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Reforming Indonesia's Criminal Prosecution System: The Challenge of Integrating Modern Evidence in Addressing Transnational Crime

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Abstract

Introduction: *The development of transnational crime fundamentally requires efforts to update the criminal evidence system in Indonesia. This is because the characteristics of transnational crime are cross-border and are committed using technological advancements that are not yet covered or even regulated by positive law in Indonesia.*
Purposes of the Research: *This research aims to analyze and propose reforms to the criminal justice system in Indonesia by integrating modern evidence in the face of transnational crime.*
Methods of the Research: *This research uses a normative legal research method with a conceptual and legislative approach.*
Results Main Findings of the Research: *The results of this study confirm that the urgency of reforming the criminal evidence system in Indonesia is a highly pressing and crucial matter for addressing the complexities of transnational crime, particularly money laundering, which demands more adaptive and effective methods of proof than the current provisions in the Criminal Procedure Code. More detailed updates to the Criminal Procedure Code regarding evidence, particularly digital and cross-border evidence, along with strengthened international cooperation and increased capacity of law enforcement officers in digital forensics and handling transnational crimes, are important steps. The reform of Indonesia's criminal evidence system, which integrates modern evidence tools to combat transnational crimes, requires a substantive revision of Article 184 of the Criminal Procedure Code to explicitly include electronic evidence as a category of valid evidence. Therefore, more detailed updates to the Criminal Procedure Code and the Anti-Money Laundering Law regarding evidence, particularly digital and cross-border evidence, along with strengthened international cooperation and increased capacity of law enforcement officers in digital forensics and handling transnational crimes, are important steps to strengthen the effectiveness of law enforcement against transnational crimes.*

Keywords: Criminal Offense; Law of Evidence; Transnational Crime.

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INTRODUCTION

The law of evidence is a fundamental aspect that is universal in legal systems, both in the criminal and civil realms, because evidence is an essential process to ensure the truth of a legal event and to uphold justice objectively. In this context, the law of evidence governs the methods, procedures, and types of evidence that can be accepted by the court to prove the

disputed facts, without distinguishing whether the case is a criminal act that harms the public interest or a private civil matter.[1]

The universal principles inherent in the law of evidence include the principle of sufficiency of evidence (beyond a reasonable doubt in criminal cases and preponderance of evidence in civil cases), the principle of objectivity in assessing evidence, as well as the principle of integrity and legality of the sources of evidence presented.[2] In addition, the law of evidence also contains rules regarding the burden of proof, which should be fair and proportional, where the party making a claim or lawsuit is obliged to prove their arguments, while the opposing party has the right to present evidence of defense.[3] The universality of the law of evidence is also reflected in the various types of evidence recognized, such as documentary evidence, witnesses, expert testimony, circumstantial evidence, and confessions, which in principle can be used in both legal realms, although there are differences in degree and application according to the material context. Philosophically, the law of evidence seeks to maintain a balance between the individual's human right to obtain justice and the community's need for legal order, so that without strong evidence, a fair and authoritative legal decision cannot be made.[4] Therefore, the universal rules of evidence become an absolute foundation in judicial processes that uphold the principles of substantive and procedural justice in the examination of a legal case, whether related to criminal or civil matters.

The law of evidence in the criminal and civil realms has fundamentally different characteristics, although both are oriented towards the search for truth. In criminal law, evidence aims to seek material truth, namely the actual truth about whether the defendant truly committed the alleged criminal act, so the burden of proof is very heavy and must convince the judge beyond a reasonable doubt.[5] Therefore, criminal evidence highly demands valid and

[1] Indah Parmitasari, "Autentikasi Akad Pembiayaan Pada Perbankan Syariah Dalam Penggunaan Lafadz Basmallah," *Undang: Jurnal Hukum* 3, no. 1 (2020): 85–105, https://doi.org/10.22437/ujh.3.1.85-105.

[2] Salahuddin Gaffar et al., "The Concept of Procedural Law Regarding the Implementation of Collective Agreements with Legal Certainty in Termination of Employment in Indonesia," *Heliyon* 7, no. 4 (2021): e06690, https://doi.org/10.1016/j.heliyon.2021.e06690.

[3] Marta Alonso, Nuno Palma, and Beatriz Simon-Yarza, "The Value of Political Connections: Evidence from China's Anti-Corruption Campaign," *Journal of Institutional Economics* 18, no. 5 (2022): 785–805, https://doi.org/10.1017/S1744137422000017.

[4] Herman et al., "Analisis Asas Lex Systematische Specialiteit Terkait Penegakan Hukum Kekerasan Seksual Berbasis Elektronik," *Halu Oleo Legal Research* 7, no. 1 (2025): 184–96, https://doi.org/10.33772/holresch.v7i1.1642.

