



REVISITING THE RELEVANCE OF *UNUS TESTIS NULLUS TESTIS* IN INDONESIA'S CRIMINAL EVIDENCE SYSTEM

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Abstract

Purpose: This study aims to reexamine the relevance of the *Unus Testis Nullus Testis* principle (one witness is no witness) in Indonesia's modern criminal evidence system. The principle, originally derived from Roman law, has long been embedded in the Indonesian Criminal Procedure Code (KUHAP) as a safeguard against wrongful convictions based solely on a single testimony. However, the rapid development of digital evidence and scientific proof raises a fundamental question about the continuing validity of this classical rule. **Methodology/approach:** This research employs a normative legal method with a statutory and conceptual approach. Primary data are drawn from KUHAP, the Law on Electronic Information and Transactions (ITE Law), and several Supreme Court decisions. The analysis is qualitative, emphasizing interpretation and synchronization between traditional evidentiary principles and modern forms of proof. **Results/findings:** The findings reveal that while the *Unus Testis Nullus Testis* principle remains legally binding under Article 185 paragraph (2) of KUHAP, its application in practice has become more flexible. The courts now tend to accept a single witness testimony when corroborated by other forms of evidence such as expert statements, electronic records, or material traces. **Limitations:** This study focuses solely on normative analysis without direct empirical examination of judicial practices. **Contribution:** This paper contributes to the development of criminal procedural law by proposing a progressive interpretation of *Unus Testis Nullus Testis* that aligns with digital-era evidentiary dynamics. **Novelty:** The novelty lies in integrating classical evidentiary principles with modern technological proofs to ensure fairness and accuracy in Indonesia's criminal justice system.

Keywords: *Unus Testis Nullus Testis, criminal evidence, KUHAP, digital evidence, modern proof.*

1. Introduction

The doctrine of *Unus Testis Nullus Testis* literally "one witness is no witness" has long been a pillar of evidentiary theory in criminal procedure, asserting that the uncorroborated testimony of a single witness should not suffice to establish a defendant's guilt. (Wawrzyniuk, 2021) Rooted in Roman-canon legal tradition and widely adopted in civil-law jurisdictions, the doctrine was introduced into Indonesian law via Article 185(2) of the Criminal Procedure Code (KUHAP). (Mardhiah, Susilo, & Negara, 2025) Its original purpose was to guard against wrongful convictions founded purely on a single, potentially fallible, eyewitness account.

From a historical and theoretical perspective, the doctrine functions as a protective mechanism serving both as a safeguard for the accused and a guarantee of evidentiary reliability. It reflects the numerical system of proof that demands more than a lone testimony for conviction, thereby upholding the presumption of innocence and reducing the risk of *miscarriage of justice*. (Groome, 2014) However, as technological advances reshape the modes of fact-gathering, the traditional boundaries of the doctrine face significant pressure. The rapid expansion of digital evidence, forensic science, and expert testimony poses new questions about how a system calibrated for multiple human witnesses can and should adjust. (Stoykova, 2024)

In contemporary practice, courts increasingly confront cases where physical or electronic traces may substantiate the statement of a sole witness. With the proliferation of digital artifacts such as metadata logs, video recordings, and network communication records the evidentiary landscape has shifted markedly from one dominated by human perception to one enriched by technological confirmation. (Ulbricht, 2022) International scholarship observes that existing procedural rules, designed around traditional eyewitness testimony and physical evidence, are poorly equipped to regulate digital evidence collection and often lag behind technological realities. (Kerr, 2005)



Moreover, reform movements in criminal justice particularly in the context of sexual violence, cyber-crime, or human rights prosecutions have questioned the strict requirement of corroboration by multiple witnesses. In some jurisdictions, statutory frameworks now permit a single credible witness supported by non-testimonial evidence to form the basis of conviction. (Komalasari & Mustafa, 2023) This normative tension invites revisiting the doctrine not merely as a fixed rule, but as a principle to be interpreted dynamically in light of evolving evidentiary practices.

Accordingly, this study advances a dual focus: first, to examine the normative position and interpretation of Article 185(2) KUHAP and the doctrine of *Unus Testis Nullus Testis* within contemporary Indonesian criminal procedure; second, to evaluate whether and how modern forms of non-testimonial evidence (including digital evidence and forensic expert accounts) can act as legitimate corroboration for a single witness without undermining fair trial guarantees. In doing so, the article aims to propose a contextual and progressive reinterpretation of an established doctrine, aligning it with present-day demands of accuracy, reliability and human rights protection in criminal adjudication.

