



Black magic and respecting persons—Some perplexities

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Abstract

Black magic (henceforth BM) is acting in an attempt to harm human beings through supernatural means. Examples include the employment of spells, the use of special curses, the burning of objects related to the purported victim, and the use of pins with voodoo dolls. For the sake of simplicity, we shall focus on attempts to kill through BM. The moral attitude towards BM has not been, as far as we know, significantly discussed in contemporary analytic philosophy. Yet the topic brings up interesting questions and poses challenges, occasionally even reaching the level of paradoxes. Ideas of respecting persons, in particular, will be seen to be challenged by this form of magic. The notion of respecting persons will be treated here broadly and pluralistically. Indeed part of the interest in the discussion will be the unfolding of the diverse ways in which this term should be understood, and the contrasts between its various uses. Often, as we shall see, respect for persons and disrespect for them, in different senses, will co-exist, and the dilemma will be one where avoiding some forms of disrespect will involve us in disrespect in other senses.

KEYWORDS

attempted murder, black magic, Kantian ethics, moral dilemmas, moral paradoxes, respecting persons

1 | PRELIMINARIES

Black magic (henceforth BM), for our purposes, is acting in an attempt to harm human beings through supernatural means.¹ The practitioner of BM aims to harm the purported victims, or at least significantly increase the probability of their being harmed. Examples include the employment of spells, the use of special curses, the burning of objects related to the purported victim, and the use of pins with voodoo dolls. For the sake of simplicity, we shall focus on attempts to kill through BM, and assume (unless otherwise specified) that these are cases of unjustified attempted murder. The moral attitude towards BM has not been, as far as we know, significantly discussed in contemporary analytic philosophy. Yet the topic brings up interesting questions and poses challenges, occasionally perhaps even reaching the level of paradoxes. We aim to present some of the philosophical and ethical interest raised by BM, and describe in a preliminary way some of the issues that it raises.

The perplexities arising from BM will be seen to be a fascinating 'laboratory' for investigating some familiar ethical and social dilemmas in a radical setting on the one hand, and of uncovering some new dilemmas on the other hand. Some of the situations involved will be shown to be such as where anything we do will be seemingly unacceptable. Often, practices such as paternalism, manipulation, deception, and gross disrespect will be attractive alternatives. Beyond the practical interest in the treatment of BM, particularly in societies in which BM is widely believed, our exploration of the moral and legal aspects of addressing BM practices will help to think anew about fundamentals of morality, and about both moral and legal dilemmas. The unfamiliar territory of the attitudes towards and treatment of BM will be seen to bring forth surprising results. Ideas of respecting persons, in particular, will be seen to be challenged by this form of magic.²

The notion of respecting persons will be treated here broadly and pluralistically. Indeed part of the interest in the discussion will be the unfolding of the diverse ways in which this term needs to be understood, and the contrasts between its various uses. Often, as we shall see, respect for persons and disrespect for them, in different senses, will co-exist, and the dilemma will be one where avoiding some forms of disrespect will involve us in disrespect in other senses.

The common term, 'black magic', relates to the intents of the practitioner of the 'magic', which are to harm others, and to the nature of these practices, which are often said to be illicit, evil or cruel. The term might also relate to the night, where people, working under the cover of darkness, can presumably more safely engage in their secretive pursuits. The black arts have been pursued in all cultures throughout history, and even today believers and practitioners of BM can probably be found in every society.

We are assuming that BM has no direct efficacy, i.e., that it does not have the ability to directly influence the purported victims through the means it uses. Nevertheless, if those purported victims are aware of being targeted by BM, and have some belief in its force, it can be indirectly effective, by causing psychological fear; it can even be lethal. We shall be focusing on examples where the attempted murderer engages in BM because of his direct (false) belief in its efficiency. Namely, he is trying to harm the purported victim directly through the practice of BM, and is not merely engaging in it in the attempt to scare the superstitious victim.³ We are also assuming that the BM agent is not mentally deranged and would otherwise be fit for being morally evaluated and for being

¹There is some debate about the borderline between the natural and the supernatural, but we need not enter these complexities, for we will focus on clear cases, far beyond the disputed borderline. We also set aside here the topic of prayer, although some types of prayer may also be attempts to harm human beings through the supernatural. See for example Smilansky (2012); Peterson (2014). Among other differences, the appeal to a God through prayer is not as a rule perceived as using dark forces.

²BM often involves extreme actual violence and intimidation, and these raise obvious moral concerns. We shall, however, be focussing on directly-harmless BM, which is more morally puzzling.

