

## **CHAPTER I INTRODUCTION**

### **1.1 BACKGROUND OF STUDY**

In Indonesia, the use of supernatural practices has long been a phenomenon in society and is widespread in every region of the archipelago. Despite rapid advancements in science and technology, groups of people still maintain spiritual and religious values. The conveniences offered by modern times have not caused Indonesians to turn away from the beliefs inherited from their ancestors.

Several cases related to supernatural practices, such as fraud involving money-doubling schemes in Sukabumi, illustrate how shamans exploit deception to manipulate their victims. The perpetrators claim to have the ability to multiply money in a short period, attracting victims who hope for instant financial gain. Through various rituals and manipulative tricks, victims are convinced and willingly hand over a sum of money. However, after the money is given, the promised results never materialize, while the perpetrators either disappear or find excuses to delay. This case reveals that fraudulent shamanic practices remain widespread, often targeting individuals who lack awareness of the reality behind them and are in difficult economic situations. This phenomenon proves that such actions not only violate the law but also cause significant harm to many parties.<sup>1</sup>

The practice of shamanism has resurfaced with reports about a shaman named Yono, who is known for frequently offering his services to local residents. As a neighborhood head (RT), he took advantage of his position to approach the community and convince them of his abilities in various supernatural rituals. Some residents admitted that Yono had offered them shamanic services, whether for healing, business success, or other mystical

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<sup>1</sup>“Tipu Muslihat Dukun Pengganda Uang di Sukabumi, Ini Fakta-faktanya,” diakses 3 Maret 2025, <https://www.detik.com/jabar/hukum-dan-kriminal/d-7544961/tipu-muslihat-dukun-pengganda-uang-di-sukabumi-ini-fakta-faktanya>.

purposes. This phenomenon demonstrates that shamanic practices still exist within society, even carried out by individuals who hold roles within the social structure. The presence of shamans like Yono raises concerns, as they can influence people's mindsets and potentially lead to fraudulent activities that harm many parties.<sup>2</sup>

The case of misuse of shamanic practices has reoccurred with the arrest of a fraudulent shaman who offered his services through the social media platform Instagram. The perpetrator posed as a paranormal expert who claimed to solve various life problems, including success, love, and health. By promising supernatural assistance, he managed to lure victims into participating in certain rituals, which ultimately led to acts of sexual misconduct. This incident reflects how technological advancements are being exploited to facilitate shamanic practices that are not only misleading but also pose a danger to victims. This phenomenon underscores that deviant shamanic practices remain a threat, especially with the ease of access to information in the digital era, which allows perpetrators to reach a wider range of victims.<sup>3</sup>

The mutilation case in Malang involving a perpetrator who claimed to have studied love spells since 2003 illustrates how mystical practices are still believed in and practiced by some members of society. The perpetrator claimed to have successfully used this knowledge dozens of times, which was later linked to the criminal acts he committed. This belief in supernatural powers is not only misleading but can also encourage individuals to engage in unlawful actions that endanger others. This case serves as a real example of how the misuse of mystical practices can have negative consequences for both the perpetrator and the victim, highlighting the urgency of law enforcement against shamanic practices that have the potential to lead to criminal acts in society.<sup>4</sup>

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<sup>2</sup> "Ketua RT: Dukun Yono Sering Menawarkan Jasa pada Warga," suara.com, diakses 3 Maret 2025, <https://www.suara.com/news/2018/03/23/090335/ketua-rt-dukun-yono-sering-menawarkan-jasa-pada-warga>.

<sup>3</sup> Kompas Cyber Media, "Berita Terkini Hari Ini, Kabar Akurat Terpercaya," KOMPAS.com, diakses 3 Maret 2025, <https://www.kompas.com/>.

<sup>4</sup> TIMES Surabaya, "Pelaku Mutilasi di Malang Ngaku Belajar Ilmu Pelet Sejak 2003, Puluhan Kali Berhasil," TIMES Surabaya, diakses 3 Maret 2025,

The types of supernatural practices believed in various regions have caused public unrest. Papua fears Suanggi because it is used to harm and kill people, especially those who are disliked.<sup>5</sup> Similarly, Banyuwangi is known as the "City of Black Magic," where, according to old claims, for just five thousand rupiahs, one could hire a black magic service. In retaliation, residents took various actions against individuals suspected of practicing supernatural practices, including damaging their homes, expelling them from villages, or even killing them.

