

THE URGENCY OF IMPLEMENTING THE STANDARD OF PROOF IN CRIMINAL CASE TRIALS FOR THE DISCLOSURE OF MURDER OFFENSES

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Abstract

The crime of murder is classified as a serious offense because it involves the loss of life, which constitutes the most fundamental human right. The judicial process for the perpetrator must be conducted meticulously, transparently, and fairly. One of the key elements in criminal law enforcement to uncover the truth in murder cases is the standard of proof, namely the judge's conviction based on at least two valid pieces of evidence as stipulated in Article 183 of the Indonesian Criminal Procedure Code (KUHAP). This study employs a normative juridical approach, which views law as a binding written norm that serves as the basis for resolving legal issues. Data were collected through library research by examining and analyzing various relevant sources such as books, journals, articles, and other scholarly works, both printed and online. The data were analyzed qualitatively, focusing on the examination of legal materials derived from legislation, literature, and related documents.

Keywords : *Murder, Evidence, Trial, Standard of Proof*

INTRODUCTION

A criminal act constitutes any conduct that violates the law and is punishable by criminal sanctions. In the context of criminal law, the term *tindak pidana* is known as *strafbaar feit*, meaning an act that gives rise to legal responsibility. According to Moeljatno, a criminal act is a human action that is punishable under statutory law, while Andi Hamzah asserts that a criminal act refers to conduct that is prohibited and subject to punishment under the law. Murder represents the most serious form of criminal act, as it directly concerns the loss of human life the most fundamental human right. The judicial process against the perpetrator of murder must therefore be conducted with great caution and fairness. One of the vital elements in this process is the standard of proof, which serves as the foundation for judges to determine whether the evidence presented is sufficient to declare the defendant guilty. In Indonesia's criminal procedure system, the provision regarding the standard of proof is implicitly regulated under Article 183 of the Indonesian Criminal Procedure Code (KUHAP), which stipulates that a judge may only impose a sentence if, based on at least two valid pieces of evidence, they are convinced that a criminal act has indeed occurred and that the defendant is the perpetrator. This provision reflects the *negatief wettelijk bewijsstheorie* (negative legal proof system), which combines valid evidence with the judge's personal conviction. However, in practice, differences in interpretation among judges regarding the limits of such "conviction" often arise, leading to legal uncertainty. Murder cases are generally difficult to prove due to the lack of direct witnesses and the reliance on forensic evidence, circumstantial indications, and expert testimony. This condition demands that law enforcement officers possess a deep understanding and consistent application of the standard of proof to prevent miscarriages of justice or violations of human rights. This study aims to analyze the concept of the standard of proof within Indonesia's criminal procedure law and to identify the obstacles in its application to the disclosure of murder cases. Theoretically, this research is expected to enrich the body of literature on the law of evidence, while practically, it may provide recommendations for policymakers and law enforcement officers to apply the standard of proof accurately and fairly.

LITERATURE REVIEW

Evidence constitutes a crucial component in the criminal justice process, as it enables judges to determine whether the defendant has indeed committed the criminal act as charged. The primary purpose of evidence is to attain *material truth* through the evaluation of legally admissible evidence. According to Article 184 of the Indonesian Criminal Procedure Code (KUHAP), the valid means of evidence in criminal cases consist of witness testimony, expert testimony, documents, indications, and the defendant's statement. A judge may only impose a sentence if there are at least two valid pieces of evidence and the judge is convinced that a criminal act has indeed occurred and that the defendant is the perpetrator, as stipulated in Article 183 of KUHAP. This provision demonstrates that the Indonesian evidentiary system adheres to the *negatief wettelijk bewijsstheorie* (negative legal proof theory), which combines statutory evidence with judicial conviction.

Several evidentiary theories serve as the foundation of the criminal law system, including :

1. Positive Legal Proof Theory (Positief Wettelijk Bewijs Theorie), which recognizes only those pieces of evidence explicitly prescribed by law..
2. Judge's Conviction Theory (Conviction Intime), which bases the verdict solely on the personal conviction of the judge.
3. Rational Conviction Theory (Conviction Raisonnée), which requires that the judge's conviction be accompanied by logical and accountable reasoning.
4. Negative Legal Proof Theory (Negatief Wettelijk Bewijs Theorie), which requires at least two valid pieces of evidence supported by the judge's conviction.

