

## Legal Construction of Black Magic Practices: Case Study of the Kutaramanawa Book and Law No. 1 of 2023

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Received : March 31, 2025

Accepted : April 21, 2025

Published : May 31, 2025

Citation: Atasa, Mulyadi, D., Rahmah, M., Dika, M.G., Afrizal, R., Muladiyanti, S., & Meynuary, W. (2025). Harmonization of Tax Criminal Law Enforcement with the New Criminal Code (KUHP): A Restorative Justice Perspective. *Sinergi International Journal of Law*, 3(2), 131-141.

**ABSTRACT:** The practice of black magic or witchcraft in Indonesian society is often considered as an act that can harm a person's physical and mental health. Although it is difficult to prove scientifically, the effects of black magic such as health disorders that cannot be explained by medical science continue to cause fear and anxiety in society. People Those who are affected by black magic will have wounds or foreign objects appear in the victim's body. In the legal context, the Kutaramanawa Dharmasastra book which was used during the Majapahit Kingdom regulate this practice by giving the death penalty to those who commit black magic that endangers lives. In modern times, the Indonesian legal system through the RKUHP and Law No. 1 of 2023, attention is paid to similar practices despite the big challenges in terms of proof. Although it does not directly regulate black magic, the death penalty in the RKUHP can be applied to cases related to with practices that threaten life safety. This study aims to explore the legal construction of black magic practices both in the historical context through the Kutaramanawa Book and in current Indonesian criminal law.

**Keywords:** Kutaramanawa Book, Majapahit, RKUHP, Black Magic, Law No. 1 of 2023.



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## INTRODUCTION

Black magic is a part of magic that relies on the power of suggestion by making screens, necklaces, small statues from wax by putting nails or needles in them. According to the Great Dictionary of the Indonesian Language (KBBI), black magic is a noun for black magic. Black magic: to bewitch (Kırbıyık, 2004) In West Java black magic is called teluh ganggaong or sogra, in Bali it is known as desti or leak, in Maluku and Papua it is called suangi, in North Sumatra begu ganjang, in West Sumatra it is called puntianak. Black magic (formerly called magic) is part of the practice of black magic, which is carried out by shamans with the help of supernatural beings, jinns as mediators to

harm their victims. (Safitrf, 2013) Santet is defined in the language of the Osing Banyuwangi tribe, namely mesisan kanthet (sticky/intimate), and mesisan benthet (cracked/separated). The first understanding is positive, while the second understanding is negative. Santet is known as a magical act carried out with black magic, spells, amulets, and the inclusion of demons. (Nawawi, 2017) Santet can affect the body of the bewitched, or the heart, mind, without having to touch it. (Fitrah, 2021) In some cases of black magic, the victim affected by black magic will have wounds or foreign objects appear in the victim's body, and in this case it is difficult to explain medically.

Regarding where the foreign objects appear in the body, foreign objects such as nails, needles, hair irons and other foreign objects. Sometimes black magic can also have a long-lasting impact on the victim such as mental disorders, incurable disease, even to death. (Anwar, 2021) Black magic is generally difficult to understand or comprehend its meaning, but basically black magic is part of the occult science that is believed or believed by some or some of the community. According to some opinions, black magic can also cause someone to become a victim due to the misuse of black magic which is used as a medium to make people hurt, sick, or even die. Because black magic can cause someone to become a victim, black magic can be classified as a criminal act. (Wahyuni, 2016) Various terms of black magic used are essentially still mystical and far from the reach of legal logic, but through several processes at the level of drafting laws, there have been legal breakthroughs. The benchmark for the success of an article in legislation is very much determined by the "application of the law". To what extent can the application of the law provide satisfaction for those seeking justice, especially those experienced by victims of black magic crimes. Likewise with the application of black magic articles to perpetrators in order to ensure the success of the judicial process criminal law starting from investigation stage, investigation, prosecution up to the stage of examination in court. (SUPRIYANTA, 2009) At this stage, there needs to be evidence, especially during the examination in court. Given that in every criminal justice process there is always supporting evidence is required, so that the court's decision can be accounted for in a way law. Evidence plays a major role in determining the effectiveness of the criminal justice process. (WARMAN et al., 2022) The harm caused by black magic can be seen directly and clearly on the victim of black magic, but it is difficult to explain logically or medically. The effects of black magic can cause people to suffer for a long time, both physically and mentally, and can even cause the victim of black magic to die. (Anwar, 2021)

