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GHOST, PONTIANAKS AND ALL THE OTHER SPIRITUAL BEINGS

: BY ALLEN YU

Do you believe in ghosts? If I used my hometown Batu Pahat as an example, during the hungry ghost month, most houses owned by the Chinese would be burning offerings to the ghosts. Therefore it would be safe to confirm that most Chinese believed in ghosts.

And judging the recent uproar over “bomoh in the house” claim in the Perak Assembly (reported in the NST 3 December 2010), I would not be faulted to say that most Malay politicians believed that black magic exist and works. The case of Mona Fandey would be another example of a politician believing in black magic.



But what about lawyers and judges? Would lawyers be laugh out of court if we submit that our client's actions were based on instructions or inducement from a spirit or ghost or god?

In the case of **PP v Kenneth Fook Mun Lee (No. 2)** (2003) 3 MLJ 581 HCT KL Augustine Paul at page 655 suggested this defense to the accused when he said,



“The accused has never shown any exaggerated behaviour or silly behaviour. I had brought to his attention to a strong local Chinese folklore belief that on the alleged day 22 August 2000, it was the day of the hungry ghost. The hungry ghost will wander around and it possesses vulnerable personality who comes under its influence. It will instigate them to do anti-social actions. I reminded him that where the incident took place, is near the biggest cemetery. So I asked him whether he would have been possessed by this spirit of the hungry ghost and in consequence he is not able to remember. ”

And in the defamation case of **Lau Chee Kuan v Chow Soong Seong & Ors**, (1955) 21 MLJ 21, an article in a Chinese newspaper in 1953 described how the plaintiff midwife met a ghost who engaged her to deliver a child at a large mansion. The midwife was paid \$200 for her services. Upon leaving the big house she turned around to look and found the house had disappeared and that she was in a cemetery. Upon returning home, she also found that the \$200 in notes had turned into a heap of ashes of burnt Hades currency. The article went on to say that so great was her fright that she had been in bed ill ever since. The trial judge had dismissed the defamation claim on the ground that in the eyes of the average thinking man, the article did not tend to lower the reputation of the plaintiff or disparage her in the way of her profession or trade.

The Court of Appeal, however, viewed the article as defamatory. Discounting the opinion of those who believed in ghosts, Mathew CJ (Federation of Malaya) held that the opinion of all others must be that here is a silly woman who believes in ghosts to such an extent that she makes herself ill and is unable to pursue her profession as a midwife. Importantly, the court found that she had been ridiculed and brought into contempt.

Is the Court of Appeal decision wrong if the opinion of the majority of Malaysians being the “all others” believe in ghost.

In the appeal case of **Tai Hwee Hiong Iwn Pendakwa Raya** [2010] 8 MLJ 860, an appeal against a conviction for rape, the High Court judge said the victim's believe towards ghost was not isolated, where the believe to such things were part of the myths and root of the people in this country regardless of race and religion, the level of education and social status. Thus, the court could take judicial notice of this matter.

In this case, the prosecution contended that the consent given by victim was on a misconception of victim who believed the appellant's words and insistence that if victim did not have sexual intercourse with him, victim would die in March. The appellant denied that he told victim that there was ghost in her body.

But what if the appellant's defense was that he did told the victim that there was a ghost in her body and that the reason she is still alive is because she had sex with him. Is it still a misconception just because some or most of us do not believe that could be a ghost in her body?

Or it is a misconception because most members would not believe that having sexual intercourse with the accused could save her?

If the accused was a shaman, would it still be a misconception? Most members of the public would believed that a shaman or medium would go into a trance and allows his body be used by the spirits to answer their questions. (see the movie "**Ghost**")



Then what if a woman is disturbed by a ghost that yearns to have sexual intercourse with her, and would disturb her until she relents? Would the shaman be guilty of rape, if as an afterthought and after the disturbance ceased, she screamed rape and that she had been misled?

There has been no decided case yet on this defense.

The Entity is a 1981 horror film purportedly based on the paranormal events a woman and her family experienced circa 1976. The movie begins as Carla Moran, is violently raped in her home by an unseen force. The doctor believed she cause her injury herself. But then how does she bites her own back?



A session court judge once told me that he felt someone had cast a spell in his court, because he felt uncomfortable. He placed his hand on the Quran and continued with the case.

Another told me that when he was the prosecutor up north, he used to find dead chickens on top of his roof.

My own experience as a lawyer with the supernatural started at an early stage when I was still chambering.

