

## **The Role of Psychiatrists in Providing Information to Investigators**

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### **Abstract**

The intersection of law and psychiatry is explored, emphasizing the necessity of expert opinions in substantiating claims of psychological harm and its legal ramifications. With the advancement of legal and medical sciences, there's an increasing reliance on psychiatric evaluations to provide a comprehensive understanding of a defendant's mental state, the effects of psychological violence, and the potential for resulting mental disorders. Moreover, the paper outlines the procedural aspects of incorporating psychiatric insights into legal evidence, from the initial stages of investigation to the final adjudication in court. It underscores the importance of Visum et Repertum (VeR) reports in establishing the facts of a case, especially in the context of psychological injuries, where physical evidence may be minimal or absent. Through a detailed discussion of the legal framework surrounding expert testimony and the presentation of psychiatric findings, the study advocates for a more informed and nuanced approach to handling cases involving mental health issues. The synthesis of legal principles and psychiatric expertise not only aids in achieving justice but also ensures a more empathetic and informed legal process. By acknowledging the profound impact of psychological violence and the critical insights provided by psychiatry, the paper calls for enhanced collaboration between the legal system and mental health professionals.

**Keywords:** Psychological violence, Psychiatry, Legal evidence, Expert testimony, Visum et Repertum.

### **1. Introduction**

The act of persecution stems from a deliberate act where the deliberate act is the impact of a desired act, and it turns out that if the result causes someone to feel pain or injury, it causes death, but not all other acts (Henriques, 2016). In examining criminal matters, starting from the origin of the investigation, it is mandatory to have verification that corroborates the guilt of a person suspected of being a suspect (Arshad et al., 2018).

Along with the development of legal science and increased knowledge and public awareness of the law, there is also a growing demand for certification or expert testimony in the mental health field, including the VeR Psychiatrium. The demand for expert testimony or doctors in terms of mental health is currently very well realized in everyday life (Freeman et al., 2017).

In a criminal case, expert testimony by a psychiatrist can be provided at all stages of case resolution. Expert testimony can be provided in writing or orally through a doctor's certificate or minutes of examination. The testimony of a psychiatrist can also be given to evaluate the suspect, defendant, or other parties deemed necessary by law enforcement officials according to the level of case settlement. At the investigation stage, a psychologist can provide information regarding mental health in addition to a mental health specialist. The information provided by a psychologist must, of course, keep in mind the limits of the competence of the profession concerned, and the ball turns out that the party being evaluated has a mental disorder, so consultation with a mental health specialist is necessary. In criminal

justice, what is meant by VeR psychiatry is expert testimony given by a mental health expert doctor at the trial (Abdul Mun'im Idries, 2009).

Therefore, from the existence of a persecution case, it is also necessary to obtain information from an expert on whether a criminal act of persecution has indeed occurred. The expert information is then written into a Visum et repertum. In the criminal code, an expert's report investigating the victim designed by a medical doctor (SpF) is called an "expert statement." If it is made by a doctor who is not an SpF, it is considered a "statement." Then, attach the evidence of the Visum Et Repertum to a problem file in the "Berita Acara Pemeriksaan (BAP)." Then, VeR means legal evidence (Sahara et al., 2019). Doctors or psychiatrists are specialty doctors who specialize in diagnosing and treating emotional disorders. Psychiatrists not only treat severe mental disorders but also mild ones. The doctor or psychiatrist will use psychiatry (mental medicine), which is a science that studies human behavior in abnormal (pathological) matters with various motives (Soeparmono, 2016).

The relationship between psychiatry and law is that both face and deal with human behavior. Psychiatry seeks and determines the forces and forces that cause changes or deviations in behavior and tries how to divert and change them. At the same time, the law faces more social control and behavior. These two disciplines face two very different aspects of behavior, which may have many points of similarity. Because they approach behavioral problems from very different aspects, it is unsurprising that sometimes differences in views, pressures, and opinions will be found (Hasan Basri Saanin, 1982).

People who experience a mental disorder from a psychological point of view then the person experience a mental disorder or disease, an incarnation (manifestation) of psychological functions (ratio or emotion) that is carried out outside normal limits and unconsciously. The results of psychological violence can result in mild mental disorders, such as mental disorders (personality), due to mental disorders, mental shocks or mild stress, feeling insecure, mental depression, hysterics or hysteria, and others (Soeparmono, 2016).

