

Legal Analysis Of The Role Of Autopsy In Revealing The Crime Of Murder Based On The Criminal Code

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Abstract.

The purpose of this study is to find out and understand the Role of Autopsy in Revealing a Murder Crime and the obstacles faced by investigators in the autopsy process in revealing a Murder crime. This study uses a normative legal research type. Discussion Results: First, Forensic Autopsy has a very important role in revealing a Murder crime. The results of a forensic autopsy in the Criminal Procedure Code (KUHP) are used as evidence either in the form of expert testimony and/or letters (visum et repertum). The results of a forensic autopsy clearly have a legal basis, this is clearly regulated in the Criminal Procedure Code. The forensic autopsy process is very important in identifying the cause and effect of a person's death. So that forensic autopsy evidence has a clear legal position in the Criminal Procedure Code as evidence either in the form of expert testimony and/or letters; second, the obstacles faced by investigators in conducting an autopsy in revealing a Murder crime include: The victim's family objects, Lack of competent investigator human resources, Lack of experienced experts.

Keywords: Legal Analysis; Role of Autopsy; Murder Crime and Criminal Procedure Code.

I. INTRODUCTION

In various countries around the world there are various types of crimes that occur, even various types of modus operandi. Both perpetrators of crimes committed by children, teenagers and adults, all have happened. Criminal acts committed by perpetrators often increase from year to year, some are caught but some are still being pursued (fugitives) by the police, but there are also those who are not yet known because they are still being identified by the police. In some cases that occur in Indonesia, murder cases often appear in the news on several television media, but the case seems very slow in the process. This is certainly not easy to determine who the perpetrator of the murder is, if the perpetrator of the murder is a very professional person so that he can avoid the clutches of the law. The perpetrator of the murder can know how to eliminate traces or evidence of the crime, which makes the perpetrator of the murder difficult to find for some time. So to find out the cause of the victim's death, the method usually used is to perform an autopsy on the victim's body. To uncover the cause of the victim's unnatural death, law enforcement requires auxiliary science, namely autopsy science carried out by forensic doctors to examine the remaining body parts of the victim or the victim's body that has been buried by the family. Autopsy has become one of the most important medical sciences that aims to find out and study the anatomical structure of the human body, how to overcome various diseases hidden in the human body and as evidence in court to reveal the cause of human death.

¹In criminal cases, to find out the cause of death of the victim, an autopsy is performed. However, generally the victim's family does not allow it because it is considered to hurt the victim, damage the corpse and is contrary to human values.²The purpose of an autopsy is a thorough medical examination of a corpse to determine the cause of death. An autopsy is an act to identify and investigate the cause of death, see if there are any injuries or illnesses that may have occurred, and provide information to the family or authorities in a murder case. The autopsy process involves a thorough examination of the corpse, including internal and external organs, including taking tissue samples for laboratory analysis, radiography, and other forensic examinations. Furthermore, the results of the autopsy are used to create a medical report containing information about the cause of death of the corpse. Usually an autopsy is performed on someone who dies

suddenly and the cause of death is not clearly known. So with this autopsy, it can help identify whether death was caused by illness, injury, or other factors that may be more relevant to the death of the corpse.

The murder cases that have occurred in several regions in Indonesia are related to murder cases, including:

