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Visum Et Repertum As Medical Legal Aspect to Foreigners As Victims Of Sexual Violence in Indonesia

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Abstract

This research discusses the Visum et Repartum policy as one of the use of medicolegal aspects to foreign tourists as victims of sexual violence in Indonesia. This study examines normative law, namely research conducted by researching data merely secondary. The results show that various regulations in the existing law do not regulate in detail and firmly the guidelines for implementing Visum et Repartum for victims of sexual assault in Indonesia, in order to support those who have been harmed by it often have difficulty reporting it to the authorities and proving it in KUHAP. In this research, the Visum et Repartum arrangements for foreign tourists who are victims of sexual violence in Indonesia are regulated by several laws and regulations in Indonesia, one of which is regulated by the Tourism Law and the Sexual Violence Crime Law. The form of legal regulation regarding the appropriate implementation of Visum et Repartum for foreign tourists who will be covered by the new law as victims of sexual assault (Ius Constituendum) can be in the form of regulations or policies that specific regulate law enforcement guidelines for the implementation of Visum et Repertum in Indonesia. In practice, currently there are no regulations governing the implementation of Visum et Repartum for foreign tourist victims properly and correctly in accordance with Indonesian regulations.

I. Introduction

The problem of sexual violence increases every year in Indonesia like an iceberg phenomenon, where there is an increase in cases occurring in the community, but the number of reporting data received by the authorities is lower. Generally, victims are unwilling to report it to the authorities because of shame, fear of being blamed, psychological trauma, or ignorance about how to report the case. In essence, sexual violence is defined as any act or crime that transgresses moral standards. In general, all countries in the world have provided legal protection for domestic and foreign tourists who travel to their respective regions. International Code for the Protection of Tourist (ICPT), website: https://www.unwto.org/international-code-for-the-protection-of-tourists diakses pada 8 agustus 2024.1

¹ International Code for the Protection of Tourist (ICPT), website: https://www.unwto.org/international-code-for-the-protection-of-tourists diakses pada 8 agustus 2024.

Legal protection for tourists shows a country's concern for providing security and comfort for domestic and foreign tourists to carry out their tourism activities. Sheilla Kristiana Putri. (2023). Perlindungan Hukum Terhadap Wisatawan Menurut Undang Undang Nomor 10 Tahun 2009 Tentang Kepariwisataan. JURNAL HAK: Kajian Ilmu Hukum, Administrasi dan Komunikasi. 1(1), 21-26. The Indonesian government has also implemented legal protection for tourists in Indonesia through a form of Indonesian legal regulation, namely the Law no. 10 of 2009 about Tourism. According to Law No. 36 of 2009's Article 20 letter c, visitors are entitled to legal protection and security. The provisions of this article explicitly state the rights of tourists to acquire legal defense. The provisions of this regulation not only regulate the rights of tourists and the government's duty to safeguard visitors legally while simultaneously enforcing the obligations of visitors as outlined in Article 26 letter d of the Tourism Law.

There are several cases in Indonesia where tourists who visit or carry out tourist activities do not receive proper protection and security while traveling, because these visitors frequently encounter sexual assault, including rape and sexual harassment.⁴ One example is that case of rape committed by a driver against a foreign tourist from Brazil in an empty land, Jl Nyangnyang, Kel. Jimbaran, District. South Kuta, Kab. Badung on Monday, August 7 2023, around 04.00 to 05.00 WITA, Jansen explained that the GWL victim ordered an online motorbike taxi with a departure route from Puri Kelapa Quest By Bukit Villa to Villa Asri Jimbaran. "During the journey, the victim (GWL) continued to be chatted with by the perpetrator until he didn't pay attention to the travel map," when he arrived at the crime scene, the driver turned his motorbike and told GWL to get off and the perpetrator tried to rape the tourist victim, namely GWL, especially as the perpetrator slammed the victim.⁵

Based on Law No. 12 of 2022 concerning Criminal Acts of Sexual Violence in Article 1 number 1 which states "Any conduct that satisfies the requirements for a criminal act as described by this law, as well as any further acts of sexual violence as defined by this law to the degree prescribed by this legislation, are considered criminal sexual violence." Based on information from January-November of 2022 National Commission on Violence Against Women statistics, based on data, 3.014 women experienced sexual violence, of which 860 happened in public and up to 899 happened in private as instances of sexual assault, further complaints related to this will increase, including regulated service

² Sheilla Kristiana Putri.(2023). Perlindungan Hukum Terhadap Wisatawan Menurut Undang Undang Nomor 10 Tahun 2009 Tentang Kepariwisataan. *JURNAL HAK: Kajian Ilmu Hukum, Administrasi dan Komunikasi*.1(1), 21-26.