In practice, the evidentiary process in criminal cases particularly in murder cases often encounters obstacles due to the lack of direct witnesses and the reliance on scientific evidence such as *visum et repertum* (autopsy reports), circumstantial indications, and expert testimony. Therefore, the ability of law enforcement officers to assess the probative value of evidence becomes a crucial factor in ensuring the realization of justice. Several fundamental principles in the law of evidence must also be observed, such as the principle of minimum proof, the principle of *in dubio pro reo* (in doubt, favor the defendant), and the prohibition of using unlawfully obtained evidence. These principles are intended to maintain a balance between legal certainty, justice, and the protection of human rights. From the various theories and discussions above, it can be understood that the standard of proof in criminal procedure law does not solely depend on the number of pieces of evidence but also on their quality and interrelation in establishing the judge's conviction. Therefore, the evidentiary process must be carried out objectively, logically, and in accordance with proper legal procedures to prevent errors in judicial decisions.

METHOD

This study employs a normative juridical approach, which views law as a binding written norm that serves as a reference in resolving legal issues. The focus lies on the examination of statutory regulations, legal principles, legal theories, and relevant scholarly doctrines, particularly those concerning the standard of proof in criminal cases in accordance with the Indonesian Criminal Procedure Code (KUHAP) and related legislation. This research is classified as normative (doctrinal) legal research, aiming to identify, analyze, and evaluate the provisions of positive law and their implementation in judicial practice. The research was conducted through a comprehensive library study without geographical limitations, concentrating on juridical analysis of statutory provisions and the KUHAP related to criminal acts of murder. The data sources consist of primary data, obtained through direct observation, and secondary data, derived from legal literature including books, academic journals, scholarly works (theses, dissertations, and undergraduate papers), legal articles, official documents, and relevant judicial considerations. Data collection was carried out through literature review to obtain an adequate theoretical foundation, while data analysis employed a qualitative method, organizing and structuring legal materials into systematic patterns, categories, and descriptions. This approach enables an in-depth and focused examination of the legal issues under study.

RESULTS AND DISCUSSION

The evidentiary process in criminal cases constitutes a fundamental element of Indonesia's judicial system, particularly in uncovering criminal acts of murder. The standard of proof serves not only to determine the defendant's guilt but also to ensure that the entire trial process is conducted fairly, objectively, and in accordance with legal principles. The regulation of evidence, burden of proof, and judicial authority aims to balance legal certainty with the protection of defendants' rights, ensuring that court decisions are legally and socially accountable. This study focuses on two main aspects: the concept of the standard of proof in Indonesia's criminal procedure law and the obstacles encountered in its application to the disclosure of murder cases. The discussion is based on an examination

of KUHAP provisions, theories of evidence, and relevant judicial practices, thereby providing a comprehensive overview of the evidentiary mechanism and the challenges faced in practice.

The Concept of the Standard of Proof in Indonesian Criminal Procedure Law

The standard of proof in criminal procedure serves to convince judges of the truth of the criminal act charged against the defendant. The evidentiary process includes the collection of evidence, its presentation at trial, evaluation by the judge, and the rendering of a verdict. A judicial decision should reflect integrity, substantive justice, and juridical ethics, integrating elements of *ethos* (integrity), *pathos* (legal consideration), *logos* (rationality), sociological alignment (consistency with social norms), and philosophical orientation (truth-seeking). Based on Articles 183 to 185 of the Indonesian Criminal Procedure Code (KUHAP), valid evidence in criminal proceedings includes several types, each with its own function and role. Understanding these types of evidence is essential to ensure that trials proceed objectively and fairly.

Witness testimony serves as a primary form of evidence, derived from statements of individuals who have knowledge of the facts related to the crime. It assists the judge in constructing the factual chronology of the case and in revealing information not contained in written documents. Evaluation of witness testimony must be carried out objectively to ensure factual accuracy. Expert testimony is used to explain technical or specialized aspects of a case requiring specific expertise. For instance, forensic, psychological, or ballistic experts provide scientific clarification that helps the judge understand complex evidence. Expert testimony plays a crucial role in cases involving technical evidence that cannot be comprehended without specialized knowledge. Documentary evidence includes written materials, whether official or private, that are relevant to the case. Such documents may serve as direct or supplementary proof—for example, contracts, medical records, or official police reports. Documentary evidence strengthens the factual foundation of the trial and provides a written basis for judicial reasoning.

Indications and the defendant's statement are also recognized as valid evidence. Indications consist of facts or objects pointing to the existence of a crime, such as fingerprints or traces, even if they do not directly prove the defendant's guilt. The defendant's statement allows the accused to clarify or defend themselves, making both forms of evidence integral to a fair and transparent evidentiary process. In practice, Indonesia adopts the *Negatief Wettelijk Bewijstheorie* (Negative Legal Proof Theory), a system that integrates valid evidence with the judge's conviction. A verdict can only be rendered if the judge is convinced of the material truth, supported by at least two valid pieces of evidence. Criminal evidence evaluation involves assessing trial facts to determine the truth of an event. One approach is *Conviction Intime*, in which the judge forms a conviction based on personal assessment of the evidence presented. While this approach allows flexibility, it risks subjectivity as it is not bound by formal evidence.

