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Dr. Rinu Saraswat

Associate Professor at School of Law, Apex University, Jaipur, M.A, LL.M, Ph.D,

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Dr. Nitesh Saraswat

E.MBA, LL.M, Ph.D, PGDSAPM

Currently working as Assistant Professor at Law Centre II, Faculty of Law, University of Delhi. Dr. Nitesh have 14 years of Teaching, Administrative and research experience in Renowned Institutions like Amity University, Tata Institute of Social Sciences, Jai Narain Vyas University Jodhpur, Jagannath University and Nirma University.

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Subhrajit Chanda

BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you



PARANORMAL AND OCCULT IN THE COURTROOM- AN INTERDISCIPLINARY STUDY

AUTHORED BY - M N MANSI KAVERAMMA¹

Abstract

Law and Science aren't in entirety exhaustive nor absolute in nature. With society's evolution, they act as the two wheels of the chariot moving in consensus. Both demand the exploration of interrelationship between various subject matters to actually make a difference. In light of the same, a domain yet to be studied, understood and reasoned widely is that of paranormal phenomena and occult- not as a branch of superstition but as reason's element. In the legal arena, voluminous instances prevail where both have played a pivotal role in the procedure and appearance in the courtroom. This research paper tries to address the areas of the paranormal, occult sciences and parapsychology in light of law- as a defence, as crime and as evidence procured by employing their aid in India, UK and USA through prominent case laws

Keywords- *law, evidence, defence, parapsychology, paranormal, occult science, courtroom*

Introduction

Law, as a term, has its etymological ancestry tracing way back to the German word "laga" meaning "something laid down or fixed".²

Science, a different arena, is spelled out as "the systematic study of the structure and behaviour of the natural and physical world, or knowledge obtained about the world by watching it carefully and experimenting."³ The earliest usage if traced back to a 1350 work titled "Apocalypse St John- A Version".⁴

The word "paranormal" is a combination of two words "para" and "normal" wherein "para" in

¹ M N Mansi Kaveramma, IXth Semester, Vth Year, B.B.A LL.B(Hons),CMR School of Legal Studies, Bengaluru

² Linda Callaway, "The Origin of The Word Law- A Fascinating Journey", <https://symbolgenie.com/origin-of-word-law/>

³ "Science", Cambridge Dictionary, <https://dictionary.cambridge.org/dictionary/english/science>

⁴ "Science", Oxford English Dictionary, https://www.oed.com/dictionary/science_n?tl=true

Greek means “beyond”⁵ while “normal” comes from the Latin word “normalis”⁶. The word in entirety translates to “beyond the normal” in the English language hence. Elsewhere, paranormal has been defined as “denoting events or phenomena such as a telekinesis or clairvoyance that are beyond the scope of normal scientific understanding.”⁷ The first use of the word is attributed to 1900s by L.I Finch.⁸

A word used synonymously with ‘paranormal’ is “supernatural”, which finds its origins in French and Latin. The earliest use of it is traced to a 1425 work by Catherina of Seina called “Orchard of Syon”.⁹

In light of the above two, a term often associated is that of “occult” which has its etymology in the Latin word “occultus” which translates to “secret or hidden”. It was Helena Blavatsky who used the term for the very first time in 1875.¹⁰

While one would agree about the relationship which science and law play in reaching justice specifically in the progressing times, wonder is, what kind of connection can even persist between law and the above metaphysical terms which exist in a totally diverse spectrum altogether. Bollywood movie “Talaash” is one which depicts the collaboration’s possibility.

This research paper tries to address the role of occult and paranormal in the courtroom- as evidence, defence and crime.

Research objectives

1. To understand the differences between Paranormal, Supernatural and the Occult Sciences
2. To analyse the stance of UK, USA and Indian laws regarding these three areas
3. To examine the application in the Investigation Process
4. To understand the reason behind limited scope of application

⁵ Para(1), Online Etymology Dictionary, <https://www.etymonline.com/word/para->

⁶ <https://www.oxfordreference.com/display/10.1093/oi/authority.20110803100305659>

⁷ “Paranormal”, Oxford English Dictionary, https://www.oed.com/dictionary/paranormal_adj?tab=factsheet#31899944

⁸ Supra 3

⁹ “Supernatural”, Oxford English Dictionary, https://www.oed.com/dictionary/supernatural_adj?tl=true

¹⁰ Ethan Doyle White, “Occultism”, Britannica, last updated on 22 July 2024, <https://www.britannica.com/topic/occultism>

Research Questions

The following research questions shall be addressed-

1. Are all the same?
2. Whether occult, paranormal and supernatural are a valid defence in the court of law?
3. Whether they are valid evidences in the court of law?
4. What makes them unsustainable?
5. What does Psychology and Parapsychology have to say about the same?
6. Does there exist any possibility in the near future?

Literature Review

Marco Pennekamp's work¹¹ sheds light on how supernatural, paranormal and occult science can be distinguished to an extent. The Karkardooma Court Complex news reporting¹² reveals instances when supernatural may stand crossroads with scientific reasoning and clarity appears absent. Alabeth's article¹³ reveals how the activity of human clairs in form of visions due to assistance from the deemed unexplainable can help victims get justice posthumously. Arne¹⁴ has shed light on how experiencing and witnessing cases of "possession" can be easy and proving it can be beyond complex in the court of law. However, Paul Sutherland's work¹⁵ emphasises on how mental health issues can be understood to be "spirit possessions" and result in inhuman activities by exorcism in name of religious treatment. Jackie Dunham¹⁶ reveals how the *prima facie* dark outcomes of witchcraft and black magic has led to formulation of laws to discourage the crimes performed in the guise of such practices. A particular article¹⁷ tries to

