

Uncovering the Truth Through Post-mortem: A Normative Analysis of Murder Victim Autopsies

Juswanto Ade Setiawan¹, Hasbuddin Khalid², Muhammad Azham Ilham³

1. Faculty of Law, Muslim University of Indonesia

2. Faculty of Law, Muslim University of Indonesia

3. Faculty of Law, Muslim University of Indonesia

Abstrak: This research aims to analyze the legal procedures for conducting post-mortems on murder victims in Indonesia and to determine the implications of post-mortems on human rights, particularly the rights of victims and their families, during the investigation of murder crimes. The research, entitled "Normative Analysis of Post-mortems on Murder Victims," utilizes a normative legal research method. This method emphasizes the analysis of statutory regulations, legal doctrine, and various related legal literature. Forensic autopsies play a crucial role in the criminal law evidentiary system, particularly in murder cases. They serve as a tool to determine the legitimate and objective cause of death and contribute significantly to the development of post-mortem examinations (*visum et repertum*) as legally recognized evidence. Normatively, the procedure for post-mortem examinations has a clear legal basis, regulated by the Criminal Procedure Code (KUHP), the Health Law, and other relevant regulations. Autopsies may be performed without the family's consent for law enforcement purposes, but must still be conducted with respect for human rights, cultural values, and professional ethics.

Keywords: Post-mortem; Criminal Act; Murde

A. INTRODUCTION

Murder is one of the most serious crimes in the criminal justice system, as it not only takes a person's life but also has significant social repercussions for the victim's family and society as a whole. Efforts to uncover the motive, cause, and perpetrator of a murder require investigation and examination of the victim. One procedure frequently used to obtain vital evidence in murder cases is an autopsy. An autopsy is a medical procedure performed by forensic experts to analyze the victim's body and identify whether the death was caused by a crime or other factors.[1]

In the context of criminal law, an autopsy plays a crucial role in the investigative process, as it can provide objective and scientific information regarding the cause of death. For example, an autopsy can reveal whether the victim died from violent injuries, whether there was poison in the body, or whether the victim died due to negligence.[2] Thus, an autopsy directly influences

the direction of the investigation, which in turn can determine subsequent legal decisions, including whether the case can be classified as murder.[3]

Murder is a complex crime with multiple legal dimensions that require in-depth study. Murder often occurs beyond human comprehension, with a seemingly never-ending crime rate. Various factors can trigger murder, such as revenge, infidelity, economic factors, violence, low levels of education, and social environment. In Indonesian criminal law, murder is regulated in the Indonesian Criminal Code (KUHP) under Articles 338 to 350, which encompass various forms of crimes against human life, whether committed intentionally or unintentionally. Based on criminological studies, the factors leading to murder can be categorized into several aspects, such as revenge, infidelity, economic factors, low levels of education, and an unfavorable social environment. These factors indicate that murder often occurs as a result of the accumulation of prolonged interpersonal conflict, lack of emotional control, and severe social and economic pressure. In Indonesian criminal law, Articles 338-340 of the KUHP regulate various forms of murder, including premeditated murder, which has a more profound element of intent than ordinary murder. However, although a post-mortem is a highly useful tool in murder investigations, this procedure raises a number of legal and normative issues that require further attention. One key issue concerns the authority and legal procedures governing the conduct of a post-mortem on a victim. In many cases, an autopsy cannot be performed haphazardly and must adhere to strict procedures to ensure the validity of the evidence obtained. Normatively, a post-mortem must be conducted with the permission or order of an authorized authority, such as an investigator or prosecutor, and must only be performed by medical personnel or forensic experts competent in the field. This explains the ongoing challenges in implementing the regulations and urgency of forensic autopsies stipulated in Article 222 of the Criminal Code and Articles 133 and 134 of the Criminal Procedure Code (KUHAP).[4] This often leads to objections from families. Therefore, forensic autopsies are often prevented from being performed by law enforcement officials, particularly National Police investigators.[5]

Another equally important issue is the protection of human rights, both for victims and their families. Even though murder victims can no longer provide direct consent, post-mortems must still prioritize human rights principles and professional ethics. The autopsy process must be

conducted with full respect for the victim's body, and the rights of the victim's family must also be considered, particularly regarding the provision of information regarding the post-mortem and its results. In some cases, families oppose post-mortems for religious, cultural, or emotional reasons, adding to the complexity of implementing proper legal procedures.[6]

