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Visum et Repertum as criminal evidence within the Indonesian criminal justice system

[1]Tohom Hasiholan, [2]Abdul Madjid, [3]Nurini Aprilianda & [4]Adi Kusumaningrum

Abstract

This research discusses the use of Visum et Repertum (VeR), an expert testimony, as evidence in criminal justice system in Indonesia. The main issue identified in this research is the legal vacuum regarding the use of VeR before the investigation, which results in VeR made during the preliminary investigation stage not having the same legal force as VeR made during the investigation stage. Hence, this study used normative legal approach with analysis of applicable legislation. The analysis shows that VeR has a strong legal position as valid evidence according to the Criminal Procedure Code but there is an urgent need for regulations that state VeR requested during the preliminary investigation stage can be used as evidence with the same probative force as VeR requested during the investigation stage. This study proposes the issuance of regulations stating that VeR made before the investigation remains valid, both investigators and interrogators are authorized to request VeR in writing, and the probative force of VeR requested during the preliminary investigation stage should be considered equivalent to VeR requested during the investigation stage.

Keywords: *criminal violence, visum et repertum, evidence, Indonesia*

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About the authors:
[1]Corresponding author. Doctor of Law Program, Faculty of Law, Universitas Brawijaya, Indonesia. Email: hasiholantohom@gmail.com

[2]Doctor of Law, Graduate Program, Faculty of Law, Universitas Brawijaya, Indonesia. Email: majid@ub.ac.id

[3]Doctor of Law, Graduate Program, Faculty of Law, Universitas Brawijaya, Indonesia. Email: nurini.aprilianda@ub.ac.id

[4]Doctor of Law, Graduate Program, Faculty of Law, Universitas Brawijaya, Indonesia. Email: adi_ningrum@ub.ac.id

1. Introduction

A nation's legal system provides the groundwork for its social and political order, as stated in the Article 1 paragraph (3), "*Indonesia is a Rule of Law State*" or "*Rechtsstaat*." This concept, which had previously only been mentioned in the explanation of the 1945 Constitution, was clearly articulated in the context of amending the Republic of Indonesia's Constitution in 2002 through the Fourth Amendment, which amended the Constitution of 1945. The idealized notion of a Rule of Law State holds that the rule of law, rather than economics or politics, should govern the inner workings of the state. Thus, "the rule of law, not of man" is the widely-used English phrase to describe a state based on the rule of law. The term "governance" refers to the system of laws rather than specific individuals who are only "puppets" of the larger system that controls them (Arliman, 2019).

Since Indonesia is a legal state, its citizens are subject to the supreme authority of the law, which is also known as the rule of law or legal supremacy. The distinctive characteristics of a legal state can be observed in the practice of governance in Indonesia, which includes the existence of a judiciary that ideally should be professional, independent, and impartial (Hutabarat et al., 2022). However, in practice, the implementation of these characteristics is still imperfect, and there are numerous instances of deviations from the distinctive features of a legal state (Aswandi & Roisah, 2019).

Fundamentally, the existence of criminal law aims to ensure the safety of both individuals and groups in the society as they go about their daily routines. The safety in question here refers to a state of tranquility, free from concerns about threats or actions that could harm individuals within the community. The harm in question is not limited to the kind of harm typically understood in civil law terms, but also encompasses harm to life and physical well-being. Physical well-being in this context includes the body, which is closely tied to an individual's life, while the soul encompasses emotions or psychological well-being (Chandra, 2022).

According to Purwoleksono (2023), the essence of criminal law can be divided into two categories. First, the material criminal law, which include prohibited acts or acts that can be punished, conditions for imposing punishment or when or in what circumstances someone who has committed a prohibited act can be punished, and provisions on punishment. An example of Material Criminal Law is the Criminal Code (KUHAP). On the other hand, formal criminal law is the criminal procedural law or a process to take all actions when substantive

criminal law is, being, and/or has been violated. In other words, formal criminal law is the criminal procedural law or a process to take all actions when there is an allegation of, being, and/or occurrence of a criminal act. An example of formal criminal law is the Indonesian Code of Criminal Procedure (KUHAP).

