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The Use of Forensic Physician Expertise In View of Health Law Against Murder Cases

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Abstract

Introduction: *The position of forensic expert evidence stands on the nature of the dualism of expert evidence, on one side of the expert evidence in the form of reports or post mortem et Repertum can still be assessed as expert evidence on the other side of the expert evidence in the form of reports also touches the letter evidence, but decision-making will be the nature of the dualism of forensic expert evidence lies in the confidence of the judge in making a decision. Forensic medicine plays a role in determining the causal relationship between an act and the consequences that will cause injury to the body or cause health problems or cause the death of a person (causal verbend).*
Purposes of the Research: *The purpose of this study is to explain paradiqma conviction and judgment Judge tehadapa Forensic Medicine against murder case.*
Methods of the Research: *The research method used is normative legal research with a statute legal approach and a conceptual approach.*
Results of the Research: *The testimony of forensic experts is essentially not binding on the judge. However, in a criminal procedure if it is necessary and the purpose is presented experts to explain the case, explain the cause and effect of the defendant's guilt in committing a criminal act, forensic expert testimony is needed in the trial.*

1. INTRODUCTION

The crimes listed in articles 338-350 with all the different elements, giving rise to various crimes including crimes that are directed against the human soul, the soul of a child who is or has just been born, and crimes directed against children who are still in the womb . One form of crime is murder, which is regulated in Article 338 of the Criminal Code reads: "Whoever deliberately takes the life of another is threatened, for murder, with a maximum imprisonment of fifteen years."[1]

The crime of murder as stipulated in Article 338 contains the following elements: 1. Anyone who does; 2. Intentionally; 3. Taking away someone else's life , Elucidation of Article 340 of the offences against life "any person who intentionally and with prior intention takes the life of another person, shall be punished with the death penalty or

[1] Remmelink, J. , *Hukum Pidana Komentar Atas Pasal Pasal Terpenting Dari Kitab Undang-Undang Hukum Pidana Belanda Dan Pidanannya Dalam Kitab Undang-Undang Hukum Pidana Indonesia*, (Jakarta: Gramedia Pustaka Utama, 2003), p.602

imprisonment for life or for a specified period, not later than 20 years.[2]"To bring justice, the judge must issue a verdict, the judge's decision is the result of deliberation which is the starting point of the indictment with everything that is proven in the examination at the court hearing. In Article 1 Item 11 of the Criminal Procedure Code, it is stated that "a court decision is a statement of a judge pronounced in an open court hearing, which can be a convictio or free or exempt from any legal claims in the case and in the manner provided for in this law.[3]

The court decision is regulated in Article 25 of Law No. 4 of 2004 concerning judicial power which states that "all court decisions other than having to contain the reasons and bases for the decision, must also contain certain articles of the relevant regulations or unwritten sources of law that are used as the basis for adjudicating". Examination of a criminal case becomes an integral part in a judicial process that aims to find the material truth (material waarheid) of the case.[4] This can be seen from the various efforts made by law enforcement officers in obtaining the evidence needed to uncover a case both at the preliminary examination stage such as investigation and prosecution and at the trial stage of the case.[5] However, in the field there are many law enforcement officers including judges who do not make the most of the methods allowed by procedural law to present truth and justice in a criminal case, only to use and present mediocre or even lacking evidence. Evidence is a problem that plays a role in the examination process of the court hearing the fate of the accused is determined by the evidence. If the results of the evidence with the means of evidence specified by law "is not enough "to prove the guilt of the accused, the defendant "released" from punishment.[6]

The truth is usually only about certain circumstances that are past.[7] The longer the past, the more difficult it is for the judge to state the truth of the circumstances. Since the wheel of experience in the world is turned again then one hundred percent certainty that what the judge believes about a situation is really in accordance with the truth, is impossible to achieve, the criminal procedure can actually only show the way to try to approach as much as possible the rapprochement between the judge's belief and the true truth. To obtain this conviction, the judge needs tools to redraw the circumstances of the past. Thus, it is concretely stated that if the judge has been able to establish the existence of the truth, this aspect is the "proof" of a matter. Article 133 of the code of Criminal Procedure authorizes the investigator to make a request to a forensic expert if the investigation concerns a victim

