


Regulation of Evidence in the Criminal Procedure Code: A Comparison to the Draft Law on Criminal Procedure

Sandrina Darma Maharani^{1*}, Ni Gusti Agung Ayu Mas Tri Wulandari²

^{1,2} Faculty of Law, Universitas Pendidikan Nasional, Denpasar, Indonesia.

 : sandrinadarmam@gmail.com

Corresponding Author*



Abstract

This article examines the regulation of evidence in the Indonesian Criminal Procedure Code (KUHP) and compares it with the provisions in the Draft Criminal Procedure Code (RUU KUHP), in light of the evolving demands for reform in criminal procedural law. The purpose of this study is to analyze the current evidentiary rules in KUHP and evaluate the relevance and effectiveness of the proposed changes in the RUU KUHP as part of broader procedural reform efforts. This research adopts a normative legal method, employing a statutory and comparative approach by examining the normative content of both KUHP and RUU KUHP and comparing them with evidentiary concepts in other legal systems. The findings indicate that the RUU KUHP introduces a more modern approach to evidence, including the recognition of electronic evidence and the strengthening of suspects' rights. These findings contribute to the discourse on criminal procedure reform and highlight the need to adapt procedural law to technological developments and human rights standards.

Keywords: Evidence; Criminal Procedure Law; Legal Reform.

Submitted: 2025-07-27

Revised: 2025-08-28

Accepted: 2025-08-30

Published: 2025-08-31

How To Cite: Sandrina Darma Maharani, Ni Gusti Agung Ayu Mas Tri Wulandari. "Regulation of Evidence in the Criminal Procedure Code: A Comparison to the Draft Law on Criminal Procedure." *BACARITA Law Journal* 6 no. 1 (2025): 15-25. <https://doi.org/10.30598/bacarita.v6i1.20994>

Copyright © 2025 Author(s)



Creative Commons Attribution-NonCommercial 4.0 Internasional License

INTRODUCTION

The evidentiary system in the criminal procedure law in Indonesia greatly determines the direction and outcome of the criminal justice process.¹ The Criminal Code as the main guideline has regulated the types and requirements of evidence,² But for more than four decades social, technological and legal changes have created an urgency for the renewal of the evidentiary system. The challenges of dealing with cybercrime, digital transactions, and human rights protection require the legal system to adapt.³ Until now, the provisions of the Criminal Procedure Code have not been able to fully answer these needs comprehensively. Therefore, the study of the evidentiary system is very important in the context of legal reform.

The Criminal Procedure Code Bill (KUHP Bill) is present as a legislative effort to update the evidentiary system, one of which is by adding recognition of electronic evidence and

¹ Diah Pudjiastuti et al., "Diskusi Publik Terkait Implikasi Dominus Litis Dalam RKUHP Terhadap Hubungan Penyidik Dan Penuntut Umum Dalam Sistem Peradilan Pidana Terpadu | Jurnal Pengabdian Kepada Masyarakat Nusantara 6, no. 2 (2025), <https://ejournal.sisfokomtek.org/index.php/jpkm/article/view/5920>.

² Pramukhtiko Suryo Kencono and Ajeng Wahyuni, "Keabsahan Perolehan Alat Bukti Elektronik Sebagai Konsep Perluasan Objek Praperadilan," *Fairness and Justice: Jurnal Ilmiah Ilmu Hukum* 23, no. 1 (2025): 24-32, <https://doi.org/10.32528/FAIRNESS.V23I1.3431>.

³ Jeannetha Alberthine, "Transformasi Peran Regulator Dan Adjudikator Dalam Era Digital: Menanggapi Tantangan Dan Peluang Baru," *Collegium Studiosum Journal* 7, no. 1 (2024): 346-55, <https://doi.org/10.56301/CSJ.V7I1.1489>.

strengthening the role of judges in procedural control.⁴ The Criminal Procedure Bill also tries to harmonize criminal procedure law with the principle of *due process of law* which ensures justice and protection of the rights of suspects.⁵ However, the fundamental differences between the Criminal Procedure Code and the Criminal Procedure Code Bill often cause debate among academics and legal practitioners. A critical study is needed to assess the extent to which this update is relevant and applicable in the context of Indonesia's pluralistic criminal justice system. This underlies the importance of comparison between the two.

Several previous studies have highlighted the relevance of changes in the proof system. For example, Santoso and Rustamaji (2023) emphasized that the Criminal Procedure Bill expands the rights of suspects to submit valid evidence and emphasizes the obligations of law enforcement in respecting human rights. However, this study has not explained in depth the mechanism of electronic evidence verification as well as the standards for receiving digital evidence in court.⁶

Another study by Susatyo (2023) states that electronic evidence needs to be defined more precisely so that it can be fairly accepted in the criminal justice process. Although the argument is strong, the focus of the research is more emphasis on the technical validity aspect of electronic evidence, and has not fully compared the legal structure of proof between the Criminal Procedure Code and the Criminal Procedure Bill as a whole. Thus, there are still gaps in academic studies that can be followed up to deepen the comparative and normative aspects.⁷

This void raises an important question: to what extent is the evidentiary system in the Criminal Code able to respond to contemporary challenges, and does the Criminal Procedure Bill offer a fairer and more modern solution? An analysis that focuses on only one set of laws without systematically comparing them has the potential to create bias in legislative conclusions. Therefore, a comparative approach is needed to compare the strengths and weaknesses of each provisote regulation.

