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Juridical Analysis of the Probative Value of Electronic Evidence in Criminal Decision Kupang District Court Number 126/Pid.Sus/2024/PN Kpg

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Abstract

The rapid and widespread advancement of information technology nowadays has encouraged changes within Indonesian criminal law, especially concerning the rise of criminal acts perpetrated through electronic platforms, such as the offense of defamation. This circumstance indirectly implies the necessity for adjustments within the criminal evidentiary system, particularly concerning the existence and admissibility of electronic evidence in the trial process. Through this research, the author conducts a juridical analysis of how judges assess the admissibility and probative value of electronic evidence in Criminal Decision of the Kupang District Court Number 126/Pid.Sus/2024/PN Kpg, and how this decision illustrates a criminal case settlement during the a transitional period of statutory regulations. This study employs a normative juridical method, incorporating both a case approach and a statutory approach as its analytical frameworks. The findings of this study indicate that electronic evidence in this decision was recognized by the Panel of Judges as legally admissible and possessing probative value when corroborated by other forms of evidence, and playing a crucial role in enabling the judges to form a conviction regarding the truth of the alleged offense of defamation. Furthermore, this study focuses on another key aspects, concerning the amendments to Indonesian criminal law regulations that have subsequently legitimized the existence of electronic evidence within the evidentiary system as regulated under the Criminal Procedure Code (KUHAP) and the Electronic Information Transactions Law (ITE Law).

Keywords

Electronic Evidence, Evidentiary Process, Defamation

I. Introduction

Technology has become inseparable aspect of nowadays civilizes life, characterized by the substantial utility it provides in streamlining activities across various domains. Communication and information are among the aspects most significantly affected by technological advancement, giving rise a condition in which the dissemination of information occurs rapidly and without barriers or in other terms, in real time which consequently gives rise to problem in which the validity of information becomes difficult to verify and ensure. Alongside its benefit, communication technology also gives rise to adverse and harmful consequences stemming from its improper use of such technology. A prominent example is technology-facilitated crime, in which digital tools are employed to commit illegal acts or even as the primary instrument. The rapid advancement of technology continue to evolve, increasingly complex forms of cybercrime have emerged, including the development of new modus operandi that pose significant risks to the cybersecurity of both individuals and organizations alike.

Self-defamation as a criminal offense refers to any that attacks an individual's reputation or honor through the dissemination of statements that lead to the person being demeaned and humiliated.[1] There are several aspects that must be considered in determining whether an act constitutes defamation through social media, as posited by cybercrime expert Josua Sitompul that these elements involve the presence of a clear identity, such as photographs, usernames, or personal information of the individual who becomes the victim of defamation,

[1] Alicia Lumenta, "Tinjauan Yuridis terhadap Tindak Pidana Pencemaran Nama Baik Menurut KUHP dan UU No. 19 Tahun 2016 tentang ITE", *Jurnal Lex Crimen Vol IX/No.1* (2020) : hlm 26.

which refers to a specific person and are accessible to public. [2] The act of defamation constitutes a criminal offense due to its potential to disrupt public order and causing harm upon concerned individuals, particularly when it is committed through digital spaces or online platforms.[3] As explained in the previous paragraph, there is a case of criminal defamation through social media. This matter was experienced by Mutiara Pricilla Manafe who became the victim of defamation committed by the defendant, Paulus Dima, also known as Eko, as stated in Decision Number 126/Pid.Sus/2024/PN Kpg. The case was brought to a conclusion by the Panel of Judges, who found the defendant was lawfully and convincingly found guilty of committing the criminal offense as charged. Based on the indictment, the defendant violated Article 45 paragraph (3) in conjunction with Article 27 paragraph (3) of the Republic of Indonesia Law Number 11 of 2008 on Electronic Information and Transactions, as amended by the Republic of Indonesia Law Number 19 of 2016 on Electronic Information and Transactions. The defendant was proven to have committed defamation against the victim in the public space through social media, with the specific intent of public dissemination, leading to a judicial sentence of three months imprisonment.

