

Circumstantial Evidence in Criminal Proof: Is It Reliable?

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Abstract

Proof is the backbone of criminal justice. Because any party who lacks evidence will lose in the court decision. In current judicial practice in Indonesia, there is a lot of discussion about indirect evidence. This term originates from the common law criminal law doctrine and is starting to be used by Indonesian academics when explaining criminal cases in court. The results of the study show that normatively, the Criminal Procedure Code does not recognize the distribution of evidence, either direct or indirect. In criminal justice practice, indirect evidence can be seen in its functionalization in two decisions, namely decision Number 498K/PID/2017. Indirect evidence used is in the form of: witness statements, expert statements, letters and instructions. Furthermore, decision Number 1813K/PID.SUS/2016. The indirect evidence used is documentary evidence and statements from several witnesses. In order not to cause errors in practice, direct evidence must be prioritized, not the other way around.

I. Introduction

In the study of criminal law, material criminal law and formal criminal law are known. Material criminal law is related to prohibited acts accompanied by the threat of criminal sanctions for those who violate the prohibition. Meanwhile, formal criminal law is a criminal procedural law with provisions for implementing material criminal law.¹ Kartanegara refers to material criminal law as in *abstracto* while formal criminal law as in *concreto*.² It is referred to as in *concreto* because, through formal criminal law, the material criminal law will appear to be in process or moving (Santoso &.³

Vos refers to the criminal procedural law as *het recht om straf te bedreigen, starf op te legen en straf te voltreken* which means the right of the state to prosecute, impose and carry out crimes.⁴ However, Enschede called criminal procedure law a risky law because it is implemented by law enforcement and requires complicated supervision. Enschede emphasizes, *strafprocesrecht is riskant recht: de strafrechtspleging, instrument voor handhaving van het recht, vertoont nu in dit opzicht een eigenaardigheid*.⁵

In simple terms, the criminal procedural legal process starts with investigation, proof, prosecution, examination of court hearings, and reading the verdict by the panel of judges.⁶ The most crucial process in this series is the proof phase. This is said to be because, in this phase, there is a betting of evidence between the defendant or his attorney and the public prosecutor (JPU). The lack or absence of evidence on one party will benefit the other party. On that basis, John Griffith, in the family model, calls criminal proof a model of a fight or battle between the defendant and the prosecutor.⁷

When criminal proof is carried out, the existence of evidence becomes very important for both parties. In Indonesia, evidence in criminal procedure law is regulated in Article 184 paragraph (1) of Law No. 8 of 1981 concerning the Criminal Procedure Law (KUHP). It states that there are five pieces of evidence: witness statements, expert statements, letters, instructions, and defendant statements.

¹ Aldila Arumita Sari and R B Sularto, "Kebijakan Formulasi Kekerasan Seksual Terhadap Istri (Marital Rape) Berbasis Keadilan Gender Di Indonesia," *Jurnal Pembangunan Hukum Indonesia* 1, no. 1 (2019): 117, doi:10.14710/jphi.v1i1.117-127.

² Hariman Satria, "Restorative Justice: Paradigma Baru Peradilan Pidana," *Jurnal Media Hukum* 25, no. 1 (2018): 111–123, doi:10.18196/jmh.2018.0107.111-123.

³ Topo Santoso and Hariman Satria, "Sexual-Violence Offenses in Indonesia: Analysis of the Criminal Policy in the Law Number 12 of 2022," *Padjadjaran Jurnal Ilmu Hukum* 10, no. 1 (2023): 59–79, doi:10.22304/pjih.v10n1.a4.

⁴ Eddy O. S. Hiarij, "Korupsi Di Sektor Swasta Dan Tanggung Jawab Pidana Korporasi," *Masalah-Masalah Hukum* 49, no. 4 (2020): 333–44, doi:10.14710/mmh.49.4.2020.333-344.

⁵ Ibid.

⁶ Maman Budiman, *Sistem Peradilan Pidana Terpadu* (Jakarta: PT RajaGrafindo Persada, 2021), <https://books.google.com/books?hl=en&lr=&id=6aefDsmW510C&oi=fnd&pg=PA5&dq=sistem+peradilan+pidana&ots=sn9U0lydUX&sig=odA40HR13TxYS3Zcg3MJciXOzwM>.

⁷ Hariman Satria, *Hukum Pembuktian Pidana: Esensi Dan Teori* (Jakarta: PT RajaGrafindo Persada, 2021).

