

## The Role of Visum Et Repertum as Evidence in The Crime of Rape



Dr. Drs. Muzakkir, SH.,MH.,M.Pd.,CPM.,CPArb.,CPCL.,CPCLE

**ABSTRACT:** A letter was issued by officials after conducting a post-mortem examination, wherein they took an oath of office in accordance with legal provisions. It's important to note that a post-mortem is a documented report created by doctors, responding to the authorities' request in the pursuit of justice (pro justitia). This report details observations and findings from examining evidence, adhering to the timing of taking the oath, and relying on the doctors' best knowledge.

**KEYWORDS:** Visum et Repertum

### A. INTRODUCTION

The current prevalence of rape cases in society indicates an evolution in both the quantity and quality of such criminal acts. Rape, being a classic form of crime, has persisted throughout history and continues to adapt alongside human culture. Notably, it transcends geographical boundaries, occurring not only in urban areas with advanced cultures but also in rural regions where traditional values prevail. The perpetrators employ increasingly diverse methods, taking advantage of various opportunities and settings for these reprehensible acts. Understanding the factors influencing the occurrence of rape becomes crucial in addressing and mitigating this issue. Prevention and reduction efforts must not only focus on apprehending perpetrators but also involve victims and other stakeholders. To uncover a rape case, investigators follow a series of actions to establish the material truth—evidence pertaining to the criminal act, shedding light on the incident, and identifying the perpetrator. This process involves stages such as investigation, prosecution, and court hearings, where a judge's decision is based on valid evidence and conforms to legal provisions. The quest for material truth hinges on the problem of proof, which requires demonstrating tangible, real events perceptible by the five senses and logically expressed. Criminal law recognizes only evidence accepted by common sense based on concrete events. Law enforcement's endeavors to ascertain the material truth aim to prevent wrongful convictions, aligning with Article 6(2) of Law Number 48 of 2009 concerning Judicial Power. This article states that no one can be sentenced without valid evidence proving their guilt. Consequently, in resolving criminal cases, law enforcers are obligated to meticulously collect evidence and facts related to the cases they handle.

The valid evidence according to article 184 paragraph (1) of the Criminal Procedure Code is:

1. Witness statement;
2. Expert testimony;
3. Letter;
4. Instructions;
5. Statement of the defendant

In an effort to obtain the evidence needed for the purposes of examining a criminal case, law enforcers are often faced with certain problems or matters that cannot be resolved by themselves because the problem is beyond their ability or expertise. In such cases, the assistance of an expert is very important in order to find the material truth as completely as possible for law enforcers. Regarding requests for assistance from experts, if the investigator considers it necessary, he can ask for the opinion of experts or people who have special expertise. Meanwhile, to request assistance from expert testimony at the trial examination stage in the event that it is necessary to clarify the issues that arise in the court session, the judge chair of the trial can request expert testimony and can also request that new material be submitted by interested parties. As stated in article 1 point 28 of the Criminal Procedure Code: "Expert information in question is information given by a person who has special expertise regarding matters needed to shed light on a criminal case for the purposes of examination" In relation to the expert information referred to above, namely the role of doctors in helping investigators provide medical information regarding the condition of rape victims, this is an effort to obtain evidence or signs on the victim that can show that a crime of rape has indeed occurred. The intended expert information is stated in writing in the form of a medical examination result letter called a Visum et Repertum. Visum et Repertum is a written report for the

## The Role of Visum Et Repertum as Evidence in The Crime of Rape

judiciary made by a doctor based on an oath taken when accepting the position of doctor, containing information about all things (facts) seen and found in evidence in the form of a human body which was examined with the best possible knowledge and skills. and opinions regarding what was found during the inspection.

So in this case, in an event that is difficult to prove, even though a complete examination and collection of evidence has been carried out in a case. As in article 285 of the Criminal Code, it states: "Anyone who, by force or the threat of violence, forces a woman to have sexual intercourse with him outside of marriage, is threatened with rape, with a maximum imprisonment of twelve years." So according to the article above, it must first be proven that there was sexual intercourse. According to Abdu Salam: "If there was no sexual intercourse and it cannot be proven then it is strange that this is a criminal act of rape. The definition of sexual intercourse is the entry of the male genital organ into the woman's sexual canal. Regarding the depth there is no definite provision but medically it is in "The thing to prove it is to get male sperm in the sexual hole of the woman in question." Thus, you can also imagine the difficulties in this investigation if an overspel occurs. This means that between the sexual intercourse that was suspected during the examination there was also sexual intercourse with her own husband, so that the sperm found was not known to whom it belonged, so in this case the role of the Visum et Repertum is very important. Apart from that, it is not uncommon to find rape where the victim is still a minor and in this case there are also separate articles for the threat of punishment. When examining a victim of a crime of rape, a doctor does not always focus his examination on the condition of the victim's hymen. Rape can be proven through examination of male sperm found in the victim's vagina, for 72 hours or 3 days, signs of violence found on the victim's body such as wounds, marks from blows or stated as seriously and objectively as possible in the Visum et Repertum. For this reason, in trials, in cases of criminal rape, judges always expect expert witness testimony in order to achieve legal certainty. The judge in this case has absolutely no knowledge or expertise regarding whether or not a woman's hymen is intact. To obtain certainty whether the rape victim's hymen was torn (intact or incomplete), the judge asked for the help of an expert, in this case a doctor whose testimony was also heard as an expert witness at the trial and gave an oral explanation about the condition of the victim's hymen. . However, in practice, a doctor does not need to be present at the trial, just simply issue a certificate explaining the condition of the victim's hymen where the certificate contains the things that the doctor found about the victim as outlined in the Visum et Repertum. In court practice, in criminal acts of rape there are times when the Visum et Repertum is not attached to the case file so that the judge in examining the crime of rape experiences difficulties because the evidence is incomplete. Therefore, it is a good idea for every criminal act of rape before being referred to court to be thoroughly researched first, especially in terms of evidence such as the Visum et Repertum, which is very important for judges in examining and judging, especially in terms of evidence.

