



## Legal Review of the Use of Closed-Circuit Television as Electronic Evidence in Proving Criminal Acts in Indonesia

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### ARTICLE INFO

#### Article history:

Received 01 April 2024

Received in revised form

27 May 2024

Accepted 29 May 2024

### ABSTRACT

This research delves into using Closed Circuit Television (CCTV) surveillance cameras as electronic evidence in criminal proceedings in Indonesia, specifically focusing on Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 regarding Information and Electronic Transactions (ITE). The continuously advancing field of information technology, including CCTV technology, now assumes a significant role within the realm of criminal justice, particularly in detecting criminal activities. Nevertheless, a contentious issue persists surrounding the admissibility of CCTV footage as evidence in court proceedings due to the absence of explicit regulations within the Criminal Procedure Code (KUHAP) about electronic evidence. This investigation scrutinizes the legal validity of CCTV recordings as evidence, shedding light on various instances where such recordings have served as crucial evidence in criminal trials. Employing a normative legal framework, this study also evaluates the repercussions of acknowledging CCTV recordings as admissible evidence within the framework of the Indonesian criminal justice system. This study's outcomes aim to offer theoretical insights and practical contributions to the advancement of criminal law, particularly regarding evidentiary matters and the utilization of electronic evidence within Indonesia.

#### Keyword:

Legal Review, Closed-Circuit Television, Electronic Evidence, Criminal Acts.

### INTRODUCTION

National development entails a strategic endeavor to enhance the holistic and sustainable quality of life for the Indonesian populace (Mulia & Saputra, 2020). One particular area accorded special emphasis is the advancement

within legal frameworks. The legal domain is a crucial cornerstone underpinning the establishment of equity, safety, and societal harmony. Within this framework, the integration of information technology has emerged as a pivotal component

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inseparable from contemporary existence. The swift evolution of this technology has instigated notable transformations across various facets of life, encompassing the criminal justice system in Indonesia (Wahyuningsih, 2014).

With the progression of information technology, electronic evidence like Closed-Circuit Television (CCTV) recordings have assumed a significant role in law enforcement. Initially employed as a tool for security surveillance, CCTV has evolved into a pivotal instrument for presenting and substantiating criminal activities. This technological advancement enables law enforcement agencies to capture, retain, and scrutinize visual data from a specific location, facilitating the identification of individuals involved in illegal activities, reconstructing incidents, and enhancing evidential support in legal proceedings (He et al., 2023).

However, although the use of CCTV as electronic evidence has been recognized in several laws and regulations in Indonesia, such as Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions (UU ITE), there are still various challenges in its implementation. One of the main challenges is the unclear regulation regarding electronic evidence in the Criminal Procedure Code (KUHAP). The KUHAP, the main guideline in the criminal justice process in Indonesia, has not explicitly regulated the use of electronic evidence such as CCTV, thus raising doubts about its validity and evidentiary power.

The disparity between the Information Technology Act (ITE Law) and the Criminal Procedure Code regarding regulating electronic evidence presents significant legal implications. The ITE Law acknowledges CCTV recordings as admissible evidence, whereas the Criminal Procedure Code does not categorize

electronic proof as such. Consequently, CCTV recordings are frequently relegated to a supplementary role or treated as mere indications rather than primary evidence. This scenario inevitably prompts inquiries into the appropriate methodology for judges to evaluate and incorporate CCTV recordings during legal proceedings.

Additionally, there exist technical impediments when utilizing CCTV as digital evidence. The fidelity of CCTV footage, including the precision of images and the clarity of audio, significantly impacts the evidential value within the legal framework (Ghimire & Lee, 2020; Hnoohom et al., 2022). Indistinct or inadequate recordings may lead to uncertainties in perpetrator identification or incident reconstruction, ultimately diminishing their probative value in court proceedings. Thus, stringent technical criteria are imperative to guarantee that CCTV recordings utilized as evidence meet the requisite standards of quality and dependability.

Employing closed-circuit television (CCTV) footage as evidence also generates inquiries about respect for privacy and core human rights. Unauthorized or unnotified CCTV recordings may be deemed an infringement of privacy, mainly if they are employed in a manner that deviates from the original intent behind installing CCTV systems. Instances have arisen where the admissibility of CCTV recordings as the sole evidence in prosecuting individuals for specific offenses has been deliberated in legal proceedings. Hence, there is a necessity for well-defined and stringent guidelines to oversee the utilization of CCTV footage as digital evidence while considering elements of safeguarding privacy and upholding human rights (Kassin et al., 2019; Piza, 2021).