¹¹ Marco Pennekamp, "What's the difference between supernatural and paranormal? (Part 1: Etymology and Definition)", <https://medium.com/@marcopennekamp/whats-the-difference-between-supernatural-and-paranormal-part-1-etymology-and-definition-ab345dd66d2f>

¹² Swapnil Narendra, "Paranormal Hauntings at Karkardooma Court", <http://www.thisday.app/en/details/paranormal-activity-or-hauntings-at-the-karkardooma-court>

¹³ Alabeth Balsko, "The Greenbrier Ghost Re-examined by Alabeth Balsko", Greenbrier Valley History Unraveled, <https://www.greenbrierhistorical.org/blog/the-greenbrier-ghost-reexamined>

¹⁴ Alabeth Balsko, "The Greenbrier Ghost Re-examined by Alabeth Balsko", Greenbrier Valley History Unraveled, <https://www.greenbrierhistorical.org/blog/the-greenbrier-ghost-reexamined>

¹⁵ Paul Sutherland, The Osset "Exorcist" Murder, The True Crime Enthusiast Podcast, (Oct 7 2017), <https://www.thetruecrimeenthusiast.co.uk/the-ossett-exorcist-murder>

¹⁶ Jackie Dunham, United Nations passes historic resolution calling for end to witchcraft atrocities, (Sept. 3, 2021 12:16 a.m.) <https://www.ctvnews.ca/world/united-nations-passes-historic-resolution-calling-for-end-to-witchcraft-atrocities-1.5571306#:~:text=An%20historic%20United%20Nations%20resolution%20calling%20for%20the,parts%2C%20and%20amputation%20of%20limbs%2C%20torture%20and%20murder>

¹⁷ Nolen Hoeksema, Fredrickson, Loftus, Wagenaar, Atkinson and Hilgard's Psychology: An Introduction, Pg. 265-266, (3rd Indian Reprint, 2009)

explain paranormal phenomena in light of Parapsychology. Similarly, David's work¹⁸ explains paranormal and supernatural phenomena in light of anomaly the parts of human brain.

The lacunae which persists is that not many articles exist on the role of how the use of psychic abilities and occult science help the law enforcement agencies to resolve cases. This research paper explores the intersection of law and the paranormal along with how whether the legal world accommodates supernatural or not.

1. Drawing parallels between Paranormal, Supernatural and Occult

'Paranormal' and 'supernatural' are generally understood to be phenomena which cannot be explained by bare science. Both are understood by means of "phenomena". The points of difference can be understood as-

- a) "supernatural" stands inclusive of the concept of divine powers but "paranormal" is all exclusive about it
- b) "paranormal" can be understood to be such phenomena which may not be able to be explained in the present by science but can be enlightened in the future. But for "supernatural", proving its existence by science in present, past or future appears impossible altogether.¹⁹

Unlike paranormal and supernatural, "occult" is understood as a "science". It stands inclusive of aspects of mysticism, esotericism, astrology, alchemy, divination, magic, witchcraft and even the knowledge of unknown forces like spirits.²⁰

2. Paranormal, Supernatural or Occult- In Indian Courtroom?

2.1 Paranormal or Supernatural?

There is this particular ghostly speculation of 2014 which made rounds like wild fire- the hauntings at the Karkardooma Court Complex at East Delhi.

In 2014's article, the joint secretary of the Bar Council of Shahdara confirmed installation of CCTV at the bar offices and library of the Karkardooma Court Complex with other locations. The following morning, CCTV footage findings reported 4 of the computers having "turned

¹⁸ ¹⁸ David Robson, Psychology: The truth about the Paranormal, (Oct 31 2014) BBC, <http://www.bbc.com/future/article/20141030-the-truth-about-the-paranormal>

¹⁹ *Supra*

²⁰ The Editors of Encyclopedia Britannica, "Occultism Summary", <https://www.britannica.com/summary/occultism#:~:text=occultism%20Theories%20practices%20and%20rituals%20based%20on%20esoteric,astrology%20alchemy%20divination%20magic%20and%20witchcraft%20and%20sorcery.>

on” post a white shadowy figure which walked through one of the walls around 11:45pm former night. A senior advocate and the former president of the said BAR Council also reported having witnessed a ghostly encounter in his very own chambers and the CCTV recording also pointing at a 1 am phenomena of bubbles floating in the Court library. In this regard, Rajesh Jha, a paranormal investigator did point towards “something is in there” aspect.²¹ The late paranormal investigator Gaurav Tiwari and his team rose to fame for cracking the case back then. But is the Karkardooma Court Complex actually spooked? This definitely stands ruled out as per Waqar Raj, one of Gaurav Tiwari’s team members who pointed towards absence of any ghostly activity- reasoning that computers turned on due to their scheduled maintenance being on.²² Rajesh Jha appeared to agree with the above reasoning but pointed toward presence of an “invisible electromagnetic field to naked eye presence” as key cause for the bubbles as alleged.²³ This particular case holds relevance of supernatural rather than paranormal.

Occult Science in the Indian Legal Arena

Speaking of occult science, astrology is also an inevitable arena of study among others. In *P.M Bhargava and Others v. University Grants Commission*²⁴, by way of a PIL, the petitioner sought that MSc and BSc in Astrology to be introduced by the University Grants Commission shouldn’t be allowed as it doesn’t qualify to be science in itself. The High Court of Madras upheld otherwise based on expert opinion that the subject demands further study and the writ petition was dismissed. The Honorable Supreme Court of India dismissed the appeal upholding the verdict in *Dr. K Natarajan v. Union of India*²⁵, wherein J. F.M Ibrahim Kalifulla stated that just because a particular subject originates in a cult, a student choosing such a subject wouldn’t be indicative of promoting a particular religion and that imparting education should provide scope to satisfy appetite for knowledge in form of myriad subjects. The Honorable Supreme Court of India relied on the definitions of astrology in Britannica and other sources to finally conclude that indeed “astrology is a science to some extent” as it partly deals with study of celestial bodies and their influences.”