1. the murder case committed by Slamet Tohari (45) since 2020, a person who claims to be a money-doubling shaman in Banjarnegara Regency, Central Java. The number of victims suspected of being killed by Slamet reached dozens of people. The bodies of the victims were found buried in a plantation area in Balun Village, Wanayasa District, Banjarnegara. The victims were killed by being poisoned with a drink mixed with potassium. The victims were then buried in the suspect's cassava garden located in a plantation area about 2 kilometers from the residential area. From the city center of Banjarnegara, the location of the murder is about 31 kilometers which can be reached in 1 hour. Based on the results of the investigation, one of the victims was confirmed to have died from consuming potassium cyanide. This case was only revealed in 2023.
2. The murder of nine people by the gang of Wowon Eriawan alias Aki (60), Solihin alias Duloh (63), and MDS alias Dede (35), in Ciketing Udik, Bantargebang District, Bekasi City, West Java, in 2023. Of the nine victims who died at the hands of this gang, six had been migrant workers. Tragically, most of them had close relationships with Wowon, namely as wives, in-laws, and stepchildren. At that time, one family was suspected of being poisoned, namely AM (40), AR (23), MR (17), Dede, and NR (5). Then the case developed into a murder after the police found pesticide content in leftover food, vomit, feces, the victim's body, and the remains of burnt garbage in the backyard of the scene. AM, along with her two children from her previous ex-husband (Didin), died, while NR and Dede survived.
3. The case of a corpse cast in cement in Bekasi in 2023. The casting of the bodies of two women in Harapan Jaya, North Bekasi, Bekasi City, West Java, is suspected to be motivated by debt. The police found a criminal act in the case of two women named Yusi Purawati (48) and Heni Purwaningsih (47) who were cast in a rented house in Harapan Jaya. They are suspected of being murdered by a tenant named Permana Kusuma (50). The police used a forensic laboratory (labfor) to confirm the alleged existence of another crime, because one of the women's bodies was found unclothed. It could be a case of molestation or rape. Labfor officers also checked and took samples from the vagina and anus, to determine whether there were traces of sperm from the alleged perpetrator of the murder. From the police identification, the perpetrator is suspected of executing the victim with a blunt object, this can be seen from the findings of wounds on the head. The victim suffered a wound on the head, allegedly due to being hit by a blunt object. As for what object, we are still waiting for the autopsy results.
4. The mutilation case of a woman named Angela Hindriati Wahyuningsih (54) was revealed at the end of 2022, but the investigation lasted until the new year 2023. The case began with the discovery of dried body parts in a rented room in the Kampung Buaran area, Lambangsari Village, South Tambun, Bekasi Regency, West Java. Thursday (29/12/2022). The police found Angela's body in a cut state in two container boxes in a rented house in South Tambun.³
5. The murder case of Nia Kurnia in Padang Pariaman Regency. Nia Kurnia Sari is an 18-year-old girl who sells fried foods every day to help her family's economy. Nia was then reported missing and did not return home after selling fried foods since Friday, September 6, 2024. The victim's parents then reported Nia's disappearance to the Village apparatus. A search was carried out, until Sunday at around 16.00 WIB, the victim's belongings were found. Three days later, on Sunday, September 8, 2024, Nia's body was found buried in a plantation area in Korong Pasa Gelombang, Kayu Tanam Village, 2x11 Enam Lingkung District, Padang Pariaman Regency, West Sumatra. The location where Nia's body was found was about 500 meters from the victim's residence and the victim was found naked, around the location where the body was found, a number of Nia's belongings were also

found. Such as a hijab, sarong, sandals, and a place for fried foods. Nia's body was then taken to the Bhayangkara Padang Hospital for an autopsy.⁴ And this case is currently still in the judicial process.

From the description of several murder cases that have occurred above, it can be seen that autopsies play a very important role in revealing and identify the cause of death in a corpse. This is the reason why the author chose the title "Legal Analysis of the Role of Autopsy in Revealing the Crime of Murder Based on the Criminal Procedure Code". Based on this, the author formulates the problem regarding how The Role of Autopsy in Revealing a Murder Crime and what obstacles investigators face in the autopsy process in revealing a murder crime.

II. METHODS

This research is a normative legal research or often referred to as normative juridical research. According to I Wayan Puja Astawa in his book entitled Normative Legal Research Methods, normative legal research is a type of legal research that focuses more on analyzing the text of laws and regulations, court decisions, legal doctrines, and other legal sources. The approach used is the case study and legislation approach. The case study approach is a research method that examines a case from various legal aspects. While the legislation approach is a research method that examines laws and regulations related to legal issues that are currently/have occurred.

III. RESULT AND DISCUSSION

The Role of Forensic Autopsy in Revealing Murder Crimes

Provisions regarding autopsies are contained in several articles in the Criminal Procedure Code which explain the implementation of forensic autopsies, including Article 133 paragraphs (1), (2), and (3), Article 134 paragraphs (1), (2), (3), Article 179 paragraphs (1) and (2) of the Criminal Procedure Code.

