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ASSESSING THE EVIDENTIARY POWER: NOTARIZED AUTOPSY REPORTS VERSUS VISUM ET REPERTUM

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Abstract

In cases of murder or suspicious death, an autopsy reports serve as crucial evidence in criminal adjudication. Based on Indonesian criminal procedural law, a Visum et Repertum issued by an authorized forensic doctor is legally recognized as expert evidence for determining the cause, manner, and circumstances of death. In the case examined, both the Visum et Repertum and the testimony of a general practitioner who observed the autopsy process, subsequently legalized by a notary, were submitted as evidence in criminal proceedings. This study examines the normative ambiguity between criminal procedural law and notarial law, particularly regarding the evidentiary status of a general practitioner's testimony concerning autopsy observations that is subsequently legalized by a notary. This research uses a normative legal analysis, drawing on statutory and conceptual approaches, to analyze the framework of criminal procedural law, regulations governing medical practice, and the juridical limits of notarial authority. The findings confirm that submitting a general practitioner's testimony on autopsy observations, even when legalized by a notary, does not create a conflict of norms. Instead, it constitutes a misapplication of evidentiary principles. A Visum et Repertum, prepared by a duly authorized forensic physician, possesses definitive evidentiary authority as it is issued within statutory mandate. By contrast, the testimony of a general practitioner, even if notarized, lacks the legal force to constitute valid evidence, as notaries are not authorized to legitimize forensic medical findings. This article clarifies that notarizing autopsy observations does not create normative conflict, but reflects a misapplication of evidentiary authority in criminal procedure.

Keywords: *Evidentiary Power; Notary Legalization; Visum et Repertum*

A. Introduction

Criminal investigations were conducted to uncover material truth as the foundation for justice, legal certainty, and social utility. In cases involving suspicious deaths, the evidentiary process cannot rely solely on ordinary testimony or documentation but must be supported by specialized scientific expertise. Therefore, forensic medicine occupies a central position in the criminal justice process, particularly in determining the cause and manner of death through legally regulated procedures.

Indonesian law clearly states that forensic autopsy constitutes an external and internal examination of a corpse suspected to have died as a result of a criminal act. Regulation of the Minister of Health of the Republic of Indonesia Number 38 of 2022 Concerning Medical Services for Legal Purposes Article 1 number (3) stipulates that "Forensic Autopsy is an

external and internal examination carried out on a corpse that died as a result of or is reasonably suspected of being the result of a crime". Autopsies for judicial purposes include revealing the cause of death, manner of death, murder, suicide, accident, or death due to a disease.[1] Every autopsy report can serve as a document in criminal trials, depositions, and civil lawsuits, thus making autopsies relevant to medicolegal matters.[2]

The procedural framework under Articles 133 and 134 of the Indonesian Criminal Procedure Code (KUHAP) further reinforces this position by granting investigators the authority to request expert opinions exclusively from forensic doctors or other qualified experts while imposing strict procedural safeguards. Consequently, the legal system recognizes only the testimony, written or oral, of the authorized medical expert who conducts the post-mortem examination as evidentiary standing in court.

Problems arise when statements made by medical practitioners who merely observe autopsies, without conducting the examinations themselves and without the necessary authority, are introduced into criminal proceedings. This issue became evident in the case of Brigadier Joshua, where the victim's legal counsel submitted a notarized statement from a general practitioner appointed by the family to observe the autopsy. The submission of the notarized statement raised a fundamental legal question: could the notarization of the observer's statement provide equivalent evidentiary value to expert testimony or replace the legally mandated Visum et Repertum (hereinafter referred to as VeR)?

There have been several cases related to autopsies, including the deaths of Mirna and Brigadier Joshua. In the case of Mirna's death, investigators only took samples from Mirna's body and did not perform an autopsy. In contrast, based on the ministry regulation, an autopsy should involve dissecting or opening three parts of the victim's body–the head, chest, and abdomen–to examine all internal organs. Autopsy is mandatory because the cause of death will not be known if there is no autopsy.[3] However, if the family rejected the autopsy, the decision was returned to the police investigator.

In contrast to the Mirna case, based on autopsy results, Brigadier Joshua died after being murdered by several convicts. This was stated in Supreme Court Decision Number 813K/Pid/2023. One piece of evidence was the victim's autopsy statement. In this case, the victim's attorney added proof in the form of a notarized legalization of the statement of a general practitioner appointed by the victim's family to directly witness the autopsy process. However, the investigators did not use this evidence in the trial, so the victim's attorney was objected. According to the victim's attorney, the legalization of witness statements can be used as evidence in the trial because his party was not given the authority to request a VeR directly from the forensic doctor who performed the autopsies. The attorney can only request a copy of the VeR from the investigator or court during the period leading up to the trial.

In the description of Joshua's case, it is known that the victim's attorney and investigator differ in their perceptions of the strength of the notary's legalization evidence for the statement of the general practitioner appointed by the victim's family to witness the autopsy process. Therefore, the author is interested in studying the basis of the notary's considerations in legalizing the results of the doctor's statement who witnessed the autopsy and the strength of its evidence in court.

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[1] Kastubi, "Fungsi Bedah Mayat Forensik (Autopsi) untuk Mencari Kebenaran Materil dalam Suatu Tindak Pidana," *Jurnal Spektrum Hukum* 13, No. 1 (2016): 73-88.