Firya Oktaviarni.(2018).Perlindungan Hukum Terhadap Wisatawan Menurut Undang-Undang Nomor 10 Tahun 2009 Tentang Kepariwisataan.*Wajah Hukum.* 2(2), 138, https://doi.org/10.33087/wjh.v2i2.34.

W. Citra Juwitasari. (2016). Implementasi Pengakuan Hak Asasi Manusia Dalam Kegiatan Berwisata Di Indonesia. *Penelitian Mandiri: Program Studi Industri Perjalanan Wisata*. 1–21, chromeextension://efaidnbmnnnibpcajpcglclefindmkaj/https://simdos.unud.ac.id/uploads/file_penelitian_1_dir/5782b018045969cd3c9bd4534625fc76.pdf.

⁵ I Wayan Sui Suadnyana, "Amarah Koster ada Driver Ojol perkosa Turis di Bali Baru Pertama," tahun 2023 dengan link Url: https://www.detik.com/bali/hukum-dan-kriminal/d-6868413/amarah-koster-ada-driver-ojol-perkosa-turis-di-bali-baru-pertama.

⁶ Siti Nurahlin.(2022). UU Tindak Pidana Kekerasan Seksual Memberikan Perlindungan Hukum Bagi Korban Pelecehan Seksual Verbal (Catcalling). *Jurnal JATISWARA*. 37(3), 315.

providers. Civil society or UPTD P2TP2A.⁷ This data explains that the ratification of the TPKS Law has not been implemented well by law enforcement officials in Indonesia.

This problem solving have to create related institutional regulations for the intention of advising law enforcement personnel. Sexual violence is an issue that continues to be discussed in society.⁸ The formation of crucial regulations, namely for the police, such as reporting guidelines, investigation guidelines and investigation guidelines which must be aligned with further regulations, namely the implementation of the TPKS Law on procedures for handling, protection, recovery and internal guidelines on resolving legal disputes in order to resolve problems optimally. Proof its goal in criminal proceedings is to find material truth.⁹

The process of making a complaint report is one of the initial stages in uncovering existing cases of sexual violence. Forensic medicine is a branch of medicine with links to both the legal system and medicine. There are two subsidiaries of clinical forensic medicine that relate to humans life and clinical pathology including to corpses. Forensic science is a branch of science to support evidence in the judicial process. Forensic science consists of law, medicine, psychology, chemistry and anthropology which makes the objects broad is notable as legal medicine, which is a subfield of medicine with applications in evidence and justice. In

One form of medicolegal application in instances of sexual assault, the procedure involves putting into practice post mortem et repertum (VeR) 2 or in other terms in society called "visum" that help to clarify the problem by interpreting physical evidence resulting from sexual violence in compliance with the Criminal Procedure Code's Article 184 on admissible evidence. Witasya Aurelia Sulaeman, dkk. (2025). Peranan Ahli Forensik Dalam Pembuktian Penyebab Kematian Remaja Putri Di Kuburan Cina Palembang. Aliansi: Jurnal Hukum, Pendidikan dan Sosial Humaniora 2(1), H.208. A post-mortem is a written result or report containing the results of a doctor's examination of a victim of sexual violence at the request of an investigator or the victim. The post-mortem of an immoral victim begins with a physical examination to determine general trauma, genitals, foreign objects in the body and an examination of the semen on the victim's body. Doctors have a major role in making Visum et repertum and clarifying physical evidence on

⁷ https://komnasperempuan.go.id/siaran-pers-detail/siaran-pers-komnas perempuan-tentang-peringatan-kampanye-internasional-hari-16-anti-kekerasan-terhadap-perempuan-25-november-10

<u>desember2022#:~:text=Komnas%20Perempuan%20pada%20Januari%20s.d,899%20kasus%20di%20ranah%20personal</u> diakses pada 23 Januari 2023 .

⁸ Rosania Paradiaz and Eko Soponyono.(2022).Perlindungan Hukum Terhadap Korban Pelecehan Seksual. *Jurnal Pembangunan Hukum Indonesia*.4(1), 61–72.

Andi Sofyan dan Abd, Asis.(2013). Hukum Acara Pidana, Suatu Pengantar. Jakarta: Kencana, 229.
 Arsyadi, A. Fungsi Dan Kedudukan Visum Et Repertum Dalam Perkara Pidana (Doctoral dissertation. Tadulako University.2.

