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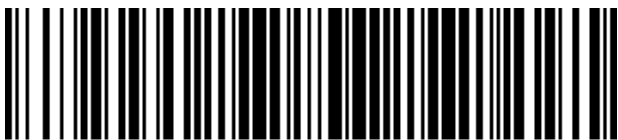
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**Paranormal Expert's Opinion As Opinion Of Experts In Law**

**Sneha Singh**

## ABSTRACT

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*Present paper aims to portray the paranormal expert's opinion as the opinion of experts in the law. Consciously and subconsciously legal professionals insinuate common, everyday beliefs into our legal system, and that necessarily carries with it some popular beliefs in the paranormal contained in folk psychology. Whether paranormal phenomena exist or not? This is a question; people are finding an answer since the beginning of human civilization. And even if it exists, whether it has any relevance in the law or not? We may have a different answer today. Till now no law has been made on this subject as if the legislators or lawmakers have completely ignored the aspect. This paper focuses on the significance of the paranormal expert's opinion and rationale behind why the lawmakers should consider it and make an opinion as to "Paranormal Phenomena" a subject on which a paranormal expert is competent to testify.*

## I. INTRODUCTION

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The term "paranormal" has existed in the English language since 1920. The word consists of two parts: para and normal. The definition implies that the scientific explanation of the world around us is 'normal' and anything that is above, beyond, or contrary to that is 'para'. Approaching the paranormal from a research perspective is often difficult because of the lack of acceptable physical evidence from most of the purported phenomena. By definition, the paranormal does not conform to conventional expectations of nature. Therefore, a phenomenon cannot be confirmed as paranormal using the scientific method because, if it could be, it would no longer fit the definition. (However, confirmation would result in the phenomenon being reclassified as part of science.) Despite this problem, studies on the paranormal are periodically conducted by researchers from various disciplines. Some researchers simply study the beliefs in the paranormal regardless of whether the phenomena are considered to objectively exist.<sup>1</sup>

## II. PARANORMAL

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Paranormal is defined as phenomena that exceed the limits of science or phenomena that are impossible to occur in physics, while paranormal beliefs mean the acceptance of those phenomena and believing them. There are three criteria to define paranormality: (1) phenomena that cannot be explained by the current science; (2) phenomena can be explained only by major revisions in basic limiting laws of science, and (3) phenomena are incompatible with normative perceptions and expectations about reality.

Paranormal belief comprises different kinds of beliefs including beliefs in religious doctrine such as powerful deities, power of prayers, the survival of the soul, and supernatural phenomena, beliefs in psychic abilities such as psychokinesis and extrasensory perception, belief in superstitions, pseudoscience such as astrology, déjà vu and reincarnation, and belief that the earth is visited by the extra-terrestrials life forms. Paranormal beliefs are accepted by people because they give meaning to life.<sup>2</sup>

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<sup>1</sup> Available at: <https://en.wikipedia.org/wiki/Paranormal> (Visited on September 7, 2020).

<sup>2</sup> Mehmet Sen, "The Development of Paranormal Belief Scale (PBS) for Science Education in the Context of Turkey" 2 *IJEMST* 107-115 (2014).



## Paranormal Expert

Paranormal Experts are commonly perceived as a person who has years of experience and knowledge in the field of paranormal-as define above. Stephen Kaplan, Andrew Green, Jason Conrad Hawes, Douglas Scott Rogo, Brett Joseph Talley, and Rosemary Ellen Guiley are some world-famous paranormal experts.<sup>3</sup> There are certain institutions, such as Flamel College, that provide courses in the field of paranormal science.<sup>4</sup>

## A Noteworthy Case of Paranormal Investigation

Mahatma Gandhi investigated a girl's reincarnation claims. Shanti Devi of Delhi, India, was born in 1926 and barely talked until she was four years old. She then began insisting she lived with her husband and son in a town called Mathura, where she had died ten days after giving birth. Mahatma Gandhi eventually heard of her story. He met with Devi and set up a committee of fifteen people to evaluate her claims. The committee, surprisingly, could not debunk the story.<sup>5</sup>

### III. OPINION OF EXPERTS

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Section 45 to Section 51 under chapter II of the Indian Evidence Act, 1872 provides relevancy of opinion of third persons, which is commonly called in our day to day practice as an expert's opinion. These provisions are exceptional in nature to the general rule that evidence is to be given of the facts only which are within the knowledge of a witness. The exception is based on the principle that the court cannot form an opinion on the matters, which are technically complicated and professionally sophisticated, without the assistance of the persons who have acquired special knowledge and skill on those matters. Conditions for admitting an expert opinion are, i) That the dispute cannot be resolved without expert opinion, and ii) That the witness expressing the opinion is really an expert.<sup>6</sup>

#### Section 45 of the Indian Evidence Act, 1872 reads:

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<sup>3</sup> Available at: [https://en.wikipedia.org/wiki/Category:Paranormal\\_investigators](https://en.wikipedia.org/wiki/Category:Paranormal_investigators) (Visited on September 8, 2020).

