SCIENTIFIC CULTURE
www.sci-cult.com

*SCIENTIFIC CULTURE, Vol. 12, No. 4, (2026), pp. 6159-6168*
*Open Access. Online & Print*

**DOI: 10.5281/zenodo.12426640**

# EXAMINING WITNESSES WITHIN THE SPIRIT OF DUE PROCESS OF LAW

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**Received: 23/07/2025**
**Accepted: 27/03/2026**

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## ABSTRACT

***Witness testimony constitutes a central form of evidence under the Criminal Procedure Code (KUHAP) and plays a decisive role in establishing material truth, determining suspects, and forming judicial conviction. This study examines how witness examination procedures in Indonesian criminal proceedings ensure fairness in accordance with the principles of due process of law. Using a normative juridical method based on statutory regulations, legal doctrines, and court decisions, this research analyzes the procedural standards governing the summoning, examination, and evaluation of witnesses. The analysis shows that due process safeguards are reflected in requirements such as sworn testimony before the court, the minimum two-evidence rule, judicial independence in assessing credibility, and the protection of individual rights during investigation and trial. These procedural guarantees aim to prevent arbitrariness, uphold the presumption of innocence, and ensure that witness testimony contributes to fair and legally certain criminal adjudication. Thus, witness examination conducted in accordance with criminal procedural law standards is a fundamental instrument in realising fair criminal justice based on the principle of due process of law.***

**KEYWORDS:** Criminal Cases, Criminal Procedural Law, Witnesses To Criminal Cases, Due Process Of Law.

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## INTRODUCTION

The examination of witnesses in criminal cases can be associated with the implementation of criminal procedural legal remedies, namely "seeking and finding the truth". Another function of the criminal procedure law is the decision-making by the judge and the execution of the judge's decision. The examination of witnesses in criminal cases is included in the narrow definition of the criminal procedure law. The narrow definition of criminal law is in detail associated with the legal regulations regarding investigation, investigation, prosecution, trial examination to court decisions and the execution of judges' decisions by the Public Prosecutor. Meanwhile, the definition of criminal procedural law in a broad sense also includes regulations on the composition of judicial regulations, court authority, and judicial court regulations.

From a formal legal perspective, the examination of witnesses is regulated in Law Number 8 of 1981 concerning the Criminal Procedure Law (hereinafter referred to as the Criminal Procedure Code, or the KUHAP). Meanwhile, the material perspective in the examination of witnesses is related to the regulation of the type of crime, witness criteria, and the rights and obligations of witnesses as stipulated in the Criminal Code (hereinafter referred to as the KUHP). The relationship between the two regulations has been described as the KUHAP implementing the regulatory material in the KUHP.

The examination of witnesses is one piece of evidence that determines "the sustainability of the investigation of criminal cases and the determination of the perpetrators of the criminal act". Article 184 paragraph (1) of the KUHAP regulates the following evidence:

a. Witness statements.
b. Expert Description.
c. Letter. Instructions.
d. Defendant's statement.

The summoning of a person to give information about a criminal case is regulated in Article 224 of the KUHP, which states:

"Whoever is called as a witness, expert or interpreter even according to the law deliberately does not fulfill his obligations under the law that he fulfils, is threatened:

1. in criminal cases, with a maximum prison sentence of nine months;
2. In other cases, with a maximum prison sentence of six months."

The explanation of the provisions of Article 224 of the KUHP is as follows:

1. Based on Articles 262 and 264 of the HIR, a person who has been called as a witness is obliged to be present and give testimony under oath.
2. Not being present "unlawfully" as mentioned in Article 522 of the Criminal Code means that a person who has been called as a witness but is not present for a valid reason can be punished.
3. The understanding of "Legitimate reasons" is the statutory freedom to be absent.