In this particular context, the present investigation was carried out to examine the utilization and probative value of CCTV recordings as digital evidence

within the criminal justice framework in Indonesia. The main goal of this inquiry is to tackle various critical questions, notably how the application of CCTV footage as digital proof is controlled in the Information and Electronic Transactions Act and the Criminal Procedure Code and the degree of its evidential potency in the judicial procedure. Furthermore, this analysis will scrutinize the diverse obstacles and contentions that emerge in using CCTV as evidence and offer suggestions for enhancing pertinent regulations.

Given this context, the ongoing inquiry seeks to contribute significantly to improving the legal system in Indonesia, especially in terms of digital evidence utilization. This research endeavor is poised to not only delve deeper into the theoretical aspects of digital evidence but also to provide practical recommendations for law enforcement personnel on using and assessing CCTV footage as evidentiary support in judicial proceedings. Over time, this study aspires to fortify the standing of digital evidence within the Indonesian criminal justice system and to promote a more equitable and productive law enforcement environment.

## RESEARCH METHODS

This research employs a descriptive methodology utilizing a normative legal perspective to investigate using CCTV footage as digital evidence in establishing criminal offenses in Indonesia (Soemitro, 2015). The normative legal framework scrutinizes pertinent laws and regulations, legal doctrines, and legal principles, particularly those associated with Law Number 19 of 2016 concerning Electronic Information and Transactions (ITE) and the Criminal Procedure Code (KUHAP). The data sources used involve secondary information from literature reviews, primary legal materials like statutes, secondary legal materials like literature, academic journals, and scientific papers,

and tertiary legal materials such as legal dictionaries and encyclopedias. The methodology for data gathering involves exploring, compiling, and scrutinizing relevant documents, subsequently subjecting them to qualitative analysis to assess the effectiveness and shortcomings of legal provisions concerning digital evidence.

Data analysis was qualitatively performed through the systematic organization of gathered data according to themes pertinent to the research inquiries, which was succeeded by a comprehensive examination of the legal documents and scrutinized literature (Purwati, 2020). This procedure for explanation is intended to understand the importance, connection, and consequences of the information within the context of the relevant legislation while also assessing the appropriateness of current legal regulations compared to technological progress and the requirements of modern judicial processes. The outcomes of this scrutiny are anticipated to offer pertinent suggestions for enhancing criminal law in Indonesia, particularly concerning incorporating electronic evidence like CCTV footage in the adjudicatory processes related to criminal activities.

## RESULTS

### **Closed Circuit Television (CCTV) Surveillance Camera Arrangement as Electronic Evidence**

This research has determined that the utilization of CCTV recordings as digital proof has been acknowledged within the legal framework of Indonesia, particularly under Law Number 19 of 2016, which pertains to Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions (UU ITE). Section 5 of the ITE Law stipulates that digital information and documents, such as CCTV footage, are deemed admissible as legitimate legal proof. This acknowledgment expands acceptable proof by criminal procedural

law as outlined in the Criminal Procedure Code (KUHP). Nevertheless, due to the absence of specific regulations about digital evidence within the KUHP itself, the admissibility of CCTV recordings as evidence remains a topic of frequent discussion among legal professionals.

Furthermore, this investigation has concluded that Section 184 of the Criminal Procedure Code recognizes only five types of acceptable proof: witness statements, expert viewpoints, written records, physical proof, and statements given by the defendant. The exclusion of CCTV footage, considered an electronic record, from these established types of evidence has resulted in varying interpretations among judicial authorities and legal professionals regarding its probative value. However, as a specialized legal framework, the Information and Technology Law offers a solid foundation for admitting CCTV footage as evidence in court proceedings, especially in technology-related cases.

### **The Evidential Power of CCTV Footage in Criminal Justice Processes**

This examination further disclosed that the evidentiary value of closed-circuit television (CCTV) recordings as digital proof in legal cases is markedly impacted by their technical resolution and the capability of law enforcement personnel to assess them. High-quality CCTV footage can offer a lucid depiction of the event and the individuals involved in the offense, potentially enhancing the judge's decision-making assurance. Conversely, indistinct or obscured recordings may instill uncertainty and diminish their evidentiary significance.

Additionally, this study highlights the role of CCTV recordings as the predominant tool for uncovering criminal activities in specific cases. This is particularly evident in scenarios involving offenses committed in secluded or distant areas where witnesses are scarce. Under such circumstances, the precision and

dependability of CCTV footage play a pivotal role. However, given the absence of precise regulations concerning using CCTV recordings as legal evidence in the Criminal Procedure Code, judges frequently confront challenges when determining its probative value, necessitating legal changes to synchronize the Criminal Procedure Code with technological advancements.