In other words, as law serves as a regulatory that exists within the daily life of society and continues to evolve, it ought to serve as a response to these phenomenon. The advancement and development of technology along to its consequences both advantageous and adverse, have correspondingly brought significant changes to the laws and govern regulations such matter. Apart from that, the amendment of statutory

[2] Arif Satria Subekti, *et al.*, "Tindak Pidana Pencemaran Nama Baik Melalui Facebook Menurut KUHP dan UU Nomor 11 Tahun 2008 tentang ITE", *Jurnal Hukum dan Pembangunan Vol.50,* No. 3 (2020) : hlm 743

[3] Herman, *et al.,* "Penggunaan Digital Forensik dalam Pembuktian Tindak Pidana Pencemaran Nama Baik di Media Sosial Berdasarkan UU ITE", *Halu Oleo Legal Research, Vol.6* , Issue 2 (2024) : hlm 589

legislation constitutes a crucial stage, given that the current provisions contained therein are no longer align with contemporary technological developments or modern criminal law standpoints. Both have a very close relationship, as the misuse of technology has been found to precipitate the commission of a wide range of criminal offenses. The ITE Law reflects this legislative evolution through multiple amendments, the most recent of which is embodied in Law Number 1 of 20204 concerning Electronic Information and Transactions. As can be observed in practice, since the new UU ITE was enacted and came into force in 2024, there has been limited research discussing this legislation, either concerning the regulations themselves or the substantive objects of discussion contained therein. Prior research in this field have necessarily relied upon Law Number 11 of 2008 and its amendment through Law Number 19 of 2016 as primary references. The same applies to the Criminal Code (KUHP) and the Criminal Procedure Code (KUHAP) have seen significant transformations, particularly concerning the legal framework for cyber offenses.

At the time this case entered the court and was decided in the same year, the new KUHP had already been enacted as a form of criminal law reform, in other words this case occurred during the transitional period from the former KUHP to the new KUHP. A year later, the new KUHAP was also enacted as the implementing regulation of the new KUHP. Nevertheless, these two regulations cannot be immediately implemented or applied to cases that have occurred and are currently undergoing adjudication throughout this transitional period. Stemming from this law enforcement authorities still rely on the previous KUHAP to conclude these proceedings. Considering the limited research examining how new standards are implemented by judges, particularly in terms of evidence following amendments to the ITE Law as well as KUHP and KUHAP, especially concerning the interpretation of essential articles. Decision Number 126/Pid.Sus/2024/PN Kpg as the main focus of this research processes and decides during the transition period of Law Number 1 of 2024 as the new ITE Law, this research is expected to contribute to the existing literature and references regarding the analysis of legal construction towards the application of legal standards following the amendments to the ITE Law, KUHP, and KUHAP.

Referring to the introduction and background in the descriptions above, this study will further examine:

1. What is the legal standing and admissibility of electronic evidence as a valid instrument of evidence in Criminal Decision Number 126/Pid.Sus/2024/PN Kpg?
2. What is the probative value of electronic evidence as a basis for juridical consideration and assessment in issuing Criminal Decision Number 126/Pid.Sus/2024/PN Kpg?

This study aims to analyze how judge's legal considerations in assessing the validity of electronic evidence in order to determine its evidentiary strength in court, as well as to understand the application of digital evidence to the formation of judge's beliefs in making a decision. In addition, this research also aims to observe how the new law is implemented and to observe how it is adjusted during the transition period, representing a preliminary step toward the advancement of the Indonesian criminal law evidentiary systems in response to digital developments.

It is expected that this study will provide a significant academic contribution by enriching the literature on modern criminal evidentiary practices, especially how electronic evidence has been integrated into the criminal justice system in Indonesia over time. This research also expected to be the initial literature that studies the implementation of Law Number 1 of 2024 at the district court level as one of the consequences of the transition of criminal law in enforcing cybercrimes in Indonesia, as well as becoming literature that examines how the transition of the legal position of electronic evidence in the KUHAP. On the other hand, in practice, this study is expected to serve as a reference and benchmark for law enforcement regarding the standards for the use of electronic evidence in accordance with current legal frameworks. For academics and students, this study is expected to serve as a reference for future research within similar fields of inquiry.