[2] Cusack, D., "The European Council of Legal and Forensic Medicine: Its Role and Work in Progressing Harmonised Standards and Recommendations in Forensic and Legal Medicine Investigation Procedures, Training and Teaching through Pursuit of Internationally Agreed and Peer-Reviewed Published Guidelines," *International Journal of Legal Medicine* 139 (2025): 1781–1785. https://doi.org/10.1007/s00414-025-03446-w

[3] Viva.co.id, "Ahli Forensik dr. Djaja: Syarat Autopsy Harus Membuka 3 Bagian Tubuh Ini," *Viva*, October 13, 2023. Available online https://www.viva.co.id/trending/1646722-ahli-forensik-dr-djaja-syarat-autopsi-harus-membuka-3-bagian-tubuh-ini.

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This divergence of interpretation highlights a critical normative issue: the limits of notarial authority and classification of evidence in criminal procedures. Rather than expanding the interpretative scope of admissible testimony, the legal framework requires a clear distinction between authorized forensic expert evidence and statements that lack procedural and substantive standing.

This research is a normative law study using statute and conceptual approaches. The statute approach is used to study, analyze, and examine the laws and regulations related to this issue, including the Notary Law, Indonesian Civil Code, Indonesian Criminal Procedure Code, and Regulation of Medical Services for Legal Purposes. Furthermore, the conceptual approach is used to make legal arguments in analyzing problem-solving based on the concepts in the laws and regulations related to this issue. This research also used books, journals, and mass media news related to these problems.

B. Discussion

1. Evidentiary Power of Notarized Autopsy Reports

The notarial institution was established in Indonesia long before the country gained independence, dating back to the Dutch colonial era when notaries were already performing their duties. A notary is an independent public official appointed by the minister to carry out his duties freely, without being influenced by the executive or other bodies. The notary's duties are to carry out part of the state's public functions to provide services for the public interest, especially under private law.[4] However, a notary is not a civil servant who receives salary from the government.

The function and role of notaries are currently expanding and developing, along with society's need for legal certainty in various aspects.[5] The primary function of notaries is to ensure the resolution of disputes in civil legal relations by officially notarizing acts.[6] Legal certainty is indispensable, particularly in the case of written legal norms. Law with the value of certainty would retain its significance, as it can serve as a guiding principle for everyone is behavior.[7]

Internationally, notaries perform their functions under two legal systems: the common law system, which often includes public notaries, and the civil law system. Although both involve notaries, their roles and authority differ. The applicable legal system in Indonesia is civil law.[8] The state grants a public notary authority to make authentic deeds and provide legal advice.[9] In Indonesia, notaries are public officials authorized to make authentic deeds and perform other duties specified by law. The duties and authority of a notary are regulated in Law Number 30 of 2004 concerning the Notary Profession as amended by Law Number 30 of 2014, hereinafter referred to as UUJN.

In civil law, notaries perform two primary functions: "relatering" and "konstatering" and ko-statering. The "relatering" function signifies that the notary's role solely documents the parties' intentions and formalizes them into an authentic deed. Therefore, the content of the deed fully reflects the will of the parties, provided it complies with the requirements outlined in Article 1320 of the Indonesian Civil Code regarding the validity of an agreement. Meanwhile, the

[4]Yahanan, A., Murzal, M., Turatmiyah, S., & Si, T., "Notarial Challenges for Aircraft Deeds: Unlocking the Potential of Aircraft as Collateral." *Hasanuddin Law Review* 10, No. 3 (2024): 304–321. https://doi.org/10.20956/halrev.v10i3.4818

[5]Lubis, S. K., *Etika Profesi Hukum* (Jakarta: Sinar Grafika, 2019).

[6]Kyianytsia, L., "Comparative Analysis of Notarial Functions in Ukraine, Poland and Lithuania," *Krakowskie Studia Malopolskie* 40, No. 4 (2023): 158-176. https://doi.org/10.15804/ksm20230411

[7]Huswan, B. V. N., Miru, A., & Marwah, "The Principle of Balance in Informal Credit Agreements," *International Journal of Religion* 5, No. 10 (2024): 1076-1081. https://doi.org/10.61707/cwyb8y04.

[8]Lubis, I., Murwadji, T., Sunarmi, & Sukarja, D., "Cyber Notary as a Mean of Indonesian Economic Law Development," *Sriwijaya Law Review* 7, No. 1 (2023): 62-72. https://doi.org/10.28946/slrev.Vol7.Iss1.1972.pp62-72.

[9]Yuanitasari, D., "The Role of Public Notary in Providing Legal Protection on Standard Contracts for Indonesian Consumers," *Sriwijaya Law Review* 1, No. 2 (2017): 179-190.

"konstatering" function refers to the recording of events or facts that occur before a notary, which are then poured into an authentic deed at the request of the party requiring it. Notaries carry out the relating function in making party deeds, while the "konstatering" function is applied when necessary to make a deed of minutes.

Notaries have broader authority since the government has established the institution.[10] Notaries also play an important role in ensuring the validity of their deeds.[11] Article 15 paragraph (1) UUJN regulates that "a notary is authorized to do authentic deeds regarding all acts, agreements, and provisions required by laws and/or desired by the interested party to be stated in an authentic deed, guarantee the certainty of the date of the deed, store the deed, provide Grosse, copies, and extracts of the deed, and deeds that are not the authority of other officials or other people as determined by law." Furthermore, Article 15, paragraph (2) of UUJN, states that a notary can validate signatures and confirm the date of private letters, registering them in a handbook for legalization. Additionally, a notary can record private letters in a special handbook for waarmerking, create copies of original private letters containing the same descriptions, and verify the accuracy of the photocopies against the original documents. Notaries can also provide legal advice on deed preparation, draft deeds related to land matters, and prepare auction minute deeds.