The next series is proof. Article 183 of the Criminal Procedure Code essentially states that no one can be sentenced to a crime unless the court, due to legal evidence according to law, is convinced that a person who is deemed to be responsible is guilty of the act for which he is charged (Andi Sofyan and Abdul Asis, 2014). Evidence means what kind of evidence is used to establish the truth in criminal prosecutions, and the evidence contained in the Criminal Procedure Code is witness statements, expert statements, letters, instructions, and defendant statements.

The purpose of evidence is to serve as a basis for handing down a judge's decision to the defendant regarding his guilt or innocence as charged by the public prosecutor (Andi Sofyan and Abdul Asis, 2014). Thus, the role of psychiatrists as evidence for expert testimony in court trials today is increasingly felt by legal practitioners to be increasingly important, especially after the 1981 Criminal Procedure Code, Article 184 paragraph (1), stated that psychiatric visum et report was made. Forensic psychiatrists believe it is legal evidence, not just ordinary information (Abdul Mun'im Idries, 2009).

## **2. Method**

Types of legal research can be divided into normative legal research and empirical/sociological legal research. Normative legal research is research whose data is sourced from secondary data, and because it is secondary data, it is included in the type of normative legal research. The nature of this research is descriptive, which aims to provide an overview of social phenomena regarding the role of psychiatrists in providing information to investigators. Research data sources include primary, secondary, and tertiary legal materials. The data collection method was carried out using document study techniques, which were analyzed using qualitative analysis techniques.

## **3. Results and discussion**

This psychological violence can occur or be experienced by anyone, both women and men, starting from small children, adults, and even the elderly; where this psychological violence has a different impact from other forms of violence because the impact is mainly invisible to the naked eye, such as as

well as sexual violence and physical violence which can be characterized by physical pain or simply by the presence of wounds, bruises or bruises on certain parts of the body (Trabold et al., 2020).

However, this is not the case with psychological violence. One of the results is a description of the concrete behavior that the victim generally displays as a manifestation of the psychological impact of the violence he experienced (Hardesty & Ogolsky, 2020). Fear, loss of self-confidence, loss of ability to act, feelings of helplessness, and severe psychological suffering can appear in the following behaviors:

- a. Loss of interest in taking care of oneself, which appears in the behavior of refusing or being reluctant to eat/drink, eating irregularly, being lazy about bathing or dressing up, appearing messy such as tangled hair, disheveled clothes;
- b. Loss of interest in interacting with other people, which appears in the behavior of isolating oneself in one's room, not wanting to have contact with other people, tending to be silent, and reluctant to converse
- c. Depressive behavior, appearing in the form of empty eyes such as staring far ahead, being moody, daydreaming a lot, crying easily, having difficulty sleeping or conversely sleeping too much, and thinking about death;
- d. Disruption of daily activities or work, such as frequently dropping things accidentally, lack of thoroughness in work as indicated by many unnecessary mistakes, often arriving late or not coming to work, late assignments without meeting deadlines, not providing food for children even though previously these things were done routinely;
- e. Inability to see one's strengths, not being confident in one's abilities, and a tendency to compare oneself with others considered better. For example, considering oneself as having no advantages even though existing facts show otherwise or often asking whether what one is doing is correct or not;
- f. Losing the courage to take action is shown by not daring to express an opinion or not daring to remind the perpetrator if they act wrongly;
- g. Post-traumatic stress, which presents as irritability, alertness very, fear when seeing the perpetrator, someone who looks like the perpetrator, objects or situations that remind you of violence; flashback disorders such as suddenly being ambushed by images of events that have been experienced, nightmares and sleep disorders;
- h. Confusion and Loss of orientation, which appears in the form of feeling very confused, not knowing what to do or how to do it, such as people being absent-minded, confused, quickly forgetting many things, appearing to not care about their surroundings, not concentrating when spoken to;
- i. Self-harm or attempted suicide;
- j. Excessive and unusual behavior such as laughing at yourself, talking to yourself, continuing to talk, and being difficult to stop. Incoherent speech: rambling, screaming, looking confused, unable to control himself, repeatedly saying specific names, for example, the name of the perpetrator, without realizing it;
- k. Aggressive behavior, such as being rude or irritable towards children/domestic workers/staff or co-workers. Responding to the perpetrator's rudeness, such as saying harsh words, complaining a lot about disappointment with the perpetrator;
- l. Illness without a medical cause (psychosomatic), such as stomach infection, indigestion, or headache, but the doctor has not found a medical cause, quickly feels tired, such as lack of energy, and aches/aches/pains, the body often shakes;
- m. Especially for children, psychological impacts appear in the form of 1) Regressing to the previous phase of development, such as wetting the bed again, no longer daring to sleep alone, again wanting to be close to other people who are feeling to provide a sense of security, must always be accompanied; 2) Language development disorders such as delayed language development, speech disorders such as stuttering, and 3) Depression which appears in the form of behavior that refuses to go to school; decreased performance; not being able to do schoolwork or homework well, which is

characterized by many mistakes, lack of attention to the task or explanations given by parents/teachers, and various physical complaints.