[5] Handar Subhandi Bakhtiar, "The Evolution of Scientific Evidence Theory in Criminal Law: A Transformative Insight," *Media Iuris* 7, no. 2 (2024): 222–25.

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strong evidence, such as witnesses, expert testimony, documents, circumstantial evidence, and the defendant's confession, which must meet a minimum of two pieces of evidence according to the provisions to ensure the defendant's guilt. On the other hand, evidence in civil cases tends to seek formal truth or truth according to the legal process submitted by the parties, where the judge may only decide based on the limits submitted and it is sufficient to prove with a greater probability of evidence (preponderance of evidence).[6]

Civil evidence is more flexible and emphasizes the division of the burden of proof (actori incumbit probatio) where the party filing the lawsuit must prove their claim, but the standard of proof is not as heavy as in criminal cases, so negative evidence or difficulty in proving is also regulated differently. In the evidentiary process, criminal cases use a negative legal proof system (negatief wettelijk stelsel) which prioritizes strong evidence to impose criminal sanctions, while civil cases prioritize the principle of audi et alteram partem, namely the principle of mutual hearing and giving both parties the opportunity to prove their arguments.[7] Therefore, in the criminal realm, it is important for the judge to have full conviction regarding the defendant's guilt because criminal consequences are very severe and detrimental to freedom, whereas in the civil realm, the decision is based on the balance of evidence to resolve disputes of rights between individuals without imposing criminal sanctions.[8] This difference is fundamental and reflects the purpose of criminal law, which is to protect public interests and public order, in contrast to civil law, which prioritizes the resolution of civil rights disputes between parties. Despite having clear regulations, evidence in criminal law also faces obstacles when there are comprehensive developments related to criminal acts, one of which is the existence of transnational crime. Transnational crime is a criminal act that crosses national borders and involves more than one jurisdiction, whether in terms of execution, planning, or its consequences that affect various countries.[9]

[6] P.N.H. Simanjuntak, *Hukum Perdata Indonesia*, 3rd ed. (Jakarta: Kencana, 2017).

[7] Muhammad Anthony Aldriano and Mas Agus Priyambodo, "Cyber Crime Dalam Sudut Pandang Hukum Pidana," *Jurnal Kewarganegaraan* 6, no. 1 (2022): 2169–75.

[8] Anya Degenshein, "Finding the Criminal within: The Use and Meaning of Digital Evidence at Trial," *Information, Communication & Society* 27, no. 14 (2024): 2514–29, https://doi.org/10.1080/1369118X.2024.2352627.

[9] Trong Nguyen and Hai Thanh Luong, "The Structure of Cybercrime Networks: Transnational Computer Fraud in Vietnam," *Journal of Crime and Justice* 44, no. 4 (2021): 419–40, https://doi.org/10.1080/0735648X.2020.1818605.

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The main characteristics of this crime are its complex and organized cross-border nature, often involving strong criminal networks and the use of sophisticated technology, posing major challenges in international law enforcement. The legal problems of evidence in reaching transnational crime become very complex because they are entangled in various matters, such as differences in legal systems between countries, difficulties in coordination between law enforcement officials, limited access to evidence and witnesses outside the national territory, and strict protection of national jurisdiction. In addition, evidence obtained illegally in one country may not be accepted in another, and the extradition process for suspects is often complicated. This complexity demands close international cooperation and legal mechanisms that can accommodate information exchange, harmonization of evidentiary rules, and procedural integration between countries so that transnational crimes can be uncovered and prosecuted effectively. In this view, the renewal or reform of the criminal evidence system, especially in Indonesia, is needed to reach this transnational crime.

This research aims to analyze and offer efforts to reform the criminal evidence system in Indonesia by integrating modern evidence in the face of transnational crime. This research aims to answer two legal issues, namely: (i) the urgency of reforming the criminal evidence system in Indonesia in the face of transnational crime and (ii) the reform of the criminal evidence system in Indonesia that integrates modern evidence in the face of transnational crime. This research offers findings, namely efforts to reform the criminal evidence system in Indonesia that integrates modern evidence in the face of transnational crime.

METHODS OF THE RESEARCH

This research, focusing on the analysis and offering efforts to reform the criminal evidence system in Indonesia by integrating modern evidence in the face of transnational crime, is a normative legal research.[10] As a normative legal research, doctrinal analysis becomes the main aspect in this research, especially by using primary legal materials such as laws and regulations. The primary legal materials used in this research are Law Number 8 of 1981 concerning the Criminal Procedure Code and several other laws and regulations related to

[10] Cynthia Hadita Eka N.A.M. Sihombing, *Penelitian Hukum*, 1st ed. (Malang: Setara Press, 2022).