²¹ IANS, “Strange Sightings Leave Delhi Court Complex Spooked”, last updated- 11th September 2014, <http://www.business-standard.com/article/news-ians/strange-sightings-leave-elhi-court-complex-spooked-114091100999-1.html>

²² Swapnil Narendra, “Paranormal Hauntings at Karkardooma Court”, <http://www.thisday.app/en/details/paranormal-activity-or-hauntings-at-the-karkardooma-court>

²³ Supra 13

²⁴ P.M Bhargava and Others v. University Grants Commission AIR 2004 SUPREME COURT 3478

²⁵ Dr. K. Natarajan v. Union of India WP no. 13540 of 2001

1.1 Invalid or valid legal defence in Indian Courts?

Defences demand to be made once the burden of proof shifts onto the accused to prove the prevalence of absent criminal liability. Paranormal, supernatural or occult defences taken in Indian courtrooms do not seem to have themselves quite at home. It appears that the “theory of divine intervention”, a quite archaic theory of criminology to explain why criminals commit crimes through these attempts to reclaim its stance in form of a defence as established by pre-classical school of thought when religion dominated all the activities performed by the State at a point in time.

In *State of Karnataka v. Hemant Kumar*,²⁶ a woman was under the impression of being possessed by a ghost and in attempts to cure it, the husband took her to Hindu religious place of worship and even subjected her to rituals. This stance of the defence came in after the woman had subjected self to suicide.

In *Muhammad Farkan v. State of Maharashtra*²⁷, the accused pleaded defence having had a sexual intercourse with the 18 year old female to remove a spirit possession being a practitioner of the occult. The accused was charged with rape in this case.

In *Sanjay Pote case*,²⁸ the accused pled that he had been ordered by God himself to kill the man Vitthal in order to remove a spirit possession from his body. Here the charge was of murder.

Analysing the legal implications of each of the above intriguing cases, in *State of Karnataka v. Hemant Kumar*, the honourable Court held that the defence was deficit in proving unsoundness of mind of the accused and that superstitious beliefs are insufficient to establish legal insanity in itself. In *Muhammad Farkan's* case, the Court reasoned that rather than an act attributed to other worldly possession, it was more of an undue advantage taken of the victim under the guise of the same hence subjecting the accused to the delivered penalty as unsoundness of mind stood unestablished.

The case of *Sanjay Pote* is pivotal as the defence taken of “ghost possession” was upheld by the honourable Court as legal insanity was proven to be established after crucial observation

²⁶ State of Karnataka v. Hemant Kumar Crl. A.No.982/2007 (A)

²⁷ Muhammad Farkan v. State of Maharashtra 2004 (2) MhLj 800

²⁸ Sanjay Nagorao Pote vs State of Maharashtra, CRIMINAL APPEAL NO. 148 OF 2016

that the accused did depict abnormality of behaviour before, during and after the criminal act was committed though there was lack of any motive, mens rea and preparation exhibited.

Based on the above, it can be inferred that supernatural in itself as a defence has no value per se unless legal insanity under section 84 of the Indian Penal Code of 1860²⁹ is proved beyond reasonable doubt. This also points towards the fact that “otherworldly influence” cannot be used as a loophole outright to escape penal consequences of one’s actions if against the law.

1.2 Admissibility as evidence?

It appears that proving paranormal and supernatural in the court of law is quite a task. Evidence procured to prove these or with the aid of psychics cannot be considered substantive nor conclusive proof in the present legal system.

If threaded on the above lines, section 105 of the Indian Evidence Act³⁰ places the burden of proof on the accused to prove legal insanity which is now spoken of under section 108 of the Bharatiya Sakshya Adhiniyam, 2023.³¹

In *Dahyabhai Chhaganbhai Thakkar v. State of Gujarat*,³² the concept of legal insanity in light of “burden of proof” was well expounded on. The rebuttal for “not being insane at the time of committing the crime” by the accused may be proved by placing relevant “oral, documentary and circumstantial evidence” before the Court but the degree of burden of proof exists same on both parties.

Generally, supernatural and paranormal phenomena may act as ‘circumstantial evidence’ and not absolute but exceptions do prevail to the same provide they can be explained in the language of rationality. In some cases they may even be hearsay evidence at times and the general principle states that hearsay evidence cannot be admitted in the court of law as evidence with exceptions to the same like dying declaration.³³

Under the Indian Evidence Act, 1872, expert opinions do carry weightage as “relevant facts”

²⁹ Indian Penal Code 1860, s. 84

³⁰ Indian Evidence Act, s.105

³¹ Bharatiya Sakshya Adhiniyam, 2023, s.108

³² *Dahyabhai Chhaganbhai Thakkar v. State of Gujarat* 1964 SCR (7) 361

³³ Bharatiya Sakshya Adhiniyam, 2023, s.55

which, in light of section 3 of the Bharatiya Sakshya Adhinyam, 2023, acts as an ‘evidence which can be given in the court of law’.³⁴ Regarding an opinion from an expert in light of the current context to be admissible in light of the Indian Evidence Act, sections 39 and 45 of the Bharatiya Sakshya Adhinyam, 2013 appear relevant. Section 39³⁵ states that individuals who are specifically skilled in “foreign law, science, art, identity verification, or handwriting and finger impressions” can be regarded as experts. As occult science is a science, with fields like alchemy and astrology being predecessors to modern-day chemistry and astronomy, practitioners of the field with sufficient knowledge may be considered as “experts’ because the definition in section 39 is not an all exhaustive one. Also, psychology is a science and an art and an aspect of it is parapsychology dealing with paranormal and supernatural. The individual knowing the same can also be considered as an expert when court looks into matters relevant. Another notable provision is section 45³⁶ which lays that ground on which the expert frames his opinion is a relevant fact admissible as evidence in the court of law.