By following the rules of criminal procedure to the letter, the goal of criminal procedural law is to discover and establish, to the best of abilities, the material truth—the most complete truth about a criminal case (Susanto et al., 2022). It also aims to identify the perpetrator as the defendant who has been declared to have violated the law, and subsequently determine through examination and court judgment. In criminal cases, the handling of cases is first carried out through a series of investigations, as explained in the Article 1 number 2 of the Criminal Procedure Code, "*investigation refers to the steps taken by law enforcement officials in accordance with established protocols in order to identify and apprehend those responsible for a criminal offense*." Based on the provisions, the subject who carries out investigative actions is the investigator. Article 6 paragraphs 1 and 2 of the Criminal Procedure Code defines an investigator as an official of the Indonesian National Police or a specific civil servant with special legal authority who meets the rank requirements. For example, according to Government Regulation Number 58 of 2010 amending Government Regulation Number 27 of 1983 concerning the Implementation of the Criminal Procedure Code (Rivandioza, 2020), in order to be appointed as an investigator of the Indonesian National Police, one must have a bachelor's degree or its equivalent and achieve the minimum rank of Inspector Two Police. The investigator submits the case file containing the inquiry's findings to the public prosecutor, who is authorized to pursue criminal offenses, when the criminal investigation examination has been completed (Harahap, 2019).

The public prosecutor, as the accuser, is granted the authority attribution from Article 1 number 6 letter b (Lamintang & Lamintang, 2022) of the Criminal Procedure Code (KUHAP). They have the duty to prosecute and prove the defendant's guilt, in accordance with the legal principle of Actori incumbit Onus Probandi, which means that the burden of proof lies with the party who accuses (Hiariej, 2019). The burden of proof for the defendant's guilt is with the public prosecutor under criminal law, as it is their job to lead the prosecution (Hiariej, 2019). According to Article 139 of the Criminal Procedure Code, the Public Prosecutor is responsible for prosecuting and proving cases utilizing a comprehensive case file (Wulandari, 2024). Article 183 of the same code specifies the characteristics of criminal case

evidence in Indonesia, which the Public Prosecutor employs. "*A judge cannot punish a person for a crime unless they are persuaded, by at least two pieces of evidence, that the crime really happened and that the accused is guilty of it*" (Muksin & Rochaeti, 2020). It is clear from the provision that in order to prove a criminal conduct done by the defendant, at least two pieces of valid evidence and the judge's conviction are required.

In criminal trials involving injuries, Visum et Repertum (VeR) is a crucial document where its completeness directly impacts legal proceedings (Wahono & Prawesthi, 2023). VeR serves to identify injuries that determine legal provisions for perpetrators and fulfill evidentiary requirements (Firmansyah & Simangunsong, 2024). It is "*a written statement by a doctor, made under oath after completing medical education, which holds evidentiary value in court as long as it includes all observable findings from the examination*" (Christina et al., 2024). Given its vital role, the accuracy and completeness of VeR are essential for legal certainty. According to Article 133 paragraphs (1) and (2) of the Criminal Procedure Code (KUHAP) as to the procedures for obtaining a VeR (Sugiarto, 2018), for the sake of justice, investigators can seek the opinions of forensic scientists, medical professionals, or other specialists when they are dealing with victims of injuries, poisoning, or death that is believed to have been caused by a criminal act. The request for expert testimony, as mentioned in paragraph (1), must be made in writing, explicitly stating the purpose of examining injuries, examining a corpse, or conducting a post-mortem examination (Widowati et al., 2021).

The VeR is an investigative measure (Pro Justicia), and the individuals entitled to request a VeR are the investigator, criminal judge, civil judge, and religious judge. In practice, the request for a VeR is made before the investigation with the aim of promptly addressing reports of violent crimes and when the wounds have not yet healed so as to provide an objective examination result. But this goes against both Article 133 paragraph (1) and Article 7 paragraph (1) letter h of the Criminal Procedure Code, which state that only investigators in the investigation stage are allowed to ask forensic experts, doctors, and other experts for their verdicts. Hence, this issue has been frequently and commonly occurring in the handling of criminal cases, especially those related to violence causing injury. However, not many laypeople or legal practitioners are aware of this matter. Consequently, unclear evidence is used for proving the case, leading to an unfair conviction based on positive law. This study investigates the usefulness of VeR evidence in addressing this issue and enhancing case

handling procedures so that legal certainty is maintained in compliance with all relevant rules and regulations.