In the Majapahit era, the practice of black magic was regulated in a book called the Kutaramanawadharmasastra, which is a Majapahit law book that was compiled at the peak of Majapahit's glory and has been codified from Majapahit's criminal and civil laws to become the main reference for the formation of customary law in Indonesia, because the Majapahit rulers were interested in maintaining legal order in the Nusantara region. (Tristaningrat, 2019) Kutaramanawa regulates the punishment for people who are proven to practice black magic (santet) and threaten the lives of others. This is described in great detail in article 13.

"Whoever writes the name of another person on a dead person's cloth or on a coffin or on a dodot in the form of a doll or whoever plants a flour doll with his name written on it in a grave, places it on a tree, in a grave or on a crossroads, such a person is Whoever writes a person's name on a bone, on a skull with charcoal, blood and trikatuka and then soaks it in water or plants it in a place of torture, that act is called divination death penalty by the ruling King. If the crime is proven, the

children and grandchildren of the sorcerer will not be allowed to live for the safety of the state All of them were killed by the king because they wanted to copy their father's mother's border and all their property in other places would be confiscated by the king who ruled in that place. All items are deposited wherever they are to be released. ”

In the article it can be understood that the punishment for people who are proven to have practiced divination or witchcraft is the death penalty. Where the holder of power over the punishment is none other than the King of Majapahit. In fact, the death penalty is not only for the perpetrators of divination, but also their descendants. In other words, the punishment for the perpetrators of divination is to have their bloodline cut off. The strictness of punishment like this is not found today, anywhere in the world.

The death penalty in the Majapahit era was known in the 13th-16th centuries and was included in its Law, even categorized also the types of main criminal acts. In Majapahit legislation does not recognize imprisonment and confinement, whereas this is the punishment that is often imposed on people who commit crimes or who commit violations in Indonesia today. Apparently, prison and confinement were not known in the government of the Majapahit kingdom. Every person who is guilty must undergo 4 main punishments based on the Kutaramanawa Dharmasastra Book, (Muljana, 1967)namely :

1. Death penalty;
2. Criminal penalty of cutting off the guilty member ;
3. Fine ;
4. Compensation or *panglicawa/patucukawa* .

The death penalty is a punishment that is often imposed on people who committing a crime in the Majapahit government, every person who is guilty must undergo the death penalty. All decisions in court are taken in the name of the king who is called *Sang Amawabumi* meaning: a person who owns or controls the country. In matters of court the king is assisted by two *darmadyaksa*. A *darmadyaksa kasaiwan* a *darmadyaksa kasogatan*, namely the head of the Shiva Religion and the head of the Buddhist Religion with the title *dang acarya*, because the two religions are the main religions in the Majapahit kingdom and all laws are based on religion.(Nurjanah et al., 2023)

Article 252 of the RKUHP has become known as the article on black magic because since the 2019 RKUHP version, in the explanation of the article it is stated that this provision is intended to address public unrest caused by the practice of black magic, which legally causes difficulties in proving it. This provision is also intended to prevent early and end the practice of vigilante justice carried out by members of the community against someone accused of being a black magic shaman (Santoso, 2022)

When talking about black magic in Java, Banyuwangi is one of the places that many believe in and practice black magic. Banyuwangi was in mourning in July-December 1998 because approximately 116 people were accused of being black magic shamans. They some of them were local kyai killed by masked troops. There were some covert killings, for example a group of masked people entered a resident's house at night and killed their target. But there are also some that are done during the day by involving the community, namely by accusing the target of the operation of being a shaman

so that the community was furious and also tortured and killed the target. Less than a year after this incident subsided, the case of torture and slaughter of someone related to the accusation of being a shaman also broke out in 1999 in Pangandaran. In general, black magic has a bad *stereotype* among people outside Banyuwangi. In fact, perhaps most of the Banyuwangi community also thinks that black magic is considered a safe "killing tool" because it leaves no traces.(Herniti, 2012)

