



DOI: <https://doi.org/10.38035/sijal.v3i1>
<https://creativecommons.org/licenses/by/4.0/>

The Role of Electronic Evidence in Proving Crimes in the Digital Era

Edy Sugiarto¹

¹Universitas Muhammadiyah Bengkulu, Bengkulu, Indonesia, edysugiarto679@gmail.com

Corresponding Author: edysugiarto679@gmail.com¹

Abstract: Current development the more rapidly which is followed with development something technology information that can help work human , become means education and become a field For get rupiah coffers . A technology is wrong One tool which can make it easier man in all activities activities and matter This No can separated One each other, and Already become something attachment between humans and technology . One of them crimes brought about by development and progress technology information is crime related to with Internet applications. Crime This in term foreign often called with “Cyber Crime Scientific Article This Use study law normative or study law literature that is research conductedwith method research material library or secondary data, and types research on writing This is study juridical normative, namely reviewed with approach legislation It means something problem will seen from aspect the law with examine regulation legislation. Research results show that the law in Indonesia is still need to be completed For form arrangement about company individual This in regulation legislation separate from the ITE Law. Important conclusions from study This is need form this Electronic Evidence arrangement in regulation legislation invitation separately outside the Criminal Procedure Code.

Keywords: Electronic evidence, Law Electronic Information and Transactions, proof

INTRODUCTION

Current development the more rapidly which is followed with development something technology information that can help work human, become means education and become a field For get rupiah coffers. A technology is wrong One tool which can make it easier man in all activities activities and matter This No can separated One each other, and Already become something attachment between humans and technology. As well as being something modern tools, where give birth to knowledge great knowledge and technology help people man.

One of from product knowledge knowledge and technology is technology information that has been help people man in interact with man which exists in other communities with more easy. Technology information bring humans on a new civilization, with structure social along with its values, namely public develop going to public new global structure where national barriers begin fade away eventually will bring impact on shift values, norms, morals and decency.

A civilization that in this case This impact on the emergence of something communication between person to person, country to country and thing to thing This Can happen through across countries. So that bring up something borderless communication, people can communicate with anyone, anywhere and anytime and get information whatever was before Not yet Once We know. Development science, knowledge, technology and art deliver man entering the digital era gave birth to the internet as A network, and also a symbol exclusivity. As A network, internet capable connect between subsystem network become One super large network that can each other connected (online) all over the world.

One of crimes brought about by development and progress technology information is crime related to with Internet applications. Crime This in term foreign often called with “Cyber Crime”. Barda Nawawi Arif uses term Action Criminal Mayantara For pointing type the crime that related with internet application. (Abdul Wahid and Mohammad Labib, 2005) Aspects law in regime cyber law is sufficient area, namely in law administrative, civil, criminal. Third field the cyber law called cyberlaw. The Internet apart from beneficial positive for humans, for example make it easier all affairs management information, it turns out it can also be have impact negative and detrimental member society, for example in case data falsification, fraud, data theft, provocation, pornography, gambling, piracy right creation. Crimes that occur through or to network computer in cyberspace (inside) internet network) or outside network but use computer, crime This common called cybercrime. (Widodo, 2013)

Progress technology which is results culture man beside bring impact positive, in the sense that it can utilized For interest people humans also carry negative impact on development humans and their civilization. Impact the negative in question is related with the world of crime. JE Sahetapy has state in his writing, that crime close related and even become part from results culture That alone. This means the more tall level culture and more and more modern something nation, then crime is becoming more modern That in form, nature, and method its implementation. (Abdul Wahid, Op. Cit) Legal terms criminal law in the field of technology information is term juridical, meaning term the Already poured out in regulation legislation, namely in Article 43 paragraphs (1) and (2) of the Law Information and Electronic Transactions. In the provisions the arranged about Investigator Civil servants and investigations in the field Technology Information. (Widodo, Op. Cit)