³The adequacy of speaking here of beliefs can be questioned. For related discussions see, for example, Bergamaschi Ganapini (2019); Ichino (2018); Jackson (2019); Levinstein (2019). There are, of course, limits to the attribution of "beliefs" to people at the edges of gross irrationality, but obviously we can attribute false beliefs to people, even grossly false ones. Hence, in our opinion, this issue does not affect our discussion in the great majority of cases.

legally charged. We will not distinguish between engaging in BM oneself, and hiring someone so that he or she will practice the black arts for you. Engagement in BM can, of course, be collective, and conspiracies (and the fear of conspiracies) involving BM may be widespread.

There is significant variety among practices of BM in different societies, and in the beliefs of those involved (see, e.g., Chireau, 2003; Hoyt, 1989). This variety may cause, on some occasions, the relatively straightforward story we are telling here to be too simplistic, or even misconceived. For example, it might be that practitioners of BM believe that God or some other being is morally scrutinizing the actions, and the BM will not be effective unless it is morally approved by God. Even then we might appropriately treat such cases as attempted murder. Yet in any case there is no reason to think that this is the most common case, let alone that it covers the whole field. For the sake of this discussion, we can consider engaging in BM (either directly or through hiring others) as attempts to harm other people that are not very different from a more conventional engagement in harming others. One does certain things, or pays someone else to do them, in order to harm someone else. The BM is performed on the assumption or, at least, the serious hope that it is an effective way of harming that person. It might of course also have other advantages, such as its being long-distance or secretive. Even if there are unconventional accompanying beliefs (e.g., that the devil, evil spirits or similar beings are engaged in assistance), there will often be a reason to view the practice as a form of attempted murder, on a par with the standard cases. If sticking a pin into the heart of a doll representing a person is firmly believed by the agent to be equivalent to murdering him, then such a case seems to be similar to a case of sticking a knife into that person's heart with the same hope. The intervening BM 'technology' should, at least in many cases, change little in the way in which we view what is going on.

2 | BM—THE CASE OF ATTEMPTED MURDER

Contemporary Western countries do not, as a rule, legally charge persons engaged in BM. In the UK, for example, the Witchcraft Act of 1735 was repealed in 1951, but it had hardly been applied in a century. In the US the belief and practice of witchcraft is a right guaranteed by the constitutional rights to freedom of belief and religion. A person believing in the efficacy of the practice, who engages in it intentionally in order to murder, say, his neighbour, will not be prosecuted. It would be thought silly to prosecute a person for engaging in what are believed to be clearly harmless, superstitious practices. Some related matters might be of interest to the law, such as promises guaranteeing results based upon BM or forms of blackmail which rely on a shared belief in the practice, but such fraud related issues will not be the focus of this paper.⁴

Yet note that, morally, there are good reasons to take such BM to be attempted murder. Sometimes even if the practitioner himself sees the practice as not guaranteed to work and perhaps as involving some fantasy. Nevertheless, *bona fida* cases of BM will be thought by the practitioners (or by those who hire their services) to have some significant chance of success in murdering the victim. This means that, systematically, attempted murders will not be prosecuted.⁵ Not charging those engaged in such manifestly non-normative attempts at harming others may seem problematic. Yet so also will be the opposite alternative, of prosecuting attempted murder through BM.

⁴The topic of attempted harm through BM is doubly complex in the legal sphere, involving as it does the topic of attempts, and the topic of impossibility (see, e.g., Fletcher 1986; Yaffe 2011). Since there is a consensus of non-prosecution for BM, and given that our emphasis is on *moral* considerations pertaining to respecting persons, we need not enter into these large complexities.

⁵Such cases may hence fall under the heading of 'Teflon imorality' (Smilansky 2013).

2.1 | Trouble for Kantians, moral luck, and the moral-legal divide

The most obvious perplexity exists for Kantians. According to the received view of Kant, what morally matters is the moral choice and intention. Hence there is a manifest moral reason to see a case of fully aware, intentional use of BM in order to kill someone, as being on a par with any intentional homicide. True, the 'weapon' used is ineffective. But that is no different from aiming a loaded pistol at another person and pressing the trigger, not knowing that, say, the striking pin is absent. The claim that we should prosecute such cases is a straightforward consequence of the Kantian view according to which desert is a sufficient condition for a duty to punish (Kant, 1996). This raises a serious difficulty for deontological positions of this sort. For, if Kantians were to say that we must prosecute sane adults who have attempted to murder other human beings through BM, since such people *deserve* to be punished, then that would seem to be, if not quite a *reductio* of Kantianism, then a severe embarrassment for it.

