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The Essence Of Visum Et Repertum As Evidence In Criminal Law Enforcement

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Abstract
The research aims to analyze the nature of Visum et repertum in criminal cases, in law enforcement according to statutory regulations in Indonesia. The type of research used is normative legal research (doctrinal). In this case, primary and secondary legal materials are used. The results of this research are that: Fact Vision and Discovery in criminal cases in law enforcement according to the laws and regulations in Indonesia, namely as a perfect, transparent and objective means of evidence to realise fair, certain and useful protection of human rights in every criminal case.
Keywords: *Visum Et Repertum; Evidence; Criminal*

INTRODUCTION

As a rule of law, one of the law enforcement efforts is to uphold the values of Human Rights (HAM). Article 28A of the 1945 Constitution of the Republic of Indonesia concerning Human Rights states that everyone has the right to live and defend their life and existence.[1] This characteristic shows that as a legal state, Indonesia in all actions and/or efforts to administer the state and the interests of society must be based on the law as a patron to achieve legal objectives. According to Gustav Radbruch, the objectives of law include legal certainty, justice and benefit. Justice here is related to the fulfillment of basic human rights, as an effort to recognize and protect every citizen.[2] Protection of basic human rights is the most important thing to maintain in processing a criminal case for both perpetrators and victims of criminal acts without exception, which requires rules as a form of the rule of law contained in procedural law also known as formal criminal law.

In this regard, if an incident occurs that is related to someone's life, such as the discovery of an unidentified corpse, then an investigation process will be carried out as regulated in Article 1 Number 5 of the Criminal Procedure Code (KUHAP).[3] All processes in this investigation are solely to find the material truth of an incident that occurred, including the identity of the victim and also determining the cause of death of the unidentified corpse. As according to Article 1 Point 5 of the Criminal Procedure Code, an investigation is a series of investigative actions to search for and discover an incident that is suspected of being a criminal act to determine whether or not an investigation can be carried out according to the method regulated in this law.[4] The function and authority of the investigation aims to:

1). Simplify and provide certainty to the public who has the right and authority to carry out investigations,

2). Eliminate confusion in investigations by law enforcement officials, so that there is no longer any overlap as experienced during the HIR era,

3). It is also the efficiency of investigative actions in terms of waste if they are handled by several agencies, or the person being investigated, no longer dealing with various kinds of law enforcement officers in the investigation.

Apart from that, Article 4 of the Criminal Procedure Code explains that the only officers who function and have the authority to carry out investigations are Polri officials, and interference from other agencies and officials is not permitted. So in carrying out investigations, only National Police officials have the authority. Revealing crimes is the main task of the police agency, as an investigator, uncovering a criminal case is the main task of an investigator.

Carrying out the duties of an investigator has procedures and methods to applicable laws and regulations. When investigators visit a crime scene (TKP), they must examine and collect signs and crime files such as footprints, fingerprints, drops of blood, a piece of a finger and whatever other items are found at the crime scene.[5]

After carrying out the investigation, investigators will carry out forensic identification of the discovery of the body without an identity. The identification process by investigators is important, to find the identity

and identity of the bodies found.[6] Knowing the identity of the victim or corpse is the first step in the investigation so that further steps can be taken, and it is hoped that an inventory of the suspects who committed the crime will be possible. By knowing the victim's identity, it will be easier for investigators to make a list of people who should be suspected. This list will be further narrowed down by knowing the estimated time of death of the victim and the tools used by the alleged perpetrator of the crime.
If an error occurs in the identification process, the identity of the body cannot be known. So it becomes impossible to carry out an investigation. Furthermore, if the investigation does not reveal his identity (the victim's identity), then errors in the judicial process can be avoided which could have fatal consequences. Therefore, investigators must handle the identification process by using Visum et reported as assistance from Forensic Science and assistance from judicial medical experts in uncovering a case as a law enforcement effort.

Research methods

The type of research that will be used in this research is normative legal research (Doctrinal). Thus, the focus of the research study is all statutory regulations relating to forensic facts as evidence. All of this will be connected to the problem formulation that has been emphasized in Chapter I. Introduction. Thus, this research study will normatively examine and analyze and even find answers to each problem formulation. The formulation that will be studied judicially is focused on Visum et Repertum as a means of evidence in law enforcement.

