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Evidentiary Standards and Limits of Criminal Liability for False Testimony under Oath in Indonesia's Criminal Justice System

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ABSTRACT

The principal problem in proving false testimony under oath arises when objective falsity is treated as direct evidence of the defendant's intent. This study aims to formulate evidentiary standards for the objective elements, proof of the defendant's culpability, the limits of criminal liability, and the structure of judicial reasoning under Article 373 of Law Number 1 of 2023. This normative legal study is prescriptive in nature and employs statutory and conceptual approaches. The legal materials and supporting non-legal materials are examined through qualitative legal analysis using grammatical, systematic, and teleological interpretation. The study formulates a two-stage evidentiary framework. The first stage covers the legal circumstances governing the giving of testimony, an oath or a legally equivalent form, the form and manner in which the testimony is given, attribution of conduct, the portion of the testimony alleged in the indictment to be false, reference facts, and the function and legal validity of the evidence. The second stage covers actual knowledge of falsity, volition to give the testimony, circumstantial facts, alternative explanations, the capacity for criminal responsibility, and excuses. Motive, inconsistencies, official position, access arising from a legal relationship, or conduct during the proceedings is insufficient to serve as the sole basis for intent. Failure to prove knowledge or intent results in an acquittal. The existence of a ground precluding punishment after the conduct and culpability have been proven results in a judgment of discharge from all legal charges. The novelty of this study lies in integrating the elements, facts, evidence, mental state, and structure of judicial reasoning into a prospective evidentiary model for Indonesia's new criminal law regime.

Keywords: *Criminal Liability; Evidentiary Standards; False Testimony under Oath; Intent; Judicial Reasoning.*

INTRODUCTION

The determination of the defendant's culpability in criminal proceedings must rest on legal facts derived from legally recognized evidence. The rule-of-law principle and the guarantee of fair legal certainty under Article 1 section (3) and Article 28D section (1) of the 1945 Constitution require proof of the conduct and the attribution of culpability to the defendant (Muhni et al., 2025). Accurate attribution becomes particularly important when the indictment concerns testimony that must be compared with the actual state of affairs. An erroneous determination of falsity may result in punishment without adequate proof of culpability. Conversely, failure to prove the defendant's knowledge of falsity may undermine the reliability of the criminal justice process.

The criminal offense of false testimony under oath differs from an ordinary inaccuracy, omission, or error in testimony. The offense concerns testimony given after the taking of an oath, a solemn promise, or a solemn affirmation in accordance with laws and regulations. In this article, testimony is used as the functional English equivalent of *keterangan* under Article 373 of Law Number 1 of 2023. Its statutory scope includes oral testimony, written testimony, and testimony given through a specially authorized representative. These different forms require careful determination of the legal subject, the circumstances in which the testimony was given, the attribution of conduct, the specific portion of the testimony in question, and the reference facts.

Testimony given through a special power of attorney also requires a distinction between the conduct, source of information, knowledge, volition, and culpability of the principal and those of the authorized representative.

The legal analysis in this study primarily relies on Law Number 1 of 2023 as amended by Law Number 1 of 2026. Its application requires a systematic interpretation that connects it with Law Number 20 of 2025, Law Number 48 of 2009, and Law Number 11 of 2008 as most recently amended by Law Number 1 of 2024 insofar as electronic evidence is concerned. The relationship among these provisions is necessary because proof encompasses the statutory definition of the offense, the legal validity and authentication of evidence, the lawfulness of its acquisition, the defendant's procedural rights, the use of a translator or interpreter, the capacity for criminal responsibility, excuses, and the judge's duty to explain the basis for determining culpability. This study is prospective because it examines the application of Article 373 within the substantive and procedural criminal law regime that entered into force in 2026, when judicial practice under the new provisions has not yet developed sufficiently.

The principal problem concerns the combination of objective falsity, discrepancies between testimonies, and motive as the basis for inferring intent. [Rizal et al. \(2024\)](#) demonstrate the use of identity evidence, witness testimony, the defendant's testimony, and physical evidence to establish legally relevant facts in a case under Article 242 of the Old Penal Code. [Jainah et al. \(2023\)](#) show that personal interests or the purpose of obtaining a benefit may motivate the giving of false testimony. Such a motive does not replace proof of knowledge and volition. [Akbar et al. \(2025\)](#) place greater emphasis on sentencing considerations after the offense has been found proven. These studies demonstrate the need to distinguish the attribution of conduct, objective falsity, motive, intent, and criminal liability. This distinction also requires precise identification of the portion of the testimony alleged in the indictment to be false, the actual state of affairs as the reference facts, and the function of each item of evidence.

The legal validity of facts depends on the validity of the evidence used. Electronic evidence requires an examination of its source, integrity, method of acquisition, and connection with the defendant. [Oktana et al. \(2023\)](#) identify formal and substantive requirements as important aspects of using electronic information as evidence. Their study remains based on the criminal procedure that preceded the enactment of Law Number 20 of 2025. Expert testimony may address only matters within the expert's field of expertise. [Butt and Nathaniel \(2024\)](#) show that opinions provided by criminal law experts in Indonesian criminal trials may extend to the application of legal provisions and the determination of culpability, which remain within the judge's authority. Accordingly, each item of evidence must be classified according to the fact and element of the offense that it supports. This classification also prevents

credibility assessments or the numerical quantity of evidence from replacing proof of the statutory elements.