Tuzet and Esposito, classify 2 types of evidence in criminal justice: direct evidence and indirect or circumstantial evidence (2023).⁸ Direct evidence is evidence obtained and directly related to facts or events, such as DNA test results, fingerprints, blood splashes, keys, bullets, firearms, and so on. Included in the direct evidence is the testimony of eyewitnesses. Gerstenfeld then interprets direct evidence as tends to show the existence of facts in question without additional proof.⁹ In short, direct evidence is evidence that tends to show the existence of a fact without the need for additional evidence. Direct evidence is important for establishing a fact based on the evidence's credibility or value.¹⁰

Meanwhile, circumstantial evidence is called indirect evidence because its existence is not *mutatis mutandis* related to facts or events.¹¹ Bowers called circumstantial evidence indirect evidence based on inference, not personal knowledge or observation. Thus, circumstantial evidence is based on conclusions, not personal knowledge or observation.

In Indonesia, direct evidence normatively relates to witness statements, as Article 185 of the Criminal Code mentions. Meanwhile, indirect evidence can be linked to expert evidence, as affirmed in Article 186 of the Criminal Procedure Code and letters regulated in Article 187. However, it must be admitted that indirect evidence is weak, so it must be supported by other evidence.¹²

The problem is that sometimes, when a crime occurs, direct evidence cannot be obtained at the scene. To be able to carry out the legal process, the investigator will be based on indirect evidence. The complexity, Evans said, is that indirect evidence still needs further proof, so it is not always reliable.¹³ It must be admitted that direct evidence has better evidentiary power than indirect evidence.¹⁴ Nevertheless, indirect evidence is still recognized for its existence in theory and even accepted in criminal justice practice.

This article will further review the legal issues regarding indirect evidence, both from the concepts of criminal proof in the perspective of Anglo Saxon and civil law, such as in Indonesia, its normative framework and when viewed in criminal justice practice.

⁸ Giovanni Tuzet and Fabrizio Esposito, "Preponderance, Proportionality, Stepwise Liability," *International Journal of Evidence and Proof* 27, no. 4 (2023): 325–42, doi:10.1177/13657127231187057.

⁹ H.M.dan Waheed Al-Jubouri and N.H., "Types of Evidence Before the International Criminal Court," *Medico-Legal Update* 20, no. 4) (2020): 1885–1890, doi:10.37506/mlu.v20i4.2119.

¹⁰ Satria, *Hukum Pembuktian Pidana: Esensi Dan Teori*.

¹¹ Chen Siyuan and Joel Fun Wei Xuan, "Tiered Standards of Proof Before the International Court of Justice," *National Law School of India Review* 34, no. 1 (2022): 104–26, doi:10.55496/qgke5065.

¹² Eddy O.S Hiariej, *Pengantar Hukum Acara Pidana* (Jakarta: Universitas Terbuka, 2021).

¹³ Colin Evans, *Criminal Justice: Evidence* (New York: Chelsea House Publisher, 2020).

¹⁴ S Aminah, "Kedudukan Bukti Tidak Langsung Dalam Penyelesaian Praktik Kartel Di Indonesia," *Dharmasisya Jurnal Program Magister Hukum Fakultas Hukum UI 2*, no. 34 (2023): 1493–1504.

To ensure the originality of the idea, the author will mention several previous studies related to the title of this article, including the following: First, the article that takes the title, *The Position of Indirect Evidence in the Settlement of Cartel Practices in Indonesia*, was written by Siti Aminah. This article essentially explains the position of indirect evidence used by ICC in resolving cartel practices in Indonesia. It analyzes the legal force of indirect evidence reviewed from the civil evidentiary system in Indonesia. Second, an article written by Veri Antoni, titled *The Position of Indirect Evidence as A Verification Tools in The Cartel Case*. This article explains that in evidence that cartel cases have been used in many countries, such as the United States, Japan, Australia, Brazil, and Malaysia. The position of indirect evidence is more accurately said to be an indication so that it must be supported by direct evidence.

Third, an article written by Karunia Pangestu, Hery Suyanto and Rosalia Dika Agustanti, with the title *Application of Circumstantial Evidence in Criminal Law in Indonesia*. This article basically explains the application of indirect evidence which is still rarely used in criminal law in Indonesia because the public often questions its validity.

