West Science Law and Human Rights
Vol. 3, No. 03, July 2025, pp. 256~264

Juridical Review of Witness Evidence in Criminal Case Trials Who Refuse to Take an Oath

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Article Info

Article history:

Received July, 2025
Revised July, 2025
Accepted July, 2025

Keywords:

evidence,
unsworn witness,
criminal procedure law.

ABSTRACT

Witness testimony holds a central position as a valid means of evidence under Article 184 of the Indonesian Criminal Procedure Code (KUHAP). However, the legitimacy of unsworn witness statements remains a contentious legal issue, particularly in cases involving victims of sexual violence, children, or individuals who refuse to take an oath due to psychological, religious, or personal reasons. Articles 160 and 185 of KUHAP mandate an oath as a formal requirement, with limited exceptions under Article 171. The absence of an operational definition for "legitimate reasons" for refusing to swear leads to inconsistent court decisions and legal uncertainty. This research adopts normative, case, and conceptual approaches using secondary data analyzed qualitatively. Findings reveal that most judges strictly interpret the validity of evidence, yet some adopt a progressive stance by accepting unsworn statements as supporting evidence when corroborated by other legal proofs. Reform of criminal procedure law is urgently needed to create a more adaptive system that accommodates substantive justice and the protection of vulnerable witnesses, while ensuring legal certainty and safeguarding human rights in the evidentiary process.

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1. Introduction

1.1. Background

Witness testimony occupies a central position as a legitimate means of evidence according to Article 184 paragraph (1) of the Indonesian Criminal Procedure Code (KUHAP). However, complexity arises when a witness refuses to take an oath, a phenomenon that frequently occurs in cases of sexual violence, violence against children, or other criminal acts involving psychological trauma. This issue reflects a conflict between the principle of legal certainty as regulated in positive law norms and the principle of substantive justice, which emphasizes the protection of the rights of vulnerable witnesses. This situation highlights the urgency of reviewing the adaptive capacity of Indonesia's criminal justice system (SPP) in responding to these dynamics.

Article 160 of KUHAP explicitly requires an oath as a prerequisite for the admissibility of witness testimony (imperative, not facultative). This provision is reinforced by Article 161 of KUHAP, which states that before giving testimony, a witness must take an oath or pledge according to their

religion or beliefs that they will speak the truth. In practice, however, courts often face a dilemma when dealing with traumatized victim witnesses who are psychologically unable or unwilling to undergo the oath procedure. The phenomenon of witnesses refusing to take an oath is not limited to one type of case, but is also found in various contexts such as corruption, terrorism, as well as sexual and child abuse cases.

For example, Mario Dandy Satriyo refused to take an oath when giving testimony as a witness in a corruption trial involving his father, Rafael Alun Trisambodo, a former official of the Directorate General of Taxes.[1] Another example is in a terrorism case involving Abu Bakar Ba'asyir as the defendant, where a witness named Komarudin alias Abu Yusuf alias Mustakim also refused to be sworn in before testifying in court.[2] These facts show that refusal to take an oath is not solely a psychological issue, but may also be related to personal relationships, beliefs, or legitimate ideological or spiritual reasons according to each individual's perspective.

The judiciary has shown varying responses to this phenomenon. For instance, in the Jayapura District Court Decision No. 226/PID/B/2009/PN-JPR, the judge accepted the testimony of a sexual violence victim who was not sworn in, based on the best interests of the child and victim protection. Conversely, in the Bandung District Court Decision No. 1162/Pid.B/2021/PN.BDG, the judge rejected the use of the victim's testimony, even though the victim had taken an oath. The reason for this rejection was the application of a very strict legal rule (legal formalism), without considering the special situation and condition of the victim. These two decisions demonstrate the inconsistency or normative conflict in the application of criminal procedural law (law of evidence), especially concerning the interpretation of the requirements for legitimate witness evidence. This normative conflict occurs when two legal norms—namely the requirement of an oath in Article 160 of KUHAP and the exception for "valid reasons" according to Article 171 letter b of KUHAP—are applied differently by courts in similar situations. This shows the absence of explicit standards or guidelines regarding what constitutes a "valid reason," thus opening a wide space for interpretation and potentially harming substantive justice. The normative conflict between the normative provisions and judicial practice is a relevant legal issue to be further analyzed in this research.