Langie, Y. N., Tomuka, D., & Kristanto, E. G. (2015). Peran visum et repertum dalam penegakan hukum pidana pada kasus kematian tidak wajar di Kota Manado. *Jurnal Biomedik: JBM*, 7(1), h.49.

Witasya Aurelia Sulaeman,dkk.(2025). Peranan Ahli Forensik Dalam Pembuktian Penyebab Kematian Remaja Putri Di Kuburan Cina Palembang. *Aliansi: Jurnal Hukum,* Pendidikan dan Sosial Humaniora 2(1), H.208.

victims to assist the authorities in enforcing the law justly.¹³ This means that every doctor is obliged to have the appropriate knowledge and knowledge to conduct assessments and provide care for victims of sexual assault.

In several previous studies there was an article with the title, "The Role of Visum Et Repertum made by Non-Forensic Doctors as Evidence in Criminal Persecution (Case Study of Decision Number 1180k/Pid/2014)" written by Kurniawan in the Journal of Legal Reform, Vol. XXII No. 1 of 2018 which discusses whether the post mortem et repartum made by a forensic physician that is acceptable as legal proof. The results of this article, when referring to Judicial Decree no. M01,PW.07-03 of 1983 concerning directive for the enforcement the Procedure Code in the provisions of Article 133 paragraph (2) regarding objects resulting from post mortem et repartum issued by forensic and non forensic doctors, which explains that non forensic doctors do not provide expert testimony but the information itself which constitutes valid evidence. 15

In this research, there are differences by focusing more on the Visum et Repartum arrangements for sexual violence in Indonesia based on the current law arrangements that will apply in the future. The legal problem contained in this article's research is the absence of norms governing guidelines for implementing Visum et repatum for victims of sexual violence, especially against foreign tourists as victims and the urgency of implementing Visum in evidence during the trial process in maintaining the legal right to justice for victims of sexual assault. Formulations problem in this research are How are the Visum et Repartum regulations for foreign tourists people in Indonesia are victims of sexual assault, and appropriate model of Visum et Repartum regulations for foreign tourists people in Indonesia are victims of sexual assault (Ius Constituendum).

2. Research Methodology

This scientific writing entitled "Legal Policy for the Implementation of Visum et Repartum as a Medicolegal Aspect for Foreign Tourists as Victims of Sexual Violence in Indonesia" has a norm issue, namely a deficiency in norms regarding the current regulations for the implementation of Visum et Repartum in Indonesia. Currently, application of post mortem et repertum, allowed under Article 184 of the Criminal Procedure Code, is valuable as admissible evidence. The provisions of the TPKS Law also do not regulate in detail the guidelines for implementing post mortems for foreign tourists as victims of sexual violence as evidence in court. This study examines normative law, namely research conducted by researching data merely secondary. Research is a basic means of developing science and technology, which aims to reveal the truth systematically, methodological and consistent.

¹³ Indira Sukmariana.2022."Peran Pemeriksaan Forensik Dalam Kasus Kekerasan Seksual", <u>https://kumparan.com/indira-sukmariana/peran-pemeriksaan-forensik-dalam-kasus-kekerasan-seksual-1zTBXb8U1ar</u> diakses pada 23 Januari 2023.

Rian Pertiwi, Bambang Santoso. (2016). "Analisis Kasasi Jaksa Penuntut Umum Berdasarkan Kelalaian Hakim Pengadilan Negeri Kabanjahe terhadap Visum Et Repertum dan Putusan Bebas (Studi Putusan Mahkamah Agung Nomor 1041k/Pid/2014)." *Jurnal Verstek*. Bagian Hukum Acara Universitas Sebelas Maret. 4(3), 172.

Ratu Stewart, Eske Worang, Nontje Rimbing. (2023). Keterangan Ahli Kedokteran Forensik Dalam Sidang Peradilan Pidana. *Lex Crimen*. XII(2), 4.

3. Results and Discussion

3.1 Visum et Repartum regulations for foreign tourists as victims of sexual violence in indonesia

Tourist comfort is one of the things that tourists hope for, even from the start when they plan to travel, so that they can feel it when they later enjoy each tourist attraction they visit. So that the fulfillment of tourists needs while traveling is the basis for tourists to feel comfortable. In the legal aspect of tourism, when discussing legal protection for foreign and domestic tourists in Indonesia, it is guided by the Tourism Law, the provisions of the articles in this law have regulated one, article 23 paragraph 1 letter a regulates national government, where every traveler is required to obtain information from the regional government regarding tourism, legal protection, security and safety. When tourists enjoy their trip, they want good benefits for themselves or with friends, family, community and so on. Furthermore, tourists spend a certain amount of money to get what they need. Due to this exchange of transactions, tourists get their rights fot protection of safety.