In Indonesian society, the existence of black magic/tenung/teluh is strongly believed to exist. However, for some people this is considered just a fabrication, especially since Indonesia is a developing country, where some of its people still have a primitive mindset. The absence of a law that regulates black magic encourages people who believe in black magic to take the law into their own hands against people suspected of having black magic and It is believed that people often practice black magic, so that persecution and even murder often occur by several people or even by mobs under the pretext of black magic.(Al Buchori et al., 2021) Thus it cannot be denied that the regulations governing This issue is very necessary for law enforcement in Indonesia, because so far many have become victims, both online and face to face. The ongoing debate has mostly led to evidence, while black magic has not been proven because it is still difficult to accept logically. This is the focus of this scientific writing related to black magic or the supernatural powers of the perpetrators which by society sometimes become an act of taking the law into their own hands, so the author feels the need for a policy criminalization of the crime of black magic in criminal law reform regarding evidence that can be easily used at the investigation level up to the examination process in court. Thus, it means that there needs to be a criminal law policy against the crime of black magic and according to the drafters of the criminal law policy, it has an important role because the Criminal Code that we adopted from the Dutch colonial government does not regulate the problem of black magic, whereas black magic is a criminal act with a formulation of a crime that contains elements of taking life, damaging health and so on in a supernatural way that is difficult to prove legally.

The implementation of the death penalty in Indonesia always raises pros and cons among the community. Those who are pro-death penalty argue that the death penalty is still a positive law regulated in various laws and regulations so that its validity must continue to be respected. Meanwhile, those who are against the death penalty assume that the death penalty is contrary to human rights because it violates the right to life which is a right that cannot be reduced under any circumstances and by anyone.

Considering the new Criminal Code contained in Law Number 1 of 2023 will come into effect 3 years from the date of enactment, namely in 2026, it regulates that the death penalty is threatened as an alternative as a last resort to prevent criminal acts and protect the community . If it is noted that the death penalty is not included in the main criminal system. The death penalty is determined in a separate article to show that this type of punishment is truly special as a last resort to protect the community.

## **METHOD**

The research method used in this study is a literature study or also known as a literature review with sources from several reading books and previous studies. In this method, a systematic review is carried out on several similar studies related to the proposed title, namely Legal Construction of Witchcraft Practices: Case Study of the Kutaramanawa Book and Article 252 of the Criminal Code. And also this study uses books, data and verified scientific articles as data sources so that the data obtained is real data and not made up, so the validity of the source is very important to consider.

## **RESULT AND DISCUSSION**

### **Definition and regulation of Black Magic Practices in the Kutaramanawa Book**

The existence of the Ancient Nusantara Law Books is a very important thing to study, discuss, and analyze the meaning and benefits for the laws in force in Indonesia. (Darmawan, 2014) This is important to state because before the arrival of foreign nations to this country, there was already a legal civilization that was carried out and became a guide for areas that were formerly kingdoms throughout the Nusantara. On that basis, the effort to study, discuss and analyze the Ancient Law Books that are spread throughout the territory of Indonesia which was formerly called the Nusantara is a very important and noble effort. In order to explore the ancestral heritage that will be useful for the future direction that will be headed by the Indonesian nation without forgetting past history. The existence of the Ancient Nusantara Law Books, of course, will raise the Ancient Nusantara Law Books spread throughout the Nusantara region, the distribution of the Ancient Nusantara Law Books reflects the richness of Indonesian culture in the past as a nation which was once called Nusantara.

The Ancient Nusantara Law Books are spread throughout the Nusantara region, the distribution of the Ancient Nusantara Law Books reflects the richness of the Indonesian nation in the past as a nation, which was once called Nusantara. The distribution of the Ancient Nusantara Law Books can be seen as follows:

In this book by Slamet Muljana, the Kutaramanawa Dharmastra book on the Majapahit Kingdom is presented: (Muljana, 1967) The Majapahit Kingdom is an ancient kingdom that we can know quite completely about its government and bureaucratic structure. During the reign of Hayam Wuruk, the Majapahit Kingdom reached its golden peak. At that time, Majapahit had a regular government structure and bureaucratic facilities. From the available information, it can be concluded that the government and bureaucratic structure of the Majapahit Kingdom during its historical development did not change much. Most sources on this issue come from the golden age of Majapahit. So that the government and bureaucratic structure of the Majapahit Kingdom as a whole is not much different from its situation during the reign of Hayam Wuruk.