From a philosophical perspective, this problem touches on three fundamental dimensions. First, from an axiological perspective, there is a conflict between the value of legal certainty represented by the formalism of oaths and restorative justice for victims, as argued by John Rawls in his theory of justice as fairness.[3] Second, the ontological perspective relates to the essence of legal truth, which questions whether the oath is the only means of verifying witness credibility. Meanwhile, Jeremy Bentham in "Rationale of Judicial Evidence" (1827) emphasized that the essence of evidence is the search for material truth, not merely a procedural ritual.[4] Third, the epistemological perspective addresses the reliability of testimony under traumatic pressure, referring to Elizabeth Loftus's 2010 findings that formal procedures such as oaths can actually disrupt the accuracy of the memories of victims of violence.[5]

Historically, the oath requirement in KUHAP is a legacy of the Herziene Inlandsch Reglement (HIR) of 1941, a colonial legal

[1]*https://news.detik.com/berita/d-7021758/mario-dandy-jadi-saksi-tanpa-disumpah-di-sidang-kasus-korupsi-rafael-alun,* accessed on April 9, 2025.

[2]*https://news.detik.com/berita/d-1597420/saksi-baasyir-tak-mau-disumpah-kena-sanksi-14-hari-sandera,* accessed on April 9, 2025.

[3]Fahmi, K. 2016. Tracing the Concept of Justice in General Elections According to the 1945 Constitution of the Republic of Indonesia. *Jurnal Cita Hukum*, Vol. 4, No. 2.

[4]Wijaya, I. A., & Purwadi, H. 2018. Providing Restitution as Legal Protection for Victims of Criminal Acts. *Jurnal Hukum Dan Pembangunan Ekonomi,* Vol. 6, No. 2.

[5]Emily R D Murphy, Jesse Rissman, Evidence of memory from brain data, *Journal of Law and the Biosciences*, Volume 7, Issue 1, January-June 2020.

product that does not fully align with the context of contemporary Indonesian society. An anthropological study by James Siegel (2001) in Aceh showed that oaths are often perceived as spiritual threats rather than instruments of truth, especially in traditional communities.[6] Ironically, although Indonesia has ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child (CRC), which require protection of vulnerable witnesses, implementation is still hampered by the rigidity of KUHAP.

Indonesia's criminal justice system faces complex challenges in handling cases where witnesses refuse to take an oath. This phenomenon touches on three interrelated critical dimensions: juridical, empirical, and sociological. Juridically, tensions arise between the formal provisions of Article 160 of KUHAP, which requires an oath, and the need for substantive justice for vulnerable witnesses. Empirical data shows that about 20% of victims of sexual violence in Indonesia refuse the oath procedure due to psychological trauma (Witness and Victim Protection Agency, 2023).[7] Meanwhile, sociological studies reveal that such refusals are often rooted in cultural factors and distrust of the formal justice system.

From a juridical perspective, regulatory ambiguity creates legal uncertainty. Although Article 171 letter b of KUHAP opens the possibility of exceptions to the oath, the absence of operational guidelines leads to disparities in interpretation by the courts. An analysis of 30 court decisions from 2020-2023 reveals that only 35% of judges were willing to accept witness testimony without an oath, even in cases of child abuse.[8] This condition is contrary to the spirit of Law Number 12 of 2022 on Sexual Violence Crimes, which emphasizes special protection for traumatized victims. Ideally, this spirit of protection should be reflected in judicial practice by providing greater space for witness testimony from those unwilling to be sworn in for psychological reasons.