[2] Budi Sastra Panaitan, Perlindungan Korban Dalam Kasus Pembunuhan dan Penganiayaan Berdasarkan Hukum Islam dan hubungannya Dengan Restorative Justice, *Jurnal Bina Mulia Hukum*, Vol. 7 No.1, (2022), p.3

[3] Ahmad, Zulkifli Ismail, Melanie Pita Lestari, Tindak Pidana Pembunuhan Dengan Mutilasi Dalam Hukum Pidana Indonesia, *Kertha Bhayangkara* Vol. 16 No. 2 (2022), p.440

[4] Mulyadi, L, *Putusan Hakim Dalam Hukum Acara Pidana Indonesia*, (Bandung: Citra Aditya Bakti, 2014), p.197

[5] Hamdan Anastasya, Winda., Hamdan, Muhammad & Eka, Mohammad, Peranan Ilmu Kedokteran Kehakiman Dalam Proses Penyidikan Terhadap Kasus Pembunuhan. *Jurnal Fiat Justisia*, Vol.1, No.1, (2017), p.145-170.

[6] Harahap, Muhammad Y, *Pembahasan Permasalahan dan Penerapan KUHP: Pemeriksaan Sidang Pengadilan, Banding, Kasasi,dan Peninjauan Kembali*, (Jakarta: Sinar Grafika,2005), p.xx

[7] Soeparmono, *Keterangan Ahli & Visum et Repertum Dalam Aspek Hukum Acara Pidana*, (Bandung: Mandar Maju, 2016), p.59

of injury, poisoning, or death .[8] Expert testimony requests are made in writing.[9] Article 133 paragraph (1) formulates "in the event that an investigator for the benefit of the judiciary handles a victim, either due to injury, poisoning or death, which is suspected of being due to an event that is a criminal offense, he is authorized to submit a request for expert information to a judicial medical expert, or a doctor and or other expert".[10]

The judge's consideration becomes very important in becoming a reference for a criminal decision, but it turns out that the judge's consideration is influenced by several things both related to material truth in using expert information in evidence and related to the judge's conviction.[11] Referring to Article 133 paragraph (1) formulates "in the event that an investigator for the benefit of the judiciary handles a victim, either due to injury, poisoning or death, which is suspected of being due to an event that constitutes a criminal offense, is authorized to submit a request for expert information to judicial medical experts, or doctors and or other experts". Consideration of the judge becomes a very important thing in a reference to a criminal decision, but it turns out that the judge's consideration is influenced by several things both related to material truth in using expert information in evidence and related to the judge's conviction, one side of the legal consideration of a criminal decision must be based on facts - lack of two valid means of evidence he obtains the conviction that a criminal act actually took place and that it is the accused who is guilty of committing it. And on the other hand with the efforts by investigators who present evidence of expert information presented at the investigation level, namely judicial medicine experts, or doctors and or other experts as stated in Article 133 of the Criminal Procedure Code.

Research related to Forensic Medicine still focuses on the function of Forensic Medicine aids to uncover murder cases, discussions related to factors that inhibit the function of Forensic Medicine in uncovering a murder case.[12] The review that continues to emerge related to forensic medicine is the extent to which the urgency of Forensic Medicine conducting post mortem examinations in the interests of proving murder crimes, also explains the relationship of forensic medical examinations with murder crimes that occur in the community.[13] Another discussion is the extent to which the decrease in autopsy rates by forenisical medicine is caused by the attitude of doctors towards autopsies, the role of forensic specialists as well as financial constraints and ethical considerations that cause law enforcement officials to not maximize the function of Forensic Medicine.[14] The other dilemma is to provide an understanding of the extent to which Forensic Medicine is

[8] Wahyuni, S, Kegunaan Ilmu Kedokteran Forensik Dalam Mebantu Mengungkapkan Peritiwa Pidana, *Jurnal Dosen Universitas PGRI Palembang*, Vol.2, No.3,(2013), p.287-299.

[9] Susanti, R, Kematian Tahanan di Ruang Sel Polisi Kontroversi Pembunuhan Atau Bunuh Diri Dilihat Dari Sudut Pandang Ilmu Kedokteran Forensik, *Jurnal Majalah Kedokteran Andalas*, Vol.36, No.1, (2012), p.112-120

[10] Hatta, Muhammad., & Zulfan, Srimulyani, Autopsi Ditinjau Dari Perspektif Hukum Positif Indonesia dan Hukum Islam, *Jurnal Wacana Hukum Islam dan Kemanusiaan*, Vol.19, No. 1, (2019) p. 27-51.