With the advancement of science, particularly in forensic medicine, post-mortem techniques have become increasingly sophisticated and can provide more accurate results in revealing the cause of death. Therefore, it is crucial to ensure that post-mortems are performed not only according to correct procedures but also in accordance with current scientific knowledge. Furthermore, The implementation of autopsies must also be carried out in accordance with applicable legal principles, both criminal and procedural law, to ensure their validity in the judicial process.[7]

However, despite the significant benefits of autopsies in revealing facts related to murder, it is not uncommon to find discrepancies between existing practices and the legal principles that should be followed. In many cases, autopsies often disregard the rights of victims and their families, or are even performed without proper authorization. This can cast doubt on the validity of the evidence obtained and open up the possibility of human rights violations.[8]

Based on this background, it is important to conduct a normative analysis regarding the implementation of autopsies on victims of murder. This analysis aims to assess the extent to which autopsies comply with applicable legal norms, including legality, procedure, and ethics. This research will also explore whether autopsies in murder cases can be considered legal from a criminal law perspective and whether the rights of victims and their families are adequately fulfilled. Thus, it is hoped that the results of this study can provide a deeper understanding of the legal and ethical implications in the implementation of autopsies, as well as provide recommendations for improving the legal system related to the autopsy process in the crime of murder.

B. METHOD

This study, entitled "Normative Analysis of Post-mortems for Murder Victims," utilizes the normative legal research method. This method emphasizes the analysis of legislation, legal

doctrine, and various related legal literature. By analyzing applicable legal norms, this study aims to examine the legality and application of post-mortems in murder cases, particularly as part of the evidentiary process in criminal law.[9]

C. DISCUSSION

1. Legal Procedures for Performing an Autopsy on a Murder Victim

Forensic autopsies play a crucial role in the criminal evidentiary system, particularly in murder cases, which require proof of causality between the perpetrator's actions and the victim's death. This activity is not merely medical in nature, but also part of the legal process that can determine the direction of the court's decision. In Indonesian criminal procedure law, autopsies serve as the basis for preparing a post-mortem examination (visum et repertum), which is legally binding.[10]

Performing a post-mortem examination (forensic autopsy) on a murder victim in Indonesia is a crucial part of the criminal justice system, aiming to uncover the material truth regarding the cause of death and its connection to the crime. Forensic autopsies have a strong legal basis in the national legal system, particularly as stipulated in the Criminal Procedure Code (KUHP). Article 133 of the KUHP authorizes investigators to seek expert opinion in cases of suspected unnatural death.[4] Furthermore, Article 134 of the KUHP stipulates that the examination of a corpse must be conducted by a doctor, and the results must be recorded in a report in the form of a post-mortem examination (visum et repertum), which is valid as evidence. In fact, Article 135 of the Criminal Procedure Code states that objections from the family cannot prevent an autopsy if the investigation requires an examination for law enforcement purposes.[11]

Technically, the autopsy procedure begins when investigators find indications that the victim died under unnatural circumstances, such as violent injuries, signs of poisoning, or sudden death without clear medical evidence. Based on this assessment, investigators will submit an official request in the form of a Visum et Repertum (SPV) Request Letter to a forensic specialist. This request serves as the legal basis for conducting an autopsy on the

body. In practice, although the law does not require family consent, investigators usually notify the victim's family directly of the purpose and urgency of the autopsy, as a form of respect and transparency, and to minimize social and emotional conflict. The autopsy itself is performed by an authorized and competent forensic doctor, usually in a healthcare facility with adequate medical facilities and infrastructure.[12] The procedure includes external and internal examinations of the body to determine the type of wounds, the nature of the injuries, the estimated time of death, and the exact cause of death. After the examination is complete, the doctor will prepare a post-mortem report (visum et repertum) which will then be submitted to investigators as evidence in the legal process. The body is then returned to the family in proper condition, accompanied by a report guaranteeing that the medical procedures were performed professionally and in accordance with procedures. The presence of a post-mortem report (visum et repertum) from an autopsy is crucial in revealing the cause of death that cannot be explained by other evidence. In situations where there are few witnesses or material evidence, the autopsy results provide an objective and scientific source of information. This can assist judges in forming a belief in the material truth to be achieved through the criminal justice process.[13]

