



LEGIC RATIO OF MEDICINE LIABILITY IN RESOLVING CRIME TO LIFE PERSPECTIVE OF FORENSIC MEDICINE

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ABSTRACT

Crime as an act that has been determined by the State as a crime in its criminal law and is threatened with a sanction. By studying and researching acts that are declared by law as criminal acts. Crime as a legal delict is in the form of actions which, although not specified in law as a criminal event, are perceived as acts that are contrary to the legal system. It is very possible for a crime against life to occur for anyone who becomes a victim of a crime committed by the perpetrator. Crimes that kill a person can be intentional or negligent on the part of the perpetrator against the victim. The intention to kill almost all of a person's life because of an intention or plan to kill the victim by the perpetrator because there is a clear intention and the goal is that even life is negligent, for example, it is not an intention to kill so that as a result of the perpetrator's actions a person may lose his life. Surgical obligations in resolving crimes against lives has an important role because it is very possible for everyone to become a victim of a crime by the perpetrator. Crimes that kill a person can be intentional or negligent on the part of the perpetrator against the victim. So that there are cases of murder that require evidence of post-mortem examination. It is very interesting indeed when a case where the murder victim is not known with certainty the cause of someone's death requires the discipline of forensic medicine.

Keywords: Post-mortem, Crimes Against Life, Forensic Medicine.

INTRODUCTION

The crimes as an act that has been determined by the State as a crimes in its criminal law and is threatened with a sanction. By studying and researching acts that are declared by law as criminal acts. Crimes is a legal delict in the form of actions which, although not specified in law as a criminal event, are felt as acts that are contrary to the legal system. It is very possible for a crimes against life to occur for anyone who becomes a victim of a crimes committed by the perpetrator. Crimes that kill a person can be intentional or negligent on the part of the perpetrator

against the victim. The intention to kill almost the entire life of a person is due to the intention or plan to kill the victim by the perpetrator because there is a clear intention and the goal is that even life is negligence, for example, it is not an intention to kill so that as a result of the perpetrator's actions someone can lose their life.¹ Based on this, there are many factors that can affect the loss of a person's life.

The crimes of murder is a cruel crimes because murder is a crimes that is done intentionally by the perpetrator to kill another person's life. Murder is a sadistic and cruel crimes because what is confiscated is not an object, but a person's life. Sometimes in carrying out a murder, a person does not commit the murder alone. In carrying out the intention of the perpetrator in committing the murder, it is also necessary for other actors to assist in the execution of the murder. In carrying out the assistance of the murder, the supporting actor can help by seeking information or helping to prepare everything that is needed by the perpetrator in carrying out his actions both when the murder occurred, before or after the murder was committed.²

The crimes that kill lives can be scientifically proven purely legal. Contemporary legal developments at this time cannot independently stand alone without assistance from other scientific disciplines to refine the law itself even in cases of crimes against life requiring other scientific disciplines that can reveal a case in a criminal event. As the author said, there are many motives and methods that can be used by perpetrators to kill someone. Due to this, the emergence of the discipline of forensic medicine law has become one of the legal disciplines that looks at the legal perspective of health but is still in accordance with applicable legal principles.

Forensic medical law is a part of law that cannot be separated at this time. There are several reasons why then forensic medical law becomes the most important part of criminal law, especially in relation to crimes against life. First, that developments in the world of crimes in Indonesia are currently encouraging legal developments to always follow current legal developments that occur in cases of crimes against life. Because the crimes cannot be proven by relying only on legal perspectives because indeed the cause of the loss of a person's life cannot be found and disclosed except through medical means.³ This means that victims who died can be given instructions as to why this victim died so that this becomes part of the role of forensic medical law to assist investigators in resolving cases that are very difficult to disclose. Second, that the law is actually not perfect because it is a man-made product. Therefore, in order to perfect the law, of course it becomes forensic medical law as a legal patron to be able to help resolve death cases which are very difficult to uncover. Because of this, escort from a legal perspective is still carried out without eliminating and injuring the criminal law. The role of forensic medicine law which is so vital to provide legal certainty to legal events that occur is one

