



The Role of Forensic Medicine in Disclosing Premeditated Killers (Study of Decision No. 116/Pid.B/2019/PN.Bms)

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Abstract

Forensic medical science is a science that is used for legal purposes by providing scientific evidence that can be used in solving crimes, especially the crime of murder. This science studies the cause of death, identification, state of post-mortem corpses. This study will discuss the role of forensic medicine in uncovering the crime of premeditated murder in case no. 116/Pid.B/2019/PN.Bms. The research method used is normative juridical, which is carried out through a literature study that examines secondary data in legislation and other legal documents, research results, assessment results, other references and is equipped with interviews. This study concludes that forensic medicine plays an essential role in investigating the crime of premeditated murder in case no. 116/Pid.B/2019/PN.Bms because of the need to identify corpses that have become bones and charred, so how important it is that forensic medicine is poured into evidence in the letter category in the form of *Visum et Repertum*, which by police investigators is under Article 133 of the Criminal Procedure Code to be used as legal evidence in uncovering and seeking the material truth of a criminal act that occurred. Suggestions in this study include providing education to the public regarding the treatment of evidence and the crime scene to change the disclosure of cases.

Keywords: Classification, Inheritance Certificate, Discrimination

Abstrak

Ilmu kedokteran forensik adalah ilmu yang digunakan untuk keperluan hukum dengan memberikan bukti ilmiah yang dapat digunakan dalam memecahkan kejahatan khususnya kejahatan tindak pidana pembunuhan. Ilmu ini mempelajari sebab kematian, identifikasi, keadaan mayat postmortem. Penelitian ini akan membahas terkait peran ilmu kedokteran forensik dalam mengungkap tindak pidana pembunuhan berencana pada perkara No. 116/Pid.B/2019/PN.Bms. Metode penelitian yang digunakan adalah yuridis normatif yaitu dilakukan melalui studi pustaka yang menelaah data sekunder berupa peraturan perundang-undangan dan dokumen hukum lainnya, hasil penelitian, hasil pengkajian, referensi lainnya serta dilengkapi dengan wawancara. Penelitian ini menghasilkan kesimpulan bahwa ilmu kedokteran forensik sangat berperan penting dalam proses penyidikan pada tindak pidana pembunuhan berencana pada perkara No. 116/Pid.B/2019/PN.Bms karena perlunya identifikasi mayat yang sudah menjadi tulang belulang dan hangus terbakar sehingga betapa pentingnya ilmu kedokteran forensik yang dituangkan ke dalam alat bukti kategori surat berupa *Visum et Repertum* yang oleh penyidik kepolisian sesuai dengan Pasal 133 KUHP untuk dijadikan sebagai alat bukti yang sah dalam mengungkap dan mencari kebenaran materiil suatu tindak pidana yang terjadi. Saran dalam penelitian ini, yaitu memberikan edukasi kepada masyarakat terkait perlakuan terhadap barang bukti dan Tempat Kejadian Perkara (TKP) sehingga dapat mengubah pengungkapan perkara.

Kata Kunci : Kedokteran Forensik, Pembunuhan Berencana

I. Introduction

Forensic Medicine or Judicial Medicine is a medical science applied for the benefit of the judiciary. This science studies the cause of death, identification, post-mortem conditions,

injuries, rape, and examination of bloodstains. In resolving criminal cases involving the body, health, and human life, such as murder cases, Forensic Medicine is indispensable. Forensic specialists have a vital role in proving criminal cases related to the human body or soul in finding material truth in criminal cases, helping law enforcement officers uncover a criminal act.¹

The fields of law and medicine cannot be separated in the context of proving someone's guilt. Seeing the growing expertise of criminals who can hide their crimes in public, there is a need for the role of doctors who have their expertise in helping to reveal the mystery of the state of evidence that can be in the form of a human body or soul, especially in the case of making a *Visum et Repertum* as well as an expert witness at trial.

From the problem of the case that occurred in Banyumas, as stated in the decision with Case Number 116/Pid.B/2019/PN Bms. The identification process carried out by investigators is challenging to identify victims, especially those who have been burned and become bones, both regarding gender, estimated age, causes of injuries, and death; therefore, the role of forensic specialists are needed to identify victims, suspects, and evidence in the field. The crime scene will show who is at fault and the achievement of justice. Once a forensic expert identifies the victim, it is easier for the police to track down the perpetrator.

