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Evidence Against Female Victims of Adult Sexual Violence

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Abstract

In the Criminal Procedure Law, in proving a case, one of the conditions must have a minimum of 2 (two) witnesses, this becomes a problem when this condition is combined with the crime of sexual violence, based on most of the facts that occur in the field, sexual violence experienced by the victim is not necessarily known by others. The purpose of this study is to find out and analyze the crime of witness sexual violence as one of the important aspects of procedural law, as well as to find out the position of electronic evidence in the crime of sexual violence. This type of research is normative legal research with a conceptual approach and a legislative approach. From this study, it can be concluded that in the case of a problem where the crime is difficult to find witnesses, because it happened in a closed place, then 2 witnesses cannot be used as the main evidence for the defendant to be declared guilty because basically, the various pieces of evidence mentioned in Article 184 of the Criminal Code have equal status so that the judge can choose which 2 pieces of valid evidence can give confidence to the judge to determine a person guilty or not. Furthermore, electronic evidence can be used as valid evidence in the crime of adult sexual violence as stipulated in Article 5 paragraph (1) of the ITE Law, the position of electronic evidence as an extension of valid evidence in the Criminal Code.

1. Introduction

In terms of calculations by the Central Statistics Agency (BPS) in 2023, the number of Indonesia's female population is 136.3 million people, meaning that 50% of Indonesia's population is female. This must be a consideration for the government in terms of fulfilling their rights and obligations, therefore making regulations that pay attention to aspects of women is crucial, it is undeniable that women have all the limitations when compared to men. Based on the map of the distribution of the number of cases of violence according to the province in 2025, it is 766 (seven hundred and sixty-six) with 176 (one hundred and seventy-six) male victims and 684 (six hundred and eighty-four) female victims[1]. The United Nations (UN) in 1993, in its declaration on the Elimination of Violence against Women, stated that violence against women is any act based on gender-based differences that results in the misery or suffering of women physically, sexually or psychologically, including arbitrary threats, whether in the realm of private or private life[2]. Forms of violence in the form of physical, sexual, and psychological can occur in the family[3].

[1] Simfoni-PPA, "Kekerasan," n.d., https://kekerasan.kemenpppa.go.id/ringkasan.
[2] General Assembly resolution 48/104, "Declaration on the Elimination of Violence against Women," n.d., https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-elimination-violence-against-women.
[3] Rizkah, "Kinerja Pusat Pelayanan Terpadu Pemberdayaan Perempuan Dan Anak (P2tp2a) (Studi Kasus: Kekerasan Seksual Di Kabupaten Sinjai)," 2022.

Sexual violence is something that can occur in public and domestic places, where the subjects are women and children who are generally considered weak[4]. Sexual violence is often experienced by women, but it may occur in men, sexual violence that occurs in men is often considered not serious[5]. It often happens that men who experience sexual violence prefer to remain silent because society believes that it is unreasonable for men who are victims of sexual violence[6]. In 2022, the government passed Law Number 12 of 2022 concerning the Crime of Sexual Violence (hereinafter referred to as Law No. 12/2022) which is related to the prevention, handling, protection, and recovery of all forms of sexual violence crimes. There are several types of sexual violence based on Article 4 paragraph (1) of the Law No. 12/2022, including:

1. Non-physical sexual harassment, which is inappropriate statements, gestures, or activities that lead to sexuality with the aim of degrading or humiliating;
2. Physical sexual abuse;
3. Contraceptive coercion;
4. Forced sterilization;
5. Forced marriage;
6. Sexual abuse;
7. Sexual exploitation;
8. Sexual slavery; dan
9. Electronic-based sexual violence"

Sexual violence will cause very deep trauma to the victim, it can be in the form of stress as a result of a traumatic experience at the time of the incident, it can also be in the form of outnonomic lability anxiety syndrome, emotional invulnerability, feelings of guilt, depression, fear of relating to others, the shadow of the event, insomnia, nightmares, and flashbacks of very painful experiences, both physical and emotional, that exceed the limits of people's endurance in general or that is often referred to as post-traumatic stress disorder or PTSD[7].