2. Literature review and hypothesis/es development

2.1 Literature Review

2.1.1 The Doctrine of Unus Testis Nullus Testis

The classical principle of *unus testis nullus testis* (“one witness is no witness”) asserts that the uncorroborated testimony of a single witness should not be sufficient to establish criminal guilt. The maxim, which originated in Roman-canon law, has historically served as a safeguard against arbitrary convictions based on unverified statements. (Livius.org, t.thn.) In the Indonesian context, this doctrine is codified in Article 185 paragraph (2) of the *Kitab Undang-Undang Hukum Acara Pidana* (KUHAP), which explicitly declares that the testimony of a single witness alone cannot constitute valid proof.

Modern commentators such as Wawrzniuk argue that the principle still fulfills an essential protective function, given the cognitive limitations and potential bias inherent in human perception. (Wawrzniuk, *Testis Unus Testis Nullus: The Credibility of Sole Eyewitness Testimony in Criminal Trials*, 2021) Nevertheless, its strict application has been criticized for obstructing justice in particular cases especially sexual or domestic violence where the victim is often the only available witness. (A. Mardhiah, 2025)

2.1.2 Modern Evidence Systems and Digital Proof

The evidentiary landscape has been transformed by technological progress. Digital materials such as surveillance recordings, metadata, and online communications increasingly play a crucial role in criminal trials. (Ulbricht B. R., 2022) In Indonesia, although the ITE Law formally recognizes electronic evidence, the procedural framework of KUHAP has yet to fully adapt to such innovations, creating inconsistencies in judicial evaluation. (Mustafa, 2023) Komalasari and Mustafa observe that courts have gradually begun to admit digital evidence as corroborative material when validated by forensic experts or electronic documentation. (Mustafa, *Electronic Evidence in the Criminal Justice System: Reimagined*, 2023) Emphasizes that standardization of procedure is vital to prevent manipulation and ensure fairness.

2.1.3 Interplay Between the Doctrine and Modern Proof

Recent scholarship attempts to reconcile the *unus testis nullus testis* principle with the realities of modern evidentiary practice. Miller’s study of prosecutors and investigators shows that digital artifacts can serve as “silent witnesses,” verifying or contradicting testimonial evidence. (Miller, 2022)

Stoykova maintains that fair-trial guarantees today must extend to the accurate and ethical handling of digital evidence. (Stoykova, *The Right to a Fair Trial as a Conceptual Framework for Digital Evidence*, 2024) Lase similarly concludes that Indonesian courts have evolved toward a contextual interpretation, allowing a single witness’s testimony to be deemed credible if supported by electronic or expert corroboration. (Lase, 2023)

2.2 Research Gap



Despite the existence of these lines of research, there remains a notable gap in normative and conceptual analyses that explicitly link the doctrine of *unus testis nullus testis* with the rise of digital evidence and the specific procedural architecture of Indonesia's criminal justice system. In particular, little has been written about how Indonesian courts interpret or adapt corroboration requirements when confronted with digital evidence in combination with a single witness's testimony.

2.3 Hypothesis Development

Based on the foregoing review, the following hypothesis is advanced. The doctrine of *unus testis nullus testis* continues to be normatively relevant in Indonesia's criminal procedure system, but its substantive application has evolved such that a single witness's testimony, when supported by non-testimonial evidence (digital, forensic, or expert), can fulfil the function of corroboration without undermining the protective purpose of the doctrine.

3. Methodology

This study adopts a normative legal research design (*juridical-normative approach*), focusing on the interpretation and analysis of laws, legal doctrines, and judicial decisions relevant to the application of the *Unus Testis Nullus Testis* principle in modern Indonesian criminal procedure. (Marzuki, *Penelitian Hukum*, 2017) The research is not empirical or experimental in nature; instead, it employs a doctrinal analysis that examines statutory norms, legal principles, and authoritative commentaries as its primary data sources. (Mamudji, 2020)

3.1 Research Type and Approach

The study combines two main approaches:

1. Statutory Approach, which involves examining primary legal materials such as the *Kitab Undang-Undang Hukum Acara Pidana* (KUHP), the *Undang-Undang Informasi dan Transaksi Elektronik* (ITE Law), and relevant Supreme Court regulations and decisions. (Indonesia)
2. Conceptual Approach, which interprets the philosophical and doctrinal foundations of the *Unus Testis Nullus Testis* principle and its evolution in the context of evidentiary modernization. (Hamzah, 2018)

The combination of these approaches allows the researcher to identify the normative framework governing evidentiary rules and to assess how such frameworks accommodate emerging forms of digital and expert evidence.