For the crime of rape, if it is equipped with a Visum et Repertum, it will expedite the course of the examination, so that the judge in examining the case simply follows the Visum et Repertum issued by the doctor. If a judge has doubts about the truth or the lack of clarity regarding the Visum et Repertum, the judge can present the doctor who issued the Visum et Repertum at the trial to hear his statement as an expert witness. In the Criminal Procedure Code, the position or value of Visum et Repertum is one of the valid pieces of evidence in court. Visum et Repertum plays a role in the process of proving a criminal case against human health and life, where Visum et Repertum describes everything about the results of medical examinations contained in the reporting section, which can therefore be considered as evidence. Regarding the important role of the results of the Visum et Repertum, in their function to help law enforcement officers handle a criminal case. In reality, the investigation into alleged rape cases shows how important the role of judicial medicine is in helping to resolve sexual crime cases for the sake of law enforcement and criminal justice. The Visum et Repertum is only made so that a criminal case becomes clear and is very useful for examination purposes and for justice and is intended for the interests of justice. Visum et Repertum is thus not published for other purposes, because the purpose of Visum et Repertum is to provide the Judge (Pales) with a statement of the facts from the evidence regarding all the circumstances/or matters as stated in the reporting section so that the judge can take the decision is based precisely on the reality or facts, so that it can support the judge's beliefs.

## B. DISCUSSION

### 1. Visum Et Repertum~

Visum et Repertum is a term known in Forensic Medicine, usually known as post-mortem. Visum comes from Latin, the singular form is visa. Judging from the meaning of etymology or grammar, the word visum or visa means a sign of seeing or seeing, which means signing evidence of everything that is found, approved and validated, while Repertum means to report, which means what has been obtained from a doctor's examination of the victim. . Etymologically, Visum et Repertum is what is seen and found. Visum et Repertum is closely related to Forensic Medicine. Regarding this scientific discipline, it was previously known as the Science of Judicial Medicine. R. Atang Ranoemihardja explained that Judicial Medicine or Forensic Medicine is: "A science that uses medical knowledge to assist the judiciary both in criminal cases and in other (civil) cases. The aim and obligation of Judicial Medicine is to assist the police, prosecutors and judiciary in dealing with cases that can only be solved with medical science." Based on the provisions of Indonesian criminal procedural law, especially the Criminal Procedure Code, there is no explicit regulation

## The Role of Visum Et Repertum as Evidence in The Crime of Rape

regarding the meaning of Visum et Repertum. The only statutory provision that provides an understanding of Visum et Repertum is the Staatsblad of 1937 Number 350. It is stated in the provisions of the Staatsblad that Visum et Repertum is a written report for the benefit of justice (*pro justisia*) upon an authorized request, made by a doctor, regarding any something that is seen and discovered during an examination of evidence, based on an oath when accepting office, and based on the best of one's knowledge.

According to Waluyadi, the task of Judicial Medicine is: "To assist legal officials, including the police, prosecutor's office and judiciary) in disclosing a case related to damage to a person's body, health and life. With the help of judicial medical science, it is hoped that the decision will be taken by the body justice becomes objective based on what actually happened. Judicial medical expert assistance can be provided when a criminal act occurs (at the crime scene, examination of injured or dead victims) and examination of evidence, where this will be explained and the results given in writing form of letter known as Visum et Repertum. According to Waluyadi, D.H. Hutagalung is of the opinion that the definition of Visum et Repertum is: "A doctor's statement regarding a person who is suspected of having died due to a crime, injuries caused by a crime. So, the doctor draws conclusions about the reason why he died or also if he was persecuted. What this means is the doctor's statement regarding the results of an examination of a person whose health has been injured or disturbed or died, which is suspected to be the result of a crime, based on the results of the examination, the doctor will make a conclusion about the act and the consequences of that act."