Legal protection efforts for all consumer rights as tourists have also been regulated in UUPK No. 8 of 1999 Article 4 Letter A. In practice, by Article 45 UUPK, which states that both non-litigation and litigation may be used to resolve consumer issues. Certain entities that specialize in settling disputes between business actors and customers conduct non-litigation habitation. Liabilities are "all the characteristics of debts and obligations" if interpreted to include forms of responsibility, which are certain obligations or risks. Based on Article 48 UUPK, the legal process can be settled by bringing legal action the District Court and asking for damages in accordance with the relevant clauses. Additionally, the requirements of UUPK Article 45 paragraph (1) clarify that customers who have suffered harm may file a lawsuit to pursue legal recourse with the authorized agency to resolve consumer problems. Related to the form and value of damages for certain actions as a guarantee will not happen agains, stated in Article 47.

Settlement of non-litigation cases stated in Article 45 paragraph 1 of the UUPK to accomplish consument problems outside of court takes the following steps:

- a. Resolve compensation claims as soon as possible.
- b. Resolve compensation claims through BPSK.

If a prosecution has been carried out in the form of direct compensation for losses but there is no response, in accordance with Article 52 of the UUPK and the Decree of the Minister of Industry and Trade No. 350/MPP/Kep/12/2001 concerning the Authority of the Consumer Dispute Resolution Agency, the consumer may file a lawsuit to have the dispute resolved by BPSK.¹⁶

Based on all the explanations regarding legal protection for foreign tourists as consumers who visit Indonesia to carry out tourism activities, it can be concluded that it is the desire and right of every tourist to obtain protection for the right to security and comfort from

Nabilah Luthfiyah Chusnida, "Perlindungan Hukum terhadap Wisatawan dalam Kegiatan Pariwisata Berisiko Tinggi Menurut UU Perlindungan Konsumen", *Jurnal Penelitian Hukum De Jure*. 22(4), 9.

tourists when carrying out tourism activities.¹⁷ However, the facts that often occur there are incidents of visitors being sexually assaulted in the field. To resolve this problem, generally victims of sexual violence, namely tourists, will report it to the authorities. However, to make this report, it's necessary for victims of sexual violence to complete a post mortem et repartum in order to offer proof for their report. VeR can be employed to address Article 285 of the KUHP regulates the criminal conduct of rape.¹⁸

Visum is a written explanation into a report and made by a physician following a physical examination of the patient. This post-mortem is usually at the official demand of the verification in order to uphold justice. The term Visum et Repertum only existed in the *Staatsblad* in 1937. Based on the provisions of Stb 350 of 1937, it was stated that the VeR according by doctor until the matter was seen or found on the victim's physical body had permanent legal force if the doctor had taken his oath. Definition of VeR as contained in Stbl. Year 1937 No. 350 is a report based on justification accordance the doctor an oath, regarding everything seen and what was discovered on the aim inspection according to existing science as best as possible. The legal basis for the application of Visum et Repartum as evidence for investigators in handling problems with victims who have suffered injuries, poisoning or even died, which is suspected to be due to a criminal act, is that investigators have the right to delegates application for information from judicial medical, physicians and other specialists covered by 133 KUHAP. The provisions of Article 133 paragraph (2) also regulate the request for written information containing the results of examinations of wounds, corpses or post-mortem examinations.

Based on Article 7 paragraph (1) letter h and Article 11 of the Crimminal Procedural Code, Prober have the right to to obtain expert information. The Prober is called for common crimes, regarding crimes related to a human life and health. Prober submitted a VeR request after receiving the complaint so that evidence (in the form of the victim's physical condition) was not lost. The investigator files a police report following the receipt of a complaint regarding the criminal incident and then a visun et repartum is conducted to determine the victim's state and to establish the elements of violent sexual contact.²¹ The position of VeR when a rape crime occurs which is used as legally binding evidence is still stated in Article 184 paragraph (1) of the Criminal Procedure Code letter c. In the

Tjhing Man Lie, Andin Rusmini, Titin Lestariningsih. (2024). Jaminan Keamanan dan Keselamatan Pengunjung pada Destinasi Wisata. *Mutiara: Jurnal Ilmiah Multidisiplin Indonesia* (e-ISSN 3025-1028 Available at: https://jurnal.tiga-mutiara.com/index.php/jimi/index).2(1), 85-86

¹⁸ Ramiyanto Ramiyanto and Waliadin Waliadin.(2019). Upaya Pemanfaatan Sistem Hukum Untuk Menanggulangi Kekerasan Seksual Dan Perlindungan Perempuan. *Jurnal Legislasi Indonesia*. 15(4). 321–329.