II. Research Methods

The method in this research is using the normative juridical method. The normative juridical method is carried out through a literature study that examines mainly secondary data in the form of legislation, court decisions, agreements, or other legal documents, research results, study results, other references and is equipped with interviews.² This research is descriptive in nature. That is, it provides an overview of the role of forensic medicine in uncovering premeditated murder in case no. 116/Pid.B/2019/PN.Bms.

In this paper, the author will use secondary data sources. Secondary data is data obtained from the literature by conducting a literature study, namely, documents, archives, and literature by studying theoretical matters, concepts, views, and legal principles related to the subject matter. Legal writing and knowledge consist of primary legal materials, secondary legal materials, and tertiary legal materials. The data in this study were obtained through Library Research. This library research was conducted to obtain secondary data, including primary, secondary, and tertiary legal materials, by going through a series of reading, recording, and citing books and using data or information and explanations through requests for data from relevant agencies based on research objectives. Methods are arranged systematically, logically, and rationally. In this case, the analysis used is qualitative data analysis, namely data that cannot be measured or assessed with numbers directly. Thus, after the primary data and secondary data in the form of documents are obtained wholly, then they are analyzed with regulations relating to the problem under study

III. Research Results And Discussion

1. Forensic Medicine as Auxiliary Science in Law Enforcement Process

Criminalism, or the science of crime investigation, is an experiential knowledge that collects data from all kinds of events or occurrences, the methods used by criminals, customs, and motives in committing crimes. Not only determining, but criminalism also plays a role in answering an action taken by the perpetrator; this is where investigators use criminalistic

¹ Triana Ohoiwutun, *Ilmu Kedokteran Forensik: Interaksi dan Dependensi Hukum Pada Ilmu Kedokteran* (Yogyakarta: Pohon Cahaya, 2016), 13.

² Johny Ibrahim, *Teori dan Metode Penelitian Hukum Normatif* (Malang: Banyumedia, 2011), 295.

science in investigations. In supporting the enforcement of criminal procedural law, criminals also receive assistance from the findings of science known as Forensic Science.³

Forensic medicine, also known as Judicial Medicine (*Gerechtelijke Geneeskunde*), Medical Jurisprudence, or Legal Medicine⁴, is one of the specialized branches of Medical Science for the benefit of law enforcement and justice. Apart from being a specialist branch of Medical Science, forensic medicine is also a part of forensic science to uphold justice and truth for human welfare. Even Forensic Medicine is often referred to as "The Mother of Forensic Science," considering its very prominent role among the existing forensic sciences to assist the criminal justice process. This science studies the cause of death, identification, post-mortem conditions, injuries, rape, and examination of bloodstains. In resolving criminal cases involving the body, health, and human life, such as murder cases, Forensic Medicine is indispensable. Forensic specialists have a significant role in proving criminal cases related to the human body or soul in finding material truth in criminal cases, helping law enforcement officers uncover a criminal act.⁵ The fields of law and medicine cannot be separated in the context of proving someone's guilt. Seeing the growing expertise of criminals who can hide their crimes in public, there is a need for the role of doctors who have their expertise in helping to reveal the mystery of the state of evidence that can be in the form of a human body or soul, especially in the case of making a *Visum et Repertum* as well as an expert witness at trial.

Forensic medicine, in an investigation in the sense that the doctor's assistance with the knowledge he has, is a significant contribution in the investigation for realizing the goal itself, namely to make a case clear and straightforward. Forensic medical science in investigating criminal cases involving the body, health, and human life can be broadly divided according to the stages, namely: At the crime scene examination, the victim examination, both examination of victims who have become corpses, and the examination of victims of sexual crimes, persecution, and so on as well as during the reconstruction of a crime and interrogation.⁶

The main functions of Forensic Medicine are:⁷

- a. Assist law enforcement whether the law being investigated is criminal or civil
- b. Assist law enforcement on how the criminal process occurs, including when it is done, what it is done, how to do it, and what the consequences are.
- c. Help enforce law and justice
- d. Help solve legal problems
- e. Knowing the identity of the victim
- f. The identity of the perpetrator

2. Doctor as Expert Information (Forensic Expert) and *Visum et Repertum* Information

- a. Doctor as Expert Information (Forensic Expert)

Based on Article 184 paragraph (1) of the Criminal Procedure Code, which includes valid evidence, namely:

- 1) Witness Statement
- 2) Expert Description
- 3) Letter
- 4) Hint
- 5) Defendant's Statement

³ Firganefi and Ahmad Irzal Fardiansyah, *Hukum dan Kriminalistik* (Bandar Lampung: Justice Publisher, 2014), 50.