Fourth, an article titled *Indirect Evidence as a Basis for Judges to Impose Crimes (Decision No. 777/Pid.B/2016/PN.Jkt.Pst)*, written by Adam Bastian and Ahmad Mahyani. This article describes the position of circumstantial evidence that is not known in the Criminal Code, there is legal uncertainty and violates the human rights of the defendant when indirect evidence is used. Fifth, an article entitled *Circumstantial Evidence and Its Admissibility in Criminal Proceedings: A Comparative Analysis of the Common Law and Islamic Law Systems*, was written by Sowed Juma Mayanja. This article briefly describes the perception of the public that indirect evidence is inferior evidence with a lighter weight than direct evidence. In Islamic criminal law, indirect evidence can be admissible, especially in the case of *Huduud* and *Qisaas*. Indirect evidence lies in its cumulative value.

Based on the results of the previous study, it can be concluded that the issue of indirect evidence reviewed leads to three perspectives, namely the perspective of business law related to cartel cases or business competition that refers to indirect evidence as an indication. Then, from the criminal law perspective, the description uses a limited theoretical approach. Meanwhile, in criminal justice practice, it only refers to one court decision and considers evidence not directly to violate the defendant's human rights. In the perspective of Islamic criminal law, indirect evidence is categorized as inferior evidence unless it has enough. Meanwhile, in this article, the author highlights the idea of the concept of indirect evidence theoretically, both known in criminal evidence of common law, civil law such as Indonesia, its normative framework, and in practice through several criminal verdicts. In short, the authors' studies are broader than previous studies.

2. Research Method

This study is *normative juridical*¹⁵ legal research using two legal approaches: the statute approach¹⁶ to analyze the accuracy of the application of law to cases handled by judges and the case approach¹⁷ to provide an analysis of legal considerations by judges in examining and deciding cases that are the object of research.

3. Results and Discussion

Concept of Circumstantial Evidence

In criminal evidence in Indonesia, *circumstantial* evidence or indirect evidence is translated as indirect evidence. Burton called *circumstantial* evidence as evidence not leading directly to a conclusion of fact. So, it is said to be indirect evidence because it is not directly related to the facts. On that basis, Al-Haddad considers indirect evidence as not directly proving the existence of the fact.¹⁸

Al-Haddad says the relationship between facts and indirect evidence can only be seen after certain conclusions are drawn.¹⁹ That means evidence or facts that stand alone—do not have a direct relationship with the criminal act and then are assembled or connected with each other so that they become a single piece of evidence or facts that indicate that a criminal act has occurred.

In that context, indirect evidence as Shapiro says:

“Indirect evidence must have rational relevance which can show that the use of the evidence in the court process is more likely to make the proven facts clearer than if no evidence was used”.²⁰

In essence, circumstantial evidence must have rational relevance to the facts. In addition, indirect evidence is hoped to make the facts clearer than not using evidence at all. Although indirect evidence is only indirect evidence, this does not mean that circumstantial evidence is doubtful. Indirect evidence can also be used to strengthen investigative evidence in a

¹⁵ Komsih Hudah, Ahmad Rustan, and Irwansyah Irwansyah, “Enigma of the Idea from Extending the Village Head Period: Orientation and Implications in a Constitutional Perspective,” *Sasi* 29, no. 4 (2023): 740, doi:10.47268/sasi.v29i4.1720.

¹⁶ Ahmad Rustan, Ju Lan Hsieh, and Wahyudi Umar, “Maladministration on Mining Business Licenses: Case Study “Mining Business License Production Operation PT. Aneka Tambang, Tbk,” *Varia Justicia* 17, no. 03 (2021): 246–57.

¹⁷ Hargono Hargono et al., “Dynamics and Challenges of Democracy in Local Elections in Indonesia and the Netherlands,” *Sasi* 1, no. 1 (2024): 111, doi:10.47268/sasi.v1i1.2017.

¹⁸ Mohannad Walid Al-Haddad, “The Authenticity of Modern Means of Criminal Evidence,” *Journal of Namibian Studies : History Politics Culture* 33, no. 4) (2023): 3749–3757, doi:10.59670/jns.v33i.1045.

¹⁹ Ibid.