During the Majapahit Kingdom, there were also cases circulating regarding black magic which was part of the occult sciences which were believed in or believed in by some or a part of society. According to some opinions, black magic can also cause someone to become a victim due to the misuse of black magic which is used as a medium to make people hurt, sick, or even die. Because black magic can cause someone to become a victim, black magic can be classified as a criminal act. The philosophical background to why black magic can be classified as a criminal act is because



black magic is acknowledged and believed to exist in society and causes unrest, but cannot be prevented or eradicated through the law due to the difficulty in proving it.

Black magic, also known as *teluh*, is an act in which someone harms another person through magical intermediaries. The perpetrator of black magic can make the target of his operation sick for a long time until death. For this reason, it is necessary to form a new criminal act regarding black magic which is intended to prevent such acts from happening. During the Srivijaya kingdom, several inscriptions were known to regulate the punishment for the crime of black magic. The same law is also known to apply in the Majapahit Kingdom. The description of black magic according to this inscription is a heinous form of crime and must be punished by death without any process.

In the Kutaramanawa book, it regulates the punishment for people who are proven to have practiced sorcery or black magic and threatened the lives of others. This is explained in such detail in article 13.

"Whoever writes the name of another person on a dead person's cloth or on a coffin or on a *dodot* in the form of a doll or whoever plants a flour doll with his name written on it in a grave, places it on a tree, in a graveyard or on a crossroads, such a person is performing magick which is very dangerous. Whoever writes the name of a person on a bone, on a skull with charcoal, blood and *trikatuka* and then soaks it in water or plants it in a place of torture, that act is called magick death sentence by the King powerful. If this act is proven, children and grandchildren, parents, all those who remain will not be left alive for the sake of the safety of the country. Do not confiscate all his property in other villages. The sorcerer's children and grandchildren were all subject to the death penalty by the king because they would imitate the actions of their mother and father. All his property that is in another place must be confiscated by the king who rules in that place." All the items are deposited anywhere so they can be released."

In other regulations regarding acts of black magic carried out by the perpetrators of black magic themselves, this is also regulated in the form of a formulation of Majapahit Legislation where those who do this will be subject to the death penalty by the ruling king. (Purba & Sulistyawati, 2021) Someone who can be said to be practicing very dangerous divination is when they write another person's name on a cloth or on the coffin of a deceased person, or on a *dodot* in the form of a doll, or plant a flour doll with the name of the grave, put it on a tree, in a scary place, or at an intersection, write another person's name on bones, on a skull with another person, blood and *trikatuka* then soak it in water, or drown it in a place of torment. (I Gusti Agung Gede Asmara Putra. Ngurah Wirasila, 2020) In the article it can be understood that the punishment for people who are proven to have practiced divination or black magic is the death penalty. Where the holder of power over the punishment is none other than the King of Majapahit. In fact, the death penalty is not only for the perpetrators of divination, but also their descendants. In other words, the punishment for the perpetrators of divination is to have their bloodline cut off. The strictness of punishment like this is not found today, anywhere in the world.