II. Method

Based on what has been explained above, in this research employs a normative legal research methodology, where the author attempts to analyze and comprehend the applicable rules, principles, and concepts. The primary focus of this research is the substance of the legal basis and legal standing of electronic evidence in criminal justice. Through this study, the author conducts a comparative analysis of the changes in criminal law legislation which was also linked to the legal standing of electronic evidence in the post amendment period of the ITE Law.

In this study the author employs a case approach referring to court decisions, where the legal reasoning by the Panel of Judges are the main focus of the research. In addition, the case approach employed in this study is complemented by both a statute approach and a conceptual approach. In analyzing court decision, a statutory approach is needed to refer to the relevant laws and regulations that form the legal basis for the decision, as well as to ascertain how judges has implemented the appropriate articles in accordance with the applicable new legal procedures.

III. Results and Discussion

The Legal Standing and Admissibility of Electronic Evidence in Criminal Decision Number 126/Pid.Sus/2024/PN Kpg

Evidentiary instruments possess distinct roles and legal standing within every stage of settlement of a criminal case.[4] In the context of evidentiary law, evidence itself refers to any material obtained in a lawful manner, in order to clarify an event that is suspected to be a criminal act.[5] Under the Indonesian legal system, the characteristics of evidence are non-binding and flexible, allowing judge's to have the discretion to assess evidence in terms of its probative value and its substantive significance. In line with the theory of the law of evidence, for electronic evidence to be considered by the judge, several requirements must be fulfilled, including the relevance of the evidence to the truth to be established, the reliability of its authenticity, and the necessity of the evidence to obtain the facts.[6]

The existence of evidence in Indonesia criminal justice, specifically concerning ITE-related offenses, is refelcted in the Electronic Information and Transactions Law, which states that electronic information and electronic documents are classified as valid evidence, considering the increasing number of cases of criminal defamation using

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[4] Indah Sari, "Kekuatan Keabsahan Alat Bukti Elektronik dalam Penyelesaian Perkara Pidana di Indonesia", *JSI (Jurnal Sistem Informasi) Universitas Udayana, 11 (2)* (2024) : hlm 104

[5] Elvina Tanoto, Jesslyn Tandy, and Ricky Banke, "Kekuatan Alat Bukti Elektronik dalam Proses Pembuktian di Peradilan Pidana", *SYARIAH; Jurnal Ilmu Hukum Vol.2 No.11* (2024) : hlm 91

[6] Benny Sumardiana, *et al.*, "Evaluation of Electronic Evidence in Criminal Justice in the Era of Advanced Artificial Intelligence Technology", *Indonesian Journal of Criminal Law Studies Vol.9 No.2* (2024) : hlm 318

digital technology.[7] The validity of electronic evidence must be thoroughly considered in the evidentiary process, given its unique characteristics, which often lead to questions about evidentiary strength. Unlike other types of evidence, electronic evidence possesses several unique characteristics. Electronic evidence is sensitive and has the potential to change quickly and is vulnerable to being removed or manipulated, and tends to be transmitted swiftly both inside and outside electronic system. Furthermore, certain types of electronic evidence require supporting tools to enable users to access and comprehend their contents. The amendments to criminal law legislation do not merely eliminate colonial legal remnants, but also reflect the goverment's commitment to advancing criminal law in Indonesia in response to the rapid and massive acceleration of the digitalization. Then the ITE Law was introduced, which became the initial stage in regulation elctronic evidence clearly and spesifically, so that there would be no more confusion and overlapping understanding of electronic evidence itself.

In the period before the integration of regulations regarding electronic evidence into the Criminal Procedure Code (KUHAP), which serves as the lex generalis, the evidence thatt could be used in trial proceedings remained limited to those of a material nature.[8] In its current implementation, Article 183 of the former KUHAP often has implications for jurisprudence, as the existing regulations contained therein are no longer relevant to the various circumstances underlying criminal offenses. The existence of the UU ITE represnts a form of legal certainty regarding electronic evidence, affirming that such evidence

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[7] HR. Nurfaiz Mohamad, "Analisis Aspek Pembuktian dalam Kasus Tindak Pidana Pencemaran Nama Baik Pasca KUHP Baru", *Jurnal Ganec Swara Vol.1* (2025) : hlm 130

