

## The role of Forensic Autopsy (Visum et Repertum) as evidence in establishing homicide within the Indonesian Criminal Justice System

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### Abstract

Forensic autopsy is one of the important instruments in proving crimes that result in death, especially murder. In the Indonesian criminal justice system, autopsy holds a strategic position as part of expert testimony and documentary evidence as regulated in the Criminal Procedure Code. However, in practice, the implementation of autopsies often faces obstacles, particularly due to the refusal of the victim's family and the limited number of forensic experts. This research aims to analyze the juridical position of forensic autopsy as evidence in murder cases and to examine the obstacles to its implementation in the criminal justice process. The research method used is normative legal research with a legislative approach and a conceptual approach. The research results indicate that forensic autopsy has significant evidentiary power in revealing the cause of death objectively and scientifically, but its implementation still faces normative and sociological obstacles that could potentially weaken the evidentiary process in court. Therefore, it is necessary to strengthen regulations and enhance public understanding of the urgency of autopsies in the enforcement of criminal law.

**Keywords:** Forensic autopsy, visum et repertum, criminal evidence, murder, criminal procedure

### Introduction

Proof is a crucial stage in the criminal justice process because it serves to uncover the material truth regarding a criminal act. In murder cases, proving the cause of the victim's death becomes an important element that must be scientifically and legally established <sup>[1]</sup>. One of the instruments used in that proof is a forensic autopsy, the results of which are documented in the form of a Visum et Repertum.

Forensic autopsy plays an important role in objectively revealing the cause, manner, and time of the victim's death. The position of autopsy in the criminal justice system in Indonesia is regulated by the provisions of criminal procedural law, which grant investigators the authority to request a medical examination of the deceased for the purpose of criminal case evidence <sup>[2]</sup>.

However, in practice, the implementation of autopsies often faces obstacles, particularly in the form of refusals from the victim's family due to social, cultural, or religious reasons. This condition can create difficulties for law enforcement in obtaining strong evidence and potentially hinder the search for material truth in murder cases. This issue indicates the need for an in-depth examination of the position of forensic autopsy as evidence in the Indonesian criminal justice system.

The issue raised in this writing is: what is the position of forensic autopsy as evidence in proving murder in the Indonesian criminal justice system? and purpose of writing this research aims to analyzing the position of forensic autopsy as evidence in murder cases.

### Research Method

This research uses a normative legal research method (doctrinal) with the approach:

1. **Statute Approach:** Conducted by examining the legal provisions related to forensic autopsy in criminal procedural law.
2. **Conceptual Approach:** Conducted by analyzing the concept of criminal proof and the position of expert testimony in the criminal justice system <sup>[3]</sup>.

Legal materials are obtained thru: legislation legal literature scientific journals documents related to forensic medicine.

### Conceptual Framework

#### a. The Concept of Proof in Criminal Procedure

Proof in criminal procedural law is the core of the criminal justice process because it serves to uncover material truth. Unlike civil procedural law, which is oriented toward formal truth, criminal procedural law requires judges to find the actual truth regarding whether a crime has truly occurred and whether the defendant is the perpetrator <sup>[4]</sup>.

Conceptually, proof in criminal procedural law can be understood as the process of using legally valid evidence to obtain the judge's conviction regarding the occurrence of a crime and the defendant's guilt. In the Indonesian criminal procedural law system, evidence is regulated in Article 183 of the Criminal Procedure Code (KUHAP), which states that a judge may not impose a sentence on someone unless, with at least two valid pieces of evidence, they are convinced that a crime has truly occurred and that the defendant is the one who committed it <sup>[5]</sup>.

The provision indicates that the evidentiary system used in Indonesian criminal procedural law is negative proof system according to the law (negatief wettelijk bewijstheorie) this system contains two important elements:

1. the existence of valid evidence according to the law;
2. the existence of the judge's conviction.

Thus, evidence alone is not sufficient without the judge's conviction, and the judge's conviction alone is also not sufficient without valid evidence. As for the valid evidence according to Article 184 of the Criminal Procedure Code, they are:

witness statement, expert testimony, letter, indication, defendant's statement.

In the context of a murder case, proving the cause of the victim's death is a very important element because it is directly related to proving the element of taking another person's life as regulated in the provisions of murder law. Therefore, objective scientific evidence is required, one of which is thru forensic medical examination presented in the form of visum et repertum.

Thus, conceptually, evidence in criminal procedural law does not only rely on conventional evidence such as witnesses, but also requires a scientific approach thru forensic expert testimony to strengthen the construction of criminal case evidence.

### **b. The Concept of Visum et Repertum in the Criminal Evidence System**

Visum et repertum is one of the important instruments in proving criminal cases related to the human body, whether in a living or deceased state. Terminologically, visum et repertum comes from Latin: visum: something that is seen repertum something that is found<sup>[6]</sup>.

Thus, visum et repertum can be interpreted as a written report made by a doctor based on the results of a medical examination of the victim for the purposes of judicial proceedings.