2. Methodology

This study employs a normative legal approach that focuses on the analysis of legislation. The legal method is utilized to identify applicable legal rules and relevant legal principles in addressing the legal issues under investigation. The aim of this normative legal research is to provide a deeper understanding of the legal framework governing the research subject (Muhaimin, 2020).

Primary data sources include VeR, which is derived from medical or forensic examinations of victims or evidence in criminal cases, as well as witness and expert testimonies that provide direct information related to the case under investigation. Additionally, the defendant's statement is also considered a primary data source, although it cannot stand alone without supporting evidence. Meanwhile, secondary data sources consist of regulations and laws, such as the KUHAP, which governs the use of evidence in criminal procedures. They also include literature and supporting documents that explain procedures and theories of evidence, such as the “Legal Negative” or “Legal Positive” theories, which offer deeper insights into the evidentiary process in criminal law. Additionally, this study also employs secondary legal sources such as books, literature, papers, journals, previous research, and other scholarly works relevant to the research object. These sources are used to support the legal analysis conducted and provide a broader perspective on the legal issues being examined.

In this study, the author aims to explore and analyze the applicable legal rules and relevant legal principles in addressing the legal issues at hand. By utilizing a normative legal approach and legislative method, the author hopes to contribute to understanding and interpreting the law within the context of the research object.

3. Findings and Discussion

3.1. Visum et Repertum as Documentary Evidence in Criminal Cases

If an expert forensic doctor is unavailable, the judge may nevertheless call on a non-expert doctor to testify in court under Article 184 paragraph (1) of the KUHAP. Although not considered an expert, the testimony of this non-expert doctor can be used as valid evidence as

a witness statement. The judge can request this testimony from the non-expert doctor in relation to the VeR report prepared by the doctor and included in the case file, or from an expert doctor. Expert testimony in court refers to the statements made by an expert in the Court.

Investigators and public prosecutors may also provide expert testimony during investigations; this evidence is recorded in a report that is prepared while taking an oath of office. If the investigator or public prosecutor fails to submit such testimony during the inquiry, it must be sought and documented in the Examination Report, according to Article 186 of the KUHAP. Following the giving of expert testimony or the swearing of an oath or promise before a court (Article 186 and its explanation of the Criminal Procedure Code), this testimony is delivered.

The presence of any expert or witness who has been duly called to appear before the court is required by law (Article 179 of the Criminal Procedure Code). According to the Criminal Procedure Code's Article 159 paragraph (2) and its explanation, if an expert or witness refuses to appear despite a valid summons and the presiding judge has reasonable grounds to believe that the witness is reluctant to appear, the judge may order the forceful summons of the witness or expert. Every individual or expert has a responsibility to be a witness or an expert. There may be criminal consequences for someone who is asked to appear in court as a witness but refuses to do so, according to the relevant laws. Expert witnesses and their prosecution are subject to the same rules outlined in the Criminal Procedure Code (Article 159 paragraph (2) and its explanation). Article 160 paragraph (3) of the Criminal Procedure Code states that witnesses are required to take an oath or religious vow before testifying, promising to give testimony that is true and unbiased. According to the Criminal Procedure Code, experts and witnesses are required to take an oath or make a pledge after testifying if the court deems it essential (Article 160 paragraph (4).

If the presiding judge in a case being examined believes that there are circumstances, events, or living things such as a corpse or physical evidence that are not clearly related to the case, based on Article 180 paragraph (1) of the Criminal Procedure Code, the presiding judge may request expert testimony from a forensic medical expert or other specialist to clarify the issues arising in the trial. During the examination process in court, forensic medical experts or other experts must take an oath or make a pledge before providing their testimony in the trial. Following Article 179 paragraph (2) of the Criminal Procedure Code, the investigator is required to affirm, in writing or verbally, that they will give an honest assessment of the

situation based on their professional expertise. However, unlike during the examination in front of the investigator, during the examination stage in the court trial, if the presiding judge deems it necessary, the expert must take an oath or make a pledge after providing their testimony. The content of the oath or pledge is that all the information and opinions previously explained regarding their testimony are based on their genuine knowledge in their field of expertise, in accordance with Article 179 paragraph (2) in conjunction with Article 160 paragraph (4) of the Criminal Procedure Code.