[8] Bagus Andri Dwi Putra, Edi Wahjuningati, and Karim, "Kedudukan Alat Bukti Elektronik yang Diperoleh dari Penyadapan Hacker dalam Hukum Pidana", *Jurnal Judiciary Vol.1 No.1* (2021) : hlm 4

holds a concrete legal standing within the criminal justice system.[9] This law establishes the legal basis for the legal standing of electronic evidence as well as its formal and material provisions until its declared valid and can be accepted and used in court.[10]

Although the former KUHAP did not regulate electronic evidence Law Number 11 of 2008 as the UU ITE has accomodated electronic evidence as lawful evidence in criminal proceedings through Article 5, paragraphs (1) and (2). The provisions in these two paragraphs represents an extension of the lawful evidentiary materials under Article 184, paragraph (1) of the former KUHAP. In first and second amendments to the UU ITE through Law Number 19 of 2016 and Law Number 1 of 2024, the changes to Article 5 paragraphs (1) and (2) are elaborated in the explanatory notes of these laws. Where electronic information and/or documents are recognized as valid and standalone evidence, in order to provide legal certainty in a process of proving criminal acts committed in and/or through electronic system. In other words, the legality of electronic evidence obtained from wiretapping process has been specifically regulated in this Article, as long as the acquisition is used for law enforcement purposes and is carried out by law enforcement officials whose authority are prescribed by law.

However, following the enactment and implementation of the new KUHAP through Law Number 20 of 2025, the legal standing of electronic evidence was specifically recognized, in order to support legal changes due to existing technological advancements. Undergoing quite significant changes in the new KUHAP, the existence of evidence is sincluded and regulated in a broader and more detailed manner simultaneously. In Article 235 paragraph (1) of the new KUHAP, it is

[9] Indah Sari, *Loc. Cit.*

[10] Teddy Lahati, "Eksistensi dan Peran Alat Bukti Elektronik dalam Sistem Peradilan di Indonesia", *JUDEX LAGUENS: Jurnal Hukum dan Peradilan PP. IKAHI Vol.2 No.1* (2024) : hlm 100 - 101

stated first what is included in the category or type of evidence that is valid and recognized by law. Although indicative evidence from the previous KUHAP has been abolished, Article 235 paragraph (1) of the new KUHAP incorporates electronic evidence and judicial observation as a standalone evidence. It is in Article 235 paragraph (1) that the provisions regarding the legality of evidentiary materials are explicitly stated, thereby strengthens the position of the evidence itself in trial proceedings. Furthermore, Article 235 paragraph (3) further clarifies again that evidence ,ay not be obtained or acquire in an illegal or unlawful manner, and its authenticity must be proven, as this may affect its probative value in the evidentiary process. It is also explicitly explained in Article 235 paragraph (3) and paragraph (4) regarding the judges authority to assess the authenticity and validity, as well as the legality, of evidence presented in court, including whether such evidence has been lawfully obtained. Furthermore, if the judge declares that the evidence is not authentic and was obtained illegally, such evidence shall have no evidentiary value and cannot be utilized in the evidentiary process. It can be concluded that through Article 235, electronic evidence attains its legal position as an independent form of modern evidence. In Criminal Decision Number 126/Pid.Sus/2024/PN Kpg, a piece of electronic evidence was presented in the form of a printed screenshot of a Facebook post uploaded by the defendant, Eko Dima. The judge stated that the electronic evidence was valid and could be used in the evidentiary process. The evidence presented refers to indicative evidence, which, in order to establish the true facts, must be supported by witness testimony.

The Probative Value of Electronic Evidence as the Basis for Judicial Consideration and Assessment in Issuing Criminal Decision Number 126/Pid.Sus/2024/PN Kpg

The criminal offense of defamation is regulated under Article 310 paragraph (1), which indicates that the regulation of defamation remains limited to acts committed directly. Meanwhile, the new KUHAP through Article 433 paragraph (2) has shifted the focus of Article 310 paragraph (1) of the former KUHAP, regulations concerning defamation are now etablished in more detailed and structured, while also accomodating the possibility of such acts being committed within electronic system. In line with the principle of lex specialis derogat legi generali, the crime of defamation is also regulated in the ITE Law as an adaptation of criminal law to cybercrime. The regulations contained in Article 27 paragraph (3) are specifically designed for current conditions, which criminal acts also occur in the digital platforms. Criminal acts committed within electronic system tend to pose greater risks, such as the potential for rapid dissemination of information and the persistence of digital footprints, which are inherently difficult to erase.