Legally, the legal basis for Visum et Repertum is regulated in Article 133 of the Criminal Procedure Code, which grants investigators the authority to request testimony from forensic medical experts if necessary for the purpose of criminal case evidence.

In the practice of criminal procedural law, Visum et Repertum has a dual role as:

- 1. Letter as Evidence:** Visum et Repertum is an official document created by a doctor at the request of an investigator for judicial purposes, thus falling into the category of documentary evidence as referred to in Article 184 of the Criminal Procedure Code (KUHAP).
- 2. Expert Testimony:** Beside serving as a written piece of evidence, Visum et Repertum also reflects the professional opinion of a doctor as a forensic medicine expert, thus holding value as expert testimony<sup>[7]</sup>.

This dual position makes visum et repertum a very strategic piece of evidence in criminal case proceedings, especially in cases related to murder, assault, fatal accident, sexual violence, unnatural death.

In murder cases, the visum et repertum serves to explain scientifically:

cause of death of the victim mechanism of death time of death type of injuries sustained by the victim possible weapon used by the perpetrator.

Thus, visum et repertum becomes an important instrument in helping judges gain confidence in the elements of the alleged crime charged against the defendant.

### **c. The Concept of Forensic Autopsy in the Criminal Justice System**

Forensic autopsy is a part of forensic medicine that plays an important role in the process of proving criminal cases

related to someone's death. Conceptually, a forensic autopsy is a medical examination of a corpse conducted systematically and scientifically to determine: cause of death, manner of death, time of death, victim's identity (if not yet known), possible involvement of other parties. Forensic autopsies are not conducted solely for medical purposes, but rather for the interests of the criminal justice process in order to uncover the material truth. In the Indonesian criminal procedural law system, forensic autopsy has a legal basis in:

Article 133 of the Criminal Procedure Code

Article 134 of the Criminal Procedure Code

The provision grants investigators the authority to request an autopsy if there is suspicion of a criminal act causing death. Scientifically and legally, forensic autopsy has several important functions in proving criminal cases, namely:

- 1. Determining the cause of death:** autopsy helps determine whether the death was caused by: murder suicide accident natural causes.
- 2. Determining the cause of death:** an autopsy can explain whether the death occurred in the following ways: mechanical chemical biological combination of several factors.
- 3. Determining time of death:** determining the time of death is important for: reconstruction of a criminal event determining the perpetrator's alibi determining the chronology of the incident.
- 4. Supporting the reconstruction of a criminal event:** autopsies help investigators understand the relationship between: victim perpetrator the tool used the location of the incident<sup>[8]</sup>.

In the context of modern criminal evidence, forensic autopsy is part of the scientific crime investigation approach, which is a science-based evidentiary approach to enhance the objectivity of the criminal justice process.

## **Results and Discussion**

### **a. The Position of Forensic Autopsy as Evidence in the Criminal Procedure Law System**

Proof is the most decisive stage in the criminal justice process because it is directly related to achieving material truth, which is the main objective of criminal procedural law. In murder cases, proving the cause of the victim's death is an essential element that must be scientifically and legally substantiated so that the judge can gain confidence in the defendant's guilt as referred to in Article 183 of the Criminal Procedure Code<sup>[9]</sup>.

In that context, forensic autopsy holds a very strategic position because it serves to objectively reveal the cause of the victim's death. Forensic autopsy is part of forensic medical examination conducted on the corpse to obtain scientific information regarding the cause, manner, and time of the victim's death. The examination is then documented in the form of a visum et repertum, which becomes one of the important instruments in the process of proving a criminal case<sup>[10]</sup>.

Normatively, the implementation of forensic autopsy has a legal basis in Article 133 of the Criminal Procedure Code (KUHAP), which grants investigators the authority to

request testimony from forensic medical experts if necessary for the purpose of proving a criminal case. This provision indicates that forensic autopsy is part of the legitimate evidentiary mechanism within the Indonesian criminal justice system.

In the perspective of legal evidence, the results of an autopsy presented in *Visum et Repertum* hold a position as a scientific piece of evidence because it is compiled based on objective forensic medical methods that can be academically justified. Therefore, *visum et repertum* has a very important evidentiary value in assisting law enforcement officers in uncovering medical facts related to the crime of murder.

Furthermore, the position of *visum et repertum* in the criminal procedural evidence system also has special characteristics because it can be categorized as both a documentary evidence and an expert testimony as regulated in Article 184 of the Criminal Procedure Code (KUHAP) <sup>[11]</sup>. As a documentary evidence, *visum et repertum* is an official document created by a doctor at the request of an investigator for the purpose of judicial proceedings. Meanwhile, as an expert testimony, *Visum et Repertum* reflects the professional opinion of a forensic doctor regarding the medical condition of the victim related to the criminal incident that occurred.

That dual position makes forensic autopsy one of the evidentiary tools with strategic value in proving murder cases, especially in explaining the element of taking another person's life as regulated in the provisions of the murder offense in the Criminal Code. In murder cases, the presence of a forensic autopsy is crucial to determine whether the victim's death was truly caused by the perpetrator's actions or by other factors such as disease, accident, or suicide <sup>[12]</sup>.

