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PROVING THE CRIME OF WITCHCRAFT IN SYARIAH COURT IN MALAYSIA: ISSUES AND CHALLENGES

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ABSTRACT

This study provides an abstract survey on the crime of witchcraft in Malaysia, especially in relation to the issues and challenges of proving the crime in the Syariah Court in Malaysia. One of the main challenges found in this study is that the jurisdiction that manages and handles witchcraft-related crimes in Malaysia is still not yet been established. Furthermore, the research problem that exists is related to the guidelines for convicting witchcraft in Syariah courts. Therefore, challenges arise in determine the parameters of the extent to which an offense is identified as a crime of witchcraft. Based on this research, there are several objectives to be achieved, among them are to identify the positive effects of the enactment of laws, Investigating the process of proving the crime of witchcraft in Syariah Court, analyse the issues and challenges in proving the crime of witchcraft and also examining their solutions to address them. This study also uses qualitative methods in obtaining information. While the findings for this study are benefits of witchcraft law, process of proving the crime, challenges in proving the crime of witchcraft and solutions to address issues and challenges. The conclusion that can be made based on this study is that although this crime of witchcraft is a crime that is difficult to prove, it is not impossible to make it happen with joint efforts from various parties. The significant of this research are it can contribute to legal development, community protection and strengthen Syariah legal institutions in Malaysia. Therefore, it will contribute to international scholars in terms of the latest information and data related to witchcraft crimes in Malaysia, challenges and solutions in strengthening the witchcraft crime laws as well as ideas in the implementation of the special body regarding witchcraft crimes.

Keywords: *Witchcraft law, issues and challenges, Syariah Court*

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Introduction

Witchcraft is a crime that oppresses its victims, adversely affecting the family institution and even undermining the faith of Muslims. In reality, many cases are believed to be caused by witchcraft, but the perpetrators could not be charged due to the difficulty in proving these crimes in court. To this day, there have been no successful prosecutions against witchcraft practitioners. In fact, proof and evidence for the crime of witchcraft are still at the research stage, as the nature of the offence involves complex circumstances—particularly in terms of investigation and prosecution procedures, which have yet to be formalised.

The problem that arises is not limited to substantive legal requirements; it also encompasses aspects of evidence and proof in court. According to Wan Ismail et al., (2021) and Alias et al., (2021), evidence is crucial in any legal matter as it forms the foundation upon which the truth is established and justice is delivered. Furthermore, the issue of court jurisdiction is no exception and must also be considered carefully.

The crime of witchcraft has significantly affected family institutions. Civil family law and Islamic Shariah law are seemingly insufficient to ensure that witchcraft perpetrators are held accountable. This has contributed to an increase in cases of divorce, domestic abuse, and, in extreme situations, death. Unfortunately, judges in Malaysia have yet to discuss the issue of witchcraft in depth during court proceedings.

Literature Review

According to Mohd Sabri (2016), the author said if the experts are only given to the authorities such as the police, then of course the investigative work will suffer many obstacles and this will indirectly make it more difficult to find and collect evidence. Overall, this group of experts is difficult to create through one party only because proving the crime of witchcraft requires people who are experts in various fields because it involves many elements of belief, science and technology. The author explains about the crime of witchcraft from the Islamic aspect and also the legal side in Malaysia. The author makes a suggestion and improvement related to the legal system in Malaysia related to witchcraft crime law. The writer also criticizes certain parties for realizing changes to the crime of witchcraft in Malaysia, especially in terms of the law. The author also does not agree that matters related to proving the crime of witchcraft are only focused on the jurisdiction of the shariah court. The writing from Mohd Sabree examines issues related to witchcraft from a legal perspective while the research that is to be done is why legislation and jurisdiction related to crime is important to be implemented.