<sup>4</sup> Available at: <http://investigatingparanormal.com/education/flamel-college-paranormal-studies-diploma> (Visited on September 9, 2020).

<sup>5</sup> Available at: <https://www.ranker.com/list/believable-reincarnation-stories/erin-wisti> (Visited on September 10, 2020).

<sup>6</sup> Available at: <http://www.legalservicesindia.com/article/1583/Experts-Opinion-and-its-admissibility-and-relevancy--Law-of-Evidence.html> (Visited on September 11, 2020).

Opinions of experts; When the Court has to form an opinion upon a point of foreign law or of science or art, or as to the identity of handwriting or finger impressions, the opinions upon that point of persons specially skilled in such foreign law, science or art, or in questions as to the identity of handwriting or finger impressions are relevant facts.<sup>7</sup>

### **Evidentiary Value of Expert Opinion**

The weight that ought to be attached to the opinion of an expert is a different matter from its relevancy. The court normally looks at the expert evidence with a great sense of acceptability, but it is equally true that the evidence of expertise is in the nature of opinion evidence and is neither conclusive/decisive nor substantive.

Expert evidence has two aspects. a) Data evidence; cannot be rejected if it is inconsistent with oral evidence. b) Opinion evidence; it is only an inference drawn from the data and it would not get precedence over the direct eye-witness testimony unless the inconsistency between the two is so great as to falsify the oral evidence.<sup>8</sup>

### **Admissibility of Expert Opinion**

Expert opinion becomes admissible only when the expert is examined as a witness in the court. The report of an expert is not admissible unless the expert gives reasons for forming the opinion and his evidence is tested by cross-examination by the adverse party. An expert cannot initiate examination or analysis and furnish his opinion unless the Investigating Officer has sought his opinion in compliance with the formal procedure. An expert cannot do anything suo moto regarding analysis or examination and formation of his opinion.<sup>9</sup>

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<sup>7</sup> The Indian Evidence Act, 1872, s. 45.

<sup>8</sup> *Arshad v. State of A.P.*, 1996 Cri LJ 2893 (AP)

<sup>9</sup> Available at: <http://www.legalservicesindia.com/article/1583/Experts-Opinion-and-its-admissibility-and-relevancy--Law-of-Evidence.html> (Visited on September 12, 2020).

## IV. RECOMMENDATION

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- There is a lot of scope of improvement in the Indian Evidence Law, 1872. The Legislators or lawmakers should formulate the law on paranormal phenomena as we always come across with the cases related to the subject matter mentioned above.
- The court is not an expert in every field and on certain occasions, the peculiar circumstances of the case make it necessary to obtain the opinions of third parties. Section 45 of the Indian Evidence Act, 1872, makes it clear that the subjects on which an expert is competent to testify are foreign law, a matter of science, questions of art, the identity of handwriting, or of finger impressions.<sup>10</sup> It is recommended to include one more subject i.e. paranormal phenomena.
- Before placing any reliance on opinion as to “paranormal phenomena” the testimony of the paranormal expert witness must be examined. The competency and credit of paranormal expert evidence must be challenged/ contradicted/rebutted by cross-examination, or by the contrary evidence of another expert.
- Paranormal expert testimony must be admitted only in two cases, 1) the subject is such that expert testimony is necessary, 2) that the witness in question is really an expert, and that he is a truthful witness.
- Further research is recommended for the efficient formulation and implementation of the law related to “paranormal phenomena”.

## V. CONCLUSION

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The above discussion and analysis regarding the paranormal phenomena and its significance in law, it can be seen, how important it is to have an opinion as to “paranormal phenomena” in our legal system. Hardly a day passes when we do not hear the cases related to paranormal phenomena but some skeptics dismiss evidence for paranormal phenomena (telepathy, precognition, clairvoyance, psychokinesis, etc.) without serious examination because the phenomena it purports to demonstrate violate fundamental principles of science and hence the evidence must be flawed

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<sup>10</sup> Indian Evidence Act, 1872, s. 45.

or fabricated. This is not an unreasonable position to adopt in considering scientific evidence. While it is important to have an open mind, one also must take care that one's brain does not fall out.

The world abounds in bogus, flaky, and misinterpreted data, and filtering by the plausibility of the phenomena suggested is a useful way to discard time-wasting distractions. It is like the venture capital aphorism, “Never invest in something that violates a conservation law.” If somebody claims to have invented the perpetual motion machine, nobody is likely to pay attention to the evidence until they explain why it is exempt from the conservation of energy and the second law of thermodynamics.<sup>11</sup>

Our intellectual legislators or lawmakers should accept opinion as to “paranormal phenomena” as a subject matter of expert opinion in the Law of Evidence. In near future, they might not formulate any law on the subject and consider it irrelevant and unsubstantiated, but on the other hand, if foreign countries like the USA, UK, and Russia, started making laws on the same then our country will definitely borrow their laws and will use relevant foreign cases as a reference in Indian Judiciary System.

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<sup>11</sup> Available at: <https://www.fourmilab.ch/documents/gtpp/> (Visited on September 12, 2020).