2. Indian Legislations and the Occult

At present there is no specific centralised legislative piece at play to explicitly regulate the use of occult science across the country.

In 1999, in Bihar the “Prevention of Witch (Daain) Practices Act” was brought in.³⁷

In 2001, the “Prevention of Witch(DAAIN) Practices Act” in Jharkhand was brought about mainly to prevent witch hunting by imposing apt punishments on those who label, abet to label or even allege cure of a proposed witch which, under the Act is a cognisable offence in itself.³⁸

The Maharashtra Prevention and Eradication of Human Sacrifice and Other Inhuman, Evil and Aghori Practices and Black Magic Act came into the legal arena in 2013.³⁹

3. Global stance on Supernatural and Paranormal

3.1 USA

Superstitions...is it or not?

³⁴ Bharatiya Sakshya Adhinyam 2023, s.3

³⁵ Bharatiya Sakshya Adhinyam,2023, s.39

³⁶ Bharatiya Sakshya Adhinyam,2023, s.45

³⁷ Prevention of Witch(Daain) Practices Act,1999

³⁸ Prevention of Witch(DAAIN) Practices Act
https://jhpolic.gov.in/sites/default/files/jhpolic_jharkhand_prevention_of_witch_practices_act.pdf

³⁹ Maharashtra Prevention and Eradication of Human Sacrifice and Other Inhuman, Evil and Aghori Practices and Black Magic Act,2013

- a) **Greenbrier Ghost case-** In this case of West Virginia, Zona Heaster Shue , 3 months into her marriage was found dead at the foot of the stairs of her marital home by a neighbour who in turn, called in Dr Knapp to examine. Dr Knapp found bruises on the victim's neck but let it slide until Zona's supposed ghost visited her mother Mary Jane and revealed speculating details about her death stating that it was her husband Edward Shue who had actually snapped her neck in a fit. When Mary Jane approached John Alfred Preston, the then prosecutor of Greenbrier County, he in turn went to Dr Knapp who in turn admitted "the bruises". Exhumation of deceased body revealed the broken neck which showed signs of strangulation and the local folks also disclosed how Mr Shue refused to stay away from his dead wife's body post the discovery. Mr Edward Shue failed to prove his defence in the eight day long trial. The Jury convicted Mr Shue guilty and awarded life imprisonment.⁴⁰
- b) **Stambowsky v. Ackley**⁴¹- A real estate broker, despite being aware of the "haunted nature" of a property, didn't inform the plaintiff and sold it to the plaintiff who suspected no foul play so bought it. Later, when the plaintiff got to know about "the hauntings", specifically about how the concerned house had got a lot of media attention in light of the same, he filed for rescinding from the contract so entered but the trial court didn't permit the same. On Appeal to the Supreme Court of New York, the Honorable Court held that the defendant's awareness of the hauntings but not informing the plaintiff as he had a legal obligation to during the sale was a valid ground for the plaintiff to rescind the contract of sale when the buyer had adhered by the doctrine of caveat emptor appropriately.
- c) **"Devil Made Me Do It" case**⁴²- A 19 year old Arne Cheyenne Johnson had moved in with his Debbie Glatzel one month post which Debbie's brother claimed that a demon was troubling him. The family sought aid from the Catholic Church and even the famous Lorrens demonologists. During one of the four rites of exorcism which were performed on Debbie's brother, it was Arne who dared the devil to possess him rather than Debbie's bother. Soon, Arne Cheyenne Johnson at Brookfield ended up stabbing

⁴⁰ Alabeth Balsko, "The Greenbrier Ghost Re-examined by Alabeth Balsko", Greenbrier Valley History Unraveled, <https://www.greenbrierhistorical.org/blog/the-greenbrier-ghost-reexamined>

⁴¹ Stambowsky v. Ackley, 572 N.Y.S.2d 672, https://www.law.cornell.edu/wex/stambovsky_v_ackley

⁴² UVA Law Special Collections, *Arne Cheyenne Johnson*, <http://archives@law.virginia.edu>

his 40-year-old landlord Alan Bono by stabbing him approximately 20 times with a pocket knife. Though Johnson pled defence of being possessed by the devil while committing this crime, quite summing up well with his clean past criminal record, he was held liable for first degree manslaughter and went on to serve 5 years of the 10 year imprisonment sentence with a positive record.

3.2 UK

1. R v. Young⁴³- In this case, the jury's inability to legally conclude as to whether the accused had actually murdered Mr Fuller, led to usage of Ouija Board while staying at the hotel to know the truth. Based on the answer the supposed entity being Mr Fuller gave, Stephen Young was convicted for the murder. When the folly was brought to the notice of the legal temple, a retrial was allowed and so was the appeal on ground of judicial misconduct of the jury.