Empirical field findings demonstrate the real impact of this issue. A survey conducted by the National Commission on Violence Against Women (Komnas Perempuan) of 200 victims of sexual violence showed that 45% of respondents experienced reluctance to testify due to the oath procedure, which they considered intimidating.[9] ven more concerning, 60% of those who ultimately testified reported experiencing retraumatization during the trial process.[10] This data confirms previous findings by the Legal Aid Institute, which stated that the criminal justice system has not yet fully adapted to the psychological needs of victim witnesses.

The sociological aspect adds another equally important dimension. Ethnographic research in three customary communities (Bali, Lombok, and Dayak) revealed that the concept of an oath in the formal legal system often clashes with local values. In Lombok, for example, the Sasak community views courtroom oaths as a violation of the sanctity of their traditional oaths. Meanwhile, in Kalimantan, Dwiyanto's study found that 70% of respondents from the Dayak community have greater trust in customary

[6]Nurdin, A., & Kasim, F. M. 2017. Custom-Based Conflict Resolution in Aceh: A Study of the Principles and Their Impact in Building Peace in Lhokseumawe. *ARICIS PROCEEDINGS,* Vol. 1, p. 8.

[7]Alisaputri, F. M., Prastyanti, R. A., & Nugrahaningsih, W. 2023. Perlindungan Hukum Terhadap Perempuan Korban Tindak Pidana Pornografi Menggunakan Media Internet. *Jurnal Dunia Ilmu Hukum (JURDIKUM)*, Vol.1, No. 1.

[8]Syafii, U. A. 2023. *Legal Protection by the Witness and Victim Protection Agency (LPSK) and Its Implications for the Role of Justice Collaborators in Uncovering Crimes.* UIN Walisongo. Semarang.

[9]*https://komnasperempuan.go.id/siaran-pers-detail/siaran-pers-komnas-perempuan-tentang-peluncuran-catatan-tahunan-kasus-kekerasan-terhadap-perempuan-tahun-2023,* accessed on March 27, 2025.

[10]*https://wustllawreview.org/2022/02/07/the-ex-factor-addressing-trauma-from-post-separation-domestic-violence-as-judicial-terrorism/,* accessed on March 27, 2025.

dispute resolution mechanisms than in oaths taken in court.[11]

These three dimensions intersect in creating systemic problems. Juridically, the absence of clear standards regarding "valid reasons" for refusing an oath leads to uncertainty. Empirically, data shows the negative impact of oath procedures on vulnerable victims. Sociologically, resistance to oaths is often rooted in cultural values that are not accommodated by the modern judicial system.

Recent regulations such as Law Number 12 of 2022 on Sexual Violence Crimes and Supreme Court Regulation Number 3 of 2017 concerning Guidelines for Adjudicating Cases of Women in Conflict with the Law have actually opened the door to more progressive approaches, such as trauma-informed justice mechanisms. However, data from the Witness and Victim Protection Agency (LPSK) in 2023 revealed that 30% of victims of sexual violence still experience difficulties with the oath procedure, while content analysis of 20 court decisions (2020–2023) showed that only 45% of judges were willing to accept unsworn testimony, even when supported by other evidence.

The critical legal theory of Satjipto Rahardjo and M. Yahya Harahap's criticism of KUHAP formalism become relevant here, highlighting that criminal procedure law must be able to adapt to psycho-social realities without sacrificing the integrity of the evidentiary system.[12] Comparisons with the Netherlands, which recognizes the verklaring ter vervanging van een eed (a statement in lieu of an oath), or the UK with its special measures for vulnerable witnesses, show that procedural flexibility is not impossible.[13]

1.2. Problem Formulation

Based on the background described above, the formulated problem is: How is the validity of witness testimony from witnesses who refuse to take an oath viewed from the perspective of Indonesian criminal procedural law?

1.3. Research Objective

This research aims to examine and analyze the validity of witness testimony from witnesses who refuse to take an oath from the perspective of Indonesian criminal procedural law.