Proof of culpability must rest on the defendant's knowledge of falsity and volition to give the testimony. Culpability cannot be inferred solely from the consequences of the conduct, discrepancies between testimonies, official position, legal relationship, or an assumption that the defendant should have known. In the context of a different criminal offense, [Sutopo and Panjaitan \(2025\)](#) demonstrate the importance of distinguishing objective circumstances from a culpable mental state. Decision-makers' emotional and cognitive processes may also affect assessments of intent and credibility ([Minissale & Blix, 2025](#)). A conclusion regarding intent must rest on a chain of facts and evidence that bears a rational relationship to the defendant's knowledge and volition. Awareness that information may be false cannot automatically be equated with the actual knowledge required by the Elucidation of Article 373 section (1) of Law Number 1 of 2023.

This study is limited to proof against a defendant in criminal proceedings and does not examine the person's legal status when the allegedly false testimony was first given. Perceptual error, memory limitations, language barriers, pressure, and communication impairments are used to test alternative explanations other than intent. Previous studies continue to address the elements of the offense, specific cases, evidence, mental states, and credibility separately. [Juanda \(2025\)](#) explains the elements of the new provision, while [Latupeirissa et al. \(2023\)](#) examine false testimony and its procedural treatment under the former legal framework. Case-specific studies address motive, proof, and sentencing ([Jainah et al., 2023](#); [Rizal et al., 2024](#); [Akbar et al., 2025](#)). Studies of electronic evidence and expert testimony address discrete evidentiary issues ([Oktana et al., 2023](#); [Butt & Nathaniel, 2024](#)). Discussions of mental states and credibility have not specifically addressed this offense ([Minissale & Blix, 2025](#); [Sutopo & Panjaitan, 2025](#)). Collectively, these studies have not formulated an evidentiary system for Article 373 of Law Number 1 of 2023 that connects the elements, facts, evidence, culpability, and the resulting form of judgment.

Based on this research gap, this study aims to analyze and formulate proof of the objective elements by examining the legal circumstances governing the giving of testimony, the form and manner of its delivery, the falsity of its content, the attribution of conduct, and the function of the evidence. It also aims to analyze proof of culpability and formulate standards for judicial reasoning in assessing knowledge of falsity, volition to give the testimony, the interrelationship among items of evidence, alternative explanations, the capacity for criminal responsibility, and circumstances that may preclude criminal liability. The novelty of this study consists of a two-stage evidentiary framework, a functional classification of evidence, limitations on the attribution of conduct in testimony given through a special power of attorney, and

criteria for assessing mental states and judicial reasoning without adding statutory elements to the offense. Theoretically, the study develops the analysis of the law of evidence and criminal liability. Practically, it provides analytical guidance for public prosecutors and judges to connect the elements, legal facts, evidence, and the defendant's culpability in a systematic and traceable manner.

METHOD

This study constitutes normative legal research that is prescriptive in nature and employs statutory and conceptual approaches (Qamar & Rezah, 2020). Normative legal research is used in the sense of doctrinal legal research that identifies, interprets, and systematizes legal provisions to formulate prescriptive legal arguments. The statutory approach examines the relationship between substantive criminal law and criminal procedure in proving false testimony under oath. The principal legal materials comprise Law Number 1 of 2023 as amended by Law Number 1 of 2026, Law Number 20 of 2025, Law Number 48 of 2009, and Law Number 11 of 2008 as most recently amended by Law Number 1 of 2024 insofar as electronic evidence is concerned.

The conceptual approach examines the theory of evidence and the interrelationship among items of evidence, the theory separating the criminal offense from criminal liability, intent, attribution of conduct, falsity of testimony, limits of criminal liability, and judicial reasoning. The study does not employ a case approach because court judgments are not its primary objects of analysis. Articles that analyze judgments are used as secondary legal materials and as part of the scholarly dialogue. Their use does not constitute a case approach to the original judgments. The research materials consist of primary legal materials, fundamental books, journal articles, non-legal materials, and supporting materials, including dictionaries and official databases. The journal articles were selected for their direct relevance to Article 373 of Law Number 1 of 2023, proof, intent, criminal liability, credibility, and the function of evidence.

The materials were collected through library research involving identification, inventory, verification, classification, and documentation (Sampara & Husen, 2016). Laws and regulations were verified through official sources by examining their validity, amendments, and relationships with other provisions. Secondary legal materials were verified by examining their full texts, publication details, substantive relevance, research context, and the limits on the applicability of their findings. The non-legal materials include studies concerning memory, perception, emotion, suggestion, language, communication, and credibility. They were selected based on their direct relevance to factual explanations other than intent. These materials are not used to formulate the elements of the offense, create grounds precluding punishment, or replace Indonesian legal standards.

The materials were examined through qualitative legal analysis using grammatical, systematic, and teleological interpretation. The analysis began by identifying the structure and meaning of each element of Article 373 of Law Number 1 of 2023. It then connected the provision with rules concerning culpability, the capacity for criminal responsibility, excuses, evidence, procedural rights, and judgments. The resulting relationships among the provisions were assessed through the theory of evidence and the theory separating the criminal offense from criminal liability. Teleological interpretation was used to explain the purpose of the provision without expanding its wording or adding elements to the offense. Each conclusion was classified as an express statutory provision, a result of systematic interpretation, or a prescriptive formulation of this study.

The analysis proceeded in two stages. The first stage identified the elements and objective circumstances, the facts that must be proven, the attribution of conduct, the function of the evidence, the reference facts, and the falsity of the content. The second stage assessed knowledge of falsity as required by the Elucidation of Article 373 section (1) of Law Number 1 of 2023, volition to give the testimony, circumstantial facts, alternative explanations, the capacity for criminal responsibility, and excuses. The two-stage model was used to formulate a structure of judicial reasoning that distinguishes proof of the criminal offense from proof of criminal liability. The conclusions were formulated deductively by applying general legal provisions, theories, and concepts to the specific issues examined ([Irwansyah, 2020](#)).