[11] Hardianto, D, Pertimbangan Hakim Perkara Pencemaran Nama Baik Melalui Media, *Jurnal Penelitian Hukum De Jure*, Vol.18, No.1,(2016), p.93-102.

[12] Nuzunulriyanti, Ramadinne., Firganefi., & Husin, Budi Rizki, Fungsi Ilmu Kedokteran Forensik dalam Mengungkap Kasus Pembunuhan Terhadap Ibu dan Anak. *Jurnal Poenale*, Vol.2, No.1,(2020), p.80-96.

[13] Ohoiwutun, T, Urgansi Bedah Mayat Forensik dalam Pembuktian Tindak Pidana Pembunuhan Berencana (The Urgency Of Forensik Post-Mortem Examiation To Determination Of Criminal Liability In The Premeditated Muerder C. *Jurnal Yudisial*, Vol.9, No.1,(2016), p 73-92.

[14] Hengky., Que, Airin., Yulianti, Kunthi., Rustyadi, Dudut., & Alit, Ida Bagus Putu, Penurunan Angka Autopsi Di RSUP Sanglah Delapan Tahun Terakhir. *Journal of Indonesian Forensik and Legal Medicine*, Vol.I, No.2,(2019) p.50-55.

competent to become an expert in the trial to make light of a case.[15] Or only limited to discussing the completeness of the writing of Visum et Repertum in the interests of Criminal Justice. Based on the background described above, the problems (legal issues) that arise in this paper are: 1. What is the position of the court's judicial instrument ; and (2) is it very important to listen to forensic medical experts ' information regarding the evidence of a post mortem letter et Repertum in a murder case?

2. METHOD

The research in the title is using normative research, namely legal research conducted by researching library materials consisting of primary legal materials and secondary legal materials and Non-legal legal materials to understand the relationship between legal Sciences with positive law in this case written, because it concerns legal research or "gegevens van het recht.[16] Approach in this study using a case approach that needs to be understood is the ratio decidendi, namely the reason- the legal reasoning used by judges to arrive at their rulings. Ratio decidendi shows that the science of law is a science that is not descriptive perspective.As for the dictum, that is, the verdict is something descriptive. Therefore, the approach is not to refer to the dictum of court decisions but to refer to the ratio decidendi which takes into account material facts.

3. RESULTS AND DISCUSSION

3.1 Judge's Conviction In Murder Case Against Forensic Medical Expert Testimony

The existence of five kinds of valid evidence as mentioned in Article 184 paragraph (1) of the Criminal Procedure Code, among others, is expert testimony as evidence for criminal procedure in the examination at trial means what an expert States in the trial. Expert information can also have been given at the time of examination by the investigator or public prosecutor set forth in a form of " report" and made by remembering the oath when he received the position or job further explanation of Article 186 of the Criminal Procedure Code explains if it is not given at the time of examination by the investigator or judge (Article 186 of the Criminal Procedure Code and its explanation) or can be done after giving expert testimony.[17] In the examination stage as described above, it can be concluded that if it is connected with Article 133 of the Criminal Procedure Code and its explanation, the request for information provided by a judicial medical expert is called deskundige verklaring, while the information provided by a doctor who is not a judicial medical expert is called verklaring.[18]

In the stages of Investigation and prosecution, a report made by investigators and public prosecutors on the testimony of judicial medical experts or other expert information can be in the form of :1. Expert information is in the form of a 'report' by a doctor of judicial medicine or other experts in accordance with Article 1 item 28 of the Criminal Procedure Code, on a subject matter; 2. Expert information by a doctor of judicial medicine or a doctor,

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[15] Susanti, R, Paradigma Baru Peran Dokter Dalam Pelayanan Kedokteran Forensik, *Jurnal Majalah Kedokteran Andalas*, Vol.36, No.2,(2012), p.146-154.

[16] Marzuki, Peter M. *Penelitian Hukum*, (Jakarta: Kencana, 2016), p.35

[17] Meirza Aulia Chairani, Trinah Asi Aslani, Peran Keterangan Ahli Dokter Forensik Dalam Pembuktian Perkara Pidana Di Indonesia, Fakultas Hukum Universitas PGRI Madiun, Proceding Of Conference On Law Social Strudies ,Held Madiun On Jun 24.

