

# Forensic Medicine in Indonesia: The Application of Visum ET Repertum in Case Resolution

Yogi Prasetyo<sup>1</sup>, Ferry Irawan Febriansyah<sup>2</sup>, Indiantoro<sup>3</sup>, Absori<sup>4</sup>, Chrisna Bagus Edhita Praja<sup>5</sup>

<sup>1</sup>Lecturer, Muhammadiyah University of Ponorogo, <sup>2</sup>Lecturer, Muhammadiyah University of Ponorogo, <sup>3</sup>Lecturer, Muhammadiyah University of Ponorogo, <sup>4</sup>Professor, Universitas Muhammadiyah Surakarta, <sup>5</sup>Lecturer, Universitas Muhammadiyah Magelang

## Abstract

This research aimed at explaining important comprehension concerning with Forensic medicine in Indonesia: the application of visum et repertum in case resolution. As we know that, the community still have not known and comprehended about how important *visum et repertum* in law is. Moreover, it is often occurred uncompleted law well as the impact of not being supported by *visum et repertum*. This research utilized normative research method, which studied about medicine forensic and visum et repertum. Main material that was used in this research was data in form of health laws and regulations and also other data which were contained in books, journals and various scientific works and they related to the research theme. Furthermore, *visum et repertum* is one of important elements that cannot be abandoned in medical forensic process.

**Keywords:** Forensic, Medicine, visum et repertum, Indonesia

## Introduction

Various problems which are occurred in legal field require to the role of medical field for participating in giving consideration. It can be seen from the existence of *visum et repertum* in legal process to stipulate physical and mental condition from either victims or suspects. <sup>(1)</sup> Various cases which become public debate in Indonesia can be resolved through *visum et repertum*. As in 2018 political year, the case of “Ratna sarumpait” who was sympathizer of one of the presidential candidates claimed to have been persecuted by strangers. Initially, the case was considered to have a correlation with politics, but after the *visum et repertum* was held, it was only a facial operation that was made up as if there had been a persecution. In 2019, there was also a murder case of “Jamalludin” who was a judge in Medan District Court. Initially, it was considered as a case of car accident because the car that he drove plunged into the river. But after being conducted *visum et repertum*, it was

discovered that there was a case of premeditated murder that was done by the judge’s wife who was helped by two assassins by putting the judge’s body in the car to be plunged into the river.

People in Indonesia consider *visum et repertum* is less important in law enforcement process. Whereas, if it is studied more deeply, the *visum et repertum* is an inseparable part from the process in stipulating formal truth and legal material. In evidentiary process at trial court, *visum et repertum* becomes a valid evidence to stipulate clearly and objectively about violation of law that is occurred toward victim or perpetrator. Moreover, it is like stipulating the normal death that is different from the death which is caused by violation of law. Besides, the perpetrator’s motive can also be stipulated by *visum et repertum* psychologically regarding why the perpetrator committed murder.

## Research Method

This study used normative legal research methods that comprehended law as a positive legal system in laws and regulations. <sup>(2)</sup> <sup>(3)</sup> The approach that was used in this study was the philosophy of law. The philosophical

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**Corresponding author:**

**Yogi Prasetyo**

E-mail: yogiprasetyomadiun@gmail.com

approach studied the object of this research deeply. Therefore, it could be found the comprehension of fundamental laws.<sup>(4)</sup> Meanwhile, philosophical studies could provide information, verification, correction, complements and explanations in more detail.<sup>(5)</sup> The analysis was also conducted descriptively in order to obtain general description of the explanations which were related to *visum et repertum*.<sup>(6)</sup>

## Discussion

### 1. Comprehension of *visum et repertum* based on legal practice in Indonesia

Definition of *visum et repertum* in Indonesia actually is not explained clearly in a certain definition. As in Criminal Code (*Kitab Undang-Undang Hukum Pidana (KUHP)*) of Indonesia that relates directly with the use of *visum et repertum*, due to becoming main legal basis in its use, *visum et repertum* does not state that there is a term of *visum et repertum*. Haroen Atmodirono and Njowito Hamdani who defined *visum et repertum* based on Stbl. of Hindi Number 350 Year 1937, which was a written report for justification that was made by a doctor based on an oath about everything that was seen and found on examined object according to the best possible knowledge.<sup>(7)</sup> Similar thing was also stated according to Abdul Mun'im Idris, *visum et repertum* was a written report from a doctor who had been sworn about what was seen and found in the evidence that was examined and it also included conclusion of the examination for the interests of justice<sup>(8)</sup>.