The 1998 magician massacre was a series of killings targeting individuals suspected of practicing supernatural practices in Banyuwangi. Between February and September 1998, over 100 people accused of being witches were killed. As time passed, the killings escalated, with two to nine people being murdered daily. The Banyuwangi case attracted the attention of the National Commission on Human Rights and the Minister of Defense and Armed Forces Commander, General Wiranto, who personally visited the site.<sup>6</sup>

As is well known, the Republic of Indonesia is a legal state based on the 1945 Constitution and Pancasila. Based on these principles, laws and regulations have been established to ensure a just, dignified, and orderly society through the rule of law.<sup>7</sup> Law functions to protect human interests. All human activities are regulated by law, which evolves to meet human needs over time. When laws are unclear, ambiguous, or incomplete, they must be revised to ensure they align with societal needs while upholding justice, utility, and legal certainty.<sup>8</sup>

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<https://surabaya.times.co.id/news/berita/2dqsfknnhp/Pelaku-Mutilasi-di-Malang-Ngaku-Belajar-Ilmu-Pelet-Sejak-2003-Puluhan-Kali-Berhasil>.

<sup>5</sup> Liputan6.com, "Suanggi, Ilmu Hitam Paling Ditakuti di Tanah Papua," liputan6.com, 7 Januari 2019, <https://www.liputan6.com/regional/read/3863170/suanggi-ilmu-hitam-paling-ditakuti-di-tanah-papua>.

<sup>6</sup> Kompas Cyber Media, "Sejarah Banyuwangi Sering Dijuluki Kota Santet Halaman all," KOMPAS.com, 11 Desember 2021, <https://www.kompas.com/stori/read/2021/12/11/120000679/sejarah-banyuwangi-sering-dijuluki-kota-santet>.

<sup>7</sup> Tb Ronny Rachman Nitibaskara, "Membangun Supremasi Dan Kesadaran Hukum Dalam Rangka Ketahanan Nasional" 1, no. 2 (2023).

<sup>8</sup> Bambang Sutiyoso, *Metode Penemuan Hukum Upaya Menemukan Hukum Yang Pasti dan Berkeadilan* (Yogyakarta: UII Pers, 2006).

Given these considerations, laws must be re-examined and analyzed to address pressing social issues. Indonesia is a culturally diverse nation with various beliefs and traditions, particularly in the spiritual and mystical realms, which remain deeply rooted in society. The connection between these beliefs and legal issues has long been present, forming traditions and spiritual identities that persist according to people's convictions and circumstances.<sup>9</sup>

To address beliefs held by the public, the government included Article 252 in the 2023 Criminal Code. Article 252, Paragraph (1) of the Criminal Code states:<sup>10</sup>

*“Any person who declares themselves to have supernatural powers, informs others, provides hope, offers, or renders services to others claiming that their actions can cause illness, death, or mental and physical suffering shall be sentenced to a maximum of three years in prison or a fine of up to Category IV (Rp. 200 million).”*

*“If such actions are carried out for profit or as a profession or habit, the penalty shall be increased by one-third (Paragraph 2).”*

The explanation of Article 252 of the 2023 Criminal Code clarifies that this provision aims to alleviate public anxiety caused by supernatural practices, which pose legal challenges in terms of evidence. It also seeks to prevent vigilantism, where communities take the law into their own hands against individuals claiming to have supernatural powers capable of harming others.<sup>11</sup>

The urgency of regulating supernatural practices in law is crucial to prevent fraud and protect society from its negative impacts, such as material losses, psychological effects on victims and their families, and exploitation by shamans who claim to cure illnesses. Additionally, the criminalization of

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<sup>9</sup> Ulfa Asriani Si, “Pembuktian Pada Tindak Pidana Santet Berdasarkan Undang-Undang Nomor 1 Tahun 2023 (Studi Kasus Putusan Nomor : 25/Pid.B/2021/PN Tgl),” 2023.