This research is expected to fill the scientific gap by examining in depth the comparison between the regulation of evidence in the Criminal Procedure Code and the Criminal Procedure Bill. The main focus is how each instrument regulates electronic evidence, the role of judges, and the limits of the legality of evidence. In addition, this study will also assess the suitability of both to the principle of fair trial and the development of very dynamic information technology. The results of this research will contribute to developing a more responsive criminal procedure law policy.

In addition to the normative aspect, this research is also important from a practical perspective, in judicial practice, there are often inconsistencies in the acceptance of evidence, especially those that are electronic or digital. This ambiguity often hinders the law enforcement process and causes potential violations of the human rights of suspects or

⁴ Rio Saputra, Lufsiana, and Dharmawan Setiawan Negara, *Reformasi Hukum Acara Pidana: Menyongsong KUHP Baru*, Cetakan Pe (Tasikmalaya: Langgam Pustaka, 2025).

⁵ Komnas HAM, *Kertas Kebijakan Penghormatan, Pelindungan, Dan Pemenuhan Hak Asasi Manusia Dalam Penyidikan Dan Upaya Paksa Pada RUU KUHP* (Jakarta: Komnas HAM, 2023).

⁶ Bambang Santoso et al., "Penguatan Instrumen Perlindungan Ham Dalam Pembaharuan Kuhap Untuk Mewujudkan Cita Negara Hukum," *Jurnal Hukum Mimbar Justitia* 9, no. 1 (2023).

⁷ Febryan Alam Susatyo, "Kriteria Alat Bukti Elektronik Yang Sah Dalam Urgensi Pembaharuan KUHP," *Jurnal Hukum Dan Dinamika Masyarakat* 21, no. 1 (2023).

defendants. Therefore, this research not only has academic value, but also practical value in supporting criminal law reform in Indonesia.

This study not only seeks to compare the two regulations, but also proposes evaluative parameters that can be used by lawmakers, judges, and law enforcement officials. This study is expected to be a scientific contribution in the development of a modern, fair proof system, and in accordance with technological developments and human rights demands. Identification of the urgency of reforming the Criminal Procedure Code is important as a starting point to encourage more adaptive and constitutional legislation.

METHODS OF THE RESEARCH

The research method used in this paper is a normative legal research method, which is a method that focuses on the study of applicable positive legal norms. This type of research was chosen because the main purpose of this study is to analyze the regulation of evidence in the criminal procedure law system, especially in the Criminal Procedure Code and the Criminal Procedure Law Bill. This normative research does not rely on empirical field data, but on legal materials as the main source of analysis. This research is doctrinal in nature and oriented towards a systematic study of laws and regulations and legal doctrines. The approaches used in this study are the statute approach and the comparative legal approach. The legislative approach is carried out by systematically reviewing and reviewing the legal provisions contained in the Criminal Procedure Code and the Criminal Procedure Bill, especially related to evidence. Meanwhile, a comparative legal approach is used to analyze the extent to which the Criminal Procedure Bill adopts or differs from the evidentiary system in the Criminal Procedure Code as well as in the criminal law systems of other relevant countries. The combination of these two approaches is expected to be able to provide a comprehensive picture of the paradigm shift in the evidentiary paradigm in criminal procedure law in Indonesia, with this approach, legal analysis can be carried out sharply and contextually. The data collection technique is carried out through literature studies by identifying primary, secondary, and tertiary legal materials. The primary legal material consists of the Criminal Code, the Criminal Code Bill, and other relevant laws and regulations. Secondary legal materials are in the form of scientific journals, textbooks, research results, and opinions of legal experts who discuss the evidentiary system in criminal procedure law. The tertiary legal materials include legal dictionaries and legal encyclopedias that help provide an understanding of the legal terms or concepts used. Data collection is focused on material that discusses the structure, type, and validity of evidence as well as the role of judges in the evidentiary system. The data analysis technique is carried out qualitatively by interpreting legal regulations and comparing the provisions contained in the Criminal Procedure Code and the Criminal Procedure Bill. The analysis is carried out through grammatical, systematic, and teleological interpretation of existing legal provisions, so as to gain an understanding of the substance and direction of the reform of the criminal procedure law. The data that has been collected from various sources is analyzed in depth to identify the weaknesses and advantages of each proof system. The results of this analysis are then used to draw objective conclusions and provide recommendations on the direction of reform of the evidentiary system in Indonesian criminal law. This technique allows researchers to understand law not only as a normative text, but also as a functioning instrument in society.

RESULTS AND DISCUSSION

A. Comparison of Evidence Arrangements in the Criminal Code and the Criminal Code Bill

A comparison of the arrangement of evidence in the Criminal Procedure Code and the Criminal Procedure Law Bill shows the dynamics of significant developments in criminal procedure law. The Criminal Code recognizes five types of valid evidence, namely witness statements, expert statements, letters, instructions, and defendants' statements.⁸ The Criminal Procedure Bill maintains the five types of evidence but adds one new type of evidence, namely "electronic information and/or electronic documents",⁹ as a form of response to the development of information technology. This addition is in line with the ITE Law and is expected to be able to answer legal challenges in the digital era. By including electronic evidence, the Criminal Procedure Bill adapts itself to international practice and the needs of modern law.