¹⁹ Krisna Wahyuningrum.(2018). Pengaruh Visum Et Repertum Sebagai Alat Bukti Dalam Mengungkap Tindak Pidana Pembunuhan Terhadap Putusan Hakim Di Pengadilan Negeri Surabaya. Jurnal Judiciary. 1(2), h. 72.

²⁰ Ayu Welly Jovita, dan Anggraeni Endah Kusumaningrum.(2022). Tanggung Jawab Hukum Dokter Bidang Pelayanan Forensik dalam Pembuatan Visum Et Repertum (VET) Perkara Pidana Terkait Amoralitas. *Jurnal Hukum Kesehatan Indonesia*. 2(2),122.

²¹ Yosy Ardhyan.(2017). Analasis Atas Permintaan Penyidik Untuk Dilakukannya Visum Et Repertum Menurut KUHAP. Jurnal Lex Administratum. V(2). 7.

Explanation section, Article 186²² governs the admissibility of evidence in court cases as post mortem et repartum results by doctors as expert testimony and also provided during examinations by the public prosecutor or investigator which are presented in the form of reports and creath to memory by the doctor's curse when accepting the occupation. Regarding the content of the expert's statement as evidence, it can be found under Criminal Procedure Code Article 187 letter (c).

Regarding the entire description of the article, related count on by specialist information and VeR in the Criminal Procedure Code is the same as Stb no. 350 of 1937. The difference is in expert statements made by experts on the basis of requests for medical examination results. In contrast to Visum et Repertum which does not require medical examinations to be carried out by the assigned expert himself, due to the development of medical science with various expertise so that medical examinations can be lead out by certain doctors from various specialist domain. For experts, namely doctors who refuse an investigator's request to assist in the investigation process, article 216 of the Criminal Code provides an explanation of the criminal penalties that will be imposed on the physician, "Anyone who deliberately disobeys a lawful order or request from a supervising official or an official acting within their duties commits an offense, as well as those who are given the power to investigate or examine criminal acts, anybody who purposefully thwarts, obstructs, or inhibits the application of provisions faces a maximum penalty of 4 months and 2 weeks imprisonment or a max fine of nine thousand rupiah."

The implementation of the post mortem et repertum process for dead victims is contained in Articles 133 and 134 of the Criminal Procedure Code, provided that the corpse is carried out in the best possible manner and that requests and examinations are requested.²³ The body is given a label containing identity, position stamp and placed on the body of the body. The examination of the corpse must be carried out as thoroughly as possible and the results recorded substantial of a post mortem et repertum ²⁴. Forensic medical examination of corpses is mandatory. Providing clear information about the purpose, steps for examining the body and the benefits is conveyed to the victim's family to anticipate any misunderstandings. Body examinations can still be carried out by force specified in the Criminal Code's Article 222.

In sexual violence crimes, be found a various types of crimes such as harassment, rape, molestation, and so on. In cases of rape, the criminal crime of rape is governed by legislation; one such regulation is included in regulation No.1 of 2023's Article 473 Paragraph 1, which declares that, "Anyone who forces another person to engage in sexual intercourse through violence or threats shall serve a max of 12 years in jail as punishment for rape." Apart from that, with regard to victims of sexual violence want to have an abortion, the gestational age is not more than 14 weeks or has indications of a medical emergency as stated in paragraph (2) of Article 463 of Law No. 1 of 2023. The post mortem et repertum process is carried out in accordance with the investigator's (police) request

²² Michael Barama.(2011). Kedudukan Visum et Repertum Dalam Hukum Pembuktian. Makalah. diakses tgl 18 agustus 2024.

²³ Yahya Harahap.(2010). *Pembahasan Permasalahan dan Penerapan KUHAP Penyidikan dan Penuntutan*, Jakarta: Sinar Grafika.209.

²⁴ Cliff Roring.(2017). Visum Et Repertum (Ver) Dalam Pembuktian Tindak Pidana Menurut Kuhap. *Jurnal Lex Privatum* 5(2), h. 55.

letter.²⁵ The technique for carrying out an autopsy is completed with concerning of the victim. The requirements for an autopsy are that it must have approval and be handled by investigators.²⁶

The implementation technique is:27

- 1. The investigator accompanies the victim to the hospital and brings documents requesting a post mortem et repertum as well as a consent form from the investigator.
- 2. Coordinate with the head of the hospital or head of department.
- 3. Officers prepare medical equipment for autopsy.
- 4. Officers pray before carrying out an autopsy
- 5. If a body organ is to be sampled, the organ is placed in a container and the length, weight, name of the organ, time and date of sample collection are written down.
- 6. Next, an autopsy is carried out accompanied by the repair of the victim's body to its original state.
- 7. The results obtained are recorded in the post-mortem book.

