



Why UK law should explicitly prohibit 'possession accusations'

What is a possession accusation?

This is a shorthand expression for an allegation that a child is either possessed by an evil spirit such as a demon or djinn, or has supernatural evil powers, for example that he or she is a witch.

The term does not include possession by good spirits, nor the practice of benign witchcraft (Wicca), nor pretend magic in children's games, books and films.

Children have suffered serious ill-treatment, even death, as a result of possession accusations. This paper is not about these terrible actions, which are already unlawful. However, accusations are not in themselves unlawful; government guidance does not even identify them as a form of child abuse.

Why is it abusive to accuse a child?

An accusation means a child learns from people the child trusts and respects that:

- he or she has been taken over by an alien spirit or powers,
- these spirits or powers are evil,
- the child is responsible for bad things happening,
- he or she is feared and hated by everyone in their family and community
- he or she is no longer fully human.

It is hard to imagine anything more terrifying for anyone, let alone for a child. No wonder that, regardless of any ensuing abuse, child victims are often irreparably traumatised by an accusation and count it as one of the worst things that have ever happened to them. Some people have compared it to rape in that it causes permanent psychological trauma though there may not be any physical injury.

Government Ministers, social workers, psychiatrists and leading child protection experts agree that a possession accusation will invariably either cause, or risk causing, significant harm to the child. This is the Children Act's definition of child abuse.

What laws need changing?

Aside from sexual abuse, criminal law on child abuse is found in Section 1 of the Children and Young Persons Act 1933 which provides:

“If any person who has attained the age of sixteen years and has responsibility for any child or young person under that age, wilfully assaults, ill-treats, neglects, abandons, or exposes him, or causes or procures him to be assaulted, ill-treated, neglected, abandoned, or exposed, in a manner likely to cause him unnecessary suffering or injury to health (whether the suffering or injury is of a physical or psychological nature), that person shall be guilty of a misdemeanor, and shall be liable... on conviction on indictment, to a fine . . . or in addition thereto, to imprisonment for any term not exceeding ten years”

The clause in brackets on physical or psychological abuse was introduced this year by the Serious Crimes Act 2015. The original clause read: “(including injury to or loss of sight, or hearing, or limb, or organ of the body, and any mental derangement).”

So this law already bans the “psychological” abuse of children: isn’t this sufficient?

It isn’t sufficient for two reasons.

First, section 1 applies only to someone who “has responsibility for a child or young person...” Thus it applies to parents and people acting *in loco parentis* like teachers or childminders but not to other people in a child’s life. It is not clear why the law was drafted in this way since cruelty to children does not change its nature depending on the status of the perpetrator. Why, for example, should a neighbour or lodger who injures a child be immune from prosecution under section 1 while a babysitter or music teacher is not? Where possession accusations are concerned the omission is particularly serious, since church pastors, members of the congregation, neighbours, extended family members and sexual partners are frequently the people who make accusations yet do not “have responsibility” for the child.

Second, there is no common understanding or agreement in the UK that a possession accusation *is* psychological abuse. Not only do many people sincerely believe in the existence of evil spirits and evil powers, but professionals and other adults quite understandably hesitate to challenge an expression of belief or intervene to stop it. This is why the law has to be explicit, because without clarity the problem of this abuse will not be solved.

How could this law be changed to stop possession accusations?

AFRUCA has drafted an amendment which:

1) Deletes the following italicised words in section 1 of the 1933 Act:

“If any person who has attained the age of sixteen years and *has responsibility for any child or young person under that age*, wilfully assaults, ill-treats, neglects, abandons, or exposes *him*..”

and replaces them with:

“If any person who has attained the age of sixteen years wilfully assaults, ill-treats, neglects or exposes a child or young person under that age...”

This would mean that everyone, not just those with responsibility for a child, becomes liable for offences against children.

2) Adds the following clarification in subsection (2):

“In subsection (1) of this section the meaning of “ill-treats” includes the communication by word or by action a belief that the child is possessed by evil spirits or has supernatural harmful powers –

- (i) to the child concerned, or
- (ii) to anyone connected to that child.”

This would mean that children are explicitly protected in law from the significant harm caused by a possession accusation (as well as helping prevent further abuse that may arise as a result of an accusation).

But aren't there other criminal laws that could be used in such cases?

In recent correspondence with MPs and Peers, the Government has now acknowledged that accusations are child abuse and also that section 1 of the 1933 Act could not normally be used in such cases. However, when the amendment was debated at Report Stage of the Serious Crimes Bill in the House of Lords in September 2014, the Government argued that other criminal statutes could be used to take a case against someone like a pastor or family friend who has harmed a child by making a possession accusation against them. The other statutes cited are the Public Order Act 1986, Protection from Harassment Act 1997 and Serious Crimes Act 2007.

These statutes are not appropriate because:

- The primary aim of the amendment is not to prosecute but to *prevent* this kind of abuse. This can only be done if the law explicitly states that a possession accusation constitutes an offence against children.
- The criminal statutes cited by the Government would entail the child not only having to suffer the psychological abuse of an accusation and but also having to give testimony in a prosecution case – thus precisely obviating the protection the amendment seeks to give.
- None of the cited laws has actually ever been used to charge anyone for a possession accusation. Indeed, it is extremely unlikely that the prosecution services would ever agree to such a speculative prosecution. Without any central government direction on this issue, the prosecution would have to prove the child's psychological trauma outweighed the defendant's right to express strongly held religious beliefs.

Why do you need to change criminal law? What about civil law?

Civil child protection is governed by the 1989 and 2004 Children Acts. This sets out local authorities' and other agencies' duties to investigate and where necessary intervene in parents' rights in order to protect a child from “significant harm”. It does not affect people without parental responsibility and so is not appropriate in circumstances where the abuse is perpetrated by someone other than the child's carers.