Based on the ITE Law, Article 1 number 3, the definition of Technology Information is something technique For collect, prepare, store, process, announce, analyze, and/ or spread information. In the context law in the field of technology information, understanding technology information towards utilization technology information and communication based computer. And in Article 1 number 14 of the ITE Law is tool For processing electronic, magnetic, optical, or other data the system that implements function logic, arithmetic, and storage. Definition computer in context This including network computer as a network base system electronic. System electronics are also used For explain existence system information that is implementation technology information based network telecommunications and electronic media, which work design, process, analyze, display, and deliver or spread information electronic. (ibid) The Council of Europe in the Convention on Cybercrime in Budapest 23 November 2011 referred to Cyber Crime as related crimes with abuse computer system.

However Because Cybercrime use a medium, namely Cyber Space, for do crime and use technology information and telecommunications as the victim's tool, then based on Resolution United Nations General Assembly Resolution No. A/RES/55/63 dated 12 January 2001 concerning resistance to action criminal abuse technology information (Combating the Criminal Misuse of Information Technologies), namely relevant terms For mention action criminal cybercrime is action criminal abuse technology information and telecommunications. (Insan Pribadi, 2018) With Thus, the meaning law criminal law in the field of technology information in matter This is provisions criminal offenses that can be applied to activities man

based computer and in network computers in the virtual world matter collect, prepare, store, process, announce, analyze, and/ or spread information in data, sound, and image forms.

Based on introduction on so problems that arise among other things, what is the role of electronic evidence in Proof Action Crime in the Digital Age and How arrangement the laws that govern development technology in matter tool proof electronic.

METHOD

Scientific article on the role of electronic evidence in Proof Action Crime in the Digital Age using type study law normative or study law bibliography, namely research conducted with method research material library or secondary data mere. (Soerjono Soekanto, Sri Mamudji. 2003) Types of research in writing This is study juridical normative, namely reviewed with approach legislation (the statute approach) means something problem will seen from aspect the law with examine regulation legislation. (Rest Adhie Charisma, Aji Lukman Ibrahim, 2023) Data collection techniques in this research this, with material primary law, law secondary and tertiary collected based on topic problems formulated and studied according to classification problem according to source the hierarchy in a way sequential related role tool proof electronic in proof action crime in the digital era with Data / material analysis law in research This with method studies library research, namely with method Study literature is research conducted with use literature (library), both in the form of books, notes, and report results study previous, and the rules legislation, which outlines and connects so that served in systematic writing For answer questions problem above. (Iqbal Hasan, 2008)

RESULTS AND DISCUSSION

The Role of Electronic Evidence in Proof Action Crime in the Digital Age

Terms of proof electronic start known in the world of law since emergence Constitution Number 11 of 2008 Concerning Information and Electronic Transactions juncto Constitution Number 19 of 2016 Concerning Changes to the Law Number 11 of 2008 Concerning Information and Transactions Electronic Evidence electronic in a way term is something in the form of information in get instruction about things that are suspected can give instruction to something incident law in form document electronics. What is meant document electronic This is every Electronic Information that is created, forwarded, sent, received, or saved in form analog, digital, electromagnetic, optical, or similar, which can viewed, displayed, and/ or heard through Computer or Electronic Systems, including but No limited to writing, sound, images, maps, designs, photos or similar, letters, signs, numbers, access codes, symbols or perforation that has meaning or meaning or can understood by capable people understand it (Article 1 Number 4 of the Law Information and Electronic Transactions). Law Information and Transactions Electronics too confess results print from information electronic and document electronic as tool proof which is legitimate. (Yossiramah Sucia, Meissy Putri Deswar 2024)