²⁰ B Shapiro, “Circumstantial Evidence: Of Law, Literature and Culture,” *Yale Journal of Law and Humanities* 5, no. 1) (n.d.): 219–241.

criminal case. However, it must be admitted that its existence will be stronger if it is supported by direct evidence.²¹

Indirect evidence can also strengthen direct evidence. If this is possible, it will be very strong and difficult to refute. Palmer straightforwardly said that circumstantial evidence will often be supplemented even when direct evidence is available.²²

In the theory of criminal proof, the relationship between direct and indirect evidence is considered complementary evidence that gives evidentiary power to the prosecutor or the defendant in the trial.²³ Evans describes the relationship by stating that each is accorded the same weight in court—there is an important difference between them.²⁴

Evans goes on to say that there is no difference between direct and indirect evidence in court, but the weight or strength of the two types of evidence is certainly different. Direct evidence has better evidentiary power than indirect evidence, so indirect evidence still needs further proof.²⁵

Hiariej expressed a similar opinion that the judge can decide the case without direct evidence. Indirect evidence can be obtained from letters, witness statements that do not identify themselves, expert testimony, and the defendant's testimony.²⁶

Then regarding expert testimony, as indirect evidence, 5 things need to be known, namely: (1) expert testimony in terms of language. (2) expert testimony on the technicalities of a procedure. (3) expert testimony that explains an event or act based on facts collected first from the mass media and watched shows. (4) expert testimony that conducts research on both the perpetrator, the victim, and the tools used to commit the crime. (5) experts who when providing information based on expertise without the need to make observations or observations.²⁷

Based on the review, several things can be concluded, namely as follows: first, circumstantial evidence is evidence that can indicate that an event or criminal act has occurred. Second, indirect evidence is evidence that—has no direct relationship with the criminal act and then is assembled or connected with each other so that it becomes a unity of evidence.

Third, indirect evidence can only be used if there is no direct evidence and there is relevance to the facts. Fourth, indirect evidence will have a stronger position in criminal proof if it is supported by direct evidence. Fifth, direct and indirect evidence are

²¹ Ibid.

²² Andrew Palmer, *Principles of Evidence* (Sydney-London: Cavendish Publishing, 2017).

²³ Satria, *Hukum Pembuktian Pidana: Esensi Dan Teori*.

²⁴ Evans, *Criminal Justice: Evidence*.

²⁵ Ibid.

²⁶ Hiariej, *Pengantar Hukum Acara Pidana*.

²⁷ Ibid.

complementary. Sixth, included in the category of indirect evidence are expert testimony, witness testimony, letters, and instructions.

The next question is, does the Criminal Code regulate clearly and firmly regarding the indirect evidence? The answer to this question will be described by the author in the following section.

Evidence in the Criminal Code

The Criminal Procedure Code regulates evidence from Article 183 to Article 189. Criminal proof is also regulated in Article 1 number 14, Article 17, and Article 21 paragraph (1) of the Criminal Code. The articles *a quo* refer to the terms primacy evidence, sufficient *prima facie* evidence, and sufficient evidence.

The Constitutional Court interpreted these terms in Decision Number 21/PUU-XII/2014. The Court held that preliminary evidence, sufficient preliminary evidence, and sufficient evidence are at least two pieces of evidence as contained in Article 184 of the Criminal Code.

When discussing proof, the Criminal Code begins with the fulfillment of two pieces of evidence plus the judge's conviction (*negatief wettelijk bewijstheorie*). Regarding this, Article 183 of the Criminal Procedure Code emphasizes that the judge may not impose a criminal sentence on a person unless he obtains at least two valid pieces of evidence that a criminal act really occurred and that the defendant is guilty of committing it.

Then specifically regarding evidence—regulated in Articles 184 to 189 of the Criminal Code. Article 184 paragraph (1) of the Criminal Code reads: valid evidence is: a) witness statements. b) Expert testimony. c) letter. d) instructions. e) the defendant's statement.

Still about evidence. Article 185 paragraph (1) of the Criminal Procedure Code emphasizes that witness statements as evidence are what the witness states at the court hearing. Article 185 paragraph (2) adds that the testimony of a witness alone is not enough to prove that the defendant is guilty of the acts charged against him. This provision is reiterated in Article 185 paragraph (4) that the testimony of several witnesses who stand alone about an event or circumstance can be used as a valid evidence if the witness testimony is related to each other in such a way, so that it can justify the existence of a certain event or circumstance.

The next piece of evidence is expert testimony. The formal legality is regulated in Article 186 of the Criminal Procedure Code that expert testimony is what an expert states at a court hearing.