Being a witness in a criminal case is an obligation for someone who is considered to provide information to reveal a criminal event. Witnesses in criminal cases can determine the fate of a person who is accused of committing a criminal act, with the potential for the law to lose his independence with the imposition of a prison sentence. Looking at the provisions about criminal witnesses, it is fair to say that the nature of criminal cases can be said to be harsh. Criminal law is harsh because of its coercive nature and severe sanctions, such as prison. These sanctions aim to protect the public interest and maintain public order, and serve as the last resort (ultimum remedium) to uphold justice when other sanctions are no longer adequate. Wirjono Prodjodikoro gave the definition of "ultimum remedium" that due to the nature of criminal sanctions as the ultimate weapon or ultimum remedium, when compared to civil sanctions or administrative sanctions".

Because there is "a potential loss of a person's personal independence due to the testimony of a witness," the examination of witnesses must be conducted in a "non-stressful situation." A stressful situation can also occur due to a witness's lack of understanding of the case in question. The feeling of satisfaction also occurred because the case involved someone who was socially strata above the witness. Psychological pressure can also be felt by a witness because he is aware that he is also a potential suspect because of his involvement in the criminal case being examined. Because of these various psychological responses, there is a thought that witnesses should also be given the right to be accompanied by a lawyer when examined.

Witness testimony is as evidence of what he witnessed and saw or heard stated in a court hearing. One witness statement is not enough to prove that the defendant is guilty of the criminal act accused against him. Testimony about several witnesses who stand alone about an event or situation can be used as one of the valid evidence if the testimony of the witness is related to each other in such a way that it can justify the validity of a certain event or circumstance. In examining the truth of witness

testimony, the judge must seriously pay attention to: 1) The correspondence between the testimony of one witness and the testimony of another witness; 2) Conformity between witness statements and other evidence; 3) The reasons that may be used by the witness to give certain information; and 4) The way of life and decency of witnesses and everything that can generally affect whether the information can be trusted or not.

In the process of disclosing criminal cases starting from the investigation stage to the evidentiary stage at trial, the existence and role of witnesses are very important. The importance of the role of witnesses in the criminal justice process has been affirmed in the provisions of Article 184 and Article 185 of the KUHAP. More specifically, in the process of proving a criminal case, the KUHAP has adhered to various systems of proof that have been regulated in the law negatively, which is in accordance with the provisions contained in Article 183 which states that the judge in sentencing a person must have at least two valid pieces of evidence and the judge's belief that the defendant is really guilty. In other words, this negative statutory proof means that a defendant can only be found guilty if the offence charged against him can be proven by a lawful manner and with legal evidence and the judge's belief that the defendant is truly guilty. This negative statutory proof is a reflection of the existence of the principle of presumption of innocence which means that, all persons individually and as a group must be presumed innocent until there is evidence and a binding judge's verdict in the Court. Based on this explanation, the defendant can only be found guilty if the offense charged against him can be proven by means and with valid evidence according to the law and the judge's belief that the defendant has indeed been guilty.

From the beginning of the article, it has been said that witness testimony is the most important evidence in criminal cases. It can be said that no criminal case has escaped the evidence of witness statements. Almost all proof of criminal cases always relies on the examination of witness statements. At least in addition to proving with other evidence, it is still always necessary to prove with witness testimony evidence. In his capacity as a party who has the authority to conduct examinations at the court level, the issue of proof is also a very decisive factor for the judge in supporting the formation of the judge's belief factor. This is as stated in the provisions of article 183 of the KUHAP, which basically explains that the judge in imposing a criminal sentence on the defendant must be based on at least two valid evidences and the judge's conviction formed is based on the valid evidence. This provision is to ensure the upholding of truth, justice, and legal certainty for a person. Therefore, when viewed from a juridical perspective, in terms of the evidence, of course, it must contain provisions on the type of evidence and provisions on the procedure for proof that are carried out correctly and should not be done arbitrarily by violating the human rights of the defendant.