2. The Ossett Murder⁴⁴- The Taylor family, known by many to be a "perfect family", inclusive of Micheal Taylor, Christine and their 5 children, had shifted to Osset in West Yorkshire in 1974. Micheal Taylor was an agnostic who was introduced by the Church by Barbara Wardman. Overtime, Micheal got influenced by Christian Fellowship Church's teachings and was smitten by young Marie, who led it and was 10 years younger to Micheal. Micheal's wife confronted her husband during the church gathering where he depicted such violent stature towards Marie that people had to pull him back. But Micheal recounted nothing of this incident. As Micheal's behaviour deteriorated further, the Church agreed to perform an exorcism on him to "remove the 40 demons tormenting him." On 5th October of 1974 the exorcism began but a part of it was postponed to the next day as the Church ministers were now tormented by exhaustion from 8 hours of continuous service. Both husband and wife were sent home. On 7th October 1974, Micheal was found by the police covered in blood and naked on the road. PC Walker went to Micheal's house only to find Christine's eyes gauged out and tongue pulled out manually with the totally dismantled body of the pet dog. During Micheal's trial, neither the prosecution nor the defence denied that Micheal had a history of mental illness like depression. The defence pointed out that the "exorcism" had impacted greatly in deteriorating Micheal's health further and Micheal testified being under possession of demon- very unaware of what he had actually done. Micheal was found "not guilty" on ground of legal insanity but

⁴³ R v. Young (Stephen), [1995] QB 324, [1995] 2 WLR 430

⁴⁴ Paul Sutherland, The Osset "Exorcist" Murder, The True Crime Enthusiast Podcast, (Oct 7 2017), <https://www.thetruecrimeenthusiast.co.uk/the-ossett-exorcist-murder>

subjected to 4 years of psychiatric care. In 2005, he was arrested on ground of having inappropriately sexually assaulted a minor girl for which he was subjected to 1 week custody and when Micheal came out, he showed no signs of mental illness and was subjected to 3 years of community service.

4. Occult science in the courtroom

Occult science stands inclusive of psychic ability usage. This has been a boon and a bane in the area of law for many countries which haven't barred its application explicitly.

4.1 The Dark Secret

The flip side of the occult science demands to be unveiled first. While magic has no colour per se, in this field, magic is characterised as "black" and "white" depending on the intent for which it is used. "Black magic" is associated with manipulation of the natural forces to cause harm to any living being. Some consider it to be a small component of tantra.

However, "tantra" is mistaken to be "black magic entirely" by the layman due to ignorance.

More often than not, the superficial understanding and half knowledge of these complex subjects have resulted in crimes globally. Sometimes, it is the innocents losing lives due to preconceived unscientific notions as seen in the Salem Witch Trials.⁴⁵ The Salem Witch Trials occurred in late 1600s post enactment of the amended 1542 Witchcraft Act.

This has led to the UN Human Council adopting a resolution in 2021 to eliminate the negative and unfavourable outcomes of witchcraft and attacks of ritualistic nature.⁴⁶

In the Indian context, almost 2500 women since 2000 till the next six years have fallen victim to malicious presumption of being witches according to NCRB and several horrific instances

⁴⁵ Editors, Salem Witch Trials, History.com, (Sep 14, 2011) <https://www.history.com/topics/colonial-america/salem-witch-trials>

⁴⁶ Jackie Dunham, United Nations passes historic resolution calling for end to witchcraft atrocities, (Sept. 3, 2021 12:16 a.m.) <https://www.ctvnews.ca/world/united-nations-passes-historic-resolution-calling-for-end-to-witchcraft-atrocities-1.5571306#:~:text=An%20historic%20United%20Nations%20resolution%20calling%20for%20the,parts%2C%20and%20amputation%20of%20limbs%2C%20torture%20and%20murder.>

of human sacrifices like the recent one in Kerala⁴⁷, has caused the Indian states to come up with their own legislations to curb the same.

4.2 Indian “Occult” Legislations

Contemporaneously, there is no centralised legislative piece at play to explicitly regulate occult science usage across the country.

In 1999, in Bihar the “Prevention of Witch(Daain) Practices Act” was brought in.⁴⁸

In 2001, the “Prevention of Witch(DAAIN) Practices Act” in Jharkhand was brought about mainly to prevent witch hunting by imposing apt punishments on those who label, abet to label or even allege cure of a proposed witch which, under the Act is a cognisable offence in itself.⁴⁹

The Maharashtra Prevention and Eradication of Human Sacrifice and Other Inhuman, Evil and Aghori Practices and Black Magic Act came into the legal arena in 2013.⁵⁰

In 2013, the state of Odisha got the Odisha Prevention of Witch Hunting Act.⁵¹

Rajasthan brought in the legislation of Rajasthan Prevention of Witch Hunting Act constituted of 15 sections in 2015.⁵²

Two years later, Karnataka came up with a legislation to abolish inhuman practices and black magic.⁵³

⁴⁷ Express News Service. Kerala human sacrifice: Victims' bodies were cut into 56 pieces; cannibalism angle to be probed 12 Oct 2022, 6:05 pm, <https://www.newindianexpress.com/states/kerala/2022/Oct/12/kerala-human-sacrifice-victims-bodies-were-cut-into-56-pieces-cannibalism-angle-to-be-probed-2507371.html>

⁴⁸ Prevention of Witch(Daain) Practices Act,1999

⁴⁹ Prevention of Witch(DAAIN) Practices Act https://jhpolicen.gov.in/sites/default/files/jhpolicen_jharkhand_prevention_of_witch_practices_act.pdf

⁵⁰ Maharashtra Prevention and Eradication of Human Sacrifice and Other Inhuman, Evil and Aghori Practices and Black Magic Act,2013

⁵¹ Odisha Prevention of Witch Hunting Act 2013, <https://odishapolicecidcb.gov.in/sites/default/files/THE%20ODISHA%20PREVENTION%20OF%20WITCH-HUNTING%20ACT%2C%202013.0.pdf>

⁵² The Rajasthan Prevention of Witch-hunting Act, 2015 https://prsindia.org/files/bills_acts/acts_states/rajasthan/2015/2015Rajasthan14.pdf