<sup>10</sup> *Kitab Undang-Undang Hukum Pidana-KUHP 2023*, 2023.

<sup>11</sup> “Menyatakan Diri Dapat Melakukan Tindak Pidana Karena Memiliki Kekuatan Gaib (Dukun),” 2 Mei 2023, <https://partisipasiku.bphn.go.id/diskusi/menyatakan-diri-dapat-melakukan-tindak-pidana-karena-memiliki-kekuatan-gaib-dukun>.



supernatural practices aims to prevent the public from falling victim to fraud, avoid acts of vigilantism, and promote a more rational and scientific way of thinking. Therefore, a legal framework is needed to minimize supernatural practices, protect victims, and provide legal clarity for the parties involved.

However, discussing supernatural matters within the scope of criminal law is not simple. Various aspects must be met before someone can be deemed to have committed a criminal act. The primary challenge is proving supernatural phenomena, as verifying something uncertain is highly complex. Regulating supernatural matters has significant legal consequences, making enforcement challenging. Therefore, a detailed explanation of Article 252 of the 2023 Criminal Code is needed to prevent obstacles in its implementation. The main issue examined in this study is the evidentiary process for individuals accused of committing crimes under Article 252 of the 2023 Criminal Code.<sup>12</sup>

Based on the background presented, which highlights social problems arising from supernatural practices, the author considers it necessary to further examine the evidentiary process in such cases. Therefore, this study is titled "EVIDENTIARY PROCESS IN CRIMINAL CASES OF SUPERNATURAL PRACTICES (Juridical Analysis of Article 252 of Act No. 1 of 2023 Concerning the Criminal Code)." The findings of this study are expected to serve as constructive input for the formulation and management of regulations in Indonesia.

## **1. 2 RESEARCH QUESTION:**

Based on the background, the primary legal issues concerning the juridical approach to proving supernatural practices under Article 252 of the Indonesian Criminal Code are:

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<sup>12</sup> Richard Leonard Jinata, "Analisa Pembuktian Pada Tindak Pidana Pasal 252 Rancangan Undang-Undang Kitab Undang-Undang Hukum Pidana" 8 (mei 2020).

1. How is the crime of supernatural practice ?
2. How is the evidentiary process for supernatural practice crimes determined under Article 252 of Act No. 1 of 2023?

### **1.3 RESEARCH OBJECTIVES**

#### **General Objectives:**

This study aims to conduct a juridical approach to proving supernatural practices that cause illness, death, or mental and physical suffering, which are considered criminal acts under Article 252 of Act No. 1 of 2023. The study will analyze the legal provisions related to evidence in criminal cases to establish the evidentiary basis for supernatural crime cases.

#### **Specific Objectives:**

1. To explain how the crime of supernatural practice
2. To determine how supernatural practice crimes should be proven under Article 252 of Act No. 1 of 2023.

### **1.4 RESEARCH BENEFITS**

#### **1.4.1 General Benefits**

This research aims to provide a comprehensive explanation and contribute to legal knowledge, particularly in the field of criminal law policy related to offenses committed by individuals engaging in supernatural practices, as stipulated in Article 252 of Act No. 1 of 2023 on the Criminal Code.

#### **1.4.2 Specific Benefits**

##### **1. Theoretical Benefits**

This study expands the juridical approach to the evidentiary process concerning supernatural practices by Article 252 of Act No. 1 of 2023 in Indonesia.

##### **2. Practical Benefits**

The research serves as an additional source of knowledge and information for various parties, particularly law enforcement

officers and readers, regarding the evidentiary process for criminal cases involving supernatural practices as regulated under Article 252 of Act No. 1 of 2023. However, the article currently lacks an established measurement tool for proving supernatural practices due to challenges in material evidence.