According to (Najwa Farhana, 2014), the author said in order to carry out criminal proceedings, the authorities need authority that gives them permission and authority to do something. The source of that authority is none other than the provision of the law that gives 'authority' to act. The author discusses some suggestions towards the formation of the law of witchcraft, from the aspect of the source of authority that allows the investigation of witchcraft to be carried out, the departments involved and the organizations that are eligible to carry out the investigation by looking at the views of legal experts and analysis will be made whether the proposal is relevant or not. This writing by Najwa Farhana explain more about the investigation of witchcraft crime by the authority body. It coincides with the writing for this research in which the law related to the crime of witchcraft that wants to be implemented should be taken from the point of view of an authoritative expert.

The absence of a clear procedure as a guide for adopting the testimony of Islamic medical experts in the Syariah Court and subsequently will cause a person who is considered an expert to be difficult to evaluate (Muna Azman et al, 2021). The author analyses the method of proving elements of witchcraft in the Shariah court through the testimony of Islamic medical experts. The results of this evaluation found that the use of Islamic medical expert testimony should be implemented for cases of witchcraft crimes in the Syariah Court by using the provisions of the existing enactment and only need to detail the forms and scope of expert testimony and make some improvements. Thus, the recognition of Islamic medical expert testimony in the Syariah Court as well as the existence of specific procedures in its application can help increase the level of the burden of proof in solving witchcraft crime cases in the Syariah Court (Salhab & Muhsin, 2024). It can be same to my writing related to the process of proving

the crime of witchcraft according to experts who specialize in the field of law and also other fields as stated in her writing such as by referring to the medical experts.

According to (Mahyuddin, 2010), questions related to the existence of witchcraft, its applicability and production methodology are discussed to illustrate that the crime of witchcraft as something that is realistic and can be charged in Court. Based on the research done by Mahyuddin Bin Ismail, the implementation of the witchcraft crime law is expected to bring witchcraft practitioners to justice and punish those involved with the same punishment that is commensurate with it. Based on the research done by Mahyuddin, the writing done by him is more focused on the problem of witchcraft crime cases in the household where the crime can lead to divorce cases, while my research is more about how the witchcraft crime case can be proven through skill from experts and also from the aspect of proof through qarinah.

A person can be convicted of intentional homicide when the criminal (witch) admits that he bewitched the victim and that his magic would normally cause death (Muhammad Ali, 1981). His writing focuses on the method of conviction of the crime of witchcraft through the confession of the guilty person as well as the proposed punishment for the perpetrator of the crime of witchcraft. The author of this research focuses more on the challenges that need to be addressed when wanting to convict the crime of witchcraft in the Shariah Court in Malaysia.

According to (Abdul Wahid, 2002) related to the use of witchcraft is often done by polygamous wives. This witchcraft is also capable of separating mother and child, father and child, siblings, and co-workers or business partners. the writing made by him discusses how this magic happens, what is the purpose of people asking for help from people who are skilled in using witchcraft. However, the writing did not touch on how witchcraft laws can be implemented nor the constraints that need to be faced in the process of proving witchcraft by experts.

Through the research done, proving witchcraft is a difficult thing even though the researcher has presented relevant facts and proving these facts through qarinah and expert opinion. This is due to the basis that is the reason for the connection between witchcraft and the effect of witchcraft is seen as not strong and the validity of his claims is doubted even though there is Qarinah evidence and expert opinions that support it. This matter is reinforced by the nature of magic itself which cannot be seen on the outside and mystical view making it difficult to prove (Na'imah Suleiman, 2014). The study made by the author focuses specifically on the crime of witchcraft according to the perspective of Islamic law as well as the elements of criminal in the crimes of witchcraft and qarinah's position and expert opinion as information that is relevant in the proof of the criminal of witchcraft, while the writing I made focused more on the proof of the crime of witchcraft in the early stages.

Petrus (2009) has noted the current problem of insufficient knowledge about witchcraft-related crime has meant that there is, as yet no recognised theoretical approach to the study of witchcraft-related crime. Any theory on witchcraft-related crime must have value in an applied context, in order to be practically useful for law enforcement officers who may investigate crimes of this nature. The research done by him is related to witchcraft crimes in the Eastern Cape country. This research sought to investigate the phenomenon of witchcraft-related crime in the Eastern Cape Province of South Africa, and its implications for law enforcement policy and practice. The primary motivation for a study such as this emerged from the need to address the lack of academic knowledge about witchcraft-related crime, especially in the Eastern Cape. The difference between his writing and this research is related to the scope that I want to bring regarding the crime of witchcraft which my research focuses on related to the crime of witchcraft in the Syariah Court in Malaysia.