⁴ *Ibid*, 4.

⁵ Triana Ohoiwutun, *Op. Cit.*, 13.

⁶ Abdul Mun'im Idries and Agung Legowo Tjiptomartono, *Penerapan Ilmu Kedokteran Forensik Dalam Proses Penyidikan* (Jakarta: Sagung Seto, 2011), 6.

⁷ Tim Penyusun Modul Badan Diklat Kejaksaan R.I, *Modul Kedokteran Forensik* (Jakarta: Badan Pendidikan dan Pelatihan Kejaksaan Republik Indonesia, 2019), 8.

Expert testimony (*Verklaringen Van Een Deskundige Expert Testimony*), according to Article 1 number 28 of the Criminal Procedure Code, "Expert testimony is information given by someone who has special expertise about things needed to make light of a criminal case for examination."⁸ An expert presence in providing information on an investigation into the occurrence of a criminal act is significant in all stages of the investigation, both in the stages of an investigation, prosecution, examination, and submission of case files to the public prosecutor. Without an expert in providing or explaining a problem, it would be conceivable that investigators would have difficulty trying to uncover a crime, especially a high-dimensional crime such as terrorism with bombs, arson/fires, environmental pollution, computers, counterfeit money, mutilation.⁹

Examples of currently revealed cases are murder by mutilation, which is a type of crime classified as a rare crime because the object of the crime is a human being, both alive and dead, which is carried out by dismembering the body—the victim into several parts to eliminate the traces of the murder committed by the perpetrator.¹⁰

Concerning criminal acts against the soul, body, and honor of the investigator, the authority to bring in expert witnesses has been regulated in Article 133, paragraph (1) and paragraph (2) of the Criminal Procedure Code:

- (1) If an investigator for the judiciary handles a victim, whether injured, poisoned, or dead, which is suspected to be due to an incident that constitutes a criminal act, he is authorized to submit a request for expert testimony to a judicial medical expert or a doctor and/or other experts.
- (2) The original request for information, as referred to in paragraph (1), shall be made in writing, explicitly stated in the letter for wound examination or post-mortem examination and/or post-mortem examination.

Article 179 of the Criminal Procedure Code

- (1) Everyone whose opinion is asked for as a medical expert in the judiciary or a doctor or other expert is obliged to provide expert testimony for justice.
- (2) These provisions for witnesses shall also apply to those who provide expert testimony, provided that they take an oath or promise to provide the best and most trustworthy information according to their knowledge in their field of expertise.

Since the entry into force of the Criminal Procedure Code, formal evidence in confessions or testimonies is no longer the primary material for investigating a criminal act. That is because the defendant in court trials can still deny these two types of evidence, so investigators must prioritize material evidence through scientific investigations by utilizing Forensic Science in all stages of an investigation.¹¹

The results of examining the victim by a doctor or a judicial expert will be written in the form of a letter called *Visum et Repertum* (VeR). The definition of *Visum et Repertum* itself is not explicitly regulated in the Criminal Procedure Code. However, it is regulated in *Staatsblad* Number 350 of 1973, which explains that *Visum et Repertum* is a written report for a judiciary made by a doctor based on an oath about everything seen and found on the object being examined according to his knowledge. in the best possible way.¹²

b. Doctor as a Certificate of Evidence Category Letter (*Visum et Repertum*):

Visum et Repertum consists of the word *Visa* (see), *et* (and), the word *Reperta* (report), so literally, *Visum et Repertum* is what is seen and what is reported. So *Visum et Repertum* (VeR) is a written statement made by a doctor containing facts and opinions based on

⁸ Andi Muhammad Sofyan and Abd. Asis, *Hukum Acara Pidana: Suatu Pengantar*, (Jakarta: Kencana, 2014), 239.

⁹ *Ibid*, 242.

¹⁰ Made Wira Kusumajaya, and Ni Nengah Ade Yaryani, "Penerapan Sanksi Pidana Terhadap Pelaku Tindak Pidana Mutilasi", *Journal Ilmu Hukum*, Vol. 05, No. 02 (June 2015): 2.

¹¹ Bastianto Nugroho, "Peranan Alat Bukti dalam Perkara Pidana dalam Putusan Hakim Menurut KUHP", *Journal Yuridika*, Vol 32, No 1 (2017): 21.