## 1.5 LITERATURE REVIEW

The purpose of reviewing previous research is to ensure the quality and originality of the study. This section highlights prior studies on similar topics to compare their approaches, findings, and research focus, as well as to identify research gaps that justify the current study:

The research conducted by Salfa Deyandara Djangok in 2024, titled "Sistem Pembuktian Pada Tindak Pidana Santet," aims to examine the aspects and procedures for proving witchcraft-related crimes under Article 252 of the Indonesian Penal Code (KUHP) and to understand the sequence of investigation and inquiry stages in such cases. The type of research used in this thesis is normative legal research with a prescriptive-analytical approach. The main issue in this study is the difficulty of proving witchcraft-related crimes, which causes public unrest due to the challenge of finding physical evidence. This often leads to vigilantism and the misuse of accusations to falsely incriminate others. The purpose of this research is to determine how witchcraft-related crimes can be proven. The findings indicate that evidence in witchcraft-related crimes can be presented through the means of proof outlined in Article 184 of the Indonesian Criminal Procedure Code (KUHP), including witness testimony, expert testimony, documents, indications, and the defendant's statement. Therefore, it is concluded that offenders can be prosecuted under Article 252 of the revised Indonesian Penal Code (KUHP). To establish the defendant's guilt, evidence must be presented in accordance with Article 184 of KUHP.<sup>13</sup>

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<sup>13</sup> Andra Salfa Deyandara Djangok, "Sistem Pembuktian Pada Tindak Pidana Santet" (Banjarmasin, Mei 2024).

The research conducted by Ade Sathya Sanathana Ishwara in 2023, titled "Reformasi Hukum Pidana: Suatu Kajian Yuridis Terhadap Pembuktian Tindak Pidana Santet Dalam KUHP Baru," explores the concept of black magic offenses under Indonesia's positive law and examines the evidentiary process for black magic crimes within the framework of Criminal Act Reform in Indonesia. This study employs a normative legal research method, also known as doctrinal legal research, which is based on legal literature sources. The findings of this research suggest that the enforcement of black magic offenses is predicted to be ineffective in criminal trials due to the substantive legal challenges involved. The evidentiary process must be logical and perceptible to the human senses to establish clear proof of the alleged black magic-related criminal act.<sup>14</sup>

Research by Ulfa Asriani SI in 2024 titled "Pembuktian Pada Tindak Pidana Santet Berdasarkan Undang-Undang Nomor 1 Tahun 2023 (Studi Kasus Putusan Nomor : 25/Pid.B/2021/PN Tgl)". This study discusses how to prove the crime of black magic according to positive law and analyzes the considerations of the panel of judges in deciding the case in the Tegal District Court Decision Number: 25/Pid.B/2021/PN Tgl. This method uses normative legal research by making the Criminal Code and Court Decisions study materials through statutory and case approaches. The results of this study indicate that proof of the crime of supernatural practices according to positive law can be submitted through evidence contained in Article 184 of the Criminal Procedure Code, namely witness statements, expert statements, letters, instructions, and statements of the defendant. As for the judge's consideration in decision Number: 25/Pid.B/2021/PN Tgl, if we relate it to the process of proving the crime of black magic, it can be found that the perpetrator can be charged using Article 252 of the latest Criminal

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<sup>14</sup> Ade Sathya Sanathana Ishwara, "Reformasi Hukum Pidana: Suatu Kajian Yuridis Terhadap Pembuktian Tindak Pidana Santet Dalam KUHP Baru," *Iblam Law Review* 3, no. 3 (19 September 2023): 100–111, <https://doi.org/10.52249/ilr.v3i3.191>.

Code Number 1 of 2023. To prove the defendant's guilt, evidence can be submitted as stipulated in Article 184 of the Criminal Procedure Code.<sup>15</sup>

Research by Wahyu Sulisty and Farrell Charlton Firmansyah in 2022 with the title “Perbandingan Pengaturan Pembuktian Tindak Pidana Santet dalam Konstruksi RKUHP, Papua Nugini, dan Afrika Selatan.” This study analyzes the proof of the elements of black magic in the Criminal Code and RKUHP, as well as the types and forms of offenses from black magic, which are reviewed based on contemporary cases and legal comparisons with countries that have related regulations, such as Papua New Guinea and South Africa. This research uses a normative juridical method using a statutory approach and a comparative approach. This study found that in proving black magic in the Criminal Code, what needs to be proven is only the statement, not mystical things. The offense of black magic is also a formal offense that is equated with the act of offering to commit a criminal offense. In addition, based on the results of the comparison of the regulation of the crime of black magic in Papua New Guinea and South Africa, it is found that the proof of the crime of black magic in the two countries has the same construction as the proof of the crime of black magic in the Criminal Code.<sup>16</sup>