The most important element in testimony is the testimony of witnesses as stipulated in Article 184 paragraph (1) letter a and Article 185 of the KUHAP. The definition of a witness is a person who can give testimony for the purposes of investigation, prosecution and justice about a case that he hears, he sees, and he experiences himself. Meanwhile, witness testimony is one of the evidence in a criminal case in the form of witness testimony about a criminal event that he himself experienced by mentioning the reason for his knowledge.

A means of proof with witnesses is generally only used if there is no evidence with writing and or proof with the writing is not enough. What is meant by the means of proof with the witness is testimony, testimony is a reasonable and important means of proof, because it is natural that in the examination of a case in trial, information from a third party who experienced the event is needed, not from the parties to the case.

The information presented by a person as a witness must be really a description of things or events that he himself has seen and/or experienced and must also be reasonable. A testimony is a definitive statement that must be presented to the judge by another person who knows and/or experienced the matters or events in question by way of verbal disclosure. In its position as a public legal instrument that supports the implementation and application of material criminal law provisions, the Criminal Code has its own formulation of an evidentiary system.

A fundamental understanding that can be conveyed that criminal law regulates people's lives or implements order in society. It is the duty of criminal law to enable human beings to live together. In this understanding, the examination of a witness must be carried out within the framework of "due process of law". The due process of law is a fair legal process, which is in contrast to an arbitrary process that is not based on established legal regulations. The Criminal Procedure Law conveys guidelines on procedures and procedures that must be followed in the criminal justice process. It is wrong if we only associate a fair trial with implementing criminal procedure legal

procedures against the defendant. The settlement of criminal cases is applied based on the criminal procedure law as stipulated in the KUHAP. A fair judiciary should include respect for the individual rights of all citizens, in accordance with the 1945 Constitution, which affirms that independence is the right of every nation. Furthermore, in deciding whether a defendant is guilty or not, the judge is obliged to consider several important factors, as follows:

1) Minimum Basis of Proof; The defendant's guilt must be proven using at least two valid evidences. Based on the point of view of legal doctrine and practice, this is known as the terminology of the minimum principle of proof. This principle comes from the provisions of Article 184 paragraph (1) of the KUHAP which states that valid evidence includes: witness statements, expert statements, letters, instructions, and defendants' statements. Therefore, if only one piece of evidence is submitted, then the minimum principle of proof is not met, causing the defendant to not be sentenced to a crime. Because the evidentiary activities must be in accordance with the provisions of the Law. This means that the judge is obliged to ensure that the evidence is based on more than one valid piece of evidence so that it can assess the guilt of the defendant.
2) Judge's Belief: Even though there are two valid pieces of evidence, the judge cannot necessarily impose a criminal sentence if he has not been convinced that the crime actually occurred and that the defendant did it. So that the existence of two valid pieces of evidence is not enough for the judge to confirm the guilt of the defendant, because the judge must have a unanimous belief that the criminal act did occur and the defendant was the perpetrator. On the contrary, the judge's conviction will be meaningless if it is not supported by at least two valid pieces of evidence. Thus, these two elements, the amount of evidence and the judge's belief must support each other in order to impose a criminal sentence on the defendant.

These two aspects emphasize the importance of a rigorous and objective evidentiary process in the criminal justice system, so that judges can make decisions that are fair and based on valid evidence. Proof is an important issue because the implementation of the evidentiary examination is the core stage of the examination of a criminal case, the strength of the evidence depends on the judge's observation in assessing the suitability of the truth that exists for the alleged criminal act, as well as the compatibility between each piece of evidence submitted. The evidentiary process is the most important element in a judicial process, especially by criminal justice institutions, it can happen because proof has a fairly crucial function as a means to find the material truth of what is charged by the Public Prosecutor. Proof in the criminal procedure law can be interpreted as an effort to obtain information through evidence and evidence in order to obtain a belief in the correctness or not of the criminal act charged and to be able to find out whether there is any fault in the defendant.