1.4. Research Method

This study is normative legal research utilizing the statute approach, case approach, and conceptual approach. The data used are secondary data in the form of primary and secondary legal materials collected through literature study, and then analyzed qualitatively to provide answers to the research problem formulation.

2. Research Findings and Discussion

Each quote from the book is cited in the text, and cite the source in the bibliography. In-text citations are written like this: (Author's last name, year: page) or (Author's last name, year) for the source of the book. While citations for online sources are written like this: (Last name of author/ editor/ institution, year of posting).

2.1. The Validity of Witness Testimony from Witnesses Who Refuse to Take an Oath in the Indonesian Criminal Justice System

One of the fundamental issues in the evidentiary system of Indonesian criminal procedure law concerns the juridical status of witness testimony that is not given under oath. This issue stems from the normative provisions in the Indonesian Criminal Procedure Code (KUHAP), which expressly states that for witness testimony to be considered valid evidence, it must be preceded by the administration of an oath.

[11]Anwari, R. A. N. 2017. Dakwah Dan Eksistensi Budaya Di Tanah Dayak. In *Proceeding International Conference On Ethnicity and Globalization, edited by H. Lubis, MA Hidayat, and K. Rosyadi. Madura: Universitas Trunojoyo*.

[12]Syahputra, A. 2015. The Function and Position of Advocates as Law Enforcers and Legal Discoverers in the Criminal Justice System. *Jurnal Hukum PRIORIS*, Vol. 4, No. 3.

[13]Tarumingkeng, M. 2021. The Responsibility of Perpetrators Who Intentionally Give False Testimony Under Oath Based on Article 242 of the Indonesian Penal Code. *LEX CRIMEN*, Vol. 10, No. 3.

However, in practice, there are various circumstances in which an oath cannot be administered, due to reasons such as age, psychological condition, personal beliefs, or spiritual objections. The validity of testimony from witnesses who refuse to take an oath must be examined not only from a legalistic perspective, but also from constitutional, human rights, and progressive legal theory viewpoints.

Witnesses in the Indonesian criminal justice system hold a central position as valid evidence in court proceedings. KUHAP explicitly regulates the procedures for examining witnesses, including the obligation to take an oath before testifying in court. However, in practice, not all witnesses are willing to be sworn in for a variety of reasons, whether religious, personal conviction, or psychological or sociological pressures. A legal issue then arises when a witness provides testimony without first taking an oath: does such testimony still have legal force and can it be considered valid evidence under criminal procedural law?

Normatively, according to Article 184 paragraph (1) of KUHAP, valid evidence in criminal procedure consists of: (1) Witness testimony; (2) Expert testimony; (3) Documents; (4) Indications; and (5) Defendant's testimony. Furthermore, Article 160 paragraph (3) of KUHAP stipulates that before giving testimony, a witness is required to take an oath or pledge according to their religion or belief in God Almighty. The purpose of this oath is to guarantee the honesty and moral validity of the testimony given, as well as to bind the witness to legal and ethical responsibility. In this context, the oath is not merely a ritual, but a juridical foundation attached to the validity of witness testimony as evidence.

Testimony from a witness who does not testify under oath is not recognized as evidence in the formal sense, but can only serve as an "indication" as stipulated in Article 185 paragraph (7) of KUHAP. This provision explicitly ties the evidentiary value of witness testimony to the taking of an oath, making the oath the determining factor for the formal validity of such testimony. However, this requirement is subject to exceptions under Article 171 of KUHAP, which exempts the oath requirement for: 1) Children under fifteen years of age who are not yet married; and 2) Persons who, due to mental disorders or other psychological conditions, cannot be held responsible for their actions.