A matter was fixed for hearing. There was to be no more postponement. My master firm's three lawyers were up all night preparing all the bundles which were a few feet high. I followed them to court. There was a strange man walking around the court sprinkling some invisible powder. When he was introduced to one of the lawyers from my firm, he sprinkled that invisible powder on him. The case was called up and the opposite party requested a postponement. Without asking my three lawyers, the judge gave a postponement. Coincidence, luck or black magic? This sounds like an episode in the TV series, "Believe or Not".

When I started my practice, I remember doing one case where I just felt "funny" that morning. I was ready for the trial. I was not nervous. When the case started I was sweating non-stop in court, shivering to a point and had a frog in my throat. I kept telling myself, "I am not nervous". Luckily for me, all my questions for examination in chief and cross examination were written before hand and I merely had to read them (this had been my practice ever since). When the case was later adjourned for continued hearing, so too the sweating and the funny feeling. When I told my office staff, they suspected black magic. Or was it just a panic attack?

On another occasion a lady friend of mine who had practice law at one time in Kuala Lumpur, called me one afternoon and told me she was dying and asked me to come quickly to her house to receive her will. I was stunned. At her house she told me that her brother who was adopted had poisoned her with black magic. Her fingers had turned black. She refused to see a doctor. Her companion, an English educated guy, turned out to be some Buddhist "something", said that

the adopted brother had engaged a bomoh and had placed some “spiritual” poison at the side of the door and had open a door in her bedroom so that the demons from hell could come in and haunt her. He told me not to worry because the god Kali is his blood brother and he will go down to Hades and ask Kali to tell the demons not to disturbed her. She recovered “miraculously” thereafter. How did I took all this? How did you take my story?

Another friend told me that he had suffered from an incurable sexual disease and bad luck. His children also had all kinds of ailments. He spends a lot of money on modern and traditional medicine. Finally he sought the help of a priestess in Bali and was told that his bad luck stems from his wife. He was told to have another son. Since his wife was too old to have another child, his maid volunteered and gave him a son. He said he only has sexual intercourse with the maid to have the son and for no other reasons. He persuaded the wife to have a divorce “in name” only so that the bad luck would go away. The wife after consulting with her family sued him for divorce and for almost everything that he has. He nevertheless told me that he is a healthier person now. His disease had miraculously disappeared and he has the energy of a younger man. I nevertheless pointed out that the fact the divorce could cost him plenty of money cannot be considered good luck.

I was once approached by some members of a Datuk spirit¹ temple to help them negotiate with a developer. The developer wanted vacant possession of a land where there were several illegal temples and shrines. They said the Datuk spirit would not move until a proper temple was built for him, all expenses paid by the developer and with the title deeds in the trustees’ name. The developer offered a temporary temple with the ownership of the land remaining with the developer. When negotiations fail, I was told to discharge myself and that the Datuk spirit would handle the matter “himself”. Thereafter clearing of the land was delayed. Boulders kept coming up from where a previous one was removed. When the project was completed, an occupant complained to me that she could not sleep because something kept her awake by sprinkling water at her feet. On another occasion I watched on Youtube an exorcism performed in one of the houses.

And if I may digress. In the 2005 movie, **“the Exorcism of Emily Rose”**, loosely based on the story of a catholic priest was charged in court for causing an unlawful death after an exorcism went wrong and the possessed girl dies. The priest read out a letter written by Emily.



Emily had described a vision she had the morning after the exorcism. She walks out of the house and experiences a Marian apparition, in which she is told that although the demons will not leave her, she can leave her body and end her suffering. However, the apparition goes on to say that, if Emily returns to her body, she will help to prove to the world that God and the devil are real. Emily chooses to return, concluding the letter by saying: *“People say that God is dead. But how can they think that if I show them the devil?”* Nevertheless the priest was found guilty but with a recommendation from the jury which the judge agrees to a sentence of time served. Needless to say, in my opinion her sacrifice was a waste.

Would our court make the same decision? I remember our courts did find an exorcist guilty of culpable homicide not too long ago.

In the movie, Emily Rose, it was said that the demons were most active at 3.00 am in the morning. The defense lawyer, an atheist did wake up exactly at 3.00 am. **So did I the following morning, after watching the movie. Creepy isn’t it?**

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<sup>1</sup> The Datuk spirit or “la tok kong” is the spirit of a Malay man said to be a Datuk. Because the Datuk is a Muslim, devotees before praying to him have to cleanse themselves by not eating pork for the day.