Article 133 paragraphs (1), (2), and (3) of the Criminal Procedure Code stipulates:

- (1) In the case where an investigator, in the interests of justice, handles a victim who is injured, poisoned or dead, which is suspected to be due to an event that constitutes a criminal act, he has the authority to submit a request for expert information to a forensic medicine expert or a doctor or other expert.
- (2) The request for expert information as referred to in paragraph (1) shall be made in writing, and the letter shall expressly state that it is for examination of wounds or examination of a corpse and/or autopsy.
- (3) Corpses sent to forensic medical experts or doctors at hospitals must be treated well with full respect for the corpse and given a label containing the corpse's identity and a job stamp attached to the big toe or other part of the corpse's body.

In accordance with the provisions of Article 133 of the Criminal Procedure Code, that in assisting the interests of justice in handling a victim of injury, poisoning or death suspected of an event that constitutes a criminal act, then with this the investigator is authorized to submit a request for expert information, namely an expert in forensic medicine or other specialist doctor, the request is made in written form in an expert statement described in a letter that confirms for the examination of wounds or examination of the body and or examination as an identification process, the body that is handed over to a forensic medicine expert or doctor at the hospital must be handled properly and with full respect for the body, labeled and given a job stamp located on the thumb or body of the body.

Article 134 paragraph (1), (2), (3) of the Criminal Procedure Code states:

- (1) In cases where it is absolutely necessary for the purposes of evidence that a post-mortem examination cannot be avoided, investigators are required to notify the victim's family in advance.
- (2) If the family objects, the investigator is obliged to explain as clearly as possible the purpose and objective of carrying out the surgery.
- (3) If within two days there is no response from the family or the party that needs to be notified is not found, the investigator will immediately implement the provisions as referred to in Article 133 paragraph (3) of this law.

This article states that in the process of proving a crime, of course, a post-mortem must still be carried out, and cannot be avoided. However, this must of course be approved by the victim's family. Furthermore, if the family does not agree or objects to the investigator's request, then the investigator is obliged to explain as clearly as possible to the victim's family, but if within 2 days there is no response from the victim's family, then the investigator will do this in accordance with the provisions of Article 133 paragraph (3) in accordance with what is formulated in Article 134 paragraph 3 of the Criminal Procedure Code.

Article 179 paragraph (1) and (2) of the Criminal Procedure Code states:

- (1) Every person who is asked for his opinion as a forensic medical expert or other medical specialist is obliged to provide expert testimony for the sake of justice.
- (2) All of the above provisions for witnesses also apply to those who provide expert testimony, with the provision that they take an oath or promise to provide the best and most truthful testimony according to their knowledge in their field of expertise.

In the process of carrying out a forensic autopsy, the investigator, in accordance with his/her authority, must make a Letter of Request for Examination/Making of a Visum et Repertum in order to be able to carry out the autopsy.⁵ Every time a criminal case is handled as a law enforcer who has the authority to search for and manage the facts in the field in accordance with the actual incident that occurred and to carry out prosecution in accordance with the facts obtained and to carefully provide decisions based on regulations and to implement them as fairly as possible.⁶

Crime of Murder

The term criminal act is used as a translation of the term strafbaar feit or delict. Strafbaar feit consists of three words, namely straf, baar, and feit, literally, the word "straf" means criminal, "baar" means can or may and "feit" is an act. In relation to the term strafbaar feit as a whole, it turns out that straf is also translated with the word law. And it is common for law to be a translation of the word recht, as if the meaning of straf is the same as recht. For the word "baar", there are two terms used, namely may and can. While the word "feit" uses four terms, namely, act, event, violation, and deed.⁷ The term criminal act is a problem that is closely related to the problem of criminalization (criminal policy) which is defined as the process of determining a person's actions that were originally not criminal acts to become criminal acts, this determination process is a problem of formulating actions that are outside of a person.⁸ The definition of murder is an act carried out by one or more people which causes the death of one or more people where the perpetrator intended the consequences of the act.⁹ The definition of murder is an activity carried out by one or more people which results in one or more people dying.¹⁰ The crime of murder, in the Criminal Code is included in crimes against life. Crimes against life (misdrijven tegen het leven) are in the form of attacks on the lives of others.¹¹ Meanwhile, the word "murder" according to KBBI is defined as someone dying or taking their life intentionally.