Based on these regulations, the duties of a notary include validating deeds made privately and registering deeds made privately. Article 1874 of the Indonesian Civil Code stipulates that "at deeds are signed under the hand, letters, registers, household affairs letters, and other writings made without the intermediary of a public official".

A. Pitlo stated that "an authentic deed is a written document that is signed, made to be used as evidence, and used by the person for whom the document was created." Meanwhile, according to Sudikno Mertokusumo, "a deed is a signed document that records events forming the basis of a right or obligation and which is intentionally created from the outset for evidentiary purposes."[12] For example, suppose a notary draws up a report on a meeting held at the General Meeting of Shareholders (GMS) of a limited liability company. In this case, the report constitutes an authentic deed made by the notary. Likewise, when a bailiff of the District Court summons a defendant or witness, the summons report is considered an authentic deed made by the bailiff. Essentially, such deeds are reports created by public officials or officers regarding official actions performed in their capacity.

The differences between an authentic deed and a private deed are as follows:[13]

1) Authentic Deed
   a) The form is prescribed by law and includes birth certificates, marriage certificates, and articles of association of a limited liability company.
   b) It is made by public officials such as notaries, land deed officials (PPAT), civil registry officers, religious affairs office (KUA) officials, or court judges.
   c) It has perfect evidentiary power, meaning it is deemed valid without requiring further proof of the authenticity of parties' signatures.
   d) It has a formal evidentiary strength in that it proves the truth of what the parties saw, heard, and did.

[10] Maddusila, Sitti Fatimah, Agus Lanini, and Andi Intan Purnamasari. "AI Revolution: The Legal Battle Between Indonesia and the European Union to Protect Copyright from Artificial Intelligence." *Hasanuddin Law Review 11,* No. 3 (2025): 366-390. https://doi.org/10.20956/halrev.v11i3.6499

[11] Inshakova, A., et al., "Legislative Approbation of the Extended Powers of Notaries in the Sphere of Civil Turnover of Immovable Property in the Russian Federation and the European Legal Orders," *Journal of Advanced Research in Law and Economics* 8, No. 5 (2017): 1526-1536.

[12] Trisnomurti, R., *Notaris dan Teknik Pembuatan Akta Notaris* (Makassar: Pustaka Pena Press, 2019)

[13] Harahap, M. Y., *Hukum Acara Perdata* tentang Gugatan, Persidangan, Penyitaan, Pembuktian, dan Putusan Pengadilan (Jakarta: Sinar Grafika, 2017).

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e) It also has material evidentiary strength, meaning the contents of the authentic deed are considered legally certain and valid as evidence among the parties involved, their heirs, and any third party who derives rights from the deed. Once presented in court, judges are bound by it and may not request additional evidence unless there is counter-evidence that disputes its content.
f) If the authentic deed is presented in court and challenged by the opposing party, the burden of proof lies with the party who contests the deed.

2) Private Deed
a) Its form is flexible and the parties involved are free to determine its format.
b) While authentic deeds are made by state officials such as notaries or PPATs, private deeds are made directly by parties themselves. Thus, any legally competent person may draft a private.
c) A private deed carries the same evidentiary weight as an authentic deed only if the signatory acknowledges the signature on the deed.
d) It only has material evidentiary strength if the signatory acknowledges their signature on the deed.
e) In court proceedings, if one party presents a private deed and the opposing party challenges it, the party submitting the deed must present additional proof (such as witnesses) to verify that the contesting party indeed signed the deed.

Therefore, the evidentiary power of private deeds is less intense than that of authentic deeds, which possess perfect and binding evidentiary power. However, a private deed has perfect and binding evidentiary power if it is legalized by an authorized official and acknowledged by the parties who signed the deed. Legalization is the ratification of private deeds by the parties who make the letter before the notary reads and explains its contents. It is then dated and signed by the parties and finally legalized by the notary. A notary is not obligated to materially investigate matters presented by an appearing party. Furthermore, based on Article 1870 of the Indonesian Civil Code, "for the interested parties and their heirs or for those who receive rights from them, an authentic deed provides perfect evidence of what is contained therein." Authentic deed has perfect evidentiary power and does not require validation through additional proof.

There are three characteristics of the evidentiary power of an authentic deed:[14]
1) External: the signature contained in an authentic deed must be accepted as a signature originating from an official authorized to make it so that the burden of proof is on the party who denies it.
2) Formal, that an authentic deed proves the truth of the date, place, identity, and signature of the person appearing and witnesses.
3) Material, that an authentic deed only proves the statements of the persons appearing as stated in the deed but does not prove the truth of the contents of the statement.

A notarial deed must fulfil the following requirements to have legal force as an authentic deed:[15]
1) Made by an authorized notary to issue deeds;
2) Signed by an authorized notary to validate the deed;
3) Stamped by an authorized notary to issue the deed.