Ku Muaz (2023) argued that apart from the aspect of jurisdiction, one of the most important steps that needs to be taken to make these cases involving witchcraft crime can be handled is to create a special act or enactment regarding the practice of magic. With the existence of such a special act or enactment, the procedures of investigation, arrest and criminal trial can be established. This article tries to explain the connection between witchcraft and divorce cases that happened in the Selangor Syariah Court. This study focuses on the cases that were found to involve allegations and defences regarding the existence of elements of magic in the divorce that took place. The objective of the study made by the author of this article is different because the purpose of his writing this article is to study the relationship between

witchcraft and also the issue of divorce found in the state of Selangor only, while this research is related to the challenges that need to be faced in implementing laws related to witchcraft in Shariah courts in Malaysia.

Besides, to amend the provisions of the law, the use of expert opinion testimony in the Syariah Court can be further harmonized with the judge's approach to interpret the existing provisions more accurately and conclusively (Mohd Sabree et. al, 2017). This approach is seen as easier than the approach to amend the provision which involves several procedures and a relatively long period of time. The authors give an opinion to proving the crime of witchcraft by using the expert views and opinions in clarify the crimes whether the crime is categorized as a witchcraft crime or not. The author found that there are still some categories of expert opinions that are less used in the Syariah Court such as the categories of witchcraft law. The author brings the approach of using expert opinions in the conviction of witchcraft crimes in the Shariah Court in Malaysia is one of the most important aspects that need to be realized by the judiciary in Malaysia. The difference in his writing is that the author is more about giving suggestions for proving cases of witchcraft in Malaysia, while the writing of this article wants to know how to deal with challenges in the method of proving witchcraft specifically in the Shariah Court in Malaysia.

Methodology

In a study on the proof of the crime of witchcraft in Malaysia, qualitative method is the best approach in identify study problem because it can be used to gain an in-depth understanding of the experiences, perceptions, and practices related to the proof of the crime of witchcraft. Here are some qualitative approaches and techniques that can be used:

1. Document Analysis: Analyse related documents such as trial records, court decisions, legal memoranda, and legal guidelines related to the proof of witchcraft crimes. This analysis helps to dig up information about the legal approach that is applied, the arguments that are made, and the legal interpretation that underlies the evidence.
2. Using case study. Conducting content analysis of sources such as case studies, court decisions, journal articles, research reports, and information related to proving the crime of witchcraft. This analysis helps to identify patterns, themes, and emerging issues related to the proof of witchcraft crimes in the Syariah Courts in Malaysia.
3. Hold a focus group session with individuals involved in the process of proving the crime of witchcraft, including academicians in law's field, sharia law experts such as lawyers, and religious experts. Discussions in focus groups allow for the exchange of different views, thoughts, and perspectives on the proof of the crime of witchcraft. Conducting in-depth interviews with various parties involved in the process of proving the crime of witchcraft, such as academicians, syariah law experts, religious experts, and individuals who have been involved in cases of witchcraft crimes. This interview allows the researcher to get a rich view and experience about the evidence process, the role of the main actors, and related issues.

In using a qualitative approach, it is important to select relevant respondents, ensure data confidentiality, and adopt a systematic analysis process to draw meaningful conclusions from qualitative findings. A qualitative approach enables an in-depth understanding of the process and experience of proving witchcraft crimes and helps gain a more holistic and contextual perspective on the issue.

Results and Findings

Benefits of Witchcraft Law

In Malaysia, there is no law that specifically regulates crimes related to witchcraft, because witchcraft is not recognized as a real practice in the laws of this country. However, if we assume the existence of laws related to the crime of witchcraft in Malaysia, there are some of the possible benefits.