The description of the impact of psychological violence above needs to be understood in the sense that there is a change in behavior from previously never or only slightly displayed to starting to appear or appearing frequently in the victim. To determine if someone is experiencing psychological violence, you can study psychiatry (mental medicine), which is a science that studies human behavior in abnormal cases with various motives (Pill et al., 2017). From a psychological perspective, the person experiences a mental disorder or illness, a manifestation (manifestation) of a mental function (ratio or emotion) that is carried out outside normal limits and without realizing it. The consequences of psychological violence can result in mild mental disorders, for example, mental disorders (personality), due to mental disorders, mental shock or mild stress, feeling unsafe, mental depression, hysteria or hysteria, etc. (Soeparmono, 2016).

Manifestations of mental disorders resulting from violence or psychological pressure, as referred to in law, need to be measured using clear parameters or standards so that they can be used as proof of a case. This proof requires evidence as stated in Article 184 Paragraph 1 of Law Number 8 of 1981 concerning Criminal Procedure Law (KUHP), which states that "valid evidence is witness testimony, expert testimony, letters, instructions, and the defendant's statement.". The process of proving victims of psychological violence requires a psychiatrist as an expert (expert testimony) as one of the valid pieces of evidence mentioned above. This is regulated in Article 120 of the Criminal Procedure Code, which explains that if an investigator considers it necessary to provide expert information or a person with particular expertise (first sworn in) to provide information according to his knowledge (Brahmana, 2015).

The existence of evidence in evidence plays a vital role in uncovering psychological violence. Indonesia adheres to a harmful system of evidence according to law and according to Andi Hamzah (2013). In Dutch, it is known as negative Wettelijke Bewijsleer. This theory is an embodiment of the content of Article 183 of the Criminal Procedure Code that, according to M. Yahya Harahap, as quoted by Erwin Asmadi (2013), means that to impose a crime on the defendant, one must:

- a. his guilt is proven by at least two valid pieces of evidence;
- b. based on proof with at least two valid pieces of evidence, the judge is confident that the criminal act occurred and that the defendant was guilty of committing it (Erwin Asmadi, 2013, p. 73).

The strength of the evidence of expert testimony is that an expert's statement only has evidentiary value; if the expert is sworn in first before giving the statement, then the oath only has value as evidence. What is explained by an expert are conclusions from a situation that is known according to his expertise, or in other words, it is an assessment or appreciation of a situation. This is different from the testimony of a witness, who is prohibited from providing conclusions because a witness is only a re-disclosure of facts that the witness saw, heard, and experienced himself (Hari Sasangka and Lily Rosita, 2003, p. 60). Determining that the victim has experienced psychological violence, "The psychiatrist does its monitoring and research on the victim and the time needed to examine the victim psychologically is not enough in a short time, but it takes a long time; the maximum time required is at least one week for conducting interviews then the psychiatrist states that the victim has a psychological disorder, if "If the victim is said to be experiencing a disorder, the psychiatrist will determine the level of psychological disorder the victim is experiencing, categorized as mild, moderate or severe."

The presence of an expert in providing information at the investigative level in the event of a criminal act is significant at all stages of the investigation, both in the investigation, prosecution, examination, and submission of case files to the public prosecutor up to the trial stage. Without the presence of an expert to provide or explain a problem, it is conceivable that investigators will experience difficulties in trying to reveal a criminal act (Andi Sofyan and Abdul Asis, 2014, p. 246).

The position of a psychiatrist in proving the psychological violence of victims of domestic violence is 'key' because only psychiatrists can say that the victim has experienced psychological violence. At the same time, other evidence is used as supporting evidence and guidance, so their information will be

asked for at every examination stage. Investigation, prosecution, and trial, in which the information given by a psychiatrist becomes one of the valid pieces of evidence, namely "expert testimony."