¹² Waluyadi, *Ilmu Kedokteran Kehakiman* (Jakarta: Jambatan, 2000), 31.

expertise/scientific regarding the results of medical examinations of humans or human body parts, whether alive or dead, made at the (official) written request of the investigator who authorized by oath or strengthened by oath for the benefit of the judiciary.¹³

Visum et Repertum functions as valid evidence for proving a criminal act against human health and soul. Article 184 of the Criminal Code Procedure states that a good *visum et repertum* has five basic frameworks: Pro Justitia, introduction, examination, conclusion, and closing.¹⁴

Uses of *Visum et Repertum*:

- 1) Determine the presence or absence of a criminal act (according to the qualifications of the wound, signs of poisoning, signs of intercourse, etc.).
- 2) Determine the direction of the investigation
- 3) Determine temporary detention by the police
- 4) Determining the demands of the prosecutor
- 5) Determine the judge's decision
- 6) Insurance claims¹⁵

The crime of premeditated murder is formulated in Article 340 of the Criminal Code, namely, "whoever intentionally and with a plan in advance takes another person's life, is threatened with premeditated murder (*moord*), with a death penalty or a maximum imprisonment of twenty years." A crime against life that threatens the heaviest criminal sanction is the crime of premeditated murder.¹⁶

Disclosure of crime cases, especially those related to body and life, cannot always be solved by legal science alone. That is because the object of the crime is a human body or body, which is a study in the field of medical science, and for investigation and proving the causes of death, the field of legal science requires expertise in medicine. The position of medical science in criminal law is an auxiliary science commonly called forensic medicine. Nowadays, in the investigation of a criminal act, scientific evidence and examination of physical evidence must be applied, especially in cases of unnatural death. It is hoped that the purpose of the criminal procedural law that forms the basis of the criminal justice process can be achieved from the scientific physical evidence, namely seeking material truth. Scientific physical evidence in a case of unnatural death can only be obtained from the role of the medical field by conducting forensic autopsies on bodies. The conduct of autopsies on bodies for legal purposes (*Visum et Repertum*) is not justified if only an external examination is carried out (the bodies are not surgically removed) because to determine the cause of death, an absolute must be dissected by knowing the cause of death. It can also be known whether the *modus operandi* (how people act or the way things work) and the cause of death. Clarity about whether there is a relationship between the *modus operandi* and the cause of death is an urgent matter for evidence in court.¹⁷

The urgency of *Visum et Repertum* or medicolegal in a murder case can be seen from the objectives of its implementation, namely:¹⁸

- 1) Identification of corpses
- 2) Determine the cause of death, the mechanism of death, and the time of death.
- 3) Collect and examine evidence to determine the object's identity causing death and or the perpetrator of the crime.

¹³ Anonim, *Lokakarya Pendidikan Dokter Forensik Indonesia* (Jakarta, 1986).

¹⁴ Simatupang, et al, 2020, "The Quality of Visum Et Repertum of Wounded Living Victims In Toba Samosir District From 2017 To 2018", *International Journal of Research Science & Management*, Vol. 7 No. 1 (January 2020): 90.

¹⁵ Arif Mansjoer, et. al., *Kapita Selekta Kedokteran* (Fakultas Kedokteran Universitas Indonesia: Media Aesculapius, 2000), 173.

¹⁶ Yerrico Kasworo, "Pembunuhan dengan Rencana dan Pasal 340 KUHP", *Jurnal RechtsVinding*, (2016): 3.

¹⁷ Setyo Trisnadi, "Ruang Lingkup *Visum et Repertum* Sebagai Alat Bukti Pada Peristiwa Pidana Yang Mengenai Tubuh Manusia di Rumah Sakit Bhayangkara Semarang", *Sains Medika* Vol. 5, No. 2, (2013): 120.

¹⁸ Yerrico Kasworo, *Op. Cit.*, 6.

- 4) Obtain scientific evidence in the form of an objective written report based on facts in the form of *Visum et Repertum*.