The regulation of electronic evidence in the Criminal Procedure Code Bill reflects a shift in the paradigm of proof from a formalistic approach towards a functional approach. This principle is in line with the doctrine of "*functional equivalence*" that electronic documents are considered valid if they meet the principles of authenticity, integrity, and readability.¹⁰ Stored and verifiable digital evidence will have the same evidentiary power as a written document. This provides a strong legal basis in strengthening the legitimacy of digital evidence in the courtroom.

The evidence of clues in the Criminal Code is based on other evidence that is interconnected and requires the judge's assessment through evidence-based beliefs.¹¹ The Criminal Procedure Bill regulates clue evidence in more detail with a logical and scientific approach. This approach is considered a form of refinement of the ambiguity of the regulation of instructions in the Criminal Code. The Criminal Procedure Bill also explicitly mentions methods of forming instructions such as reasoning, experience, and science,¹² With this approach, lead formation becomes more objective and measurable.

The regulation regarding evidence in the Criminal Procedure Bill also introduces a clearer position of "evidence" as a concrete form of evidence. The Criminal Code does not explicitly distinguish between evidence and evidence, which in practice often leads to errors in the preparation of indictments.¹³ The Criminal Procedure Bill explains that evidence is an object that can be linked to a criminal event and can be examined directly in the judicial process.¹⁴

⁸ Ni Kadek Sri Wijayanti, Anak Agung Sagung Laksmi Dewi, and I Made Minggu Widyantara, "Keabsahan Alat Bukti Chatting Melalui Media Sosial Dalam Proses Pemidanaan Terhadap Tindak Pidana Perzinahan," *Jurnal Analogi Hukum* 7, no. 1 (2025): 83–88, <https://doi.org/10.22225/JAH.7.1.2025.83-88>.

⁹ Prigel Aditama, Elisabeth Aprilia Sinaga, and Citra Anjelika Putri, "Perbandingan Hukum Pidana Cyber Crime Dan Pengaruhnya Dalam Penegakan Hukum Antara Indonesia Dan Amerika," *Jurnal Kompilasi Hukum* 10, no. 1 (2025): 58–76, <https://doi.org/10.29303/JKH.V10I1.202>.

¹⁰ Atang Suryana and Marius Suprianto Sakmaf, "Can Electronic Evidence Constitute Sufficient Grounds for Criminal Liability?," *Jurnal Ilmu Hukum Kyadiren* 7, no. 1 (2025): 587–601, <https://doi.org/10.46924/JIHK.V7I1.323>.

¹¹ Tesalonika Flensky Kanter, Sarah D.L. Roeroe, and Korah Revi, "Cara Menentukan Alat Bukti Petunjuk Oleh Hakim Dalam Menjatuhkan Putusan Tindak Pidana Pembunuhan," *LEX PRIVATUM* 15, no. 5 (2025), <https://ejournal.unsrat.ac.id/v3/index.php/lexprivatum/article/view/61788>.

¹² Kanter, Roeroe, and Korah Revi.

¹³ Dekky Muhandi, Irawan Harahap, and Rudi Pardede, "Implementasi Pengelolaan Barang Bukti Tindak Pidana Di Wilayah Hukum Polresta Pekanbaru," *Collegium Studiosum Journal* 8, no. 1 (2025): 123–40, <https://doi.org/10.56301/CSJ.V8I1.1680>.

¹⁴ Admin ICJR, "[Publikasi Koalisi] Sembilan Masalah Dalam RUU KUHP," Institute For Criminal Justice Reform, March 28, 2025, <https://icjr.or.id/sembilan-masalah-dalam-ruu-kuhp/>.

These conceptual differences provide better legal certainty for law enforcers. Thus, proof can become more transparent and systematic.

The Criminal Procedure Bill places greater emphasis on the protection of human rights, including in terms of the use of evidence. For example, evidence from interrogation cannot be used if obtained through torture or pressure.¹⁵ This clause in the Criminal Code is not explicitly regulated, so it is vulnerable to violating the rights of the suspect or defendant. The Criminal Procedure Bill stipulates that evidence obtained illegally must be set aside by judges.¹⁶ This arrangement reflects the strong *principles of due process of law*.

Another important difference lies in the arrangement regarding the defendant's statement. The defendant's statement in the Criminal Code is one of the valid evidence, even though it cannot stand alone.¹⁷ The Criminal Code Bill maintains this rule, but gives more explicit rights to defendants to exercise the *right to remain silent*.¹⁸ This principle refers to the principle of *non-self-incrimination* as set out in the *International Covenant on Civil and Political Rights* (ICCPR).¹⁹ This right to remain affirms the shift of the system towards a more accusatory one and upholds the rights of individuals in criminal proceedings.

