

VISUM ET REPERTUM AS EVIDENCE IN UNCOVERING THE OCCURRENCE OF CRIMINAL ACTS

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ABSTRACT

KEYWORDS

Visum et Repertum, Evidence, Criminal Acts

The criminal law evidentiary system in Indonesia is a negative wettelijk or proof system based on the Law negatively. To make light of a criminal act, valid evidence is needed according to the Criminal Procedure Code as stated in Article 184 paragraph 1 of the Criminal Procedure Code. Not all criminal acts can be proven with the naked eye. For example, evidence related to bodily injuries or that cause health problems, or that result in the death of a person. Without expert help a law enforcement officer cannot conclude this. the purpose of this research is to find out visum et repertum as evidence in uncovering the occurrence of criminal acts. This research is a legal research that uses a normative or doctrinal juridical approach by collecting and analyzing secondary data. So it is necessary to help the medical science of the judiciary to deal with the problem. Forensic doctors assist in processes related to judicial proceedings. And the results of the examination are poured into Visum et Repertum. In criminal cases Visum et Repertum is used instead of corpus delicti. That visum et repertum is valid evidence in accordance with article 184 of the Penal Code as evidence of letters

INTRODUCTION

The process in resolving criminal cases is through the following stages, namely investigation, investigation, prosecution, and examination in court hearings. Criminal judgments made by judges are based on material truth, namely the ultimate truth based on existing legal facts (Mario, 2018). Material truth can be derived from the evidentiary process. In the provisions of the criminal law, the types of evidence are listed in Article 184 Paragraph 1 of the Criminal Procedure Code, namely "valid evidence is: witness statements, expert statements, letters, instructions, statements of the accused." To obtain the necessary evidence used in the examination of criminal cases, law enforcement officials sometimes get problems that are beyond the expertise of the law enforcement officers. So in cases like this, experts are needed. This is stated in Article 120 paragraph 1 of the Criminal Procedure Code. Meanwhile, in the request for expert information during the examination stage of the trial, it is contained in Article 180 paragraph (Gumilang, Adiputra, & Adiartha, 2020).

The help of experts is in the examination stage, and it helps to search for material truths. In this case, as a concrete example in the pretrial process, faced with cases related to human bodily injuries, of course, this is not a study of the field of law (Barda Nawawi Arief, 2018). Therefore, another science is needed to study the problem, namely judicial medicine which has another term from forensic medicine which is a special branch of medicine related to the interaction between medical and law. Forensic medicine plays a role in determining the causality relationship between the act and the consequences caused by the act committed (Iqbal Setiaji & Sugiharto, 2020).

The information given by the expert in this case is that the judicial doctor can be in writing like *Visum et Repertum* (VR), made by a forensic specialist doctor by sticking to the oath in accordance with the Criminal Procedure Code. *Visum et repertum* is included in the evidence in the form of a letter, this is based on Article 187 of the Criminal Procedure Code "a letter as in Article 184 paragraph 1 letter c, is made under oath of office or corroborated by oath. In this case, the visum has evidentiary value in the trial. Criminal offences requiring visum are premeditated murder (*moord*) including suicide and child murder listed in Articles 340, 342 and 345 of the Penal Code (Gumilang et al., 2020).

The function of *visum et repertum* is to play a role in the process of proving a criminal case, describing the results of the medical examination that are substantiated in the news section and considered as a substitute for evidence, containing the doctor's statement of the results of the medical examination that is the most important in the conclusion (Soekanto, 2016). The content of the writing in visum et repertum has the word *pro justitia* on the top left and the format of *visum et repertum* includes Introduction, News, Conclusion and Conclusion (Gainer, 2018).

The criminal law evidentiary system in Indonesia is *a negative wettelijk* or proof system based on the Law negatively. In this case, it is not the strongest evidence in law. In the trial process, the judge may impose a sentence if he has at least 2 (two) valid evidence and the judge's conviction (Jabir, Suhaimi., & SyarifuddinHasyim, 2015). Then the evidence cannot be a stand-alone piece of evidence. The existence of *Visum et repertum* cannot fully prove the criminal act committed. And there is likely to be a discrepancy between what has happened. Therefore, the investigator needs to study more deeply in order to obtain material truth. For this reason, the author examines with the title VISUM ET REPERTUM AS EVIDENCE IN UNCOVERING THE OCCURRENCE OF CRIMINAL ACTS.

RESEARCH METHOD

This research is a legal research that uses a normative or doctrinal juridical approach by collecting and analyzing secondary data. Normative legal research tends to image law as a discipline where it looks at the law from the point of view of the norm only. Research themes are: research on legal principles, legal systematics, legal comparisons and history (Sandu & Sodik, 2015).

The technique of collecting data uses library research library data in the form of primary data and secondary data. Primary data is in the form of the 1945 Constitution, Criminal Code, Criminal Code, while secondary data is in the form of books / e-books, legal scientific works such as journals, papers, theses, and theses from researchers, articles on the internet. Then it is studied and linked to applicable theories and regulations, in order to get solutions to existing problems (Indonesia, 2018).

RESULT AND DISCUSSION

What is the position of *Visum et Repertum* in criminal proceedings?

In the investigation of a criminal case *corpus delicti* is very important to prove the occurrence of a crime before a person is charged with the crime. To prove *corpus delicti* the public prosecutor must prove there have been injuries, causing harm, and illegal activity. Then *visum et repertum* is used to replace *the corpus delicti* (Nisa & Krisnan, 2015). Visum is used to brighten an item of evidence that cannot be seen with the naked eye such as blood, hair, sperm. To clarify the evidence, experts are needed to research, especially forensic experts. The testimony of forensic experts in court hearings is

categorized as expert testimony and the results of visum as stated in *visum et repertum* in the name of letter evidence. For this reason, *Visum Et Repertum* is a valid evidence tool to realize material truth for a judge (Iqbal Setiaji & Sugiharto, 2020).