RESULTS AND DISCUSSION

A. Proof of the Objective Elements of False Testimony under Oath

Proof must begin by identifying each element of Article 373 of Law Number 1 of 2023 and connecting it with the legal facts and evidence. The term evidentiary standards in this study does not refer to a new standard of proof or level of persuasion beyond the applicable statutory provisions. It refers to analytical criteria for connecting the statutory definition of the offense, legal facts, legally recognized evidence, and a conclusion that the elements have been proven through lawful evidence and to the court's conviction. The two-stage model constitutes an analytical framework governing the sequence of examination, while the evidentiary standards constitute the criteria applied to each element and circumstance assessed. Probative value depends on the relationship among the evidence, facts, elements, and legal conclusions ([Hiariej, 2012](#)). The public prosecutor must explain the function of each item of evidence. The judge subsequently assesses its authentication, lawfulness of acquisition, relevance, interrelationship with other evidence, and evidentiary weight. Article 6 section (2) of Law Number 48 of

2009 connects punishment with lawful means of proof and the court's conviction regarding culpability.

Article 373 section (1) of Law Number 1 of 2023 contains the legal subject, the circumstances in which the testimony is given, the conduct of giving testimony, the object in the form of false testimony, its oral or written form, and the manner in which it is given personally or through a special power of attorney. The element concerning the circumstances in which the testimony is given is formulated alternatively. These circumstances consist of a legal duty to give testimony under oath or the giving of testimony that produces legal consequences. Article 373 section (2) of the Law covers a solemn promise or solemn affirmation required by law or serving as a substitute for an oath. [Juanda \(2025\)](#) identifies this structure. The identification of the elements must be followed by a determination of the facts that must be proven, the normative source of each circumstance, and the function of the evidence for each element. This stage prevents an item of evidence from being used to support an element that has no relationship with the fact it proves.

The element of "Any Person" must be distinguished from the attribution of the conduct of giving testimony. Proof of the subject element establishes the defendant's identity as the person referred to in the indictment. Proof of the conduct determines the defendant's connection with the testimony in question ([Muhni et al., 2025](#)). Attribution of conduct must be determined based on the time, place, medium, position, and specific conduct of the defendant. [Rizal et al. \(2024\)](#) demonstrate the use of identity evidence, witness testimony, the defendant's testimony, and physical evidence in a case under Article 242 of the Old Penal Code. Article 242 was not part of the text of Law Number 1 of 1946. It was a provision of the Old Penal Code whose continued application was formerly affirmed through that Law. Evidentiary practices under the former provision are used only for illustration. The application of Article 373 of Law Number 1 of 2023 must follow the normative structure and criminal procedure in force since January 2, 2026.

A legal duty to give testimony under oath must be proven through the laws and regulations establishing that duty. The evidence must identify the person subject to the duty, the type of testimony that must be given under oath, and the forum in which the testimony is given. Article 210 section (12) of Law Number 20 of 2025 provides the basis for administering an oath or solemn promise to a witness or expert before testimony is given at trial. Article 211 of the Law regulates the evidentiary consequences for a witness or expert who refuses to take an oath without lawful grounds. The existence of an oath cannot be inferred solely from the fact that the testimony was given in official proceedings. Article 224 of the Law regulates the procedural treatment of suspected false witness testimony during

trial proceedings. This mechanism constitutes a procedural provision and is not an element of Article 373 of Law Number 1 of 2023.

The alternative circumstance of testimony that produces legal consequences requires a normative connection between the testimony and a consequence recognized by law. An effect on an official's assessment, a practical loss, or a social consequence does not satisfy this circumstance without a normative basis. [Latupeirissa et al. \(2023\)](#) and [Juanda \(2025\)](#) identify a legal duty or legal consequence as part of the structure of the offense. Neither study formulates criteria for distinguishing a legal consequence from a factual effect. In this study, testimony produces legal consequences when a legal provision treats it as a direct basis or a necessary component for creating, altering, confirming, extinguishing, or determining a legal status, right, obligation, authority, action, or decision. This list results from systematic interpretation and does not constitute an additional element of the offense. The assessment must identify the normative basis, functional relationship, and traceable connection between the testimony and the legal consequence.

An oath, solemn promise, and solemn affirmation must be proven as forms of declaration recognized by law. Article 373 section (2) of Law Number 1 of 2023 does not equate every private promise with an oath. The examination covers the legal basis, the authority of the person administering or receiving the oath, the wording and procedure for taking it, the time of its administration, and its relationship with the testimony given. The assessment must distinguish an oath that was never administered, an oath that was administered but incompletely documented, and an irregularity in the procedure for administering the oath. An official record cannot replace an oath that was never taken. Incomplete documentation does not by itself prove the absence of an oath. A procedural irregularity does not always negate the existence of the oath. Its legal consequence must be determined according to the nature of the irregularity, the purpose of the procedural provision, and the laws and regulations governing the administration of the oath.

Oral testimony, written testimony, and testimony given through a special power of attorney require different evidentiary methods. Oral testimony requires determination of the words spoken, the questions asked, the context of the answers, the time, and the documentation. Written testimony requires examination of the original document, its author, the time and purpose of its creation, approval of its content, and its modification history. When testimony is given through a special power of attorney, the examination must distinguish five circumstances: the person who prepared the information, the person who gave the instructions, the person who approved the content, the person who communicated the testimony, and the

person who knew of the falsity. A power of attorney proves only the relationship of authority. It does not by itself prove the source of all information, approval of the falsity, or the culpability of the authorized representative. The phrase “through a representative” regulates the manner in which the testimony is given and does not establish vicarious criminal liability. The application of Article 20 and Article 21 section (1) of Law Number 1 of 2023 requires the conduct and mental state of each party to satisfy the statutory form of perpetration, participation in an offense, or aiding the commission of an offense.