¹ Wangi, Putu Mas Ayu Cendana., Purwani, Sagung Putri M.E., 2013. "Pengecualian Larangan Aborsi bagi Korban Perkosaan sebagai Jaminan Hak-Hak Reproduksi, *Jurnal Kertha Negara*, 1(3), h. 217

² Hutabarat, Marojahan., 2018. "Analisi Perbandingan Putusan Hakim atas Tindak Pidana Persetubuhan dan Tindak Pidana Percabulan terhadap Anak", *Cepalo*, 2 (2), h. 74

³ Wijaya, Cecilia Kartika., Henky, Alit, da Bagus Putu., 2017. "Gambaran Bukti Medis Kasus Kejahatan Seksual yang Diperiksa di Bagian Ilmu Kedokteran Forensik RSUP Sanglah Periode Januari 2009 Desember 2013", *Jurnal Medika*, 6(9). h. 166

of the alternative answers to finding actual legal facts from the perspective of forensic medicine law.

In handling a case, of course the existence of forensic medicine law in crimes against life has given color to the law in Indonesia. because the mechanism used in exposing crimes against life is very effective in determining why the victim died. The mechanism used in forensic medical law remains the reference is criminal procedural law, where when applying forensic medical law investigators can make efforts, namely requesting a post-mortem examination from a doctor who has expertise in forensics if it is indeed possible that in this case there is an oddity in death.

Forensic medical law is one of the mechanisms usually used by investigators to uncover cases through forensic pathways. So the victim is examined internally and externally to see carefully what actually caused the victim's death. In forensic medicine, those authorized to perform forensic surgery are forensic specialist doctors who have legal permission to carry out such forensic actions. so that not just any doctor can perform this action. in this action the forensic doctor is of course in carrying out forensic surgery on the basis of permission from outside parties whether it is permissible to carry out forensic surgery. When it is permitted, the doctor immediately performs forensic action. To avoid problems in the future, an official report and statement letter are needed that the victim's family is willing to give permission for forensic surgery. The minutes of the procedure also serve as supporting written evidence for investigators to submit their case to the prosecutor's office for further prosecution.

Crimes against lives at this time with the presence of forensic medicine has become a legal mechanism that can be carried out by investigators.⁴ so that the problem related to the case that is the question of the cause of death of a person can carry out a post mortem which in the category of evidence in the criminal procedure law under Article 184 paragraph 1 is included in the category of written evidence which becomes reinforcement for the prosecutor to convince the judge that a crimes has taken place which took life by the legal basis for the visa.

Based on the background above, there are problems that the author will analyze, namely how is the urgency of post-mortem obligations in completing the veil of crimes against lives from the perspective of forensic medicine law?

RESEARCH METHODS

The research method used in this research is normative juridical. This method focuses on aspects of legal rules and regulations as a basis for analyzing problems regarding the legal obligations of forensic surgery related to crimes against life. The legal approach used in this study is a statutory legal approach and a conceptual legal approach. The method of collecting legal materials used is library research, namely by taking an inventory of primary legal materials and secondary legal materials in compiling the arguments for this research.

⁴ Ramiyanto & Waliadin, 2018. "Upaya Penanggulangan Tindak Pidana Perkosaan dengan Sarana Penal dalam Dalam Rangka Melindungi perempuan", *Jurnal Legislasi*, 15 (4), h.148

RESULTS AND DISCUSSION

Ratio Of Legal Obligations Of Forensic Surgery Within The Framework Of Criminal Law

In criminal law, what becomes very interesting to analyze is regarding the development of crimes, especially against life.⁵ Before discussing more deeply about criminal law, it would be better to understand what criminal law is. According to Van Hammel, punishment or straf is a suffering that is specific in nature, which has been imposed by the competent authority to impose a sentence on behalf of the state as the person in charge of public law order for a violator, namely solely because that person has violated a legal regulation. which must be enforced by the state. Based on the opinion of Prof. According to Van Hammel, in essence the punishment is a suffering that is intentionally given intentionally by the authorities to someone who commits a prohibited act. The authorized party in question is the party appointed by the state through the Law, then regarding prohibited actions, namely the actions regulated in the Law.