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transnational crime, such as Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes. The secondary legal materials used are journal articles, books, and other research results that discuss transnational crime and the law of evidence. The non-legal material used is a legal dictionary. The analysis of legal materials is carried out prescriptively by describing the legal problems in each legal issue and then formulating legal solutions.[11]

RESULTS AND DISCUSSION

A. The Urgency of Reforming Indonesia's Criminal Prosecution System in Facing Transnational Crime

Transnational law, according to Black's Law Dictionary, substantively regulates relationships and activities that cross national borders, not limited to a single national jurisdiction.[12] This law encompasses the norms and principles that govern interactions between various entities, such as states, international organizations, multinational corporations, and individuals involved in cross-border contexts. Transnational law focuses on activities that are global or cross-border in nature, requiring a legal framework that can adapt to the complexities of relationships between states and non-state actors in the international arena.[13] Thus, transnational law becomes important for regulating legal aspects that do not completely overlap with national law or classical international law, but rather operate on a legal order that reflects the realities of globalization and the interdependence of states and other legal actors.

As mentioned in Black's Law Dictionary above, Philip Caryl Jessup first introduced the concept of transnational law in 1956, stating that transnational law is the law that regulates actions or events that cross national borders.[14] In Jessup's understanding, this law not only includes public and private international law but also other rules that cannot be fully categorized as public or private international law.[15] This transnational law has evolved into a more diverse form, including standards and codes of ethics that apply across countries.

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[11] Galang Taufani Suteki, *Metodologi Penelitian Hukum (Filsafat, Teori, Dan Praktik)*, 1st ed. (Depok: Rajawali Pers, 2018).
[12] Henry Campbell Black Bryan A. Garner, *Black's Law Dictionary*, 11th ed. (Minnesotta: West Publishing Co, St. Paull, 2019).
[13] Itamar Mann, "Law and Politics from the Sea," *International Theory* 16, no. 1 (2024): 78–101, https://doi.org/10.1017/S1752971923000192.
[14] Peer C. Zumbansen, "Transnational Law, With and Beyond Jessup" (London: King's College London School of Law, 2020).
[15] Joko Setiyono et al., "Enhancing Cross-Border Justice: Facilitating Asset Recovery from Corruption Between Indonesia and Australia Through Mutual Legal Assistance," *Journal of Indonesian Legal Studies* 9, no. 2 (2024): 537–70, https://doi.org/10.15294/jils.v9i2.877.

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The characteristics of transnational law according to Jessup include: first, its cross-border nature, which regulates various activities and relationships involving more than one national jurisdiction.[16] Second, this law is hybrid in nature because it combines elements of domestic and international law, as well as informal rules such as voluntary standards and codes of ethics. Third, transnational law encompasses various actors, not only states, but also international organizations, multinational corporations, and other private actors who play a role in global governance.[17] Fourth, this law plays a role in regulating the dynamics of globalization and interdependence, creating a global governance that is more flexible and responsive to cross-border socio-economic changes. Thus, transnational law is a complex and dynamic legal concept that emerged as a response to the need to regulate global phenomena that cannot be fully addressed by national law or classical international law alone. Transnational law has experienced very massive and significant developments in the 21st century, along with the increasing complexity and breadth of cross-border activities involving various aspects of social, economic, political, and technological life. Basically, transnational law is a set of legal rules and norms that govern relationships and actions that occur beyond national borders, and it evolved from the need to overcome the limitations of national laws that are unable to address increasingly dynamic global phenomena. This development is increasingly evident, especially in the context of globalization, where interactions between countries and non-state actors are becoming more intense and diverse, ranging from international trade, migration, transnational crimes such as human trafficking, drug smuggling, to cybercrimes that demand legal responses that are not only domestic but also internationally collaborative.[18] In the 21st century, the integration of various disciplines and information technology is increasingly evident in supporting the function of transnational law, such as the use of digital technology for evidence collection and information exchange between countries, as well as the strengthening of

[16] Dicky Eko Prasetio et al., "The Construction Of The Lex Sportiva Principle In Indonesia's Sports Law: Implications And Future Arrangements," *UUM Journal of Legal Studies* 16, no. 2 (2025): 58–69, https://doi.org/10.32890/uumjls2025.16.2.4.

[17] Ghassan Elkahlout et al., "Localisation of Humanitarian Action in War-Torn Countries: The Experience of Local NGOs in Yemen," *International Journal of Disaster Risk Reduction* 75, no. February (2022): 102921, https://doi.org/10.1016/j.ijdrr.2022.102921.