As the main evidence, of course, the impact is very felt if there is no witness statement in a case. The importance of the position of witnesses in the criminal justice process has started from the beginning of the criminal justice process. Likewise, in the subsequent process, at the prosecutor's level until finally in court, witness testimony as the main evidence becomes a reference for the judge in deciding whether the defendant is guilty or not. So, it is clear that witnesses have a very large contribution to the effort to uphold law and justice. Many cases have their fate determined by the presence or absence of witnesses, even though witnesses are not the only means of evidence. Because witnesses have a fairly crucial function, witnesses must be people who directly see, hear and experience an event that occurs. In order for a witness's testimony to be considered as a valid evidence, the witness's testimony must be stated in court, and if the testimony is submitted outside the court, it cannot be used as evidence. However, it is not impossible that in practice there are often conflicts with the provisions of laws and regulations, even though the provisions regarding evidence have been clearly regulated in Article 184 paragraph (1) of the KUHAP.

The existence of the regulation "witnesses must be present at the examination" has emphasized that the examination of witnesses in criminal cases must be carried out by a person who has been summoned to be examined. If the examination of witnesses is still at the level of a police or prosecutor investigator, the investigator will call a person back to be heard as a witness if the person concerned is not present at the first call. A second summons will also be given to witnesses if they do not comply with the court summons to give evidence in the trial. The third summons against a person who is summoned to give information for the purpose of examining a criminal case, the investigator will bring a "Warrant to Take" to the person concerned after not fulfilling the summons for investigation twice without a valid

reason. In the event that two summonses for the trial are not complied with, the judge may order the Public Prosecutor to forcibly present a person who must testify under oath at the hearing.

## METHODOLOGY

The method used in this study is a normative-juridical approach. Normative juridical approach is an approach made based on the main legal material by studying theories, concepts, legal principles and laws and regulations related to research. It is also known as the approach to literature, which is by studying books, laws and regulations, and other documents related to studies.

This study examines written law from the aspects of theory, history, philosophy, comparison, structure and composition, environment and materials, general explanation of each article, formality and binding force of a law but not binding aspects of its application or implementation.

Based on the problems studied and the choice of data sources used in this study, the researcher uses normative legal research. Normative legal research methods, as understood in the legal literature, are studies that refer to the legal norms contained in the law and court decisions.

Normative legal research is carried out based on the problems studied and the selection of data sources. As understood in the legal literature, this method examines the juridical standards contained in the law and court decisions. Library research is carried out to obtain data from primary, secondary, and tertiary legal materials, such as concepts, legal methods, and laws and regulations.

The Law approach means that this approach is carried out by examining laws and regulations related to the problems (legal problems) faced. This legislative approach, for example, is carried out by studying the consistency between one law and another. Conceptual Approach: This approach starts from the views and doctrines that have developed in the legal sciences. This approach is important because understanding the views/doctrines that have developed in the legal sciences can serve as a foundation for building legal arguments when resolving the legal issues at hand.

To obtain this research data, the researcher conducted library research by collecting primary, secondary, and tertiary legal materials, such as concepts, doctrines, legal principles, and laws and regulations related to this research. Processed materials were obtained through literature in the form of laws and regulations, program policies, books and articles, newspaper clippings, and other secondary data related to this research. Electronic sources are obtained from computer databases.

There are two broad categories of legal literature: a) primary and b) secondary. The main source of law is the rules that are recorded as being imposed by the state; These sources can be found in appeals court decisions, laws passed by legislators, executive orders, and rules and decisions of administrative agencies. In common law countries, such as the United States, the first major category of primary sources is judicial decisions, while product law is the primary source in civil law states.

Secondary materials include treaties, hornbooks, practice manuals, and legal writing in law journals. Secondary sources can help analyze the problem and provide research references for primary sources and other secondary materials.

## RESULT AND DISCUSSION

### *Witness Evidence under KUHAP*

Conceptually, Indonesian law, including criminal procedural law, follows the civil law system. This is reflected in its codified legal structure. Both substantive criminal law and formal criminal procedure are compiled in written codes. Substantive criminal law is contained in the Criminal Code (KUHP), while procedural law is regulated in Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHAP).