Crimes against lives committed intentionally are regulated from articles 338 to 349 of the Criminal Code. The types of murder referred to in this article include:

1. Murder is common in principal form.
2. Murder followed, accompanied or preceded by another crimes.
3. Premeditated murder.
4. The mother's killing of her baby at or shortly after birth.
5. Murder at the request of the victim.
6. Advice and help on suicide. Abortion and killing of the womb.⁶

The connection between crimes against life is very closely related to the act of losing a person's life as a result of an act committed by a sailor against the victim either intentionally or negligently which then causes death.

Cases of crimes against life are part of a series of cases that must have been investigated by investigators as law enforcement officials who are authorized to conduct investigations because of this authority, before conducting investigations, investigators must first determine whether a criminal law event occurred.⁷ the existence of statutory provisions as described above, then in the process of settling criminal cases law enforcement is obliged to try to collect evidence and facts regarding criminal cases which are handled as completely as possible, as the examination of a criminal case in the judicial process is aimed at finding or approaching the material truth of a the case.⁸

In cases of crimes against life related to forensic medical law, there are cases of murder that require proof of post-mortem examination. It is very interesting indeed when a case where the victim of a murder is not known with certainty the cause of someone's death requires the discipline of forensic health sciences. This is as regulated under Article 134 of the Criminal

⁵ Romero-Montoya, Lydia., *et al*, 2011. "Relationship of Spermatoscopy, Prostatic Acid Phosphatase Activity and Prostate-specific Antigen Assays with Further DNA Typing n Forensic Samples from Rape Cases", *Forensic Science nternational*, 2 (6) h.115

⁶ Adami Chazawi, 2010, *Kejahatan Terhadap Tubuh dan Nyawa*, Jakarta: Rajawali Pers, h. 56.

⁷ Sujianto, 2009, "Tingkat Pengetahuan PUS tentang KB dengan Coitus nteruptus di Wilayah Polindes Desa Tiwet Kecamatan Kalitengah Kabupaten lamongan". *Jurnal lmiah Kesehatan Majapahit*, 1(1), h. 80

⁸ Abdul Mun'im dries, 2008, *Pedoman Ilmu Kedokteran Forensik Edisi Pertama*, Bandung: CV. Agung Seto, h. 104

Procedure Code, namely (1) In the event that it is urgently needed where for the purposes of proving a post-mortem it is no longer possible to avoid it, the investigator is obliged to notify the victim's family in advance. (2) In the event that the family objects, the investigator is obliged to be as clear as possible about the intent and purpose of the need to perform the surgery. (3) If within two days there is no response from the family or the party who was notified cannot be found, the investigator will immediately carry out the provisions referred to in Article 133 paragraph (3) of this Law.

This article, which stipulates the need for post-mortem examinations to be used as evidence, the investigator can inform the victim's family of the purpose of holding a forensic post-mortem. If the victim's family objects, the investigator must explain as clearly as possible the purpose of the operation. If the investigator has explained the importance of having it post-mortem examination, but the family remained clean and showed an attitude of objection and led to the refusal to carry out a forensic post-mortem, this is what raises problems between the importance of finding the truth from the bodies of the dead for justice and the rights that belong to the victim's family.