According to the KUHAP, expert witness is required to be presented during the trial in the interest of justice (Article 179 paragraph 1 KUHAP). As an expert, when requested to provide a statement or testimony before a judge, it must be based on the oath or affirmation that has been taken. This is intended to ensure that the expert acts honestly, truthfully, objectively, and impartially, and provides expert testimony based on the principles of justice. Therefore, the opinion given by the expert will result in a correct and accurate conclusion, thus explaining the actual issues in achieving material truth in criminal cases and supporting the resolution of the case before the judge. The judge is nevertheless required to examine the case and make a decision even when the criminal file does not contain VeR.

In order to persuade the panel of judges to find the accused guilty in the “Pro Yustisia” trial, the judge has sent over the defendant's case file, which contains the VeR document, to the public prosecutor. As mentioned, the panel of judges does not always need to refer to the VeR in all court matters. According to the explanation, the judge’s evaluation determines the weight of the VeR evidence. Since the public prosecutor is responsible for proving the defendant's guilt in court, the burden of proof in criminal cases lies with the public prosecutor, with the aim of seeking material truth. The judge can only use the evidence submitted by the public prosecutor, and if the public prosecutor is unwilling to add the necessary evidence, the judge cannot search for additional evidence on their own, while the defendant may be able to do so.

The structure of VeR consists of five sections, namely:

Pro Yustisia. This term must be included at the top left, indicating that VeR does not require a stamp.

Introduction. The introduction contains: the identity of the VeR requester; the date and time the VeR request was received; the identity of the doctor conducting the examination; the date and time the victim/external examination was conducted; the date and time the internal

examination was conducted; the identity of the victim: name, gender, age, ethnicity, address, occupation; the investigator's information regarding injuries and manner of death; the hospital where the victim was previously treated and the time of death; and information about the person who brought the victim to the hospital.

Objective examination results. This section is the most crucial, containing the objective findings based on what is observed, especially what is seen and found on the victim or object being examined. Observations are made using all five senses: sight, hearing, taste, smell, and touch.

Conclusion. This section contains the doctor's personal opinion, which is subjective and influenced by their knowledge and experience. This part must include a diagnosis: injuries caused by contact with blunt objects, sharp objects (cuts, stabs, slashes).

Doctor's oath. The VeR concludes with: "Thus, this *Visum et Repertum* is made truthfully, bearing in mind the doctor's oath as stated in Stbl. 1937/350 or this expert evidence may also be offered during the inquiry by the investigator or public prosecutor, and it is made with relation to the oath taken when the post or duty was accepted,' according to the explanation of Article 186 KUHAP (Yudianto, 2020)."

Before understanding the procedure for requesting VeR, it is necessary to first know the subjects who are entitled to request them, namely the investigator, criminal judge, civil judge, and religious judge. In criminal cases, the investigator, as defined, has the authority, as well as the criminal judge. The criminal judge usually does not directly request VeR from the doctor, but instructs the public prosecutor to complete the examination report with VeR. Then, the prosecutor forwards the judge's request to the investigator.

The procedure for requesting VeR is as follows:

1. The request must be made in writing; it is not allowed to be made verbally, by phone, or by mail.
2. The victim is considered evidence, so the written request for VeR must be personally delivered by a police officer along with the victim, the suspect, or other evidence to the doctor.
3. Requests for VeR regarding past events are not allowed, considering medical confidentiality (Police Chief Instruction No. INS/E/20/IX/75).
4. The request must be submitted to a civilian government medical expert, a civilian government doctor, or a judicial medical expert for deceased victims.

During the trial, the judge will examine, assess, and determine the evidentiary strength of the evidence contained in the case file. This is done based on the minimum threshold of proof stipulated by Article 183 of the Criminal Procedure Code (Explanation of Article 184 of the Criminal Procedure Code in fast-track cases). The purpose of the judge's examination is to ensure whether the existing evidence has sufficient evidentiary strength in the trial, not to seek additional evidence. The existence of available evidence plays a crucial role in shaping the conviction of the judges, serving as the foundation for their decision-making process. Consequently, the verdict of the judges is not solely dependent on the presence or absence of a VeR.