Criminal procedure law is a set of rules that can provide a guide on what to do by law enforcement and other parties involved if there is a suspicion that criminal law has been violated. The definition of Criminal Procedure Law is not clearly defined in the KUHAP, but only provides definitions of parts of the KUHP, such as investigation, investigation, arrest, legal remedy, confiscation, search, and others. However, the criminal procedure law has been completely regulated based on the KUHP for all criminal proceedings from the beginning of the investigation to cassation and even to the legal remedies for review at the Supreme Court. Broadly speaking, the KUHAP regulates the following important matters, namely:

1) Codification of Criminal Procedure Law

This law states the rules of criminal procedure that were previously spread across various laws into one law book called the Criminal Procedure Code (KUHAP).

2) Coercive Action

This law regulates the acts of coercion that can be carried out by investigators, such as arrest (Article 16 to Article 19), detention (Article 20 to Article 31), search (Article 32 to Article 37), and confiscation

(Article 38 to Article 46).

3) Suspect Rights

This law guarantees the rights of suspects from the moment of arrest, including the right to legal assistance and the right to contact legal counsel (Articles 50 to 67).

4) Judicial Process

This law stipulates that the examination of criminal cases must be conducted in the presence of the defendant and that court hearings are basically open to the public, unless otherwise provided for by law (Article 77 to Article 88).

5) Indemnity

Regulates the right for victims to apply for compensation for losses suffered as a result of criminal acts, which can be combined with criminal cases (Articles 98 to 101).

The examination of witnesses by police investigators and before the trial is an important part of proving criminal cases, because witnesses are an element of evidence in criminal cases as stipulated in the Criminal Prosedure Code (KUHAP). Article 184 paragraph (1) of the KUHAP states:

"The valid evidence is:

1) Witness testimony is information given to investigators in a pretrial examination or statements submitted under oath in the trial regarding events seen, heard, or experienced by themselves.
2) Expert testimony is the opinion of an expert based on his expertise to explain problems in criminal cases.
3) A letter is a document that contains statements or information related to the criminal case being examined, such as an official letter, agreement or other written evidence related to the criminal case being examined.
4) Clues are circumstances or events obtained from witness statements, letters, or defendants and can indicate the existence of a criminal act.
5) The defendant's statement is the statement of the perpetrator of a criminal act at trial regarding a criminal act committed or known to himself.

The five forms of evidence recognized under Article 184 paragraph (1) of the KUHAP serve as the foundation for judicial conviction that a criminal act has occurred and that the accused is responsible for it. Through the evaluation of these evidentiary elements, law enforcement authorities and judges determine whether the legal requirements for criminal liability have been satisfied. Among these forms of proof, witness testimony occupies a particularly decisive position in establishing the facts of a case. Nevertheless, the evidentiary system adheres to the principle *unus testis nullus testis,* one witness is not sufficient requiring corroboration by at least one additional valid piece of evidence. Witness testimony is considered significant because it is based on what the witness personally saw, heard, or experienced in relation to the alleged criminal act.

Article 1 point 27 of the KUHAP defines witness testimony as evidence in the form of a statement given by a witness concerning a criminal event that he or she personally heard, saw, or experienced, accompanied by the reasons for such knowledge. For witness testimony to qualify as valid evidence before the court, several requirements must be fulfilled: the witness must testify under oath; the statement must be based on personal perception; the testimony must be delivered directly before the court; it must be supported by at least one other valid piece of evidence; and it must be relevant to the case being examined.

### *Procedural Stages of Witness Examination*

The process and mechanism for resolving criminal cases as part of the evidentiary efforts according to the KUHAP with witness examination carried out in the following stages, namely:

1. Preliminary Investigation

In general, an investigation or in other words, often called a research is the first step or initial effort to identify whether or not a criminal event occurred. In criminal cases, the preliminary investigation or research is a step to conduct research based on laws and regulations to ascertain whether the criminal event really occurred or did not occur.