During its implementation, an autopsy can reveal the type of injuries, time of death, and mechanism of injury suffered by the victim. This information can explain the chronology of events in greater detail. This medical explanation will significantly assist the investigation process, especially in murder cases where the perpetrator does not confess to the crime or provides convoluted statements. The implementation of an autopsy also demonstrates the principle of prudence in the criminal justice system. Legal decisions rendered based on scientific evidence are more accountable. Furthermore, an autopsy plays a role in protecting suspects from potential criminalization by providing an objective picture of the true cause of death. A forensic autopsy is not only important for investigators but also provides legal certainty for victims and their families. With professional and legitimate autopsy results, the victim's family obtains valid answers regarding the cause of death and a strong basis for seeking justice. This clarity of information will impact the victim's family's sense of justice during the legal process.

In the context of evidence, an autopsy also serves as a control mechanism against potential irregularities in the investigative process. If conducted in accordance with applicable operational standards and laws, an autopsy can prevent law enforcement officials from making mistakes in determining suspects. The quality of the investigation and legal evidence is strengthened because it is supported by scientific facts that cannot be easily refuted by the defense. An autopsy also serves as a means of accountability for the criminal justice system. Evidence derived from the autopsy process limits the scope for speculation in legal decision-making. The involvement of medical professionals at this stage also reflects the collaboration between the medical and legal fields in achieving justice. The presence of an autopsy in criminal cases serves as a bridge between empirical data and legal procedures. Its results not only support the evidence but also strengthen public confidence in the integrity of the legal process. Therefore, conducting an autopsy in accordance with ethics, medical standards, and legal provisions will encourage fair court decisions and reduce the risk of judicial error.

2. Legal Aspects of Post-mortems from a Human Rights Perspective: Protection of the Rights of Victims and Their Families in the Investigation Process of Murder Crimes.

The conduct of an autopsy or post-mortem in a murder case is not merely a technical legal issue but is also closely related to humanitarian values, professional ethics, and human rights. In this context, the deceased victim must still be respected as a dignified legal subject, and the victim's family has the right to fair and dignified treatment of their loved one's remains. This demonstrates that criminal law cannot be separated from the moral and humanitarian principles that accompany it. Legally, Articles 133 to 135 of the Criminal Procedure Code (KUHP) regulate the investigator's authority to request an autopsy by a forensic expert for investigative purposes. In certain circumstances, family consent is not an absolute requirement, as the autopsy is part of the effort to discover material truth in the interest of public justice. Article 122 of Law No. 36 of 2009 concerning Health also provides the legal basis that for law enforcement, a forensic autopsy may be performed

without family consent. However, the law also requires that this medical procedure be conducted humanely and transparently to avoid violating human rights values. Article 5 of the Universal Declaration of Human Rights (UDHR) states that "no one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment." This means that no act of degrading treatment should be carried out on a corpse.

From a human rights perspective, the corpse must still receive dignified treatment, in accordance with the family's religious, cultural, and religious values. This is derived from the universal principles enshrined in the Universal Declaration of Human Rights (UDHR), specifically Articles 1 and 5, which affirm that every human being has the right to dignity and protection from degrading treatment. Therefore, autopsies must be conducted according to ethical standards and humane procedures, including providing sufficient information to the family, explaining the purpose and intent of the procedure, and involving them in the post-autopsy administrative process.

Often, conflicts arise between the interests of law enforcement and the feelings, beliefs, and wishes of the victim's family. In many cases, the victim's family refuses an autopsy due to religious reasons or deep emotional trauma. Therefore, a purely legalistic legal approach is insufficient to address the complexity of this issue. A civilized and humanistic legal approach is needed, where the investigation process continues but in a manner that respects the emotional and social rights of the victim's family. The rights of the victim's family also include the right to open information, as stipulated in Law No. 13 of 2006 concerning Witness and Victim Protection. Articles 5 through 10 guarantee the victim and/or their family access to information on case developments, including autopsy results. This right to information is crucial to ensuring that the family is not merely a passive party in the legal process, but also receives clarity, certainty, and justice.