### **The Existence of Law No. 1 of 2023 concerning the Death Penalty for Witchcraft Practices**

Philosophically, black magic can be classified as a criminal act because black magic is recognized and believed to exist in the life of society which causes unrest and loss, but cannot be prevented and eradicated through law because of the difficulty in proving it. (Faisal et al., 2023) So from this reason it is necessary to form a new criminal act concept about black magic which aims to prevent black magic from happening. The effort to include black magic in criminal law in Indonesia is not easy. Although black magic is seen as an evil act, it is difficult to prove it. Meanwhile, proof in criminal law aims to find material truth and in court hearings it is also impossible for the panel of judges to listen to expert testimony from paranormal. (Arthani, 2015) In dealing with the problem of supernatural powers, black magic, black magic, and others, the Criminal Code is less able to criminalize these acts because the Criminal Code does not match reality. Changes and renewals in the field of criminal law, especially material (substantive) criminal law, are important and fundamental. (Maroni, 2022) because the laws currently in force, especially colonial material criminal law, are no longer able to meet the legal needs of the Indonesian people. (Abdullah, 2016) Black magic is a detrimental act and deserves to be punished or criminalized. Although there are problems in the matter of proving black magic crimes, at least through future criminal policies it is hoped that they will be able to overcome black magic crimes in society in a preventive manner. Article 252 of the New Criminal Code can only be applied properly if the wording of the article, in addition to the confession of a person who claims to have supernatural powers, informs, raises hopes, offers or provides services to other people that due to their actions can cause illness, death, mental or physical suffering to someone.

According to Article 184 of the Criminal Procedure Code, the defendant's statement includes evidence other than witness statements, expert statements, and clues. To support the absence of evidence other than a confession, in criminal acts that use supernatural powers, additional evidence is required in the form of: witness statements, expert statements and evidence as material to reveal criminal acts, especially those related to supernatural powers.

According to Eddy Hiarij, regarding the evidence, there are similarities with the Dutch Criminal Procedure Code, the only difference is that in Indonesia the evidence is in the form of clues, while the Dutch evidence is the Judge's observation/knowledge tool. The application of Article 252 of the New Criminal Code concerning the crime of offering services using supernatural powers has shortcomings because the article only states that Article 252 of the New Criminal Code only applies to "people who claim to have supernatural powers, inform, raise hopes" in other words "confessions" only. The article does not describe clearly who participated and ordered to do it, although the article vaguely states that informing and raising hopes, it is not clear about participating and ordering to do it.

According to the author, the practice of offering services using magical powers does not only involve the perpetrators who offer or do it. In proving black magic in the New Criminal Code, what needs to be proven is only the statement, not mystical things. The crime of black magic is also a formal crime that is equated with the act of offering to commit a crime. For example, proving the crime of black magic in Papua New Guinea and South Africa has the same construction as proving the crime of black magic in the New Criminal Code.<sup>1</sup>

If we look closely at the meaning of the criminal policy on black magic in Article 252 of the New Criminal Code, it only aims to prevent the emergence of new crimes in the form of fraud, extortion,

or the emergence of victims due to people claiming to have supernatural powers. Proof of a statement by someone who has supernatural powers can be done through recordings or by having witnesses who witness the person's statement. Proof in formal crimes is sufficient by proving that someone has committed the act in question, namely the relationship between the black magic practitioner and the person who hired him so that the relationship will be seen as a criminal act of conspiracy. If proven, then that person can be subject to criminal sanctions. If the act has fulfilled all the elements contained in the formulation of the criminal act, the act is a criminal act. The death penalty is the most severe punishment and must always be threatened alternatively with life imprisonment or a maximum imprisonment of 20 years. (Sukma et al., 2023) In the regulation of the death penalty in a country, at least three interrelated aspects will be discussed. First, the constitution or highest law adopted by a country and the form of government adopted by a country. Second, the dynamics of social, political and international law that influence the pattern of thinking and social relations in society. Third, the relevance of old values in the development of a much more advanced era.

Referring to Article 100 of Law No. 1 of 2023, the death penalty is regulated as an extreme punishment for serious crimes with a stricter approach. In the new Criminal Code contained in Law No. 1 of 2023, the Death Penalty is used as an alternative punishment which contains that if someone is sentenced to death, they will not be executed immediately but must go through a probationary period. If the defendant is able to pass the probationary period, the death penalty will be reduced to life imprisonment. Whereas in the old Criminal Code, this substance did not exist.