### **Cases Using CCTV Footage as Evidence**

This research delves into various instances in Indonesia wherein CCTV recordings were employed as the principal evidence in adjudicating criminal matters. A notable illustration pertains to the conflagration of the Central Java Provincial DPRD Building, in which CCTV footage was utilized to ascertain the perpetrator's identity and establish his complicity in the transgression. The utilization of CCTV footage in this particular scenario emerged as pivotal evidence that facilitated the adjudicative process for the panel of adjudicators in determining the guilt of the accused individual.

Moreover, instances of homicide and robbery often entail the utilization of CCTV recordings as crucial pieces of proof. A case in point is the homicide investigation involving the Sanex Corporation's CEO, where CCTV footage was employed to monitor the suspect's actions leading up to and following the crime, thereby bolstering other pieces of evidence during the trial. The deployment of CCTV recordings in such scenarios underscores the significance of digital evidence in contemporary criminal justice systems, particularly in circumstances where traditional forms of evidence like eyewitness testimonies are challenging to procure.

### **Challenges in Using CCTV Footage as Evidence**

While CCTV footage is commonly acknowledged as electronic evidence, this research reveals many obstacles associated with its admissibility in a legal setting. A

significant issue lies in the discrepancy between the regulations outlined in the ITE Law and the Criminal Procedure Code, leading to frequent ambiguity regarding the legitimacy of CCTV footage as a principal piece of evidence. It is not uncommon for judges to view CCTV recordings merely as supplementary proof or indications rather than as standalone primary evidence.

Another challenge that has been recognized is the deficiency in technical comprehension among law enforcement personnel regarding the methods of acquiring, storing, and analyzing CCTV recordings. In the absence of sufficient expertise and instruction, there is a potential for mishandling or underutilizing CCTV footage within the legal system. Consequently, a more comprehensive provision of guidance and training is imperative for law enforcement officials to guarantee the appropriate identification and appreciation of the probative worth of CCTV footage within the judicial domain.

## **DISCUSSION**

The discourse surrounding the authentication of CCTV footage as proof in the ITE Law reveals the incorporation of technological advancements within the Indonesian legal system, particularly in substantiating criminal offenses. The enactment of Law Number 19 of 2016 regarding ITE establishes a precise legal foundation for admitting CCTV recordings as digital evidence, a matter previously unaddressed in the Criminal Procedure Code. This acknowledgment holds significance as it signifies the alignment of legislation with contemporary judicial procedures that increasingly rely on technological means. Nevertheless, despite the legal acknowledgment within the ITE Law, the practical application encounters numerous obstacles, primarily due to the ambiguity in the Criminal Procedure Code concerning the status of CCTV recordings within the evidentiary hierarchy. The disparity in regulations between the ITE

Law and the Criminal Procedure Code prompts inquiries into the legitimacy of CCTV footage as primary evidence. Often, CCTV recordings are viewed merely as supplementary evidence or leads rather than as independent primary evidence. This observation underscores that while CCTV recordings have obtained legal validation, their integration into the criminal justice system remains constrained by traditional legal interpretations. Consequently, there is a pressing need for alignment between the ITE Law and the Criminal Procedure Code to ensure legal clarity and enhance the utilization of CCTV recordings as evidence in the criminal justice domain.

The discourse concerning the probative capacity of CCTV recordings underscores the significance of the technical caliber of such recordings in ascertaining their probative worth within judicial proceedings. Exemplary CCTV footage can furnish lucid and precise visual substantiation, thereby aiding the adjudicator in arriving at a reasonable verdict. Conversely, indistinct or ambiguous recordings may instigate skepticism and undermine the cogency of the case under consideration. This delineates the pivotal role that the technical attributes of CCTV footage assume in the probative trajectory. Alongside technical excellence, this deliberation accentuates the import of the competencies and expertise of law enforcement personnel in handling digital evidence. In the absence of adequate comprehension, there is a latent hazard of the judiciary's misuse or nonrecognition of CCTV recordings. Consequently, rigorous instruction and explicit directives are imperative for law enforcement officials to ensure the productive utilization of CCTV footage as evidentiary material. This encompasses the requisite protocols that must be adhered to safeguard the genuineness and soundness of the

recordings, thereby corroborating their validity as substantiated evidence in court.

The discourse surrounding the utilization of CCTV recordings in various criminal proceedings in Indonesia illustrates the pivotal role played by such recordings as crucial evidence in uncovering and validating criminal activities. Instances such as the conflagration of the Central Java DPRD Building and homicide cases wherein CCTV footage is involved demonstrate the capacity of this technology to furnish evidence that not only corroborates witness testimonies but also stands as primary proof elucidating the circumstances of the event. The efficacy exhibited in employing CCTV in these instances underscores the significant potential harbored by such recordings in fortifying the criminal justice framework. Nonetheless, this discourse also emphasizes the criticality of how CCTV footage is utilized and appraised by the judiciary in determining its effectiveness as evidence. Despite cases wherein CCTV recordings offer compelling evidence, apprehensions persist regarding interpreting such footage and the prospect of tampering. Hence, the legal system must establish explicit criteria governing the handling and assessment of CCTV footage during legal proceedings, thereby ensuring that this form of evidence optimally contributes to upholding the law.