The portion of the testimony alleged in the indictment to be false must be identified as a clear factual assertion. The indictment and the evidentiary presentation must identify the sentence, answer, part of a document, data, or information considered inconsistent with the actual state of affairs. The examination must consider the wording of the question, the relevant time frame, the scope of the person’s knowledge, the context of the examination, and the terminology used by the person giving the testimony. Article 256 of Law Number 20 of 2025 supports traceability through the recording of material portions of testimony, discrepancies, corrections, and other circumstances related to the examination. An omission or ambiguity does not always constitute falsity. Objective falsity resulting from an omission requires that the omission alter the overall meaning of the testimony so that it conflicts with the actual state of affairs. [Latupeirissa et al. \(2023\)](#) examine the active giving of factually false testimony and the concealment of the truth. [Rizal et al. \(2024\)](#) demonstrate the application of the former provision. These sources are used only after distinguishing the provisions of the Old Penal Code from Article 373 of Law Number 1 of 2023.

Objective falsity can be determined only after the actual state of affairs has been established through evidence as the reference facts. A conflict between two testimonies does not identify which testimony is false. Article 213 of Law Number 20 of 2025 requires an examination of discrepancies between testimony given at trial and the official record. The discrepancies must be examined and their evidentiary weight assessed before they are used to formulate a conclusion. [Akbar et al. \(2025\)](#) describe reasoning that connects two different testimonies given under oath with a conclusion of falsity. Such reasoning remains insufficient without reference facts. [Sporer and Masip \(2023\)](#) show that inconsistencies or certain verbal cues are not always reliable indicators of deception. [Otgaar et al. \(2024\)](#) also demonstrate that the order in which information is examined may influence attention to particular evidence. These interdisciplinary studies support caution in assessment but do not establish legal standards. Reference facts must rest on verifiable sources that have a direct connection with the fact being proven, are independent, and are consistent with the evidence as a whole.

The functional classification of evidence must explain the facts and elements supported by each item of evidence. Article 235 of Law Number 20 of 2025 regulates the types of evidence, authentication, lawfulness of acquisition, and the judge's authority to assess evidence. Article 237 of the Law regulates the limits of witness testimony and its relationship with other evidence. Article 238 of the Law limits expert testimony to matters known within the expert's field of expertise. Article 240 of the Law regulates the status and evidentiary weight of the defendant's testimony. Recognition of several types of evidence does not mean that criminal procedure establishes a general hierarchy of evidentiary weight. The testimony of a single witness and the defendant's testimony, when used independently, are subject to specific limitations. These limitations cannot be extended into a rule that every element always requires two different types of evidence. [Rizal et al. \(2024\)](#) demonstrate the use of several types of evidence under the former provision. Under the current legal framework, the sufficiency of the evidence must be assessed through authentication, lawfulness of acquisition, relevance, the interrelationship among items of evidence, and the overall evidentiary weight of the combined evidence.

Authentication and the lawfulness of acquisition must be examined before electronic evidence is used to prove falsity. Article 242 of Law Number 20 of 2025 regulates electronic evidence related to a criminal offense. Article 5 and Article 6 of Law Number 11 of 2008 as most recently amended by Law Number 1 of 2024 provide the basis for the legal status of electronic information, electronic documents, and their printouts, as well as the examination of their accessibility, capacity to be displayed, integrity, and accountability. Depending on the type of evidence examined, the assessment may cover the identity of the creator, control over an account or device, data integrity, time, modification history, and the conformity of a copy with the source data. These factors do not constitute cumulative requirements for every type of electronic evidence. [Komalasari and Mustafa \(2023\)](#) explain the use of electronic signatures, timestamps, metadata, and information from service providers to verify identity and data integrity. [Oktana et al. \(2023\)](#) emphasize formal and substantive requirements. Their analysis remains based on criminal procedure preceding Law Number 20 of 2025. Expert testimony may explain technical matters. The interpretation of legal provisions and the determination that the elements have been satisfied remain within the judge's authority ([Butt & Nathaniel, 2024](#)).

The evidentiary standards for the objective elements formulated in this study result from prescriptive analysis and are not stated in full in a single provision. The public prosecutor must determine the legal circumstances governing the giving of testimony, the existence of an oath or a legally equivalent

form, the manner in which the testimony was given, the attribution of conduct, the portion of the testimony alleged in the indictment to be false, the reference facts, and the function and validity of the evidence. This sequence cannot be replaced by discrepancies between testimonies, a credibility assessment based solely on impressions of demeanor or the manner in which the testimony was given, or a determination based solely on the numerical quantity of evidence. Proof of the objective elements does not establish that the defendant knew of the falsity as required by the Elucidation of Article 373 section (1) of Law Number 1 of 2023. The theory separating the criminal offense from criminal liability also requires proof of the defendant's personal culpability, capacity for criminal responsibility, and relevant excuses (Huda, 2011).

B. Proof of Intent, Limits of Criminal Liability, and Judicial Reasoning

Proof of the objective circumstances is insufficient to justify punishment. Objective falsity shows that the testimony conflicts with the actual state of affairs. Punishment further requires proof of knowledge as specified in the Elucidation of Article 373 section (1) of Law Number 1 of 2023 and culpability that can be personally attributed to the defendant. Huda (2011) assigns distinct analytical functions to the criminal offense and criminal liability. Article 6 section (2) of Law Number 48 of 2009 also connects punishment with lawful means of proof, the court's conviction, the capacity for criminal responsibility, culpability, and the conduct charged. The assessment of criminal liability encompasses intent, the capacity for criminal responsibility, and the absence of an excuse.