The term "Notarized Autopsy Reports" referred to in this study is the legalization carried out by a notary on the statement of a doctor appointed by the family of the murder victim to

[14]Kaspar, B. H., & Rahayu, M. I. F., "Legal Perspective of the Role of Notary in Legalizing Underhand Lease Agreements in Indonesia," *Advances in Social Science, Education and Humanities Research* 655 (2022). https://doi.org/10.2991/assehr.k.220404.154
[15]Wardana, N. A. K., Agung, A. A. I., & Suwantara, P., "Sanksi Bagi Notaris dalam Hal Terjadinya Pelanggaran Ketentuan Pembuatan Akta Otentik," *Jurnal Prefensi Hukum* 4, No. 1 (2022): 85-90. https://doi.org/10.55637/jph.4.1.6734.85-90.

witness the autopsy process. In the medical context, "an autopsy is a postmortem examination of a corpse to determine the cause of death or the nature of pathological changes and necropsy." This autopsy examination is regulated by judicial law and requires a forensic expert. A forensic autopsy is intended to determine the cause of death. However, it is also used as a parameter to determine the causal relationship between the defendant's actions and victim's death.[16]

In practice, legalization is the process of validating signatures and confirming the exact date of a private document created by the parties, which is then recorded in the notary's legalization book. Legalization serves as proof that the parties and a public official were present during the signing process and that the involved parties signed the deed. In this context, the notary is present on the same date as signing. In other words, the deed is signed by both parties and the notary at the same place on the same day, date, month, and year.[17]

Legalization in the context of a notary is the process of ratifying or recognizing the validity of a private deed with a thumbprint/fingerprint. The notary knows the person who provided the thumbprint/fingerprint and ensures the contents of the deed.[18] Legalizing a notary's private deed ensure that the document is officially recognized by authorities such as courts and government institutions.[19]

Legalization is one of the powers conferred by the state upon notaries and must comply with the following requirements:

1) The notary knows the appearing parties who sign the deed;
2) The notary explains and describes the contents of the deed to the appearing parties;
3) The appearing parties sign the deed in the presence of a notary.

The notary must state the above matters in their statement on the private deed. A legalized signature cannot be disputed unless the notary's statement is alleged false. The evidentiary force in the ratification of a private deed lies in the affixing of a signature or thumbprint by the party appearing before the notary. The presence or signature of two witnesses is not required in the ratification deed because ratification is a personal statement from the notary as an authorized official. A notary statement is reliable and can be used as sufficient evidence, without requiring additional witnesses. Meanwhile, authentic deeds executed with a notary under Article 1970 of the Indonesian Civil Code have conclusive evidentiary values.

In the context of accountability for the truth of legalized private deeds, a notary plays an essential role in ensuring the validity and authenticity of the document. This legalization process provides certainty that the parties signing the deed are legitimate parties to the agreement and not someone else. Therefore, the procedure for legalizing documents using a notary is crucial in ensuring a document's validity and legal force. The following are the stages in the legalization process by a notary:[20]

1) The parties bring documents such as deeds, statements, contracts, or other official documents to be legalized;
2) The notary checks the document's contents and ensures that it is valid, complete, and in accordance with the applicable regulations. The notary also verifies the identities of the parties that appear, and they sign the document in the face of a notary.
3) Signing and stamping of the document by the notary;

[16]Wiraagni, I. A., & Suhartini, *Aplikasi Toksikologi dalam Ilmu Kedokteran Forensik* (Yogyakarta: Gadjah Mada University Press, 2021).
[17]Sinaga, E. J., "Layanan Hukum Legalisasi dalam Upaya Memberikan Kepastian Hukum," *Jurnal Penelitian Hukum De Jure* 19, No. 1 (2019): 85-96. http://dx.doi.org/10.30641/dejure.2019.V19.85-96.
[18]Salim, *Teknik Pembuatan Akta Perjanjian* (RajaGrafindo Persada: Jakarta, 20017).
[19]Prastomo, D. A., & Khisni, D., "Akibat Hukum Akta di Bawah Tangan yang Dilegalisasi oleh Notaris," *Jurnal Akta* 4, No. 4 (2017): 727-738. https://doi.org/10.30659/akta.4.4.727-738.
[20]Adjie, H., *Memahami dan Menerapkan: Covernote, Legalisasi, Waarmerking* (Jakarta: Refika Aditama, 2023).

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4) The notary keeps a copy of the legalized document and writes the related information in book register.

Based on Article 16, Paragraph (1) of the UUJN, "Notaries must act honestly, carefully, independently, impartially, and safeguard the interests of the parties involved in every legal action." Notaries are responsible for performing their duties in terms of integrity and accuracy. Thus, "protecting the interests of the parties concerned in every legal action" is an obligation a notary must fulfil'.[21] Granting authority to a notary to carry out legalization has consequences that give rise to responsibility for providing legal certainty to the public. Notaries must meet the requirements and criteria, as public officials are authorized to perform authentic deeds.[22] Competence refers to the scope of authority granted to an institution or individual to serve the public interest, as determined by the law.[23]

However, the UUJN does not specify the limits of a notary's authority in legalizing a deed. If false information is present, a notary is not responsible, as their role is merely to express the will of the parties in the deed. The information contained in the deed remains the responsibility of the parties appearing. However, a notary may be held liable if proven to have participated in fraud or any criminal act related to the deed they drafted. According to Article 1869 of the Civil Code, an authentic deed created by an unauthorized or incompetent official or a defective deed, even if signed by the parties, holds only the evidentiary power of a private deed.

Public notary documents have a crucial role in modern legal transactions.[24] The notary's responsibilities have significantly expanded with the introduction of entirely new notarial actions within its scope of authority.[25] Thus, the issue of a notary's duties is a fundamental concern within the framework of the deontological principles governing notarial activities.[26] As public officials, notaries are responsible for actions related to their work in making deeds. A vague norm will cause notaries to doubt their ability to perform duties mandated by UUJN.[27] A notary in carrying out his profession is only a facilitator of the parties in the "partij acte."[28] Thus, a notary is not allowed to change the agreement he authorized without the parties' consent.[29] If a notary violates these provisions, the notary may be subject to punishment in the form of a warning, temporary suspension, honorable dismissal, or dishonorable dismissal.