There are of course numerous views on the justification of punishment, and we need not decide among them here. Except for a desert-based, firmly principled retributivism such as of the Kantian sort, all other views will not be too troubled by cases of BM, or pushed towards the prosecution of practitioners, in countries where belief in BM is not pervasive. Utilitarian-like consequentialist considerations in favor of prosecution will be negligible. Declarative and educative views of the purpose of the law will not wish to entangle themselves with what is socially perceived to be superstitious nonsense. It is not accidental that, at least in the West, prosecution for BM is virtually nonexistent. Engaging in it would seemingly put the law into disrepute.

The practice of not prosecuting attempted murderers through BM also means that we seem to be taking a distinctive position on 'moral luck' within the law (i.e., on the desirability of 'legal luck', see, e.g., Enoch, 2010): using ineffective means suffices to shield the attempted murderer from legal action. Yet note that, unlike many instances of moral luck, there are no epistemic difficulties involved here: the status of many acts of BM such as we are considering *as* attempted murders cannot be in any real doubt. To the extent that we view the attempted murderer (using BM) as such, yet do nothing in the legal sphere, this raises a vast gap between the moral and the legal.

These implications of BM raise the issue of respecting persons in a rather striking and paradoxical way:

1. Legally prosecuting a person for attempted BM murder would seem to be a gross breach of respecting persons: we would be charging a person with one of the most severe crimes, and aiming to put him in prison, while he was merely engaging in silly, harmless practices. To put a person in prison without good reason is wrong. In this case the wrongness itself is grounded in the disrespectful nature of punishing a person *for* BM.
2. Not legally prosecuting a person who had engaged in attempted BM murder would seem to be a gross breach of respecting persons: we would be not prosecuting an adult, sane moral agent engaged in one of the most severe crimes, who morally clearly deserves punishment for attempted murder. We would be thereby belittling his agency. If the acts became known, we would be publicly humiliating him because of his beliefs. In any case, we would be treating him as one would a young child or the mentally disabled or deranged, who are not fit to stand trial irrespective of what they attempt to do.

The only reasons why we would not accuse the user of BM of murder would be that we are looking down upon his beliefs, since BM is clearly false. This would contrast with his peer in a nearly identical case who, say, pushed over a large potted plant from the windowsill, aiming at the neighbor's head when the latter was entering the building and passing below him. This person would be seen as deserving prosecution, and would be accused of attempted murder and put on trial. But, we are thereby clearly implying, BM is silly, there is no objective justification for believing in it, and anyone who uses it cannot be taken seriously, let alone put on trial—while not to the extent that he be deemed otherwise unfit to stand trial. There is no other reason for the difference in attitudes and practices. There is every reason to think that from his perspective the BM practitioner was engaged in one of the most

severe of crimes, yet this does not lead us to take his actions seriously, legally, because we do not take his most fundamental beliefs here seriously. He may see himself as doing the best that he can, given his beliefs, trying to kill someone but, because we look down upon his beliefs so much, even this does not lead us to take him seriously.

In a modern, Western country we would be shaming an attempted BM murderer by putting him on trial, in two ways: as a bad person, and as a fool. He would quite likely become the laughing stock of the media and, very quickly, of the whole country. And it would be ludicrous, we feel, to do so. We might not view him as a fool in general, and may excuse his belief in BM. Yet in this particular matter, we are certain that what he is doing is foolish. Respecting persons *prima facie* requires that we take him seriously, as a mentally sane adult engaged in what he takes to be very serious matters, and in a way that reflects some of his most fundamental beliefs about the world. But our derision prevents this. He is *saved* from prosecution by our derision for the irrationality of his beliefs, but may thereby be *mocked* in the most fundamental way. The mockery would emerge with particular force if the discovered BM would-be murderer requested to be taken seriously, and demanded to be put on trial. Perhaps he would confront us and claim that we were not respecting him, by our failure to do so. But even without such a farcical confrontation, the situation is, in itself, disrespectful. Not to charge him with attempted murder follows directly, and clearly *implies*, that we disparage his beliefs; they are held to be as it were beyond belief. Hence we do not take his intentions and actions seriously and, in this sense, do not respect him as a person.

We can also see the difficulty by looking at such individual BM practitioners in the context of a community of people with similar beliefs, within a Western society. Putting such a person on trial for what would be portrayed as silly beliefs would ridicule the traditions and practices of his community, and thus risk causing widespread disrespect of the whole community. But public knowledge that such practices are engaged in and are *not* prosecuted will also risk portraying the community in a negative, disrespectful light, as people who, unlike the majority, are not as it were worthy of being taken seriously, even when attempted murder is on the line. And of course prosecuting BM for the sake of 'equality' of treatment, or political correctness, would also result in widespread disrespect of everyone involved. BM seems to be a *trap of disrespect* from which there is no easy escape.