The normative basis of intent is set out in Article 36 of Law Number 1 of 2023, Article 37 of the Law as amended by Law Number 1 of 2026, and the Elucidation of Article 373 section (1) of Law Number 1 of 2023. Article 36 of Law Number 1 of 2023 bases criminal liability on intent or negligence. Liability for negligence requires an express statutory provision. Article 373 of the Law does not provide for negligence. Its Elucidation requires the person giving the testimony to know of its falsity. After the amendment, Article 37 of the Law permits punishment without regard to culpability only under a specific statutory provision. Article 373 of the Law contains no such specific provision. Knowledge of falsity constitutes the principal normative requirement. Awareness of the meaning of the testimony and volition to give it provide the analytical basis for proving intent.

The classification of forms of intent must not reduce the knowledge requirement established in the Elucidation of Article 373 section (1) of Law Number 1 of 2023. Direct intent and intent based on certainty may satisfy the provision when the evidence establishes that the defendant knew of the falsity and nevertheless gave the testimony. Conditional intent (*dolus eventualis*) requires

stricter assessment. Awareness that information may be false is not equivalent to actual knowledge that the information is false. Under the prescriptive formulation of this study, awareness of a possibility may constitute only a circumstantial fact. Punishment still requires a chain of evidence proving that the defendant knew of the falsity when the testimony was given. The distinction between objective circumstances and mental states identified by [Sutopo and Panjaitan \(2025\)](#) supports this principle. The specific elements of corruption offenses examined in their study cannot be applied to Article 373 of Law Number 1 of 2023.

Proof of knowledge must identify the actual state of affairs known to the defendant when the testimony was given. Knowledge acquired only after the testimony was given does not prove the defendant's mental state at the time of the conduct. Knowledge may originate from direct experience, documents read or signed, communications, instructions, or the defendant's involvement in the relevant event. An official position, family relationship, contractual relationship, or access arising from an official position or legal relationship may constitute supporting facts. These circumstances do not by themselves prove knowledge. When testimony is given through a special power of attorney, the principal's knowledge must be distinguished from that of the authorized representative. [Juanda \(2025\)](#) emphasizes that the person giving the testimony must know it is false. The time, source, scope, and basis of knowledge must therefore be explained so that the conclusion does not rest solely on status or a legal relationship.

Actual knowledge is assessed by determining whether the defendant understood the meaning of the testimony and knew that it conflicted with the actual state of affairs. An assumption that the defendant should have known is not equivalent to the actual knowledge required for the application of Article 373 of Law Number 1 of 2023. A discrepancy between two testimonies also does not prove that the defendant was aware that one of them was false. [Akbar et al. \(2025\)](#) describe judicial reasoning that connects two different testimonies given under oath with intent. Such a conclusion requires reference facts and a basis of knowledge. The limitations of inconsistencies and verbal indicators identified by [Sporer and Masip \(2023\)](#) demonstrate that a mental state cannot be inferred solely from verbal cues, fluency, or the manner in which the testimony was given. Documents received by the defendant, prior communications, opportunities to make corrections, and explanations concerning the source of the information may be considered. Their assessment must also account for misunderstanding, limited knowledge, differences in context, or changes in circumstances.

Volition concerns the conduct of giving testimony that the defendant knows to be false. Article 373 of Law Number 1 of 2023 does not require a specific purpose to harm another person, obtain a benefit, or determine the outcome of a case. Such

a purpose may explain motive only. Repetition of the testimony, approval of a draft document, failure to correct the testimony despite an opportunity to do so, or conduct after the testimony was given constitutes circumstantial facts rather than a separate form of criminal conduct. These facts may be used only to the extent that they have a logical relationship with the defendant's knowledge or volition when the testimony was given. [Sutopo and Panjaitan \(2025\)](#) demonstrate the risk of erroneously inferring the mental element (*mens rea*) solely from objective consequences or procedural errors. The specific intent required for a corruption offense remains irrelevant to Article 373 of Law Number 1 of 2023.

A mental state is generally proven through a chain of circumstantial facts. Each fact forming the basis of an inference must be supported by legally recognized evidence and bear a rational relationship to knowledge or volition. The assessment must also consider conflicts among testimonies, inconsistencies among items of evidence, and alternative explanations. Alternative explanations include perceptual error, memory limitations, misunderstanding, limited knowledge, language barriers, communication impairments, and relevant changes in circumstances. [Hiariej \(2012\)](#) is used to assess the interrelationship among items of evidence. The method for inferring knowledge and volition in the application of Article 373 of Law Number 1 of 2023 constitutes a prescriptive formulation of this study. [Jainah et al. \(2023\)](#) demonstrate the existence of an economic interest in a case involving a false report of loss. Such an economic motive does not automatically prove intent. Communications, instructions, draft documents, and modification histories may be used after their lawfulness of acquisition, integrity, and attribution have been examined, as emphasized by [Oktana et al. \(2023\)](#) and [Komalasari and Mustafa \(2023\)](#). The risk arising from the order in which information is presented, as explained by [Otgaar et al. \(2024\)](#), also requires the judge not to use one item of evidence examined earlier as the basis for assessing all subsequent evidence.

Perceptual and memory errors are relevant only to testimony that depends on observing and recalling an event. These factors cannot be applied generally to testimony based on documents, administrative data, or a special power of attorney. [Otgaar et al. \(2023\)](#) show that suggestion and deception may produce omissions, false memories, and changes in belief. Memory distortion may occur before the testimony is given or after the deliberate creation of false testimony, a denial knowingly inconsistent with the actual state of affairs, or a deliberate assertion of an inability to remember despite continued knowledge of the information. [Glomb et al. \(2024\)](#) find that the effect of emotion on memory differs between conduct directly related to an event and details that do not directly concern the principal conduct. These findings do not determine the defendant's culpability. They establish the need to examine the type of fact, the passage of time, post-event information, and the chronology of the error before inferring knowledge of falsity.