The discourse on the challenges associated with utilizing CCTV recordings as evidence underscores various significant hurdles the contemporary criminal justice system encounters. A primary obstacle is the absence of alignment between the ITE Law and the Criminal Procedure Code, leading to legal ambiguities concerning recognizing CCTV footage as primary evidence. This divergence in interpretation may impede the acceptance of CCTV footage as compelling evidence in court despite its explicit acknowledgment in the ITE Law. Another issue pertains to the

restricted technical proficiency and legal comprehension of law enforcement personnel regarding handling digital evidence. Numerous law enforcement officials lack adequate training in utilizing this technology, which could result in difficulties in authenticating, storing, and evaluating the credibility of CCTV footage. These deficiencies underscore the necessity for enhanced capabilities, improved training for law enforcement officers, and the formulation of more comprehensive operational guidelines to ensure the effective utilization of CCTV footage in compliance with relevant legal frameworks.

## CONCLUSION

Based on the findings of this investigation, it is doubtful that CCTV footage has gained legal recognition as digital evidence within the legal framework of Indonesia, particularly under the regulations stipulated in Law Number 19 of 2016 regarding Electronic Information and Transactions. Nonetheless, using CCTV recordings as primary evidence encounters diverse obstacles, notably from incongruities with the Criminal Procedure Code (KUHAP), which lacks explicit provisions on electronic evidence. The efficacy of such evidence in court is heavily contingent upon the technical caliber of CCTV recordings and the proficiency of law enforcement agents in handling digital evidence. While CCTV footage has demonstrated efficacy in aiding law enforcement in various criminal proceedings in Indonesia, there remains a need for alignment in regulations and enhancement of technical expertise to ensure this digital evidence's optimal and equitable utilization. A more extensive legal overhaul and precise operational guidelines are imperative to embed CCTV utilization in the Indonesian criminal justice framework, thereby advancing judicial efficacy and legal assurance.

## LIMITATION

This research presents several constraints that necessitate acknowledgment and consideration for future investigations. Initially, the focus of this research predominantly revolves around normative legal scrutiny of relevant laws and regulations, notably the ITE Law and the Criminal Procedure Code, excluding the incorporation of empirical data from court proceedings or extensive case analyses on the application of CCTV recordings as evidence within the legal system. This limitation impedes the research's grasp of the intricacies and hurdles in practical settings. Subsequently, constraints about data sources pose a challenge as this research heavily depends on existing literature, omitting any interactions or surveys with law enforcement officials or other pertinent stakeholders directly engaged in legal proceedings. Consequently, certain pragmatic facets concerning the utilization of CCTV footage might not have been fully unveiled in this study. Lastly, this research is confined to the legal framework in Indonesia, thereby rendering the outcomes and suggestions potentially inadequate or inapplicable in jurisdictions with differing legal structures. Hence, further investigations incorporating empirical data and comparative analyses with legal frameworks in diverse nations are imperative to enhance comprehension regarding using CCTV footage as digital evidence and formulate more holistic recommendations.

## IMPLICATION

This study has significant implications for advancing the criminal justice system in Indonesia, especially regarding the use of electronic evidence such as CCTV recordings. Initially, the findings of this research underscore the necessity for comprehensive legal reforms to harmonize the Electronic Information

and Transactions Law (UU ITE) with the Criminal Procedure Code (KUHP). It is imperative to synchronize these two legislations to enhance legal certainty and ensure consistent recognition of CCTV footage as admissible evidence in a court of law. Moreover, this study sheds light on the pressing requirement for establishing precise operational guidelines and legal protocols for using CCTV footage as evidence. These guidelines will assist law enforcement authorities in the acquisition, preservation, and management of CCTV footage in a manner that ensures the trustworthiness and authenticity of the evidence, thereby facilitating its admissibility in legal proceedings. Another crucial implication is the necessity for enhancing the capabilities and expertise of law enforcement officers in managing electronic evidence. By providing suitable guidance, law enforcement personnel can develop the skills and knowledge to utilize CCTV footage effectively throughout the legal process. Consequently, this study not only showcases theoretical perspectives for the progression of criminal law but also provides actionable advice that can be implemented to boost the efficacy of law enforcement in Indonesia. Furthermore, these implications can serve as a foundation for policymakers to formulate more suitable regulations and approaches for incorporating technology into the justice system, ultimately facilitating the attainment of enhanced justice and improved legal protection for society.

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