Firstly, law of witchcraft can reduce cases of witchcraft crime. Laws on the crime of witchcraft can help prevent the abuse of magical practices by irresponsible individuals. This can involve regulating and restricting the use of black magic like witchcraft, so that society can be protected from evil acts

involving magic. The law can protect the community from acts or practices of magic that can harm them. For example, the law can prohibit the manipulation of magic that harms others, including the practice of witches who steal, cheat, or harm a person's finances or health. Education and awareness: Laws related to the crime of witchcraft can be a means to educate the public about what is considered illegal or dangerous in the practice of witchcraft. This can increase public awareness of the risks associated with the abuse of magic and help prevent fraud or exploitation involving the practice of magic.

Other than that, with laws related to the crime of witchcraft, law enforcement can act to investigate and prosecute criminal acts involving witchcraft. This will help maintain community safety and provide assurance that perpetrators of witchcraft crimes can be tried and punished according to the law. However, it is important to remember that all of this is just an assumption. In the real world, witchcraft is not recognized as a real practice in Malaysian law, and there is no specific law regulating the crime of witchcraft in the country.

Process of Proving the Crime of Witchcraft

The method of proving a criminal offense using the method of iqrar, or confession, is a process where the suspect voluntarily admits his complicity in a criminal act. Confessions can be strong evidence in the legal system to prove someone's guilt in committing a crime. However, it is important to remember that confession is only one type of evidence used in the judicial process. A fair and just legal system also requires the existence of other evidence that supports the confession. Some other things to consider in using a confession as evidence are the confession need to be voluntary and not obtained by coercion. Confession should be given voluntarily and without pressure or coercion. If a confession is obtained through torture, intimidation, or manipulation, then the confession is invalid and cannot be used as evidence. Then, it needs to be validity of the confession such as the court needs to ensure that the confession is the result of a conscious will and is not influenced by factors such as mental disorders or the influence of drugs. In some jurisdictions, a psychologist or psychiatrist may be asked to evaluate the validity of the confession. Next, it must have consistency with other evidence because confession that is consistent with other available evidence can increase confidence in the truth of the confession. However, if there is a significant difference between the confession and other available evidence, then further research needs to be done to ensure the validity of the confession. However, it also needs to have other additional evidence. The legal system usually requires additional evidence other than confessions to strengthen the suspect's guilt. This is done to prevent wrongdoing or abuse of confession as the only evidence used to convict someone. It is important to note that confession alone is not enough to convict someone. Confessions must be supported by other convincing evidence and must be processed through a fair judicial system. The legal systems that apply in various countries have different requirements and standards in using confessions as evidence in the judicial process.

The method of proving criminal offenses using the method of shahadah or witnesses, is a process where evidence or testimony from witnesses is presented in court to prove a person's guilt in committing a criminal act. Witness testimony can be important evidence in the legal system to support or refute claims made by the parties involved in a case. Some things to consider in using shahadah as evidence are the court need to examine the faith and credibility of witnesses: The court will evaluate the faith and credibility of witnesses. Factors such as personal relationships with the parties involved, personal interests, the reputation of the witness, and the testimony's consistency with other evidence will be taken into account in determining the credibility of the testimony. Other than that, they should give a clear and detailed testimony. Witnesses are expected to give clear and detailed accounts of what they witnessed or experienced. Inconsistent, ambiguous, or ambiguous testimony can affect the credibility of the testimony. Testimony also needs to be supported by other evidence. For example, witnesses and their testimony should be supported by other available evidence. Physical evidence, audio or video recordings, or other evidence that is consistent with the testimony can increase the credibility of the testimony. Lastly, it compulsory to have cross-examination to the witnesses. The opposing party or a lawyer from an interested party can cross-examine the witness to test the consistency, trustworthiness, and reliability of the testimony. Cross-examination can help clarify or express doubts about the testimony given.