An important aspect of the regulation is related to its implementation, in the Criminal Procedure Law in proving a case, one of the conditions must be a minimum of 2 (two) witnesses. This becomes a problem when this condition is combined with the crime of sexual violence. Based on most of the facts that occurred in the field, the sexual violence experienced by the victim is not necessarily known by others. Therefore, the researcher in this study raises 2 (two) legal issues that will be discussed further in this study, namely related to the implementation of witnesses and the position of electronic evidence in the crime of sexual violence. Based on the information and literature search conducted by the researcher, it shows that the research entitled "Evidence of Female Victims of Adult Sexual Violence" is different

[4] Nurlaela Wulandari and Kus Rizkianto, "Problematika Pembuktian Dalam Tindak Pidana Pelecehan Seksual," 2024, 57–66, https://doi.org/10.24905/plj.v2i1.60.
[5] Fajar Dian Aryani et al., "Literasi Hukum: Pencegahan Kekerasan Terhadap Anak Bagi Siswa SMA Menuju Sekolah Ramah Anak," *Jurnal Pembelajaran Pemberdayaan Masyarakat (JP2M)* 5, no. 1 (February 6, 2024): 39–49, https://doi.org/10.33474/jp2m.v5i1.21485.
[6] Bestha Inatsan Ashila dan Naomi Rehulina Barus, "Kekerasan Seksual Pada Laki-Laki: Diabaikan Dan Belum Ditangani Serius," November, 2023.
[7] Siti Ismaya et al., "Materi Ajar Peningkatan Kapasitas Advokat Terkait Undang-Undang Nomor 12 Tahun 2022 Tentang Tindak Pidana Kekerasan Seksual," 2015, 6.

from other scientific studies or articles, because this study focuses on the problem of proving female victims of adult sexual violence, by looking at the difference in research from the previous researcher, namely an article with the name Niken Savitri with the title Evidence in the Crime of Sexual Violence against Children[8], where in this study focuses more on children, while our article focuses on adult women. The purpose of this study is to find out and analyze the crime of witness sexual violence as one of the important aspects of procedural law, as well as to find out the position of electronic evidence in the crime of sexual violence.

2. Methods

The type of legal research that the author uses is normative legal research, so the method used is a legal research method that aims to find solutions to legal issues and problems that arise in them so that the results that will be sought then are to provide a prescription for what should be the legal issue proposed. Legal research is the process of finding legal rules, legal principles, and legal doctrines to answer legal issues faced[9]. There are several approaches used in research, according to Peter Mahmud Marzuki, there are four, namely the statute approach, the case approach, the historical approach, and the conceptual approach. Based on these approaches, this study uses a problem approach, a statute approach, and a conceptual approach. The type of research with a statute approach is to examine all regulations or provisions related to the legal issues being handled[10]. Conceptual approach That is, an approach that is carried out by using the views and concepts of several thinkers (experts) as well as doctrines that have developed in legal science as the basis for this research to build a legal argument in solving the legal issue being researched[11].

3. Results and Discussion

3.1. Implementation of Witnesses in the Crime of Sexual Violence

In the judicial process, there are several stages to provide confidence that the arrested perpetrator is indeed the person who committed the crime. One of them is the proof stage. The criminal law process is different from civil law, where the evidentiary process starts from the beginning, namely at the investigation and investigation stage., the police in this case investigators have collected evidence that will later become a bright spot in the criminal case. According to R. Atang Ranomiharjo, (legal) evidence is tools related to a criminal act, where these tools can be used as evidence, to create confidence for the judge, on the truth of a criminal act that has been committed by the defendant[12].

The strength of the evidence can prove that the defendant is indeed guilty. And the guilty statement must be stipulated in a court decision that has permanent legal force (*inkracht*). This evidence is the basis and supporting factor for judges in deciding cases in court[13]. Indonesia as a Civil Law country in its judicial system adheres to the Theory of

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[8] Niken Savitri, "Pembuktian Dalam Tindak Pidana Kekerasan Seksual Terhadap Anak Kajian Putusan Nomor 159/Pid.Sus/2014/PN.Kpg.," *Jurnal Bina Mulia Hukum* 4, no. 2 (2020): 276, https://doi.org/10.23920/jbmh.v4i2.323.

[9] Peter Mahmud Marzuki, *Penelitian Hukum Edisi Revisi* (Bandung: PT Kharisma Putra utama, 2015).

[10] Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana Prenada Media Group, 2008).

[11] Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana Pranada Media Group, 2005).

[12] Andi Sofyan, *Hukum Acara Pidana: Suatu Pengantar* (Jakarta: Kencana, 2015).