This matter can seen in the provisions of Article 5 Paragraph (1) of the ITE Law which states that Information Electronics and / or Document Electronics and / or results print it is tool proof valid law. And information electronics and/ or The Electronic Document is stated legitimate if use Electronic Systems in accordance with provisions that arranged in Constitution This Electronic Information and Transactions. Based on Law no. 19 of 2016 concerning Change on Constitution Number 11 of 2008 concerning Information and Electronic Transactions, states that, Electronic Evidence is electronic data that is created, and/ or stored, and/ or transmitted in form analog or digitally through device electronics, networks, systems communication or system electronic For prove fact or events. Based on Constitution the so there is addition type tool evidence in court namely information electronics and/ or document electronics. In the provisions general law ITE can known that type electronic data such as writing, photos, sound, images is information electronics, types proof electronic the has explained in Article 5 of the Law The ITE Law is said to be that:

1. Electronic Information and/ or Document Electronics and / or results print it is tool proof valid law.
2. Electronic Information and/ or Electronic Documents and/ or results print it as referred to in paragraph (1) is expansion from tool valid evidence in accordance with the applicable procedural law in Indonesia.

Edmon Makarim said that equality in a way functional (functional equivalent approach) between information or document electronic with written evidence if fulfil at least 3 (three) bases, namely: (Edmon Makarim, 2015)

1. The information considered ' written ' if He can saved and found return;
2. The information it is considered ' original ' if it is stored and found as well as read return No changed its substance, or guaranteed its authenticity and integrity ; and
3. The information considered "marked" hand " when there is information that explains existence something object responsible law answer on it or there is system reliable authentication that explains identity and authority or verification from party the.

In the system evidence in Indonesia, judges are bound by the tools valid evidence, which means that the Judge only may take decision or drop decision based on tools evidence determined by law only, proof in criminal proceedings mentioned by Constitution arranged Article 184 paragraph (1) regulates in a way limited about tool proof in case criminal tool evidence, including :

Valid evidence is:

1. information witness;
2. information expert;
3. letter;
4. instruction;
5. information defendant.

Miscellaneous object confiscation or goods proof the described in Article 39 paragraph (1) of the Criminal Procedure Code. Article 39 paragraph (1) of the Criminal Procedure Code states, "Those who can charged foreclosure is : (Muhammad Helmawansyah, 2021)

1. Objects or bill suspect or the defendants who are all or part allegedly obtained from action criminal or as results from action criminal;
2. Objects that have been used in a way direct For do action criminal For prepare it;
3. Objects used For obstruct investigation action criminal;
4. Special objects made or used do action criminal;
5. Other objects that have connection direct with action crimes committed.

Miscellaneous goods proof divided as following:

1. Tangible objects in the form of:
 - a. Objects used in do action the penalty received or produced with road crime or violation.
 - b. Objects that make things difficult investigation ;
 - c. Objects used For do action criminal.
 - d. Objects others who have connection with A action criminal.
2. Objects do not tangible in the form of alleged bill originate from action criminal.

In terms of caught hands, investigators are also authorized For do confiscation on objects the as following:

- a. Objects and tools that turn out to be or what is appropriate allegedly has used For do action criminal or other objects that can used as goods evidence (Article 40 of the Criminal Procedure Code).
- b. Package or letter or objects whose transport or delivery done by office post and telecommunications, throughout object the intended for for suspect or originate from him (Article 41 of the Criminal Procedure Code).

a number of The law that new has regulate and acknowledge proof electronic as tool valid evidence, namely among others:

1. Constitution Number 31 of 1999 concerning Eradication Action Criminal Corruption as changed with Constitution Number 20 of 2001 concerning Changes to the Law Number 31 of 1999 concerning Eradication Action Criminal Corruption;
2. Constitution Number 15 of 2003 concerning Determination Regulation Government Replacement Constitution Number 1 of 2002 concerning Eradication Action Criminal Terrorism, Becoming Constitution;
3. Constitution Number 11 of 2008 concerning Electronic Information and Transactions as changed with Constitution Number 19 of 2016 concerning Change on Constitution Number 11 of 2008 concerning Electronic Information and Transactions;
4. Constitution Number 8 of 2010 concerning Prevention and Eradication Action Criminal Money laundering.