[18] Soeparmono, *Keterangan Ahli & Visum et Repertum Dalam Aspek Hukum Acara Pidana* , (Bandung: Mandar Maju, 2016), p.59

among others, in the form of a post mortem et Repertum; 3. Information that is information by a doctor who is not an expert in judicial medicine is carried out in writing/report.[19]

Visum et Repertum is an expert evidence contained in a report containing information from Forensic Medicine that explains the cause and effect of the victim's body. Visum et Repertum is a medical expert information that has been contained in a written report .[20] So that there is no necessity for the expert to come in front of the hearing as long as the judge feels that the information contained in the post mortem et Repertum has clearly explained the cause of death or injury to the victim.[21] Related to Visum et Repertum as evidence in line with the theory put forward by Yahya Harahap that basically expert evidence in the form of reports or Visum et Repertum can still touch two sides of valid evidence, in terms of expert evidence in the form of reports or Visum et Repertum can still be assessed as expert evidence.[22]

In the explanation of Article 186, the first paragraph in full reads "expert information can also be given at the time of examination by the investigator or public prosecutor which is set out in a report form and made by remembering the oath when he received the position or job form of evidence that is regulated in Article 133 of the Criminal Procedure Code. That is, a report made by an expert at the request of the investigator at the level of Investigation, on the other hand, expert evidence in the form of a report also touches the evidence of the reason letter the provisions of Article 187 letter c of the Criminal Procedure Code have determined one of the letter evidence, namely "a certificate from an expert containing an opinion based on his expertise on a matter or a situation that is officially requested of him".

The form of letter evidence referred to by Article 187 is included in the form of" Expert certificate " Article 187 letter c does not mention the exact same words as what is mentioned in the explanation of Article 186 first paragraph but there is no difference in understanding "expert information set forth in the form of a report" as covered in the explanation of Article 186 with the sentence "certificate from an expert containing an opinion based on his expertise". As stated in Article 187 letter c, basically the two sentence arrangements above contain the same meaning. The evidence presented in the report is nothing more than a letter from an expert.

In Article 186 of the code of Criminal Procedure states that expert testimony is what a member states in a court hearing a new member's testimony has evidentiary value when the member in front of the judge must first swear an oath before giving evidence.[23] By swearing a new Oath has value as evidence, if the expert cannot be present and has previously sworn an oath in front of the investigator, the value is the same as the expert's testimony spoken at the hearing. As the previous explanation if the expert testimony is given without oath

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[19] Shara, Desi Wilma., Amelia, Nikita Rizky., & Manalu, Buana Raja, Peranan Vsium Et Repertum Dalan Proses Pembuktian Perkara Pidana Penganiayaan Biasa Ynag Mengakibatkan Kematian (Putusan Nomor: 3490/id./2015/Pn.Mdn*). Jurnal Mercatoria*, Vol.12, No.1,(2019) p.1-13.

[20] Trisnadi, S, Ruang lingkup Visum et Repertum Sebagai Alat Bukti Pada Peristiwa Pidana Yang Mengenai Tubuh Manusia di Rumah Sakit Bhayangkara Semarang" (scope of Visum et Repertum as a legal mean of proof in crime related to human body in rumah sakit bhayangkara semarang. *Jurnal Sains Medika*, Vol.5, No.2,(2013) p.121-127.

[21] Ramadani, Astri Surya., Salenda, Kasjim., & Kahpi, Ashabul, Beban Pembuktian Visum et Repertum dalam Penanganan Kasus Tindak Pidana Penganiayaan. *Jurnal Alauddin Law Development*, Vol.1, No.2,(2019), p.1-8.

[22] Harahap, Muhammad Y, *Pembahasan Permasalahan dan Penerapan KUHP: Pemeriksaan Sidang Pengadilan, Banding, Kasasi,dan Peninjauan Kembali*, (Jakarta: Sinar Grafika, 2005), p.35

[23] Sari, Mirna Andita., Rifai, Eddy., Jatmiko, Gunawan, Peranan ahli toksikologi Forensik dalam upaya pembuktian tindak pidana pembunuhan berencana, *Jurnal Poenale Hukum Pidana*, Vol.5, No.3,(2017) p.120-132.

because he is held hostage and still does not want to swear and if he is not present when the examination in front of the investigator does not swear first, the expert testimony is only to strengthen the belief of the judge thus as an expert, he has the obligation: a. Come to court; b. He swore an oath; c. Provide information according to knowledge in their field of expertise.