[13] I. Rusyadi, "Kekuatan Alat Bukti Dalam Persidangan Perkara Pidana," *Jurnal Hukum PRIORIS* 5, no. 2 (February 2016): 128–34, https://doi.org/10.25105/prio.v5i2.558.

Negative Proof (*Negative wettelijk Bewijstheorie*) which is strengthened in Article 183 of the Criminal Code which states that "A judge may not impose a criminal sentence on a person unless with at least two valid pieces of evidence he has obtained confidence that a criminal act occurred and that the defendant is guilty of committing it". However, there are several theories of proof in Criminal Law, one of which is proof based on the judge's belief alone (Conviction In Time) in this theory, to carry out proof, it must be determined whether the defendant is guilty or not, which is solely based on the judge's belief alone, so that the judge is not bound Based on several types of evidence regulated by law, the judge only relies on beliefs inferred from witness statements and confessions from the defendant. The 1945 Constitution has guaranteed that there is freedom of judges in deciding a case as mentioned in Article 24 paragraph (1) that judicial power is the power of the judge. Independence in terms of organizing the judiciary to uphold law and justice. The freedom of the judge is an authority that has been attached to the judge himself, where the judge has a function in applying the law to a real event, not only substantive but also an appropriate interpretation so that the judge can freely give his judgment and interpretation of the law[14]. It is often interpreted that the profession of judges as a provider of justice, judges have been bound by the inherent code of ethics and have been conveyed by Socrates, namely there are 4 (four) orders for judges related to adjudicating a case, namely to hear courteously, to answer wisely, to consider soberly, to decide impartially[15].

In the book Law Number 8 of 1981 concerning the Criminal Procedure Code Article 184 paragraph (1) it is explained that there are 5 (five) valid evidence in criminal cases, namely Witness Statements, Expert Statements, Letters, Instructions, and Statements of the Defendant:

1) Witness Statement

Witness testimony is one of the evidence in criminal cases in the form of testimony from witnesses about a criminal event that he does not always hear himself, see for himself, and experience himself by mentioning the reason for his knowledge[16]. In general, everyone can be a witness. Being a witness in a criminal case is an obligation for everyone, if case the person refuses, it can be faced with a trial[17]. However, the exception to being a witness is contained in Article 168 of the Criminal Code. Then, in terms of the obligation of witnesses to make promises or oaths, the Criminal Procedure Code still follows the old regulations (HIR), where it is determined that the pronunciation of the oath is an absolute requirement for testimony as evidence[18].

2) Expert Testimony

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[14] Ery Setyanegara, "Kebebasan Hakim Memutus Perkara Dalam Konteks Pancasila (Ditinjau Dari Keadi Lan 'Substantif') Ery Setyanegara 1," 2010, https://doi.org/10.21143/jhp.vol44.no4.31.

[15] I Kadek Apdila Wirawan and Pita Permatasari, "Tinjauan Yuridis Undang-Undang Nomor 12 Tahun 2022 Tentang Tindak Pidana Kekerasan Seksual Dalam Aksesibilitas Keadilan Bagi Perempuan" 02, no. 03 (2022): 153–74.

[16] Pasal 1 angka 27 KUHAP jo. Putusan Mahkamaunush Konstitusi Nomor 65/PUU-VIII/2010: 92.

[17] Elias Zadrack Leasa, "Kekuatan Keterangan Saksi Sebagai Alat Bukti Pada Perkara Kekerasan Dalam Rumah Tangga" 4, no. 2 (2019): 188–203, https://doi.org/http://dx.doi.org/10.30598/belovol4issue2page188-203.

[18] Hamzah Andi, *Hukum Acara Pidana Indonesia,* (Jakarta: Sinar Grafika, 2005).

Article 186 of the Criminal Procedure Code states that expert testimony is what an expert states at a court hearing. As an expert, a person can be heard about a certain issue that according to the judge's consideration that person knows the field specifically. The difference between witness testimony and expert testimony is that if the witness gives testimony in front of the judge about what he or she has experienced, while expert testimony is information stated in front of the judge related to the assessment of real matters, based on his scientific field[19].

3) Letter

A letter is anything that contains read nation marks that can be understood, intended to bring out the contents of the mind.

4) Instructions

Article 188 paragraph (1) of the Criminal Procedure Code defines instructions as follows: Instructions are acts, events or circumstances, which because of their correspondence, both between one and another, or with the criminal act itself, indicate that a criminal act has occurred and who the perpetrator is.