In addition, the method that can be used in proving the crime of witchcraft is to use *qarinah*. This is because this method is very popular in proving other criminal cases including the method of using expert testimony. According to Prof Madya Dr Lukman Abd Mutalib, although this witchcraft is an occult science, but the real elements in the physical form exist, because that's why *qarinah* plays an important role. An example of the crime of murder that is said to be caused by magic, then the question is what elements can be proven to be convicted of intentional murder. For example, there may be a statue tool, the statue is poked or worshiped then when you ask an expert about this knowledge and usually they will clarify about the type of magic that is done and what effect it has on the victim. Therefore, the evidence used for the purpose of witchcraft is very important to be taken into account in proving the crime of witchcraft in court. Other than that, according to Mustafa Ahmad al-Zarqa' has given the meaning of *qarinah* as every visible sign that accompanies (that is with) something hidden and points to it. According to Mahfodz Mohamed, *qarinah* is a connection between certain events and the crime in question so that it cannot be separated between the two. He gives the opinion that the connection (*qarinah*) can be used as evidence to convict the crime of murder, moreover in this age of science and technology, with the existence of sophisticated tools that can detect events through correlations that are sometimes so precise and clear. On the other hand, the testimony of the witnesses is less and less credible. Therefore, there is no ambiguity or doubt that can be denied that *qarinah* can be accepted as evidence to convict the crime of murder. As emphasized in the previous discussion, that the jurists have accepted the use of *qarinah* in the conviction of cases. However, the acceptance is based on the following conditions. First, the existence of apparent things that are known to be used as a basis when arguing. Manifest things are like signs, attributes and even indications that can be accepted by a person's thoughts. Second, there is a relationship between the visible and the hidden and wanting to know. The matter of this matter is not known at the beginning but can be known through the analysis of the existence of a relationship between the two. The relationship that exists must be strong and built on a solid foundation that can be accepted by common sense. Based on that, it shows that the relationship is not based on imagination or speculation. The stronger this relationship, the stronger the *qarinah*. *Qarinah* or related facts have several functions in a trial. Among its functions is *Qarinah* as the basis for judgment. The function of *qarinah* as a basis for judgment can be seen in the cases decided in the Syariah Court. Among them in the case of Perak Syariah Court Prosecutor versus Fatimah (JH V/II June 1987, 321). This is a case of accusation of adultery according to the Perak Islamic Religious Administration Law 1965. In this case, the accused (Fatimah bt Yeop) is accused of committing adultery. A false confession made by the accused. However, the prosecutor argued that there was evidence against the Accused of giving birth to a child out of wedlock. Therefore, the Court has given its opinion in this case that admitted to have given birth to a son and that she has never married anyone. In addition, is also pregnant and gives birth to a child, so the act is evidence of intercourse with a man. In this case, the offense of *zina* does not lead to the *hudud* punishment, instead adopting *qarinah* or related facts as the basis of conviction. Next, *Qarinah* can prove someone's bad intentions even though on the surface that person's intentions are not known by anyone but himself, but every crime is related to intention. In addition, *Qarinah* can also strengthen the *shahadah* and the confession of the offender even it can replace the function of *shahadah* and *bayyinah* when it is difficult to obtain the evidence in a case.

Last but not least, the method that can be used in proving the crime of witchcraft in the Syariah Court is to use expert opinion. According to the original method of common law, testimony in the form of opinion is not accepted in proving a case in Court whether it is a civil or criminal case. Witnesses are only allowed to present known facts. The witness cannot express a conclusion based on those facts which are defined as opinions. However, this principle is excluded in certain circumstances, for example when the court does not have expertise in the field at issue in the case. In this situation, experts are needed to complete the information and guide the court to understand the technical issues so that the provisions of the case can be decided. This fact has been confirmed by the judge in the case of Syed Abu Bakar b Ahmad v PP, that in questions involving specific knowledge or experience beyond the reach of the court, expert help is needed to enable the court to make an appropriate decision. Expert opinion or *ra'yu al-Khabir* is defined as something that can be obtained from someone who has experience, skills, knowledge, recognizes and learns something. Sometimes a case will not be resolved unless the Court asks for an opinion from a group of experts or experts in a certain field. In this situation, the Court will use this expert's opinion to help it decide the case after the Court is satisfied. Although this decision is made by the Court and the Court is responsible for the decision but it is based on the