A proof is the process of presenting facts to demonstrate that a legal event has occurred. In procedural law, authentic deed serves as conclusive proof with legal significance, applying only to the parties involved. The purpose was to provide certainty to the judge regarding certain events. The implications of an autopsy for legal purposes that are not submitted by an investigator are related to the acquisition of evidence, especially at the investigation stage. There is a principle of unlawful legal evidence, namely evidence obtained illegally has the

[21]Adinugraha, C. O., Sudarwanto, A. S., & Amiruddin, N., "A Review on Notarial Deed Restriction Regulation Based on Law on Office of Notary Public," *International Journal of Multicultural and Multireligious Understanding* 5, No. 2 (2018): 318-329. http://dx.doi.org/10.18415/ijmmu.v5i2.380.

[22]Husain, H., Lahae, K., & Marwah, "Making a Notary Deed That Provides Legal Certainty," *Awang Long Law Review*5, No. 1 (2022): 180-188. http://dx.doi.org/10.56301/awl.v5i1.548.

[23]Begichev, A., "Philosophical and Theoretical Aspects of Court-Notary Interaction: Current Relationships in The Provision of Evidence," *WISDOM* 4, No. 28 (2023): 90-100. https://doi.org/10.24234/wisdom.v28i4.1038.

[24]Krstinić, D., & Zarubica, S., "Enforcement of Public Notary Documents," *Pravo - Teorija i Praksa* 38, No. 1 (2021): 42-54. http://dx.doi.org/10.5937/ptp2101042K.

[25]Korsik, K. A., & Parfenchikova, A. A., "The Transformation of the Russian Notary in the New Economic Realities," *Public Administration* 123, No. 1 (2020): 92-97. https://pa-journal.igsu.ru/en/articles-en/6873/.

[26]Vdovichen, V., & Vdovichena, L., "Professional Responsibility of Notaries: Ontological Aspect," *European Journal of Law and Public Administration* 6, No. 2 (2019): 148-156.

[27] Alincia, D., & Sitabuana, T. H., "Urgency of Law Amendment as Foundation of The Implementation of Cyber Notary," *Law Reform* 17, No. 2 (2021): 214-231. https://doi.org/10.14710/lr.v17i2.41749.

[28] Diana, P. V. P., Mertha, I. K., & Artha, I. G., "Pertanggung Jawaban Notaris Dalam Pembuatan Akta Berdasarkan Pemalsuan Surat Oleh Para Pihak," *Acta Comitas* 2, No. 1 (2017): 160-171. https://doi.org/10.24843/AC.2017.v02.i01.p15.

[29]Biemans, J. W. A., "Will Requirements for Last Wills Remain as They Are? The 'Physical Presence Requirement' of Witnesses and Notaries in the Light of the COVID-19 Interim Measures and the EU Freedom of (Notarial) Services," *Utrecht Law Review* 17, No. 3 (2021): 51-64. https://doi.org/10.36633/ulr.650.

consequence of dropping the case. This principle is related to the parameters of evidence, namely the method of collecting or obtaining evidence in the investigation process. Autopsy results that are not at the investigator's request will have an impact on the evidence process itself.

Although the legalization of a private deed does not change its status into an authentic deed, appearing parties cannot deny the validity of their signature and the contents of the deed because the notary had witnessed and read the contents before the parties signed the deed. Legalized private deeds have a perfect evidentiary legal force, like authentic deeds, because the parties recognize their truth.

The notary's legalization of the witness's statement regarding the autopsy process is not against the law, as long as the procedure follows the regulations. However, in the trial of the murder case of Brigadier Joshua, the notary's legalization of the witness's statement regarding the autopsy process was not used as evidence in court because it did not qualify as the category of written evidence issued by an authorized official to explain the cause of a criminal incident. In this case, the notary only validated that the witness's statement regarding the victim's autopsy process was signed by the witness before the notary on the same date that the notary validated the document.

From a principled perspective, the notarization of a general practitioner's statement regarding autopsy observations must be examined by clearly distinguishing between general legal principles and specific principles of criminal procedural law. General principles of legal certainty and legality require evidentiary actions to be based on legally conferred authority, thereby limiting a notary's competence and precluding the legalization of forensic findings. Accordingly, the legalization of a statement by a general practitioner who observed the autopsy process constitutes a misapplication of evidentiary principles, as it treats the authentication of such a document as written evidence under civil procedural law, on par with *Visum et Repertum* as written evidence in criminal procedural law.

2. Evidentiary Power of Visum et Repertum

Material truth is the goal of every criminal case examination. Therefore, the use of disciplines outside criminal law cannot be avoided. The effort to find material truth in the examination of criminal cases connects criminal law with, and depends on, other disciplines such as forensic science.

Unlike documents legalized by a notary, which aim to provide formal legal certainty, a VeR focuses on revealing the material truth. The evidentiary power of a VeR lies not in the formality of the document but rather in the scientific expertise and precision of the methods used by the forensic doctor in examining the victim's body. Therefore, a VeR holds a unique position in criminal procedure law, as its assessment is based on the substance of facts rather than solely on formal aspects.

