

The Arrangement *Unus Testis Nullus Testis* in Sexual Violence Crime Cases: Crucial or Over-Regulation?

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Abstract. *The principle unus testis nullus testis is a fundamental evidentiary rule in Indonesian criminal procedure, requiring at least two valid pieces of evidence to convict a defendant. This principle aligns with the negative legal system approach, emphasizing judicial certainty in criminal trials. However, its strict application in cases of sexual violence presents challenges, as these crimes often occur in closed settings where the victim is the sole witness. Recognizing this, Law No. 12 of 2022 on Sexual Violence Crimes introduces a provision that allows a victim's testimony, supported by at least one other piece of evidence, to be sufficient for conviction. This study examines the normative conflict between Article 25(1) of Law No. 12 of 2022 and Article 185(2) KUHAP, which traditionally enforces the unus testis nullus testis principle. By employing a normative juridical approach, this research analyzes the necessity and implications of this special provision, comparing its application with Dutch legal practice, where courts allow supporting evidence beyond direct witness testimony (steunbewijs). The findings suggest that while special considerations for sexual violence cases are justified, Article 25(1) of Law No. 12 of 2022 may constitute over-regulation, as its substance is already accommodated within the existing evidentiary framework of the KUHAP. This research highlights the need for harmonization between special provisions on sexual violence cases and general evidentiary rules to ensure legal certainty while upholding justice for victims. Future legislative reforms should focus on integrating these provisions systematically to prevent redundancy and inconsistencies within Indonesia's criminal justice system.*

Keywords: *Evidentiary; Harmonization; Sexual; Violence.*

1. Introduction

The principle of presumption of innocence means that the defendant is presumed innocent until proven otherwise. The burden of proof is on the public prosecutor, and if there is any doubt, then it must be in favor of the accused (*in dubio pro reo*).¹ This principle is also confirmed in Law No. 8 of 1981 concerning Criminal Procedure Law (KUHAP), especially Article 66 which states that "The suspect or accused is not burdened with the burden of proof." The explanation of this article underlines that this provision is an embodiment of the principle of presumption of innocence. Thus, Indonesian criminal procedural law explicitly recognizes that

¹ Sarah Jane Summers, 'The Epistemic Ambitions of the Criminal Trial: Truth, Proof, and Rights', *Quaestio Facti. Revista Internacional Sobre Razonamiento Probatorio* 4, no. 1 (2023), https://doi.org/10.33115/udg_bib/qf.i1.22809. p. 262.

the responsibility for proof at trial lies with the public prosecutor, so that there is no obligation for the defendant to prove his innocence. To prove the charges, the public prosecutor must present valid evidence. According to Article 184 of the Criminal Procedure Code, the evidence consists of "witness statements, expert statements, letters, instructions and defendant statements."

Apart from that, in its development, the public prosecutor can also submit electronic evidence to support his charges, as regulated in Law No. 1 of 2024 concerning the Second Amendment to Law No. 11 of 2008 concerning Information and Electronic Transactions (UU No. 1 of 2024).

Article 183 of the Criminal Procedure Code, which states that "a judge may not sentence a person to a crime unless there are at least two valid pieces of evidence and the judge is confident that the crime actually occurred and the defendant is guilty of committing it." This provision is in line with the principle *Negative Legal System* in Dutch criminal law, which requires proof to be carried out only with legally valid evidence. In addition, the term "negative" in this system emphasizes that the judge cannot declare an act proven if he does not have full confidence in the defendant's guilt, so that evidence must meet strict standards to avoid errors in sentencing.² The public prosecutor who bears the burden of proof in criminal cases must be able to convince the judge that the defendant is guilty by presenting sufficient evidence. In the proof system according to *negative legal evidence theory*, The judge's belief must be based on at least two valid pieces of evidence as regulated in Article 183 of the Criminal Procedure Code. One of the important principles in this case is the provision in Article 185 paragraph (2) of the Criminal Procedure Code, which states that "'The testimony of a witness alone is not enough to prove that the defendant is guilty of the crime with which he is charged.'" This provision is in line with the principle *unus testis nullus testis* (one witness is not a witness).³

