- Fatmawati, I., Fikri, R. A., & Siregar, M. A. (2023). Peradilan adat dan restoratif dalam penegakan hukum di Indonesia. Tahta Media Group
- Ghazy Putra, M. N. I. (2025). *Penegakan hukum pidana Pasal 252 Undang-Undang Nomor 1 Tahun 2023 dalam perspektif kepastian hukum* (Doctoral dissertation, Universitas Jambi).
- Ginting, G. P., Siregar, A., & Fikri, R. A. (2025). Penerapan restorative justice dalam sistem peradilan pidana. *Locus Journal of Academic Literature Review*, 4(5), 280–286. <https://doi.org/10.56128/ljoalr.v4i5.533>
- Jannah, N. E. M., & Hapsari, I. P. (2023). Kriminalisasi pelaku santet menurut hukum positif di Indonesia. *UNES Law Review*, 6(1).
- Meilina, E. D., & Setyadji, S. (2025). Perlindungan hukum terhadap korban santet. *Quantum Juris: Jurnal Hukum Modern*, 7(1).
- Muliati, M., & Irfan, I. (2020). Sanksi hukum terhadap santet dalam Rancangan Undang-Undang KUHP (RUU KUHP) dan hukum Islam. *Shautuna: Jurnal Ilmiah Mahasiswa Perbandingan Mazhab*.
- Pratama, L. C., & Budiarsih, B. (2024). Kendala proses pembuktian terhadap tindak pidana santet dalam KUHP lama. *SEIKAT: Jurnal Ilmu Sosial, Politik, dan Hukum*, 3(3).
- Priambodo, R., & Nugroho, W. C. (2024). Analisis kriminal santet sebagai salah satu tindak pidana sesuai dengan perspektif hukum RUU-KUHP di Indonesia. *Media Hukum Indonesia (MHI)*, 2(3).
- Puspitasari, D., & Arzaqi, N. (2025). Analisis Pasal 252 KUHP baru perspektif hukum Islam dalam pengembangan teori hukum. *Tasyri': Jurnal Islam Law*, 4(1).
- Rohman, R., Muliadi, M., Pratama, F., Saputra, I., Firmansyah, A., Marwan, T., & Irfandi, I. (2024). Sistem pembuktian dalam hukum pidana Indonesia dan tantangan dalam proses peradilan. *JIMMI: Jurnal Ilmiah Mahasiswa Multidisiplin*, 1(3), 279–292.
- Santoso, S. B. (2022). Rumusan Pasal 252 Rancangan Kitab Undang-Undang Hukum Pidana. *Maksigama*, 16(2).
- Sarofah, U. (2023). Tindak pidana santet dalam Pasal 252 KUHP perspektif hukum pidana Islam. *At-Tawassuth: Jurnal Ekonomi Islam*, 8(1).
- Syafiri, M., & Hakim, A. L. (2025). Peran hukum dalam masyarakat Indonesia antara tradisi dan modernisasi. *Karimah Tauhid*, 4(4), 2380–2389. e-ISSN 2963-590X.