Law enforcers often investigate complex cases that require specialized skills to obtain sufficient evidence.[30] In murder cases, it is often difficult to establish a causal relationship between a particular act and the victim's death. Therefore, forensic expert examination is needed to unravel and reveal the cause of death. Advances in forensic science have also increased public awareness regarding their ability to solve serious crimes.[31]

[30]Budiono, A., Silalahi, W., Ngestiningrum, A. H., Izziyana, W. V., Suparji, Pradnyawan, S. W. A., & Budiartha, N. P., "Visum Et Repertum in the Evidencing Process of Rape in Indonesia," *Indian Journal of Forensic Medicine & Toxicology* 14, No. 2 (2020): 167-171. https://doi.org/10.37506/ijfmt.v14i2.3476.

[31]Ali, B., & Abbas, G. "Power of Forensic Evidence in Solving Crimes." *International Journal for Electronic Crime Investigation* (2024). https://doi.org/10.54692/ijeci.2024.0802193

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An autopsy is a procedure used to determine the cause of death and assess how this information can be applied in legal proceedings to establish an individual's criminal responsibility. It is conducted on a deceased body to identify the cause of death and identify any conditions or diseases that may have contributed to it. Autopsies can be performed for both forensic and non-forensic purposes. However, in the forensic context, autopsies provide important information for court and criminal investigations.[32]

A postmortem examination, commonly referred to as autopsy, involves the analysis of a deceased body to establish the cause of death. This allows one to determine the exact cause, particularly when the circumstances are suspicious. Occasionally, findings from a postmortem examination may differ from those of prior clinical observations.[33] In the case of Brigadier Joshua, the victim's death was considered unnatural and suspected to be a criminal act. In this case, the investigators asked forensic experts for information regarding the autopsy results as evidence in court. The autopsy results are presented in a report called "Visum et Repertum." An autopsy serves as the most reliable form of evidence for determining the cause of death in all cases when documenting factual information.[34] Forensic autopsy reports are an essential component of criminal homicide prosecution. The report is a crucial component of death investigation, serving to hold the guilty accountable and clear the innocent.[35]

KUHAP does not explicitly recognize VeR as valid evidence. However, VeR is regulated under the Staatsblad 1937 Number 350, which pertains to Visa Reperta. VeR is the singular form of Visa Reperta, which can be loosely interpreted as a report documenting observations or acknowledgements of having witnessed something.[36] According to Soeparmono, VeR originates from the Latin words "visual," meaning to see, and "repertum," meaning to report.[37]

VeR is a written report prepared by a doctor at the official request of an investigator, detailing the results of a medical examination of a living or deceased person or part of the human body. It includes findings and interpretations, is made under oath, and provides evidence for judicial proceedings.[38] The VeR contains information seen or found by the doctor during the examination of the victim. VeR is considered valid if it is issued by a doctor who has taken an official medical oath. Based on this explanation, VeR can be defined as a written report prepared for judicial purposes by a qualified and sworn-in doctor, following their expertise. It documents the doctor's observations and findings during the examination of evidence along with conclusions drawn from the examination results.

The responsibility of a forensic doctor is very important in carrying out his duties, especially because his work is often related to post-mortem examinations and criminal investigations. Forensic doctors must maintain neutrality and independence in performing their duties, ensuring that their forensic findings remain objective and free from conflicts of interest or external influences. They must also be committed to revealing the truth based on scientific evidence and facts, without being influenced by political pressure or public opinion. This

[32]Santi, F., Nopalina, F., Mahendra, D. A., & Alfian, D., "Peran Dokter Forensik dalam Penegakan Hukum: Kontribusi terhadap Proses Penyidikan dan Pembuktian Pidana," *Innovative: Journal of Social Science Research* 4, No. 1 (2024): 11645-11660. https://doi.org/10.31004/innovative.v4i1.9012.

[33]Sah, B., Yadaf, B. N., Jha, S., Ayer, A., & Yadaf, A. K., "Reporting of Medical Errors in Autopsied Cases," *Journal of Nepal Health Research Council* 15, No. 2 (2017): 197-201. https://doi.org/10.3126/jnhrc.v15i2.18196.

[34]Arifi, B., "Importance Autopsy for Investigation of a Case," *European Journal of Medicine and Natural Sciences* 3, No. 1 (2020): 21-25. https://doi.org/10.26417/ejis.v6i1.p132-136.

[35]Ginsberg, M., "The Confrontation Clause and Forensic Autopsy Reports — A 'Testimonial'," *Louisiana Law Review*(Forthcoming, 2013): 1-100. Available at SSRN: https://ssrn.com/abstract=2294613 or http://dx.doi.org/10.2139/ssrn.2294613.

[36]Ohoiwutun, A. T., *Ilmu Kedokteran Forensik (Interaksi dan Dependensi Hukum pada Ilmu Kedokteran).* (Jember: Universitas Jember, 2017).

[37]Nurtianti, T. P., & Koswara, I. Y., "Peranan Visum Et Repertum Bagi Korban Tindak Pidana Pembunuhan," *Jurnal Ilmiah Wahana Pendidikan* 9, No. 1 (2023): 564-570. https://doi.org/10.5281/zenodo.7553924.