Application of principles *unus testis nullus testis* (one witness is not a witness) in Crimes of Sexual Violence (TPKS) often face major obstacles. This is because these criminal acts generally occur in closed or hidden situations, so that the only witness available is usually the victim himself. If this principle is strictly applied, many cases of sexual violence will be difficult or even impossible to prove, which in the end can hinder the delivery of justice for victims. Therefore, Law No. 12 of 2022 concerning Crimes of Sexual Violence (UU No. 12 of 2022) accommodates this reality by determining that "the testimony of witnesses and/or victims is sufficient to prove that the defendant is guilty, as long as it is accompanied by one other valid evidence and the judge is confident that a criminal act has indeed occurred and the defendant is guilty of committing it" (Article 25 paragraph (1)).

Based on the description above, there are normative problems between Article 25 paragraph (1) of Law No. 12 of 2022 with principles *unus testis nullus testis* which has long been recognized in criminal procedural law. This principle, which states that one witness is not enough to prove the defendant's guilt, has become a standard in criminal procedural law, as reflected in Article 185 paragraph (2) of the Criminal Procedure Code. However, because cases of Criminal Sexual Violence (TPKS) often occur behind closed doors, where the only witness is

² Kiki Verdult, 'De Modus Operandi in Een Schakelbewijsconstructie: De Gelijksortigheid van Het Ongelijksoortige' (Tilburg University, 2024). p. 14.

³ Karol Krystian Adamczewski, 'St. Isidore of Seville on the Role and Importance of Witnesses', *Acta Iuris Stetinensis* 49, no. 9 (2024): 9–21, <https://doi.org/10.18276/ais.2024.49-01>. p. 17.

the victim, the special provisions in Article 25 paragraph (1) of Law No. 12 of 2022 provides an exception by allowing the victim's statement as sufficient evidence, as long as it is supported by another piece of evidence. This raises the question of whether this provision is really necessary or whether it creates over-regulation, considering that the Criminal Procedure Code regulates criminal evidence mechanisms in general.

This research focuses on studying principles *unus testis nullus testis*, related to the object of this research, several previous studies have been carried out, for example a study of the application of principles *one witness, no witness* in proving the crime of child rape,⁴ then a study of the conflict between principles *unus testis nullus testis* which is regulated in Article 55 of Law No. 23 of 2004 concerning the Elimination of Domestic Violence with Article 185 paragraph (2) of the Criminal Procedure Code.⁵ Apart from that, there is also a study regarding the strength of evidence in criminal acts of human trafficking based on, which allows one witness as valid evidence.⁶ This literature review shows that the principle *unus testis nullus testis* remains relevant to research, but this research has a different focus from previous studies. This research aims to analyze the meaning of principles *unus testis nullus testis* in the law of evidence as well as assessing the relevance of Article 25 paragraph (1) of Law No. 12 of 2022 in the criminal evidence system in Indonesia. Apart from that, this research examines whether these provisions actually create disharmony in the law of evidence. To provide a more comprehensive understanding, this research will also examine the practice of implementing the principles *one witness, no witness* in the Netherlands.

2. Research Methods

This research uses a normative juridical approach with the aim of analyzing principles *unus testis nullus testis* in Indonesian criminal law, especially in the context of Corruption Crimes, as well as to evaluate the relevance of Article 25 paragraph (1) of Law No. 12 of 2022 regarding the evidence system in the Criminal Procedure Code. This research compares the application of this principle in the Indonesian legal system with practice in the Netherlands, and examines whether the provisions in this article create over-regulation or are systematically included in the Criminal Procedure Code. Data was collected through literature studies of statutory regulations, court decisions and related legal literature, and analyzed using qualitative analysis techniques to assess the relevance and appropriateness of existing provisions, with a focus on the suitability of evidentiary principles in TPKS cases.

3. Results and Discussion

3.1. Meaning *Unus Testis Nullus Testis*

Contents of the manuscript. Latin Proverb *unus testis nullus testis* means "one witness is not a witness," which teaches that conclusions should not be drawn based on only one piece of

⁴ Ni Made Yulia Chitta Dewi, A.A. Sagung Laksmi Dewi, and Luh Putu Suryani, 'Asas Unus Testis Nullus Testis Dalam Tindak Pidana Pemerkosaan Anak', *Jurnal Konstruksi Hukum* 2, no. 1 (2021), <https://doi.org/10.22225/jkh.2.1.2993.191-195>.