Moreover, communities where belief in BM is widespread, within Western countries where skepticism about BM dominates, present special difficulties. The beliefs will naturally be most disturbing within the community and, for example, witch doctors and the like will typically prey on that closed community. Yet calls for defence from BM addressed to the larger, BM-skeptical community will be risky, inviting disrespect from the widespread community.

2.2 | Hoping the silliness continues

Let us return to our person who is using BM in the attempt to murder his neighbour. If we believe that this person would use other, more effective means if he came to realize that BM is ineffective, then *we would be glad about his mistaken beliefs in BM, and wish them to continue*. If his intentions are expected to be constant, we are rooting for the continuation of his laughable beliefs. And we might well seek to encourage them; for example, that he continue using curses and spells. These beliefs may be the only thing preventing his successfully murdering his neighbour; the only thing saving his neighbour's life, and him from the status of actual murderer. We might also think that the very engagement with BM invites obsession or otherwise preoccupies one's mind with revenge or harm. Arguably those lacking such beliefs would often just move on, whereas obsessed BM practitioners will not – and might eventually choose other, more effective means, once these fail them. But given that the person is bent on harming his neighbor, and if his beliefs begin to waver, and he begins to weaken in his attitude about the efficacy of BM, this is worrisome. We, then, *prima facie* wish for the firmness and constancy of his errors. If he begins to have doubts about the efficacy of BM and asks us, we might well try to allay his fears. Morally, his living in illusion may be, all things considered, a good thing. Other things held constant, we are not worried so much about his beliefs in BM, but about their stability.

Admittedly, the best route would be to correct all of his beliefs, including the belief that his neighbour should be murdered, but that option may not be available. Under certain reasonable assumptions, his illusory state may indeed be good for everybody, including himself. There may well be nothing better that—realistically—we would wish for. Yet all this overwhelming derision, manipulation, deceit and paternalism hardly sit well with morally acceptable behaviour, and manifestly create tensions with respecting persons. There is here a belittling of autonomy, fundamental distrust, and a deceitful aim to actively maintain the person's false beliefs (albeit for the purpose of defending others from him).

There would be exceptions. If, for example, his neighbor is a real and acute threat, which he needs to deal with effectively, then his own false belief about the efficacy of BM would be endangering him in his self-defence. We may, then, feel obliged to tell him, hoping that he will not switch to more effective ways of murder but rather, say, turn to the police. Yet this disclosure itself would also not be easy, in terms of respecting persons. There is no nice way about it: we would need to tell him that we believe that his fundamental beliefs are false, and that his attempts at self-defence are ludicrous. We might try to say this in a polite way, but we would need to tell him, in effect, that we (and, we are sure, any sensible person) think his beliefs to be foolish on this matter, in a way that is endangering him. This is not merely a matter of having false beliefs, where surely we can respect a person *despite* informing him of his errors; and indeed *by* doing so. The dramatic nature of the beliefs involved, coupled with the situation of his (ineffectively) attempting murder, make matters here extreme.

And, given our *prima facie* interest in the continuation of his false beliefs - assuming, say, that without them we fear that he would go and beat his neighbour on the head—it is clear that our concerns are mainly pragmatic. In this sense, it is clear that we disrespect him for, after all, we are *prima facie* happy about his living in illusion, and we would *not* help him to see the light except in very special circumstances. For example, where we have no real choice, and must protect him from the implications of holding his beliefs about the efficacy of BM, which render him powerless to defend himself. It might be countered that hiding a truth from someone does not count as failing to respect him as a person, if it is almost certain that upon possession of that truth he would proceed to murder an innocent person. But the doubts here seem to confuse our attitude towards the beliefs of the BM practitioner and the obvious justification of not enlightening him. It is justified not to inform him (except, perhaps, when we need to do so in order to save him), but in this sort of example, letting him continue with his silly practices is based upon a basic measure of disrespect, and manifests it.

2.3 | An attempted murderer defending effectively from BM

But what happens if a man defends himself from what he perceives as the grave threat of BM, in a non-BM, illegal and violent way? This would, of course, depend on the particularities of the case; and different legal systems may treat such tricky cases somewhat differently. Yet, in a general way, we can say this: here, his beliefs in the power of BM may well help him to defend himself in court. In this sort of case, matters become subtle. Attacking your neighbor in what one perceives to be circumstances of self-defence against acute, urgent danger, would *prima facie* render one's actions more excusable, and might operate as a mitigating factor, than a similar aggressive action without the perceived BM threat and 'need' for self-defence. Here, the fact that BM is not a real threat may become a moot point. In one way, our attitude may be similar to that towards the insane, who believe that they are pursued by demons. But this man is not insane, there is no cause for putting him in a mental institution. He merely has ludicrous beliefs on this particular matter. Here, we will, in a sense, take his ideas seriously, they will affect our moral and legal attitudes towards him. In this sense, we will be respecting him, when we deal with *his own reaction* to his belief in BM, in a way that we were not ready to do when he attempted murder through BM, and we did not prosecute him. We will be taking his self-defensive posture *as* self-defence (albeit based upon false beliefs), in a way that might assist him, while previously we were not willing to take his aggressive acts seriously and prosecute him.