According to Tjan Han Tjang's opinion in the book written by R. Atang Ranoemihardja, Visum et Repertum is: "An important thing in evidence because it completely replaces Corpus Delicti (evidence), as is known in a criminal case involving damage to the body and health and destroying human life, the victim's body constitutes Corpus Delicti." In other criminal cases where the proof (Corpus Delicti) is an object (not inanimate) for example a sharp/fire weapon used to commit a crime, goods resulting from embezzlement, counterfeit currency, goods resulting from smuggling and so on. Generally, it can always be presented before a court hearing as evidence. However, this is not the case with Corpus Delicti in the form of a human body, because for example the wounds on a person's body will always change, namely they may heal, rot or eventually cause death and the corpse will rot and be buried, so in conclusion the situation is never permanent. as at the time the examination was carried out, therefore it is impossible for such Corpus Delicti to be provided. It must be submitted at the trial and must absolutely be replaced by Visum Et Repertum.

If we examine it further, then several things as mentioned above in relation to efforts to realize a truth, are felt to be inadequate. Especially if the object is crimes that cause injury or damage to someone's health, which at other times, the injury and disruption of the crime can gradually heal or perhaps vice versa. If this is the case, then it is clear that the law will have difficulty in investigating the case, considering that the evidence has changed. Likewise, for crimes that result in the death of a person, the death has closed all possibilities of legal processing, so that injustice becomes something possible. Therefore, documents are needed that can tell about the occurrence of criminal acts that cause injuries, health problems and also the death of victims, which can be used as evidence that can then be investigated at a later time. The document in question is none other than "Visum et Repertum".

### 2. Purpose of Visum et Repertum

Menurut R. Atang Ranoemihardja tujuan dari Visum Et Repertum adalah : "Merupakan reneana (verslag) yang diberikan oleh seorang dokter forensik mengenai apa yang dilihat dan dikemukakan pada waktu dilakukan pemeriksaan secara obyektif, sebagai pengganti peristiwa yang terjadi dan harus dapat mengganti sepenuhnya barang bukti yang telah diperiksa dengan memuat semua kenyataan sehingga akhirnya daripada ditarik suatu kesimpulan." Sehingga tujuan dari Visum et Repertum dalam suatu perkara dapat menjadi jelas dan berguna bagi kepentingan pemeriksaan dan untuk keadilan serta diperuntukkan bagi kepentingan peradilan.

### 3. Legal Basis for Visum et Repertum

Regarding the legal basis for the role of Visum et Repertum in its function of assisting law enforcement officers in handling a criminal case, this is based on the provisions in the Criminal Procedure Code which provides the possibility of using expert assistance to further clarify and facilitate the disclosure and examination of a criminal case. The legal basis for Visum Et Repertum is regulated in article 133 paragraphs 1 and 2 of the Criminal Procedure Code which states: 1. In the event that an investigator, in the interests of justice, handles a victim who has been injured, poisoned or died, allegedly because of an incident that constitutes a criminal act, he or she has the authority to submit a request for information from a judicial medical expert or doctor or other expert. 2. Requests for expert information as intended in paragraph (1) are made in writing, which in the letter is stated explicitly for examination of wounds or examination of corpses and/or post-mortem examinations..

### 4. Forms and Types of Visum Et Repertum

The Visum et Repertum form consists of 5 (five) permanent parts, namely: a. Opening Part The words *Pro Justitia* are located at the top which explains that Visum et Repertum is intended for the judiciary and has legal force. b. Preliminary Section This section contains the identities of all parties concerned, namely who requested it, who was examined, who examined it, the place and time of the examination and the *modus operandi* according to the alleged Visum et Repertum. c. Reporting Section: Here the condition of the object being examined is explained, namely whether it is alive/dead. This section is the most important part

## The Role of Visum Et Repertum as Evidence in The Crime of Rape

because it contains a statement of what was seen, felt and determined on the object being examined, so that it resembles a bird's eye view report. Thus, this section can be said to be the testimony of a doctor who has evidential data. d. Conclusion Section This section contains the considerations and opinions of the doctor who examined the object, in this section the reasons for the necessity/cause of death in relation to the damage/negligence obtained are also stated. e. Closing Part The Visum Et Repertum needs to be ended by remembering the oath, for example as follows: "This is how this Visum Et Repertum is made truly, by remembering the oath/promise when accepting office." After completing the Visum et Repertum, the doctor must submit it to the authorized party. The statutory regulations do not explicitly state that the Visum et Repertum decision must be submitted to the competent authority. However, the case files are usually pre- examined by investigators.