⁵³ The Karnataka Prevention and Eradication of Inhuman Evil Practices and Black Magic Act, 2017, https://www.indiacode.nic.in/bitstream/123456789/7807/1/46_of_2017%28e%29.pdf

In 2018, the Assam Witch Hunting (Prohibition, Prevention and Protection) Act drafted in 2015 but came to life by virtue of the President's assent.⁵⁴

In 2019, Justice K.T Thomas submitted a report for enactment of legislation to curb black magic practices in the form of "The Kerala Prevention of Eradication of Inhuman Evil Practices, Sorcery and Black Magic Bill". However, the Kerala High Court refused to entertain the petition seeking foundational guideline enactment for the State Government to act on the subject matter.⁵⁵

4.3 UK Law and Occult

The Witchcraft belief was prevalent in the sixteenth century and was linked with religion as a remedy. The Parliament enacted the 1562 to bring back the former Witchcraft Prohibition Act of 1542 which enabled the courts to try these instances rather than the churches themselves making witchcraft an offence punishable by death itself. Laws negating witchcraft were prohibited in 1736. However, the Act which made claimers of magical powers eligible for imprisonment was repealed soon enough by the incoming Fraudulent Mediums Act of 1951. The Vagrancy Act of 1824 made astrology, fortune telling punishable offences.⁵⁶

5. John Woodruff- Integrating Law and the Occult Science

While UK and Indian laws appear to go against occult practitioners to the common eye, John Woodruff is a name which reminds that law and properly understood occult science can go hand in hand.

John Woodruff, who was known by the pen name of Arthur Avalon, was the Advocate General of Bengal, had a weird encounter of a clouded sense of judgement without any reasonable basis while dealing in one of the cases which when he tried to reason with his personal secretary turned out to be the act of a tantric sadhu employed by the defendant to have the judgement delivered in his favour. Once the tantric sadhu was shooed, John Woodruff recalled gaining back clarity in his judgement. This particular incident led to Sir John Woodruff to become one

⁵⁴ The Assam Witch Hunting (Prohibition, Prevention and Protection) Act 2015, https://www.indiacode.nic.in/bitstream/123456789/14889/1/the_assam_witch_hunting_prohibition%2C_prevention_and_protection_act%2C_2015_act_no.pdf

⁵⁵ IANS, *Kerala HC dismisses plea for law to curb superstitious practices*, ET Legal World.com (16 Jun 2023,11:32PM)

⁵⁶ UK Parliament, *Witchcraft*, <http://www.parliament.uk>

of the most proficient authors on Hindu Philosophy, Sanskrit, Tantra and Kundalini. He is known for his work 'The Serpent Power'.⁵⁷

5.1 When Psychics helped solve the crimes- The brighter side

Psychics can be considered to be occult practitioners too. While human greed and ignorance can lead to unfavourable circumstances as laid above, psychics have been employed by the CIA to solve crimes⁵⁸ since a long time now unlike India where such employment appears quite unknown. In fact, there are guidelines as to how selection of psychics are to be made by law enforcement agencies and it has also been concluded by the CIA that good psychics can help detect location in missing cases, help reach the suspect and even help discover information which may not have been known previously.⁵⁹

Dorothy Allison, who assisted the law enforcement for 30 years, is known to have used her premonitions which showed location glimpses helping discover the dead bodies of children without taking a penny in return for her good deeds.⁶⁰

In the case where Elizabeth Cornish was found murdered and raped in her apartment, which happened in the yester years when technology hadn't been so advanced to track down the killers, Nancy Weber used her psychic vision to deduce that the killer was the neighbour upstairs helping the police reach the suspect. It was found that the man on being questioned did confess to his crime and was given life imprisonment on trial.⁶¹

Another instance is from UK wherein Dennis Mackenzie managed to give accurate description of the murderers when two ten year olds didn't return home and on trial, the murderers were found in consensus with his findings and convicted for their crimes.⁶²

Kristy Robinett cannot go unmentioned here. In 2004, the psychic was awoken by a murdered young lady's spirit by her bed asking for help to find her killer in Ohio. She was guided by her

⁵⁷ Taylor, *Sir John Woodroffe, Tantra and Bengal: an Indian soul in a European Body?*"

⁵⁸ Use of Psychics in Law Enforcement, <https://www.cia.gov/readingroom/docs/CIA-RDP96-00788R000100280009-3.pdf>

⁵⁹ *Id.*

⁶⁰ Tracy Shane, 10 Psychics Who Solved Crimes, ListVerse, <https://listverse.com/2020/01/21/10-psychics-who-solved-crimes/> (Jan 21 2020)

⁶¹ *Id.*

⁶² Xeandra Naicker, 6 Real-Life Mediums Who helped Solve Murder Mysteries, MysticMag, <https://www.mysticmag.com/mediums/real-life-examples-of-mediums-who-helped-solve-murder-mysteries/>

vision as to what the victim Ashley Howley was wearing before death and even led the victim's family to the location where her body could be found. The suspected murderer was convicted for his crime in 2008 and his confessions confirmed the location of the burial of the victim to be the same as what Kristy Robinett's psychic visions revealed.⁶³

6. Parapsychology and Psychology

6.1 Parapsychological attribute

While Psychology deals with aspects of human consciousness as well, Parapsychology deals with those attributes which stand beyond the scope of Psychology i.e., which cannot be perceived expressly by the five sense organs like, ESP, Telepathy, Clairvoyance, Precognition and Telekinesis.⁶⁴

ESP- stands for extrasensory perception. It is defined as "perception (as in telepathy, clairvoyance, and precognition) that involves awareness of information about events external to self not gained through the senses and not deducible from previous experience."⁶⁵

Telepathy means the form of communication performed from one mind to another by extrasensory means.⁶⁶

Clairvoyance- refers to the perception of objects or events that do not provide a stimulus to the known senses.⁶⁷

Precognition- refers to the perception of a future event that could not be anticipated through any known inferential process.⁶⁸

Psychokinesis- is the mental influence over physical events without the intervention of any known physical force.⁶⁹

Telekinesis- is the supposed ability to move objects at a distance by mental power or other non-physical means.⁷⁰

The relevance of parapsychology comes into picture as these are the few of the many methods used by occult practitioners to attain their desired results.