5) Defendant's Statement

Article 189 reads: The defendant's testimony is what the defendant stated at the hearing about the acts he committed or that he knew or experienced himself.

These various evidences are used for proof. According to Yahya Harahap, proof is provisions that contain outlines and guidelines on ways that are justified by law to prove the alleged error[20]. One of the principles related to the principle of minimum proof is the principle of *unus testis nullus testis*. Unus *testis nullus testis* means that a witness is not a witness[21]. To prove that a legal event happened, a minimum of two witnesses are needed. This principle is formulated in Article 185 paragraph (2) of the Criminal Procedure Code which reads:

"The testimony of a witness alone is not enough to prove that the defendant is guilty of the acts charged against him."

In this case, it means that if the evidence presented by the public prosecutor consists of only one witness without being supplemented with the testimony of other witnesses or other evidence, such a single testimony cannot be considered sufficient evidence to prove the defendant's guilt about the criminal act charged against him. This is also in line with the formulation of Article 185 paragraph (3) of the Criminal Procedure Code which states that the provisions in Article 185 paragraph (2) of the Criminal Procedure Code do not apply when accompanied by other valid evidence.

It becomes a problem when this principle is applied to the crime of sexual violence, that basically to prove a criminal act of sexual violence, a process of collecting evidence is carried

[19] Hamzah Andi, Hukum Acara Pidana Indonesia, (Jakarta: Sinar Grafika, 2005).
[20] M. Yahya Harahap, *Pembahasan Permasalahan Dan Penerapan KUHAP Jilid II* (Jakarta: Pustaka Kartini, 1993).
[21] Syifa Nabilah Marwa and Bambang Dwi Baskor, "' Unus Testis ' Dalam Pembuktian Tindak Pidana Kekerasan Dalam Rumah Tangga (Studi Kasus Di Wilayah Hukum PN . Lubuk Basung)" 8, no. 23 (2019): 1552–65, https://doi.org/https://doi.org/10.14710/dlj.2019.25480.

out to search for material truth[22]. Sexual violence can be interpreted as an act of sexual harassment against a person without the consent of the party concerned. Sexual violence can take many forms, including attempted sexual acts, solicitations to perform sexual acts, and threats of sexual acts.[23] In recent years, there has been an increase in violence against children, in schools, families, and communities. The perpetrators of this act of sexual violence can be from the nuclear family, the community, friends in the school environment, and even teachers[24].

Sexual violence crimes are often committed in closed places so in the judicial system, especially when proof is carried out, it is difficult to get witnesses. Witnesses are an important element in a trial. This is something that needs to be followed up even deeper, even Law Number 12 of 2022 concerning Sexual Violence has not regulated the proof system, in contrast to Law Number 23 of 2004 concerning the Elimination of Domestic Violence (hereinafter referred to as the PKDRT Law). Law no. 12/2022 has regulated provisions that are more holistic and prioritize protection for victims so that it becomes an innovation in the provisions against criminal acts of sexual violence[25]. The Law has been regulated about the system of proof as mentioned in Article 55 of the PKDRT Law which states that the testimony of a victim witness is sufficient to prove that the defendant is guilty if accompanied by other valid evidence. In the criminal act of PKDRT, the victim's witness testimony even though only one has been recognized as valid. The article was also used as the basis by the Kupang District Court judge as the basis or basis in deciding the case of sexual violence against children, namely decision Number 159/Pid.Sus/2014/Pn.Kpg. The convict in the decision was a policeman who committed sexual violence against children. Although in general, a minimum of 2 witnesses must be presented and there is no arrangement to prove the crime. The judge in the trial process only examined 1 witness and it was considered that 1 witness was valid evidence, because the Judge was based on Article 55 of the PKDRT Law. However, this has become controversial among academics. With the consideration of the *testicles nullus testicles* (one witness is not a witness). However, in his decision, the judge still determined that the defendant was guilty and correct of having committed the crime of sexual violence against children and he was sentenced to 7 (seven) years in prison with a threat of a fine of Rp. 200,000,000 (two hundred million rupiah). In terms of the basic rules that govern it, there is still no legal certainty in the form of a law, this results in judges using a different legal basis from the criminal act. If observed from the mention of various types of valid evidence according to Article 184 of the Criminal Code. The various types of evidence mentioned are

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[22] ni Made Yulia Chitta Dewi, A.A. Sagung Laksmi Dewi, and Luh Putu Suryani, "Asas Unus Testis Nullus Testis Dalam Tindak Pidana Pemerkosaan Anak," *Jurnal Konstruksi Hukum* 2, no. 1 (2021): 191–95, https://doi.org/10.22225/jkh.2.1.2993.191-195.