Inconsistency in Article 134 of the Criminal Procedure Code regarding autopsy, and also its application, according to the author, is considered to be able to blur cases of unnatural death that do not find material truth as explained above. This article also does not regulate consequences for the family if the family does not allow forensic post-mortem to be held.⁹ Whereas it is clear that Article 222 of the Criminal Code can impose criminal penalties on anyone who prevents, obstructs, and thwarts the investigation process of post-mortem autopsies. According to this explanation that criminal cases must seek and find facts and truth in order to give a fair decision, then cases of unnatural death which are the scope of criminal law, should have a follow-up post-mortem or forensic post-mortem assisted by forensic doctors. and knowledge in forensics. Dr. Johanes Mallo also gave his opinion for the enforcement of criminal law regarding post-mortem, that in the world of medicine, the gold balance for determining the cause of death of a person is only by way of post-mortem. In some cases, it can be seen from the outside that the corpse is okay, but the internal organs of the corpse have been damaged, so a forensic post-mortem examination will reveal the clarity of the unnatural deaths. Post-mortem is a matter that cannot be avoided and is not foreign to all circles. This is because post-mortem examination is an action that needs to be taken and carried out for the benefit of society, such as to resolve criminal cases, as is often the case in cases of criminal acts of murder, persecution,

Application Of The Obligation Of Forensic Surgery In Solving Crimes Against Life

Crimes of decency and others. Furthermore, the journal explains that dissection of corpses is permissible because it involves the interests of medical science and the determination of justice in a criminal law. to seek material truth to obtain justice, whereas in Article 222 of the Criminal Code it is stated explicitly that dissection must be carried out for the sake of justice and

⁹ Basu, Nabanita., & Bandyopadhyay, Samir Kumar., 2017. "impact Of Bloodstain Pattern Analysis in Crimes Scene nvestigation", *international Journal of Advanced Research*, 5(1). h. 178

anyone who obstructs the post-mortem process will be punished according to the punishment in Article 222 of the Criminal Code. Different things are stated in Article 134 of the Criminal Procedure Code, if the victim's family objects to further post-mortem or forensic post-mortem, the investigator must explain the importance of the forensic post-mortem, but if the family gives a statement refusing, this is the problem in enforcing criminal law in Indonesia.

Contradictions between sub-systems and other sub-systems will have an impact on the results of law enforcement in Indonesia, including Indonesian criminal law. Likewise, if there is a conflict between several legal regulations which substantially regulate institutional authority in the field of law enforcement. This is what will result in inconsistency between law enforcers, the law enforcement system or existing laws and regulations. mron Rosyadi expressed his opinion regarding law enforcement for Indonesian people, the weakness of law enforcement by officials will determine the perception of whether there is law in society. If law enforcement by the apparatus is weak, the community will perceive the law as "non-existent" and as if they live in a jungle. Conversely, if law enforcement by law enforcement officials is strong and carried out consistently, then the community will perceive that the law exists and the community will obey and submit to the law. In such a context, Indonesian society is still in the sense of a society that is "afraid" of the law and law enforcement officials and today's society cannot be categorized as a society that obeys and obeys the law.

The existence of people who are afraid of the law, in fact they will not be subject to the law if law enforcement is weak, inconsistent and unreliable and this affects the existence of law in the growth and movement of the Indonesian nation to be more advanced. Therefore law enforcement that is firm and authoritative in the legal life of Indonesian society is needed in order to uphold Indonesian law, in this case criminal law in Indonesia. Such is the case with cases of unnatural death. Firmness is needed in enforcing criminal law both in the system, law enforcers and the awareness of the people themselves.

CONCLUSION

The legal ratio of the obligation of forensic surgery in cases of crimes against life related to forensic medical law is that there are cases of murder that require proof of post-mortem examination. It is very interesting indeed when a case where the murder victim is not known with certainty the cause of someone's death requires the discipline of forensic medicine. This is as regulated under Article 134 of the Criminal Procedure Code, namely in the event that it is urgently needed where for the purposes of proving a post-mortem it is no longer possible to avoid it, the investigator must notify the victim's family in advance.

The application of the obligation of forensic surgery as a solution in resolving cases of crimes against life where the victim is in a condition where the cause of death is not known with certainty so that the post-mortem route is a solution to find out what the victim died because of. However, in reality many families did not give permission for forensic surgery, as was the case in the MIRNA murder case. Therefore, the important role of forensic obligations is to become

the basic foundation in completing the veil of crimes that are still unclear in the enforcement of criminal law in Indonesia.

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