So the Visum et Repertum is already in the preliminary examination phase, so it is implied that there is already a deadline for submission. If a case has begun to be heard in court, even though the case being examined concerns human souls and for one reason or another there is no Visum et Repertum, whereas in order to make the case expert testimony is really needed by the judge, then the judge according to the explanation of article 186 of the Criminal Procedure Code can summon expert witness before a court hearing. The expert's testimony is recorded in the minutes, of course, before giving testimony as an expert witness, the expert takes an oath first. As a result of a doctor's examination of evidence intended for judicial purposes, the types of Visum et Repertum are then classified according to the object being examined, namely as follows: 1. Visum et Repertum for living people. This type is further differentiated in: a. Normal Visum et Repertum. This Visum et Repertum is given to the requesting party (investigator) for victims who do not require further treatment. b. Temporary Visum et Repertum. A temporary Visum et Repertum is given if the victim requires further treatment because they cannot yet make a diagnosis and the degree of injury. If recovered, a follow-up Visum et Repertum will be made. c. Visum et Repertum continued. In this case, the victim does not need further treatment because he recovers, moves to the care of another doctor, or dies. 2. Visum et Repertum for the dead (Genazah). In making the Visum et Repertum, in the event that the victim dies, the investigator submits a written request to the Forensic Medicine team for a post-mortem. (autopsy). 3. Visum et Repertum crime scene (TKP). This post-mortem is made after the doctor has finished carrying out an examination at the crime scene. 4. Visum et Repertum exhumation of the body. This post-mortem is made after the doctor has finished exhuming the body. 5. Psychiatric Visum et Repertum, namely a post-mortem on a defendant who, during examination at court, shows symptoms of mental illness. 6. Visum et Repertum of evidence, for example a post-mortem on evidence found that is related to a criminal act, for example blood, seminal fluid, bullet casings, knives. In writing this thesis, the Visum et Repertum referred to is the Visum et Repertum for living people, especially those made by doctors based on the results of examinations of victims of rape crimes..

### 5. Visum Et Repertum as Evidence

In the Criminal Procedure Code there is not a single article that explicitly contains the words Visum et Repertum. Only in the Staatsblad of 1937 Number 350 in article 1 it is stated that Visum et Repertum is a written statement made by a doctor on an oath or promise regarding what was seen on the object he examined which has the power of evidence in criminal cases. In addition to the provisions of the Staatsblad of 1937 Number 350 which is the legal basis for the position of Visum et Repertum, other provisions which also provide the position of Visum et Repertum as documentary evidence are article 184 paragraph (1) point c of the Criminal Procedure Code regarding documentary evidence and article 187 point c which states that: "The letter as mentioned in article 184 paragraph (1) point c, made on an oath of office or confirmed by oath, is: c. A statement from an expert containing an opinion based on his expertise regarding a situation that has been officially requested from him". Thus, based on the juridical understanding of Visum et Repertum given by the Staatsblad of 1937 Number 350, the two articles of the Criminal Procedure Code have given the position of Visum et Repertum as documentary evidence in the examination of criminal cases.

This requires a process of examining evidence by a doctor and will be very different from testimony carried out by someone who is not a doctor. Therefore, what the doctor witnesses, what he hears and sees, is a legal act that also has legal consequences. These articles are article 184 paragraph (1), article 187 of the Criminal Procedure Code, which in general contains the following matters: 1. Article 184 paragraph (1), that valid evidence is: a) Witness statement: Witness statement is one of the pieces of evidence in a criminal case in the form of a statement from a witness regarding a criminal incident that he himself heard, saw for himself and experienced for himself by stating the reasons for his notification (article 1 to 27 of the Criminal Procedure Code). b) Expert testimony. Expert testimony is information given by someone who has special expertise regarding matters needed to make statements in a criminal case for examination purposes (article 1 to 28 of the Criminal Procedure Code). 2. Article 187 of the Criminal Procedure Code, which reads: A letter as stated in article 184 paragraph (1) letter c, made on an oath of office or confirmed by an oath is: a) Minutes and other letters in official form made by an authorized public official or made in his presence, containing information about events or conditions heard, seen or personally experienced, accompanied by clear and unequivocal reasons for the statement. b) A letter made in accordance with the provisions of statutory regulations or a letter made by an official regarding matters included in the management for which he is responsible and which is intended to prove something or a situation. c) A statement from an expert containing an opinion based on his expertise regarding a matter or situation that is officially requested from him. d) Other letters which can only be valid if they are related to the contents of other evidence.

## The Role of Visum Et Repertum as Evidence in The Crime of Rape

Meanwhile, indications are actions, events or circumstances which, due to their correspondence, either with one another or with the criminal act itself, indicate that a criminal act has occurred and who the perpetrator is (article 188 paragraph (1) of the Criminal Procedure Code). The defendant's statement is what the defendant stated at trial about the actions he committed or that he knew about or that he personally experienced (article 189 (I) of the Criminal Procedure Code). Visum et Repertum is a letter made on the oath of office, namely of office as a doctor, so that the letter has authenticity. The matters as the author has described above, if the elements as stated in the provisions of article 184 paragraph (1) letter c and article 187 letter c of the Criminal Procedure Code are fulfilled, then the Visum et Repertum is within the framework of valid evidence according to law. included in the category of documentary evidence. In the next process, Visum et Repertum can be used as evidence of guidance, this is based on the fact that the instructions as stated in article 188 paragraph (1) of the Criminal Procedure Code can only be obtained from: a. Witness statements b. Letter c. The defendant's statement (article 188 para (2) Criminal Procedure Code). Then, if we believe that in the initial process of Visum et Repertum, which is hereinafter referred to as documentary evidence to obtain a Visum et Repertum, it comes from the doctor's testimony to a person, regarding what he saw, what he heard and what he found, indicating that it had been hidden in it. evidence in the form of witness statements. From the articles above, conclusions can be drawn: a) In order to have a Visum et Repertum, witness statements must first be provided; b) The documentary evidence is actually an elaboration of the Visum et Repertum; c) From the documentary evidence, new evidence can be obtained, namely clues.