DISCUSSION

The essence of Visum et reported in criminal cases, in law enforcement according to regulations in Indonesia

In this relationship, the essence and purpose of existence Seen and found as a tool of proof is to provide a related picture of the truth of an event so that from the event a truth that can be accepted by reason can be obtained.[7]
Proof means that it is true that a criminal event has occurred and the defendant is guilty of committing it, so he must be held accountable for it. According to M. Yahya Harahap, Evidence is the provisions that contain outlines and guidelines regarding methods permitted by law to prove the guilt of the accused. Evidence is also a provision that regulates evidence that is permitted by law and may be used by a judge to prove the guilt of the accused.[8]
Regarding evidence, the Criminal Procedure Code (KUHAP) regulates the procedures for criminal proceedings in court. Indeed, it is not explained in depth about the context of evidence, only that in the Criminal Procedure Code there is Article 183 which regulates that a judge may not impose a crime on a person unless it is found that there are at least 2 (two) valid pieces of evidence and upon which he is convinced that a criminal act has occurred and that the defendant is guilty of committing it. and the types of evidence that are valid according to law, as stated in Article 184 paragraph (1) of the Criminal Procedure Code, namely: a. witness statements; b. expert information; c. letter; d. instruction; and the defendant's statement.
In the Criminal Code several evidentiary systems are known and often used in the court system, namely:

a. **Conviction In Time** or a system of evidence-based solely on the judge's belief. This system adheres to the teaching that whether or not the accused is guilty of the act depends entirely on the judge's "belief" assessment. So whether the defendant is guilty or whether the defendant is convicted or not depends entirely on the judge's belief. The judge's belief does not have to arise from or be based on existing evidence. Even if the evidence is sufficient, if the judge is not sure, the judge may not impose a crime, conversely, even if there is no evidence, if the judge is sure, then the defendant can be declared guilty. As a result, in deciding cases the judge becomes very subjective. The weakness of this system lies in giving too much trust to judges, to individual impressions so that it is difficult to carry out supervision. This happens in French judicial practice which makes judgments based on this method, and results in many strange acquittals.

b. **Conviction In Raisone** or a system of evidence based on the judge's belief in rational reasons. The Conviction In Ralsone evidentiary system still prioritizes the assessment of the judge's beliefs as the sole basis for convicting the defendant, but the judge's beliefs here must be accompanied by real and logical considerations of the judge, accepted by a sound mind. The judge's belief does not need to be supported by valid evidence because it is not implied. Even though the evidence has been determined by law, the judge can use evidence outside the provisions of the law. What needs to be explained is that the judge's

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belief must be able to be explained with logical reasons. The judge's belief in the conviction in raisone evidentiary system must be based on "reasoning" or reasons and the reasons themselves must be 'reasonable" that is, based on reasons that can be accepted by reason and reason, not solely based on unlimited belief. This evidentiary system is often called the free evidentiary system.

c. Positive Legal Theory or Evidence System Based on Positive Law. This system is placed face to face with the conviction-in-time proof system because this system adheres to the teaching that the defendant's guilt or absence is based on the absence of legal evidence according to law that can be used to prove the defendant's guilt. Wetteljik's positive system completely ignores and does not take into account the judge's beliefs at all. So, even if the judge is convinced that the defendant has committed a mistake, during the examination at the court hearing, the defendant's actions are not supported by valid evidence according to the law, so the defendant must be acquitted. Generally, if a defendant has fulfilled the legal methods of proof and evidence according to law, then the defendant can be declared guilty and must be sentenced. The advantage of this evidentiary system is that the judge will try to prove the defendant's guilt without being influenced by his conscience so that it is truly objective because according to the methods and means of evidence determined by law, the weakness lies in that this system does not give credence to the determination of the judge's impressions which are contrary to the principles of criminal procedural law. The positive proof system that is sought is the correctness of the format, therefore this proof system is used in civil procedural law. The positive wettelijk bewijstheori system on the European continent was used when the Inquisitorial Criminal Procedure Law came into force. The regulation considers the defendant as a mere object of examination; In this case, the judge is only a tool.

d. Negative Legal or Negatively Based on Law Evidence System. In this system, the judge may only impose a sentence if at least the evidence specified by law is available, plus the judge's confidence obtained from the existence of the evidence. Article 183 of the Criminal Procedure Code states as follows: (Ibid) "A judge may not impose a crime on a person unless, with at least two valid pieces of evidence, he is convinced that a criminal act has occurred and that the defendant is guilty of committing it." If seen from the context of Article 183 of the Criminal Procedure Code, it can be concluded that the Indonesian Criminal Procedure Code has a negative wettelijk evidence system. This can be seen from the procedural practice that is commonplace in Indonesian courts, namely efforts to prove each party by presenting various types of evidence along with the judge's belief in an error based on this evidence. The theory of proof according to negative law can be called negative wettelijk, this term means: legal based on the law while negative, the meaning is that even if in a matter there is enough evidence by the law, the judge cannot yet impose a sentence before gaining conviction about the defendant's guilt.