The theory of negative legal on proof states that the requirement of evidence must be accompanied by the judge's conviction as a crucial element. Conversely, the theory of positive legal relies solely on evidence, even if it is minimal. Essentially, if there is only one piece of evidence, it is enough to establish the defendant's guilt, thus only bound by the presence of evidence stipulated by the law without needing the judge's conviction, unlike the conviction in time system. The conviction in time theory dictates that this proof system is solely determined by the judge’s conviction assessment. Proof of the defendant’s guilt is decided by the judge’s conviction, and evidentiary examination may be disregarded.

Another theory, known as the Free Theory, relies solely on the personal beliefs of the judge to determine the guilt or innocence of the defendant, without considering the evidence required by the law. This theory relies solely on the personal circumstances and feelings of the judge based on rational experience. However, these free beliefs must still be based on reasonable or logical reasons. This theory is a legal perspective that argues that judges have complete freedom to determine the guilt or innocence of the defendant based on their personal beliefs, without considering the evidence required by the law. It emphasizes that the judge's decision should be based on their personal circumstances and feelings, which are grounded solely in rational experience. In this theory, judges are considered to have sufficient knowledge and experience to make fair and just decisions. They are deemed capable of understanding the complexity of the case and considering all relevant factors before making a decision. The personal beliefs of the judge are the primary factor in determining the guilt or innocence of the defendant. However, despite granting freedom to the judges, their free beliefs must still be based on reasonable or logical reasons. Judges must be able to explain and justify their

decisions based on reasons that can be understood by the general public. Decisions based on unreasonable or illogical free beliefs can be questioned and deemed unfair.

The Free Theory often becomes a subject of debate within the legal system. Some critics argue that this theory grants too much power to judges and can lead to abuse of power. They believe that judges' decisions should be based on clear and objective evidence, not merely on their personal convictions. However, supporters of this theory argue that judges should have the freedom to use their own judgment in making fair and accurate decisions. They contend that decisions based on judges' personal convictions can take into account factors that cannot be measured.

In a legal system with a negative proof system (Chanif, 2021), a court's ruling must be grounded in sufficient evidence to establish a defendant's guilt in a criminal act, as stated in the KUHAP, among other places. The same principle was also applied by the previous HIR based on Article 294 HIR, which is similar to Article 183 KUHAP. Therefore, according to the KUHAP system, the legal rules (KUHAP) must be adhered to, meaning that judges are prohibited from "violating the minimum proof limit" and are required (imperatively) to follow Article 183 in conjunction with Article 184 KUHAP. For instance, one witness cannot establish guilt beyond a reasonable doubt, according to Article 185 paragraph (2) of the KUHAP. The field of criminal procedure (and civil procedure) is familiar with this idea along with the principle: "Unus Testis Nullus Testis," meaning one witness is no witness. Article 183 KUHAP is essential for achieving the minimum proof threshold to establish the defendant's guilt; this ensures truth, justice, and legal certainty. A judge is obliged to adhere to this principle and must not violate it. According to the Supreme Court of Indonesia's jurisprudence: "*Article 183 KUHAP aims to find and achieve the minimum proof threshold to determine the evidentiary strength that supports or does not support the defendant's alleged guilt*."

In relation to this matter, for instance in a criminal case, in order to achieve the minimum threshold of evidence that can result in probative force, it is not always necessary for the evidence to come solely from the victim's testimony. If there are sufficient witnesses and/or other qualifying formal and material evidence apart from the victim's testimony, then the minimum threshold of evidence is still met (e.g., if the victim is deceased). The law (Criminal Procedure Code) also governs the judge's (Panel's) stance on that "belief" when examining the defendant in court, as outlined in Article 158 of the Criminal Procedure Code which prohibits the judge from displaying an attitude or making statements in court regarding

belief in the defendant's guilt. Prior to the completion of the defendant's examination and when the verdict is pronounced in accordance with the decision, the judge is not permitted to express his opinion on whether the defendant is guilty or not guilty.