3 | DEALING WITH THE FEAR OF BM

The tension between respecting persons and the benefits of illusory beliefs in BM is of course not limited to the sort of case we are exploring. If a woman is terrified by the belief that, say, her work colleagues have cast an evil spell on her, then we might try to convince her that there is no such thing. That is not an easy thing, without clearly implying our disrespect for her beliefs. This is not, after all, a case such as when one has a false belief about some esoteric historical facts; or about a view about the world on which reasonable people can disagree. Saying that the world of BM is absurd, to such a person, means that we imply that we consider her *foolish* on a broad and important matter. This, in dealing with an adult, would in effect be telling her that we disrespect her. There are then some *pro tanto* good reasons not to enlighten her, even just in order not to indicate such deep disrespect. Yet this, in itself, is a form of gross disrespect, for it means that we take another adult person and say things such as that she does not seem to want to know the truth, may not be able to accept the truth, or might not be able to handle it. Paternalistically we are, thus, withholding the truth from her, for her own benefit. These are not minor matters, such as instances where sensitivity to others' feelings, or indeed even sheer politeness, will suffice in order to justify keeping silent.

Arguably, according to the Kantian account of respect for persons, we would not be disrespecting her when enlightening her, but treating her respectfully, and enhancing her autonomy. But this puts the Kantian requirement in a position of confronting and shaming people concerning some of their most central core beliefs. A Kantian-inspired injunction to always enlighten people, even when we think that they would prefer not to be enlightened, is, in that way, *not* respectful of persons (compare the need for sensitivity to the desires of patients not to know the truth about their illness).

Yet in the scenario we are envisaging, the woman *lives in fear of BM*, and thus there is a further possible justification for enlightening her. The metaphor of enlightenment here becomes almost literal. But, in a further twist, there is something disrespectful even in the nature of that last motivation. At least in some cases, we would be saying to ourselves something like the following: (a) her central beliefs are silly; (b) we look down upon her processes of ratiocination; (c) we look down upon her apparent disinterest in truth and her happily wallowing in superstition, even eagerness for it; but (d) she probably cannot handle the truth well; so (e) we would have kept her in the dark; except that (f) it happens that the darkness is too frightening for her; (g) also because of her deep-rooted basic silly underlying beliefs; and so (h) whether she wants to know or not, (i) we will enlighten her, for her own good. Surely all this would be a monstrosity of multifaceted disrespect. Note that such manifold and deep disrespect can exist together with a deep sympathy for the woman, in her predicament; but the sympathy would not erase the disrespect. Yet it seems difficult to see how to escape telling her, without abandoning the woman to suffer from her terrifying fears of BM by herself.

Matters may not stop there. It will often be the case that the only way in which such a person may be relieved from her overwhelming fears about having been the victim of BM is for her to engage in protective BM herself. If we realize this and play along, we would not then only acquiesce in her ridiculous set of beliefs. We would welcome or even encourage them, while not believing in any of this ourselves. In this case, again, it may be best, everything considered and for everyone, that such living with deep illusions continues. Yet this involves a considerable price in terms of respecting persons. For, consider that this will be similar to the way in which we may treat a child who is afraid of the monsters under her bed, and we would go along and abet the child's magical defensive make-belief. Or, it will be equivalent to cases when medical practitioners play along with the beliefs of psychiatric patients, 'co-living' in the fake reality of their patients for the sake of the treatment. In one sense they are not doing so out of disrespect for their patients, but rather may (hopefully) respect their patients as persons, and seek to help them out of respect and care. Nevertheless, it is hard to deny the attitude of disrespect involved—the patient is hardly treated as an equal. After all, the psychiatrist would presumably not agree to being herself thus deceived for her own good, by her colleagues.