[38]Afandi, D., *Visum Et Repertum (Tata Laksana dan Teknik Pembuatan Edisi Kedua)* (Riau: Fakultas Kedokteran Universitas Riau, 2017).

emphasizes the importance of forensic doctors' integrity and objectivity when conducting autopsies. Case engineering, by eliminating evidence of a murder allegedly committed by a forensic doctor, is not only a violation of ethics but also a criminal act, such as an obstruction of justice. This action refers to an attempt to obstruct legal enforcement. Forensic doctors who deliberately manipulate or change physical evidence on a corpse can be considered to have committed to an obstruction of justice. Legally, the obstruction of justice originates from the Anglo-Saxon legal system and refers to the criminal act that hinders the legal process in Indonesian criminal law.[39]

As a written statement containing the results of an examination by an expert doctor on evidence in a criminal case, VeR has the following role:

1) As valid evidence as stated in Article 184 number (1) in conjunction with Article 187 letter c of the KUHAP;
2) Evidence to detain a suspect. Investigators can use a doctor's VeR as a substitute for evidence to complete a warrant for the suspect's detention.
3) As a consideration for the judge. The doctor's description in the VeR reporting section is material evidence of a criminal act; therefore, it can be considered a substitute for evidence. Thus, the judge can consider trying this case.

Although VeR is categorized as written evidence under Article 187(c) of the Criminal Procedure Code, its evidentiary force cannot be equated to that of ordinary written evidence. The VeR is written in the form of a statement prepared by a forensic doctor based on scientific reasoning. Therefore, its evidentiary force derives not only from its written form, but also from the forensic doctor's authority as the expert who issued the report.

Forensic doctors are crucial in handling criminal cases to reveal evidence in human bodies or body parts and to provide assessments through postmortem reports. Article 179 of KUHAP regulates, "Every person who is asked for his opinion as an expert in judicial medicine or a doctor or other expert is obliged to provide expert testimony for the sake of justice." They were obligated to present accurate and thorough information based on their expertise. Since forensic medical expert testimony necessitates a VeR, they are legally bound to fulfil this duty.

The police investigate finding or discovering something considered a criminal act, and collect evidence to be presented in court. Based on Article 1 of the KUHAP, "an investigation is a series of actions carried out by the provisions of the law to search for and collect evidence to clarify the occurrence of a crime and identify the suspect." In this context, an investigator refers to an official from the Republic of Indonesia National Police or a designated civil servant who is granted special legal authority to conduct the investigations. In crimes against life or the human body, VeR can be used as a substitute for evidence for the human body; VeR plays an important role in explaining the condition of the wound or the condition of the corpse at the time of the forensic medical examination. In VeR, it is further concluded regarding the condition of the wound or the cause of death. Meanwhile, in cases of death suspected of being the result of a criminal event, Article 134, paragraph (1) KUHAP regulates that "in cases where it is necessary to prove that an autopsy cannot be avoided, the investigator must first notify the victim's family." Then, in paragraph (2), "if the family objects, the investigator must explain the intent and purpose of the surgery as clearly as possible. Although families must be informed, their consent is not required, and preventing an autopsy is classified as a criminal offence under Article 222 of the KUHP, as amended by Article 283 of Law No. 1 of 2023.[40]

[39]Agustina, S., Isra, S., & Daulay, Z., *Obstruction of Justice* (Jakarta: Themis Books, 2015).

[40]Bakhtiar, H. S., "Legal Regulation of Forensic Autopsies in the Criminal Investigation Process: A Study of Concepts and Legal Reform," *Journal of Law, Politic, and Humanities (JLPH)* 4, No. 5 (2024): 1763-1769. https://doi.org/10.38035/jlph.v4i5.667.

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VeR can only be issued if the police (investigator) formally submit a written request, as stipulated in Article 133 of the KUHAP. This article grants investigators the authority to seek an explanation from a judicial medicine expert, doctor, or other specialist when dealing with an injured, poisoned, or deceased person suspected of being a victim of a criminal act. The request must be made in writing and explicitly stated that it is for the examination of wounds or a corpse in the interest of justice.

According to Article 133, paragraph (1) of the KUHAP, investigators play a crucial role in handling evidence related to human bodies, particularly in establishing proof to uncover the material truth in a case. This article regulates the examination of corpses and/or forensic autopsies based on the investigator's request. The request is in the form of a letter of application addressed to a health service facility to create a VeR, both for victims of criminal acts who are still alive and those who have died. The police, as the party responsible for investigating criminal cases against life or the body, also have full administrative responsibility in creating a VeR.

Articles 133 and 134 of the KUHAP regulate the authority of investigators in conducting forensic autopsies so that legal interpretation is no longer needed. This is based on the legal maxim in the claris nonfit interpretation, which means that clear rules do not require interpretation. In addition, there is a legal doctrine in line with this principle, namely, the sens-clair doctrine, which essentially states that the law is as it is and cannot be perceived in two ways. In other words, clear rules need not be interpreted. Thus, under the current criminal procedure law, only the investigator can request forensic autopsy.[41]

The implications of an autopsy for legal purposes that an investigator does not submit are related to the acquisition of evidence, particularly at the investigation stage. There is a principle of unlawful legal evidence; namely, evidence obtained illegally has the consequence of dropping the case. This principle is related to the parameters of evidence, namely the method of collecting or obtaining evidence in the investigation process.