Based on the above, Tolip Setiady stated that: "Between witness statements, Visum et Repertum, documentary evidence and instructions are four (4) series that cannot be separated from one another."

### 6. The purpose of creating a Visum et Repertum in the crime of rape

Visum et Repertum is a written report made by a doctor based on an examination of a person who is or is suspected of being a person, based on a written request from the authorities, and made by remembering the oath of office and the Criminal Code (KUHP). Its essence is a written report regarding what was seen and found on a deceased or living person to determine the cause of death or cause of injury as carried out at the request of an investigator in the interests of justice and to form an opinion from a forensic medical perspective. In resolving a criminal case of rape, the presence of a Visum et Repertum is very important, investigators in this case work together with medical experts to be able to find information that confirms that sexual intercourse or violence has occurred against the victim. The results contained in the Visum et Repertum can be initial evidence for investigators to take other action in uncovering a criminal case of rape. The existence of a Visum et Repertum is important for the completeness/perfection of the rape crime case files created and submitted by investigators to the public prosecutor.

Based on the results of the Visum et Repertum examination carried out by the doctor, all the facts or facts can then be drawn a conclusion based on his opinion which is based on the best possible knowledge based on his expertise and experience. It is hoped that this will be used to help solve the disclosure (the main question ) becomes clear and the matter is left to the judge entirely. The role of the Visum et Repertum in examining a criminal act of rape is not only to assist investigators in uncovering the crime of rape, but this is also important in examining the trial of the case because the Visum et Repertum is a valid piece of evidence, which is made based on a doctor's oath of office where serves to provide confidence and consideration for judges in examining and deciding a case. So, based on decision NO. 1267/PID/B/2010/PN. JKT.BAR as for the purpose of making Visum et Repertum No. 38/VER/II/2010/SPK UNIT "III" dated 19 February 2010 in the crime of rape that occurred on the victim Sabiina is so that the judge (Assembly) can make the right decision based on the facts of these facts, so that it can be a support on the judge's belief, as stated in the part of the Visum et Repertum report regarding the reality of the facts from the evidence regarding all circumstances/matters regarding the facts found therein. According to Dr. Zulhasmar Syamsu: "The reporting or examination results section is the most important part of the Visum et Repertum because it contains things found in the victim during the examination by the doctor. This section is the most objective part and is the core of the Visum et Repertum because every doctor is expected to be able to always provide the same information according to his knowledge and experience.

Every form of abnormality that is seen and encountered is immediately written as it is without inserting personal opinions. In this section lies the strength of the evidence of a Visum et Repertum which, if necessary, can be used as a basis by other doctors as comparison to determine his opinion." By reading the matters contained in Visum et Repertum No.38/VER/II/2010/SPK UNIT "III" dated 19 February 2010, especially in the Reporting section as mentioned above, investigators can obtain quite an important and not insignificant picture regarding the actions crime of rape that occurred to the victim. Based on the results of the victim's examination contained in the Visum et Repertum, investigators can provide guidance regarding the following matters: a) There are elements of sexual intercourse with the victim. The element of sexual intercourse is an important element that must be proven by investigators in uncovering a criminal act of rape. According to Forensic Medicine, sexual intercourse is defined as an event where there is penetration of the penis into the vagina, this penetration can be complete or incomplete and with or without ejaculation. Examination of the elements of sexual intercourse in this case is influenced by the shape and elasticity of the hymen, the size of the penis and the degree of penetration, the presence or absence of ejaculation and the condition of the ejaculate itself, the position of intercourse, and the authenticity of the victim's condition at the time of examination. According to Dr. Zulhasmar Syamsu, regarding the elements of sexual intercourse: "In the Visum et Repertum, signs of sexual intercourse can be seen in the results of examining

## The Role of Visum Et Repertum as Evidence in The Crime of Rape

the victim's hymen. If a tear occurs, it is likely that the victim has experienced sexual intercourse, however, the absence of a tear also does not mean that the victim has not experienced sexual intercourse. The elasticity of the membrane "The blood, the size of the penis, the degree of penetration of the penis, and the position of intercourse can influence the results of the examination of the victim's blood." Based on the things that can influence the results of the examination of the hymen to determine the presence of signs of intercourse as mentioned above, however, if according to the results of the laboratory examination of the mucus of the victim's sexual canal, seminal cells are found then this is a definite sign that sexual intercourse has occurred on the victim. Likewise, if pregnancy occurs and the presence of certain venereal diseases which are only transmitted through sexual intercourse are clear signs of sexual intercourse. In terms of examination, Dr. Zulhasmar Syamsu also stated: "Regarding the elements of sexual intercourse, whether the victim is a woman who has never or ever had sexual intercourse, this is always stated by the doctor in the conclusion section of the Visum et Repertum." "To find out and prove the existence of an element of sexual intercourse, investigators generally refer to the results of the hymen examination in the examination results section and the doctor's opinion in the Visum et Repertum conclusion section." Thus, regarding matters that can influence the results of a hymen examination to determine signs of sexual intercourse as mentioned above, investigators do not really pay attention to this matter, investigators only rely on the results of the examination that are contained in the Visum et Repertum. b) Estimated time of sexual intercourse with the victim. It is important for investigators to know when sexual intercourse occurred in order to check the suspect's alibi so that they can evade the alleged crime of rape. The presence or absence of seminal cells in the victim's sexual canal which can be included in the Visum et Repertum can indicate when intercourse occurred.