An preliminary investigation according to Article 1 point 5 of the Criminal Code is a series of investigative actions to search and find an event that is suspected of being a criminal act in order to determine whether or not an investigation can be carried out in the manner regulated in this law. The investigation is intended with the aim of collecting preliminary evidence or sufficient evidence so that the follow-up of the investigation can be carried out. If there are legal irregularities in the investigation and investigation activities, there is a potential for a pre-trial by parties who feel aggrieved.

Based on Article 4 of the KUHAP, it is determined that the investigator is every state police official of the Republic of Indonesia. From the affirmation of Article 4 of the KUHAP, it is explained that the apparatus that functions and is authorized to conduct investigations, only POLRI officials, is not allowed to interfere with other agencies and officials.

2. Investigation

Investigation, according to Article 1 point 2 of the

KUHAP, is a series of actions by investigators in the event and in the manner regulated in this law to seek and collect evidence that by that evidence sheds light on the criminal act that occurred and in order to find the suspect.

Article 1 point 1 explains that investigators are state police officials of the Republic of Indonesia or certain civil servants who are given special authority by law to conduct investigations. Then it is emphasized and detailed again in Article 6 of the KUHAP, besides that, there is Article 10 which regulates assistant investigators in addition to investigators.

The purpose of the investigation is to appoint who has committed the crime and provide evidence of the wrongdoing he has committed. Summoning people to be heard and examined as witnesses is an obligation of investigators as stipulated in Article 7 of the KUHAP.

3. Examination at the court session

Criminal trials are conducted by law enforcement authorities, including panels of judges, prosecutors, defendants, and their legal counsel. Their primary aim is to enforce the law and achieve justice. In relation to witness examination, the KUHAP regulates procedures for ordinary court proceedings. These provisions do not apply to summary or expedited examinations.

### *Principles of Criminal Procedure Law*

In order to achieve the goal of protecting the dignity of human dignity, the principles of law enforcement are formulated in Law Number 48 of 2009 concerning Judicial Power which is reaffirmed in the Criminal Code to always revive the protection of human rights. The legal process for a criminal case must meet the requirements as stipulated in positive law such as the KUHAP and legal doctrine so that it meets the criteria of "due process of law". From the point of view of the doctrine of criminal law, the process of examining criminal cases must meet the following principles, at least:

a) Equality before the Law

The Criminal Procedure Law applies the same treatment to everyone before the law. The criminal procedure law does not recognize what the Privilege Forum provides or special treatment for certain perpetrators of a criminal act.

b) The basis of the prohibition of vigilante play

This means that all criminal cases must go through a process or stages that have been determined by the rules of criminal procedure law. The process or stages here are the process of investigation, investigation, prosecution, examination in front of a court session and the coaching process in correctional institutions. According to this principle, it is not justified to complete a legal process or the legal consequences of a criminal act that does not go through the judicial process.

c) The Basis of Judges to Be Passive

The attitude of the judge is passive in the prosecution process according to criminal law. This principle gives an understanding that the judge must wait until the official authorized to prosecute, the public prosecutor, has presented a case to him for trial.

d) The principle of openness of a judicial process

Court judgments must be delivered in hearings that are open to the public. This principle is often referred to as *open deuren* (with doors open). Exceptions are permitted only in specific cases provided by law.

e) The principle of judge's freedom in adjudicating a case

Judges in adjudicating a case should not be pressured by anyone and in any form, both from individuals and from the authorities.

f) Opportune handles.

Under this principle, the prosecutor has the authority to set aside a case. This means the case is not brought before the court. Such discretion may be exercised when it serves the public interest or a broader legal interest.

g) Principles of Legality

The principle of legality requires that every perpetrator of a criminal act be prosecuted under the applicable criminal law. No exception is permitted. Cases must be brought before the court for trial. This principle is closely related to the principle of opportunity. Both principles operate within the framework of prosecution. In this context, legality is understood as part of criminal procedural law, not substantive criminal law.