⁵ Riyanto S Akhmadi, 'Penerapan Asas Unus Testis Nullus Testis Dalam Pasal 55 Undang-Undang Nomor 23 Tahun 2004 Tentang Penghapusan Kekerasan Dalam Rumah Tangga', *Wacana Paramarta: Jurnal Ilmu Hukum*, no. ISSN-p 1412-4793, ISSN-e 2684-7434 (2018).

⁶ Sekaring Ayumeida Kusnadi, Andy Usmina Wijaya, and Fifi Dwi Purwaningtyas, 'Kekuatan Pembuktian Satu Saksi Dalam Tindak Pidana Perdagangan Orang: Antara Kepastian Hukum Dan Tantangan Pembuktian', *Wijaya Putra Law Review* 1, no. 1 (2022), <https://doi.org/10.38156/wplr.v1i1.64>.

evidence.⁷ This principle is also often interpreted as "*one witness is equivalent to no witness*",⁸ which literally means that an event cannot be considered proven based on just one source without other supporting evidence. Principle *unus testis nullus testis* Not only does it relate to the legal context, but also in research, this also applies, where conclusions must be made by considering and integrating various pieces of evidence that form a cohesive narrative—without contradictions, gaps, or missing elements.⁹

Apart from that, this principle also has a strong basis in criminal law and God's law which is contained in various Holy Books. German Roman jurist, Andreas Wacke, emphasized that this principle is maintained because it supports justice and truth in the legal process.¹⁰ The German Roman jurist Andreas Wacke argued that the principle *testis unus testis nullus* (one witness is not a witness) is guarded and respected because it has a strong foundation, both in human law and God's law. This opinion is difficult to refute because it is supported by strong arguments. This principle has been known since Ancient Roman times and is also found in the Holy Bible. Emperor Constantine the Great established this rule in Roman imperial law in 334 AD. However, long before that, this principle was contained in several Holy Scriptures. Basically principles *testis unus testis nullus* determines that a testimony must be supported by a minimum of two witnesses who provide consistent statements. This principle prohibits judges from making decisions based only on one piece of testimony that is not supported by other evidence. The goal is to protect the rights of defendants and prevent false testimony in trials. Application of this principle also helps ensure that trials are carried out fairly and are close to the truth.¹¹

During the Roman Empire, *testis unus, testis nullus* atau *unus testis non est audiendus* strictly enforced to prevent decisions based on single testimony without any other evidentiary support. This rule was not only enshrined in the Constitution of Emperor Constantine, but was also inherited in *Codex Theodosianus* dan *Corpus Juris Civilis* from Emperor Justinian.¹² In canon law, Willelmus Vasco, a *decretist* France in the 12th century also emphasized the application of this principle, especially in the context of the testimony of co-perpetrators of criminal acts. In *apparatus to Decretum* (1210), he states that a single testimony is not enough to convict someone without additional evidence.¹³

⁷ Jimmie Leppink and Patricia Pérez-Fuster, 'What Is Science without Replication?', *Perspectives on Medical Education*, 2016, <https://doi.org/10.1007/s40037-016-0307-z>. p. 320.

⁸ Brian D. Joseph, 'What's in a Name? Historical Linguistics and the Macedonia Name Issue', 2022, <https://u.osu.edu/bdjooseph/files/2021/07/283-MacNameIssueFINAL.pdf>.

⁹ Jimmie Leppink, 'Evaluating the Strength of Evidence in Research and Education: The Theory of Anchored Narratives', *Journal of Taibah University Medical Sciences* 12, no. 4 (2017), <https://doi.org/10.1016/j.jtumed.2017.01.002>. p. 285.

¹⁰ Karol Krystian Adamczewski, 'Moral Certainty of the Judge in the Canonical Process to Determine the Nullity of Marriage v. the Principle Testis Unus Testis Nullus', *Religions* 14, no. 3 (2023), <https://doi.org/10.3390/rel14030405>. p. 1.

¹¹ Adamczewski.