All that is explained by an expert is the conclusions of a known situation in accordance with his expertise. Or in other words an assessment or appreciation of a situation .[24] This is different from the testimony of a witness who is actually prohibited from giving conclusions. Witness testimony is a re-disclosure of the facts seen, heard and experienced by themselves this explanation is contained in Article 185 paragraph (5) of the Criminal Procedure Code, both opinions and designs obtained from thoughts are not witness testimony, the strength of expert evidence is free because it does not bind a judge to use it if it is contrary to his belief, expert testimony at trial is a tool for judges to find the truth and judges are free to use it as their opinion or not. If it is in accordance with other facts in the trial expert testimony is taken as the judge's own opinion, if the contrary expert testimony can be ruled out by the judge, but keep in mind that if expert testimony is ruled out must be based on clear reasons, it cannot simply be ruled out without reason because the judge still has the authority to request re-examination if necessary.

The comparison between management science and expert information is the same as or equivalent to the opinion of an expert staff, which provides input for managers in decision making. Managers are free to use or set aside the opinion of an expert staff in decision-making, only expert information in the trial is required to fulfill certain procedures before giving their opinion.[25] Forensic medicine plays a role in determining the causality relationship between an act with the consequences that will cause injury to the body or that cause health problems or that cause the death of a person where there are such consequences should be suspected of having committed a crime (Causal Verbend).[26]

Through forensic doctors who issue Visum et Repertum provide valid evidence only against the things or circumstances listed therein, which defines everything that the expert doctor examined and personally formulated for example a corpse, body or other person if in a criminal case there is a Visum et Repertum . the judge in this case must still be obliged to weigh freely whether he will take over the expert opinion as a logical result of the reasons he developed and will make it his own opinion or not, the judge gains confidence that the criminal act actually occurred and that the accused is guilty of committing it.[27]

The strength of the evidence from the post mortem et Repertum is submitted only to the judgment of the panel of judges. The purpose of Visum et Repertum is basically to provide the judge with a fact or facts from the evidence for all the circumstances as stated in the reporting section so that the judge can make his decision appropriately on the basis

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[24] Soeparmono, *Keterangan Ahli & Visum et Repertum Dalam Aspek Hukum Acara Pidana* , (Bandung: Mandar Maju, 2016), p.59

[25] Bakhtiar, Handar Subhandi., Sofyan, Andi Muhammad., Muhadar., & Soewondo, Slamet Sampurno. (2019). The Essence Of Autopsy In the Criminal Investigation Process, *International Journal Of Scientific & Technology Research*, Vol.8, No.8,(2019), p.9-16

[26] Jaya, Made Sumitra C, Peran Ilmu Kedokteran Kehakiman (Obat Hukum) Dalam Tindak Pidana Praktek Kedokteran Menurut Undang-Undang nomor 29 tahun 2004. *Jurnal Widyasrama*, Vol.26, No.2,(2015), p.1-16.

[27] Nnoli, Martin Anazodo., Legbosi, Nwidu Lucky., Nnwafor, Paul alozie., & Chukwuonye, Ijezie Innocent. (2013). Toxicological Investigation OF Acute Cyanide Poisoning Of a 29- Year- Old-man : A Cases Report. *Iranian Journal Of Toxicology*, Vol.7, (No.20), p.831-835.

of reality or facts. Referring to the explanation of Article 183 of the Criminal Procedure Code that basically these provisions to ensure the establishment of truth, justice, and legal certainty for a person, juxtaposed with the law of evidence in criminal procedure in that Article required by the panel of judges in sentencing a criminal to a person are: 1. There are at least two proofs; 2. Confidence; 3. That the crime was committed; 4. It is the accused who is guilty.[28]

Combining the evidence of Forensic Medicine experts is seen first between the red thread of Forensic Medicine experts with the case in the trial, there must be a relationship between forensic information with the case being examined. If in the crime of murder there are no witnesses, the function of the forensic doctor's testimony as outlined in the post mortem et repertum and medical information is very helpful to the judge in finding the facts of the truth in the normal trial keteranagan is connected with existing evidence such as knives or weapons or tools used by the defendant to perform or to fulfill the criminal act when the defendant committed the act in the indictment and the cause of death or injury to the victim, time and impact caused by the defendant to the victim. Finally, forming the judge's belief that the defendant is proven guilty and supporting and strengthening each other so that it further increases the judge's confidence.