⁶³ *Id.*

⁶⁴ Nolen Hoeksema, Fredrickson, Loftus, Wagenaar, Atkinson and Hilgard's Psychology: An Introduction, Pg. 265-266, (3rd Indian Reprint, 2009)

⁶⁵ "Extrasensory Perception", Merriam-Webster, <http://www.merriam-webster.com/dictionary/extrasensory%20perception#:~:text=the%20known%20senses-,Medical%20Definition>

⁶⁶ "telepathy", Merriam-Webster

⁶⁷ Nolen Hoeksema, Fredrickson, Loftus, Wagenaar, Atkinson and Hilgard's Psychology: An Introduction, Pg. 265, (3rd Indian Reprint, 2009)

⁶⁸ *Ibid.*

⁶⁹ Nolen Hoeksema, Fredrickson, Loftus, Wagenaar, Atkinson and Hilgard's Psychology: An Introduction, Pg. 266, (3rd Indian Reprint, 2009)

⁷⁰ "Telekinesis", Oxford Dictionary

It is worthy to note that the presence of these attributes is a grey area under Psychology whose presence some dispute and others agree due to alleged non established results procured.

To track the presence of any form of PSI phenomena, the ganzfeld procedure is used.

Ganzfeld Method- The Way Forward

Ganzfeld procedure involves the receiver having the eyes covered with halves of ping pong balls and ears covered by headphones. The receiver is asked to sit in this state in a isolated red light illuminated red room subject to ears being exposed to white noise via headphones. The sender is made to sit in another isolated room and is asked to focus on a random image which is the “target”. During such concentration of the sender, the receiver is supposed to describe the mental imagery and associations of free nature. Post this session, the reciever is asked to rate the four images present before him or her in accordance with which appears to be the most similar to the mental images he or she had during the session. One of the images is the target stimulus that the sender had been exposed to in another room.⁷¹

By means of meta-analysis, the parapsychologists reveal that 23 out of 28 studies have been successful in replicating the response of the ganzfeld experiment.⁷²

According to Daryl J. Bem, quantum physics stands as a declaration of principles pointing towards existence of psi phenomena.⁷³

Ray Hayman, a great critic on the existence of psi phenomena, once dealt with a study sponsored by the US government dealing with the scenario where one attempts to draw or describe a target location or a hidden photograph or object (remote viewing). The statistician Utt’s finding concluded that psychic functioning does exist when the principles of science are applied.⁷⁴

It is here worthy to mention Carl Jung, an eminent personality in the world of Psychology, accredited for the concept of “collective consciousness” in one theory of dream interpretation,

⁷¹ Nolen Hoeksema, Fredrickson, Loftus, Wagenaar, Atkinson and Hilgard’s Psychology: An Introduction, Pg.266-267, (3rd Indian Reprint, 2009)

⁷² *Id.*

⁷³ Daryl J. Bem, Are PSI Phenomena Real?, Nolen Hoeksema, Fredrickson, Loftus, Wagenaar, Atkinson and Hilgard’s Psychology: An Introduction, Pg.269 (3rd Indian Reprint, 2009)

⁷⁴ Daryl J. Bem, Are PSI Phenomena Real?, Nolen Hoeksema, Fredrickson, Loftus, Wagenaar, Atkinson and Hilgard’s Psychology: An Introduction, Pg.270 (3rd Indian Reprint, 2009)

who in one of his letters said “This whole question of so-called ‘occult-phenomena’ is nothing one could be naïve about. It is an awful challenge for the human mind.”⁷⁵In another letter Carl Jung stated, “ I have seen objects moving that were not directly touched, and moreover under absolutely satisfactory scientific conditions.....In this series of experiments, I together with other observers, saw a hand and felt it pressure....the phenomena have nothing to do with the will, since they occurred only when the medium was in trance and precisely not in control of his will.....”⁷⁶

6.2 Psychology

The stance of majority of psychologists around paranormal and the supernatural is that it is nothing less than superstition.

Paranormal activity like objects moving by itself stands explained by hampered functioning of the brain’s right hemisphere and even the illusionary feeling of some imaginary person’s presence around one’s self.⁷⁷

A researcher of Helsinki University found that the ones who believe in the paranormal are more likely to have higher brain activity with weaker form of cognitive inhibition.⁷⁸

According to a Anomalistic Psychology professor, the concept of Ouija boards (supernatural) working can be understood by the ideomotor principle which deals with unconscious muscular movements one may make.⁷⁹

In another work, Psychologist D.H Rawcliffe, in light of occult, stated that it can be explained by hallucinations, neurosis and endophastic enneurosis.⁸⁰

He also believes that ‘in attentional blindness’ is the explanation for those reporting having had encounters with apparitions. “In attentional blindness” is when one is unable to perceive nor

⁷⁵ C.G Jung, Letters Vol.2(1951-1961)

⁷⁶ *Ibid.*

⁷⁷ David Robson, Psychology: The truth about the Paranormal, (Oct 31 2014) BBC, <http://www.bbc.com/future/article/20141030-the-truth-about-the-paranormal>

⁷⁸ *Id.*

⁷⁹ Kim I. Mills, Speaking of Psychology: Ghosts, Ouija Boards, and ESP: Psychology and the paranormal, with Chris French PhD, American Psychological Association, <http://www.apa.org/news/podcasts/speaking-of-psychology/paranormal>