3.2 Sources of Legal Materials

The research uses both primary and secondary legal materials.

1. Primary materials consist of statutory provisions (KUHP, ITE Law, Law No. 12/2022 on Sexual Violence, and relevant jurisprudence of the Indonesian Supreme Court). (Indonesia, Undang-Undang Nomor 19 Tahun 2016 tentang Perubahan atas UU ITE, 2016)
2. Secondary materials include textbooks, commentaries, and scholarly articles from both national and international journals discussing the relevance of *Unus Testis Nullus Testis*, digital evidence, and evidentiary law reform. (Mustafa, *Electronic Evidence in the Criminal Justice System: Reimagined*, 2023)
3. Tertiary materials include online legal databases, law dictionaries, and digital libraries (e.g., Google Scholar, HeinOnline, and DOAJ), which were consulted for academic consistency and citation verification. (Mustafa, *Electronic Evidence in the Criminal Justice System: Reimagined*, 2023)

3.3 Data Collection and Analysis

Legal materials were collected through documentary review, focusing on statutes, judicial decisions, and academic works published between 2019–2025 to ensure contemporary relevance. (Ulbricht B. R., *Digital Eyewitnesses: Using New Technologies to Investigate Human Rights Crimes*, 2022) The data were then analyzed qualitatively through interpretive legal reasoning, guided by both deductive and comparative logic.

The analysis follows the steps of:



1. Inventorying legal norms relating to evidentiary proof and witness credibility.
2. Comparing traditional doctrinal interpretations with modern judicial applications involving digital evidence.
3. Drawing conclusions concerning the current and future relevance of the doctrine within Indonesia's legal system.

The interpretive analysis was further supported by referencing established theories of legal certainty, justice, and benefit (*kepastian, keadilan, kemanfaatan*) as advanced by Gustav Radbruch and adapted to Indonesian legal philosophy. (Radbruch, 1932)

3.4 Assumptions and Conditions

This study assumes that all statutory provisions and judicial interpretations cited represent valid and enforceable law as of 2025. It also presumes that the evidentiary principles underlying Indonesian criminal procedure remain influenced by both civil-law and contemporary hybrid legal systems. (Klamberg, 2020)

3.5 Replicability

Given its normative nature, the study can be replicated by following the same steps: identifying statutory texts, reviewing doctrinal sources, and conducting interpretive analysis of the *Unus Testis Nullus Testis* principle within the evidentiary framework of KUHAP and the ITE Law. Replication does not depend on empirical data collection but rather on the accessibility of legal materials and jurisprudence.

4. Results and discussion

The findings of this study reveal that although the principle of *Unus Testis Nullus Testis* remains formally codified in Indonesia's Criminal Procedure Code (KUHAP), its practical implementation has evolved significantly. (Hamzah, *Hukum Acara Pidana Indonesia*, 2018) doctrine, which once demanded corroboration strictly in the form of multiple eyewitnesses, is now applied more flexibly in line with judicial reasoning, statutory reform, and technological progress.

4.1 The Contemporary Legal Status of Unus Testis Nullus Testis

Article 185 paragraph (2) of KUHAP explicitly stipulates that "the testimony of a single witness shall not constitute sufficient evidence to prove the guilt of the accused." (Indonesia, *Kitab Undang-Undang Hukum Acara Pidana*) However, subsequent developments in statutory interpretation and jurisprudence have demonstrated that courts no longer interpret the rule rigidly. (Indonesia S. C., 2017) In practice, the Indonesian Supreme Court has consistently held that a single witness's statement can be considered credible if it is corroborated by non-testimonial evidence such as expert testimony, documentary proof, or digital evidence. (Mustafa, *Electronic Evidence in the Criminal Justice System: Reimagined*, 2023)

This judicial approach is in harmony with the principle of material truth (*kebenaran materiil*) under Article 183 of KUHAP, which prioritizes substantive justice over procedural formalism. (Indonesia, KUHAP) The rule's reinterpretation underscores a shift from quantitative to qualitative evaluation of evidence, reflecting modern evidentiary theory. (Klamberg, *Evidentiary Matters in the Context of Investigating and Prosecuting International Crimes in Sweden*, 2020)

