


Comparison of Forensics Death Investigation in Indonesia and Belgium

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Abstract

Introduction: Forensic examination is crucial in obtaining evidence as soon as possible since the human body is a source of biological evidence that can change over time. There are differences between the systems and services provided by forensic medicine in various countries.

Purposes of the Research: This study aims to analyze the comparison of forensic death investigations between Indonesia and Belgium.

Methods of the Research: This research is normative, using a conceptual and comparative approach. The literature study method was used to collect data for this study, which was analyzed qualitatively.

Results Main Findings of the Research: The analysis results show that the forensic examination system in Indonesia applies Scientific Crime Investigation (SCI). By using science and technology combined with criminal analysis, the police can solve criminal cases through the use of SCI methods. Meanwhile, the forensic investigation system in Belgium uses the Medical Examiner System, where a medical examiner is appointed to investigate the cause and manner of death in accordance with Belgian laws and regulations.

Keywords: Belgium; Comparison; Forensic Examination; Indonesia.

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INTRODUCTION

In general, forensics is associated with criminal activities (unlawful acts). The application and use of certain sciences for the sake of law enforcement and justice is the definition of forensic science found in most forensic science textbooks. The main instrument used in criminal investigations is the examination of real evidence and the interpretation of findings from the analysis (test) of such evidence.¹

Saferstein argues in his book "Criminalistics: an Introduction to Forensic Science" that forensic science is the application of science to law. Forensic science is located and is based on natural scientific techniques. According to the perspective of science, something can only be said to be scientific if it is based on facts or experience (empiricism); scientific truth must be able to be demonstrated by each person using his senses (positivism); analysis and results can be presented in a reasonable way, both inductively and deductively, in a language structure full of meaning (logic); and its conclusions can be conveyed to the public with difficulty or without question (criticism of science).²

¹ Khairunnisa, "Manfaat Ilmu Forensik dalam Hukum Pidana," *Cendekia: Jurnal Hukum, Sosial dan Humaniora* 1, no. 1 (2023): 01-12.

² Lestari et al., "Ilmu Forensik Dalam Memecahkan Kasus Kriminalitas: Studi Di Rumah Sakit Bhayangkara Mataram," *Unizar Law Review (ULR)* 4 no. 1 (2021): 5-16

Crimes that have been committed can be revealed in large part thanks to forensic science, especially in cases that are difficult to investigate or require unusual disclosure strategies. This is due to the fact that forensic science was developed to assist the legal system, particularly as it relates to evidence. The field of forensic science itself includes pathology and biology, toxicology, criminalistics, forensic medicine, anthropology, jurisprudence, psychology, and many other fields. Forensic science makes it possible to discover many facts that were previously unknown.³

In Indonesia, there have been many criminal cases, especially criminal crimes. Criminal trials do not only occur in Indonesia, but also occur in many other countries, such as Belgium. The method and mechanism of resolving criminal cases must be used to resolve a criminal case. Criminal cases are investigated by the police, prosecutor's office, or courts. Finding the material truth of the case is the main goal of this. Law enforcement officials need to gather evidence to make a case to solve a criminal case.⁴ Francis Galton, as one of the experts, initially researched human fingerprints and created a classification system using fingerprint samples. Its research findings are currently being used as a basic technique in personal identification tests. Professor Leone Lattes works at the Institute of Forensic Medicine of the University of Turin in Italy. Lattes divide blood into four categories A, B, AB, and during examination and identification of dry blood stains.⁵

The main principle in forensic examination is that obtaining evidence as soon as possible is very important because the human body is a source of biological evidence that can change over time.⁶ In both Indonesia and Belgium, the forensic examination system largely relies on forensic medicine to solve cases. Law enforcement relies heavily on forensic doctors to uncover evidence, which may be in the form of a human body or parts of a human body. Law enforcement agencies rely heavily on forensic doctors to help them uncover existing cases. The ability to examine and analyze evidence of the deceased to shed light on a case is the essence of forensics. So that the authorities can use forensic science to collect a lot of examination data from the crime scene and evidence that can support and validate the occurrence of criminal acts.⁷ Based on the above background, this study was conducted with the aim of analyzing the comparison of forensics death investigation or forensic examination of death in Indonesia and Belgium.