Thus, the system of evidence depends on how a legal expert provides definitions for each piece of evidence. Legal experts will define the course by first defining the meaning of the evidence. Several experts provide their views regarding the meaning of the term evidentiary system as follows: 1) Subekti is of the view that proving is an effort to convince the judge about the truth of the argument or arguments put forward in a dispute, 2) Sudikno Mertokusumo has a different opinion, namely, what is referred to in the juridical meaning of the evidentiary context is an effort to provide sufficient grounds for the judge examining the case in question to provide certainty about the truth of the legal event being proposed.

Proof means that it is true that a criminal event has occurred and the defendant is guilty of committing it, so it must be. Evidence is provisions that contain outlines and guidelines regarding methods permitted by law to prove the guilt of the accused. Evidence is also a provision that regulates evidence that is permitted by law and may be used by a judge to prove the guilt of the accused.[9]

Conviction In Time or a system of evidence-based solely on the judge's belief. This system adheres to the teaching that whether or not the accused is guilty or not, depends entirely on the judge's "belief" assessment alone. So whether the defendant is guilty or whether the defendant is convicted or not depends entirely on the judge's belief.

Conviction In Raisone or a system of evidence based on the judge's belief in rational reasons. Evidence system Conviction In Ralsone The judge still prioritizes the assessment of the judge's beliefs as the sole basis for punishing the defendant, but the judge's beliefs here must be accompanied by real and logical judge considerations, accepted by a healthy mind. The judge's belief does not need to be supported by valid evidence because it is not implied. Even though the evidence has been determined by law, the judge can use evidence outside the provisions of the law. What needs to be explained is that the judge's belief must be able to be explained with logical reasons.

Positive Legal Theory or the Evidence System Based on Positive Law, this system is placed face to face with the evidence system conviction in time, because this system adheres to the teaching that whether a defendant is guilty or not is based on the absence of legal evidence according to law that can be used to prove the defendant's guilt. Wetteljik's positive system completely ignores and does not take into account the judge's beliefs at all.

Negative Legal or the Negative System of Evidence Based on the Law is where a judge may not impose a crime on a person unless, with at least two valid pieces of evidence, he is convinced that a criminal act has occurred and that the defendant is guilty of committing it. If seen from the context of Article 183 of the Criminal Procedure Code, it can be concluded that the Indonesian Criminal Procedure Code has a negative wettelijk evidence system. This can be seen from the procedural practice that is commonplace in Indonesian courts, namely efforts to prove each party by presenting various types of evidence along with the judge's belief in an error based on this evidence.[10]

In this relationship, the essence and purpose of existence are Seen and found as a proof tool to provide a relevant picture of the truth of an event, so that from the event can be obtained the truth that can be accepted by reason. Seen and found as evidence means that a criminal event has indeed occurred and can be used as evidence that a criminal event will occur.

Vision and Discovery describes and confirms everything regarding the results of the medical examination contained in the reporting section, which can therefore be considered as a substitute for evidence. Besides that Vision and Discovery also contains the doctor's information or opinion regarding the results of the medical examination which is stated in the conclusion section. Thus Vision and Discovery has completely bridged medical science with legal science so that by reading Vision and Discovery, it can be known what has happened to a person, and legal practitioners can apply legal norms to criminal cases involving the human body and soul.

When Vision and Discovery has not been able to clarify the problem in court, the judge can ask for expert information or submit new material, as stated in the Criminal Procedure Code (KUHAP), which allows for examination or re-examination of evidence, if reasonable objections arise from the defendant or his legal advisor to the results of an examination.

Conclusion

The essence of Visum et Repertum in criminal cases in law enforcement according to laws and regulations in Indonesia is that it is a perfect, transparent, and objective means of evidence to realise fair, certain, and useful protection of human rights in every criminal case. Visum et Repertum in criminal cases in law enforcement according to laws and regulations in Indonesia, is one of the urgent and decisive pieces of evidence in the evidentiary process in court.

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