In Article 100 paragraph (2) and paragraph (3) of Law No. 1 of 2023 concerning the 10-year probationary period, it begins 1 day after the court decision has permanent legal force. And if the convict during the probationary period shows commendable attitudes and actions, the death penalty can be changed to life imprisonment by Presidential Decree after obtaining consideration from the Supreme Court. Life imprisonment will be calculated from the time the Presidential Decree is stipulated, which is then regulated in Article 100 paragraph (4) and paragraph (5) of Law No. 1 of 2023. On the other hand, if the convict during the probationary period does not show commendable attitudes and actions and there is no hope of improvement, the death penalty can be carried out on the orders of the Attorney General following Article 100 paragraph (6) of Law No. 1 of 2023. Then, we should also pay attention and know in Article 101 of Law No. 1 of 2023 that if the application for clemency for a death row convict is rejected and the death penalty is not carried out for 10 years since the clemency was rejected not because the convict escaped, the death penalty can be changed to life imprisonment by Presidential Decree.

Criminal law is a sanction law that aims to control deviant behavior, although not every sanction can be implemented according to its purpose. Violation of criminal law is a human behavior that is determined by his attitude in facing a certain situation, and this attitude is based on subjective awareness of the values and norms in society or groups that are accepted by each individual from the surrounding culture, so that a crime occurs due to a conflict of culture, ethnicity, race, religion, or the influence of poverty and prosperity, the influence of the media mess, or due to limited opportunities to achieve goals. (Muladi & Nawawi, 1984) The purpose of capital punishment or the death penalty is to protect the public interest in society which is endangered by criminals who can no longer be reformed. However, the consequences of heavy prison sentences often result in



the death of a person's personal identity and lifelong human suffering, and people often seek a way out by dying, as fugitives do, while the death penalty is not a light sentence.(Purnomo, 1982)

In relation to the objectives of modern criminal law, which in this school of thought contains aspects of science, not only normative, and in relation to the principles stated in the formulation of Pancasila, the need for the death penalty must draw a line of "benefit" for the public interest and society first and only then for the interests of the individual, where the composition of the fulfillment of both of these interest patterns is not easy if the two interests are together. both require collateral at the same time. If according to the concrete circumstances of the event and according to his interests it would be more beneficial for the interests of the individual than the interests of the public or society not to choose the death penalty, then it can be decided to impose the death penalty.

## **CONCLUSION**

Based on the research results that the author has described above, it can be concluded that the legal construction of black magic practices during the Majapahit Kingdom era is regulated in Article 13 of the Kutaramanawa Dharmasastra Book which reads: "Whoever writes another person's name on a dead person's cloth or on a coffin or on a dodot in the form of a doll or whoever plants a flour doll with a name written on it in a grave, places it in a tree, in a grave or on a crossroads, such a person is carrying out very dangerous magick. Whoever writes someone's name on a bone, on a skull with charcoal, blood and trikatuka and then soaks it in water or plants it in a place of torture, that act is called divination. Whoever does so, is charged death penalty by the ruling King. If this act is proven, the children and grandchildren, parents, and all those who remain will not be left alive for the sake of the safety of the country. All of their property in other villages must not be confiscated by the king who rules in that place. "All the items he left somewhere must be released."

In the article it can be understood that the punishment for people who are proven to have practiced black magic or witchcraft is the death penalty. Where the holder of power over the punishment is none other than the King of Majapahit. In fact, the death penalty is not only for the perpetrators of black magic, but also their descendants. In other words, the punishment for the perpetrators of black magic is to have their bloodline cut off.

Furthermore, the practice of black magic when associated with Law No. 1 of 2023 concerning the Death Penalty is threatened as an alternative as a last resort to prevent criminal acts and protect the community. If it is noted that the death penalty is not included in the main criminal system. The death penalty is determined in a separate article to show that this type of punishment is truly special as a last resort to protect the community.

The Death Penalty is used as an alternative punishment that contains if someone is sentenced to death, then it is not immediately executed but must go through a probationary period. If the defendant is able to pass the probationary period, then the death penalty is reduced to life imprisonment. While in the old Criminal Code, this substance did not exist.

The purpose of severe punishment or the death penalty is to protect the public interest in society that is endangered by criminals who can no longer be fixed. However, the consequences of severe imprisonment often result in the death of human personal identity and human suffering for life, often even seeking a way out to be better off dead as done by fugitives, while the death penalty is indeed not a light punishment.

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