Regarding this, there is a basis for sperm examination which shows that sperm in the vaginal canal can still move within 4-5 hours post-coital, sperm can still be found immobile until around 2436 hours post-coital, and if the woman dies it is still will be found in 7-8 days. Based on the results of laboratory examinations of the victim's vaginal mucus contained in the Visum et Repertum, this can be used as a guide for investigators to estimate the time of sexual intercourse in a rape crime. Likewise, regarding the results of examinations regarding gestational age, this can also be used as a guide by investigators in determining the truth about when the crime of rape was committed. c) There are elements of violence on the victim's body. Elements of violence and/or threats of violence in the investigation of criminal acts of rape must be discovered and proven by investigators so that they can process the case more quickly. carry on. The presence of an element of sexual intercourse without the presence of an element of violence or threat of violence on the victim can cause the case to be terminated. The Visum et Repertum investigation explains that signs of violence on the victim's body are evidence that can show an element of violence in the disclosure of the crime of rape. According to Dr. Zulhasmar Syamsu To prove that there was violence on the body of a rape victim, you need to know first: "The locations of wounds that are often found are in the mouth and lips, neck, nipples, wrists, groin and around and on the genitals. Wounds resulting from violence during sexual crimes usually take the form of abrasions, nail marks, bite marks. and bruises."

In terms of proof of violence, violence does not always leave traces or scars in the form of wounds. Because the act of anesthesia is also categorized as an act of violence, a medical examination is necessary to determine whether there are drugs or poisons that could cause a woman to faint. According to Dr. Zulhasmar Syamsu, in Visum et Repertum, signs of violence on the victim's body can be identified from: "The results of examinations of the head, neck, chest, stomach, back, left and right upper limbs, left and right lower limbs as well as the condition of the victim's genitals are always included in the News section. d). Results of examination of other evidence related to the crime of rape. When preparing a Visum et Repertum carried out on rape victims, other evidence is usually included that can show traces of the crime of rape, such as the victim's underwear, the victim's clothes worn at the time of the incident. Examination of these objects is intended to check for traces of blood or sperm that can be matched with the blood and sperm of the perpetrator, as well as the possibility of traces of resistance/signs of violence on the clothing. The results of examining these pieces of evidence can in themselves strengthen the position of these objects as important pieces of evidence, both at the investigation stage and at the trial stage of the case. The role of Visum et Repertum in disclosing the crime of rape at the investigation stage must of course be supported by examination of other evidence in order to achieve the true material truth in the examination of the case. There are limitations to the results of the Visum et Repertum in their role in assisting investigators in uncovering a criminal act of rape, this occurs especially in relation to the authenticity of the state of the rape victim at the time of examination, other conditions that had occurred to the victim before the crime of rape occurred (for example, the victim was previously in a state of not a virgin), as well as the time period during which the crime was discovered or reported. There is the possibility of things that could influence the results of the examination of the victim contained in the Visum et Repertum, so other actions are needed by the investigator so that the results of the Visum et Repertum are not interpreted incorrectly. These other actions include seeking information from victims, suspects, witnesses, examining evidence and, if necessary, examining the crime scene. Slamet. R revealed that: "Visum et Repertum which contains the results of the examination which states that there are signs of sexual intercourse and violence on the victim, if there is a match with the complaint and report of the criminal act, this has a very important role for investigators in uncovering further criminal acts rape. Visum et Repertum can be sufficient initial evidence that becomes the basis for investigators to take action. Sufficient initial evidence is evidence to suspect the existence of a criminal act by requiring at least a police report plus one piece of valid evidence.

## The Role of Visum Et Repertum as Evidence in The Crime of Rape

The investigator's steps in "This is taking action against people and objects that are related to the crime that occurred, such as summoning suspects and witnesses, arresting, detaining, searching and confiscating." Visum et Repertum in the results of medical examinations carried out regarding the crime of rape is categorized in the form of a letter. So in this case, the letter becomes a piece of evidence for investigators in examining criminal cases at trial. As are the types of valid evidence mentioned in article 184 paragraph (1) of the Criminal Procedure Code in conjunction with Article 187 of the Criminal Procedure Code concerning the explanation of what is meant by documentary evidence, Visum et Repertum has fulfilled the criteria for this evidence.