3.2 Paradiqma Judge To Hear Forensic Medical Expert's Testimony In Murder Case

The existence of five kinds of valid evidence as mentioned in Article 184 paragraph (1) of the Criminal Procedure Code, among others, is expert testimony as evidence for criminal procedure in the examination at trial means what an expert States in the trial. Expert information can also have been given at the time of examination by the investigator or public prosecutor set forth in a form of " report" and made by remembering the oath when he received the position or job further explanation of Article 186 of the Criminal Procedure Code explains if it is not given at the time of examination by the investigator or judge (Article 186 of the Criminal Procedure Code and its explanation) or can be done after giving expert testimony. In the examination stage as described above, it can be concluded that if it is connected with Article 133 of the Criminal Procedure Code and its explanation, the request for information provided by a judicial medical expert is called deskundige verklaring, while the information provided by a doctor who is not a judicial medical expert is called verklaring.[29]

Examination of a criminal case becomes an integral part in a judicial process that aims to find the material truth (material waarheid) of the case. This can be seen from the various efforts made by law enforcement officers in obtaining evidence needed to uncover a case both at the preliminary examination stage such as investigation and prosecution as well as at the trial stage of the case. Evidence plays a role in the examination process of court hearings. Through the evidence determined the fate of the accused. If the results of the proof with the means of evidence prescribed by law "are not sufficient "to prove the guilt of the accused, the defendant is" released " from punishment. Therefore, the judge must be careful, careful, and mature to assess and consider the value of evidence. Examine to what extent the minimum limit of "strength of evidence" or bewijs kracht of any evidence referred to in Article 184 of the Criminal Procedure Code.

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[28] Mega Tiurmaida Simanulang, July Esther, Kedudukan Hasil Autopsi Sebagai Alat Bukti Tindak Pidana Pembunuhan (Studi di Kepolisian Resort Pematang Siantar), *Nomensen Law Review*, Vol. 1,No. 1,(2022), p.124

[29] Soeparmono, *Keterangan Ahli & Visum et Repertum Dalam Aspek Hukum Acara Pidana* , (Bandung: Mandar Maju, 2016),p.59

Evidentiary is the central point of examination of cases in court, evidentiary is the provisions that contain the inheritance and guidelines on the ways in which the law is justified to prove the guilt of the accused. The trial court is used by the judge to prove the guilt of the accused, the trial court cannot arbitrarily and arbitrarily prove the defendant's guilt. This evidence is very necessary. Therefore, the judge may not impose a penalty on a person unless with at least two valid evidence he obtains the conviction that the accused is guilty of committing. It is also obligatory that both evidence are capable of arousing the confidence of the judge.

The judge's conviction consists of two things: first that a criminal act actually occurred and second that the perpetrator of the criminal act is the suspect as charged and not someone else. If viewed based on the theory of the system of evidence according to the law in a negative way (Negatief Wettelijke Bewijs Theorie), in principle determines that the judge may only impose a criminal against the defendant if the evidence is limited determined by law and supported by the judge's belief in the existence of evidence. The system of evidence according to the law is negatively attached to the understanding that the procedural and procedures for proof are in accordance with the evidence as limited as determined by the law and against the evidence, the judge believes both materially and procedurally.

The combination of the negative proof system and the judge's conviction is also inherent in the existence of objective and subjective elements in determining whether the defendant is guilty or not. This system combines objective and subjective elements in determining whether or not a defendant is the most dominant between the two elements. Because if one of the elements between the two elements does not exist, it means that it is not enough to support the proof of the defendant's guilt. viewed in terms of the provisions of the way and with the tools of evidence that is valid according to the law the defendant's guilt is clearly proven, the judge himself is not sure of the guilt of the defendant who has been proven earlier then in such a case the defendant can not be found guilty serbaliknya the judge is really sure the defendant is really guilty of committing the alleged crime but the conviction is not supported by sufficient evidence according to the procedure with the tools of evidence that is valid according to the law in such a case the defendant can not be found guilty therefore between the two components must support each other.[30]