For clearer comprehension about *visum et repertum*, it is important to know the content of what *visum et repertum* is. The characteristic that is contained in *visum et repertum* that is commonly used in Indonesia is the word "pro justitia" in the upper left corner of paper, which is a juridical requirement as a substitute for stamp duty.<sup>(9)</sup>

The use of *visum et repertum* usually aims at making clearer incident of a criminal act that is occurred<sup>(10)</sup>. Therefore, law enforcement officers in their written request toward the doctor state the type of *visum et repertum* that is needed through using format in accordance with the case that is being handled. Several types of *visum et repertum* according to Criminal Code which are commonly used as a proofing tool of criminal

cases in Indonesia are:

1) *Visum et repertum* for alive victims. In *visum et repertum*, there are three divisions of circumstances that need to be explained.

a. *Visum et repertum* that is given at once. This means that making *visum et repertum* is committed if the person that is asked for *visum et repertum* does not need further treatment for the condition of injuries which are caused by a criminal act. In the context of criminal law, it relates to criminal act of mild persecution as what is regulated in KUHP Article 352.

b. Temporary *visum et repertum*. This means that it is necessary if the person who is requested for *visum et repertum* requires further treatment that relates to injuries which is caused by criminal acts. In the context of criminal law, it relates to criminal acts of ordinary persecution as what is regulated in KUHP Article 351 paragraph (1).

c. Advanced *visum et repertum*. This means that *visum et repertum* is given if the person who is asked for *visum et repertum* wants to leave the hospital due to being healed, forced to go home, moved out from a hospital or die. *Visum et repertum* is usually used for third degree injuries or class A injuries. In criminal law context, it relates to serious criminal persecution as what is regulated in Criminal Code Article 351 paragraph (2) and Article 354 paragraph (1).

2) *Visum et repertum* for human corpses. *Visum et repertum* is committed for people who have died whose death are suspected due to criminal incidents. Examination way against the human corpses must be conducted by forensic autopsy in order to investigate the exact cause of the death from the person.<sup>(11)</sup>

3) *Visum et repertum* for digging corpse. *Visum et repertum* is conducted by digging a buried body whose death is assumed due to criminal act. *Visum et repertum* is conducted against corpses that have or have not been given a *visum et repertum*. Moreover, it is enabled to be conducted *visum et repertum* repeatedly if the results of previous *visum et repertum* is in doubt.

4) *Visum et repertum* about age. This *visum et repertum* aims at investigating the certainty of a person's age as a victim or a perpetrator. The interest

in determining the certainty of person's age that relates to the victims of a criminal act usually relates to the offenses of morality or other criminal acts whose victims are children as what is stipulated in Law of Indonesia Number 35 Year 2014 concerning the protection of children in Criminal Code.

5) Psychiatric *visum et repertum* which is a report of autopsy that relates to the perpetrator of a criminal act whose soul is suspected of being deformed in their growth or disruption due to illness. This visa is usually given to criminal perpetrator who did criminal acts in out of the limits of normal human beings, such as murder by mutilating victims or criminal acts which are considered sadistic that cannot be done by perpetrators in normal mental conditions.

6) *Visum et repertum* for the victims of illegal intercourse or morality is a *visum et repertum* that is given for criminal acts in intercourse field that violates law or morality (sexual abuse, sexual assault, and sexual violence).

*Visum et repertum* actually can not only be used in criminal cases, but also can be used for civil cases, such as; sex change, insurance claims, proof of one's physical and mental health, proof of status of children and offspring. Therefore, *visum et repertum* is an information that cannot be underestimated or ignored in the effort to overcome legal problems. Civil matters which are personally also need valid medical evidence according to applicable laws and regulations. As an example of sex change case is "Lucinta Luna" case which is from man who changes to be woman is a horrendous case in Indonesia in 2019 through *visum et repertum*. Thus, legal certainty that is obtained from the results of medical examination that is conducted by medical experts can be achieved and accounted for its truth.