In any event the issue is not about parenting as such, but of the harm caused by particular faith-linked practices. Indeed, parents can suffer as much as the child from a possession accusation.

Couldn't guidance just make clear that possession accusations are child abuse?

It would certainly help if current guidance, *Safeguarding Children from Abuse Linked to a Belief in Spirit Possession*, had made this clear. Although this guidance advises professionals to be alert for abuse arising from an accusation it does not identify the accusation itself as abusive.

However, Government guidance only has limited effect because it only governs the activities of statutory agencies and not private citizens, like the people actually making accusations. Even professionals have discretion to ignore guidance if they have a good reason for doing so. And while it is true that clear definition in guidance might help a court determine whether an offence had occurred, this would entail the child first suffering the psychological trauma of an accusation and then that of a court hearing.

People making accusations believe they are acting in the child's best interests. Surely they shouldn't be criminalised?

People who beat children or who subject them to female genital mutilation or who force them to marry may also sincerely believe that they are acting in the child's best interests. These practices are now criminalised, not because the authorities want to prosecute perpetrators but to make clear that these activities are not permitted in this country and to prevent them happening. The question is rather: why is a possession accusation the only form of recognised child abuse that is *not* a criminal offence?

Wouldn't such a law breach people's right to freedom of religion?

No one can prove or disprove the existence of evil spirits. No one can say spirits don't possess children. No one can refute an individual's claim to have special abilities to detect and expel these spirits. The law must therefore remain neutral on these points.

This law does not criminalise religious belief. People are free to believe in child-possession and child witches; it is only the public expression of this belief that is prohibited. This is because an accusation causes or risks long-term significant harm to the child, whether or not spirit possession is real and whether or not an exorcism is successful in its objective.

Are people not permitted to act on their beliefs at all?

Those who believe a child is possessed can pray, recite holy texts or make exhortations for the child's deliverance so long as this is undertaken in private, without involving the child or those known to the child.

As far as is understood, there are no instructions in either the Bible or the Koran on how to exorcise a demonic spirit or djinn. The traditional practices of exorcists developed at a later date and have no doctrinal force.

Christians who maintain that an exorcism must involve the child should perhaps reflect on the healing of the Centurion's servant in Matthew 8. The Centurion, a hated and feared Roman, said he was not asking Jesus to come into the presence of his sick servant because he knew Jesus's word alone would suffice. Jesus endorsed the Centurion's belief, saying that he had "not found so great faith, no, not in Israel" and healed the servant at long distance.

Given possession accusations cause life-long harm to children, it is hard to believe that this is the right thing to do in any faith.

Won't such a law undermine the relationship between child-protection professionals and minority communities?

Many people in minority communities already regard child protection agencies with fear and suspicion. They believe that their religious beliefs, cultural values and child-rearing traditions are not respected or understood; they believe that children are needlessly removed from their families and sent into a care system that is much more damaging to their well-being.

Although these beliefs have validity they should not distract from our absolute duty to protect children from known forms of abuse. Tolerating a possession accusation on the grounds of cultural sensitivity is to tolerate a child suffering overwhelming fear, anxiety, isolation, guilt and misery that scars and stigmatises them for life. The challenge for child protection professionals is to respect different beliefs and traditions without condoning child abuse and this can only be achieved if everyone involved is clear about what constitutes abuse.

Won't criminalising accusations drive the practice underground and inhibit child victims or concerned adults from reporting it to the authorities?

This is argument was raised against introducing specific laws on female genital mutilation (FGM) and, more recently, forced marriage. In fact the need for a specific law against these two other forms of abuse was much weaker than the need for a law against possession accusations because FGM was already unlawful under the law on assault and forced marriage was already unlawful under the laws on rape, unlawful force and child abduction. Even so, the Government finally recognised that it was necessary to introduce an explicit law banning these practices because otherwise people did not understand that they were not acceptable.

There is no evidence that FGM or forced marriages have either increased or become more covert as a result. On the contrary, the more people are informed of their illegality, the more victims seek help and the more concerned bystanders intervene to try to stop them.

Might there be unjust consequences? For example, in theory under this law a mother could be arrested for saying to a child "you've got the devil in you."

All child abuse laws – in fact all crimes – have fuzzy edges, grey areas where police and other agencies have to exercise their discretion. For example a kiss between two fifteen year- olds is technically a sexual offence for both; one adult tapping another adult on the arm without their consent is technically an illegal assault and so forth.

For this reason criminal prosecutions can only occur where this is not a waste of official resources (the *de minimis* principle) and in the case of child abuse, where a prosecution is in both the public's and the child's interest. Given the sensitivity of this issue it is very unlikely that a prosecution would be mounted unless there were extremely strong reasons for doing so. Joking remarks by mothers are safe.

Does such a law exist in other countries?

Yes. Because "witch-branding" is such a large – and growing – phenomenon, some places have outlawed the practice. For example:

- Child Rights Act (2008) of the Nigerian State of Akwa Ibom prohibits accusing a child of witchcraft;
- South Africa's Witchcraft Suppression Act (1957) criminalises accusations of witchcraft and employment of a witch-finder to identify a witch;

- The Indian states of Rajasthan and Jharkhand have laws against calling women witches.

How could such a law be enforced?

Mostly by dissemination, education and respectful dialogue. Prosecutions will be rare and reserved for egregious cases – for example, the law may prove useful in preventing self-appointed “witch-finders” bringing campaigns to this country.

Its primary use is to stop faith-linked child abuse at source. The point of having the law is to make clear to everyone that accusing children of evil spirit possession is prohibited in this country. This means concerned friends and professionals don’t have to wait until a child suffers visible harm before intervening.

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