If the principle of opportunity is the authority of the public prosecutor to set aside the case, then this principle of legality requires that all perpetrators of the criminal act must be prosecuted according to the applicable criminal law and submitted to the court for trial. The principle of legality here is the principle of prosecution and not in the sense of material criminal law. As is known, the principle of legality in the sense of material criminal law, which is known in Latin as "Nullum Delictum Nulla Poena Sine Praevia Lebe Poenale", which contains three meanings:

1) An act is considered a criminal offense only if it is expressly prohibited and punishable under written law.

2) To determine the existence of a criminal act, analogy should not be used;
3) The rules of criminal law do not apply retroactively or non-retroactively.

In addition to the seven principles mentioned above, the KUHAP and the Judicial Power Law also regulate the following principles, namely:

1. Principles of Fast, Simple, and Low Cost Justice

The principles of Fast, Simple, and Low Cost Justice are contained in Article 2 paragraph (4) of Law Number 48 of 2009, which states that: "Justice is done simply, quickly and at a lower cost." "Simple" here means that the examination and settlement of cases is carried out effectively and efficiently. "Low cost" means that the cost of a case can be borne by the general public.

The term "fast" itself means "immediately". In particular, speedy justice is needed to avoid prolonged detention before a judge's verdict is taken, which is inseparable from the exercise of human rights. Likewise, a free, fair and impartial judiciary for all parties, as affirmed by law. But in practice, this principle is difficult to achieve. Here is an example of the case:

Generally, people who have a case in court are legally blind, so they often leave their case to a lawyer to handle everything related to their case in court. If this happens, the cost of the case covered is not cheap, so the principle of "low cost" will not be achieved.

2. Asas in praesentia

Basically, the court examines the defendant before the judge, but with certain conditions and considerations, the court can examine the defendant without the presence of the defendant (in absentia).

3. Principles of Open Court Examination to the Public

This principle states that in essence the public can visit the court. This means that the public can follow every trial process so that the judge's decision can be accounted for. It also ensures the ability to reach an agreement between the parties in question.

However, in some cases or circumstances, the trial may be declared closed to the public. Cases examined on camera involve questions about the morality or events of which the children are accused.

4. The Principle of Equality before the Law

The law provides guarantees and certainty about the rights and obligations of citizens. Everyone has the same position before the law. The law does not distinguish between rich and poor citizens, whether they are powerful or not. All citizens have the same rights.

In Article 5 paragraph (1) of the Basic Law on Justice No. 4 of 2004, it is stated that "The Court adjudicates according to the law by not discriminating against persons".

5. Principles of Supervision

Public interrogation at trial is aquatic, meaning that the defendant occupies a position of "side" on par with the opposing party, namely the Public Prosecutor. It is as if both sides are "arguing" in front of a judge, who will decide the "dispute" later. The Prosecutor's Office here is to supervise the implementation of Court decisions in criminal cases.

The court's expertise is to consider and filter whether the crime is true or not, whether the evidence submitted is valid or not, and whether the terms and conditions of the Criminal Code are in accordance with the words of the criminal act or not.

Pre-trial examinations are open to the public, unless otherwise specified in the provisions, for example in the case of an examination of ethical violations, etc.

General Explanation of Article 1, point 3 of the Criminal Code states:

"...Therefore, this law regulates the National Criminal Procedure Law, the walib is based on the fialsafah/view of the nation's life and the basis of the state, so it should be reflected in the provisions of the material of the article or paragraph that the protection of human rights and the obligations of citizens as described above, as well as the principles that will be mentioned next. The principle that governs the protection of all human desires and dignity has been laid down in Law Number 14 of 1970 concerning the Principal Provisions of Judicial Power.