Technical guidelines for carrying out post mortems have been regulated in Minister of Health Regulation no. 77 of 2015 focus on Orientation for Mental Health inspection for Law Establishment purposes. Based on this arrangement, the implementation of the post mortem focuses on obtaining a certificate from a mental specialist regarding the contents of the mental health inspection that useful for the importance of law enforcement. In 1986, the institution that oversees Mental Health, namely the Directorate General of Medical Services at the Department of Health, compiled guidelines for the implementation of psychiatric post mortem et repertum, but until now these guidelines have not been regulated in the Minister of Health and VeRP decisions which are useful for carrying out sentences.²⁸ Referring to the provisions of the Health Law, Article 150, which previously determined procedures for examining mental health for the sake of law establishment, that can be carried out by professional mental medicine specialists in health service facilities. There are several circumstances that actually requires a doctor to speak and can not protect himself because he has to save confidential. This happens to doctors, among others, when it is mandatory to create a Visum Et Repertum which is used as basic for law establishment, both in criminal and civil cases.²⁹

The appropriate theory to use regarding the issue of Visum et Repartum regulations for foreign tourists who are victims of sexual violence in Indonesia is to use the theory of legal certainty put forward by Gustav Radbruch who believes that laws must be made definitely and in writing.³⁰ This theory also states that laws must be based on facts and not easily changed. Gustav Radbruch also stated that legal certainty, justice and

²⁵ Muhammad Said Habil.(2021).Gambaran Jenis Trauma Tajam Pada Kasus Kekerasan di IGD RSMH Pada Tahun 2018 - 2020. Skripsi Fakultas Kedokteran Universitas Brawjiaya. H.9.

²⁶ Ahmad Yudianto.(2020).Ilmu Kedokteran Forensik.Surabaya: Scopindo Media Pustaka. 24.

²⁷ Budiyanto A,dkk.(2023). *Pengantar Ilmu Kedokteran Forensi dan Medikolegal*. Jakarta : CV Eureka Media Aksara.

²⁸ Nanda Rahmadian Yusuf.(2016). Pertanggungjawaban Hukum Dokter terhadap Malpraktek Medis.Skripsi Fakultas syariah dan hukum, h.26.

²⁹ Krisna Wahyuningrum.(2018). Putusan Hakim Pengadilan Negeri Surabaya Ditolak Bukti Visum Et Repertum yang Ungkap Pembunuhan. *Jurnal Judiciary*.1(2), 81.

³⁰ Dino Rizka Afdhal,dkk.(2023). Idealitas Penegakkan Hukum Ditinjau Dari Perspektif Teori Tujuan Hukum.

expediency are the three basic legal values. In this research, the important role of clear regulations governing the guidelines for implementing Visum et Repartum for foreign tourists as victims of sexual violence has an important role as evidence for proof at trial and reporting to the authorities.

If you refer to the provisions of the description of the articles mentioned above, of applying Visum et Repertum for victims of sexual violence in Indonesia, there is currently no specific regulation in place. The implementation of this Visum procedure still uses the policies of each doctor who treats victims. There are no regulations yet. which clearly regulates the appropriate procedures for implementing the Visum to be given to victims. In reality, during the investigation stage by the police, the crime of rape has been proven, because the perpetrator and victim often deny their actions.³¹

3.2 Regulations for Visum et Repartum for foreign victims of sexual violence (*Ius Constituendum*)

Article 1 paragraph (1) of the TPKS Law explains that "criminal acts of sexual violence include any actions that meet the elements of a criminal offense as regulated, along with other acts of sexual violence in accordance with this Law." The interpretation of sexual violence is also found in ECPAT International, namely in the form of interactions between children and older people such as strangers, blood relatives or parents who use children as tools to satisfy their sexual desires. This action occurred as a result of coercion, bribery, pressure, deception and threats against the victim. Forms of sexual violence include rape or sexual abuse.³²

The investigation procedures for rape must meet the components of violence or threats that can be discovered and proven by investigators for the case resolution process.³³ If sexual intercourse occurs without a component of the victim becoming the target of assault or threats of violence, the case will be dismissed. Regarding physical examination of the victim, violence is proven by identifying the areas of injury in the mouth or lips, nipples, wrists, thighs and around the genitals. In general, injuries are found to be caused by sexual violence in the form of abrasions, nail scratches, bite marks and bruises. In connection with the issues mentioned above, the visum et repertum has fully mediated medical science with legal science so that we can know clearly what actions the victim experienced and law enforcers can implement the provisions of criminal law rules which are intimately connected to the human body and spirit via the repertoire of visum et repertum.³⁴

Sujadi, S. (2012). Visum Et Repertum Pada Tahap Penyidikan Dalammengungkap Tindak Pidana Pemerkosaan. *Jurnal Legalitas*, *5*(1), 12542.