Although thus, it has been There is Company Documents Act and the ITE Law as well a number of regulation others, no can it is said that the Criminal Procedure Law and the Criminal Code has arrange in a way clear about tool proof electronic in proof civil, because arrangement tool proof electronics that have done is the law material that should equipped also with The formal law or the procedural law.

Although is something new will but in the realm law criminal, use information electronic Already implemented especially in provisions of the Criminal Procedure Code which state that "valid evidence" in form instruction as intended in Article 188 paragraph (2) of the Law Number 8 of 1981 concerning Criminal Procedure Law, for something action criminal can also obtained from : tools other evidence in the form of information that is spoken, sent, received, or saved in a way electronic with tool optics or something similar with that ; and documents, namely every data recording or information that can seen, read, and or heard that can be issued with or without help something means, both those stated above paper, objects physique whatever besides paper, or recorded in a way electronics, in the form of writing, sound, images, maps, designs, photos, letters, signs, numbers, or perforation that has meaning. Evidence required in effort enforcement law to action criminal technology information in Indonesia through investigation, inquiry, prosecution and inspection at court. For law enforcers law required improvement ability source human resources in mastery technology information electronics, remembering tool proof related with action criminal technology information is tool proof Electronics. Collection and Processing is part main in investigation to tool proof electronics. This process must done with Be careful For ensure data integrity and compliance standard applicable law (Article 188 paragraph (2) of the Criminal Procedure Code)

Governing Legal Regulations Development Technology in Electronic Evidence

Development technology No reduce development action criminal. In fact with existence technology every action criminal can done almost at each opportunity. Setting regulations law related action criminal field electronic or that called with cybercrime, still felt very little. Interpretation done with linking a number of rule old law. Along with development technology information and telecommunications are increasingly fast, then development technology information Now known existence evidence electronics such as for example information electronic, data or document electronics, inspection witness with using teleconference, the results CCTV footage, even results proof SMS or mms. Basically in modern proof There is known tool universal proof. One of the tool universal evidence is A document.

Document That covered document electronics, so No only in cyberspace or internet world including the print out result is a document electronic evidence electronic must done verification more carry on moreover formerly about the tool proof document electronic the same with verification to tool proof letter. There are three matter associated with document as tool proof namely: Related with authenticity document the or originality; content A document or its substance;and looking for tools other evidence which strengthens tool proof document electronic. Use of electronic data as a tool evidence in court Still questionable its validity. In

practice courts in Indonesia, use of data or proof electronic as tool proof legitimate of course Not yet normal used. Even though in several countries, data electronic in the email form is already become consideration for judge in cut off something civil case and criminal). No need waiting a long time for the problem to be resolved proof electronics, including e-mail, screenshots, forget confession in a way law as tool valid evidence in court (Rezy January Wilyana, Imam Budi Santoso, Oci Senjaya, 2020)

evidence give interpretation with expand the meaning of the word in regulation legislation or information of a nature special given by someone when in the inspection process, while understanding goods proof is goods belonging perpetrators obtained from something action crime or with actions on purpose used For do A action crime crime. Evidence can oral, documentary, or material. The evidence that oral are words spoken by someone internally trial: testimony about something incident is tool oral evidence. Letters include tool evidence of a nature documentary, whereas tool proof which is material in nature goods physique other besides document.