The research conducted by Choirul Anam in 2024, titled "Studi Analisa Terhadap Pembuktian Tindak Pidana Santet Dalam Pasal 252 KUHP". Focuses on two main issues: (1) How witchcraft is formulated as a criminal offense under Article 252 of Law No. 1 of 2023 within the concept of the Indonesian Penal Code (KUHP), and (2) What the evidentiary provisions are for witchcraft-related crimes as stated in Article 252 of Law No. 1 of 2023. This study applies a qualitative-descriptive method with a library research approach, involving the collection of ideas from relevant

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<sup>15</sup> Si, “Pembuktian Pada Tindak Pidana Santet Berdasarkan Undang-Undang Nomor 1 Tahun 2023 (Studi Kasus Putusan Nomor : 25/Pid.B/2021/PN Tgl).”

<sup>16</sup> Wahyu Sulisty Farrell Charlton Firmansyah, “Perbandingan Pengaturan Pembuktian Tindak Pidana Santet dalam Konstruksi RKUHP, Papua Nugini, dan Afrika Selatan,” *FKPH Universitas Brawijaya* Vol. 3 No. 01 (2022); *Journal Of Studia Legalia* (2022), <https://garuda.kemdikbud.go.id/documents/detail/3032327>. [Garuda - Garba Rujukan Digital \(kemdikbud.go.id\)](https://garuda.kemdikbud.go.id/documents/detail/3032327)



literature sources, synthesis of findings, literature analysis, and critical evaluation of the knowledge framework. The research concludes: (1) The formulation of witchcraft as a criminal offense in Article 252 of Law No. 1 of 2023 primarily emphasizes efforts to prevent such practices, fill legal gaps, and respond to the social reality where many still believe in mystical practices. This is in line with several criminal provisions regarding offering assistance to commit a crime, as stated in Articles 546–547 of the Indonesian Penal Code (KUHP). (2) The evidentiary provisions in Article 252 of Law No. 1 of 2023 focus more on the offer or admission of practicing witchcraft, rather than the act itself. Therefore, what needs to be proven is the relationship between the witchcraft practitioner and the individual who seeks or hires their services, which can be considered a criminal conspiracy or agreement and is thus subject to criminal sanctions.<sup>17</sup>

Based on the tabulation of the results of previous studies that have been stated above, it can be seen that these studies discuss aspects related to criminal evidence. The first previous study aimed to understand the evidentiary process in witchcraft-related crimes. The research findings revealed that proof in such cases can only be established using the evidence outlined in Article 184 of the Indonesian Criminal Procedure Code (KUHP). The second previous research discusses the concept of supernatural practices offense according to positive law in Indonesia and finds out the law of proving supernatural practices crimes in Criminal Act Reform in Indonesia. The results of this study argue that the application of supernatural practices offenses is predicted to be ineffective in the criminal justice process. The third previous research discusses the proof of the crime of supernatural practices according to positive law and analyzes the consideration of the panel of judges in deciding the case in the decision of the Tegal District Court Number: 25/Pid.B/2021/PN Tgl. The fourth previous research analyzed the proof of the elements of supernatural practices in the Criminal Code and RKUHP as well as the types and forms

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<sup>17</sup> Choirul Anam, “Studi Analisa Terhadap Pembuktian Tindak Pidana Santet Dalam Pasal 252 KUHP” (Jember, 2024).

of offenses from supernatural practices, which were reviewed based on contemporary cases and legal comparisons with countries that have related regulations such as Papua New Guinea and South Africa. And the fifth previous study focused on the formulation of the article and concluded that the evidence that can be used is limited to the relationship or agreement between the witchcraft practitioner and the party who hires or requests their services to carry out the practice.