³² Antari, P. E. D. (2021). Pemenuhan Hak Anak yang Mengalami Kekerasan Seksual Berbasis Restorative Justice pada Masyarakat Tenganan Pegringsingan, Karangasem, Bali. Jurnal Ham, 12(1), 75.

³³ Novita Yuliani, Afra Muhamed Saleh Banaja.(2013). Analisis Pelaksanaan Visum Et Repertum Di Rsud Karanganyar. *Jurnal Manajemen Informasi Kesehatan Indonesia*(ISSN:2337-585X). 1(2). 66.

Afandi, D. (2009). Visum et repertum pada korban hidup. *JIK (Jurnal Ilmu Kedokteran)*, 3(2). 2019).

The classification of various post mortems as evidence in the VeR court process according to the object to be examined is: First, the Visum et Repertum for living people which is classified into: ³⁵

- a. Ordinary VeR is carried out so that victims do not need further treatment.
- b. Temporary VeR can be carried out after the victim has recovered and after the victim has received ongoing treatment because there has been no examination and the size of the wound.
- c. Advanced VeR is carried out on victims who do not need further treatment because they have recovered, been transferred to another doctor, or died
- d. Second, for the Visum et Repertum on the corpse, the investigator carries out a written request to Forensic Medicine to carry out a post-mortem (autopsy).
- e. VeR procedural on living victims:
 - 1. The guidelines for preparing post mortems for living victims are:36
 - a)Investigators asked for expert information in compliance with Criminal Procedure Code Article 133, paragraph (1), based on the provisions of PP No. 27 of 1983, namely the Indonesian Police, while in the military environment, namely the Military Police (POM)
 - b)Doctors can also be delegated to other parties to make expert declarations compliant with paragraph (1) of Article 133.
 - c) Procedures for requesting information by investigators must comply with the guidelines in paragraph (2) of Article 133.
 - 2. The investigator can request an expert statement, while other parties may not request it.
 - 3. Doctors, nurses and admin officers will be involved in forensic activities.
 - 4. The stages of making a post mortem et repertum are:
 - a) Making post mortems for victims at the request of investigators, this activity plays an important role, namely general practitioners to specialist doctors, guided by hospital SOPs. The main thing in this activity is the health of the victim. If the victim's condition allows it, the medicolegal aspects will be immediately handled and if necessary, other discipline will be involved.
 - b) Making a post mortem upon request for expert information, requesting an expert certificate is the most important thing in making a post mortem et repartum. The doctor is responsible for the medicolegal examination and must also check the request letter to see whether it complies with applicable regulations

Based on all the explanations above, in implementing Visum et Repartum it's crucial to have a specific legislation that governs the implementation guidelines for victims of sexual violence. In cases of sexual violence, evidence of intercourse can still be established despite a significant time gap between the incident and the reporting of the

³⁵ Setyo Trisnadi.(2013). Cakupan Visum et Repertum sebagai Alat Bukti dalam Kasus Pidana yang Berkaitan dengan Tubuh Manusia di Rumah Sakit Bhayangkara Semarang. *Jurnal UNISSULA*: Sains Medika.5(2), 125.

³⁶ Dies Puji Ramadhani, Ida Sugiarti.(2021). Prosedur dan Jenis Permintaan Visum et Repertum di Rumah Sakit: Literature Review. *Indonesian of Health Information Management Journal* (*INOHIM*).9(2).109-114, (ISSN (Print): 2354-8932 DOI: 10.47007/inohim.v9i2.302 ISSN (Online): 2655-9129).

crime.³⁷ However, the same cannot be said for violent cases, as the examination results may not show signs of violence that disappeared over time. The procedure for carrying out a post mortem et repertum must be fulfilled starting from the request for a post mortem until the investigator obtains the findings from the doctor's post mortem et repertum. If no signs of violence are found on the victim's body during the doctor's examination, the post-mortem as evidence becomes weak, causing the investigator to experience a lack of evidence at the evidentiary stage in the trial regarding acts of abuse that are closely related to the body, health and human life.³⁸