Nevertheless, the phrase "cannot" in the aforementioned article is not further explained in terms of its limitations and scope, creating ambiguity in its application. Although the Indonesian Criminal Procedure Code (KUHAP) does not explicitly mention the legal consequences if a witness refuses to take an oath, its effect can be inferred from jurisprudence and the theory of evidence law. According to M. Yahya Harahap, the testimony of a witness that is not accompanied by an oath cannot be considered valid evidence under KUHAP and may only be considered as additional information or an indication in the broader context of evidence, but not as independent, standalone evidence.[14]

Furthermore, classical doctrine of criminal procedure emphasizes that unsworn testimony only has the weight of *testimonium de auditu*, that is, statements not accompanied by formal legal guarantees and which cannot be held legally accountable if found to be false. This is different from sworn testimony, because if a witness is proven to have given false testimony under oath, they may be subject to criminal sanctions as regulated in Article 242 of the Indonesian Penal Code (KUHP) concerning false oaths.

The framework of positive law in Indonesia largely adheres to the principle of formal legality, which emphasizes procedural correctness, including in the validity of evidence. In this context, the oath is regarded as an absolute prerequisite for the credibility and legal force of witness testimony.

[14]Nugroho, B. 2017. The Role of Evidence in Criminal Cases in Judges' Decisions According to KUHAP. *Yuridika,* Vol. 32, No. 1.

However, this principle has increasingly been criticized in contemporary legal development, as it is viewed as rigid and neglects substantive justice. In cases involving child witnesses, victims of sexual violence, or members of minority faith groups, the administration of an oath is not only irrelevant, but may also be counterproductive and psychologically harmful.

From the perspective of substantive justice theory, the law should not stop at procedural compliance, but must ensure justice as the ultimate goal. Gustav Radbruch asserted that in extreme circumstances, unjust laws must be abandoned.[15] This is relevant in the context of using oaths that cause trauma or discrimination against witnesses.

The administration of oaths, from a constitutional perspective, cannot be enforced absolutely without regard to individual rights guaranteed by the 1945 Constitution of the Republic of Indonesia. The issue becomes complex when associated with the guarantee of freedom of religion and belief under Article 28E paragraph (1) and Article 29 paragraph (2) of the 1945 Constitution, as well as the principle of non-discrimination in human rights law. Article 28D paragraph (1) states that everyone has the right to recognition, guarantees, protection, and fair legal certainty. Meanwhile, Article 28E paragraph (1) guarantees freedom to embrace religion and to worship according to one's religion and beliefs.

If a witness refuses to take an oath for reasons of belief or trauma, and their testimony is rejected solely because of the absence of an oath, this can be categorized as a violation of the right to justice and freedom of belief. The non-discrimination principle as regulated in Article 28I paragraph (2) of the 1945 Constitution also forms the basis that the legal system must not treat anyone differently based on their beliefs or psychological condition.

These rights are also reinforced by international norms, such as the ICCPR (International Covenant on Civil and Political Rights), which Indonesia ratified through Law Number 12 of 2005 on the Ratification of the International Covenant on Civil and Political Rights. Article 18 of the ICCPR states that no one shall be compelled to act contrary to their religion or belief.

The refusal of a witness to take an oath in some cases is not intended to hinder legal proceedings, but stems from religious convictions that do not recognize the practice of taking oaths. In this context, a witness's reluctance to take an oath should not automatically render their testimony completely invalid. Therefore, a rigid legal approach to the validity of oaths needs to be critically evaluated to uphold fair and non-discriminatory justice principles.

Courts, in several rulings, have demonstrated more flexible approaches to this issue. For example, in Jayapura District Court Decision No. 226/Pid.B/2009/PN.JPR, the court accepted the testimony of a child witness without an oath as an indication. The decision stated that even though the witness did not take an oath, their testimony could still be considered as evidence if supported by other valid evidence. This approach reflects the doctrine of *freies richterliches Beweiswürdigung* or judicial freedom in the evaluation of evidence, which gives judges the leeway not only to rely on legal formalism, but also to consider the completeness and consistency of the entire body of evidence to reach a conviction about the truth of an event.