In Law Number 11 of 2008 concerning ITE, specifically in Article 27 paragraph (3), briefly addresses defamation through electronic media, yet it does not specifically elaborate the forms of such defamation itself. In additoin, the provisions of Article 27 paragraph (3) of Law Number 11 of 2008 tend to be subjective and readily exploited to report or complain about a form of criticism or opinion. In 2016, the ITE Law underwent several amendments. Article 27 paragraph (3) itself remained unchanged in its wording, rather the amendment was reflected in the explanatory section of Article 27 paragraph (3), which states that the provision in this paragraph are based on the defamation and/or slander clause contained in the former KUHAP. Subsequently, the ITE Law underwent its second amendment in 2024, the provisions regarding criminal acts of defamation in Article 27 paragraph (3) were changed to Article 27 A. In this Article, the offense of defamation wihtin the scope of electronic media is regulated directly and in a more specific and focused manner. The second amendment to Article 27 paragraph (3) thus contains a more concentrated substantive framework addressing the issue of defamation in greater detail through Article 27. This regulation is designed to ensure that reports or complaints are based on allegations concerning a specific matter and are directed toward the public sphere rather than through a private domain.

The evidentiary process constitutes a series of activities aimed at reconstructing the factual truth of events that occured in the past, in accordance with the allegations brought againt a suspect, as well as the formal validation of each item of evidence in line with the applicable provisions, for the purpose of resolving a criminal case.[11] In criminal justice proceedings themselves, the system of proff constitutes an essential element and encompasses the types of evidence presented in court and their use.[12] Under this system of proof, it can be concluded that a criminal case may be considered successful if it fulfills two aspects of proof.[13] Proof is also defined as the act of presenting evidence that contains the truth, thereby giving rise to the judge's to obtain a conviction regarding an incident. In additon, the law of evidence also signifies the rules governing how the judge may use items of evidence in court proceedings in order to establish the truth of what has been

[11] Wika Hawasara, Ramlani Lina Sinaulan, and Tofik Yanuar Candra, "Penerapan dan Kecenderungan Sistem Pembuktian yang Dianut dalam KUHAP", *AKSARA: Jurnal Ilmu Pendidikan Nonformal, Vol.8* (2022) : hlm 590

[12] Dyajeng Ayu Musdalifah, Ali Masyhar, and Cahya Wulandari, "Analisis Kasus Pembunuhan Mirna Salihin Berdasarkan Teori Negatief Wattelijk dan Asas Keadilan, Kepastian dan Kebermanfaatan Hukum", *Jurnal Riset Rumpun Ilmu Sosial, Politik, dan Humaniora Vol.4 No. 3* (2025) : hlm 235

[13] Dyajeng Ayu Musdalifah, Ali Masyhar, and Cahya Wulandari, *Ibid., 236*

alleged.[14]

Several scholars hold their own prespectives regarding the definition of proof. According to Subekti, the evidentiary proccess is an effort by the judge to obtain convition regarding the truths demanded in a case.[15] Whereas according to Sudikno Mertokusumo, in a juridicial context the evidentiary process constitutes an effort to obtain the underlying grounds upon which judicial conviction is formed, enabling the judge to assess the truth of the case.[16] The law of evidence constitutes a body of a legal norms governing all aspects and mechanisms of the examination and evaluation of evidence in court proceedings. The scope of evidentiary law encompasses the procedures and mechanisms governing the use of evidence to establish juridicial facts, including the evidentiary system adopted as well as the judge's authority to admit, reject and assess the evidence presented.[17] In general, proof aims to provide an interpretation of the rality of a alegal event, so that the truth of that occurence can be established an accepted by the relevant parties.[18] The evidentiary process in criminal proceedings begins with the acceptance of indictment by the court from the Public Prosecutor, which marks the initial stage in ascertaining whether the defendant is guilty or not og the charge brought against him. At this stage, the Public Prosecutor bears to responbilityof presenting sufficient evidence to ensure that the elements of the offense are fulfilled and that the alleged acts indeed occured and were committe by the defendant, as a consequences of the burden of proof incumbent upon the Public Prosecutor. The evidence presented before the court is then objectively