[18] Gregory Shaffer and Wayne Sandholtz, "The Rule of Law Under Pressure: A Transnational Perspective," *Hague Journal on the Rule of Law* 16, no. 2 (2024): 393–438, https://doi.org/10.1007/s40803-024-00210-x.

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cooperation between international institutions such as Interpol and the United Nations, which facilitate cross-border law enforcement.[19]

The function of transnational law in this century is also strengthened by the establishment of various international conventions that criminalize transnational criminal acts, such as conventions against human trafficking and the prevention of migrant smuggling. This reflects that transnational law is not only a formal legal tool, but also a response to new challenges arising from interdependence and the complexity of global relations, thus demanding regulatory updates, international cooperation mechanisms, and the strengthening of the capacity of law enforcement agencies in various countries to effectively carry out their functions in regulating, supervising, and prosecuting cross-border violations of the law.[20] Thus, transnational law in the 21st century emerges as a more inclusive, adaptive, and collaborative legal order that is a primary necessity in managing ever-evolving and challenging global phenomena.

International law and transnational law are two distinct legal concepts, although both regulate phenomena involving more than one country. However, their scope and approach are very different, and it is important to understand these differences so that complex and cross-border legal aspects can be accommodated appropriately. International law is traditionally a collection of public law rules and principles that govern relations between states and other subjects of international law, such as international organizations, which are voluntarily binding based on consensus among states and focus on state sovereignty and inter-state relations.[21] This public international law has clear legal subjects in the form of states and some international entities, and it regulates relations and disputes between states involving aspects such as international treaties, the law of war, and human rights on a global scale.[22] Meanwhile, private

[19] Chinasa Susan Adigwe et al., "The Evolution of Terrorism in the Digital Age: Investigating the Adaptation of Terrorist Groups to Cyber Technologies for Recruitment, Propaganda, and Cyberattacks," *Asian Journal of Economics, Business and Accounting* 24, no. 3 (2024): 289–306, https://doi.org/10.9734/ajeba/2024/v24i31287.

[20] Surjanti Surjanti et al., "Digital Counter Terrorism: Legal Policy for Countering the Spread of Terrorist Content on Social Media," in *Proceedings of the First International Cyber Law Conference, ICL-C 2023, 11 November 2023, Jakarta, Indonesia* (EAI, 2025), 1–4, https://doi.org/10.4108/eai.11-11-2023.2351348.

[21] Sam Noshadha and Mariia Duka, "Sport Sanctions In War Situations Under International Law," *Ukrainian Journal of International Law* 7, no. 1 (2023): 44–52, https://doi.org/10.52449/soh22.89.

[22] Ilias Bantekas and Lutz Oette, *International Human Rights Law and Practice* (Cambridge: Cambridge University Press, 2020), https://doi.org/10.1017/9781108612524.

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international law (conflict of laws) governs conflicts of law arising from civil relationships between individuals or legal entities involved across national jurisdictions.

On the other hand, transnational law is more complex and dynamic because it is not only limited to relations between states, but also includes norms, rules, and mechanisms that govern actions and interactions involving diverse actors, both state and non-state actors, such as multinational corporations, non-governmental organizations, and individuals operating in a global context. The breadth of transnational law also extends to various aspects such as non-governmental organizations in the environmental and humanitarian fields, and even sports organizations or federations.[23] Specifically, international sports organizations or federations are fundamentally also part of transnational law.[24] Unlike international law, which tends to be formal and codified through treaties between states, transnational law emerges as a response to the need to regulate new phenomena such as transnational crime, global trade, information technology, and cross-border ethical standards that are not fully accommodated by conventional international law. Transnational law is often hybrid, combining domestic legal rules from several countries, international principles, and also unwritten norms such as codes of ethics and voluntary standards that apply at the transnational level.

The importance of understanding transnational law is increasing due to several critical aspects that are not yet or not sufficiently regulated effectively by classical international law, such as transnational criminal acts involving various different jurisdictions with dispersed perpetrators, complex cross-border trade issues, and the rapid development of information technology that requires adaptive and collaborative legal rules between countries. For example, transnational crimes in the areas of narcotics, terrorism, human trafficking, and cybercrime show that national law or formal international law is often unable to provide effective legal solutions without the concept of transnational law that accommodates jurisdictional differences and cooperation between countries and non-state actors.[25] Therefore, transnational

[23] Dicky Eko Prasetio Christiana Sri Murni, Fradhana Putra Disantara, "Political Law In Settling Sports Disputes In Indonesia," *Kanun: Jurnal Ilmu Hukum* 25, no. 2 (2023): 320.