One of the crimes that often occurs is a crime against life or often referred to as murder. From the problem of the case that occurred in Banyumas, the defendant named Deni Priyanto had an affair with the victim named Komsun Wachidah, who was known to be a Civil Servant of the Ministry of Religion of the City of Bandung. In this love affair, the defendant had a debt with the victim on the grounds of arranging his marriage so that the victim demanded the defendant repay the debt and marry immediately. Then over time, the defendant could not repay his debt and fulfilled his will to marry the victim. It turned out that the defendant intended to take control of the victim's property so that the perpetrator's evil intentions arose who carried out the planned murder of the victim and then cut the victim's body into several pieces, which were put into the box container and then burned and thrown into Watuagung Village, Tambak sub-district, Banyumas Regency. to Sempor, Kebumen Regency.¹⁹ Therefore, the defendant's actions have been legally and convincingly proven guilty of committing a criminal act, as stated in Decision Number 116/Pid.B/2019/PN Bms. The identification process carried out by investigators is complicated to identify victims, especially those burned and become bones, regarding gender, estimated age, causes of injuries, and death. Therefore, forensic specialists are needed to carry out medical examinations of human body parts and pour into evidence of a letter category called *Visum et Repertum*.

Legal Basis of *Visum Et Repertum*

- 1) Law Number 8 of 1981 concerning the Criminal Procedure Code does not exist in *Visum et Repertum*. There is only evidence of the category of letters, which are made by oath or promise (as pronounced in court) or by remembering the oath or promise when accepting a position (which is pronounced after graduating from a doctor) so that, in essence, it is also a written statement.²⁰

Several articles in the Criminal Procedure Code that serve as formal references are:

Article 133

- (1) Suppose an investigator for the judiciary handles a victim. In that case, whether injured, poisoned, or dead, which is suspected of having been caused by an incident that constitutes a criminal act, he is authorized to submit a request for expert testimony to a medical expert of the judiciary or a doctor and or another expert.
- (2) As referred to in paragraph (1), the request for expert information shall be made in writing, which in the letter is explicitly stated for wound examination or post-mortem examination and or post-mortem examination.
- (3) A corpse sent to a judicial medical expert or a doctor at a hospital must be adequately treated with full respect for the corpse and be labeled with the identity of the corpse, sealed, and with a position stamp attached to the big toe or other parts of the corpse's body.

Article 134

- (1) If it is urgently needed where for post-mortem purposes, it is no longer possible to avoid it, the investigator is obliged to notify the victim's family in advance.
- (2) If the family object, the investigator is obliged to explain the intent and purpose of the need for such surgery as clearly as possible.
- (3) If there is no response from the family or parties that need to be notified within two days, the investigator shall immediately implement the provisions as referred to in Article 133 paragraph (3) of this law.

Article 135

¹⁹ Based on an interview with Ipda Rizky Adhiyanzah Wicaksono, S.Tr.K as Head of Criminal Investigation Unit III of the Banyumas Police, on July 3, 2020, 15.00 WIB.

²⁰ Waluyadi, *Loc. Cit.*

If an investigator for the interest of the judiciary needs to exhume a corpse, this shall be carried out according to the provisions as referred to in Article 133 paragraph (2) and 134 paragraph (1) of this law.

Article 136

The state shall bear all costs incurred for the examination as referred to in Part Two of Chapter XIV.

Article 179

(1) Everyone whose opinion is asked for as a judicial medical expert or a doctor or other expert is obligated to provide expert testimony for justice.

Article 184

Legal evidence is:

- a) Witness testimony;
- b) Expert statement
- c) Letter
- d) Hint
- e) The defendant's statement.

Article 186

Expert testimony is what an expert states in court.

Article 187 Letter C

A certificate from an expert containing an opinion based on his expertise regarding something or a situation officially requested from them.

- 2) Law Number 36 the Year 2009 concerning Health
- 3) Regulation of the Head of the National Police of the Republic of Indonesia Number 10 of 2009 concerning Procedures and Requirements for Requests for a Criminal Technical Examination at the Place of Case and the Criminalistics Laboratory of Evidence to the Forensic Laboratory of the State Police of the Republic of Indonesia.
- 4) Regulation of the Head of the National Police of the Republic of Indonesia Number 12 of 2011 concerning Police Medicine.

IV. Conclusions

The role of forensic medicine in uncovering premeditated murder in case No. 116/Pid.B/2019/PN.Bms. Namely helping law enforcement officers, especially in finding the causes of death, considering that the victim could not be identified because his condition had turned into bones and was charred. Examination by a forensic doctor is stated in Visum et Repertum, which includes evidence in the letter category (Article 133 of the Criminal Procedure Code). A forensic doctor's testimony in court is included in the category of expert testimony according to Article 186 of the Criminal Procedure Code.

V. Suggestions

Suggestions in this study are providing education to the public regarding the treatment of evidence and the crime scene so that it can change the disclosure of cases.

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