

## **HUKUM PEMBUKTIAN PERDATA KETERANGAN AHLI: STUDI PERBANDINGAN HUKUM INDONESIA DAN AUSTRALIA**

**Oleh: Alfi Afita Kholifah<sup>1</sup>, Umar Mubdi<sup>2</sup>**

### **INTISARI**

Penulisan hukum ini bertujuan untuk mengetahui pengaturan pembuktian keterangan ahli dalam perkara perdata di Indonesia dan Australia, serta mengetahui referensi yang dapat diambil oleh Indonesia dari hukum pembuktian keterangan ahli di Australia guna optimalisasi penegakan hukum pembuktian di Indonesia.

Penulisan hukum ini merupakan penelitian yuridis normatif yang menerapkan pendekatan komparatif, pendekatan peraturan perundang-undangan, dan pendekatan kasus. Penulisan hukum ini memanfaatkan data sekunder, meliputi bahan hukum primer dan bahan hukum sekunder yang dikumpulkan melalui studi kepustakaan, dan dianalisis secara deskriptif kualitatif.

Hasil penelitian menunjukkan bahwa terdapat persamaan dan perbedaan dalam hukum pembuktian keterangan ahli di Indonesia dan Australia yang dicontohkan melalui perkara perdata lingkungan hidup. Persamaan yang diperoleh terletak pada beberapa hal, salah satunya adalah standar pembuktian berimbang (*balance of probabilities*) yang diterapkan di Indonesia dan Australia. Perbedaan yang ditemukan terletak pada beberapa aspek, yakni syarat keabsahan laporan tertulis ahli, kode etik ahli, dan cara penyelesaian perbedaan pendapat antar ahli yang belum diatur di Indonesia, dan telah diatur di Australia. Perbedaan yang muncul dapat dijadikan pedoman bagi Indonesia dengan mempertimbangkan peluang dan tantangan penerapan. Kesimpulan yang diperoleh dalam penulisan hukum ini, yakni terdapat hal-hal yang belum diatur dalam hukum pembuktian perdata Indonesia, seperti syarat keabsahan laporan tertulis ahli, kode etik ahli, dan cara penyelesaian perbedaan pendapat antar ahli. Hukum pembuktian keterangan ahli di Australia dapat dijadikan pedoman bagi Indonesia dengan menganalisis peluang dan tantangan penerapan dalam hal keabsahan laporan ahli kode etik ahli, dan cara penyelesaian perbedaan pendapat antar ahli.

**Kata Kunci:** Hukum pembuktian perdata Indonesia, hukum pembuktian perdata Australia, keterangan ahli, perkara perdata lingkungan hidup

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<sup>1</sup> Mahasiswa S1 Fakultas Hukum Universitas Gadjah Mada, Yogyakarta.

<sup>2</sup> Dosen Fakultas Hukum Universitas Gadjah Mada, Yogyakarta.

## **EXPERT EVIDENCE IN CIVIL PROCEDURAL LAW: A COMPARATIVE LAW STUDY BETWEEN INDONESIAN AND AUSTRALIAN**

**by: Alfi Afita Kholifah<sup>3</sup>, Umar Mubdi<sup>4</sup>**

### **ABSTRACT**

The aims of this legal writing are to learn about the principles of expert evidence in Indonesian and Australian civil law, as well as the lessons that Indonesia may learn from Australian law regulating expert evidence in civil cases in order to optimize the enforcement of evidence law in Indonesia.

This legal writing is normative jurisprudence that applies comparative approaches, legislative-regulatory approaches, and case approaches. This legal writing utilizes secondary data, covers primary and secondary legal materials collected through library studies, and is analyzed qualitatively and descriptively.

The results of the research show that there are similarities and differences in the law of proofing scientific evidence in Indonesia and Australia that are exposed through civil environmental cases. The equation that is obtained lies in several aspects, one of which is the standard of balanced probability applied in Indonesia and Australia. The discrepancies found lie in several aspects, namely the validity conditions of expert written reports, expert ethics codes, and ways of settling differences of opinion that are not regulated in Indonesia and have been regulated by Australia. The emerging differences can be a lesson for Indonesia by considering the opportunities and challenges of implementation. The conclusion obtained in the legal writing is that there are things that are not regulated in Indonesian civil proof law, such as the validity of the written reports of experts, the code of ethics of experts, and ways of resolving differences of opinion between experts. The law of expert evidence in Australia can be a lesson for Indonesia by analyzing the opportunities and challenges of the expert report validity, code of ethics, and how to resolve disagreement between experts.

**Keywords:** Indonesian Civil Evidence Law, Australian Civil Evidence Law, Expert Evidence, Civil Environmental Cases

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<sup>3</sup> Student at Law Faculty of Gadjah Mada University, Yogyakarta.

<sup>4</sup> Lecturer at Law Faculty of Gadjah Mada University, Yogyakarta.