Language and communication barriers must be assessed when oral testimony involves a language other than the speaker's first language, interpretation, technical questions, or unclear terminology. [Raver et al. \(2023\)](#) find no significant difference in accuracy and suggestibility among participants who use a language other than their first language. These participants displayed lower confidence and were assessed as less credible. The findings from investigative interviews with eyewitnesses cannot be applied generally to all languages, trial proceedings, written testimony, or testimony given through a special power of attorney. Their relevance is limited to demonstrating that lack of fluency, pauses when answering, and low confidence are not sole indicators of dishonesty. Article 142 letter f and Article 227 of Law Number 20 of 2025 provide the legal basis for the use of a translator or interpreter. The assessment of intent must examine the quality of the translation or interpretation, the form of the questions, legal terminology, documentation of the examination, and any possible alteration of meaning.

Emotion, pressure affecting cognitive processes, the capacity for criminal responsibility, and duress constitute different categories. Emotional effects are relevant to the assessment of the defendant's knowledge or the accuracy of memory but do not by themselves constitute an excuse. Pressure that prevents the defendant from understanding the facts may create doubt regarding intent. Article 42 of Law Number 1 of 2023 regulates duress in relation to a criminal offense that has been committed. An offender is not punished when subjected to force or pressure that cannot be resisted or avoided. Its application requires proof of the source and intensity of the pressure, its unavoidable nature, and its relationship with the conduct. [Glomb et al. \(2024\)](#) explain only the possible effect of emotion on memory and do not formulate the legal criteria for duress. Article 38 and Article 39 of Law Number 1 of 2023 regulate the legal consequences of mental or intellectual disabilities for sentence reduction, the imposition of measures, or the person's capacity to be punished. Absence of intent, incapacity for criminal responsibility, and duress must be distinguished because each has a different legal basis, object of proof, and legal consequence.

The defendant's testimony must be examined according to the limits of its evidentiary weight. Article 240 of Law Number 20 of 2025 regulates the status of the defendant's testimony given during and outside trial proceedings and its use against the defendant. The defendant's testimony is insufficient as the sole basis for proving culpability. A change in testimony must be examined according to the context, time, manner of examination, the defendant's explanation, and other evidence. Such a change does not automatically prove deception. [Rizal et al. \(2024\)](#) may be used only to illustrate the use of the defendant's testimony together with other evidence under the former provision. Article 142 letter b, letter e, and letter g, together with Article 225 of Law Number 20 of 2025, provide the basis

for assistance of legal counsel, the right to give or refuse to give testimony, legal assistance, and the examination procedure when the defendant refuses or fails to answer. The exercise of the right to remain silent, refusal to answer, consultation with legal counsel, or exercise of the right of defense cannot serve as the sole basis for or replace proof of knowledge and volition. Expert testimony may explain memory, language, cognitive conditions, or technical matters. The determination of culpability remains within the judge's authority ([Butt & Nathaniel, 2024](#)).

The analysis of judicial reasoning must distinguish statutory duties from the prescriptive model formulated in this study. Article 250 section (1) letter d, letter f, and letter h of Law Number 20 of 2025 require a judgment of conviction to contain clear and complete reasoning regarding the facts, circumstances, lawful means of proof, basis of culpability, applicable legal provisions, and a finding that all elements have been satisfied. Article 253 section (1) letter b of the Law requires a judgment of acquittal or a judgment of discharge from all legal charges to state its reasons and legal basis. Article 50 section (1) of Law Number 48 of 2009 requires a judgment to state its reasons, legal basis, and the applicable legal provisions. The prescriptive model formulated in this study connects the portion of the testimony alleged in the indictment to be false, the actual state of affairs, the basis for determining falsity, the evidence, the source of knowledge, the facts supporting a conclusion regarding volition, and the reasons for accepting or rejecting alternative explanations. [Minissale and Blix \(2025\)](#) are used to identify the risk of premature conclusion formation, not as a source of Indonesian legal standards. The principles of transparency, accountability, and consistency identified by [Irwan et al. \(2025\)](#) are applied through a traceable relationship between the evidence and the conclusion, clear reasons for assessing the evidence, and the application of the same criteria to evidence of the same type.

Criminal liability requires a proven relationship among the false testimony, the defendant's knowledge of the falsity, and the volition to give the testimony. Falsity resulting from error, limited knowledge, misunderstanding, or communication impairment cannot justify punishment when knowledge of the falsity has not been proven. Motive, inconsistencies, conduct during the proceedings, or the judge's assessment that the defendant's explanation lacks evidentiary support is also insufficient to serve as the sole basis for culpability. Article 244 section (2) of Law Number 20 of 2025 requires an acquittal when the charged offense has not been proven through lawful evidence and to the court's conviction. Failure to prove the knowledge or intent required for the application of Article 373 of Law Number 1 of 2023 therefore results in an acquittal. Article 244 section (3) of Law Number 20 of 2025 requires a judgment of discharge from all legal charges when the charged conduct has been proven but a ground precluding punishment exists.

CONCLUSIONS AND SUGGESTIONS

The evidentiary standards for the objective elements under Article 373 of Law Number 1 of 2023 must connect the statutory elements, legal facts, and the function of the evidence. The public prosecutor must prove the legal duty to give testimony under oath or the circumstance that the testimony produces legal consequences, the existence of an oath or a legally equivalent form, the manner in which the testimony was given, and the attribution of conduct. The portion of the testimony alleged in the indictment to be false must be compared with the actual state of affairs established through evidence that is legally recognized, authenticated, relevant, and lawfully acquired. A discrepancy between testimonies or inconsistency with one source does not by itself prove falsity. Testimony given through a special power of attorney does not establish vicarious criminal liability because the conduct, knowledge, volition, and culpability of each party must be attributed separately.