The Criminal Procedure Bill also regulates more systematically evidence in the form of electronic information, there are no explicit provisions regarding electronic information in the Criminal Procedure Code, causing legal uncertainty when dealing with cybercrimes. The Criminal Procedure Bill adopts the ITE Law by recognizing electronic information as legal evidence, on a par with other evidence,²⁰ It shows adaptation to technological developments and current digital realities. The existence of electronic evidence is very relevant in handling cases of defamation, online fraud, and other digital crimes.

The Criminal Code in the aspect of assessing evidence, adheres to a system of proof based on the judge's conviction based on at least two valid evidence.²¹ The Criminal Procedure Bill maintains this principle, but provides a more structured assessment framework through the principle of proportionality and procedural clarity. The judge was given a more detailed guide in assessing evidence by paying attention to integrity, legality, and relevance. This is expected to be able to minimize decisions that are subjective and inconsistent.

The addition of evidence in the form of electronic information in the Criminal Procedure Bill also poses new evidentiary challenges, especially in terms of authentication and data validity.²² This has not been discussed much in the Criminal Code which does not recognize

¹⁵ Rio Saputra, Lufsiana, and Dharma Setiawan Negara, *Reformasi Hukum Acara Pidana: Menyongsong KUHAP Baru* (Tasikmalaya: Langgam Pustaka, 2025).

¹⁶ Saiful Hamdi, Aida Riziatul Zahra, and Safitri Ramadhani, "Pembaharuan Hukum Manifestasi Mekanisme Perampasan Asset Terhadap Jaminan Keadilan Hak Asasi Manusia (Telaah Data Intelijen Sebagai Alat Bukti)," *Recht Studiosum Law Review* 4, no. 1 (2025): 73–83, <https://doi.org/10.32734/RSLR.V4I1.18741>.

¹⁷ Fahmi Gusriana and Gialdah Tapiansari Batubara, "Penggunaan Alat Bukti Sekunder Dalam Menjatuhkan Tuntutan Pidana Berdasarkan Asas Kepastian Hukum," *Legal Standing: Jurnal Ilmu Hukum* 9, no. 4 (2025): 796–808, <https://doi.org/10.24269/LS.V9I4.11966>.

¹⁸ Eko Saputra, "RUU KUHAP: Dominasi Crime Control System Dan Ancaman Terhadap Prinsip Due Process of Law," *JIMU: Jurnal Ilmiah Multidisipliner* 3, no. 03 (2025): 1708–16, <https://ojs.smkmerahputih.com/index.php/jimu/article/view/923>.

¹⁹ Bambang Santoso, Muhammad Rustamaji, and Itok Dwi Kurniawan, "Penguatan Instrumen Perlindungan Ham Dalam Pembaharuan Kuhap Untuk Mewujudkan Cita Negara Hukum," *Jurnal Hukum Mimbar Justitia* 9, no. 1 (2023).

²⁰ Agung Fajriansyah, Rospita Adelina Siregar, and Mompang L Panggabean, "Reformasi Hukum Pidana Di Era Digital: Analisis Terhadap Kuhp Baru," *Jurnal Hukum Mimbar Justitia* 11, no. 1 (2025): 218–30, <https://doi.org/10.35194/JHMJ.V11I1.5462>.

²¹ Miftahul Chaer Amiruddin and Rahman Syamsuddin, "Analisis Yuridis Pertimbangan Tentang Keyakinan Hakim Dalam Memutus Perkara Dengan Berdasarkan Circumstantial Evidence Atau Bukti Tidak Langsung (Studi Putusan No.777/Pid.B/2016/Pn.Jkt.Pst Kasus Jessica Kumala Wongso)," *Alauddin Law Development Journal* 3, no. 3 (2021): 531–43, <https://doi.org/10.24252/ALDEV.V3I3.16014>.

²² Subhan Suryadi Putra, "Kekuatan Bukti Elektronik Dalam Pembuktian Perkara Tindak Pidana Korupsi Di Indonesia" (Universitas Islam Sultan Agung Semarang, 2024).

the characteristics of digital evidence. The Criminal Procedure Bill anticipates this by regulating provisions on procedures for submitting and testing electronic evidence, including the involvement of digital experts. This shows the need for technical competence in the realm of modern criminal procedural law. Strengthening the capacity of law enforcement officials is an important issue in the implementation of this provision.

Although the Criminal Procedure Bill is a step forward, it cannot be ignored that the evidentiary system in the Criminal Procedure Code still adheres to the principle of *negative legal proof* (*negatief wettelijk bewijs*). This means that the judge can only make a verdict if his conviction is based on evidence that is valid according to the law.²³ The incorporation of electronic evidence into this system requires the ability of judges and law enforcement to understand information technology. Without training and institutional strengthening, this kind of procedural reform risks becoming purely symbolic.

One of the interesting aspects of the comparison is the absence of recognition of illegally obtained evidence in the Criminal Code. In the Criminal Procedure Bill, there is an exclusionary *rule* principle that states that evidence obtained illegally must be set aside,²⁴ this is a universal principle that is deeply rooted in the human rights-based criminal justice system. The Criminal Procedure Code does not yet have equivalent explicit rules, so in practice there can be abuse of the legal process. The recognition of this principle in the Criminal Procedure Bill is a step forward towards a clean and accountable judiciary.