4 | PERPLEXITIES UNDER CONDITIONS WHERE BELIEF IN BM IS WIDESPREAD

In societies where the majority of people believe in BM the situation may well be different, and *the prosecution of BM practitioners may be morally reasonable*. The main reason is that, in the light of the widespread belief in it, BM is a cause for widespread fear. Just as one ought not to intentionally put a harmless spider in front of a person whom spiders terrify, although there is nothing to fear from those particular creatures, one ought not to publicly engage in BM when people who are terrified by it can see. There might, as with spiders, be ways of treating the fears through engagement with the object of the fear, but this is very different from our present concern. Moreover, particularly where belief in BM is common, it opens up widespread possibilities for irrational mass hysteria and counter-attack. So under such conditions it may make sense for a government to legislate against the practice of the arts of BM, and prosecute those who engage in it. Both utilitarian-like directly consequentialist justifications of punishment and more broad educative and declarative ones may support such moves. This may be so even if those deciding this themselves do not believe in the direct power and, indeed, the possibility, of real BM. To that extent, the enlightened would here be operating in a *paternalistic and deceptive way* towards the people of their own society. And even if this were done for what were thought to be, all considered, good reasons (which might indeed be compelling), they would thereby embed the prosecution of silliness in their country's legal code.⁶

This should not be taken lightly. It is morally problematic to prosecute people for behaving in a non-harmful, nonsensical fashion, just because other superstitious people are afraid of it. So, even if many people believe in the power of the rain dance, it seems intuitive to think that we still should not prosecute the person who dances for rain in order to ruin her friend's outdoor wedding. Other people's irrationality should not turn a silliness into a crime.

If that is our general position, does it matter that the people we are about to prosecute for BM are morally deserving of it, in terms of their intentions? It does seem to be so, for, after all (to return to the paradigmatic cases), these are attempted murderers, and their moral rights would not be violated if prosecuted. But then, as we saw, the same factor is also insufficient to cause justified prosecution in societies where the fear of BM is not overwhelming. So what is the difference? The answer, it seems, is not related to the people being prosecuted in themselves, but to the differences in the external circumstances, and expected consequences. Prosecuting here would be carried out merely due to the widespread prevalence of the superstitious among the population, with their irrational fears (and the concomitant expected results such as spreading mass hysteria and causing unrest), and that as well seems morally dubious. The disrespect here is not only to the particular practitioner of BM, but to the whole community.⁷

Moreover, *outlawing BM is a form of taking it seriously*, and will be considered by many to be an affirmation of its reality and efficacy. Fighting against practices of BM may be justified due to its indirect influence, but is also a way of respecting the practice and its practitioners, who are taken to be opponents worthy of fighting against. Recall the implications of the very opposite approach in the contemporary West, which we saw earlier. Yet when widespread belief in BM prevails, the methodological effectiveness of derisive neglect might well not be enough to maintain social order and protect the weak. However, to prosecute those engaged in attempted murder by BM, will be widely perceived as confirming and reinforcing the false belief. Many of the superstitious will point to the prohibition as 'proof' that BM has power.

⁶Even today, there are in some countries laws against BM, special police units targetting practitioners, and penalization of offenders. We shall note some instances below.

⁷Religious beliefs can be based on self-deception, but still they have a strong legal protection. Cf. Rääkkä 2014.

A counter-challenge here may be raised, that we do not in any way respect racism by prosecuting racist practices, and taking hate crimes seriously. So why should we fear that prosecuting BM practices will lend credibility to BM? Yet the cases are interestingly different. Like BM, racist attitudes are silly, insofar as they dogmatically distinguish among human beings for arbitrary and morally irrelevant reasons. Yet perfectly reasonably, we wish to defend people from the racism of others, from harmful attitudes and ensuing practices. But we do not defend people from BM in the same way. BM beliefs and practices are—unlike racism and race-based practice—in themselves harmless. There is every reason to defend people from the race-based hatred and discrimination of the racists. The content of the racist beliefs is not, thereby, gaining credibility. By outlawing racism we are addressing the undeniable viciousness of racism; the negative effectiveness of racist attitudes and discriminatory practices is not under contention. Indeed, that is the primary reason why we are addressing them. By outlawing BM practices we may be understood to be implying that such practices as well are effective, which does risk giving them credibility; it reinforces the false beliefs in the efficacy of BM.

Fighting against BM may well then be taken as an admission of its reality, but there may be no choice, if it is not to cause massive indirect harm. Yet again, this puts forth a dubious theory, whereby *harmless practices may become criminal merely because of the superstitions of the possible victims*. There are, no doubt, extreme cases where this might be plausible, by analogy with the impermissibility of shouting out 'Fire!' in a packed theatre. But a criminal system that takes it for granted and operates in that way systematically, is deeply embedded in dubiousness.