Referring to previous research findings mentioned above and their relation to the planned study to be conducted by the researcher, it can be concluded that the focus or theme of this research has not been previously explored by other researchers. As a comparison, the primary focus of this study is to take a juridical approach to the evidentiary process of supernatural practices. The novelty targeted in this research is to generate ideas and thoughts on how the evidentiary process for supernatural practices should be conducted. This study is expected to serve as a reference for policy-making or considerations in the evidentiary process of supernatural practices, ensuring that the criminal justice process operates effectively.

## **1.6 RESEARCH METHOD**

### **1.6.1 Type of Research**

The approach used in this thesis is the normative juridical approach, which is a legal research method that emphasizes legal norms found in legislation. This approach includes an analysis of the truth and conformity between legal rules and broader norms.<sup>18</sup> The purpose of normative legal research is to discover the truth based on scientific logic through the study of norms in a broader sense, not limited to positive law. This approach differs from empirical legal research, which focuses more on human behavior in a legal context. Therefore, the normative juridical approach provides a framework for understanding and evaluating the law based on existing norms

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<sup>18</sup> “PENELITIAN HUKUM NORMATIF DAN PENELITIAN HUKUM YURUDIS,” Business Law, 25 Agustus 2019, <https://business-law.binus.ac.id/2019/08/25/penelitian-hukum-normatif-dan-penelitian-hukum-yurudis/>.

and the relationship between legal norms and more general principles, with the aim of assessing or criticizing the law based on the concept of ideal law.<sup>19</sup>

### **1.6.2 Data Collection Method and Data Sources**

The data collected in this study is qualitative data, as the main focus of the research is on understanding the concepts present in the thoughts of legal experts or legal researchers. The qualitative approach allows researchers to explore and understand the meanings, views, and interpretations held by legal experts regarding specific legal issues. In this context, qualitative data can be obtained through document analysis, by examining writings, articles, or publications produced by legal experts to understand their perspectives and arguments.<sup>20</sup>

### **1.6.3 In the Data Collection Process,**

The researcher uses the library research method. The data sources in this study are divided into two categories:

1. Primary Data, which consists of data directly collected from the Criminal Code (KUHP), the Criminal Procedure Code (KUHP), and other legal documents. The data collection process involves conducting a literature study.
2. Secondary Data, which consists of literature gathered from books, journals, online media, and other reading sources related to the discussion of this thesis.

### **1.6.4 Methode of Analysis**

This research employs a normative analysis to examine the legal norms found in legislation, aiming to understand the optimal application of law. The literature review includes theories of

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<sup>19</sup> Prof. Dr. Suteki galang taufani, S.H., M.H. S.H., M.Hum., *Metodologi Penelitian Hukum (filsafat, teori, dan praktik)*, 1 ed. (Rajawali Pers, 2018).

<sup>20</sup> Qotrun A, "Penelitian Kualitatif: Pengertian, Ciri-Ciri, Tujuan, Jenis, dan Prosedurnya," diakses 5 Maret 2025, <https://www.gramedia.com/literasi/penelitian-kualitatif/>.

evidence, focusing on various theories underlying proof in criminal law, including the burden of proof and standards of proof.

### **1.7 SYSTEMATIZATION OF WRITING**

To make the discussion of this research easy to understand and systematic, the researcher categorizes the discussion of this research into several chapters, namely:

Chapter one contains an introduction that briefly describes the background, problem formulation, research objectives, research benefits, previous studies, research methods, and systematic discussion.

Chapter two contains a literature review that contains theoretical studies and legal frameworks regarding the practice of occult sciences, criminal offenses, history and explanation of Article 252 of the Criminal Code Number 1 of 2023, as well as evidence that has been regulated in positive law in Indonesia.

Chapter three contains a result discussion about legal analysis of the proof of occult practices and provides answers to the problems in the research.

Chapter four contains a closing, which is a conclusion and suggestions regarding the issues that have been described and explained in the previous chapters. Then, at the end of this paper, there is a bibliography and certain other attachments.