[24] Dicky Eko Prasetio and Zeidan Izza Al-farisi, "Lex Sportiva in Indonesian Sports Law : Autonomy , Independence , and Harmonization with National Laws," *Indonesian Journal of Sports Law* 1, no. 2 (2024).

[25] Christiana Tom Edward, "Safeguarding the Sanctity of the Rule of Law and Human Rights in Counter-Terrorism Measures," *Journal of Commercial and Property Law* 12, no. 1 (2025): 147–55.

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law becomes very important to understand and develop as a more flexible and responsive legal instrument in addressing increasingly complex global challenges, where a legal approach that focuses solely on state sovereignty and inter-state relations is not sufficient to address various issues involving multifaceted cross-border actors and activities. By understanding the differences and strengths of transnational law in addition to international law, countries and global actors can work together more effectively to create a more comprehensive and inclusive global legal governance, in order to face various phenomena and threats that arise in the era of 21st-century globalization.

Transnational law plays a very important role in addressing the increasingly complex and massive development of transnational crime in the era of globalization, especially crimes such as money laundering, which have a cross-border nature. Transnational crime itself is a criminal act that, although it occurs within the borders of a country, its impact and implementation aspects involve more than one country, so its nature transcends national jurisdiction and poses significant challenges in national law enforcement alone. Money laundering is one of the most obvious examples of transnational crime that demands a legal approach that goes beyond the conventional boundaries of domestic law, because the perpetrators and assets of the crime are often scattered in various countries, requiring inter-state cooperation and effective and integrated legal mechanisms. In this context, transnational law becomes a crucial instrument because it is able to provide a legal framework and international legal cooperation mechanisms that not only rely on national law but also accommodate various different legal systems, global norms, and collaboration between cross-border law enforcement agencies.

The development of transnational crimes such as money laundering shows a very complex and organized modus operandi, with the involvement of cross-border criminal networks, which exploit regulatory differences, weaknesses in law enforcement systems in some jurisdictions, and advances in digital technology in committing the crime. Therefore, transnational law plays a role in filling the regulatory and legal procedural gaps that cannot be fully covered by formal international law or national law. In this case, transnational law provides flexibility and inclusiveness to form stronger legal norms and law enforcement

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cooperation, involving international agreements such as the UN Convention Against Transnational Organized Crime (UNTOC) which regulates money laundering and various other cross-border crimes.[26] Furthermore, the transnational legal approach enables law enforcement agencies in various countries to exchange information and take joint action more efficiently to trace the flow of illicit funds hidden abroad, thereby making it harder for perpetrators to escape legal consequences.

Moreover, the role of transnational law is also very important in promoting the harmonization of laws between countries to reduce legal loopholes commonly exploited by perpetrators of transnational crime. With an understanding and application of transnational law, countries can be more effective in establishing mechanisms for Mutual Legal Assistance (MLA) and extradition to handle cross-border cases. Transnational law also strengthens legal protection for victims and society from the negative impacts of increasingly rampant transnational crime, while safeguarding state sovereignty without neglecting the need for global collaboration. Therefore, a deep understanding and development of transnational law becomes a necessity in countering transnational crimes such as money laundering, to achieve fair, effective, and sustainable law enforcement in facing the ever-changing and increasingly complex legal challenges of the 21st century.

The issue of proof in transnational crimes, especially in money laundering offenses, is a major challenge faced by the Indonesian criminal justice system, which refers to the principles and rules of evidence in the Criminal Procedure Code. Article 66 paragraph (2) of the Criminal Procedure Code substantively regulates the principle of presumption of innocence, requiring that the suspect or defendant is not burdened with the obligation to prove their guilt, but rather the public prosecutor is responsible for proving their indictment by presenting at least two valid pieces of evidence.[27] However, in cases of money laundering, which has the characteristics of a transnational crime, proving guilt becomes very difficult due to the complexity of financial flows involving various countries and perpetrators who use

[26] Neil Boister, "The UNTOC and International Cooperation," *Transnational Criminal Law Review* 4, no. 1 (2025): 3–4, https://doi.org/10.22329/tclr.v4i1.9646.

[27] Muhammad Rustamaji, *Dekonstruksi Asas Praduga Tidak Bersalah*, 1st ed. (Yogyakarta: Thafa Media, 2019).