In other fields, *visum et repertum* can be used to resolve cases or make policies, such as case in state administration field in determining health status of a candidate for President and Vice President, DPR, DPD, Regional Head and DPRD. Although it is government or politic field, if it relates to the matters that explain person's physical and mental state, *visum et repertum* is very required.

## 2. Legal Basis in implementing *visum et repertum* di Indonesia

Although *visum et repertum* term is not explicitly mentioned in laws and regulations in Indonesia, the matters that relate to the existence of *visum et repertum* have been more talked about in law enforcement process. This can be seen in *staatsblad* (*Stbl*) of Republic of Indonesia State Number 350 Year 1937 concerning "*visa reperta*". According to Latin language, "*visa*" means witness or confession has seen something, while "*reperta*" means report. Hence, if it is explained, it is a report that is made based on witnessing or recognition in seeing something. In *STBL* of Republic of Indonesia Number 350 Year 1937, it is stated that "*visa reperta*" from doctors is made based on the doctor's oath which was stated when they completed studies in Indonesia, as well as special oaths as what is stated in *staatsblad* (*STBL*) of Republic of Indonesia State Number 350 Year 1937.

Government Regulation of Republic of Indonesia Number 26 / 1969 concerning with doctor's oath which states that medical record that is made by doctors in writing can be used as evidence because it has legal force as what is explained in Article 187 of Criminal Code. Both doctor's statements in medical records are valid evidences which relate to doctor's role in uncovering criminal cases.

Criminal Code is the most important legal basis in the implementation of the use of *visum et repertum* because criminal cases which are occurred strongly require the existence of *visum et repertum* as a formal condition and also as material evidence. Furthermore, there are various Articles in Criminal Code which closely relate to *visum et repertum*,<sup>(12)</sup> such as:

1) Article 44 of Criminal Code concerning with the need for *visum et repertum* against criminal perpetrators who are suspected of suffering from mental illness or having mental disability in their growth and development.

2) Articles 133, 134, 135, and 179 of Criminal Code concerning with the role of doctors as experts in examining criminal cases.

3) Articles 186 and 187 of Criminal Code

concerning with expert's (doctor's) statement as legal evidence.

4) Articles 284, 285, 286, 287, 289, 290, 292, 293 and 294 of Criminal Code concerning with morality which need to be proven by doctor's statement.

5) Articles 287, 288, 290, 291, 292, 293, 294, 295, 300 and 301 of Criminal Code concerning with Children and Law Number 35 Year 2014 concerning with the protection of children that is associated with children as victims of criminal act in morality field and the Law of Republic of Indonesia Number 11 Year 2012 concerning with Children juvenile justice system which relate to criminal perpetrator toward children.<sup>(13)</sup>

6) Articles 338, 339, 340, 341, 342, 343, 344, 345, 346, 347 and 348 of Criminal Code concerning with crimes against lives.

7) Articles 351, 352, 353, 354 and 355 of Criminal Code concerning with persecution.

8) Articles 359 and 360 of Criminal Code concerning with negligent acts that cause death or injury for others as what is regulated in Law of the Republic of Indonesia Number 22 Year 2009 concerning with traffic and road transportation.

Legal basis in the implementation of *visum et repertum* that relates to Criminal Code (KUHP) is Code of Criminal Procedures (KUHAP (*Kitab Undang-Undang Hukum Acara Pidana*)) which is:

1) Article 133 paragraph (1) in Code of Criminal Procedure which stipulates that justice expert or doctor and / or other experts for the purposes of investigation and justice provide expert's statements (report) in conducting examination against victims of criminal acts who are injured, poisoned, or dead.

2) Article 133 paragraph (2) in Code of Criminal Procedure also describes the information (report) that is given by judicial medical experts which is known as expert's statements and it is a legal evidence in law.

3) Article 134 in Code of Criminal Procedures explains the need for post-mortem. In post-mortem process, it involves a doctor, thus, the doctor's statement from the results of the post-mortem can be used by investigators to conduct further legal process

in accordance with Article 133 in Code of Criminal Procedure.