In a way historical existence document electronic in justice first time to get legitimacy juridical by letter Circular Supreme Court (SEMA) Number 14 of 2010 Concerning Electronic Documents which are completeness Application Cassation and Review. The purpose is For increase efficiency and effectiveness of the minutation process file case as well as support transparency and accountability service public by the Supreme Court and justice which is underneath. What's interesting about this SEMA No arrange document electronic as tool proof will but talk question document electronic in the form of decision or indictment in a compact disc, flash disk, transfer via email as completeness something application cassation and judicial review (Riki Perdana Raya Waruwu, 2019). Based on Article 5 paragraph (1) of the ITE Law in principle proof electronic can classified into two, namely: information and/ or document electronics and results print from information electronic and or results print from Electronic Documents. Information and/ or document electronic furthermore qualified as tool proof electronic or digital evidence, while results print from Information and/ or document electronic furthermore qualified as tool proof letter.

evidence as mentioned in Article 5 paragraph (1) hereinafter called as expansion from tool proof law as procedural law applicable in Indonesia. The purpose of this expansion here namely: First, add tool evidence that has been arranged in criminal procedure law in Indonesia so that add type tool evidence as regulated in the Criminal Procedure Code. Second, expanding coverage tool evidence that has been arranged in law criminal procedure in Indonesia. This related with results print from Information and/ or document electronics which are tool proof letter as arranged in the Criminal Procedure Code.

Related with expansion tool proof in criminal procedure law in Indonesia in reality arranged spread across various regulation legislation for example Constitution Company Documents, Laws Terrorism, Law Eradication Action Criminal Corruption and so on. Views related with tool proof electronic actually facing each other on both sides as expansion tool proof letter and as instructions. Arief Indra KA saw tool proof electronic can qualified to in two options namely : as tool proof letter or tool proof instructions. As long as it is made in form print so tool proof electronic become tool proof letter; and when own relatedness with tool other evidence that all his strength free so can it is said as tool proof guide (Abi Ja'man Kurnia, 2019).

Muhammad Nuh Al-Azhar state the same thing that in, In practice there are two views among apparatus enforcer law Good prosecutor and judge regarding existence proof electronics. One party some people think that information and/ or document electronic as tool proof to six. Meanwhile party other look at proof electronic as expansion tool proof as regulated in Article 184 Paragraph (1) of the Criminal Procedure Code. Validity proof electronic explained by a digital forensics expert in the trial process. The inherent principle in proof that

is, every evidence can talk, in other words which makes proof electronic can speak is a expert (Dimas Hutomo, 2019).

Hopefully both view This have side true, although No fully can accepted. As tool proof letter for example, if seen its meaning in Article 184 of the Criminal Procedure Code can understood in its nature conventional. In fact, the reality is tool proof document electronic No limited to writing will but more wide concerning sound, images, maps, photos, letters, signs, numbers and so on. Likewise the view that sees document electronic as instructions, no fully Can adhered to because instructions basically No Can stand Alone or its existence need tool other evidence. Another thing with electronic documents which at the time certain precisely become tool proof main Specifically regarding cybercrime. Finally Can understood that document electronic is tool evidence that stand Alone No tied to the concept as expansion tool proof letter or instructions (Nur Laili Isma and Arima Koyimatun, 2014).

Document electronics that are used as tool proof have characteristic easy changed, damaged, destroyed, if No handled and tested with true. Inaccuracy natural do inspection something document electronic so will lead to wrong conclusions. Usually document electronic often hidden, can pass border with easy and fast, sometimes time - sensitive. Therefore, in frame determine originality from something proof electronic needed a forensic process. The process consists of from collecting, examination, analysis, and reporting. implemented with search and documenting proof electronic as well as do prevention to savings information that easy lost. Meanwhile testing needed for evidence electronic can seen as well as determine Good origin or its authenticity. Analyze it yourself conducted by investigators and in some organization Good testing and analysis can done by the same person. Lastly, reporting implemented with write down the testing process and notes on this process important saved For giving information in something testimony (Achmad Benny Mutiara, 2007)