The principles as mentioned in the General Explanation of Article 1, point 3 of the Criminal Code are:

1) Equal treatment of everyone before the law by not discriminating in treatment.
2) Arrest, detention, search and seizure may only be made on the basis of a written order by an officer authorized by law and only in the case and in the manner provided for by this law.
3) Every person who is suspected, arrested, detained, prosecuted and/or brought before a court hearing, waiib is considered innocent until there is a court decision declaring his guilt and obtaining permanent legal force.
4) Persons who are arrested, detained, prosecuted or prosecuted without any reason based on the law and or because of a mistake regarding the person or the law applied shall be compensated and rehabilitated from the level of investigation and law enforcement officials who intentionally or

because of their negligence cause the legal principle to be violated, prosecuted, convicted and/or subject to administrative penalties.
5) Justices that must be conducted quickly, simply and at a low cost as well as free, honest and impartial must be applied consequentially in all levels of justice.

All of the principles mentioned above can be said to reflect the spirit of "due process of law". An understanding of "due process of law" is a fundamental principle that ensures a fair legal process and protects individuals from arbitrary government actions. This guarantees that no one can be deprived of life, liberty, or property without due process and a law that respects their rights.

## CONCLUSION

The examination of witnesses has proven to be a key evidence in proving criminal cases. Witness testimony in general sheds light on the legal process in criminal cases. The witness statement must be at least two people, because there is a legal adequacy that says "one witness is not a witness, or uno testis nulus testis". Along with other evidence as stipulated in Article 184 of the KUHAP, witness statements are considered by investigators to determine "who is the perpetrator of a criminal act". Witness testimony can reveal the truth of a criminal act and help prove the elements of the crime.

The information given by the witness must be based on what they hear, see, or experience themselves. The value of witness testimony in criminal cases is very important to determine the judge's verdict because it is one of the valid evidence used to build the judge's conviction. Witness statements must be eligible, as spoken under oath, and assessed based on their conformity with other witness statements and other evidence. Witnesses are required to take oaths or promises according to their respective religions to provide true information.

Witnesses provide crucial information in the process of investigation, prosecution, and trial, so that it becomes a determining factor in the success of a case. The determination of suspects is not only based on one piece of evidence, but at least two valid pieces of evidence that are strengthened by witness statements to form the investigator's belief. Witness testimony is one of the five valid evidence according to Article 184 of the KUHAP and is often the key in proving a case.

Witness statements in the trial are also considered by the panel of judges as well as factors in determining court decisions in criminal cases. The examination of witnesses is very important in criminal trials because their testimony is one of the main valid evidence to uncover the facts, determine the guilt of the defendant, and provide legal certainty. Examination of witnesses helps the judge assess the facts objectively to make a definitive decision about whether or not the defendant is guilty. Witness testimony, when supported by other evidence, becomes strong to prove the guilt of the defendant. The witness, through his testimony, acts as a "proof of the truth" that helps in determining whether the defendant is guilty or not.

However, on the other hand, witness statements can be considered by the Panel of Judges as incorrect and not beneficial to the examination of criminal cases. The consequence of incorrect witness testimony in the trial is criminal sanctions for giving false testimony under oath. This sanction is regulated in the KUHAP, namely Article 242 of the KUHAP. In addition, the judge may also suspend the hearing, make a decision, or detain a witness if there is a strong suspicion of false testimony after warning the witness first. Before taking further action, the judge will warn the witness to give correct information and warn of the criminal threat. The criminal sanction given can be in the form of imprisonment for a maximum of 7 years based on the old Article 242 of the KUHAP. Likewise, people who direct witnesses to provide false information can also be subject to criminal sanctions as participants.

The examination of witnesses must be in line with fair due process of law to ensure a non-arbitrary legal process. In the sense of providing equal opportunities for all parties and protecting individual rights according to constitutional principles. This justice is realized through various principles, such as the right of witnesses to be heard, the right of defendants to be accompanied by legal counsel, and the obligation of law enforcement to prove guilt with valid evidence.

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