Article 184 paragraph (1) of the Criminal Procedure Code states that VeR is one of the valid pieces of evidence. This evidence is in the form of a document containing the results of medical or forensic examinations on the victim or evidence related to murder cases or crimes against human life (Nasarudin & Arafat, 2023). Visum and Repertum may consist of autopsy reports, forensic examination findings, or other medical documents issued by qualified medical or forensic professionals. The findings of medical or forensic examinations contained in the VeR can serve as a basis for determining the cause of death, identifying the perpetrator, or revealing other important facts related to the case. However, it is important to note that it is not always the sole piece of evidence used in murder cases. The availability of other evidence can also influence the use of VeR in the investigation and prosecution process. For example, if there are eyewitnesses who can provide strong testimony or other evidence that can strengthen the case, the VeR may not be the determining factor in filing charges. Normally, while an investigation is being conducted, the investigator or public prosecutor will attach the VeR to the case file as part of the examination report (Yusuf et al., 2020). If the examination results presented in the VeR are enough to support the prosecution's case against the defendant, then the document is deemed proof (Shara et al., 2019).

VeR is the outcome of medical or forensic examinations carried out by experts in criminal cases. This document contains the results of physical, laboratory, or radiological examinations that can be utilized as evidence in court. In the legal process, VeR plays a vital role in aiding the panel of judges in making a fair decision based on clear facts. While not always being physically seized evidence, VeR holds strong evidential value as it is the result of scientific analysis that can either support or refute claims in criminal cases. Hence, the presence of VeR in criminal case files is highly important to ensure justice in the judicial process.

3.2. The Legal Position of VeR Evidence Made Before the Investigation

In the KUHAP, the term evidence is not explicitly defined. However, Article 184, Paragraph (1) of KUHAP regulates the types of admissible evidence, which include witness testimony, expert testimony, documents, indications, and the defendant's statement.

Witness testimony. According to Article 1, Paragraph 26 of KUHAP, a witness is an individual who provides testimony regarding a criminal case based on what they have heard, seen, or personally experienced (Khairunnisa, 2023). Witness testimony serves as the primary evidence in criminal trials.

Expert testimony. Article 1, Paragraph 28 of KUHAP defines expert testimony as an opinion provided by an individual with specific expertise to clarify a criminal case under investigation. Article 186 of KUHAP states that expert testimony must be presented in court. Article 133 of KUHAP grants investigators the authority to seek expert opinions in cases related to life, bodily harm, and honor. Experts are required to provide their opinions under oath or affirmation before giving testimony (Azhar & Taun, 2022). During the investigation stage, expert testimony is presented in the form of an examination report, such as VeR or an audit, which holds value as admissible evidence. In court proceedings, expert testimony is delivered orally and recorded in the official examination report after the expert has taken an oath or affirmation. Therefore, expert testimony in court has legally recognized evidentiary weight.

Documents as evidence. According to Article 187 of KUHAP, documents as evidence include official records made by authorized officials under oath, documents created in accordance with legal provisions, and expert opinions presented in written form. Documents serve as supporting evidence alongside other forms of proof in legal proceedings (Khairunnisa, 2023).

Indications. Article 188 of KUHAP defines indications as actions, events, or circumstances that suggest the occurrence of a criminal act and the involvement of a perpetrator. Indications must be corroborated by other evidence to meet the burden of proof established in Article 183 of KUHAP.

Defendant's statement. KUHAP does not explicitly define a defendant's statement. However, Article 189 of KUHAP states that it refers to the defendant's account given in court regarding their own actions or knowledge of the case. This statement alone is insufficient to prove the defendant's guilt and must be supported by other valid evidence.

Evidence in KUHAP is strictly regulated to ensure its validity in legal proceedings. Witness and expert testimonies play a crucial role in proving a case, while indications and documents serve as supporting evidence. A defendant's statement can only be considered valid evidence when corroborated by other legally admissible proof. Thus, the defendant's testimony

is the statement given by a suspect who is prosecuted, examined, and tried in court. Defendant's testimony is broader than a defendant's confession. A defendant's confession does not relieve the burden of proof; the process of examination in proving guilt remains necessary even if the defendant confesses. The prosecutor remains obligated to prove the defendant's guilt with other evidence. Therefore, a defendant's confession of guilt does not eliminate the need for proof.