4) Article 135 in Code of Criminal Procedure stipulates that investigators for legal purposes can conduct digging corpses as what is stated in Article 133 paragraph (2) and Article 134 paragraph (1).

Ministerial Decree of Justice in Republic of Indonesia Number M.01.PW.07.03 Year 1982 becomes guidelines for the implementation of Article 133 paragraph (2) in Code of Criminal Procedure concerning with statements from judicial medical experts and doctor's statements. In that regulation, actually it implies the importance of doctor's statements, both statements from judicial medical experts and from doctor's statement which is not from judicial medical experts. According to Article 10 in Letter of Decree of the Minister of Justice in Republic of Indonesia Number Mo4.UM.01.06 Year 1983 states that examination result from the science of Medical jurisprudence is known as *visum et repertum*. Thus, referring to the Decree of the Minister of Justice, the examination of Medical jurisprudence science by doctors which is usually in writing form is known as *visum et repertum*.

Regulation from the Minister of Health in Republic of Indonesia Number 749a / Men.Kes / Per / XII / 1989 concerning with medical records also can be used as a legal basis for the implementation of *visum et repertum*. This is because in medical record, it contains files that contain notes and documents about the patient's identity, examination, treatment, actions, and other services toward the patients in health care facilities. The medical records that contain notes about patient's condition when accepting health services or certain medical actions, can function as evidence in the examination of criminal cases. Although medical record cannot replace the position of *visum et repertum*, the medical record can be used as an evidence of expert certificate. This function is almost similar to *visum et repertum*. Medical record which is used as evidence can be categorized as a letter of evidence. There are several articles in Regulation of Minister of Health in Republic of Indonesia Number 749a / Men.Kes / Per / XII / 1989 concerning medical records that closely relate to *visum et repertum*, such as:

1) Article 13 letter (b) which states that medical records can be used as evidence tool in legal cases.

2) Article 11 paragraph (2) which states that chief of health service facility can explain clearly the contents of medical record without the patient's permission based on applicable laws and regulations.

3) Article 9 which states that medical record file belongs to the health service facility, while, the content of medical record belongs to the patient. The investigator can request a copy of the medical record to complete the evidence that is needed in legal case (criminal case).

*Visum et repertum* is also regulated in Regulation of the Chief of Indonesian National Police Number 10 / 2009 concerning with the procedures and requirements for requesting an inspection of criminal technical of the crime scene and criminal laboratory for the evidence to forensic laboratory of the Indonesian National Police. In this regulation, there are provisions that regulate forensic field in assessing evidence of a criminal act<sup>(14)</sup>, which are:

1) Article 1. Police has a criminal forensic laboratory to conduct investigation that relates to evidence for the criminal acts. In conducting activities in forensics fields, the police can involve experts from doctors.

2) Article 2 which relates to forensic investigations aims to conduct scientific proof regarding the criminal act.

Regulation from Chief of Indonesian National Police Number 12 Year 2011 concerning police medicine also explains matters that relate to *visum et repertum*, which are:

1) Article 1 relates to police forensic medicine in conducting investigations against evidence for the interest of law and justice.

2) Article 5 relates to police medical activities which include forensic medicine.

3) Article 6 relates to physical and mental identification of humans in forensic medical activities.

4) Article 10 relates to the ability of police medicine in conducting forensic medical activities.

## Conclusion

*Visum et repertum* is an important thing in law enforcement process because it stipulates legal and formal truth requirements. Without any statement letter of *visum et repertum*, legal case cannot be processed legally because there are no elements which are suspected of violating law. Through *visum et repertum*, the cause of law violation that is committed to the victim by the perpetrator can be known because *visum et repertum* is a written report from a doctor who has been sworn about what is seen and found in the evidence that is examined and it also includes the conclusion of the examination for the interest of justice. The implementation of *visum et repertum* has been regulated in several laws and regulations in Indonesia, thus, the legal basis is strong. Even, *visum et repertum* itself becomes a formal and material legal requirement, which means that the use of *visum et repertum* in legal process does not violate the rules, even, it becomes a legal obligation.

**Conflict of Interest :** No

**Source of Funding :** Authors

**Ethical Clearance:** Yes. From Unibersitas Muhammadiyah Ponorogo

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