

PENERAPAN *EXCLUSIONARY RULES OF EVIDENCE* DI INDONESIA (PERBANDINGAN *EXCLUSIONARY RULES* AMERIKA SERIKAT)

ABSTRAK

Prinsip *Exclusionary Rules of Evidence* lahir pertama kali berasal dari negara Amerika Serikat yang bermula dari doktrin *Fruit From The Poisonous Tree* atau alat bukti yang diperoleh secara ilegal tidak dapat digunakan di dalam persidangan. Prinsip ini pertama kali digunakan negara Amerika Serikat pada kasus *Mapp v. Ohio* tahun 1961, sedangkan di Indonesia baru mengatur prinsip ini di dalam KUHAP Nomor 20 Tahun 2025. Penelitian ini menggunakan jenis penelitian yuridis normatif, dalam penelitian ini menggunakan pendekatan perundang-undangan, pendekatan konseptual, dan pendekatan perbandingan. Hasil pada penelitian ini menjelaskan bahwa pengaturan yang digunakan di Indonesia baru saja disahkan dalam KUHAP Nomor 20 Tahun 2025 Pasal 235 ayat 3 dan ayat 5, sedangkan pengaturan di Amerika sudah diatur sangat ketat yang diatur di dalam Pasal 401, Pasal 402, dan Pasal 403 *Federal Rules of Evidence*. Dalam penerapan prinsip *Exclusionary Rules of Evidence* di Indonesia diterapkan di dalam Putusan Mahkamah Agung No. 1531 K/Pid. Sus/2010 yang memperoleh alat bukti dengan kekerasan, merekayasa alat bukti, pemerasan, dan polisi sebagai saksi verbalisan. Sedangkan di Amerika Serikat diterapkan di dalam kasus *Mapp v. Ohio* tahun 1961 karena penggeledahan yang tidak terdapat surat perintah yang sah, selain itu penegak hukum melanggar hak konstitusi pada Amandemen Keempat dan Amandemen Keempat Belas.

Kata Kunci: *Exclusionary Rules of Evidence*, KUHAP 2025, dan Hukum Pembuktian

**IMPLEMENTATION OF EXCLUSIONARY RULES OF EVIDENCE IN
INDONESIA (COMPARISON WITH EXCLUSIONARY RULES IN THE
UNITED STATES)**

ABSTRACT

The Exclusionary Rules of Evidence originated in the United States and are based on the doctrine of Fruit of the Poisonous Tree, which holds that evidence obtained illegally cannot be used in court. This principle was first used by the United States in the case of Mapp v. Ohio in 1961, While in Indonesian, this principle has only been regulated in the Criminal Procedure Code Number 20 of 2025. This study uses a normative juridical research type, using a statutory approach, a conceptual approach, and a comparative approach. The results of this study explain that the regulations used in Indonesia have just been ratified in the Criminal Procedure Code Number 20 of 2025 Article 235 paragraph 3 and paragraph 5, while the regulations in America have been regulated very strictly, as are regulated in Articles 401, 402, and 403 of the Federal Rules of Evidence. In the application of the principle of Exclusionary Rules of Evidence in Indonesia, it is applied in the Supreme Court Decision No. 1531 K / Pid. Sus/2010, which involves obtaining evidence through violence, fabricating evidence, blackmail, and using police as verbal witnesses. Meanwhile, in the United States, it was applied in the 1961 case of Mapp v. Ohio because the search was conducted without a valid warrant, and law enforcement violated constitutional rights under the Fourth and Fourteenth Amendments.

Keywords: *Exclusionary Rules of Evidence, Criminal Procedure Code 2025, and Evidence Law*