[23] Nafilatul Ain et al., "Analisis Diagnostik Fenomena Kekerasan Seksual Di Sekolah," *Jurnal Pendidikan Dasar Dan Keguruan* 7, no. 2 (2022): 49–58, https://doi.org/10.47435/jpdk.v7i2.1318.

[24] Selvi Viana Umiyati, Dinar Sugiana Fitrayadi, and Qotrun Nida, "Implementation of Law Number 35 of 2014 Concerning the Protection of Children Against Child Violence in the School Environment (Descriptive Study at SMK Negeri 2 Kota Serang)," *Journal Civics and Social Studies* 6, no. 1 (July 2022): 110–19, https://doi.org/10.31980/civicos.v6i1.1803.

[25] Ida Rachmawati et al., "Edukasi Bagi Anak Dalam Upaya Preventif Tindak Kejahatan Seksual Dengan Modus Child Grooming," *RESWARA: Jurnal Pengabdian Kepada Masyarakat* 4, no. 1 (2023): 332–39, https://doi.org/10.46576/rjpkm.v4i1.2399.

separated by a comma, which means that the position among the evidence is equal. The witness statement should not be a weighting factor in proving when 2 pieces of evidence other than witnesses are indeed valid. In the author's personal opinion, the judge at the Kupang District Court did not violate the rules because the law prioritizes the principles of utility and justice. When the judge was confident in the series of events that occurred in the trial coupled with the defendant's confession in front of the judge. This has become a valid evidence that can give confidence to the judge. Although the legal certainty has not been fulfilled, namely there is no law regulating it.

3.2. The Position of Electronic Evidence in the Crime of Sexual Violence

In the case of the Law No. 12/2022, proof is no longer difficult because valid evidence has been regulated in proving the crime of sexual violence, as stipulated in Article 24 paragraph (1) of the Law No. 12/2022 consists of "evidence as referred to in the criminal procedure law; other evidence in the form of electronic information and/or electronic documents as regulated in the provisions of laws and regulations; and evidence used to commit a criminal act or as a result of a criminal act of sexual violence and/or objects or goods related to the criminal act". Furthermore, there is progress related to the proof of sexual violence cases that have been regulated in paragraph (2) that "witness evidence is the result of examination of witnesses and/or victims at the investigation stage through electronic recording". Law No. 12/2022 expands the scope of witness evidence to include the results of the examination of witnesses and/or victims Through electronic recording of the investigation, then the letter evidence is expanded to include the testimony of clinical psychologists and/or psychiatrists/psychiatrists, medical records, forensic examination results, and/or bank account examination hadith[26]. Law no. 12/2022 has regulated exceptions to procedural law provisions in the Criminal Procedure Code, namely related to "The family of the defendant can testify as a witness under oath/promise, without the consent of the defendant" as explained in Article 25 paragraph (2) of Law No. 12/2022.

The existence of Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions (hereinafter referred to as the Law No 1/2024), shows that Indonesia does not want to be left behind in terms of information technology developments, especially to prevent the misuse of information technology utilization[27]. The Law No 1/2024 as a legal basis related to the legal force of electronic evidence as well as a formal and material requirement for electronic evidence, so it can be used in a trial[28]. Based on Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions (hereinafter referred to as Law 19/2016) electronic information is "one or a set of electronic data, including but not limited to writing, sounds, images, maps, designs, photographs, electronic data interchange (EDI), electronic mail, telegram, telex, telecopy or the like, letters, signs, numbers, access codes, symbols, or perforations that have been processed that have meaning or can be understood by

[26] Ismaya et al., "Materi Ajar Peningkatan Kapasitas Advokat Terkait Undang-Undang Nomor 12 Tahun 2022 Tentang Tindak Pidana Kekerasan Seksual."
[27]Hanif Azhar, "Aspek Pidana Dalam Berita Bohong (3(2017), https://doi.org/https://doi.org/10.37348/cendekia.v3i2.
[28] Syamsul Fatoni, "Penggunaan Alat Bukti Elektronik Untuk Mengungkapkan Kasus Kekerasan Dalam Rumah Tangga," Simposium Hukum Indonesia 1, no. 1 (2019): 129–38.

people who are able to understand them". While electronic documents are "any electronic information that is created, transmitted, transmitted, received, or stored in analog, digital, electromagnetic, optical, or similar form, which can be seen, displayed, and/or heard through a computer or electronic system, but not limited to writing, sounds, images, maps, designs, photographs or the like, letters, signs, numbers, access codes, symbols or perforations that have meaning or meaning or can be understood by people who are able to understand it", as explained in Article 1 number 4 of Law 19/2016.