LITERATURE REVIEW

One of the disciplines used in the process of enforcing justice through science is forensics. The name "forensic" comes from the Latin "Forensis," which means from outside and cognate with the word "forum," or public place. The fields of forensic physics, toxicology, psychology, and other related fields are part of the forensic science group and each has a specific role in the legal system.⁸

³ Farhana et al., "Peran Ilmu Forensik Dalam Memecahkan Kasus Kriminalitas: Studi Di Rumah Sakit Bhayangkara Mataram The Role Of Forensic Science In Solving Criminality Cases: Study At Bhayangkara Hospital Mataram," *Nationally Accredited Journal* 4 no. 1 (2021): 110-115.

⁴ Kumean et al., "Fungsi Kedokteran Forensik Pada Tindak Pidana Pembunuhan Menggunakan Zat Berbahaya," *Lex Privatum* 10 no. 4 (2022): 1-12.

⁵ Alma et al., "Analisis Pemeriksaan Alat Bukti Melalui Metode Scientific Crime Investigation Dalam Pengungkapan Kasus Tindak Pidana Pembunuhan di Polresta Denpasar," *Jurnal Analogi Hukum* 5 no. 3 (2023): 363-369.

⁶ Manurung et al., "Peran Ilmu Forensik Dalam Tindak Pidana Kekerasan Seksual," *Jurnal Intelek Dan Cendekiawan Nusantara* 1 no. 2 (2024): 2917-2923.

⁷ Santi et al., "Peran Dokter Forensik dalam Penegakan Hukum: Kontribusi Terhadap Proses Penyidikan dan Pembuktian Pidana," *Innovative: Journal Of Social Science Research*, 4 no 1 (2024): 11645-11660.

⁸ Mason, George dan Hudi Yusuf. "Tinjauan Terhadap Kontribusi Ilmu Kedokteran Forensik Dalam Penyelesaian Kasus Kriminal." *Jurnal Intelek Dan Cendekiawan Nusantara* 1 np. 2 (2024): 2162-2175.

One of the branches of natural science is forensic science. Something can only be considered scientific in the natural sciences if it is supported by evidence from facts or experience and can be satisfactorily explained. Therefore, forensic science is needed in the legal system for scientific proof. Thus, it can be said that forensic science is a branch of science that applies science or science involving several scientific organizations into court proceedings.⁹ In its application, forensic science is used to solve legal problems, the results of investigations are usually presented in the form of statements of forensic experts or letters that can be used as evidence in court.¹⁰

Forensics, according to the Great Dictionary of Indonesian Language, is a surgical science related to the identification of corpses related to the judiciary or justice related to the application of medical facts for the purposes of legal problems.¹¹ Watson stated that the purpose of the scientific field of forensics is to use scientific analysis as evidence of criminal activity in the legal system. Sulianta emphasized that forensics is a scientific method used in the court system to collect, examine, and present evidence related to legal issues.¹²

Forensics according to Soetomo Tjokronegoro is the definition of forensics, also known as the science of judicial medicine, as the application of medical science to support the legal system. This means that forensics is essential in assisting law enforcement, prosecutors, and courts in identifying cases that require the use of medical science to solve them. In addition, forensic science is one of the specialized branches of medical science. In addition to being a field of specialization in medical science, forensic science also includes the science that studies justice and truth as a means to advance the welfare of the community.¹³

A number of supporting scientific fields such as chemistry, physics, biology, and other fields can help the forensic analysis process in terms of forensic examination as a technique for using medical science to solve legal problems. Forensic science has the following branches:¹⁴ a) Criminalistics: the field of natural science on the task of finding, collecting, classifying, and assessing tangible evidence for the good of the law and legal system is known as criminalistic. A forensic scientist who oversees the criminalistic section and is responsible for the testing of evidence is referred to as a criminalistic expert; b) Forensic Medicine: This field of forensic science researches human behavior, the function of body organs, and their relationship to criminal incidents; c) Forensic Toxicology: The field of science that studies poisons is known as forensic toxicology. This field of research examines how chemicals affect biological systems and their damaging effects; d) Forensic Odontology: A field of science called forensic dentistry seeks to collect or identify objects related to the mouth and teeth, including fingerprints, tooth texture, and tooth patterns; e) Forensic Psychiatry: The field of forensic science that focuses on the psyche is forensic psychiatry. Forensic psychiatry, then, plays an important role in uncovering behaviors, attitudes, thought processes, and other aspects of a person's psyche; f) Forensic Entomology: The field of scientific science about insects; g) Forensic Anthropology: The field of science

⁹ Aurelia et al., "Analisa Kedudukan Pemberian Keterangan Ahli Terhadap Proses Ilmu Forensik Dan Tinjauannya Menurut Hukum Islam Analysis Position Of Expert Information On The Forensic Science Process And According To Islamic Law. Comserva," *Jurnal Penelitian Dan Pengabdian Masyarakat* 3 no. 1 (2023): 411-428.