Visum et Repertum is carried out by an expert in this regard is a forensic doctor who uses science for judicial purposes. Forensic medicine plays a role in finding causality relationships between actions and the consequences caused by these actions, whether they cause injuries, health problems or cause the death of a person. From this knowledge, it can be known whether a person's injury, health disorder or death is caused by a criminal act (Adyan, 2010). To make light of a criminal act, evidence is needed. Article 184 of the Criminal Procedure Code states that there are 5 pieces of evidence in criminal cases, namely: witness statements, expert statements, letters, instructions, statements of the accused. In this case *Visum et Repertum* is included in the evidence of the letter (Utrecht, 2020).

The position of Visum et Repertum in the evidentiary law of criminal proceedings is as follows:

- 1) Evidence of letters, regulated in Article 184 paragraph 1 letter c and Article 187 letter c of the Criminal Procedure Code.
- 2) Expert testimony evidence, regulated in Article 184 paragraph 1 letter b of the Criminal Procedure Code.

Visum made by the judiciary and non-expert doctors, it is possible that the results of the visum issued are acceptable. Because the position of the evidence in criminal proceedings is to support the judge's conviction.

The forensic expert doctor has duties in terms of providing assistance in judicial proceedings in terms of:

- 1) Examination at the place where a case occurred. An examination at the crime scene was carried out to identify the victim who died on the spot. In order to find out the cause of death.
- 2) Examination for the injured. In order to know whether there is persecution, crime or violation of decency, to know the age of a person and to determine whether a baby died in the womb.

All this is done to determine the presence or absence of violations of articles 44, 288, 285, 292, 341, 342, 351, 352 of the Criminal Code.

What is the evidentiary power of *visum et repertum*?

In legal science, there is a doctrine that suggests that in the case of proof of criminal procedure intends to seek material truth, while in civil procedural law it intends to seek truth. The purpose of material truth is that to prove a criminal act is not sufficiently proven by formal evidence but must be based on information hidden behind the facts. For this reason, judges do not directly believe in the facts revealed in the public but must be observant in revealing behind these facts (Hamonangan, 2022). The judge must carefully examine what is contained in the facts. After a long process and the judge gains confidence, the conviction can be used to make decisions as fairly as possible.

The law of proof is the entire rule of law regarding the reconstruction of a past event that is relevant to the prejudice against the person suspected of committing a criminal act and the endorsement of evidence according to the provisions of the applicable Law.

In the event of proof of uncovering a criminal case, there are at least 5 valid evidence in accordance with Article 184 of the Criminal Procedure Code:

- a. Testimony of witnesses;
- b. Expert description;

- c. Letter;
- d. Instructions;
- e. Defendant's statement;

In terms of proving *visum et repertum* has absolute power. However, it must be accompanied by other evidence. In accordance with Article 183 of the Criminal Code "that in the course of trial a judge may impose a sentence if he has at least 2 (two) valid evidence and the conviction of the judge". *Visum et Repertum* is included in the evidence of a letter made by an expert. Not all criminal acts can be proven by visum. The criminal acts that can be proven by visum are as follows: Premeditated murder, suicide, molestation, rape.

In this case, not only the role of the judge is needed but also the role of the expert doctor is also very reliable to find and get the complete truth, which is one of the duties of criminal law. Doctors play an important role in uncovering evidence through the human body or body parts. Therefore, doctors who make *Visum et Repertum* must get legal protection in order to make clear evidence and without pressure from certain parties (Christ, 2016).

In seeking material truth, various efforts are made to uncover a case both from the preliminary examination stage such as investigation, prosecution and trial. These efforts are made to avoid the error of criminal conviction in a person in accordance with Law Number 14 of 1970 concerning the basic provisions of judicial power Article 6 paragraph 2 "No person can be sentenced to a criminal offense, unless the court because of a valid evidentiary tool according to the Law has the assurance that a person who is considered to be responsible, has been guilty of the acts alleged against him."

With this provision, law enforcement must collect evidence in as much detail as possible. Although often law enforcement people face a problem or things that cannot be handled alone because they are beyond their ability to be effective (Sonata, 2012). So law enforcement, especially investigators and police auxiliary investigators, both police and military police, can ask for expert help. The investigating prosecutor may also request visum for human rights cases, as well as judges in accordance with Article 180 jo Article 187 of the Criminal Procedure Code, In the case of *Visum et Repertum* the legal basis for the doctor's action to conduct an examination of the case is Article 179 of the Criminal Procedure Code paragraph 1 "any person who is asked for his opinion as a judicial medical expert or other expert is obliged to give expert testimony for the sake of justice."

CONCLUSION

The position of visum et repertum in criminal cases is in lieu of corpus delicti. The corpus delicti requires the state to prove that a crime has occurred before making an extrajudicial confession. To prove corpus delicti the public prosecutor showed there had been injuries, losses, and illegal activity caused. To prove that someone has suffered a wound, Visum et Repertum is needed. To find out the cause of the victim's injury.

Visum et repertum includes evidence in the form of letters. To decide a case the judge must have at least 2 (two) valid evidence. For this reason, visum et repertum must be confronted with other evidence along with a material conviction that a criminal act occurred and the defendant is guilty and committed the act.

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