



ASSESSMENT OF VISUM ET REPERTUM EVIDENCE ON VICTIMS OF WOMEN VIOLENCE IN HOUSEHOLD CONFLICT

Idris Martini

Muhammadiyah Palembang University

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Abstract:

The type of research used in this research is normative legal research. By using primary and secondary legal materials, along with tertiary legal materials as supporting materials. This is by looking at the strength and position of the Visum Et Repertum evidence in a criminal act. Visum et Repertum has a fairly strong evidentiary power, because Visum et Repertum is one of the documents of evidence as regulated in Article 184 paragraph (1) letter c Jo. Article 187 letter c of the Criminal Procedure Code. The Public Prosecutor's indictment was made with great attention to the evidence for the role of Visum et Repertum. The consequence that arises if the Visum et Repertum given by the Defendant is a different statement is that the statement can be revoked if the Defendant is given a false confession that is indeed proven. Regarding the Visum et Repertum itself, it can be re-examined from a legal advisor or a statement of objection raised clearly given by the defendant can be proven, this is regulated in Article 180 paragraphs (2), (3) and (4) of the Criminal Procedure Code. Based on the experience, it was carried out and from the Judge himself it was known.

Keywords:

Assessment; Evidence; Visum

1. Introduction

Family life is inseparable from economic life which runs with certainty and uncertainty, because domestic life cannot be separated from personal and external conflicts. Therefore, usually the household life which is the main factor is the economic factor and has an impact on the actions of family household conflicts. In addition, when the family household is filled with the presence of offspring (children), it becomes an important factor, so that it can be said as a challenge and can be an obstacle in domestic life.

On another level, offspring is a gift because on the one hand, children are a blessing for all parents in domestic relations, but also if there is a form of marriage outside of marriage and not having a legal marriage, it will cause psychological problems for both parents who give birth to children and a burden for children when they grow up. On the one hand, it is also a dilemma, because offspring caused by marital relations outside of marriage is one of the factors in the failure of a marriage.

When referring to the marriage law that juridically, notion of "child" in the eyes of positive Indonesian law is commonly defined as a person who is not yet an adult (*minderjarigeid / inferiority*) or is often referred to as a child under the supervision of a guardian (*minderjarige ondervoordij*). Starting from the aspects mentioned above, it turns out that Indonesian positive law (*ius constitutum* and *ius operatum*) doesn't regulate the existence of a standard and universally applicable legal unification to determine the age limit criteria for a child. (Mulyadi, 2005)

Jurisprudence of Supreme Court of Republic of Indonesia, in Indonesian customary law, the age limit for being called a child is pluralist. Bond marriage is not enough only physically or mentally, but requires both. The inner and outer bond is seen as a formal element as evidence of a legal relationship between a man and a woman to live together as husband and wife. The inner bond is an informal relationship, an invisible bond that can only be felt by the parties concerned. This inner bond can be used as the basis for forming a happy family.

The purpose of marriage according to Islamic law is to obey Allah's command to obtain legal offspring in society, by establishing a peaceful and orderly household. (Hukum perkawinan beda agama dalam teori dan praktiknya di Indonesia / Sirman Dahwal | Perpustakaan UIN Sultan Syarif Kasim Riau, no date) Marriage can be used as a

measure when there are household conflicts that lead to conflict and violence against households. In the end, this results in a form and behavior that leads to elements of violence and violations of human rights, especially girls as victims of domestic violence.

It becomes important when an issue such as Human Rights (HAM) is a big issue, where the issue is often discussed by countries around the world. There are many human rights issues discussed by countries around the world, one of the main issues that are often discussed is acts of violence against women which are the modus operandi of crimes. Violence against individuals, especially against women, is a form of action that is very contrary to human norms. That is why acts of violence are acts of human rights violations, so that a national legal instrument is needed that can regulate the elimination of violence against women, especially violence that often occurs in Indonesia. (Perlindungan Hukum terhadap Perempuan Korban Kekerasan dalam Rumah Tangga (KDRT) pada Tingkat Penyidikan Berdasarkan Undang-Undang No. 23 Tahun 2004 tentang Penghapusan Kekerasan dalam Rumah Tangga (UUPKDRT), no date)

Criminal law is one of national legal instruments that can regulate and protect victims from all forms of crime. Criminal law is the whole of the regulations that determine what actions are prohibited and are included in criminal acts, and determine what penalties can be imposed on those who commit them. The formation of law as an instrument that can protect the rights of individuals and communities is very relevant and related to programs to protect women from violence.