[14] Teddy Lahati, *Op. Cit., 99*

[15] Stiklif John Ridel Loway, Adi T. Koesoemo, and Herlyanty Bawole, "Kedudukan Hakim dalam Proses Pembuktian Peradilan Pidana di Indonesia"

[16] *Ibid.*

[17] Fitri Darizta, *et al.,* "Barang Bukti dalam Hukum Pembuktian di Indonesia", *LEX STRICTA: Jurnal Ilmu Hukum Vol.2 No.2* (2023) : hlm 92

[18] Stiklif John Ridel Loway, Adi T. Koesoemo, and Herlyanty Bawole, *Loc. Cit.*

used by the judge as a basis for consideration to determine that the criminal offense indeed occurred and that the defendant is the prepertrator.[19] Procedural irregularities of deficiencies in the process of collecting evidence may affect the validity of such evidence, thereby potentially influencing the final decision in the criminal case.[20]

Article 183 of the former KUHAP serves as the juridicial basis for the law of evidence, stipulating that in delivering verdict the judge must rel yon at least two legally valid items of evidence, to attain conviction regarding the truth of a criminal offense, commonly referred to as the negative evidentiary system (negatief wettelijk theorie).[21] Through this principle, a defendant may be found guilty by the judge and sentenced if two evidentiary requirements are fulfilled, namely the existence of at least two legally admissible items of evidence according to the law, supported by the judge's conviction. This concept is intended to ensure that the imposition of punishment is not solely based on objective aspects, but also incorporates subjective aspects as supporting elements.[22] The negative evidentiary system constitutes a combination of the conviction based evidentiary system and the positive evidentiary system, in which decisions are based strictly on statutory provisions, in other words only on the items of evidence presented before the court.[23] These two systems are integrated into the negative evidentiary theory, in which each system is closely interrelated and mutually complementary

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[19] Felicia Eugenia, Carla Joycelyne Limanto, and Dave David Tedjokusumo, "Tantangan Praktis dalam Proses Pembuktian Perkara Pidana – Kredibilitas Saksi dan Validitas Bukti Eelktronik", *Iuris Studia: Jurnal Kajian Hukum Vol.3 No.2* (2021) : hlm 495

[20] *Ibid., 501*

[21] Cahya Wulandari, "Legal Analysis of The Use of Circumstantial Evidence Theory: Study of The Supreme Court Decision Number 777/Pid.B/2016/PN Jakarta Pusat", Yustisia Vol.7 (2018) : hlm 114

[22] Rohman*, et al*., "Sistem Pembuktian dalam Hukum Pidana Indonesia dan Tantangan dalam Proses Peradilan", *JIMMI: Jurnal Ilmiah Mahasiswa Multidisiplin Vol.1* (2024) : hlm 284

[23] Stiklif John Ridel Loway, Adi. T Koesoemo, and Herlyanty Bawole, *Loc. Cit.*

in nature. It can be concluded that under negative evidentiary theory, the judge must attain conviction from at least two legally admissible pieces of evidence as prescribed by law. However, those two legally valid items of evidence do not possess evidentiary value if they fail to establish the judge's conviction regarding the truth of the case.[24]

As is well known, Article 183 of the KUHAP regulates the negative evidentiary system, providing that two essential elements that serve as determining factors for judges inassesing the guilt or innocence of a defendant. In practice, the objective and subjective elements are combined in a proportional and balanced manner, in other words without either element being more prominent or playing a greater role that the other. The objective element referred to in this theory is the existence of at least two legally valid items of evidence. This requirements is regulated and further clarified in Article 184 of the KUHAP. The objective element constitutes a formal requirement that must be fulfilled in any evidentiary process, whereas the judge's inner conviction serves as the subjective element. These characteristics thus render the judges conviction as the moral and psychological basis in the process of rendering a criminal judgement. Through this evidentiary process, the judge then obtains their conviction by assessing and considering all the evidence presented in court. This aligns with the function of electronic evidence itself, which serves to ensure that the judge's conviction is grounded in a strong legal basis and supported by evidence whose validity can be verified. Thus, it can be concluded that judicial conviction as the subjective element is constructed with reference to the objective element, namely legally valid and accountable items of evidence.[25]