¹⁰ Hadi et al., "Analisis Pembongkaran Jenazah Dalam Prespektif Kedokteran Forensik Untuk Melakukan Otopsi Yang Kedua," *Universitas Mitra Indonesia* 3 no. 2 (2022): 1-16.

¹¹ Siregar, 'Peranan Rekonstruksi Sebagai Pembuktian Petunjuk Terhadap Korban Pembunuhan Berencana' (Skripsi: Universitas Pembangunan Panca Budi, 2021).

¹² Berliana Hajariah Maryanti, 'Analisis Pengungkapan Tindak Pidana Pembunuhan Berencana Melalui Ilmu Kedokteran Forensik (Studi Putusan Nomor: 89/Pid.B/2023/Pn Byl)' (Skripsi: Universitas Lampung, 2024).

¹³ *Ibid.*

¹⁴ Khairunnisa, "Manfaat Ilmu Forensik dalam Hukum Pidana," *Cendekia: Jurnal Hukum, Sosial dan Humaniora* 1, no. 1 (2023): 01-12.

about the remains of bones, skulls, and mummies is known as forensic anthropology. This area of research is essential to determine a person's race, gender, age, and likely time of death; h) Forensic Ballistics: The field of science about weapons and explosives is known as forensic ballistics, and it is an important field of research in identifying crimes involving weapons and other explosives; i) Serology and forensic molecular biology: The field of science about DNA, or serology and forensic molecular biology, is a field of study that plays an important role in identifying victims and perpetrators; j) Forensic Pharmacy: the field of forensic science related to drug synthesis and the provision of data on drug supply is forensic pharmacy; k) Histopathology: The field of science about a single part of tissue under a microscope with the help of histological methods; l) Forensic Laboratory: A field that examines the veracity of materials through various scientific methods. Digital Forensics: The field responsible for analyzing digital evidence. This field also plays a role in investigating and resolving issues related to cybercrime.

METHODS OF THE RESEARCH

This research is normative using conceptual and comparative approaches. The literature study method was used to collect data in this study. Firmansyah et al. (2021) stated that literature study is an analysis method that is carried out by examining reports, notes, and literature related to the problem to be solved, to interpret the results, the collected data will be evaluated qualitatively, namely through analysis in the form of words.¹⁵

RESULTS AND DISCUSSION

A. Forensic Examination System in Indonesia

Criminal cases in Indonesia must be resolved through certain procedures and frameworks. The Criminal Code stipulates three different stages consisting of methods and mechanisms for resolving criminal cases: the examination stage, which occurs at the investigator stage, the prosecution stage, and the examination stage which occurs at the court stage. The main purpose of the examination of criminal cases, whether carried out by the police, prosecutors, or courts, is to find the material truth of a case. Law enforcement officials need to collect evidence to make a case in order to solve a criminal case. According to Article 184 of the Criminal Procedure Code, admissible evidence is the defendant's statement, witness statement, expert statement, letter, and instructions.¹⁶ When conducting cross-examination in a criminal case, the judge must have at least two credible pieces of evidence. According to Article 183 of Law Number 8 of 1981 concerning the Criminal Procedure Law, the court cannot impose a criminal sentence on a person unless with at least two valid pieces of evidence he obtains the belief that a criminal act really occurred and that it is the defendant who is guilty of committing it. In the absence of evidence, the judge cannot determine whether a crime has been committed and whether the defendant is the perpetrator. So that the court can definitively determine the material truth based on the existing evidence. This is where forensic science plays an important role in helping law enforcement uncover evidence, which can be objects, people, or even software,¹⁷ in the case of determining the cause of death of the murder victim, the Forensic Laboratory has the

¹⁵ Lestari et al., "Peran Ilmu Forensik Dalam Memecahkan Kasus Kriminalitas: Studi Di Rumah Sakit Bhayangkara Mataram," *Unizar Law Review (ULR)* 4 no. 1 (2021): 1120-1130.