¹²Murder is a crime that consists of several types, and in the Criminal Code of murder there are several articles that regulate murder. In the Criminal Code that applies in Indonesia in book II chapter XIX it regulates the crime of murder, which is determined by the legislators starting from article 338 of the Criminal Code to article 350 of the Criminal Code.¹³ So, the crime of murder is a criminal act or action carried out by a person or several people that causes death to another person because it is desired by the perpetrator. With the occurrence of this crime of murder, usually the perpetrator wants his actions not to be

identified by law enforcement as a way to avoid being caught in a criminal case for every act of the perpetrator. The results of a forensic autopsy in the Criminal Procedure Code (KUHAP) can possibly be used as evidence either in the form of expert testimony and/or a letter (visum et repertum). The results of a forensic autopsy clearly have a firm legal basis in the Criminal Procedure Code, because a forensic autopsy is very important to identify the cause and effect of a person's death. So that forensic autopsy evidence has a clear legal position in the Criminal Procedure Code as evidence either in the form of expert testimony and/or a letter.

Obstacles for investigators in conducting an autopsy in revealing a crime of murder

There are several obstacles/constraints that are often encountered in relation to the autopsy process in uncovering the crime of murder, including:

1. The victim's family objects

Investigators can perform a forensic autopsy if there is consent from the victim's family to perform an autopsy without consent from the family a forensic autopsy cannot be performed, from these results it seems that Article 222 of the Criminal Code cannot be applied because this is not in the context of an autopsy which is a surgery on a corpse, but related to a corpse examination, namely an external examination in the form of a Visum et repertum issued by a forensic doctor. If the family does not agree to the autopsy, the family must make a statement of refusal of the autopsy and the investigator must accept this because there are human rights and family rights that the investigator understands to refuse an autopsy for the body to be properly buried without an autopsy.

2. Lack of competent human resources investigators

HR (short for Human Resources), this is an important factor in its role in revealing every crime of murder. Often murder cases that have occurred require a very long investigation time, it can be seen from the perpetrators who are fairly professional so that they leave almost no traces. So investigators who have low HR find it difficult to reveal the perpetrators of this crime. Even investigators must be equipped with special skills and expertise in their fields, to conduct investigations related to the crime of murder.

3. Lack of experienced experts

The expert referred to here is an expert in the field of forensic medicine. Forensic medicine is a branch of medicine that studies the examination and diagnosis of victims, whether they have experienced violence or died. The results of this forensic medical examination can be used as evidence in law. Forensic medicine includes the following fields: Forensic pathology, Forensic psychiatry, Forensic dentistry, Forensic radiology, and Forensic toxicology. So, forensic doctors work to assist in law enforcement as well as solving legal problems. Forensic doctors examine and analyze physical evidence from the crime scene (TKP) to assist in investigations related to murder cases. Forensic doctors must be truly expert doctors in their fields and have a lot of experience, so that with the expertise and experience possessed by a forensic doctor, they can help solve problems related to murder cases that still require further investigation in order to reveal a case.

IV. CONCLUSION

1. Forensic Autopsy has a very important role in revealing a murder crime. The results of a forensic autopsy in the Criminal Procedure Code (KUHAP) can possibly be used as evidence either in the form of expert testimony and/or letters (visum et repertum). The results of a forensic autopsy clearly have a legal basis, this is clearly regulated in the Criminal Procedure Code. The forensic autopsy process is very important in identifying the cause and effect of a person's death. So that forensic autopsy evidence has a clear legal position in the Criminal Procedure Code as evidence either in the form of expert testimony and/or letters.
2. Obstacles for investigators in conducting an autopsy to reveal a murder crime include: Objection from the victim's family, Lack of competent human resources for investigators, Lack of experienced experts.

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