4.2 The Role of Digital Evidence in Corroborating Testimony

One of the most significant factors influencing this doctrinal evolution is the emergence of digital evidence as a legitimate source of proof. With the enactment of the Electronic Information and Transactions Law (ITE Law), Indonesia formally recognized digital data as admissible evidence, thereby expanding the types of corroboration permissible under the *Unus Testis Nullus Testis* framework. (Indonesia, *Undang-Undang Nomor 19 Tahun 2016 tentang Perubahan atas UU ITE*, 2016) Digital records such as electronic messages, video surveillance, and metadata can serve to validate or refute a witness's account with objective technological indicators. (A. Mardhiah E. S., 2025) Ulbricht et al. refer to this phenomenon as the rise of "digital eyewitnesses," whereby data acts as a silent but reliable form of testimony. (Ulbricht B. R., *Digital Eyewitnesses: Using New Technologies to Investigate Human Rights Crimes*, 2022)



Nevertheless, challenges persist regarding the authenticity and chain of custody of digital materials. Courts must ensure that such evidence is obtained lawfully, preserved accurately, and presented with verified forensic integrity. (Miller, A Survey of Prosecutors and Investigators Using Digital Evidence, 2022) Stoykova notes that maintaining procedural accuracy in handling digital evidence is now a component of the right to a fair trial. (Stoykova, The Right to a Fair Trial as a Conceptual Framework for Digital Evidence, 2024)

4.3 Judicial Interpretation and Practical Application

Analysis of Indonesian case law from 2018 to 2024 demonstrates a consistent trend: courts are willing to uphold convictions based on a single witness's statement provided it is supported by credible non-testimonial evidence. For instance, in *Supreme Court Decision No. 103 K/Pid/2017*, the Court affirmed that a lone testimony could be deemed valid when corroborated by digital communication records and physical evidence. (Indonesia S. C., 2017)

This indicates that the judiciary has adopted a substantive evidentiary approach, focusing on truth-finding rather than formal numeric requirements. Such reasoning aligns with global trends toward contextualized evaluation of proof, as seen in international tribunals where digital and forensic evidence frequently supplements testimonial limitations. (Klamberg, Evidentiary Matters in the Context of Investigating and Prosecuting International Crimes in Sweden, 2020)

Lase observes that this interpretive flexibility does not erode the doctrine's protective function but rather revitalizes it in accordance with the principles of justice (*keadilan*), certainty (*kepastian*), and utility (*kemanfaatan*). (Lase, The Importance of the Minimum Limitation of Criminal Proof as the Implementation of the *Unus Testis Nullus Testis* Principle in Court, 2023)

4.4 Theoretical Implications

The findings suggest that the continued application of *Unus Testis Nullus Testis* must be understood not as a rigid rule but as a normative safeguard subject to functional adaptation. This view is consistent with Radbruch's theory that legal norms achieve legitimacy when they balance justice, certainty, and social benefit. (Radbruch, Rechtsphilosophie, 1932)

Hence, the doctrine should not be discarded; rather, it should evolve through judicial interpretation and legislative refinement. Modern evidence systems, by integrating digital and expert proof, enable the principle to maintain its moral and legal relevance in ensuring fairness within Indonesia's criminal justice process.

5. Conclusion

This study concludes that the *Unus Testis Nullus Testis* principle remains an essential normative safeguard in Indonesia's criminal evidentiary system, although its interpretation has evolved in response to contemporary legal and technological developments. Historically rooted in the Roman-canon tradition, the doctrine was designed to prevent wrongful convictions based solely on uncorroborated testimony. However, the evolution of modern evidentiary mechanisms particularly the recognition of digital and forensic evidence has allowed Indonesian courts to apply the principle more dynamically.

The research finds that Indonesian jurisprudence increasingly prioritizes qualitative over quantitative evaluation of proof. In practice, courts now accept a single witness's statement when it is substantiated by other reliable forms of evidence, such as electronic documents, forensic results, or expert testimony. This progressive interpretation aligns with the pursuit of material truth under Article 183 of the Criminal Procedure Code and strengthens the fairness and accuracy of judicial reasoning. Ultimately, the *Unus Testis Nullus Testis* principle continues to serve as a moral and legal filter that balances the protection of the accused with the need to uphold justice for victims. Its continued application ensures that Indonesia's evidentiary law remains responsive to the dual imperatives of fairness and modernity within the criminal justice process.

5.2 Limitation



The study is limited by its normative-doctrinal design, which relies exclusively on statutory analysis, legal literature, and case interpretation rather than empirical data. Consequently, it does not directly capture how judges or prosecutors apply the doctrine in real-world courtrooms. Another limitation concerns the rapidly changing landscape of digital evidence; as technology evolves, the validity, authentication, and admissibility of electronic materials may develop faster than the legislation governing them. These limitations suggest the need for complementary empirical and interdisciplinary studies to provide a more comprehensive understanding of how the doctrine functions in practice.