Objective falsity does not establish the defendant's culpability. Criminal liability requires actual knowledge of the falsity when the testimony was given and volition to give that testimony. Awareness that the testimony may be false constitutes only a circumstantial fact and does not replace proof of actual knowledge. Circumstantial facts may be used after they have been supported by legally recognized evidence, shown to bear a rational relationship to the mental state, and assessed together with alternative explanations. Motive, official position, access arising from a legal relationship, a change in testimony, silence, or an assessment that the defendant's explanation lacks evidentiary support is insufficient to serve as the sole basis for intent. The judge must explain the relationship among the portion of the testimony alleged in the indictment to be false, the actual state of affairs, falsity, knowledge, volition, and alternative explanations. Failure to prove knowledge or intent results in an acquittal. The existence of a ground precluding punishment after the conduct and culpability have been proven results in a judgment of discharge from all legal charges.

The limitation of normative legal research that does not employ a case approach concerns the absence of direct testing of the two-stage evidentiary framework against court judgments rendered after Law Number 1 of 2023 and Law Number 20 of 2025 entered into force. This limitation arises from the study's prospective nature and the absence of sufficiently developed judicial practice under the new legal regime. Further research should examine the application of this framework in court judgments, further define testimony that produces legal consequences, assess the limits of falsity in testimony that is partly true or incomplete, and examine the attribution of conduct and culpability in testimony given through a special power of attorney. Interdisciplinary studies of memory, perception, language, and communication may continue to be used to test factual explanations. Such studies cannot replace legal provisions or determine the defendant's culpability.

The Attorney General's Office of the Republic of Indonesia should develop an evidentiary matrix that classifies the elements, facts, evidence, sources of knowledge, and alternative explanations from the drafting of the indictment. The Supreme Court should consider preparing or revising internal guidelines on the structure of judicial reasoning. These guidelines should connect the evidence, facts, objective elements, intent, and grounds precluding punishment without adding statutory elements to the offense or diminishing judicial independence. Documentation of the oath, questions, answers, corrections, use of a translator or interpreter, objections raised by the parties, and authentication of electronic evidence must be traceable because each aspect directly forms part of the evidentiary model formulated in this study. The court judgment publication system should support the examination of the application of Article 373 through metadata, anonymization, and classification by statutory provision and evidentiary pattern.

REFERENCES

- The 1945 Constitution of the Republic of Indonesia. <https://dpr.go.id/dokumen/jdih/undang-undang-dasar>
- Akbar, M., Dewi, E., & Fardiansyah, A. I. (2025). Analisis Pertimbangan Hakim dalam Menjatuhkan Pidana Percobaan terhadap Pelaku tindak Pidana Pemberian Keterangan Palsu di Atas Sumpah (Studi Putusan Nomor: 1353/Pid.B/2017/PN.Tjk dan 23/Pid/2018/PT.Tjk). *Sentri: Jurnal Riset Ilmiah*, 4(10), 2892-2901. <https://doi.org/10.55681/sentri.v4i10.4692>
- Butt, S., & Nathaniel, A. (2024). Evidence from Criminal Law Experts in Indonesian Criminal Trials: Usurping the Judicial Function? *The International Journal of Evidence & Proof*, 28(2), 129-153. <https://doi.org/10.1177/13657127231217319>
- Glomb, K., Piotrowski, P., Gulla, B., Romanowska, I., & Mastek, M. (2024). How Emotions Shape Memory? The Moderating Effect of Healthy Emotionality on Eyewitness Testimony. *Frontiers in Psychology*, 15, 1406897. <https://doi.org/10.3389/fpsyg.2024.1406897>
- Hiariej, E. O. S. (2012). *Teori dan Hukum Pembuktian*. Erlangga.
- Huda, C. (2011). *Dari 'Tiada Pidana tanpa Kesalahan Menuju' kepada 'Tiada Pertanggungjawaban Pidana tanpa Kesalahan': Tinjauan Kritis terhadap Teori Pemisahan Tindak Pidana dan Pertanggungjawaban Pidana*. Kencana Prenada Media Group. <https://books.google.co.id/books?id=ofpDDwAAQBAJ>
- Irwan, M., Rahman, A., & Amaliyah, A. (2025). Judicial Law-Finding in the Criminal Justice System: Harmonizing Legal Certainty and Substantive Justice. *SIGn Jurnal Hukum*, 7(2), 647-663. <https://doi.org/10.37276/sjh.v7i2.502>
- Irwansyah. (2020). *Penelitian Hukum: Pilihan Metode & Praktik Penulisan Artikel*. Mirra Buana Media.