The results of the Visum Et Repertum are useful for considering the accusations against the defendant that will be submitted to the judge in accordance with the law.³⁹Forensic doctors are tasked with examining and collecting various types of evidence regarding the fulfillment of the elements as stated in the law⁴⁰, as well as compiling a report on the contents of the VeR which will be used as evidence with permanent legal force if it is based on an oath at the request of the authorities at the judicial stage to help resolve criminal matters. Through Visum Et Repertum, investigators can find out information about the fulfillment of the criminal elements in a criminal act.⁴¹

Regarding to the appropriate theory used for regulatory or policy issues regarding the implementation of viisum et repartum against foreign tourists as victims of sexual violence in Indonesia, this is progressive legal theory. Progressive Legal Theory was put forward by Satjipto Rahardjo with the understanding that progressive law is a series of radical actions, by changing the legal system (including changing legal regulations if necessary) so that the law is more useful, especially in raising self-esteem and ensuring human happiness and welfare. Progressive is a word that comes from a foreigners, the origin of which is progress, which means to move forward. Progressive Law means law that is advanced in nature. The term progressive law, introduced by Satjipto Rahardjo, is based on the basic assumption that law is for humans.⁴² Based on the definition above, if it is related to policy issues regarding the implementation of visum et repartum in the future, it is by changing legal regulations or creating a new policy that specifically regulates the legal protection provided to foreign tourists visiting Indonesia.

4. Conclusion

³⁷ Velisia Putri Natalie, I Made Wirya Darma.(2023). A Review Of The Criminal Law Literature On The Use Of Visum Et Repertum As Evidence In Sexual Violence Prosecutions. *Jurnal Justisi Universitas Muhammadiyah Sorong*. 9(3), 304 (DOI: 10.33506/jurnaljustisi.v9i3.2427).

³⁸ Nisa, Y. K., & Krisnan, J. (2015). Kekuatan Visum Et Repertum Sebagai Alat Bukti Dalam Mengungkap Terjadinya Tindak Pidana. *Varia Justicia*.11(2), 185-199.

³⁹ M. Yahya Harahap. (2012). *Menangani Masalah Penerapan KUHAP dalam Sidang, Banding, Kasasi, dan Peninjauan Kembali, Edisi Kedua*. Jakarta: Sinar Grafika.

⁴⁰ Tholib Setiady.(2009). *Pokok-Pokok Ilmu Kedokteran Kehakiman*, Cet Ke-2. Bandung: Alfabeta. 39-40

Gagundali, D. N. (2017). Visum Et Repertum Sebagai Alat Bukti Dalam Perkara Tindak Pidana Penganiayaan Ringan Menurut Kitab Undang-Undang Hukum Acara Pidana. *Lex Administratum*, 5(9),177.

⁴² Mardona Siregar.(2024). Teori Hukum Progresif dalam Konsep Negara Hukum Indonesia. *Muhammadiyah Law Review*, 8(2),5.

Sexual assault cases in Indonesia are governed by laws and regulations, including the Criminal Code, the Health Law, and the TPKS Law, which specify the penalties meted out to those who commit sexual violence. In incidents of sexual assault that take place, what will support the victim in the evidentiary process at trial is the post mortem et repartum report carried out by the victim. However, in practice, because there are no rules or norms governing the implementation of Visum et Repartum, there are difficulties for tourist victims, citizens and foreign tourists in implementing guidelines for resolving cases of sexual violence properly and correctly in accordance with existing policies and regulations in collaboration with the authorities. Law Enforcement to follow up on this problem.⁴³ Based on all the explanations in this research, it is hoped that all parties can play a role in eradicating incidents of sexual assault in Indonesia. Continuous coordination is needed between related institutions such as law enforcement officials from the police, Prosecutor's Office, Commission HAM, and KPAI. Legal protection for minors, adolescents, women, and even men who have been sexually abused. Through the existing problems In this research, it is hoped that the government can create a policy to serve as a guideline for implementing Visum et Repartum for victims of sexual violence in Indonesia.

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⁴³ Zahrah Putri Arum Nabilah Pratami.(2021).Peran Visum Et Repertum Dalam Proses Penyidikan Tindak Pidana Perkosaan. *Jurnal Justitia : Jurnal Ilmu Hukum dan Humaniora*. 8(6), 1388–1399.

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Laws and Regulations

Criminal Procedure Code

Law No. 12 of 2022 concerning Criminal Acts of Sexual Violence

Minister of Health Regulation Number 77 of 2015 concerning Guidelines for Mental Health Examination for Law Enforcement Purposes