Electronic information is easy to distinguish but cannot be separated from electronic documents, because electronic information is a collection of data in various forms while electronic documents are a place or container for electronic information[29], Therefore, electronic information and electronic documents can be electronic evidence. Based on Article 5 paragraph (1) that "electronic information and/or electronic documents and/or printed results are valid legal evidence", it can be said that electronic evidence can be used as valid evidence in criminal acts, as explained in Article 5 paragraph (1) "the existence of electronic information and/or electronic documents is binding and recognized as valid evidence to provide legal certainty for the implementation of electronic systems and electronic transactions, especially in evidence and matters related to legal acts carried out through electronic systems".

In cases related to the printed results of electronic information or electronic documents, it can be used as evidence of letters, as explained in Article 5 paragraph (2) of the Law No 1/2024 that "Electronic information and/or electronic documents and/or printed results as in paragraph (1) are an extension of valid evidence under the applicable Procedural Law in Indonesia". However, related to electronic information and/or electronic documents in the event of the results of interception or interception or recording that is part of the wiretapping, it must be carried out for law enforcement at the request of the police, prosecutor's office, and/or other institutions that have authority under the Law[30]. Regarding the results of wiretapping, they can be submitted as valid evidence in matters of sexual violence, provided that they use one of the legal parameters of criminal evidence which we often know as *bewijsvoering*, which means a description of how to present evidence to the judge in court, in terms of obtaining the equipment. If the evidence is illegal or unlawful legal evidence, the evidence is excluded by the judge because it has no evidentiary value in court[31].

The need for formal and material requirements in terms of electronic information and electronic documents as valid legal evidence, formal requirements have been regulated in Article 5 paragraph (4) of Law No 1/2024, where electronic information and/or electronic documents are not valid if the letter and its documents based on the Law must be made in written form, and must be made in the form of a notary deed or a word made by the deed-making official. Furthermore, the material requirements have been regulated in Article 6, Article 15, and Article 16 of Law No 1/2024 that in essence electronic information and/or electronic documents can be guaranteed to be authentic, confidential, easily accessible,

[29] Fatoni.
[30] Anggraini R. T. Nainggolan, "Lex Crimen Vol. X/No. 3/Apr/2021" X, no. 3 (2021): 151–61.
[31] Muslim Mamulai, "Hakikat Pembuktian Melalui Media Elektronik Dalam Prespektif Sistem Peradilan Pidana Indonesia," *Jurnal Ilmiah Hukum* 11, no. 1 (2017): 1–17.

displayed, guaranteed to be intact and can be accounted for to explain the circumstances that occur.

The position of electronic evidence as an extension of legal evidence has been regulated in Law Number 8 of 1981 concerning the Criminal Procedure Law (KUHAP), because electronic evidence cannot stand alone as valid evidence because there is no official regulation in the Criminal Procedure Code regarding this matter. For example, a recording of sexual violence committed by an adult can be a document evidence or clue evidence if needed to support the explanation of other evidence, so that the position of electronic evidence can strengthen evidence in the trial process. Electronic evidence, its strength in terms of proof can be influenced by several factors, namely its authenticity and the effectiveness of electronic evidence on proving the crime of sexual violence that has been committed by the defendant.

4. Conclusions

It can be concluded that in the case of a problem where the crime is difficult to find witnesses, because it is indeed a closed place, then 2 witnesses cannot be used as the main evidence for the defendant to be found guilty. Basically, the various pieces of evidence mentioned in Article 184 of the Criminal Code have an equal position, so the judge can choose which 2 pieces of evidence are valid and can give confidence to the judge to determine whether a person is guilty or not. Electronic evidence can be used as valid evidence in the crime of adult sexual violence as regulated in Article 5 paragraph (1) of Law No 1/2024, the position of electronic evidence as an extension of valid evidence in the KUHAP, because electronic evidence cannot stand alone as valid evidence because there is no official regulation in the Criminal Procedure Code related to this.

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