opinion of an expert who is believed to be correct by the Court. In determining the qualifications of an expert, the court has to consider things such as academic qualifications. The competence of an expert witness is a key question determined by the Court, although in practice there is flexibility. Experts need to prove their expertise in the issues involved by presenting a certificate, diploma or degree that recognizes their qualifications. For example, a medical practitioner or scientist must first testify about his qualifications before the Court will allow him to give an opinion. However, if a person is an expert, but his expertise is not relevant to the field becomes a dispute, his opinion will be rejected. In addition, Expertise is not required through formal academic qualifications alone. A person with experience in certain fields is also considered an expert. The intended skill is not necessarily through learning or specific study. It can also be gained through experience. Skills obtained not from the results of daily work are also accepted by this Court because, the Court only cares about the expertise itself and not the employment status. However, experience alone does not qualify a witness to give expert testimony, unless that experience has a specific connection to the issue in dispute. It should be emphasized that the intended expertise does not mean that an expert is really an expert or professional specialist in the field in question. It is sufficient to have sufficient knowledge. Expert testimony is supporting evidence to strengthen the facts of the case. In certain cases, expert opinion acts as a reinforcement or supporter of the existing evidence. While in other cases, expert opinion alone is sufficient to convict the accused. If the expert opinion given as support is not relevant to the case or the criteria of the expert witness who gave evidence does not meet the conditions of the testimony then the opinion can be rejected by the Judge. Expert testimony can also help the Judge when resolving a dispute by giving their opinion or view. The judge will ask for expert testimony to support or explain a case issue. Based on the testimony of the expert opinion, the Judge will decide on a case decision. However, the decision is not final and the Judge has the discretion to accept or reject expert testimony that the Court believes to be true. Expert testimony is recognized by the Islamic judicial system as evidence for sentencing. The basis of the acceptance and use of expert opinions can help judges resolve case issues. Thus, the acceptance of expert opinions as professionals is very relevant because they are involved in technical fields and are skilled and able to provide answers to every question and solutions to complex facts. Therefore, to compensate for the Court's lack of knowledge, the opinions of professionals and people with expertise in the subject matter are allowed on the basis of safeguarding the greater public interest.

Challenges in Proving the Crime of Witchcraft

Among the challenges faced by the government and sharia law in Malaysia in proving the crime of witchcraft is the absence of specific laws related to the crime of witchcraft. The absence of laws related to the crime of witchcraft in Malaysia can have several disadvantages. However, it is important to note that until now Malaysia does not have a law that specifically criminalizes the practice of witchcraft or witchcraft-related crimes.

Firstly, the absence of laws related to witchcraft can provide room for discriminatory actions against practitioners or adherents of certain spiritual beliefs. Without clear legal protection, individuals who practice witchcraft or have different spiritual beliefs may be the target of discrimination, persecution, or even violence by that criminal offender.

Secondly, when there is no law regulating the crime of witchcraft, this can create legal uncertainty and confusion among the community. Without clear legal guidelines, it is difficult to determine how they want to bring the case related to this witchcraft crime to justice. It's because when the victim wants to bring this case to court, they can't get the judgment they should get because there is no specific legal provision that can convict the crime of witchcraft.

Thirdly, the absence of laws regulating the practice of witchcraft can also have an impact on the health and safety of individuals. If the practice of witchcraft involves the use of dangerous chemicals, potentially harmful rituals, or the abuse of power against others, without regulating laws, there is no mechanism to protect society from these potential dangers. It is important to remember that views and understanding of witchcraft vary among communities, and some people may not believe in witchcraft or consider witchcraft not a serious threat. Therefore, in considering any law, there needs to be a balance between protecting society and individual freedom of religion and belief. Jurisdiction to hear cases involving witchcraft must be given to the sharia court. The solution to the most important issue in the

implementation of this witchcraft law is that prosecution procedures also need to be made. Its implementation requires detailed research on several aspects such as determining whether the crime of witchcraft falls under hudud, qisas or ta'zir according to Islam and the views that will be used towards implementing the crime of witchcraft law in Malaysia. This will involve reaching different levels of proof either at the prima facie or judgment level. Therefore, the forms of proof and evidence for the crime of witchcraft are still not clearly defined and this situation is a major issue that needs to be established first because it is the main pillar towards the implementation of the crime of witchcraft law in Malaysia.