In practice, law enforcement officers often face a dilemma between expediting the investigation process and respecting the family's rights. This is where the role of professional forensic medical ethics becomes crucial. Based on the Indonesian Code of Medical Ethics and Minister of Health Regulation No. 87 of 2014 concerning Forensic Medical Services, autopsies must be conducted with confidentiality, integrity, and respect

for the deceased and their family. This code of ethics also emphasizes that autopsies may not be performed without a clear legal basis or medical justification, except in the interests of state law.[14]

The humanitarian aspect of an autopsy also encompasses the victim's right to receive balanced and proportional justice. An autopsy is an effort to uncover the truth scientifically. Without an autopsy, many murder cases would end in speculation, conjecture, or even criminalization based on no facts. In this regard, an autopsy serves as an instrument for upholding the human right to truth and substantive justice for victims. Therefore, the legal aspects of post-mortems must be understood not merely as technical or administrative procedures, but as part of a legal system that humanizes all parties involved. Within a just and civilized legal framework, an autopsy should be used as a means to uphold the law while maintaining the human dignity of victims and their families. Forensic autopsies play a vital role in uncovering the cause of unnatural deaths and establishing a causal link between the crime and the victim's death. However, in practice, forensic autopsies still face various obstacles that hamper the effectiveness of the criminal justice system. These obstacles stem not only from technical and legal aspects, but also from complex social and cultural challenges.

One major obstacle frequently encountered is resistance from the victim's family. Many families refuse autopsies for emotional, cultural, or religious reasons. This resistance often hampers the investigative process, even though legally, forensic autopsies do not require family consent if performed for criminal investigations. This demonstrates the public's lack of understanding of the importance of autopsies as a means of legal evidence. In addition to social factors, structural barriers such as limited forensic facilities and personnel are also serious issues. In many regions, hospitals lack adequate autopsy facilities, and forensic doctors are still severely limited. This directly impacts the quality of the post-mortem examinations (*visum et repertum*) produced, which can reduce the strength of evidence in court.

Problems with coordination between law enforcement agencies are also a common obstacle in practice. The lack of synchronization between investigators, prosecutors, and hospitals

in conducting autopsies leads to delays or even failures in the evidence-gathering process. This disharmony indicates the need for standard cross-sectoral procedures that can serve as a reference in handling forensic autopsies. Conversely, poorly supervised autopsies can create negative public perceptions. Lack of professional training and weak ethical oversight of forensic personnel can raise doubts about the integrity of autopsy results. Therefore, it is crucial to strengthen the professional code of ethics and ensure that every autopsy is performed by competent personnel with high integrity.[15]

As a solution, a comprehensive approach is needed, encompassing regulations, education, and institutional aspects. The government needs to expand the reach of legal education to the public to improve understanding of autopsy procedures. Furthermore, increasing institutional capacity, in terms of facilities, infrastructure, and human resources in the field of forensic medicine, must be a national priority. By strengthening support systems and increasing public awareness, forensic autopsies can be carried out optimally and professionally. This will strengthen the evidentiary process in criminal justice and guarantee legal protection for victims and their families. A forensic autopsy is ultimately not just a medical procedure, but an important instrument in realizing substantive and dignified legal justice.

D. CONCLUSION

The legal procedure for performing a forensic autopsy plays a crucial role in uncovering the cause of death of a murder victim and ensuring justice in the criminal legal process. An autopsy is not merely a medical procedure, but rather part of the legal evidentiary process, expressly regulated by the Criminal Procedure Code (KUHP). Through a visum et repertum (post-mortem examination), an autopsy provides objective scientific evidence, helps investigators uncover the truth, protects suspects from criminalization, and provides legal certainty for the victim's family. Procedurally and ethically conducted, an autopsy strengthens the integrity of criminal justice and prevents errors in law enforcement. The performance of a post-mortem or autopsy, in relation to human rights in criminal cases, must respect the dignity of the deceased and human rights. While an autopsy is crucial for law enforcement and truth-telling, it must be

conducted ethically and humanely, respecting the religious and cultural values and feelings of the victim's family. A humanistic legal approach, including transparency, persuasive communication, and respectful treatment of the deceased, is essential.