5.3 Suggestion

Future research and legislative reform should focus on codifying clearer standards for the integration of digital and non-testimonial evidence into Indonesia's criminal procedure. Legislators are encouraged to revise or supplement KUHAP to explicitly acknowledge electronic and forensic proof as valid corroborative forms under the *Unus Testis Nullus Testis* framework. Judicial training programs should also be strengthened to improve understanding of digital forensics, chain of custody, and evidentiary authentication, ensuring consistency and fairness in judicial decision-making. From a theoretical standpoint, the doctrine should not be viewed as a rigid numerical rule but as a living principle one that evolves alongside advancements in technology and shifts in social justice. By embracing interpretive flexibility, Indonesia's criminal justice system can uphold the protective intent of *Unus Testis Nullus Testis* while ensuring that truth, justice, and human rights remain at the core of evidentiary evaluation.

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References

- Ainal Mardhiah, Erwin Susilo & Dharma Setiawan Negara. "The Arrangement *Unus Testis Nullus Testis* in Sexual Violence Crime Cases: Crucial or Over-Regulation?" *Jurnal Hukum & Peradilan* 8, no. 1 (2025): 42–60.
- A. Hamzah. *Hukum Acara Pidana Indonesia*. Jakarta: Sinar Grafika, 2018.
- A. M. J. Lase. "The Importance of the Minimum Limitation of Criminal Proof as the Implementation of the *Unus Testis Nullus Testis* Principle in Court." *Andalas Law Journal* 8, no. 1 (2023): 29–45.
- A. Wawrzyniuk. "Testis Unus Testis Nullus: The Credibility of Sole Eyewitness Testimony in Criminal Trials." *Studia Iuridica* 64 (2021): 146–162.
- B. R. Ulbricht, M. D. Norburg, C. Moxley & M. D. Austin. "Digital Eyewitnesses: Using New Technologies to Investigate Human Rights Crimes." *Stanford Law Review* 74 (2022): 851–916.
- C. M. Miller, D. West, M. Kirchner & J. Harrington. "A Survey of Prosecutors and Investigators Using Digital Evidence." *Forensic Science International: Digital Investigation* 40 (2022): Article 100449.
- D. Groome. "No Witness, No Case: An Assessment of the Conduct and Quality of ICC Investigations." *Pennsylvania State Journal of Law and International Affairs* 3 (2014): 1–22.
- Gustav Radbruch. *Rechtsphilosophie*. Leipzig: Quelle & Meyer, 1932.
- Indonesia. *Kitab Undang-Undang Hukum Acara Pidana (KUHAP)*. Pasal 183 dan Pasal 185 ayat (2).
- Indonesia. *Undang-Undang Nomor 19 Tahun 2016 tentang Perubahan atas Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik (ITE)*.
- Klamberg, Mark. "Evidentiary Matters in the Context of Investigating and Prosecuting International Crimes in Sweden." *Scandinavian Studies in Law* 66 (2020): 335–355.
- Livius.org. "Testis Unus Testis Nullus: One Witness Is No Witness." Accessed at: <https://www.livius.org/articles/theory/testis-unus-testis-nullus/>.
- Oxford Reference. "*Unus Testis Nullus Testis*," in *Oxford Latin Legal Maxims*. Oxford: Oxford University Press, n.d.
- O. S. Kerr. "Digital Evidence and the New Criminal Procedure." *Columbia Law Review* 105 (2005): 279–340.
- P. M. Marzuki. *Penelitian Hukum*. Jakarta: Kencana, 2017.



- R. A. Stoykova. "A New Right to Procedural Accuracy: A Governance Model for Digital-Forensic Harmonisation." *Computer Law & Security Review* 50 (2024): 101910.
- R. A. Stoykova. "The Right to a Fair Trial as a Conceptual Framework for Digital Evidence." *Computer Law & Security Review* 50 (2024): 101913.
- R. Komalasari & C. Mustafa. "Electronic Evidence in the Criminal Justice System: Reimagined." *Jurnal Hukum & Peradilan* 12, no. 2 (2023): 547–566.
- Soerjono Soekanto & Sri Mamudji. *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*. Jakarta: RajaGrafindo Persada, 2020.
- Supreme Court of Indonesia. *Putusan Nomor 103 K/Pid/2017*.