VeR evidence generated prior to the inquiry has several significant features about its legal validity. Documentation suggests that it qualifies as admissible evidence under Criminal Code Article 184. However, to be admissible as evidence in legal proceedings, it must be made upon an official request from the investigator. This means that created before an official request from the investigator does not have the same legal validity and cannot be used as valid evidence in the investigation and trial processes. Evidence created before an official investigation request holds lower legal legitimacy compared to VeR due to several factors. First, VeR must be issued upon an official request by an investigator to be considered legally valid evidence in legal proceedings. Second, such evidence cannot stand alone and must be supported by other evidence as stipulated in Article 183 of KUHAP. Third, its validity depends on formal evidentiary procedures involving testimony or an official request from investigators. Lastly, VeR plays a crucial role in criminal investigations concerning an individual's health and psychological condition, requiring it to be under the supervision of authorized law enforcement officials for the purposes of investigation, prosecution, and trial.

Hence, VeR created before the investigation does not have a strong legal standing and cannot be used as valid evidence in the criminal investigation and trial process. Additionally, it cannot stand alone as evidence. It must be supported by other evidence according to the minimum proof threshold specified in Article 183 of the Criminal Procedure Code. Therefore, VeR created before the investigation does not meet the formal and substantive requirements as valid evidence in the legal process. In summary, the pre-investigation VeR does not possess strong legal standing and cannot be utilized as legitimate evidence in criminal proceedings.

Documentary evidence can include expert testimony presented in reports or letters of VeR. VeR created before the investigation does not mean it is invalid as evidence but it has violated Article 133 of the Criminal Procedure Code. This study identifies a legal vacuum regarding the use of VeR as requested evidence at the investigation stage. Currently, there are no explicit provisions governing the validity of VeR created before the investigation, potentially causing legal uncertainty. Therefore, this study proposes the issuance of regulations

stating that: first, in accordance with Article 133 of the Criminal Procedure Code, any VeR that was established before to the inquiry is still valid; second, both investigators and prosecutors are authorized to request VeR in writing; third, the probative value of VeR requested at the investigation stage should be considered equivalent to VeR requested at the investigation stage. Additionally, if necessary, judges have the authority to summon or bring in experts to assess the validity and relevance of VeR. With this, there will be increased confidence in the legal system and solidify VeR's role as evidence in court.

4. Conclusion

According to Article 184 of the KUHAP, VeR which includes comments from witnesses, expert views, documents, hints, and defendant remarks is acknowledged as documentary evidence in criminal prosecutions in Indonesia. VeR, as expert testimony, is prepared by doctors or forensic experts at the official request of the investigator to provide information about the victim's physical condition. However, there is legal uncertainty regarding VeR requested during the investigation stage, as there is no explicit provision governing the validity of VeR before the investigation. To address this issue, the study proposes a regulation stating that VeR made before the investigation remains valid and authoritative, and its probative value is equivalent to VeR made during the investigation stage. To promote effective and equitable law enforcement, this seeks to establish legal clarity while also elevating the role of VeR in the court's evidence process.

The legal status of VeR evidence produced before the investigation stage has several important aspects. According to available documents, VeR is one of the valid pieces of evidence as written in Article 184 of the KUHAP. However, to be used as evidence in the legal process, VeR must be made based on an official request from the investigator. VeR produced before an official request from the investigator does not have the same legal force and cannot be used as valid evidence in the investigation and trial processes. This is because, among other things, Article 183 of the KUHAP states that VeR must be made in response to an official request from the investigator and must be linked to other evidence in order to comply with the minimal proof standard. However, there is a legal vacuum regarding the use of VeR requested during the investigation stage. Currently, there is no provision explicitly governing the validity of VeR made before the investigation, potentially causing legal uncertainty. Therefore, it is proposed that a regulation be established stating that VeR produced before the investigation

remains valid and does not violate Article 133 of the KUHAP, and both investigators and prosecutors are authorized to request VeR in writing.

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ORCID

Tohom Hasiholan - https://orcid.org/0009-0002-2023-7067
Abdul Madjid - https://orcid.org/0009-0009-9918-8405
Nurini Aprilianda - https://orcid.org/0000-0003-3956-3081
Adi Kusumaningrum - https://orcid.org/0009-0006-2597-1462

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