⁸⁰ D.H. Rawcliffe, The Psychology of Occult (1952)

see a stimulus though one may be looking at it directly.⁸¹

7. Possible reasons for non-maintainability of paranormal and supernatural in the courtroom in Courtroom

1. *No standard test nor guidelines have been laid in the procedural laws to deduce what is paranormal or supernatural and when it is not.*
2. *Belief and experience are individualistic in nature. While Law is dependent on other disciplines for sustenance, it is evident that the stance of psychologists itself is blurred when it comes to this subject matter. While some rationally reason such encounters to be “medical illness or insanity”, others like Carl Jung believe that it isn’t necessary that what doesn’t meet the eye doesn’t exist. As Law is governed by logic, just like science is, uncertainty has no place but experiments do.*
3. *There is no proper mechanism or equipment to help differentiate between delusions and the sixth sense. While occult practitioners like psychics get trained by experience over the years to distinguish intuition and mind’s game, sometimes they fail too leading to inaccurate predictions. Similarly, though Psychology accepts the prevalence of consciousness, and seals the possibility of hallucinations and delusions in positive, ESP in itself to be distinguished from the same has no mechanism at play for the time being.*
4. *If allowed as an absolute defence, under general exceptions, paranormal and supernatural may be used in a mala fide fashion to escape criminal liability.*
5. *Proving by evidence in the court of law is difficult due to their non-replicative nature.*

Ratio decidendi for non-absolute acceptance of occult science as conclusive evidence in the Courtroom

Though there are instances of the law enforcement agencies being helped by psychics in resolving crimes, good psychics are hard to find. Some may be scammers pretending to help for financial gains while others, though may be genuine, might be experiencing a “psychic shutdown” (when one is unable to listen to one’s intuition) while on a case due to some factor or the other which cannot be easily understood by a common man.

⁸¹ *Supra* 29

One such instance is of Sylvia Browne who went wrong in her assistance to the legal fraternity as her predictions were too vague like in Any Berry's case and Hunter Horgan's among other 33 cases with her prediction having an unverified status in 83 more for outcomes.⁸²

8. Possibility of acceptance in the near future and suggestions

Observations deducible

Considering the evidence law, India about paranormal and supernatural has a stand same as that of UK i.e, categorising or handling it under the defence of insanity which isn't absolute in itself. Also based on the cases, UK appears to give more preference to the law book and principles of law when it comes to such matter. US has a mixed stand when Greenbrier case is to be considered.

Though India has identified occult science as a branch of study, the innumerable crimes committed by using its dark side has sent chills down the spine of the judiciary and the parliament to identify its practice beneficial in toto due to the increase of crime rates in the country under the guise of the same. It is well known that even if occult science is a customary practice in India, those practices that do not align with the welfare of society shall not be given legal sanction but rather be abolished (as seen in case of Sati) leading to Witchcraft Prohibition Acts in various states.

It is worthy to note that it is only Karnataka and Maharashtra have managed to clearly distinguish customary religious practices like *puja*, *astrological or vastu consultations* and *havans* from black magic in their legislations while depict a kind of awareness regarding distinguishing occult practices. However, the other states which have brought in legislations have only banned "black magic" and "witch tagging or curing practices" showing awareness as to what occult science partially is standing confined to the possible crimes committed using few aspects of it hence lacking clear pronouncement of what such negative practices stand exclusive of.

Considering UK, it is derived that witchcraft and spiritualism were areas associated to be Church's area of practice initially but then went to be handled by the court unlike India where

⁸² Ryan Shaffer, The Psychic Defective Revisited: Years Later, Sylvia Browne's Accuracy Remains Dismal, Vol.37, No.5 (Oct 2013) <https://skepticalinquirer.org/2020/03/the-psyhic-defective-revisited-years-later-sylvia-brownes-accuracy-remains/>

the power to deal with the matters rested with Magistrates since the legislations came into play. Unlike parts of India, UK has expressly made witchcraft, Astrology and spiritualism punishable offences under the 2008 enactment.

For the time being, there is no proper scientific mechanism to verify the existence of paranormal but in the future, scientific developments hint a possibility. Psychology may help normalise the same in the courtroom. But, as for supernatural phenomena, as they are individualistic in nature and replication of their occurrence cannot be derived properly owing to the varying levels of perception among people, with some believing in religion and others not, admissibility in the court seems pretty much sunk deep in seas of despair universally.

Suggestions

1. There is a need to properly lay down legal guidelines to distinguish between paranormal, supernatural and occult sciences
2. In India, a centralised legislation needs to be brought in to regulate the use of occult science, identify black magic and penalise the same in a uniform fashion
3. As occult science like Astrology has been given a status of “science” by the Indian Court, the knowledge of the professionals trained in such field must be made use and given status of “expert opinion”.
4. US and UK have managed to use the positives of occult science vide psychics in investigations to procure evidence, India can definitely utilise the ancient relevant wisdom in a controlled fashion in the investigation process if needed.

Conclusion

What refuses to meet the eye is often denied to be existent. However, ancient books and works testify the existence of paranormal and even the usage of occult sciences to meet goals which appear impossible. Supernatural is seen to be experiences which are personalised. Law in itself is believed to be “what ought to be”. What blends the areas of spiritualism and orientalism with Law is the existence of crimes committed under their guise along with the fact that positive attributes of occult sciences which can be made use of to resolve cum curb crimes. In conclusion, there is a necessity to understand these fields in depth plus in consensus- not to promote superstition but rather so as to reason why such crimes arise and how to eradicate the same when law is unequipped to do the same.