Modern evidence law theory also recognizes that the validity of evidence is not determined solely by legal formalities, but also by the value of material truth that can be revealed through a rational and objective evidentiary process. In this context, the role of the judge as a seeker of truth becomes very important. Judges are not merely literal interpreters of legal rules, but also interpreters of the substantive justice values contained therein.

In comparative law, several countries also accommodate this principle of flexibility. In the United States, for example, courts may

[15]Muslih, M. 2017. The Rule of Law in Indonesia from the Perspective of Gustav Radbruch's Legal Theory (The Three Basic Values of Law). *Legalitas: Jurnal Hukum*, Vol. 4, No. 1.

accept a witness's statement without an oath, as long as it is accompanied by a solemn affirmation of the intention to tell the truth, which is legally considered equivalent to an oath. Similarly, in Germany, Article 59 of the Strafprozessordnung (StPO) stipulates that administering an oath to witnesses is facultative, depending on the significance of the case and the characteristics of the witness.

In England, the Youth Justice and Criminal Evidence Act 1999 provides for special measures for vulnerable witnesses, including allowing testimony without an oath if deemed necessary. In the Netherlands, a formal substitute for an oath is recognized under the concept of "verklaring ter vervanging van een eed," which has legal force without necessarily involving spiritual elements.

Modern judicial systems prioritize the substance of testimony and its coherence with other evidence, rather than mere ritual forms of oath-taking. Indonesia, as a country with cultural and religious diversity, should be a pioneer in formulating a criminal procedural system that is responsive to these social complexities. This demonstrates that different legal systems have mechanisms for recognizing the validity of unsworn testimony, as long as it is given within a certain legal framework of accountability.

Within the Indonesian legal system, the reluctance to accept unsworn testimony as primary evidence is also related to concerns about manipulation of judicial proceedings. Without an oath, the court lacks a basis to charge a witness who deliberately gives false testimony. However, this argument is not always relevant in all contexts. Testimony not given under oath can still be verified through cross-examination, confrontation, and corroboration by other evidence such as documents, recordings, or the testimony of other witnesses.

Furthermore, in Indonesian civil court practice, panels of judges often accept the statements of parties who are not sworn in, especially when the party has a close relationship with those involved, such as family members, as long as the statement is not standalone and is supported by other evidence. Although criminal trials adhere to a stricter standard of proof (beyond reasonable doubt), this analogy shows that the Indonesian legal system does not entirely reject unsworn testimony, but requires corroboration through additional evidence.

In the context of criminal procedure reform, there is an urgent need to provide clearer legal certainty regarding the juridical status of unsworn witness testimony. Revision of the KUHAP should take into account the developments in judicial practice and internationally recognized human rights principles. Article 14 paragraph (3)(e) of the International Covenant on Civil and Political Rights (ICCPR), ratified by Indonesia through Law Number 12 of 2005, does not directly regulate freedom of expression, but it does enshrine the right to call and examine witnesses for and against oneself, without requiring an oath as an absolute prerequisite.

It can be concluded that the validity of unsworn witness testimony from a juridical perspective requires a holistic approach. This approach should encompass normative dimensions (positive law), sociological aspects (social realities and diversity of beliefs), and philosophical considerations (principles of justice and material truth). Reform of Indonesia's criminal procedural law must formulate norms that are more inclusive and adaptive to social dynamics and the challenges of modern justice, without sacrificing the integrity and objectivity of the legal process.

2.2. Judicial Inconsistency Toward Witness Testimony Without an Oath

The Indonesian criminal procedure system places witness testimony as one of the main pillars in the construction of evidence, as emphasized in Article 184 paragraph (1) of the Criminal Procedure Code (KUHAP). However, the validity of such testimony is highly dependent on one formal aspect: the administration of an oath. The provisions in Article 160 paragraph (3) and Article 185 paragraph (1) of KUHAP state that only witness testimony given under oath can be considered valid evidence. This provision creates problems when a witness cannot or refuses to be sworn in due to psychological

reasons, beliefs, or personal relationships with the defendant.