In general, the Criminal Procedure Bill shows a progressive step in forming a criminal proof system that is more accommodating, modern, and oriented towards the protection of human rights. The Criminal Code as a system that is currently in force has experienced many challenges in implementation and is no longer adequate in responding to the times. This comparison shows that the Criminal Procedure Bill seeks to improve old weaknesses while opening up space for a more responsive legal approach, by strengthening evidence, the criminal justice system is expected to be more effective, fair, and reliable.

B. Implications of Evidence Update on Criminal Justice Practice in Indonesia

The explicit recognition of electronic information and/or electronic documents as legal evidence in the Criminal Procedure Code Bill has a transformational impact on criminal justice practice. Previously, the Criminal Code did not explicitly regulate electronic evidence, which led to many inconsistencies in court decisions. With the new setup, digital evidence such as voice recordings, emails, online transactions, metadata, and instant messaging app conversations now has the same evidentiary power as a written document. This expands the space for proof, especially in cases of cybercrime, digital corruption, or the spread of hoaxes. According to a study by & Rustamaji (2023), previous electronic evidence is often considered a clue or even ruled out because it does not match the conventional evidence referred to in Article 184 of the Criminal Code,²⁵ With explicit legalization in the Criminal Procedure Bill (KUHAP) Bill, the practice of proof can now be more adaptive to technological developments.

²³ Bastianto Nugroho, "Peranan Alat Bukti Dalam Perkara Pidana Dalam Putusan Hakim Menurut KUHAP," *Yuridika* 32, no. 1 (2017): 17–36, <https://doi.org/10.20473/YDK.V32I1.4780>.

²⁴ Flora Dianti, *Hukum Pembuktian Pidana Di Indonesia: Perpandangan HIR Dan KUHAP (Edisi Revisi)*, ed. Kurniawan Ahmad and Tarmizi, Edisi Revi (Jakarta Timur: Sinar Grafika, 2023).

²⁵ Santoso, Rustamaji, and Kurniawan, "Penguatan Instrumen Perlindungan Ham Dalam Pembaharuan Kuhap Untuk Mewujudkan Cita Negara Hukum."

One of the main challenges in modern judicial practice is proving the authenticity and integrity of digital evidence. In the Criminal Code, there is no standard for verification of electronic evidence, so courts often judge the evidence subjectively or rely on expert interpretation. The Criminal Procedure Code Bill introduces stricter authentication standards, including metadata validity, *hash value*, and trail audit systems. The direct implication is a reduction in the potential for disputes between parties in proof and an increase in the efficiency of trial time. In practice, procedural disorders are often used as a pretext for dropping digital evidence. Research by Susatyo (2023) shows that courts tend to be cautious about digital evidence because they are worried about data engineering,²⁶ With more detailed regulations in the Criminal Procedure Bill (KUHAP) Bill, these uncertainties can be minimized, creating a more reliable judicial process.

The Criminal Procedure Bill also expands the function of pre-trial institutions to test the validity of evidence before the case proceeds to the main court. In practice, this increases judicial control over investigators and prosecutors.²⁷ Previously, this institution tended to be passive because it only tested the legality of arrests and detentions. The addition of a supervisory function to evidence makes pre-trial an initial filter for procedural violations.

The Criminal Procedure Bill opens up a wider space for the use of digital expert testimony as supporting evidence in electronic evidence.²⁸ In the Criminal Code, the role of experts is still limited to conventional fields such as forensics or psychiatry. Today, cybercrime requires expertise in server log analysis, encryption, and digital footprint reconstruction.²⁹ The Criminal Procedure Bill accommodates this by providing a larger portion to experts in assessing the authenticity and integrity of digital data. In research by Choky Ramadhan (2021), the role of digital experts is still marginalized because it has not been comprehensively regulated in the criminal procedure law system.³⁰ With this new rule, judges will be better helped in understanding the technical context of digital evidence, and accelerating validation in the examination of cases.

The Criminal Procedure Bill explicitly regulates the right not to answer questions (*right to remain silent*), which is part of the principle of *non-self-incrimination*. The Criminal Code has not yet expressly regulated this right, so in practice, investigators often use psychological pressure to get suspects to admit their actions. With this arrangement, the suspect's statement can no longer be used as the main evidence without being supported by other evidence. This is in line with international judicial standards as stipulated in the ICCPR. Santoso & Rustamaji (2023) stated that the Criminal Procedure Bill provides a new dimension in the protection of the legal process by shifting the paradigm from the inquisitorial to the accused.³¹

²⁶ Febryan Alam Susatyo, "Kriteria Alat Bukti Elektronik Yang Sah Dalam Urgensi Pembaharuan KUHAP," *Jurnal Hukum Dan Dinamika Masyarakat* 21, no. 1 (2023).

²⁷ Ibnu Sina Chandranegara, "Diferensiasi Fungsional Kejaksaan Dan Kepolisian Dalam Integrated Criminal Justice System (ICJS)," *National Multidisciplinary Sciences* 4, no. 3 (2025): 1–6, <https://doi.org/10.32528/NMS.V4I3.740>.

²⁸ Sisworo Marlina Danialsyah, "Kedudukan Rekaman Cctv Sebagai Alat Bukti Dalam Tindak Pidana Pencurian Dengan Pemberatan Pasca Keluarnya Putusan Mahkamah Konstitusi Nomor 20/PUUXIV/2016 (Studi Putusan Nomor 3398/Pid.B/2017/PN.Mdn)," *Jurnal Ilmiah Metadata* 4, no. 2 (2022).