The next piece of evidence is a letter. Regarding such matters, it is stipulated in Article 187 of the Criminal Procedure Code, that a letter made on oath of office or confirmed by oath, is: (1) minutes of proceedings and other letters in official form made by an authorized

public official or made before him, which contain information about the events or circumstances that he heard, saw or experienced himself, accompanied by a clear and unequivocal reason for his statement. (2) a letter made in accordance with the provisions of laws and regulations or a letter made by an official regarding matters included in the procedures for which he is responsible and which is intended for proving a matter or a certain circumstance. (3) a certificate from an expert containing an opinion based on his expertise on a matter or a situation that is officially requested from him. (4) other letters that can only be valid if they are related to the contents of other means of evidence.

Next, the evidence of clues is mentioned in Article 188 paragraph (1) of the Criminal Code, that clues are acts, events or circumstances, which because of their conformity, both between one and another, as well as with the criminal act itself, indicate that a criminal act has occurred and who the perpetrator is. Article 188 paragraph (2) provides an affirmation of the source of the evidence of clues, namely: witness statements, letters, and statements of the defendant.

The last piece of evidence is the defendant's statement as mentioned in Article 189 of the Criminal Code. In paragraph (1), it is explained that the defendant's testimony is what the defendant stated at the trial about the acts he committed or that he knew or experienced himself. Then paragraph (3) affirms that the defendant's statement can only be used against himself. This was then reiterated in paragraph (4), that the defendant's testimony alone is not enough to prove that he is guilty of committing the acts charged against him, but must be accompanied by other evidence.

Based on the normative description above, there are several things that are important to pay attention to. First, looking at the composition of the evidence, there is an impression that shows as if there is a sequence or hierarchy. So that the evidence of witness testimony seems to have a higher status than other evidence. According to the author in Indonesia's criminal procedure law, there is no hierarchy regarding evidence. Each piece of evidence has a role in a criminal case. One piece of evidence can be used to strengthen or complement the existence of other evidence—so that the principle of a minimum of two pieces of evidence can be fulfilled. The question of which evidence to use, it all depends on the material facts related to the matter being examined.

Second, the Criminal Code does not recognize the terms direct and indirect evidence. The logical consequence is that all evidence gets the same proportion and position in criminal justice. So it can be said that the differentiation of evidence actually starts from theory and then is adopted in practice.

Third, regarding the evidence of witness testimony related to the quality and quantity of witnesses. The quality of the witness in question is the condition of being a witness is to see, hear or experience it yourself. However, the formulation has been expanded by the Constitutional Court in decision Number 65/PUU-VII/2010. That included in the definition of a witness is a person who can provide information in the context of investigation, prosecution, and trial of a criminal act that he does not always hear himself, see for himself

and experience himself. Through such a formulation, alibi witnesses can be submitted to trial—as long as it is relevant to the case being examined. The Constitutional Court's decision implicitly accommodates the principle of testimony *de auditu*.

Then regarding the quantity of witnesses, related to the principle of *unus testicles nulus testicles* or witnesses who are not witnesses. Thus, to be recognized and accepted as evidence of witness statements, 1 witness alone is not enough but a minimum of 2 witnesses. Even so, hundreds of witnesses are still only one piece of evidence.

Fourth, about expert testimony. In the Constitutional Court decision Number 109/PUU-XX/2022, it is stated that expert testimony is information from a person who has special expertise in a matter that is being disputed or litigated to shed light on a legal event.

Another legal issue related to members is legal protection for members. In the Constitutional Court's decision above, the Court emphasized that experts who provide truthful and fair information cannot be prosecuted legally so that experts can be free from fear and other threats. In criminal procedure law in other countries, legal protection for experts is known as expert witness immunity.

The problem that must be answered is that if the Criminal Procedure Code does not recognize the distribution of direct and indirect evidence, how is it in the practice of criminal justice in Indonesia? The following description will answer that question.

Circumstantial Evidence in Court Decisions

In this section, the author will describe circumstantial evidence when seen in a court decision. In this regard, 2 court decisions will be reviewed, namely as follows:

1. Decision Number 498K/PID/2017

It should be noted that the case in the verdict is premeditated murder and in accordance with the verdict of the panel of judges, the defendant Jessica Kumala Wongso was sentenced to 20 years in prison. This decision has been established by permanent law (*inkracht van gewijsde*).

An interesting discussion in the verdict is using circumstantial evidence as the basis for criminalizing the defendant. The indirect evidence in question can be seen in the following ratio decidendi of the panel of judges: first, the panel of judges used witness statements as evidence but there was not a single witness who saw the defendant put Sodium Cyanide (NaCN) poison in the Vietnamese coffee cups drunk by the victim. The witnesses in question are Hani, Vera, Jukiah, Agus, Marlon, Ileng, Devi, Darmawan, and Arief.