VeR carries substantial evidentiary value, as it is recognized as one of the official evidence documents under KUHAP regulations.[42] The following are the stages in creating the VeR:[43]

1) Receiving victims sent by the investigators. Doctors, from general practitioners to specialist doctors, are involved in this activity, and their regulations refer to the Standard Operating Procedure (SOP).
2) Receive a letter of request for expert information or VeR. The doctor in charge of the medicolegal examination must examine the existence of a request letter according to the applicable provisions.
3) Medical examination of the victim by a doctor using forensic science;
4) Typing an expert information letter or VeR. Typing VeR by administrative officers requires attention to its form or format, because it is intended to serve the courts' interests. For example, it closes each end of the paragraph with a line to prevent the irresponsible parties from adding certain words.
5) VeR must be signed by the examining doctor, who must also initial each sheet of the expert statement file;
6) Submission of evidence that has been examined using a report;
7) Submission of an expert statement or VeR. VeR may only be submitted to the investigator who requested it. The suspect's legal counsel is not authorized to request the VeR from the doctor or a copy of the VeR directly from the doctor. However, the suspect's legal counsel

[41]Susanti, D. O., & Efendi, A., "Memahami Teks Undang-Undang dengan Metode Interpretasi Eksegetikal," *Jurnal Kertha Patrika Universitas Udayana* 41, No. 2 (2019): 141-154. https://doi.org/10.24843/KP.2019.v41.i02.p05.
[42]Martini, "Assessment of Visum Et Repertum Evidence on Victims of Women Violence in Household Conflict," *International Journal of Social Science Research and Review* 5, No. 8 (2022): 150-155. https://doi.org/10.47814/ijssrr.v5i8.543.
[43]Afandi, D., *Visum Et Repertum (Tata Laksana dan Teknik Pembuatan Edisi Kedua)* (Riau: Fakultas Kedokteran Universitas Riau, 2017).

may request a copy of the VeR from the investigator or court during the period leading up to the trial.

In a legal context, the VeR function is valid. VeR falls under the category of written documents. Article 187, letter (c) of KUHAP states that "a valid letter as evidence includes an expert's statement providing an opinion based on their expertise concerning a specific matter or condition upon official request." Written evidence in the form of a deed or letter is not only used as evidence in civil cases but also has an essential position in criminal cases, as regulated in Article 184 number (1) of KUHAP, which states that valid evidence is witness statements, expert statements, letters, instructions, and statements from the defendant. In civil law, evidence is regulated in Article 1866 of the Indonesian Civil Code, which consists of written evidence, evidence with witnesses, allegations, confessions, and oaths.

Judges in civil cases generally only seek formal truth, so the authentic deed can be said to be strong evidence without additional evidence. Unlike in criminal cases, the primary evidence is testimony. However, Article 183 of KUHAP stipulates that a judge can only impose a sentence on a defendant if there are at least two pieces of evidence.[44] Scientific evidence is the most reliable proof in criminal investigations, particularly for uncovering cases or identifying perpetrators during the investigative process. Investigators responsible for finding and collecting evidence have the authority to involve experts, as stated in Article 7, paragraph (1), letter h of KUHAP, which emphasizes the necessity of expert involvement for case examination. Additionally, according to Article 1, number (28) of the KUHAP, expert testimony refers to information provided by a specialist with specific expertise to clarify matters essential for a criminal investigation.[45]

VeR holds significant evidentiary value if a forensic doctor presents its testimony as expert evidence. However, according to the Guidelines for Implementing KUHAP and Article 133(1) of KUHAP, VeRs issued by non-forensic doctors are also admissible, although they are classified as circumstantial evidence rather than expert testimonies. In court, autopsy results in the form of a VeR issued by the hospital can be used by the judge because the document comes from a party with the authority to issue it. As an authorized medical institution, the hospital has the experts and facilities needed to conduct an autopsy and prepare a report of the results. The judge uses this VeR as evidence in the trial process, believing that the report has been prepared by competent professionals and is based on legitimate procedures.

Therefore, the evidentiary authority of the VeR cannot be separated from its scientific and procedural bases. Unlike a doctor's statement regarding the results of an autopsy, which is notarized and only confirms the occurrence of the statement, the VeR serves as a legal instrument to reveal the material truth in criminal procedures. This distinction underscores the fact that only a VeR issued by a forensic doctor upon the request of an investigator can serve as decisive expert evidence in cases involving suspicious deaths.

C. Conclusion

This study concludes that a notarized statement from a general practitioner regarding autopsy observations and a Visum et Repertum have fundamentally different evidentiary grounds and legal consequences under Indonesian Criminal Procedure Law. A notarized statement regarding the autopsy process serves only to provide formal legal certainty regarding the identity of the declarant, date of signing, and occurrence of the statement before a notary. Its evidentiary value is limited to confirming that the statement was made and signed without extending to the

[44]Anggun, N., "Kekuatan Pembuktian dan Penilaian Alat Bukti Visum et Repertum dalam Tindak Pidana Pembunuhan Berencana (Studi Putusan Pengadilan Negeri Stabat Nomor 416/Pid.B/PN.Stb)," *Verstek* 7, No. 1 (2019): 169-175. https://doi.org/10.20961/jv.v7i1.30072.

[45]Bakhtiar, H. S., "The Regulation of Autopsy in Indonesia," *International Journal of Scientific & Technology Research*8, No. 10 (2019): 17-23.

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material truth of the medical findings described therein. In contrast, Visum et Repertum occupies a stronger and irreplaceable position as expert evidence aimed at uncovering material truths in criminal cases. The evidentiary power of a Visum et Repertum does not derive from formal authentication but from the forensic doctor's scientific expertise, methodological rigor, and professional responsibility, acting under oath and at the official request of the investigator, as mandated by the Indonesian Criminal Code. Thus, Visum et al. serves as the primary instrument for determining the cause and manner of death in suspicious cases. This study further confirms that under Indonesian law, only investigators are legally authorized to request a forensic autopsy and issue a visum and rectum. Therefore, a notarized statement from a general practitioner regarding autopsy observations serves only as supplementary evidence and cannot be equated with forensic expert evidence.

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