¹² Marius Neculcea and Bogdan Ionescu, 'Testimonial Evidence. Perspectives and Confluences', *Journal of Legal Studies* 19, no. 33 (2017), <https://doi.org/10.1515/jles-2017-0005>. p. 76.

¹³ Giovanni Chiodi, 'Ad Praesumptionem or Ad Plenam Fidem? The Probative Value of the Accomplice's Testimony in Medieval Canon Law', *Italian Review of Legal History* 2–17, no. 2 (2017): 1–37, <https://boa.unimib.it/handle/10281/157346>. p. 27.

In exploring principles *testis unus testis nullus* It is quite difficult to identify where to start, some even identify it around the 7th to 6th century BC.¹⁴ Originality of principles *unus testis nullus testis* Basically, it does not absolutely require that there be more than one witness to prove an event, but emphasizes that just one witness without the support of other evidence is not enough to convict someone because they are considered less trustworthy. Thus, if a witness is supported by other valid evidence, then this is still in line with the principle *unus testis nullus testis* and is not considered a violation of it, this can also be reviewed from books by Aaron X. Fellmeth and Maurice Horwitz,¹⁵ and Bruce Wells.¹⁶ Basically, *unus testis nullus testis* emphasized that one testimony alone was not enough to be used as a basis for the judge to declare the defendant guilty. This principle aims to prevent decisions based only on one source without the support of other evidence, thereby avoiding the possibility of errors or false accusations.

3.2. Arrangement *One Witness No Witness* in Sexual Violence Crime Cases: Crucial or Over-Regulation?

Legal sources are interrelated and necessary elements in law. Sources of law can be direct, such as regulations and customs, or indirect, such as court decisions and legal expert opinions. Sources of law can also be formal, such as laws, or informal, such as societal customs. In the Continental European legal system, written regulations are the main source of law that applies to everyone equally and regulates various situations that may occur in society.¹⁷

A rule, especially a law, has a relationship with other laws. In order for the application of the law to be carried out correctly, an appropriate interpretation is needed.¹⁸ In legal thinking, law is often considered like nature which is composed of general groups (*genus*) and special (*species*). In practice, legal systems, legal concepts, and legal rules are often categorized in this way. Principle *lex specialis* is a prime example of this mindset, where more specific rules override more general rules, as stated in the Latin principle *lex specialis derogat legi generali*.¹⁹ This principle can be a definite legal solution to a rule that requires room for interpretation.²⁰ By using principles asas *lex specialis*, Law No. 12 Of 2022 must have specificity compared to the KUHP as *lex generalis*. Therefore, there is urgency for Law No. 12 of 2022 to stipulate separate provisions that are different or more specific from the Criminal Procedure Code.

Enforcement of principles *unus testis nullus testis* in criminal law is basically to find material truth. In this context, judges must ensure that a decision reflects the facts that actually

¹⁴ O. Karol Adamczewski, 'Testis Unus Testis Nullus – the Testimony of Saint Ambrose', *Studia Prawnicze KUL*, no. 4 (2019), <https://doi.org/10.31743/sp.10616>.

¹⁵ Aaron X. Fellmeth and Maurice Horwitz, *Guide to Latin in International Law* (Oxford University Press, 2022).

¹⁶ Bruce Wells, 'Testimony and Witness', in *The Oxford Encyclopedia of the Bible and Law* \$ *The Oxford Encyclopedia of the Bible and Law*, ed. Brent A. Strawn (Oxford University Press, 2015).

¹⁷ Dr.Sc. Bojan Tičar, 'Legal Order and the Principles of Law: Case of the Republic of Slovenia', *ILIRIA International Review* 2, no. 2 (2012), <https://doi.org/10.21113/iir.v2i2.142>. p. 38.

¹⁸ Tičar.

¹⁹ Silvia Zorzetto, 'The Lex Specialis Principle and Its Uses in Legal Argumentation. An Analytical Inquire', *Eunomia. Revista En Cultura de La Legalidad* 3 (2012): 61–87, <https://e-revistas.uc3m.es/index.php/EUNOM/article/view/2093>. p. 62.