²⁹ Soetardi Tri Cahyono, Wina Erni, and Taufik Hidayat, "Reconstruction of Criminal Law against Cybercrime in The Indonesian Criminal Justice System," *Dame Journal of Law* 1, no. 1 (March 15, 2025): 1–23, <https://doi.org/10.64344/DJLV1I1.6>.

³⁰ Choky Ramadhan, "Konvergensi Civil Law Dan Common Law Di Indonesia Dalam Penemuan Dan Pembentukan Hukum," *Old Website Of Jurnal Mimbar Hukum* 30, no. 2 (2018): 213–29, <https://doi.org/10.22146/JMH.31169>.

³¹ Santoso, Rustamaji, and Kurniawan, "Penguatan Instrumen Perlindungan Ham Dalam Pembaharuan Kuhap Untuk Mewujudkan Cita Negara Hukum."

The Criminal Procedure Bill places judges as a more active party in examining the validity or not of evidence, including its origin and how it was obtained. This is a shift from the passive system in the Criminal Code, where judges rely more on the arguments of the public prosecutor and the defense. These changes strengthen the independence of the judiciary, in accordance with international standards. These findings are in line with the study of Volker Krey (1999), which emphasized the importance of *judicial activism* in a justice system that respects human rights.³² Judges now have a strategic role as guardians of the validity of evidence.

Another implication of the renewal of evidence is the emergence of a need for internal reform in law enforcement institutions. Investigators and prosecutors must improve their competence in terms of digital forensics, legal eavesdropping techniques, and electronic evidence management. The Criminal Procedure Code has not provided guidance on the procedures for storing and documenting digital evidence. The Criminal Procedure Bill requires digital documentation to be stored in an encrypted manner and audited periodically. This has led to the birth of new units within the police and prosecutor's offices that specialize in handling electronic evidence. Research by Susatyo (2023) shows that mastery of technology by law enforcement officials is the main requirement for regulatory changes to be implemented effectively.

The Criminal Code Bill provides greater room for participation to victims in the evidentiary process.³³ In the Criminal Code, the victim's position tends to be passive, and is often only considered as a reporter. The Criminal Procedure Bill allows victims to submit electronic evidence directly and present experts on their own initiative. This reinforces the restorative justice approach and gives victims an active role in the evidence. Choky Ramadhan (2021) said that victim justice is often eliminated in the Criminal Procedure Code system due to the lack of space for participation.³⁴ This change has a major impact on the balance of legal positions between the complainant and the suspect in court.

The implementation of evidence updates requires the support of court technology and infrastructure, such as e-court systems and digital forensic laboratories. Today, most Indonesian courts are still limited in such facilities, especially in remote areas. If infrastructure is not strengthened, normative changes in the Criminal Procedure Bill will not be effective. This is also a record in the Supreme Court's (Supreme Court) evaluation report regarding digital judicial readiness. Harmonization between regulations and infrastructure readiness is an absolute requirement for reform to run intact.

In general, the update of the evidence in the Criminal Procedure Bill marks an effort to synchronize the Indonesian criminal justice system with international standards, especially the ICCPR and the UDHR. This is also in line with the constitutional spirit in Article 28D and Article 28I of the 1945 Constitution which emphasizes legal certainty and human rights protection. This change responds to criticism that the Criminal Code is too colonial and unresponsive to global developments. If implemented consistently, the Criminal Procedure Bill can become a substantive and progressive judicial reform instrument.

³² Volker Krey, "Speech: Characteristic Features of German Criminal Proceedings – An Alternative to the Criminal Procedure Law of the United States?," *Loyola of Los Angeles International and Comparative Law Review* 21, no. 4 (1999), <https://digitalcommons.lmu.edu/ilr/vol21/iss4/2>.

³³ Lucky and Irman Jaya, "Analisis Yuridis Kesenjangan Perlindungan Korban Pada Tahap Penyidikan," *Almufi Jurnal Sosial Dan Humaniora* 1, no. 3 (2024): 476-88, <https://almufi.com/index.php/ASH/article/view/413>.

³⁴ Ramadhan, "Konvergensi Civil Law Dan Common Law Di Indonesia Dalam Penemuan Dan Pembentukan Hukum."

The current Criminal Procedure Code leaves many interpretive gaps in the recognition of modern evidence. This causes differences in interpretation between the police, prosecutor's office, and courts, especially in cases involving digital data, with the Criminal Procedure Code Bill unifying a frame of reference regarding electronic evidence, procedural consistency between institutions will be easier to achieve. This harmonization is important to ensure legal certainty and prevent disparities in law enforcement.