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sophisticated techniques to conceal the origin of the funds.[28] This causes the process of proving the elements of a crime in the Criminal Procedure Code to be inadequate due to the difficulty of accessing evidence scattered in various jurisdictions and the use of digital technology that can manipulate evidence. Even so, Articles 77 and 78 of the Money Laundering Law regulate the reversal of the burden of proof, where the defendant is obliged to prove their assets in court because this is in line with the concept of subsidiary crime as a concept that affirms that money laundering is a follow-up crime. Nevertheless, this arrangement still reaps controversy and its implementation has not been optimal because it is contrary to the principle of presumption of innocence regulated by the Criminal Procedure Code and still creates complications in the trial process, including the possibility of abuse by law enforcement officials. In addition, the diversity of legal systems in countries related to transnational crime and obstacles in international cooperation also make proof more complicated. This is because when money laundering is carried out abroad, this becomes a separate law enforcement problem because law enforcement officials in Indonesia will find it difficult to implement the provisions of Articles 77 and 78 of the Money Laundering Law with the transnational characteristics of money laundering crimes.

From the description of these problems, a more specific and adaptive legal reform of evidence is needed in handling transnational crimes, such as money laundering. This reform must include updating the Criminal Procedure Code with provisions that accommodate the characteristics of modern crime, including the use of information technology in collecting digital evidence, stronger international cooperation in collecting and validating evidence, and legal procedures that can handle cross-jurisdictional evidence effectively and transparently, including agreements with other countries to ensure the implementation of the reversal of the burden of proof related to money laundering crimes that occur in other countries or involve parties in other countries. Furthermore, strengthening the capacity of law enforcement officials, forming special units for handling transnational crimes, and forming special regulations for

[28] Jose Castelao-López, Teresa Corzo Santamaría, and Dolores Lagoa-Varela, "Analysis of the Main Techniques and Tools to Combat Money Laundering: A Review of the Literature," *Journal of Money Laundering Control* 1, no. 1 (2025): 2–3, https://doi.org/10.1108/JMLC-10-2024-0159.

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proving cases of cross-border crimes need to be a major concern in the legal reform of evidence. With such reforms, law enforcement against transnational money laundering crimes can run more effectively and fairly, which in turn will increase public trust in the criminal justice system and the country's ability to combat increasingly sophisticated cross-border crimes that are detrimental to various aspects of global community life.

The urgency of reforming the criminal evidence system in Indonesia in the face of transnational crime, especially money laundering, is very crucial considering the complexity and challenges faced in the evidentiary process based on the principles and rules regulated in the current Criminal Procedure Code. Article 66 paragraph (2) of the Criminal Procedure Code firmly affirms the principle of presumption of innocence, which requires the public prosecutor to prove their indictment with a minimum of two valid pieces of evidence, while the suspect or defendant is not obliged to prove their guilt. However, in the context of transnational money laundering, this evidentiary process faces major difficulties because the complex financial flows involve various countries, as well as sophisticated techniques to conceal the origin of funds, which makes it difficult to access and collect evidence across jurisdictions. Thus, the existing Criminal Procedure Code principles and evidentiary procedures are not fully adequate to handle evidence that is scattered globally and digital evidence that is highly susceptible to manipulation.

Although the Law on the Crime of Money Laundering Law adopts the reversal of the burden of proof in Articles 77 and 78, which requires the defendant to prove the origin of their assets, this provision still raises controversy because it is contrary to the principle of presumption of innocence and creates complications in the trial process. These obstacles are further exacerbated by differences in legal systems between countries and obstacles in international cooperation that challenge the validity of and obtaining evidence from abroad. For example, when money laundering is carried out using criminal networks outside Indonesian territory, law enforcement officials in the country find it difficult to implement the provisions on the reversal of the burden of proof effectively as regulated in the Crime of Money Laundering Law. Therefore, a reform of the criminal evidence system that is more specific and adaptive is needed

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to deal with transnational crime effectively. This reform must include a revision of the Criminal Procedure Code to include provisions that accommodate the characteristics of modern crime, such as more detailed regulations on the collection and use of digital evidence and cross-border evidence in a transparent and effective manner. In addition, international cooperation needs to be strengthened through bilateral or multilateral agreements to ensure the implementation of the reversal of the burden of proof related to cross-jurisdictional cases. Strengthening the capacity of law enforcement officials, especially in the field of digital forensics, forming special units for handling transnational crimes, and implementing regulations that technically regulate evidentiary mechanisms are also important parts of this reform. With these reform measures, law enforcement against money laundering and other transnational crimes can be carried out more effectively and fairly. This not only increases the country's ability to combat increasingly sophisticated and detrimental cross-border crimes, but also strengthens public trust in the criminal justice system, which is able to deliver substantive justice in the current conditions of globalization. Therefore, the reform of the Indonesian criminal evidence system is an urgent need to create criminal law that is responsive to the developments and challenges of transnational crime in the 21st century.