CONCLUSION

The Role of Electronic Evidence in Proving Action Criminal In the Digital Age, Regulation tool proof electronics in Criminal Procedure Law in a way specific Not yet can found in the Criminal Procedure Code. However, regarding with the development of the times and the development action criminal, then arrangement tool proof electronic assessed important Settings tool electronic as tool proof get attention special in legislation national post- reform era, where tool electronic the made into tool proof in regulation legislation that regulates action criminal special, such as action criminal corruption, crime criminal money laundering, justice special like Court Constitution, commission special such as : KPK, action criminal drugs, as well as settings in a number of regulation other like archives, documents companies, and also banking. From several arrangement tool electronics that are used as tool proof in Criminal Procedure Law the is presentation more carry on from Constitution Number 19 of 2016 concerning Change Above the Law Number 11 of 2008 concerning Electronic Information and Transactions as umbrella law main Recommended to government to make in a way special to arrangement tool electronic as tool proof For arranged in a way details in regulation legislation special. So that in enforcement law action cybercrime can completed in a way legal and legitimate.

REFERENCE

Kitab Hukum Acara Pidana

Undang - Undang Nomor 11 Tahun 2008 tentang informasi dan transaksi elektronik (ITE)

Undang-Undang Nomor 19 Tahun 2016 tentang Perubahan atas Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik;

Surat Edaran Mahkamah Agung (SEMA) Nomor 14 Tahun 2010 Tentang Dokumen Elektronik

Iqbal Hasan, 2008, Analisis Data Penelitian Dengan Statistik, Jakarta: Bumi Aksara

- Mutiara, Achmad Benny. 2007, Panduan Komputer Forensik Dalam Penangan Bukti Digital Pada Personal Digital Assistants (PDA). Depok: Universitas Gunadarma
- Soerjono Soekanto, Sri Mamudji. 2003. Penelitian Hukum Normatif, Suatu Tinjauan Singkat. Jakarta: PT Raja Grafindo Persada
- Helmawansyah, Muhammad. "Penggunaan Barang Bukti Elektronik yang Dijadikan Alat Bukti dalam Perkara Pidana." *Journal of Law (Jurnal Ilmu Hukum)* 7.2 (2021): 527-541.
- Made Sugi Hartono Ni Putu Rai Yulianti, Penggunaan Bukti Elektronik Dalam Peradilan Pidana, *Jurnal Komunikasi Hukum, Faculty of Law and Social Sciences Universitas Pendidikan Ganesha Singaraja*, Vol. 6 No 1, Februari 2020
- Makarim, E. (2015). Keautentikan dokumen publik elektronik dalam administrasi pemerintahan dan pelayanan publik. *Jurnal Hukum & Pembangunan*, 45(4), 508-570.
- Nur Laili Isma dan Arima Koyimatun, "Kekuatan Pembuktian Alat Bukti Informasi Elektronik Pada Dokumen Elektronik Serta Hasil Cetaknya Dalam Pembuktian Tindak Pidana", *Jurnal Penelitian Hukum*, Vol 1, No. 2, Juli 2014.
- Wilyana, R. J., Santoso, I. B., & Senjaya, O. (2020). Pembuktian Bukti Elektronik Di Persidangan. *Singaperbangsa Law Review (SILREV)*, 1(1), 164-183.
- Abi Ja'man Kurnia, "Keabsahan Faksimile Sebagai Alat Bukti", *Hukum Online*, <https://www.hukumonline.com/klinik/detail/ulasan/lt4d4134d98d224/keabsahan-faksimile-sebagai-alat-bukti>, Diakses pada 14 September 2019
- Dimas Hutomo, "Keabsahan Alat Bukti Elektronik Dalam Hukum Acara Pidana", *Hukum Online*, <https://www.hukumonline.com/klinik/detail/ulasan/lt5c4ac8398c012/keabsahan-alat-bukti-elektronik-dalam-hukum-acara-pidana>, Diakses pada 14 September 2019.
- Riki Perdana Raya Waruwu, "Eksistensi Dokumen Elektronik Di Persidangan Perdata", *Mahkamah Agung Republik Indonesia*, <https://www.mahkamahagung.go.id/id/artikel/3048/eksistensi-dokumen-elektronik-di-persidangan-perdata>, Diakses pada 12 September 2019.