CONCLUSION

The results of the study show that there is a substantial difference between the regulation of evidence in the Criminal Procedure Code and the Criminal Procedure Law Bill which reflects the development of the criminal procedure law paradigm in Indonesia. The Criminal Procedure Bill accommodates modern evidence such as electronic information and/or electronic documents, improves the definition and arrangement of instructional evidence, and emphasizes the principles of human rights protection, including the principle of *exclusionary rule* and the right of suspects not to incriminate themselves. The comparison indicates that the Criminal Procedure Code is not sufficiently responsive to contemporary legal challenges, while the Criminal Procedure Bill presents a more adaptive, accountable, and legal protection structure that is more adaptive, accountable, and ensures stronger legal protection. The implications of the update of the evidence in the Criminal Procedure Bill on criminal justice practices in Indonesia are transformative. Among them are the increasing legitimacy of electronic evidence in the courtroom, the need to improve the competence of law enforcement officials in the field of digital forensics, and the encouragement of structural reforms in criminal justice institutions to be able to adapt to more technical and multidisciplinary evidentiary standards. In addition, the participation of victims, the role of digital experts, and the affirmation of suspects' rights show that the Criminal Procedure Bill is not only normative, but also visionary in responding to technological developments and demands for justice. The recommendations of this study are that the government and the House of Representatives are expected to immediately complete the legislation of the Criminal Procedure Bill by ensuring technical consistency and institutional readiness for implementation. In addition, strong integration is needed between the Criminal Procedure Bill and other sectoral regulations so that there is no overlap in the use of electronic evidence. Legal education institutions also need to update their curriculum to prepare a generation of competent law enforcers to face a more complex and technology-based evidentiary system.

REFERENCES

- Aditama, Prigel, Elisabeth Aprilia Sinaga, and Citra Anjelika Putri. "Perbandingan Hukum Pidana Cyber Crime Dan Pengaruhnya Dalam Penegakan Hukum Antara Indonesia Dan Amerika." *Jurnal Kompilasi Hukum* 10, no. 1 (2025): 58–76. <https://doi.org/10.29303/JKH.V10I1.202>.
- Alberthine, Jeannetha. "Transformasi Peran Regulator Dan Adjudikator Dalam Era Digital: Menanggapi Tantangan Dan Peluang Baru." *Collegium Studiosum Journal* 7, no. 1 (2024): 346–55. <https://doi.org/10.56301/CSJ.V7I1.1489>.
- Amiruddin, Miftahul Chaer, and Rahman Syamsuddin. "Analisis Yuridis Pertimbangan Tentang Keyakinan Hakim Dalam Memutus Perkara Dengan Berdasarkan

Circumstantial Evidence Atau Bukti Tidak Langsung (Studi Putusan No.777/Pid.B/2016/Pn.Jkt.Pst Kasus Jessica Kumala Wongso)." *Alauddin Law Development Journal* 3, no. 3 (2021): 531-43. <https://doi.org/10.24252/ALDEV.V3I3.16014>.

Cahyono, Soetardi Tri, Wina Erni, and Taufik Hidayat. "Reconstruction of Criminal Law against Cybercrime in The Indonesian Criminal Justice System." *Dame Journal of Law* 1, no. 1 (2025): 1-23. <https://doi.org/10.64344/DJL.V1I1.6>.

Chandranegara, Ibnu Sina. "Diferensiasi Fungsional Kejaksaan Dan Kepolisian Dalam Integrated Criminal Justice System (ICJS)." *National Multidisciplinary Sciences* 4, no. 3 (2025): 1-6. <https://doi.org/10.32528/NMS.V4I3.740>.

Danialsyah, Sisworo Marlina. "Kedudukan Rekaman Cctv Sebagai Alat Bukti Dalam Tindak Pidana Pencurian Dengan Pemberatan Pasca Keluarnya Putusan Mahkamah Konstitusi Nomor 20/PUUXIV/2016 (Studi Putusan Nomor 3398/Pid.B/2017/PN.Mdn)." *Jurnal Ilmiah Metadata* 4, no. 2 (2022).

Dianti, Flora. *Hukum Pembuktian Pidana Di Indonesia: Perbandingan HIR Dan KUHAP (Edisi Revisi)*. Edited by Kurniawan Ahmad and Tarmizi. Edisi Revi. Jakarta Timur: Sinar Grafika, 2023.

Fajriansyah, Agung, Rospita Adelina Siregar, and Mompang L Panggabean. "Reformasi Hukum Pidana Di Era Digital: Analisis Terhadap Kuhp Baru." *Jurnal Hukum Mimbar Justitia* 11, no. 1 (2025): 218-30. <https://doi.org/10.35194/JHMJ.V11I1.5462>.

Gusriana, Fahmi, and Gialdah Tapiansari Batubara. "Penggunaan Alat Bukti Sekunder Dalam Menjatuhkan Tuntutan Pidana Berdasarkan Asas Kepastian Hukum." *Legal Standing : Jurnal Ilmu Hukum* 9, no. 4 (2025): 796-808. <https://doi.org/10.24269/LS.V9I4.11966>.

HAM, Komnas. *Kertas Kebijakan Penghormatan, Pelindungan, Dan Pemenuhan Hak Asasi Manusia Dalam Penyidikan Dan Upaya Paksa Pada RUU KUHAP*. Jakarta: Komnas HAM, 2023.