Victims of crime from violence often occur against women, especially violence against women in the household. Violence against women, especially in household, ranges in light and severe forms. According to Article 1 of Law no. 23 of 2004 concerning the Elimination of Domestic Violence (UU-PKDRT), the definition of domestic violence is any act against a person, especially a woman, which results in physical, sexual, psychological misery or suffering, and/or neglect of the household, including threats to commit violence acts, coercion, or deprivation of liberty against the law within the scope of the household. (P Moeljatno, no date)

The enforcement of the provisions in the PKDRT Law is an obligation for law enforcement officers to provide legal certainty to provide legal certainty for protection for victims of domestic violence as obtained at the investigation and investigation stage. All rights of victims must be given, especially the right to recover from physical and mental violence. Some of the victims' rights are guaranteed by the PKDRT law as a form of legal protection for victims of domestic violence. This protection is given as a form of legal respect for women that has been adapted to global developments regarding the protection of women's violence and legal discrimination against it. From the explanation above, according to decision number 121/Pid.Sus/2020/PN.Mnd the form of protection received by the victim is from medical personnel as evidenced by Visum Et Repertum No.B/287/VIII//2019/Rs. Bhay which was made and signed by Doctor Jeane Agu on August 5, 2019 which resulted in bruises. The Police are conducting investigations and investigations to obtain preliminary evidence that they are not criminal and make arrests and detentions of suspects. The Court Judge who provides protection in the form of conducting a case trial and adjudicating that the defendant has been legally and convincingly proven guilty of committing non-criminal "Physical Domestic Violence."

Departing from the foregoing, it would be interesting to examine it by looking at the 2 (two) aspects that underlie the above, namely: First, the position of evidence for Visum Et Repertum in a crime of violence against girls; and Second, the assessment of the results of the Visum Et Repertum evidence in a crime of violence against girls in domestic conflicts.

2. Research Methods

The type of research used in this research is normative legal research. (Michael, 2022) By using primary and secondary legal materials, along with tertiary legal materials as supporting materials. This is by looking at the strength and position of the Visum Et Repertum evidence in a criminal act.

3. Discussion

3.1. The Position of Evidence for Visum Et Repertum in a Crime of Violence Against Girls

Visum et Repertum is a written statement made by a doctor in forensic medicine regarding medical examination of humans, made based on his knowledge and under oath for the benefit of justice. There are still many people who need to know about the nature of the role of Visum et Repertum that happens occasionally, so that being rejected

from the family of the victim who is sent for post-mortem as if it will cause trauma, both psychologically and spiritually. Visum et repertum as evidence is usually contradicted by the information given by the defendant. Although Visum et Repertum is an official letter issued by experts, the possibility is not closed if there is a distinction between what happened and what happened is considered taboo by them.

Position of Visum et Repertum Article 184 paragraph (1) letter b and letter c of Law Number 8 of 1981 concerning the Criminal Procedure Code. Visum Et Repertum is also a substitute for evidence (*corpus delicti*) which explains the event when it occurred and can help investigators to determine whether or not a crime exists and can provide instructions to investigators in conducting an investigation, and Visum Et Repertum can provide instructions in determining what accusations are made which will be submitted to the judge against the defendant and can form a judge's conviction in the trial.

The position of Visum et Repertum serves to improve investigations as material to strengthen indictments and allegations of acts committed by suspects and as evidence of detention of suspects, at the prosecution level, namely as a tool to determine the severity of Article suspected of the accused or perpetrator, at the court level, which is one of the substitutes physical evidence and as a judge's consideration in making a decision on the defendant. The legal position of visum et repertum is absolute or perfect in certain cases such as cases of criminal acts of persecution, immorality, or murder. (Kusmira, 2016)

In this case, there was a woman who came alone to the Integrated Service Center of RSUD Dr. H. Abdul Moeloek Lampung with a letter of request for a visa to the Head of the Kedaton Sector Police, with his letter Number: R/35/I/2015/KDT SECTOR, the letter is addressed to RSUD Dr. H. Abdul Moeloek for a physical examination and a Visum et Repertum (VeR) made. In chronological outline, the legal facts include: when the victim returned from work from Palembang and upon arrival at home, the victim was accused of having an affair with her superior. Then an argument broke out, but the victim tried to avoid a commotion by staying in the room. The perpetrator grew angry by strangling the neck of the victim who was lying on the bed, then the victim's legs were pulled and dragged by the perpetrator, so that the victim fell on the floor. Then the perpetrator stepped on the victim's left foot with the perpetrator's foot and was cornered by the wall by the perpetrator. Then the victim tried to fight back by using a mosquito racket towards the perpetrator while shouting. Then the victim and the perpetrator were separated by the victim's child, causing the victim's child to have abrasions on the face with several bruises on the face and hit the wall.