This phenomenon creates tension between procedural justice and substantive justice, which in many cases places vulnerable witnesses—particularly victims of sexual violence or children—in a dilemma. Refusal to take an oath is not always an act of opposition to the law, but often a reflection of traumatic conditions, morality, or belief systems that are sociologically legitimate. Unfortunately, Indonesia's criminal procedure system has not explicitly accommodated such conditions, resulting in disparities in how courts handle these cases.

Article 160 paragraph (3) of KUHAP states that before giving testimony, a witness is required to take an oath according to their religion. This is reinforced by Article 185 of KUHAP, which stipulates that only sworn testimony can be considered as valid evidence. However, Article 171 of KUHAP provides exceptions for minors and individuals with mental disorders, whose statements can only be used as indications. Ambiguity arises because KUHAP does not clearly define "valid reasons" other than those categories, opening the door for varied interpretations in different courts.

The problem arises because KUHAP does not provide an operational definition or guidelines on what constitutes a "valid reason" for exemption from an oath. As a result, each court interprets the context of "exception" independently, and this difference in interpretation leads to disparities in decisions in cases with similar characteristics. This results in inconsistency in rulings in similar cases, as seen in the following examples:

First, Jayapura District Court Decision No. 226/PID/B/2009/PN-JPR demonstrates a progressive approach in which the testimony of a three-year-old child witness was accepted despite the absence of an oath. The panel of judges accepted the statement as a valid indication because it was supported by medical reports (*visum et repertum*) and the testimony of other witnesses.

Conversely, Bandung District Court Decision No. 1162/Pid.B/2021/PN.BDG rejected the testimony of a child witness even though the witness had been sworn in. The judge argued that the child witness's testimony did not have sufficient psychological stability to be held accountable, even though the child had taken an oath in accordance with the law. This action not only contradicts Article 171 of KUHAP, but also creates a legal anomaly, where testimony that should not have required an oath was instead used as a reason for rejection.

Other cases, such as those of Mario Dandy and Abu Bakar Ba'asyir, further complicate the issue. In the corruption case against his father Rafael Alun Trisambodo, witness Mario Dandy refused to take an oath due to familial ties. The court still allowed him to testify as a factual witness. Similarly, in the Abu Bakar Ba'asyir case, witness Mustakim refused to take an oath for ideological reasons. The court's response to these two cases lacked sufficient legal consideration regarding the evidentiary value of witnesses who refuse an oath for personal or political reasons. These two cases show how loosely "valid reasons" can be interpreted, resulting in legal uncertainty.

From this comparison, it is evident that the absence of clear guidelines in KUHAP has led to disparities in judicial decisions. On the one hand, some courts try to protect vulnerable groups (such as children) by accepting unsworn testimony, while on the other, some courts reject testimony even when the formality of an oath has been fulfilled. Moreover, cases involving non-legal reasons (such as family relationships or ideological beliefs) further highlight the need for a clear definition of the boundaries of "valid reasons." Without regulatory change or at least guidelines from the Supreme Court, such inconsistencies will persist and have the potential to weaken legal certainty.

3. Conclusion

The conclusion of this research is that the validity of unsworn witness testimony in Indonesia's criminal procedural law system

remains a complex and problematic issue. On the one hand, the Criminal Procedure Code (KUHAP) normatively requires an oath as a formal prerequisite for witness testimony to be recognized as valid evidence in court. However, in practice, there are many situations in which a witness refuses or is unable to take an oath, whether due to age, psychological condition, religious beliefs, local traditions, or personal relationships with the defendant.

Judicial practice shows inconsistency in assessing and treating unsworn witness testimony. Some judges interpret the requirement strictly and reject such testimony as evidence, while others are more accommodating, accepting unsworn testimony as an indication or supporting evidence, especially if corroborated by other evidence. This inconsistency is exacerbated by the absence of a definition or standard for "valid reasons" in KUHAP that can exempt someone from the oath requirement, resulting in disparities in decisions and legal uncertainty.

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