Furthermore, forensic autopsies also play an important role in helping judges gain confidence in medical facts that cannot be explained thru other forms of evidence such as witness testimony. This is because witness testimony in many murder cases is often limited and unable to explain the exact mechanism of the victim's death. Therefore, forensic autopsy becomes a scientific proof instrument that complements other pieces of evidence in the criminal procedural law evidence system.

Thus, forensic autopsy holds a very important position in the murder case evidence system because it serves as a scientific piece of evidence that can assist law enforcement in uncovering the material truth objectively and accurately.

#### **b. The Role of Forensic Autopsy in Proving Elements of Homicide in the Criminal Justice Process**

In murder cases, proving the element of taking another person's life is the most determining factor in the criminal justice process. This element cannot be proven solely thru witness testimonies or the defendant's statements, but requires scientific evidence thru forensic medical examinations.

Forensic autopsy plays an important role in precisely determining the cause of the victim's death. Thru forensic autopsy, doctors can explain whether the victim's death was caused by physical violence, poisoning, sharp wounds, gunshot wounds, or other causes. Determining the cause of death is very important in proving the causal relationship between the perpetrator's actions and the victim's death <sup>[13]</sup>.

In addition to determining the cause of death, forensic autopsy also serves to determine the mechanism of the victim's death. The mechanism of death is a physiological

process that causes the cessation of vital organ functions in the human body. Information regarding the mechanism of death is essential to clarify how a criminal act causes the victim's death.

Forensic autopsy also plays an important role in determining the time of death of the victim. Determining the time of death is an important part of the criminal event reconstruction process because it relates to proving the chronology of events and the possible involvement of the perpetrator in the crime that occurred. In many murder cases, determining the time of the victim's death becomes one of the key factors in testing the truth of the defendant's alibi.

In addition, forensic autopsies also serve to identify the types of injuries sustained by the victim and the tools that may have been used by the perpetrator in committing the crime. This information is very important in the investigation process as it can help law enforcement direct their inquiry toward the perpetrator of the crime.

In the perspective of the modern criminal justice system, forensic autopsy is part of the scientific investigation approach aimed at enhancing the objectivity of the criminal case proof process. The science-based proof approach is becoming increasingly important in the development of modern criminal procedural law because it can minimize errors in the criminal case proof process.

Furthermore, forensic autopsy also plays an important role in preventing errors in the judge's verdict. Without a forensic autopsy, judges may face difficulties in precisely determining the cause of the victim's death, which can lead to legal uncertainties in the criminal justice process.

Thus, forensic autopsy not only serves as an investigative aid but also as an important instrument in scientifically, objectively, and accurately proving the elements of the crime of murder, thereby supporting the achievement of the goals of criminal procedural law, which are to uncover the material truth and realize justice.

#### **Conclusion**

Based on the discussion regarding the position of forensic autopsy as evidence in the criminal procedural law system and the role of forensic autopsy in proving the elements of the crime of murder, several conclusions can be drawn as follows:

1. Forensic autopsy holds a very important position in the criminal procedural law evidence system in Indonesia because it is a scientific proof instrument used to objectively reveal the cause of the victim's death and can be legally accountable. The results of the autopsy, presented in the form of *Visum et Repertum*, hold the position of both a documentary evidence and an expert testimony as regulated in Article 184 of the Indonesian Criminal Procedure Code (KUHAP), thus having strategic value in assisting the judge in gaining conviction regarding the occurrence of a murder.
2. Forensic autopsy plays a very important role in proving the element of "taking another person's life" as the main element in the crime of murder. Thru forensic autopsy, the cause of death, mechanism of death, time of death, and type of injuries sustained by the victim can all be scientifically determined, which are all important parts of the process of reconstructing the criminal event and proving the causal relationship between the perpetrator's actions and the victim's death.

3. The existence of forensic autopsy in the process of proving murder cases is part of the scientific crime investigation approach, which serves to strengthen the objectivity of the criminal justice process and minimize the possibility of errors in the judge's ruling. Therefore, forensic autopsy is an important instrument in achieving the goals of criminal procedural law, namely finding the material truth accurately and fairly.
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Based on that conclusion, several recommendations can be formulated as follows:

1. There is a need to strengthen the normative regulations regarding the position and implementation of forensic autopsies in cases of death suspected to be caused by criminal acts, thereby providing clearer legal certainty for investigators in conducting autopsies as part of the criminal case evidence process.
2. Law enforcement officials need to optimize the use of forensic autopsies as a scientific proof instrument in murder cases to strengthen the evidentiary construction against the elements of the criminal offense charged against the perpetrator.
3. Improved coordination between investigators and forensic medical personnel is needed in the implementation of autopsies to ensure that the process of examining corpses can be carried out quickly, professionally, and in accordance with scientific standards and applicable legal provisions.
4. It is necessary to enhance public understanding of the importance of forensic autopsies in the criminal justice process thru socialization and legal education activities, so as to minimize the occurrence of autopsy refusals by the victims' families, which could potentially hinder the criminal case evidence process.

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