²⁰ Antonino Rotolo and Giovanni Sartor, 'Argumentation and Explanation in the Law', *Frontiers in Artificial Intelligence* 6 (2023), <https://doi.org/10.3389/frai.2023.1130559>. 1555.

occurred, not just based on legal formalities.²¹ To achieve material truth, the judge in declaring the defendant guilty must be guided by Article 183 of the Criminal Procedure Code, which requires that the decision be based on at least two valid pieces of evidence as well as the judge's belief that the crime actually occurred and the defendant was guilty of committing it. This provision reflects the principles in *negatief wettelijk bewijstheorie*, which balances legal rules regarding evidence and the judge's confidence.²² Thus, achieving material truth in criminal law does not only rely on the formalism of evidence, but also on the judge's confidence obtained legally in the trial, so that the decisions taken can reflect the actual facts and avoid errors in criminal justice.

In practice, efforts to achieve material truth do not always work ideally, thus potentially giving rise to wrongful convictions (*wrongful conviction*), which is a fundamental failure in the criminal justice system. Wrongful convictions not only harm wrongly convicted individuals, but also undermine public confidence in the criminal justice system and allow actual perpetrators to remain free, further threatening public safety.²³ Wrongful convictions in the criminal justice system are a consequence of *imperfect proceduralism*, where the legal procedures applied do not always produce absolutely correct decisions, but are still considered valid as long as they comply with the established rules.²⁴ In trials, judges work within procedural constraints designed to seek material truth, but there is still the possibility of error, especially if there is inaccurate evidence, institutional pressure, or weaknesses in evidentiary mechanisms. Mistakes may occur in the judge's decision, but this can be prevented or reduced the possibility of error through various standards that have been regulated in criminal procedural law.

Principle *unus testis nullus testis* Dutch criminal law stipulates that the testimony of one witness is not enough to prove the defendant's guilt without other supporting evidence, as emphasized in *HR June 30, 2009 (ECLI:NL:HR:2009:BG7746)* And *HR 26 January 2010 (ECLI:NL:HR:2010:BK2094)*.²⁵ In *HR 26 January 2010 (NJ 2010/512)*, Dutch Supreme Court (*Supreme Court*) emphasizes that witness testimony must have sufficient support from other evidence, whether in the form of physical evidence, statements from other witnesses, or other evidence so that it can be used as a basis for evidence in a trial. This principle is in line with *evidence minimums*, namely the minimum standard of proof which aims to avoid judicial errors and ensure that the judge's decision has a strong basis.²⁶ What is decided by *Hoge Raad* This is in line with Article 342 (2) *Wetboek van Strafvordering* (Dutch Criminal Procedure Code) which states that "a judge cannot pronounce a guilty verdict against a defendant based only on one witness's statement (*Het bewijs dat de verdachte het telastegelegde feit heeft begaan*,

²¹ Marianne Hirsch Ballin, 'Waarheidsvinding Bij de Opsporing En Vervolgning van Internationale Misdrijven', in *In Onderlinge Samenhang: Liber Amicorum Tineke Cleiren*, ed. J Altena et al. (Leiden: Boom juridisch, 2021), 719–37. p. 719.

²² Henry Indraguna and Faisal Santiago, 'The Effectiveness of Confiscation of Criminal Assets in Fair Law Enforcement', *Journal of Legal, Ethical and Regulatory Issues* 24, no. Special Issue 1 (2021).

²³ Ebenezer Kojo Gyesi Mensah, 'Examining the Impact of False Confessions and Wrongful Convictions on Criminal Justice Reform', *Available at SSRN 4813186*, 2024, <https://papers.ssrn.com/sol3/Delivery.cfm?abstractid=4813186>. p. 2-3.

²⁴ Jake Monaghan, 'Limits of Instrumental Proceduralism', *Journal of Ethics and Social Philosophy* 22, no. 1 (2022), <https://doi.org/10.26556/jesp.v22i1.1518>. p. 127.

²⁵ Y.F. Wagensveld, 'Deepfakes in Het Licht van Het Huidige En Gemoderniseerde Bewijsrecht Een Onderzoek Naar de Mogelijke Lacunes Binnen Het Strafrechtelijk Bewijsrecht Ten Aanzien van Deepfakes' (Tilburg University, 2021), <http://arno.uvt.nl/show.cgi?fid=156328>.