E. REFERENCE

- [1] F. O. Medicine, F. O. Medicine, and F. O. Medicine, “Otopsi Klinis Bayi Kembar Siam Dampit Dada Dan Perut: Laporan Kasus Case Report: Clinical Autopsy In Thoraco-Omphalopagus Conjoined Twins Asrawati Azis 1 , Sudjari Solichin 2,3,” vol. 4, no. 1, pp. 63–69.
- [2] N. Diffany, N. Gratia, E. Simatupang, and F. Naulisa, “Analisis Kasus Hukum Kopi Sianida Mirna Salihin : Implikasi Hukum Pidana dan Prosedur Hukum Indonesia,” vol. 7, no. 2, pp. 2051–2055, 2023.
- [3] S. N. Hadi, S. D. Fuji, and L. Hasibuan, “Analisis Pembongkaran Jenazah Dalam Prespektif Kedokteran Forensik Untuk Melakukan Otopsi Yang Kedua,” vol. 3, no. 2, pp. 1–16, 2022.
- [4] F. Hukum *et al.*, “Urgensi autopsi forensik dan implikasinya dalam tindak pidana pembunuhan,” vol. 7, pp. 325–348, 2021, doi: 10.25123/vej.v7i2.4197.
- [5] Muhammad Zacki Panisean Nasution, “ERANAN VISUM ET REPERTUM SEBAGAI ALAT BUKTI YANG SAH DALAM KASUS TINDAK PIDANA”.
- [6] O. Kemala, F. Christina, and R. F. Elias, “ANALISIS YURIDIS ATAS PENGGUNAAN VISUM ET REPERTUM DALAM MENGUNGKAP TINDAK PIDANA PEMBUNUHAN,” vol. 12, no. 3, 2024.
- [7] Alex Cahyono/Fakultas Hukum/Universitas Islam Balitar Jl., “ANALISIS YURIDIS PENGATURAN BEDAH MAYAT FORENSIK DALAM UNDANG–UNDANG KESEHATAN NOMOR 17 TAHUN 2023,” no. 2, pp. 1–18, 2023.
- [8] L. Sulastrri, “Etika Autopsi : Pertanggungjawaban Dokter Forensik dalam Kasus Pembunuhan Autopsy Ethics : Accountability of Forensic Doctors in Homicide Cases,” vol. IX, no. 2, pp. 423–448, 2023.
- [9] M. Syarif, D. S. Busthami, M. K. Hidjaz, and A. Aswari, “Metode Penelitian Hukum (Legal Research Methods),” no. 1, 2017.

- [10] I. S. Anjelika *et al.*, “Efektivitas Hukum dalam Penyidikan Tindak Pidana Penganiayaan yang Mengakibatkan Kematian Anak Binaan dengan Otopsi Forensik Universitas Lampung , Indonesia membantu penyidikan dalam memberikan rekap medis kepada para penyidik untuk dijadikan menyebabkan kematian , di mana penyebab kematian korban harus dipastikan agar aparat,” vol. 2, no. April, 2025.
- [11] M. Halaman *et al.*, “Nommensen Law Review Kedudukan Hasil Autopsi Sebagai Alat Bukti dalam Perkara Tindak Pidana Pembunuhan (Studi di Kepolisian Resor Pematangsiantar) Nommensen Law Review,” vol. 01, pp. 117–134, 2022.
- [12] A. L. B. Masalah, “Lex Crimen Vol. IV/No. 5/Juli/2015,” vol. IV, no. 5, pp. 5–12, 2015.
- [13] V. F. M. I. Gobel, “BEDAH MAYAT DALAM MENGUNGKAP TINDAK PIDANA PEMBUNUHAN MENURUT PASAL 134 KUHP,” vol. IV, no. 3, pp. 221–228, 2016.
- [14] S. P. Maharani, F. W. Marpaung, and F. Lubis, “HAK TERSANGKA DALAM MEMINTA BUKTI OTOPSI (VISUM ET REPERTUM) TERHADAP KORBAN PEMBUNUHAN,” vol. 4307, no. 1, pp. 202–210, 2023.
- [15] B. Y. D. Sagai, “ASPEK HUKUM TERHADAP AUTOPSI DALAM TINDAK PIDANA PEMBUNUHAN BERENCANA MENGGUNAKAN RACUN,” vol. VI, no. 8, pp. 5–11, 2017.