Second, the panel of judges considers expert testimony as evidence. The expert in question is criminal law expert Eddy O.S Hiariej. In his legal argument, Hiariej said that indirect evidence such as witness and expert testimony can be used to prove the defendant's guilt. The panel also considered the testimony of criminologist Roni Rahman Nitibaskara, who

essentially asserted that judging from the defendant's account and his criminal record in Australia—the indication is that he was the perpetrator. There was also a forensic toxicologist Slamet Purnomo who briefly stated that he saw the victim who was fanning his mouth and then had a seizure and shortness of breath, from the evidence the expert believed that the victim's death was due to cyanide poisoning.

Third, another legal consideration is that the panel of judges using the testimony of toxicologist Nursamran Subandi, concluded that the amount of Cyanide (NaCN) contained in the vietnamese coffee drunk by Victim Mirna was $\pm$ 298 mg and it was enough to take his life.

Fourth, the panel of judges also considered the evidence of clues obtained from the testimony of witness Kristie Louise Carter, the testimony of John Jesus Torres, the testimony of the defendant and the evidence of the letter. Fifth, in the ratio of decidendiness—the panel of judges also considered the letter evidence in the form of the results of the forensic laboratory examination of the National Police No. LAB: 086.A/KTA/2016, on the content of cyanide poison in the victim's body.

Starting from these legal considerations, it can be said that the verdict handed down to the defendant refers to evidence in the form of: witness statements, expert statements, letters and instructions. However, what remains a mystery is the absence of direct evidence that can show that the defendant put cyanide poison in the victim's Vietnamese coffee drink. So it must be emphasized that the existence of these evidences is indirect evidence.

2. Decision Number 1813K/PID. SUS/2016

The a quo verdict concerns the premeditated murder committed by Margriet Cristina Megawe against Engeline's victim. The defendant was then sentenced to life imprisonment. The verdict is also related to indirect evidence. Therefore, the author will cite several ratio decidendi of the panel of judges in relation to indirect evidence.

First, the panel of judges considers the evidence of witness statements, expert testimony and letters as the minimum evidence in proving the defendant's guilt. Second, regarding witness statements—the panel of judges considered the testimony of several witnesses, including: Agustay, Handono, Susiani, Musrah, Arhana, Waidah, Ni Luh, and Halki. Among the witnesses who actually saw the defendant kill was Agustay.

Third, another legal consideration is regarding the evidence of the letter in the form of the results of Visum Et Repertum Number UK 01.15/IV.E/19/VER/281/2015 on July 9, 2015, which was made and signed by Dudut Rustiyadi.

Departing from these three legal considerations, the panel of judges has actually used the testimony of the witness Agustay as evidence even though normatively in Article 185 paragraph (2) of the Criminal Procedure Code stipulates that the testimony of a witness alone is not enough to prove the defendant's guilt (*unus testis nulus testis*). In other words,

in a quo case, the panel of judges uses direct evidence in the form of witness statements, but only one witness sees, hears, or experiences it himself.

The panel of judges then strengthened its legal considerations, by referring to Article 185 paragraph (3) which reads: the provisions as referred to in paragraph (2) do not apply if accompanied by other valid evidence.

The rest of the panel of judges in their legal considerations used letter evidence in the form of *visum et repertum* results. Such evidence is circumstantial evidence. In short, in the decision—the panel of judges used direct evidence but it was normatively contrary to Article 185 paragraph (2) of the Criminal Procedure Code and indirect evidence in the form of letters and statements of several witnesses.

4. Conclusion

Based on the review mentioned above, it can be said that the terms direct and indirect evidence in criminal justice in Indonesia are only known in theory conveyed by legal academics in court. Normatively, the Criminal Procedure Code does not clearly and firmly mention the qualifications of direct and indirect evidence. The Criminal Procedure Code only regulates evidence, as mentioned in Article 184 paragraph (1).

In criminal justice practice, through decision Number 498K/PID/2017 — indirect evidence is obtained from evidence or facts that stand alone and have no direct relationship with the criminal act. Then, it is assembled or connected into a single piece of evidence or facts that lead strongly to the defendant. The facts revealed through the testimony of witnesses, expert testimony, letters, and clues were subsequently concluded that the defendant was the one who committed the act. Then, in the decision 1813K/PID. SUS/2016—indirect evidence is assembled and connected from facts or evidence in the form of witness statements and letters so that the defendant can be convicted.

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