Based on the role that Visum et Repertum can play in the investigation of criminal acts of rape as outlined above, this causes the position of Visum et Repertum to become an important piece of evidence and must be present in the examination of the case until it reaches the trial stage. Making a Visum et Repertum during the investigation stage of a criminal act of rape is absolute and must be implemented. In the event that there is no Visum et Repertum in the rape crime case file prepared by the investigator which is then submitted to the Public Prosecutor as stipulated in article 8 paragraphs (1) and (2) of the Criminal Procedure Code, this can cause the case file to be considered incomplete/incomplete and will returned by the public prosecutor to investigators. The public prosecutor has the same view in looking at the Visum et Repertum in the examination of the crime of rape, namely that in proving the presence of an element of sexual intercourse, the results of the Visum et Repertum carried out on the victim can be more certain and can be more accountable for its position as evidence. Based on article 138 paragraph (2) of the Criminal Procedure Code, if the results of the investigation by the public prosecutor are deemed incomplete, the public prosecutor will return the case files to the investigator accompanied by instructions regarding what must be completed. This means that the evidence collected by investigators will be presented by the public prosecutor to court. The burden of proof in the examination of a criminal case is essentially carried out by the investigator, therefore the investigator will make every effort to collect evidence which will then be re-examined by the public prosecutor to see whether the evidence is strong enough and meets the evidentiary requirements in the Criminal Procedure Code to be submitted to trial. . Visum et Repertum as a piece of evidence made based on a doctor's oath of office functions to provide confidence and consideration for judges in examining and deciding a case. Regarding the elements of sexual intercourse and violence or threats of violence that must be present in the crime of rape, one of these things can be seen and proven in the Visum et Repertum of the victim. The judge can have confidence and see the proven elements of sexual intercourse and violence in the victim as well as other clues from the results of the Visum et Repertum which are included as evidence in the trial.

### A. Closing

#### 1. Conclusion

Based on the findings of the conducted research and the discussions presented in the preceding chapter, the following conclusions can be drawn:

- a. In the resolution of a rape case, the presence of Visum et Repertum is crucial. Collaborating with medical experts, investigators aim to gather information confirming instances of sexual intercourse or violence against the victim. The findings in Visum et Repertum serve as preliminary evidence, guiding investigators to take further actions in unveiling a rape case. Subsequently, the doctor's examination results, based on these established facts, contribute to drawing a conclusion. This process ensures clarity in addressing the main issue of disclosing the criminal act of rape, leaving the matter entirely to the judge.
- b. Initiating the request for Visum et Repertum during the early stages of case examination is vital for investigators. As the burden of proof in a criminal case lies with the investigator, earnest efforts are made to collect evidence. The case study of Decision No. 1267/PID/B/2010/PN.JKT.BAR highlights the instrumental role of Visum et Repertum No.38/VER/II/2010/SPK UNIT "III" dated 19 February 2010 in assisting and guiding investigators in uncovering a criminal act of rape. The completeness of the Sabiina victim's examination results, documented in Visum et Repertum, along with investigators' abilities to interpret and apply these findings, is essential for achieving as comprehensive a material truth as possible in the examination of a criminal rape case.
- c. While the judge is not bound by Visum et Repertum, it is not disregarded either. In the pursuit of material truth, the absence of Visum et Repertum should not hinder the trial process. However, the judge should not overlook its existence, recognizing that Visum et Repertum is an additional piece of evidence and a valid elaboration of documentary evidence. In the context of Decision No.1267/PID/B/2010/PN.JKT.BAR, Visum et Repertum No. 38/VER/II/2010/SPK UNIT "III" dated 19 February 2010 is acknowledged as a valid and relevant piece of evidence for judges, particularly in decision-making. Nevertheless, the judge maintains the freedom to assess the truth within the documentary evidence provided by an expert. Therefore, the decision-making process relies on the judge's discretion, grounded in reasoned legal considerations.

## The Role of Visum Et Repertum as Evidence in The Crime of Rape

### 2. Suggestions

The suggestions that can be put forward based on the results of this research are as follows

- a) There is a need for understanding and outreach to the community, especially women, such as explaining the crime of rape, what actions are taken to prevent the occurrence of a crime of rape, and what actions must be taken if they experience a crime of rape, this is considering how important rights are. and the position of women in society.
- b) In this case, investigators need additional knowledge regarding medical terms in a Visum et Repertum. This knowledge is important so that investigators do not interpret the Visum et Repertum results that are obtained so that they can influence and determine the investigator's follow-up in examining the case.
- c) The things contained in the Visum et Repertum of rape victims have always been in a general and standard form regarding the things being examined, it would be better to be carried out in a more complete manner and not focus on these general things. For example, regarding the signs of violence and signs of sexual intercourse, the possibility that the victim experienced a state of fainting or was helpless during the rape, this should also be included in the Visum et Repertum. These complete results should also be followed by a clear explanation that does not contain many medical words that are not understood by the investigator