In addition, the challenge found in proving the crime of witchcraft in the Syariah Court in Malaysia is the lack of expert manpower in conducting investigations into the crime of witchcraft. The expertise of certain groups in the field of witchcraft or black magic is also a major issue and this matter is closely related in the process of prosecution and proof. Until now, there is still no body or group of experts responsible for the process of carrying out the crime of witchcraft in Malaysia. This is because there are many things that need to be considered to create an entity like this because witchcraft is a crime of black magic that cannot be seen and evaluated with the naked eye. In order to guarantee transparency in the investigation and the reliability of the evidence and testimony presented, it is suggested that a special investigative body be established called the Witchcraft Crime Investigation Department or any name that is appropriate under the Royal Malaysian Police (PDRM). The Witchcraft Criminal Investigation Department will adopt the same organizational structure as found in the Criminal Investigation Departments under the PDRM. Among them is that the Witchcraft Crime Investigation Department will be headed by a director who will be responsible for all instructions, control and supervision of all matters related to the Witchcraft Crime Investigation Department. This department will have branches in every state to make it easier for the public to deal. Since this department is involved in investigating a crime that is difficult to detect with the naked eye, it needs to have some specialization. Among the most important specializations is the establishment of a Special Advisory Board to the Magic Crime Investigation Department. The appointed members must be an individual of integrity, credibility and good reputation, either in terms of academics or extensive experience or have achieved recognized excellence in the relevant profession. Officers of this department should also be trained and exposed, whether through courses, training, workshops, work instructions and the like, about investigation procedures, methods to obtain information about the type of magic, materials used, masterminds, ways to conduct searches to find and identify the ingredients used in witchcraft. Investigating Officers must also undergo special training to understand the intricacies of the practice of witchcraft which includes the elements that form the core of witchcraft and deception found in it from all aspects of religion, ethnic tribes and practices. All course content and training must be drafted, reviewed and endorsed by the Witchcraft Crime Advisory Board.

Solutions to Address Issues and Challenges

In order to solve all the problems, issues and challenges in proving the crime of witchcraft in the Syariah Court in Malaysia, there are several suggestions and alternatives that can be used, including the need to create cooperation by members of the state legislative assembly and the Syariah law department in Malaysia in creating laws or enactments that specialized in the conviction of witchcraft crimes in every Syariah Court. The division of power between the central authority and the states also needs to be touched on because it involves the issue of jurisdiction over Islam. As is well known, the question of the administration of criminal law and justice is placed under federal jurisdiction. Meanwhile, Islam is placed under jurisdiction of each state. However, it should be explained that matters related to Islam as found in the constitutional framework actually revolve around family law issues. There are even laws that limit the jurisdiction of sharia courts. Efforts in this direction have almost been completed by those who specialize in law, especially by academics. The draft of the Crime of Magic law in Malaysia has also been successfully created but it is not an easy endeavour to continue to be approved due to obstacles from other angles. However, the existence of this draft to some extent shows the seriousness of certain parties towards implementing the law on the crime of witchcraft and thus can open the eyes of the more powerful parties to evaluate it.