The Conviction Raisonnee approach emphasizes that judicial conviction must be accompanied by logical reasoning and legally accountable evidence. It balances objectivity in evidence with the judge's rational evaluation, resulting in decisions that are more transparent and accountable. Hence, verdicts are not based merely on intuition but on rational and well-reasoned considerations. Meanwhile, *Positief Wettelijk Bewijstheorie* (Positive Legal Proof Theory) prioritizes adherence to formal evidence without considering the judge's personal conviction. Although procedurally clear, this approach risks ignoring substantive justice as it overlooks the material context of the case. Conversely, the *Negatief Wettelijk Bewijstheorie* integrates valid evidence with judicial conviction, whereby a judge's assessment is legitimate only if supported by at least two valid pieces of evidence. The implementation of the *Negatief Wettelijk Bewijstheorie* in Indonesia reflects an effort to balance procedural legality with substantive justice. This system safeguards defendants' rights while ensuring that court rulings are based on sufficient and rationally assessed evidence. Thus, it serves as the foundation for fair and legally accountable criminal adjudication.

Criminal proof is governed by the principle that a defendant can only be declared guilty if there are at least two valid pieces of evidence supporting the judge's conviction a principle known as *minimum bewijs*. This emphasizes the balance between the quantity of evidence and the judge's assessment to ensure a fair and just verdict. Evidence must be obtained in accordance with applicable legal procedures. Illegally obtained evidence such as confessions extracted under duress cannot form the basis of a verdict. This underscores that compliance with due process is fundamental to the legitimacy of criminal proof. The burden of proof lies with the public prosecutor, who must convincingly prove the defendant's guilt. If the evidence presented is insufficient or raises reasonable doubt, the defendant must be acquitted in accordance with the *in dubio pro reo* principle. This affirms the protection of defendants' rights within the criminal justice process. Judges hold discretionary authority to assess evidence objectively, guided by factual findings and the principle of minimum proof. Such discretion allows them to strike a balance between procedural adherence and substantive justice, ensuring verdicts that are fair, rational, and legally valid.

Obstacles in Applying the Standard of Proof in Murder Cases

The application of the standard of proof in murder cases often faces practical obstacles that can affect the objectivity and quality of judicial decisions. One major challenge is the limited availability of evidence, where the evidence presented is often incomplete, damaged, or illegally obtained, thereby weakening the evidentiary process. For example, the absence of eyewitnesses, missing documents, or deteriorated physical evidence can hinder the full disclosure of facts, making it difficult for judges to form an accurate conviction regarding the event. Judicial subjectivity in evaluating evidence also poses a significant challenge. While discretion is necessary in weighing evidence, unbalanced or biased judicial convictions may lead to unjust rulings. This underscores the need for rational, consistent, and evidence-based assessment to ensure fairness for the defendant. Weaknesses in the prosecution's performance further affect evidentiary effectiveness. Since the burden of proof lies entirely with the public prosecutor, insufficient or unconvincing evidence can undermine the legal process, requiring reasonable doubt to be interpreted in favor of the defendant under the *in dubio pro reo* principle. Moreover, external pressures, such as public opinion, political interests, or evidence manipulation, can compromise judicial independence and trial integrity, increasing the risk of injustice even when valid evidence is presented. These challenges highlight the need to strengthen evidentiary mechanisms through legal reform, enhanced professionalism among law enforcement officers, and public education on lawful evidentiary procedures. Such efforts are expected to foster an effective, accountable, and substantively just criminal justice system that safeguards defendants' rights while maintaining the integrity of judicial proceedings.

CONCLUSION

The criminal act of murder requires a careful and fair judicial process, with the application of the standard of proof as stipulated in Article 183 of the Indonesian Criminal Procedure Code (KUHAP), which states that a judge may impose a sentence only if, based on at least two valid pieces of evidence, they are convinced that the criminal act truly occurred and that the defendant is the perpetrator. The implementation of this standard of proof faces several obstacles, including limited evidence, judicial subjectivity, weaknesses in the prosecution, and external pressures or influences that may affect the independence of the trial. Strengthening the evidentiary mechanism through legal reform, enhancing the professionalism of law enforcement officers, and promoting public education are essential measures to ensure a fair, objective, and accountable judicial process.

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