- Jainah, Z. O., Hasan, Z., & Triyadi, G. W. (2023). Tinjauan Yuridis Tindak Pidana Terhadap Terdakwa Memberikan Keterangan Palsu Demi Kepentingan Diri. *Justicia Sains: Jurnal Ilmu Hukum*, 8(1), 67-77. <https://doi.org/10.24967/jcs.v8i1.2326>
- Juanda, E. (2025). Mencoba Memahami Tindak Pidana Keterangan Palsu di Atas Sumpah Berdasarkan Ketentuan Pasal 373 Undang-Undang Republik Indonesia Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana. *Jurnal Ilmiah Galuh Justisi*, 13(1), 193-212. Retrieved from <https://jurnal.unigal.ac.id/galuhjustisi/article/view/18159>
- Komalasari, R., & Mustafa, C. (2023). Electronic Evidence in the Healthy Justice System: Reimagined. *Jurnal Hukum dan Peradilan*, 12(3), 547-580. <https://doi.org/10.25216/jhp.12.3.2023.547-580>
- Latupeirissa, C. M., Hehanussa, D. J. A., & Latupeirissa, J. E. (2023). Kajian Yuridis Kesaksian Palsu dalam Pembuktian Tindak Pidana. *Sanisa: Jurnal Kreativitas Mahasiswa Hukum*, 3(2), 80-88. <https://doi.org/10.47268/sanisa.v3i2.1891>
- Law of the Republic of Indonesia Number 1 of 1946 on the Penal Code Regulations. <https://dpr.go.id/dokumen/jdih/undang-undang/detail/814>
- Law of the Republic of Indonesia Number 11 of 2008 on Electronic Information and Transactions (State Gazette of the Republic of Indonesia of 2008 Number 58, Supplement to the State Gazette of the Republic of Indonesia Number 4843). <https://dpr.go.id/dokumen/jdih/undang-undang/detail/138>
- Law of the Republic of Indonesia Number 48 of 2009 on the Judicial Power (State Gazette of the Republic of Indonesia of 2009 Number 157, Supplement to the State Gazette of the Republic of Indonesia Number 5076). <https://dpr.go.id/dokumen/jdih/undang-undang/detail/585>
- Law of the Republic of Indonesia Number 19 of 2016 on Amendment to Law Number 11 of 2008 on Electronic Information and Transactions (State Gazette of the Republic of Indonesia of 2016 Number 251, Supplement to the State Gazette of the Republic of Indonesia Number 5952). <https://dpr.go.id/dokumen/jdih/undang-undang/detail/1683>
- Law of the Republic of Indonesia Number 1 of 2023 on the Penal Code (State Gazette of the Republic of Indonesia of 2023 Number 1, Supplement to the State Gazette of the Republic of Indonesia Number 6842). <https://dpr.go.id/dokumen/jdih/undang-undang/detail/1818>
- Law of the Republic of Indonesia Number 1 of 2024 on the Second Amendment to Law Number 11 of 2008 on Electronic Information and Transactions (State Gazette of the Republic of Indonesia of 2024 Number 1, Supplement to the State Gazette of the Republic of Indonesia Number 6905). <https://dpr.go.id/dokumen/jdih/undang-undang/detail/1842>

- Law of the Republic of Indonesia Number 20 of 2025 on the Criminal Procedure Code (State Gazette of the Republic of Indonesia of 2025 Number 188, Supplement to the State Gazette of the Republic of Indonesia Number 7149). <https://dpr.go.id/dokumen/jdih/undang-undang/detail/2011>
- Law of the Republic of Indonesia Number 1 of 2026 on Penal Adjustment (State Gazette of the Republic of Indonesia of 2026 Number 1, Supplement to the State Gazette of the Republic of Indonesia Number 7153). <https://dpr.go.id/dokumen/jdih/undang-undang/detail/2012>
- Minissale, A., & Blix, S. B. (2025). Beyond a Reasonable Doubt: The Emotive-Cognitive Evaluation of Intent and Credibility. *International Journal of Law in Context*, 21(4), 691-710. <https://doi.org/10.1017/S174455232510013X>
- Muhni, A., Basri, M., Rivanie, S. S., Iskandar, I., Muin, A. M., & Mirzana, H. A. (2025). Integration of Anti-SLAPP in the Reform of the Indonesian Criminal Procedure Code in an Effort to Protect Human Rights. *SIGn Jurnal Hukum*, 7(1), 437-453. <https://doi.org/10.37276/sjh.v7i1.485>
- Oktana, R., Akub, S., & Maskun, M. (2023). Social Media in the Process of Evidence of Electronic Information and Transaction Crimes. *SIGn Jurnal Hukum*, 4(2), 320-331. <https://doi.org/10.37276/sjh.v4i2.252>
- Otgaar, H., Beuf, T. L. F. D., Sauerland, M., & Schincariol, A. (2024). Evaluating the Validity of Testimony: The Role of the Order of Evidence. *Forensic Science International: Synergy*, 9, 100562. <https://doi.org/10.1016/j.fsisyn.2024.100562>
- Otgaar, H., Mangiulli, I., Battista, F., & Howe, M. L. (2023). External and Internal Influences Yield Similar Memory Effects: The Role of Deception and Suggestion. *Frontiers in Psychology*, 14, 1081528. <https://doi.org/10.3389/fpsyg.2023.1081528>
- Qamar, N., & Rezah, F. S. (2020). *Metode Penelitian Hukum: Doktrinal dan Non-Doktrinal*. CV. Social Politic Genius (SIGn). <https://books.google.co.id/books?id=TAQHEAAAQBAJ>
- Raver, A., Lindholm, T., Gustafsson, P. U., & Alm, C. (2023). Memory Accuracy, Suggestibility and Credibility in Investigative Interviews with Native and Non-Native Eyewitnesses. *Frontiers in Psychology*, 14, 1240822. <https://doi.org/10.3389/fpsyg.2023.1240822>
- Rizal, M. U., Supeno, S., & Razi, F. (2024). Analisis Yuridis Putusan Hakim Pengadilan Negeri Lubuk Linggau Terhadap Pelaku Tindak Pidana Sumpah Palsu (Studi Putusan Nomor 464/Pid.B/2023/PN.Llg). *Legalitas: Jurnal Hukum*, 16(2), 211-215. <https://doi.org/10.33087/legalitas.v16i2.784>
- Sampara, S., & Husen, L. O. (2016). *Metode Penelitian Hukum*. Kretakupa Print.
- Sporer, S. L., & Masip, J. (2023). Millennia of Legal Content Criteria of Lies and Truths: Wisdom or Common-Sense Folly? *Frontiers in Psychology*, 14, 1219995. <https://doi.org/10.3389/fpsyg.2023.1219995>

Sutopo, R. B. P., & Panjaitan, H. (2025). A Juridical Demarcation: Reconstructing the Proof of Mens Rea to Differentiate Policy and Corruption by Public Officials. *SIGn Jurnal Hukum*, 7(2), 765-784. <https://doi.org/10.37276/sjh.v7i2.525>