### REFERENCES

- 1) Afnil Guza, SS, *Undang-Undang Mahkamah Agung*, Jakarta: Asa Mandiri, 2009, hal.89.
- 2) R, Soepamono, *Keterangan Ahli & Visum et Repertum Dalam Aspek Hukum Acara Pidana*, Bandung: Mandar Maju, 2011, hal.1.
- 3) *Ibid*, hal. 8.
- 4) Moeljatno, *Kitab Undang-Undang Hukum Pidana*, Jakarta: Bumi Aksara, 2011, hal. 105.
- 5) Abdu Salam, *Forensik*, Jakarta : Restu Agung, 2006, ha1.57.
- 6) Moeljatno, *Op.cit*, ha1.105.
- 7) *Kitab Undang-undang Hukum Pidana & Kitab Undang-undang Hukum Acara Pidana*, Surabaya : Kesindo Utama, 2013, hal. 252.
- 8) *Ibid*, hal. 190. 9. *Ibid*, hal. 254. 10. *Ibid*, ha1.189.
- 9) R. Subekti, *Hukum Pembuktian*, Jakarta: Pradnya Paramita, 1985, hal. 1.
- 10) Harahap, M. Yahya, *Pembahasan Permasalahan dan Penerapan KUHAP edisi kedua.*, Jakarta: Sinar Grafika, 2008, hal. 273.
- 11) Darwan Prinst, *Hukllm Acara Pidana dalam praktik*, Jakarta: Djambatan, 2002, hal.137.
- 12) R. Atang Ranoemihardja, *Ilmu Kedokteran Kehakiman (Forensic Science) Edisi Kedua*, Bandung : Tarsito, 1983, hal. 10
- 13) Waluyadi, *Ilmu Kedokteran Kehakiman Dalam Perspekti/Peradilan dan Aspek Hukum Praktik Kedokteran*, Jakarta: Djambatan, 2000, hal.26.
- 14) *Ibid*, hal. 32.
- 15) R. Atang Ranoemihardja, *Op.cit*, hal. 18
- 16) *Ibid*. hal.21.
- 17) *Kitab Undang-undang Hukum Pidana & Kitab Undang-undang Hukum Acara Pidana, Op.cit*, ha1.234.
- 18) Tolib Setiady, *Pokok-Pokok Ilmu Kedokteran Kehakiman*, Bandung : Alfabeta, 2009, hal.41.
- 19) *Loc. cit.*
- 20) *Loc.cit.* 23. *Loc.cit.*
- 21) *Loc.cit.*
- 22) Zulhasmar Syamsu, Wawancara Pribadi, Departemen Ilmu Forensik dan Medikolegal RS. Cipto Mangunkusumo Jakarta: 16 Desember 2012.
- 23) *Loc. cit.*

### BOOKS:

- 1) Chazawi, Adami, *Pelajaran Hukum Pidana bagian 1*, Jakarta: PT Raja Grafindo Persada, 2007.
- 2) Hamzah, Andi, *Hukum Acara Pidana*, Jakarta: Sinar Grafika, 2001.
- 3) Kansil, C.S.T, *Latihan Ujian Pengantar Hukum Indonesia*, Jakarta: Sinar Grafika, 1999.
- 4) prinst, Darwan, *Hukum Acara Pidana dalam praktik*, Jakarta: Djambatan, 2002.
- 5) Ranoemihardja, R, Atang, *Ilmu Kedokteran Kehakiman (Forensic Science) Edisi Kedua*, Bandung: Tarsito, 1983.
- 6) Salam, Abdu, *Forensik*, Jakarta: Restu Agung, 2006.
- 7) Setiady, Tolip, *Pokok-Pokok flmu Kedokteran Kehakiman*, Bandung : Alfabeta, 2009.
- 8) Shinta, Dewita, Hayu *Posisi Perempuan dalam RUU KUHP*, Jakarta: LBH APIK Jakarta dan Alumni Nasional Reformasi,



## The Role of Visum Et Repertum as Evidence in The Crime of Rape

2007.

- 9) Soeparmono, R, *Keterangan Ahli & Visum Et Repertum Dalam Aspek Hukum Acara Pidana*, Bandung : Mandar Maju, 2011 .
- 10) Soekanto, Soerjono, *Pengantar Penelitian Hukum*, Penerbit Universitas Indonesia, Jakarta, 1986.
- 11) Subekti, R, *Hukum Pembuktian*, Jakarta :Pradnya Pararnita, 1985.
- 12) Waluyadi, *Ilmu Kedokteran Kehakiman Dalam Perspektif Peradilan dan Aspek Hukum Prank Kedokteran*, Jakarta: Djambatan, 2000.
- 13) Was ito, Hermawan, *Pengantar Metode Penelitian*, PT. Gramedia Pustaka Utama, Jakarta, 1997.
- 14) Yahya, Harahap, M, *Pembahasan Permasalahan dan Penerapan KUHAP*, Jakarta: Sinar Grafika, 2008.
- 15) *Kitab Undang-undang Hukum Pidana*
- 16) *Kitab Undang-undang Hukum Acara Pidana*
- 17) *Undang-Undang No.5 Tahun 2004 perubahan atas Undang-Undang No. 14 Tahun 1985 tentang Mahkamah Agung*



There is an Open Access article, distributed under the term of the Creative Commons Attribution – Non Commercial 4.0 International (CC BY-NC 4.0) (<https://creativecommons.org/licenses/by-nc/4.0/>), which permits remixing, adapting and building upon the work for non-commercial use, provided the original work is properly cited.