The authorities may be obliged to fight against BM also because otherwise they would be thought not to be doing their job. And as a result people are sometimes likely to take the law into their own hands, and fight the practitioners vigilante-style. This is a major concern in societies where belief in BM is widely prevalent (see, e.g., Herriman, 2013; Perlmutter, 2013; Stewart, 2015). A quick counter-move would ask here, rhetorically, whether the law should take on anything that, left alone, would inspire vigilantism? What about racism, which inspired a lot of vigilante injustice in the American South? Surely we do not think that the law should have done the job of the racists instead, in order to prevent the vigilantism. Such examples are, indeed, a common *reductio* of utilitarianism (see, e.g., McCloskey, 1967; Smilansky, 1990; Sprigge, 1965; Ten, 1987). The difference is, as we saw, that those practicing BM are morally guilty in a way in which blacks in the South were not. Yet this, to repeat, puts all the weight on the intentions of the practitioners of BM. It avoids the independent dubiousness of a moral-legal view, and of systematic legal practice, that would prosecute those engaging in silly practices—merely because of the irrational fears of the superstitious self-perceived 'victims' of such practices.⁸

In the contemporary West the pursuit and persecution of BM practitioners would be looked down upon; putting the authorities themselves into disrepute. But if most people in a society believe in the possibility and efficacy of BM, then governments that do not 'take it seriously' would be thought not to be doing their jobs, being 'soft on evil', not protecting the potential victims. Not to prosecute those engaged in murder by BM and put them on trial, would be widely perceived as *disrespecting* the potential victims of BM. And, likewise, the perceived victims of past acts of BM.⁹

Moreover, in such a society it would be clearly held that BM practitioners know what they are doing, i.e., they are indeed attempting murder. For, it is only reasonable to think that the more one takes BM to be real (because its effectiveness is commonly believed in one's society), the more one is inclined to actually think of it as we would a physical murder, hence buttressing the moral case for deserving prosecution and harsh punishment.

The inherent difficulties can be seen from considering the predicament in Indonesia, where beliefs in murderous Black Magic are widespread: 'In summary, the problem of sorcery is that, fearing for their lives, local residents

⁸The thought that the more you live in and are a product of a society that believes in BM the more pro tanto you should be punished (as a BM practitioner) recalls a paradox concerning the severity of punishment; whereby, roughly, the less you deserve to be punished (because of mitigating factors in your background), the more you need to be punished (for purposes of deterrence, in the light of the "hardening" influence of the same background); see Smilansky (2007).

⁹An interesting example from a country where belief in BM is significant but not dominant is Coțofană (2017).

often take it upon themselves to kill a local witch or sorcerer. The state is unable to provide any formal protection for those who fear the sorcerer, rather the sorcerer is seen as being “protected” by statutes that forbid murder’ (Herriman, 2013, p. 7). Hence, ‘The proposed outlawing of the act of claiming to have supernatural powers in order to harm others is perhaps not so different to laws prohibiting offering one’s services to kill people by other means. The difference is that these provisions could be directed against the claims of a “perpetrator” to be able to use supernatural powers rather than, for example, a knife or a gun’ (Herriman, 2013, p. 10). However, there are reasons why the Indonesian legal system, which is heavily influenced by Western legal traditions going back to colonial times, has difficulties in dealing with BM, even in cases where there may be confessions: ‘From a Western empirical perspective you cannot confess to the impossible. It is possible to confess to theft, but it is difficult to see how one can confess to doing something magic, if “magic” is understood to be impossible’ (Herriman, 2013, p. 11).¹⁰

In other countries the law does directly engage with these practices. For example, in much of the Arab world belief in BM is widespread: ‘[S]orcery is viewed as intentionally practicing malevolent or black magic. Recently, in Afghanistan, Gaza, Bahrain, and Saudi Arabia, stricter laws, arrests, and executions have resulted in efforts to deter magical practices’ (Perlmutter, 2013, p. 74).

4.1 | Deception and the effective struggle against BM

It might well be that an effective campaign against BM, in a society where BM is widely perceived as effective, would do best to downplay that BM was thought not to be real. Many, in such a society, are likely to put much greater trust in those who declare that BM is real and a dangerous evil, and the alternative may be to encourage vigilante action against those using the black arts, as we have seen. On the other hand, lying to placate people is often counterproductive. It is disrespectful, in the Kantian sense of disrespect, and often practically unwise (from a consequentialist perspective).

Yet the perplexity and dilemma are real. For, we are speaking here of direct policy in conditions that involve some emergency, not of long-term educative attempts to dispell superstition. And here it is quite likely that openly declaring that (a) BM does not really exist, but is (b) being fought against only due to its indirect effects, may be almost universally considered in *that* sort of society as a way of avoiding what are thought to be obviously real and grave threats. Indeed, such sceptical views might be thought to be the work of the evil forces themselves. This would then be analogical to some conspiracy theories, where the denial of the conspiracy and the evidence presented against the conspiracy theory is interpreted as only being *further* evidence about the conspiracy (Räikkä & Ritola, 2020). If BM is widely perceived in a society to be practised, and to be harmful, not to be fighting against it may be interpreted as a manifestation of the force of the same BM, evil powers.