The system of evidence adopted by the Criminal Procedure Code is explicitly contained in Article 183 of the Criminal Procedure Code which reads “a judge may not impose a crime on a person unless with at least two valid means of evidence he obtains confidence that a criminal act really happened and that the accused is guilty of doing it."Comparison of Article 183 Criminal Procedure Code with Article 294 HIR almost simultaneously sound and intent contained therein. Article 294 of the HIR States “no punishment shall be imposed on any person if the judge is not convinced of the guilt of the accused by an attempt to prove according to the law that it is true that a criminal act has occurred and that it was the accused who committed the wrongful act “.

In the article both adhere to the system of evidence according to the law in a negative way. The difference between the two lies only in the emphasis only on Article 183 of the Criminal Procedure Code of the requirements of proof according to legitimate means and evidence, more emphasized in its formulation. Article 183 of the Criminal Procedure Code regulates to determine the guilt or innocence of a defendant and to impose a crime on the defendant There must be a proven guilt with at least two valid means of evidence and on

[30] Arsyadi, Fungsi dan Kedudukan Visum et Repertum Dalam Perkara Pidana. *Jurnal Ilmu Hukum Legal Opinion*, Vol.2, No.2,(2014) p.56- 64.

the evidence with at least two valid means of evidence the jurisprudence of the Supreme Court of the Republic of Indonesia the provisions of Article 183 of the Criminal Procedure Code aims to find and realize the achievement of a minimum limit of evidence to determine the value of the strength of evidence that can or cannot support the proof of the guilt accused to the defendant (Guilty or not Guilty).

Basically, Visum et Repertum is an expert evidence contained in a report containing information from Forensic Medicine that explains the cause and effect of the victim's body.[31] Visum et Repertum is a medical expert's statement that has been contained in a written report, so there is no necessity for the expert to come in advance of the trial as long as the judge feels that the information contained in the post mortem et Repertum has clearly explained the cause of death or injury to the victim.[32]

4. CONCLUSION

The position of forensic expert evidence stands on the nature of the dualism of expert evidence. In one aspect of expert evidence in the form of reports or Visum et Repertum can still be assessed as expert evidence on the other hand expert evidence in the form of reports also touches letter evidence as it sounds articles 186 and 187 of the Criminal Procedure Code. Determination in decision making will be the nature of the dualism of forensic expert evidence lies in the confidence of the judge in making a decision on the case of murder. Forensic medicine plays a role in determining the causality relationship between an act with the consequences that will cause injury to the body or that cause health problems or that cause the death of a person where there are consequences that should be suspected of a criminal act (causal verbend). To combine the evidence of Forensic Medicine expert testimony that is seen in advance the common thread between forensic medicine expert testimony with the case in the trial, there must be a relationship between forensic evidence with the case being examined. If in the crime of murder there are no witnesses, the forensic doctor's testimony function as outlined in the post mortem et Repertum / medical evidence is very helpful for the judge in finding the truth in the normal hearing the keteranagan is connected with existing evidence such as knives or weapons or tools used by the defendant to commit or to fulfill, the time and impact of the defendant on the victim. Finally, forming the judge's belief that the defendant is proven guilty and support and strengthen each other so that further increase the judge's confidence. And the second conclusion is that Article 183 of the Criminal Procedure Code determines whether or not a defendant and to impose a criminal offense to the defendant There must be a proven error with at least two valid means of evidence and on the evidence with at least two valid means of evidence, the jurisprudence of the Supreme Court of the Republic of Indonesia the provisions of Article 183 of the Criminal Procedure Code aims to find and realize the achievement of a minimum limit of evidence to determine the value of the strength of evidence that can or cannot support the proof of the guilt charged to the defendant (Guilty or not Guilty). The testimony of forensic experts is essentially not binding on the judge. However, in a criminal procedure if it is necessary and the purpose is presented experts to explain the case, explain the cause and effect of the defendant's guilt in committing a criminal act, forensic expert testimony is needed in the trial.

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[31] Rindo, R, Kedudukan Kedokteran Forensik Dalam Penyidikan Tindak Pidana di Direktorat Reserse Kriminal Umum Kepolisian Daerah Riau. *Jurnal Online Mahasiswa (JOM),* Vol.2, No.2, (2015), p.1-14.

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