In addition, the Syariah Court Institution in Malaysia needs to establish an authoritative body consisting of experts in the crime of witchcraft. Prof Madya Dr Lukman Abd Mutalib said in the Syafie school, a

qadi or court judge is allowed to study witchcraft for certain purposes to identify the crimes of witchcraft committed by irresponsible people and that is the reason why Islam views this issue as a serious matter by opening the space to learn knowledge related to magic. However, nowadays in Malaysia there are already trained experts such as Darussyifa Treatment Centers and so on who can be used to help judges in court solve problems related to witchcraft. Once the establishment of the Magic Crime Investigation Department can be realized, then the procedures that are normally followed in any court proceedings such as complaints to officers, investigations, arrests, searches, prosecutions and trials will proceed as usual. Although the procedures and procedures carried out seem to be the same, there are some specific methods that must be used in investigating cases related to witchcraft crimes. This method must be followed strictly at every level and with full precision so that the transparency of the investigation can be witnessed by those involved. Therefore, in short, all those involved must have their own expertise and discipline, including Islamic medical practitioners, the police and scientists. More importantly, the expert testimony created must be those that can be accepted and recognized by the court. Expert bodies or experts who are trained in the method of proving the crime of witchcraft can provide several advantages in the legal context in Malaysia, among them is expert bodies have specialized knowledge and expertise in the field of witchcraft and related phenomena. They can help identify true magical practices from false or fraudulent practices, as well as understand the cultural and religious context involved. Additionally, expert bodies can help provide scientific and objective evidence that supports or refutes claims related to the crime of witchcraft. They can perform relevant analysis, tests, and research to determine whether there is strong or insufficient evidence to support a legal claim. In addition, based on their knowledge and experience, expert bodies can provide recommendations to authorities, such as the police or courts, on how to deal with cases related to witchcraft. This can help a better and more informative decision-making process. However, it should be noted that it is important to have an objective, independent, and well-trained body of experts in the field of magic. They must follow strict professional and ethical standards, and not favour or reinforce beliefs that are not based on scientific evidence. This is important to ensure justice and integrity in the legal process involving the crime of witchcraft.

Apart from establishing an expert body in proving witchcraft crimes in Malaysia, the important thing is to establish specific procedures and guidelines in the investigation of witchcraft cases in Malaysia. It is recommended that a procedure and guideline be formulated in this matter, including establishing a special investigation department that has the authority to investigate and carry out all related procedures to combat criminal activities using witchcraft. Next, in the procedure there should be a definition and a list of criminal offenses related to magic and their punishments. Then, the procedures and rules that must be understood and followed by an officer in receiving complaints, conducting investigations, conducting searches, making arrests, examining people and goods and the last is the type of evidence that can be used as evidence and used in court hearings.

Conclusion

In conclusion, criminal acts that involve the use of witchcraft is one of the diseases in society that until now has no cure. This crime has spread far into the cells of society's life and has become a cancer that is difficult to cure. The use of witchcraft is global and exists in various aspects of people's lives throughout the world regardless of the position of a country whether backward or advanced. It is one of the oldest sciences that has been practiced and passed down from generation to generation since the beginning of human history until today. Among the witchcraft that often happen to victims in society in Malaysia are divorce witchcraft, loving witchcraft and Santau witchcraft. These three types of magic have their own signs based on the specific methods used by magic practitioners. Although there are many names attached to witchcraft, but the goal is one, which is to cause harm to someone. The various reasons that cause someone to practice and use magic include the result of ignorance of religious knowledge, revenge, envy, incitement of jinn and the devil, seeking personal and etc. Compared to some other countries that once had witchcraft legislation even though it was later abolished, Malaysia at the federal or state level still does not legalize witchcraft as a criminal offence. The application of the law to treat this symptom is very necessary considering that it is embedded in society and spread widely regardless of the borders of the country and race. Therefore, research to find the cause and how to treat this problem is very important because it is an effort to save the members of society affected by witchcraft and prevent it from spreading further and disrupting public order. Although the available

space from a legal point of view is still limited and it seems that its implementation requires more review and research, but it is not something that is impossible to implement. Therefore, in an effort to formulate a legal mechanism that is able to deal with the problem this crime of witchcraft, there are some issues, questions and also challenges that become obstacles and restrictions in the implementation of this crime of witchcraft law in Malaysia. Then, each of those needs to be carefully evaluated and analysed in depth so that the best path can be reached. The involvement of all parties also plays an important role, especially the government and members of parliament.

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