²⁶ W. H. B. Dreissen, 'De Leemte in Onze Bewijsregeling', *Open Universiteit*, 2023, https://research.ou.nl/files/65507114/Oratieboekje_-_inhoud_en_omslag_digitaal.pdf. p. 17.

kan door den rechter niet uitsluitend worden aangenomen op de verklaring van één getuige),"
Thus, the evidence system in the Netherlands maintains an approach to implementation *unus testis nullus testis*.

Principle *unus testis nullus testis*, which emphasizes that the testimony of one witness alone is not enough to prove the defendant's guilt without other supporting evidence, applies both in the Dutch legal system and in the Indonesian Criminal Procedure Code. In practice in the Netherlands, this principle is strictly enforced, where only the testimony of one witness without other evidence is not considered sufficient. However, this principle shows its flexibility in terms of the testimony of one witness being supplemented by another piece of valid evidence. When the testimony of one witness is supported by additional valid evidence, then this is considered sufficient to prove that the defendant is guilty. This is in line with the provisions regulated in Article 185 paragraph (3) of the Criminal Procedure Code. In this context, the Indonesian Criminal Procedure Code follows the principle *unus testis nullus testis*, which means a person may not be convicted based on just one witness without supporting it with other evidence. Through a principled approach *unus testis nullus testis*, proof is not actually required with a minimum of two testimonies, but one testimony can still be used as long as it is supported by other evidence. This principle basically aims to ensure that no one is convicted based on just one witness as the only piece of evidence.

In fact, the provisions contained in Article 25 paragraph (1) of Law No. 12 of 2022 which states that "witness and/or victim testimony is sufficient to prove that the defendant is guilty if it is accompanied by other valid evidence and the judge is confident that the crime actually occurred and the defendant is guilty," is included in the Criminal Procedure Code even though it is not described in the same article. Article 185 paragraph (3) of the Criminal Procedure Code actually regulates something similar, namely that the statement of one witness can be accepted if it is accompanied by other valid evidence. Therefore, Article 25 paragraph (1) of Law No. 12 of 2022 which contains this provision can be considered over-regulation, because in fact this principle has been regulated in the KUHP in a systematic and integrated manner.

Article 25 paragraph (1) Law No. 12 of 2022 actually does not offer specificity, so it needs to contain separate provisions that are independent of the Criminal Procedure Code. This over-regulation can cause confusion and potentially result in less effective regulation.²⁷ Thus, specifically Article 25 paragraph (1) of Law No. 12 of 2022 is a form of over-regulation. However, in this article there are several special provisions that deviate from the Criminal Procedure Code in several provisions. **First**, Article 25 paragraph (2) Law No. 12 of 2022 states, "The family of the defendant can provide information as a witness under oath/promise, without the defendant's consent," this provision overrides Article 169 paragraph (1) of the Criminal Procedure Code which determines that someone who has a certain family relationship with the defendant can only provide information in under oath or promise, with one condition "if the defendant agrees."

Second, Article 25 paragraph (3) Law No. 12 of 2022 stipulates that "in the event that witness statements can only be obtained from victims, witness statements are not made under oath/promise, or witness statements are obtained from other people, the strength of the

²⁷ Rosalind Miller et al., 'When Technology Precedes Regulation: The Challenges and Opportunities of e-Pharmacy in Low-Income and Middle-Income Countries', *BMJ Global Health* 6, no. 5 (2021), <https://doi.org/10.1136/bmjgh-2021-005405>. p. 2.

evidence can be supported by information obtained from people who can provide information related to the TPKS case even though he did not hear it himself, did not see it himself, and did not experience it himself," as long as the person's statement is related to the criminal act. This provision violates Article 1 points 26 and 27 of the Criminal Procedure Code, even though the regulations in the Criminal Procedure Code have been passed *judicial review*, where according to the Constitutional Court in Decision 65/PUU-VIII/2010, *testimonium de auditu* permitted as long as the witness is a "favorable witness or alibi witness," not a "witness against the defendant."