B. Reforming the Criminal Evidence System in Indonesia by Integrating Modern Evidence in Addressing Transnational Crimes

The reform of the criminal evidence system in Indonesia is becoming increasingly important given the increasingly complex and dynamic development of transnational crime, which demands the readiness of law enforcement officials and adaptive and effective legal mechanisms in handling various forms of crime that cross national borders.[29] Transnational crimes such as narcotics trafficking, terrorism, cybercrime, money laundering, and human trafficking pose major challenges in the collection and examination of evidence that not only originates from within the country but also involves coordination with other countries and international institutions. The criminal evidence system, which currently still relies heavily on traditional methods, needs to be directed towards an approach that is able to legally

[29] Dicky Eko Prasetio, "Politik Hukum Omnibus Law Terkait Cybercrime Di Indonesia Dalam Perspektif Hukum Progresif," *Indonesian Journal Of Law Studies* 3, no. 1 (2024): 27–41.

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accommodate electronic evidence, digital data, and cross-jurisdictional documents, so as not to hinder the process of timely and accurate law enforcement.[30] This reform must also include increasing human resource capacity, implementing modern forensic technology, and updating regulations related to evidentiary procedures that are in line with international standards to ensure integrity, validity, and fairness in the criminal justice process. With a strengthened and adapted evidentiary system, Indonesia can increase the effectiveness of handling transnational crime, strengthen international legal cooperation, and provide better legal protection for society in this era of globalization full of complexities. Ultimately, this reform is not just a matter of technical needs, but is also an important part of the efforts of the government and judicial institutions in maintaining the country's legal sovereignty while securing national interests from the threat of crimes that cross national borders.

The criminal evidence system in Indonesia is fundamentally regulated under Article 183 of the Criminal Procedure Code, which stipulates that a judge may not impose a sentence on a defendant unless with at least two valid pieces of evidence he obtains confidence that the crime really occurred and that the defendant is guilty of committing it.[31] This article is the fundamental basis in the criminal evidence system that upholds the principles of legal certainty, material truth, and justice in the criminal justice process in Indonesia. As for the types of evidence recognized in Indonesian criminal law as regulated in Article 184 of the Criminal Procedure Code, they consist of five main categories, namely:[32] First, witness testimony, which is direct testimony from people who saw or knew about events related to the crime; second, expert testimony, which is the opinion or explanation from people who have special expertise relevant to the case; third, letters, which include written documents that can be evidence; fourth, clues, which are facts or circumstances that logically lead to certain conclusions about the case; and fifth, the defendant's statement, which is a statement or confession from the defendant themselves in the examination process. Each piece of evidence must be tested for its

[30] Simon Butt and Andreas Nathaniel, "Evidence from Criminal Law Experts in Indonesian Criminal Trials: Usurping the Judicial Function?," *The International Journal of Evidence & Proof* 28, no. 2 (April 29, 2024): 129–53, https://doi.org/10.1177/13657127231217319.

[31] Puspita Nirmala, "Adversary System in Common Law Countries and Possibility for Implementation in Indonesian Court," *Amsir Law Journal* 2, no. 1 (2020): 12–20, https://doi.org/10.36746/alj.v2i1.28.

[32] Mustalim Lasaka, "Ius Constituendum of Electronic Evidence Arrangement in Criminal Procedure Law," *JURNAL LEGALITAS* 16, no. 2 (June 23, 2023): 154–66, https://doi.org/10.33756/jelta.v16i2.20306.

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validity and credibility in court so that the judge can combine and weigh all the evidence objectively to reach a legitimate conviction of the defendant's guilt. Thus, the criminal evidence system in Indonesia not only prioritizes the formalities of evidence but also the judge's assessment of conviction, which must be based on valid and sufficient evidence, to ensure a fair and appropriate verdict in accordance with applicable criminal procedure law principles.

The five types of evidence in Article 184 of the Criminal Procedure Code above are basically no longer fully adequate to handle the complexity of transnational crimes that continue to develop, such as cross-border money laundering, terrorism, and other high-tech crimes that demand more modern and comprehensive handling of evidence. For example, in cases of money laundering involving funds that move electronically abroad, the need for digital evidence and other electronic evidence becomes very crucial and cannot be adequately accommodated only with the five traditional categories of Article 184 of the Criminal Procedure Code.[33] In addition, proof based on artificial intelligence is also needed as part of technological developments to handle various serious crimes, especially those of a transnational nature. Therefore, a thorough reform and revision of Article 184 of the Criminal Procedure Code is needed to accommodate the development of information technology and the needs of law enforcement that is able to handle digital evidence and other relevant supporting evidence related to cross-border crimes. This revision is important so that law enforcement officials can be more effective in collecting, analyzing, and presenting electronic evidence and other complex evidence to strengthen indictments and provide legal certainty in trials dealing with transnational crimes that are dynamic and difficult to handle with the existing conventional evidentiary system.

