

Perbandingan Penerapan Character Evidence di Indonesia, Amerika Serikat, dan Belanda (Studi Kasus Putusan Nomor: 777/Pid.B/2016/PN.JKT.PST) = The Comparison of Character Evidence Application in Indonesia, United States, and Netherlands (Case Study Court Decision Number: 777/Pid.B/2016/PN.JKT.PST)

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Abstrak

Sistem peradilan pidana di Indonesia menganut sistem pembuktian negatif dimana Hakim harus memperoleh keyakinan dari minimal 2 (dua) alat bukti yang sah untuk dapat menjatuhkan pidana kepada terdakwa. Kekuatan pembuktian alat bukti yang diajukan di persidangan berpengaruh pada keyakinan dari Hakim. Pada Putusan Nomor: 777/Pid.B/2016/PN.JKT.PST, terdapat character evidence yang bukan merupakan alat bukti yang sah menurut peraturan perundang-undangan di Indonesia. Character evidence tersebut tetap diperiksa oleh Majelis Hakim dan dipertimbangkan pada putusan. Peneliti akan meneliti mengenai keyakinan hakim bahwa terdakwa bersalah yang bertambah karena character evidence dan dikaitkan dengan due process of law di Indonesia. Peneliti kemudian membandingkan penerapan character evidence di sistem peradilan pidana di Amerika Serikat dan Belanda. Penulis meneliti dengan studi kasus Putusan Nomor: 777/Pid.B/2016/PN.JKT.PST dan membandingkan peraturan perundang-undangan di Indonesia, Amerika Serikat, dan Belanda, terkhususnya mengenai pembuktian. Penulis berkesimpulan bahwa ketiga negara menganut due process of law dengan adanya asas praduga tak bersalah, namun Indonesia sendiri belum memiliki peraturan yang mengatur mengenai character evidence secara jelas dan terkhusus. Character evidence dapat menjadi penambah keyakinan hakim, namun bukan termasuk alat bukti yang sah untuk memutus perkara.

.....The criminal procedure law in Indonesia follows the negative evidentiary system where Judges must obtain belief beyond reasonable doubt that the accused is guilty from minimum 2 (two) valid evidence to convict the defendant. Evidence presented at the trial will affect the judge's belief. There is character evidence in Decision Number: 777/Pid.B/2016/PN.JKT.PST, which character evidence itself is not legal evidence according to the laws and regulations in Indonesia. Character evidence is still being examined and considered by the Judges in the decision. The researcher will research character evidence that increases the judge's belief that the defendant is guilty linked with due process of law in Indonesia. The researcher then compared the application of character evidence in the criminal procedural law in the United States and Netherlands. The researcher also examines Decision Number: 777/Pid.B/2016/PN.JKT.PST and compares the laws & regulations in Indonesia, United States, and Netherlands, especially the law regarding evidence. The researcher concludes that the three countries adhere to the due process of law, as seen that the presumption of innocence principle applies to all three states, nevertheless Indonesia yet to have the regulations that clearly and specifically regulate character evidence. Character evidence can become an additional element to increase the judge's belief, but it is not one of the legal proofs.