Third, Article 25 paragraph (4) Law No. 12 of 2022 states that "the statements of Witnesses and/or Victims with Disabilities have the same legal force as the statements of Witnesses and/or Victims who are not Persons with Disabilities," This provision deviates from Article 171 letter b of the Criminal Procedure Code, which stipulates that witnesses who "have memory problems or are mentally ill even though their memory sometimes recovers" are examined without an oath or promise, and in the explanation "their statements are only used as a guide."

Fourth, Article 25 paragraph (5) Law No. 12 of 2022 states that "The testimony of witnesses and/or victims as referred to in paragraph (4) must be supported by a personal assessment as regulated in statutory regulations regarding appropriate accommodation for Persons with Disabilities in the judicial process," in its explanation defines, "assessment "personal is an effort to assess the variety, level, obstacles and needs of Persons with Disabilities, both medically and psychologically to determine appropriate accommodation," so there must be a personal assessment as a formal requirement so that a person who is qualified as stated in Article 25 paragraph (4) can have their statement as witness evidence, not just a guide as in the Criminal Procedure Code. Apart from that, the provisions in Article 25 paragraph (5) are also special provisions that are not regulated in the Criminal Procedure Code.

The specificity of TPKS cases can also be seen in the Decision *Hoge Raad* NJ 2015/488, where the matter *a quo* involving the defendant who is suspected of sexually abusing his own child. The court must determine whether the victim's testimony as the only witness can be used as a basis for conviction without sufficient other evidence. In this case, the victim testified that the defendant—her own father—committed indecent acts towards her, while the victim's mother provided additional testimony regarding changes in the victim's behavior after the incident, such as avoiding the defendant and showing fear when he was around him. *Hoge Raad* assess that changes in the victim's behavior can be considered supporting evidence (*steunbewijs*),²⁸ even though the witness is *testimonium de auditu*, However, the victim's mother's statement can provide evidence, and this is also a specialty regulated in Article 25 paragraph (3) of Law No. 12 of 2022.

Thus, the application of the principle *unus testis nullus testis* in criminal law, both in Indonesia and the Netherlands, shows that the testimony of one witness alone is not enough to prove the defendant's guilt without other supporting evidence. Basically, the law of evidence applies this principle strictly, but for supporting evidence there are specificities in TPKS cases, where it is difficult to obtain other witnesses or direct evidence. In Judgment *Hoge Raad* NJ 2015/488, the Dutch Supreme Court considers changes in the victim's behavior as supporting evidence

²⁸ M. J. Borgers, 'Case Note: Hoge Raad (Unus Testis, Nullus Testis IV), No. 488, No. ECLI:NL:HR:2015:1817, Jul 07, 2015', *Nederlandse Jurisprudentie*, 2015, <https://research.vu.nl/files/1368576/NJ.2015.488.pdf>.

(*steunbewijs*), even though additional witnesses only provide information *testimonium de auditu*. This approach is also seen in Article 25 paragraph (3) of Law No. 12 of 2022, which allows the testimony of witnesses who did not directly see the incident as evidence if supported by other evidence. It is not a problem if there are specificities regulated in Law No. 12 of 2022, but specifically "Article 25 paragraph (1)" is over-regulation because it is already regulated, and must be read systematically from Article 185 paragraphs (1), (2), and (3) of the Criminal Procedure Code. Therefore, Article 25 paragraph (1) of Law No. 12 of 2022 in future changes to the law need to be studied further so as not to create overlapping legal norms which could actually hamper the effectiveness of criminal justice.

4. Conclusion

Principle *unus testis nullus testis* emphasizes that one testimony alone is not enough to prove an event without the support of other evidence, and this aims to prevent wrong decisions or false accusations against the defendant. This principle has strong roots in Roman law, canon law, and is also contained in various Holy Scriptures, and has been applied since the era of Emperor Constantine until *Codex Theodosianus* dan *Corpus Juris Civilis*. Principle *unus testis nullus testis* In criminal law, both in Indonesia and the Netherlands, it is emphasized that one testimony alone is not enough to prove the defendant's guilt without other supporting evidence. In this context, the provisions in Article 25 paragraph (1) of Law No. 12 of 2022 is actually a form *over-regulation* because its substance is covered in Article 185 of the Criminal Procedure Code, so it needs to be studied further in future changes to the law so as not to cause overlapping legal norms and cause confusion

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