The strategy for reforming the criminal evidence system in Indonesia that integrates modern evidence in the face of transnational crime must be designed comprehensively and progressively, considering the complexity and dynamics of cross-border crime that can no longer be handled with traditional evidentiary mechanisms alone. First, there needs to be a regulatory update that explicitly accommodates digital technology and electronic evidence as

[33] Kartini Laras Makmur, "Why Only Scrutinise Formal Finance? Money Laundering and Informal Remittance Regulations in Indonesia," *Journal of Economic Criminology* 6, no. 1 (2024): 100111, https://doi.org/10.1016/j.jeconc.2024.100111.

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part of the valid evidence in court, including recognition of evidence originating from electronic systems, digital devices, electronic recordings, and cross-border financial transaction data. The regulation must ensure strict standards for the validity, legality, and integrity of digital evidence so that it is not easily falsified or manipulated, so that it continues to uphold the principles of justice and due process through the application of technological security protocols such as blockchain that guarantee digital traces that cannot be changed or deleted. Second, strengthening the human resource capacity of law enforcement officials, including investigators, prosecutors, and judges, is key so that they are able to understand, interpret, and evaluate modern evidence accurately and objectively. This requires intensive training in mastering digital forensic technology, cybercrime investigation procedures, and technology-based evidence assessment methods, as well as the establishment of professionally and transparently certified digital forensic laboratories. Third, it is necessary to build a cross-sectoral and cross-country collaboration system so that the collection and verification of evidence from various jurisdictions can run effectively, including cooperation with international institutions and the use of collaborative evaluation models involving experts in information technology, banking, and international law to unravel the complexities of transnational crimes such as money laundering and terrorism. In addition, the reform of the evidentiary system must be oriented towards protecting the rights of all parties involved throughout the legal process, by establishing a fair evidence testing mechanism that provides a deliberative space for judges to assess the validity and relevance of evidence without neglecting the standards of material truth. All of these steps must be integrated into the revision of the Criminal Procedure Code so that the criminal evidence system in Indonesia is not only responsive to technological advances and changes in crime patterns, but is also able to maintain the credibility, transparency, and efficiency of the criminal justice process in order to create substantive justice in the era of globalization and digitalization of international crime.

CONCLUSION

The urgency of reforming the criminal evidence system in Indonesia is a very pressing and crucial matter in order to face the complexity of transnational crime, especially the crime of

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money laundering, which demands more adaptive and effective methods of proof compared to the provisions in the current Criminal Procedure Code. The principle of presumption of innocence regulated in Article 66 paragraph (2) of the Criminal Procedure Code, although important as a basic principle of protecting the rights of the accused, presents significant obstacles in proving money laundering crimes that have complex financial flows and involve many countries as well as sophisticated technology to hide illegal assets. The reversal of the burden of proof regulated in the Crime of Money Laundering Law, although attempting to overcome this, is still not optimal because it is contrary to the principle of presumption of innocence and is difficult to implement, especially in relation to international cooperation and the validity of cross-jurisdictional evidence. Therefore, a more detailed update of the Criminal Procedure Code related to evidence, especially digital evidence and cross-border evidence, accompanied by strengthening international cooperation and increasing the capacity of law enforcement officials in digital forensics and handling transnational crime, is an important step. This reform must also be supported by the formation of special units and clear implementing regulations to ensure that the evidentiary mechanism runs effectively, transparently, and fairly. Thus, the reformed criminal evidence system will strengthen the ability of Indonesian law enforcement to substantially combat transnational crime, while building public trust in justice that is responsive to modern legal challenges in the 21st century era of globalization. The reform of the criminal evidence system in Indonesia that integrates modern evidence in the face of transnational crime requires a substantive revision of Article 184 of the Criminal Procedure Code to explicitly include electronic evidence as a category of valid evidence. This is to accommodate law enforcement against transnational crimes such as proving money laundering crimes that have complex financial flows and involve many countries as well as sophisticated technology to hide illegal assets. The reversal of the burden of proof regulated in the Crime of Money Laundering Law, although attempting to overcome this, is still not optimal because it is contrary to the principle of presumption of innocence and is difficult to implement, especially in relation to international cooperation and the validity of cross-jurisdictional evidence. Therefore, a more detailed update of the Criminal Procedure Code and Crime of

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Money Laundering Law related to evidence, especially digital evidence and cross-border evidence, accompanied by strengthening international cooperation and increasing the capacity of law enforcement officials in digital forensics and handling transnational crime, is an important step to strengthen the effectiveness of law enforcement against transnational crime, but also to maintain the credibility, transparency, and fairness of the judicial process in the era of digitalization and globalization of increasingly complex crimes.

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