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[24] Afrillia Bella Novita, Alvina Damayanti Riyanto, and A. Frada Ali H Al Ghifari, "Teori Pembuktian dalam Sistem Hukum Nasional", *Madani: Jurnal Ilmiah Multidisiplin Vol.1* (2023) : hlm 179

[25] Afrillia Bella Novita, Alvina Damayanti Riyanto, and A. Frada Ali H Al Ghifari, *Op. Cit., 180*

In the new KUHAP, there is no provisions that specifically regulates the lae of evidence in criminal proceedings as explicitly set forth in Article 183 of the former KUHAP. Therefore, Article 235 of the new KUHAP subsequently becomes the core or reference point for the evidentiary process in criminal law. Several issues that will be discussed subsequently concern the substance of evidentiary provisions under Article 235 of the new KUHAP. First, through Article 235 of the new KUHAP, Indonesian criminal law adopts an open system of evidence, reflecting a normative restructuring and establishing substantive justice as the guiding principle. Moreover, the evidentiary system under Article 235 is designed to be more adaptive to contemporary conditions and technological advancements.[26] Where there is no longer any limitation on the kinds of evidence that may be used, in other words not being confined solely to a fixed of specific types of evidence. The adoption of this system consequently expands the categories of admissible evidence, including electronic evidence and any other relevant instruments, provided that such evidence is obtained without violating the law. The concept of a minimum of two items of evidence or minimum bewjis as a requirement is no longer applied literally, but rather places greater emphasis on the overall consistency and validity of the evidence in a comprehensive manner. Moreover, the provisions concerning evidentiary matters have been reconstructed to align with technological advancements and the needs of modern criminal justice. The changes outlined above reflect a significant advancement, whereby the criminal evidentiary system has become, more open, more relevant to current conditions, and more contextually grounded.

Judicial conviction is not merely a subjective perspective, but

[26] Tutut Hartati and Edi Saputra Hasibuan, "Nilai Keadilan sebagai Landasan Pembuktian dalam KUHAP Nasional", *Jurnal Alwatzikhoebillah Vol.12 No. 1* (2026) : hlm 80 - 81

rather a legal conclusion formed objectively on the basis of legal facts derived from the evidence presented before the court. Therefore, judicial conviction functions as a complement to the formal requirements of criminal proceedings. Evidence must be able to encourage the judge's conviction in the evidentiary process, likewise a conviction that is not based on legally valid evidence, the truth will not be achieved.[27] In Criminal Decision Number 126/Pid.Sus/2024/PN Kpg, the judge relied on electronic evidence to obtain conviction regarding the truth of defamation offense committed by the defendant, which then become the basis for the panel of judges in issuing the decision.

IV. Conclusion

The criminal act of defamation through social media committed by the defendant in this decision has fulfilled the elements of the offenses charged against him. Proven by electronic evidence in the form of printed screen captures or screenchots of posts on the defendant's Facebook account accepted by the Panel ofJudges as a valid evidence in court and considered as the primary evidence, supported by witness testimony and the defendant's statement. Consequently, such evidence enabled the judge to attain conviction regarding the facts and the truth of the offense.

Through new legislation, electronic evidence now holds equal standing to other categories of evidence within the law. This legitimacy is further strengthened by the new introduction of new penal and procedural provisions in the KUHP and KUHAP that incorporate technology based rules, thus leading to a more centralized approach to electronic evidence. Additionally, ITE Law provides more specific regulations concerning defamation and the admissiblity of electronic

[27] Dyajeng Ayu Musdalifah, Ali Masyhar, and Cahya Wulandari, *Loc. Cit., 236*

evidence. Criminal Desicion Number 126/Pid.Sus/2024/PN Kpg serves as an example of judicial practice in a period of legislative transition, as this case was decided prior to the full effectuation of the new KUHP and KUHAP. Through this decision, a jurisprudential bridge is established between the application of the former colonial-era criminal law to an integrated Indonesian criminal justice system that is aligned with technological developments.

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