¹⁶ Kumean et al., "Fungsi Kedokteran Forensik Pada Tindak Pidana Pembunuhan Menggunakan Zat Berbahaya," *Lex Privatum* 10 no. 4 (2022): 1-12.

¹⁷ Dita et al., "Visum Et Repertum Dalam Tindak Pidana Penganiayaan Yang Menyebabkan Matinya Seseorang Dilihat Dalam Perspektif Viktimologi Di Kota Sorong," *Judge: Jurnal Hukum* 5 no. 2 (2024): 207-219.

authority as an expert witness. This is necessary in every stage of the case examination process, which is directly related to the effort to prove the case in question. In the end, the evidence must be completed in front of the court.¹⁸ Article 14 of the Law of the Republic of Indonesia Number 2 of 2002 which regulates the Police, stipulates that the main task of the organization is to organize the identification of the Police, Police Medicine, forensic laboratories, and Police psychology for the purpose of carrying out Police duties.

Expert testimony often plays two roles in the prosecution of criminal cases. Written testimony, sometimes known as *Visum et repertum*, is the first type. Testimony from forensic experts about the cause of death of the murder victim determined by the results of the autopsy as well as the findings of laboratory and field research.¹⁹ With regard to *visum et repertum*, the Criminal Procedure Code does not require investigators to request *visum et repertum* from forensic medicine specialists or other expert doctors. However, it would be best if the doctor in question asked for a *visum et repertum* to examine the issue, make it clearer, and increase the judge's confidence.²⁰ Forensic doctors from the Forensic Laboratory can provide assistance during the legal process in terms of (Rachmad, 2019): a) Examination at the scene; It is usually carried out by the police to ascertain the cause of death. To ascertain the cause of death, a forensic expert investigation will be essential. The doctor will document this in a report based on the findings of the criminal laboratory examination; b) Examination of evidence; c) Giving testimony in court, then his statement as a forensic expert will be considered as expert testimony. Expert testimony and expert letters are two forms of legal evidence contributed by forensic and criminologist experts in the evidentiary process. The role of the forensic laboratory in showing efforts by offering two reliable evidence, namely expert witness testimony and information about the reason behind the death of the crime victim provided by the autopsy report on the victim's body.

The forensic examination system in Indonesia uses scientific crime investigation (SCI) techniques. According to scientific forensics, SCI is considered criminal evidence. By using science and technology condensed into criminalistic analysis, the police can uncover criminal cases through the use of SCI techniques. The key to establishing a relationship between the perpetrator, the victim, and the factual object to the crime scene is the SCI technique, which is brought to life through forensic laboratory examinations and analysis by police forensic specialists. As a result, the building of proof of criminal acts becomes more reliable and judges can be more confident that a case will be decided fairly and in accordance with the existing facts. In addition to being a highly reliable factual tool, scientific evidence in criminal investigations aims to be the cornerstone of the criminal justice system, especially when it comes to resolving problems that arise during the investigation phase:²¹ 1) The following are the various methods used at the crime scene to identify and examine victims of murder crimes (Lestari, 2021): DNA test. Currently, perpetrators use sophisticated techniques so that fingerprints are rarely found at the crime scene; however, DNA tests using body parts samples allow for investigation. In addition to being used for criminal identification, DNA forensic laboratories can store criminal DNA databases, which will aid in investigations. If a DNA sample is found at a crime scene, all it needs to do is

¹⁸ Lestari et al., "Peran Ilmu Forensik Dalam Memecahkan Kasus Kriminalitas: Studi Di Rumah Sakit Bhayangkara Mataram," *Unizar Law Review (ULR)* 4 no. 1 (2021): 1120-1130.

¹⁹ *Ibid.*

²⁰ Santi et al., "Peran Dokter Forensik dalam Penegakan Hukum: Kontribusi Terhadap Proses Penyidikan dan Pembuktian Pidana," *Innovative: Journal Of Social Science Research*, 4 no. 1 (2024): 11645-11660.

²¹ Alma et al., "Analisis Pemeriksaan Alat Bukti Melalui Metode Scientific Crime Investigation Dalam Pengungkapan Kasus Tindak Pidana Pembunuhan di Polresta Denpasar," *Jurnal Analogi Hukum*, 5(3), (2023): 363-369.

compare it to the DNA database; If there is a match, the suspect can be immediately suspected. DNA tests can also be used to determine identity verification, lineage, and other things based on DNA. Only body tissues that have a cell nucleus, such as blood, teeth, hair, muscles, saliva, semen, and nails, can be used as a sample source; 2) Identity of the victim. Finding the victim is the most important step in uncovering a crime because it can shed light on the reason behind the victim's death.