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¹⁰See also, for example, the recent legislation in an Indian state, which vacillates uneasily between sceptical Western legal views and local beliefs and practices: Maharashtra Act No. 30 of 2013.

REFERENCES

- Bergamaschi Ganapini, M. (2019). Belief's minimal rationality. *Philosophical Studies*. <https://doi.org/10.1007/s11098-019-01369-y>
- Chireau, Y. P. (2003). *Black magic*. Berkeley, CA: University of California Press.
- Coțofană, A. (2017). White man law versus black magic women. racial and gender entanglements of witchcraft policies in Romania. *Kultūra Ir Visumenė*, 8(2), 69–95. <https://doi.org/10.7220/2335-8777.8.2.4>
- Enoch, D. (2010). Moral luck and the law. *Philosophy Compass*, 5, 42–54. <https://doi.org/10.1111/j.1747-9991.2009.00265.x>
- Fletcher, G. P. (1986). Constructing a theory of impossible attempts. *Criminal Justice Ethics*, 5, 53–69. <https://doi.org/10.1080/0731129X.1986.9991793>
- Herriman, N. (2013). Sorcery, law and state: Governing the black arts in Indonesia. *Australian Journal of Asian Law*, 13, 1–14.
- Hoyt, C. A. (1989). *Witchcraft* (2nd ed.). Carbondale, IL: Southern Illinois University Press.
- Ichino, A. (2018). Superstitious confabulations. *Topoi*, 39, 203–217. <https://doi.org/10.1007/s11245-018-9620-y>
- Jackson, E. G. (2019). Belief and credence: Why the attitude-type matters. *Philosophical Studies*, 176, 2477–2496. <https://doi.org/10.1007/s11098-018-1136-1>
- Kant, I. (1996). *The metaphysics of morals*. Mary Gregor (Trans.). Cambridge, UK: Cambridge University Press.
- Levinstein, B. (2019). Imprecise epistemic values and imprecise credences. *Australasian Journal of Philosophy*, 97(4), 741–760. <https://doi.org/10.1080/00048402.2018.1545240>
- McCloskey, H. J. (1967). Utilitarian and retributive punishment. *Journal of Philosophy*, 64, 91–110. <https://doi.org/10.2307/2024096>
- Perlmutter, D. (2013). The politics of Muslim magic. *Middle East Quarterly*, 73–79.
- Peterson, D. (2014). Is praying for the morally impermissible morally permissible? *International Journal of Philosophy and Theology*, 75, 254–264. <https://doi.org/10.1080/21692327.2014.967795>
- Räikkä, J. (2014). *Social justice in practice*. Heidelberg, Germany: Springer.
- Räikkä, J., & Ritola, J. (2020). Philosophy and conspiracy theories. In P. Knight & M. Butter (Eds.), *Routledge handbook of conspiracy theories* (pp. 56–66). London, UK: Routledge.
- Smilansky, S. (1990). Utilitarianism and the 'punishment' of the innocent: The general problem. *Analysis*, 50, 256–261. <https://doi.org/10.1093/analys/50.4.256>
- Smilansky, S. (2007). Two paradoxes about justice and the severity of punishment. In *Ten moral paradoxes*, Malden, MA: Blackwell Publishing, pp. 33–41.
- Smilansky, S. (2012). A problem about the morality of some common forms of prayer. *Ratio*, 25, 207–215. <https://doi.org/10.1111/j.1467-9329.2012.00532.x>
- Smilansky, S. (2013). Why moral paradoxes matter: 'Teflon immorality' and the perversity of life. *Philosophical Studies*, 165, 229–243. <https://doi.org/10.1007/s11098-012-9952-1>
- Sprigge, T. L. S. (1965). A utilitarian reply to Dr. McCloskey. *Inquiry*, 8, 264–291. <https://doi.org/10.1080/00201746508601434>
- Stewart, C. (2015). The courts, the churches, the witches and their killers. In M. Forsyth & R. Eves (Eds.), *Talking it through: Responses to sorcery and witchcraft beliefs and practices in Melanesia*, Canberra, Australia: Australian National University Press, pp. 183–195.
- Ten, C. L. (1987). *Crime, guilt and punishment*. Oxford, UK: Oxford University Press.
- The Maharashtra Prevention and Eradication of Human Sacrifice and other Inhuman, Evil and Aghori Practices and Black Magic Act, 2013 Maharashtra Act No. 30 of 2013. (2013).
- Yaffe, G. (2011). *Attempts*. New York, NY: Oxford University Press.

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