3.2. Assessment of the results of the Visum Et Repertum Evidence in a Crime of Violence Against Girls in Domestic Conflict

In order to have a deeper understanding the validity of Visum et Repertum, the judge may be summoned by a Judicial Medicine Expert who has not made a Visum et Repertum to be assessed for a Visum et Repertum made by another doctor. So, to convince the judge of Visum et Repertum in question. Waluyadi stated that, if the existence of Visum et Repertum is accompanied by other evidence, the Visum et Repertum is an objective report and may be engineered to be very small. The consequence is that the decision to be objective in relation to cases involving injury, impaired health or a person due to the death penalty must be the basis for the judge's consideration of visum et repertum. (Kekerasan dalam Rumah Tangga: Laporan Kasus | Utama | JUKE Unila, no date) To prevent, protect victims and take action against perpetrators of domestic violence, the state and society are obliged to provide protection to victims of domestic violence as later regulated in Law no. 23 of 2004 concerning the Elimination of Domestic Violence. The proof of the case of domestic violence in Law Number 23 of 2004 concerning the Elimination of Domestic Violence can be done by only listening to the testimony of the victim's witness, or it can also be supplemented with other evidence.

One way to prove this crime of domestic violence is to use Visum et Repertum (VeR). Case, a woman, 44 years old, came to the Regional General Hospital (RSUD) Dr. H. Abdul Moeloek, Lampung Province for a physical examination and a VeR for the domestic violence he experienced. VeR is one of the evidences regulated in Article 184 of the Criminal Procedure Code (KUHAP), although this VeR is not specifically regulated in the Criminal Procedure Code, it is included in the category of documentary evidence and expert testimony evidence. (Visum et Repertum Sebagai Alat Bukti Dalam Tindak Pidana Penganiayaan | Jurnal Analogi Hukum, no date)

If the Visum et Repertum arises regarding the consequences with other evidence, it turns out to be different, the Judge can order an order to be re-examined and the contents of Visum et Repertum amended. In Criminal

Procedure Code, the matter of being re-examined or re-examined can be ordered and required by an expert witness if defendant is serious about it or legal advisor has reasoned regarding the results is expert testimony.

This objection is submitted if it is accepted and the defendant objected by judge. This is with information linked by defendant given, given if statement by defendant to the judge is accepted and truth of tools is proven by other evidence, then *Visum et Repertum* can be examined by the judge again and if judge feels that information given by the defendant is wrong, judge of defendant will admit that it is revoked. (Keterangan Ahli *Visum & Visum Et Repertum* dalam Aspek Hukum Acara Pidana, no date)

Regarding the previous matter, it was clear that even though evidence had to be wrong, the defendant was presented which was something. Only the Judge, and also the Prosecutor's Office, the evidence should have been given to defendant for assistance. The object of being examined by the Judge must always be material, and every time, on basis of this, the defendant puts forward what circumstances can be considered as evidence, that he was challenged by the fact that his guilt has previously been rightly acknowledged, should be investigated. (Arifyanto and Pribadi, 2019)

It is necessary to note that only a reasons that defendant has been withdrawn do not need to be legally proven, because from the things proven, the evidence of presumed disclaimer is that evidence previously weakened has been presented by defendant and evidence for the denial is known as anything can constitute, as long as only the Judge can be certain about it. The judge is regarding acceptance a reasons for the authority being admitted to be withdrawn without evidence, rightly being considered are original reasons. On receipt of a reasons put forward by the defendant, judge is obliged, according to his thoughts, rules and experience in his decision.

4. Conclusion

Visum et Repertum has a fairly strong evidentiary power, because *Visum et Repertum* is one of the documents of evidence as regulated in Article 184 paragraph (1) letter c Jo. Article 187 letter c of the Criminal Procedure Code. The Public Prosecutor's indictment was made with great attention to the evidence for the role of *Visum et Repertum*. The consequence that arises if the *Visum et Repertum* given by the Defendant is a different statement is that the statement can be revoked if the Defendant is given a false confession that is indeed proven. Regarding the *Visum et Repertum* itself, it can be re-examined from a legal advisor or a statement of objection raised clearly given by the defendant can be proven, this is regulated in Article 180 paragraphs (2), (3) and (4) of the Criminal Procedure Code. Based on the experience, it was carried out and from the Judge himself it was known.

Although there is no KUHAP for victims of *Visum et Repertum* to be submitted for proof in a criminal case, important cases will be examined and the case will be made clearer, if there is a *Visum et Repertum* as far as possible request a *Visum et Repertum* which is submitted to an expert doctor, so that the Judge can be strengthened in confidence in the decision is taken. The need for socialization so that it is carried out by the government and law enforcers regarding the function and position of *Visum et Repertum* in criminal cases to the community because many people have refused for an autopsy to be carried out on a victim whose crime was experienced for various reasons. In order for *Visum et Repertum* to have strong evidence, standardization of the model is necessary and the form and arrangement of *Visum et Repertum* is in a statutory regulation.

At the level of domestic violence, violent conflict against girls is one of the solutions for perpetrators of violent crimes. Frustration and other psychological factors as well as the impact of economic deprivation are the main reasons for carrying out criminal legal acts, thus causing the *Visum et Repertum*, the result of which can be physical and psychological violence on girls and even minors. In the end it violates women's rights.

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