Blood Test. One of the most common tests performed in forensic laboratories is the examination of blood spots. Blood is easily spilled in almost all violent incidents, therefore, seeing blood spots can be very helpful in identifying criminal activity. In reality, the purpose of blood forensic analysis is to help identify the owner of the blood. We must be able to determine if the reddish spots are blood before doing a more thorough blood examination. Therefore, an inspection is needed to ensure: a. Whether the area does contain blood; b. Whether the blood comes from humans or animals; c. If the blood comes from humans, what type of blood is it; and d. If the blood is of human origin.

B. Forensic Examination System in Belgium

The difference between the systems and services provided by forensic medicine in different countries. In general, various systems and services fall into two main categories: integrated services and divided services. In Belgium, forensic examinations use an integrated service. Forensic doctors examine deaths and injuries related to possible criminal acts in this kind of service. These services include examining survivors of physical and sexual abuse as well as conducting a medicolegal, or forensic pathology. These practices are generally categorized as clinical forensic medicine. Additionally, this kind of service may include performing forensic laboratory tests, such as forensic serology or forensic genetics tests, and consultations on medical ethics and negligence.²²

The forensic examination system in Belgium uses the Medical Examiner System (IMES). MES is a medical examiner appointed by law to investigate the cause of a person's death in accordance with national rules and regulations. Requests for medical examiners are received from cases of suspected suspicious deaths that have been uncovered by government agencies, medical professionals, hospitals, funeral directors, or law enforcement.²³

Hanzlick (2014) defines the Medical Examiner System as a forensic examination that requires proficiency in the forensic domain and is responsible for investigating deaths, including conducting autopsies and postmortem examinations.²⁴ According to the justification given, the Medical Examiner System is a forensic investigation conducted in a medical environment to determine the cause of death and the report of the deceased individual.

Meanwhile, according to Jacobs' (2021) research, in Belgium, forensic examinations are carried out by forensic doctors who are registered in the National Court Expert List. This doctor can accompany the investigating judge to the scene of the case (*plaatsafstopping - descente sur lieu*) and conduct an internal autopsy. Immediate family members (or interested parties) cannot challenge the investigating judge's decision to conduct a forensic autopsy after the decision has been made. However, the forensic doctor is not allowed to

²² Rizka et al., *'Hukum Kesehatan'*, Muhammadiyah University Press, 2022.

²³ *Ibid.*

²⁴ Hevira et al., "Peran Forensik di Berbagai Disiplin Ilmu" (2023).

determine the cause of death in Belgium because it is against the law for him to make a decision that falls within the scope of the law or that is considered legally qualified.²⁵ Forensic doctors in Belgium are not considered qualified witnesses by law. Their only task is to conduct forensic examinations.

CONCLUSION

Forensic examination is an attempt to gather evidence as soon as possible given that the human body is biological evidence that can change over time. In Belgium and Indonesia, the forensic examination system relies on the involvement of forensic medicine in the resolution of cases. In Indonesia, forensic examinations are carried out in accordance with the Criminal Code, which is implemented by the Police and forensic doctors of the Forensic Laboratory. Scientific Crime Investigation (SCI) is used in the forensic examination system in Indonesia. Scientific forensic evidence considers SCI to be criminal evidence. By using science and technology compacted with criminalistic analysis, the police can uncover criminal cases through the use of the SCI method. Meanwhile, the forensic investigation system in Belgium uses the Medical Examiner System, where a medical examiner is appointed to investigate the cause and manner of a person's death in accordance with the laws and regulations in Belgium. Forensic doctors in Indonesia not only supervise the examination but also become witnesses in the legal process. Meanwhile, based on one of the previous studies, forensic doctors in Belgium are only allowed to conduct forensic examinations and they are not allowed to be expert witnesses in court.

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²⁵ Jacobs et al., "Medico-Legal Death Investigation Systems-Belgium," *Sri Lanka Journal of Forensic Medicine, Science & Law* 1 no. 3 (2021) 15-21.

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Conflict of Interest Statement: The author(s) declares that research was conducted in the absence of any commercial or financial relationship that could be construed as a potential conflict of interest.

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