Hamdi, Saiful, Aida Riziatul Zahra, and Safitri Ramadhani. "Pembaharuan Hukum Manifestasi Mekanisme Perampasan Asset Terhadap Jaminan Keadilan Hak Asasi Manusia (Telaah Data Intelijen Sebagai Alat Bukti)." *Recht Studiosum Law Review* 4, no. 1 (2025): 73-83. <https://doi.org/10.32734/RSLR.V4I1.18741>.

ICJR, Admin. "[Publikasi Koalisi] Sembilan Masalah Dalam RUU KUHAP." Institute For Criminal Justice Reform, March 28, 2025. <https://icjr.or.id/sembilan-masalah-dalam-ruu-kuhap/>.

Kanter, Tesalonika Flensky, Sarah D.L. Roeroe, and Korah Revi. "Cara Menentukan Alat Bukti Petunjuk Oleh Hakim Dalam Menjatuhkan Putusan Tindak Pidana Pembunuhan." *Lex Privatum* 15, no. 5 (2025). <https://ejournal.unsrat.ac.id/v3/index.php/lexprivatum/article/view/61788>.

Kencono, Pramukhtiko Suryo, and Ajeng Wahyuni. "Keabsahan Perolehan Alat Bukti Elektronik Sebagai Konsep Perluasan Objek Praperadilan." *Fairness and Justice: Jurnal Ilmiah Ilmu Hukum* 23, no. 1 (2025): 24-32. <https://doi.org/10.32528/FAIRNESS.V23I1.3431>.

- Krey, Volker. "Speech: Characteristic Features of German Criminal Proceedings – An Alternative to the Criminal Procedure Law of the United States?" *Loyola of Los Angeles International and Comparative Law Review* 21, no. 4 (1999). <https://digitalcommons.lmu.edu/ilr/vol21/iss4/2>.
- Lucky, and Irman Jaya. "Analisis Yuridis Kesenjangan Perlindungan Korban Pada Tahap Penyidikan." *Almufi Jurnal Sosial Dan Humaniora* 1, no. 3 (2024): 476–88. <https://almufi.com/index.php/ASH/article/view/413>.
- Muhardi, Dekky, Irawan Harahap, and Rudi Pardede. "Implementasi Pengelolaan Barang Bukti Tindak Pidana Di Wilayah Hukum Polresta Pekanbaru." *Collegium Studiosum Journal* 8, no. 1 (2025): 123–40. <https://doi.org/10.56301/CSJ.V8I1.1680>.
- Nugroho, Bastianto. "Peranan Alat Bukti Dalam Perkara Pidana Dalam Putusan Hakim Menurut Kuhap." *Yuridika* 32, no. 1 (2017): 17–36. <https://doi.org/10.20473/YDK.V32I1.4780>.
- Putra, Subhan Suryadi. "Kekuatan Bukti Elektronik Dalam Pembuktian Perkara Tindak Pidana Korupsi Di Indonesia." Universitas Islam Sultan Agung Semarang, 2024.
- Ramadhan, Choky. "Konvergensi Civil Law Dan Common Law Di Indonesia Dalam Penemuan Dan Pembentukan Hukum." *Old Website Of Jurnal Mimbar Hukum* 30, no. 2 (2018): 213–29. <https://doi.org/10.22146/JMH.31169>.
- Santoso, Bambang, Muhammad Rustamaji, and Itok Dwi Kurniawan. "Penguatan Instrumen Perlindungan Ham Dalam Pembaharuan Kuhap Untuk Mewujudkan Cita Negara Hukum." *Jurnal Hukum Mimbar Justitia* 9, no. 1 (2023).
- Saputra, Eko. "RUU KUHAP : Dominasi Crime Control System Dan Ancaman Terhadap Prinsip Due Process of Law." *JIMU:Jurnal Ilmiah Multidisipliner* 3, no. 03 (2025): 1708–16. <https://ojs.smkmerahputih.com/index.php/jimu/article/view/923>.
- Saputra, Rio, Lufsiana, and Dharma Setiawan Negara. *Reformasi Hukum Acara Pidana: Menyongsong KUHAP Baru*. Tasikmalaya: Langgam Pustaka, 2025.
- Saputra, Rio, Lufsiana, and Dharmawan Setiawan Negara. *Reformasi Hukum Acara Pidana: Menyongsong KUHAP Baru*. Cetakan Pe. Tasikmalaya: Langgam Pustaka, 2025.
- Suryana, Atang, and Marius Suprianto Sakmaf. "Can Electronic Evidence Constitute Sufficient Grounds for Criminal Liability?" *Jurnal Ilmu Hukum Kyadiren* 7, no. 1 (2025): 587–601. <https://doi.org/10.46924/JIHK.V7I1.323>.
- Susatyo, Febryan Alam. "Kriteria Alat Bukti Elektronik Yang Sah Dalam Urgensi Pembaharuan KUHAP." *Jurnal Hukum Dan Dinamika Masyarakat* 21, no. 1 (2023).
- Wijayanti, Ni Kadek Sri, Anak Agung Sagung Laksmi Dewi, and I Made Minggu Widyantera. "Keabsahan Alat Bukti Chatting Melalui Media Sosial Dalam Proses Pemidanaan Terhadap Tindak Pidana Perzinahan." *Jurnal Analogi Hukum* 7, no. 1 (2025): 83–88. <https://doi.org/10.22225/JAH.7.1.2025.83-88>.