Article 184 Paragraph 1 of the Criminal Procedure Code states that valid evidence is witness statements, expert statements, letters, instructions, and defendant statements. What needs to be explained about the types of evidence mentioned above is evidence in the form of 'expert testimony.' To find out and prove that a victim has experienced psychological violence, experts are needed in that field. Before the trial, the expert witnesses mentioned above are called scientists who carry out examinations and express opinions. Therefore, the term 'expert' can be divided into 3 (three) types of experts who are usually involved in a judicial process. (R. Soeparmono, 2016, p. 58):

- a. Expert (deskundige). This person only expresses his opinion about an issue he is asked about without carrying out an examination. An example of such an expert is a psychiatric specialist doctor (Psychiatrist), who is asked for his opinion regarding the knowledge that the doctor has of a victim who is experiencing mental or emotional stress as a result of experiencing psychological violence
- b. Expert witness (getuige deskundige). This person witnesses the evidence or "silent witness," carries out an examination, and expresses his opinion; for example, a doctor who carries out a post-mortem examination becomes a witness because he witnesses the evidence and then becomes an expert because he expresses his opinion about the cause of the person's death (death).
- c. Zaakkundige. A person who explains an issue that the Judge can study himself, but it will take a lot of time.

The legal basics regarding the role of expert testimony in the completeness of evidence in pro-judicial cases and examinations at court hearings are beneficial in increasing the judge's confidence in making decisions. In the previous HIR, expert testimony evidence was not explicitly listed as valid evidence but was only mentioned and inserted in other articles outside Article 295 of the HIR. The articles that mention expert or doctor (expert) testimony include, among others, Article 68, Article 69, Article 70, Article 83b, Article 286, Article 287, Article 306, and Chapter X HIR concerning witnesses, which also apply to experts.

According to Article 1 number 28 of the Criminal Procedure Code, it is explained that what is meant by 'expert information' is information given by a person with particular expertise regarding matters needed to shed light on a criminal case for examination (at a court hearing). Meanwhile, the legal basis for expert assistance is contained in Article 7 Paragraph 1 sub h, Article 120, Article 132, and other articles mentioned in advance in the Criminal Procedure Code in the investigation stage.

The definition of expert information as formulated in Article 1 point 28 of the Criminal Procedure Code (general understanding), namely those who are specifically needed to explain something and fulfill the requirements (Soeparmono, 2016), namely:

- a. Information given by a person. The expert Information is provided by a person, not a legal entity or foundation. Another possibility is that a person could consist of more than one person or several people who form part of the team (assembly).
- b. Those who have special skills. The person's statement must have scientific abilities, knowledge, experience, and unique expertise, not from someone with only general expertise. Exceptional expert specialists will provide the best opinions expressed correctly or truthfully to obtain the best possible process or results.
- c. About something necessary. What is explained is about things or circumstances that are only necessary in a criminal case, so it does not include clear or precise things or circumstances that the judge already knows.
- d. To make the criminal case more straightforward. Something or a situation that needs to be known by the judge will make the criminal case more transparent so that something that was previously unclear will become apparent, namely the matter of whether something or the circumstances of the criminal case have been proven.
- e. For inspection purposes. Usefulness, usefulness, or urgency for case examination because if there is no usefulness, benefit, or urgency for examination, then expert testimony is unnecessary.



The role of a psychiatrist as an expert is very much needed to reveal that it is true that a victim of a criminal act of psychological violence experienced domestic violence and if it is strongly suspected that the consequences of this psychological violence resulted in the victim suffering from mental disorders or illnesses that attacked their psychology/mind/mentality. The term used at the investigative examination level within the authority to request medical experts is expert testimony (Soeparmono, 2016).

Another role of a Psychiatrist in helping to clear up a case is by issuing a letter or written statement. This information is the result of an examination of victims who experienced psychological violence in the household. The examination result letter is a post-mortem et repertum, known in the psychiatric world as a post-mortem et repertum pshiatricum. Visum et report is a report or written statement from a doctor (expert) upon a written order or request from an authority or authority regarding the results of an examination, namely what was seen and found based on the best knowledge according to his field of expertise for the judiciary (Pro Justicia) by remembering the oath or promises when accepting the position (Soeparmono, 2016).

Visum et repertum psychiatricum or psychiatric visum et repertum is what is known in the field of mental medicine or psychiatry. Visum et al. reported that psychiatry is one aspect of the role of a psychiatrist and is one aspect of expert testimony, so the relationship between the two cannot be separated. Expert information in an examination report embodies the results based on the expert's knowledge and techniques and the best possible knowledge and experience (R. Soeparmono, 2016, p. 16).

A psychiatrist's statement is a visum et reported psychiatric, and a doctor's statement is a written testimony in civil and criminal cases. It is made at the request of a judge (court), bearing in mind his oath of office (doctor's oath). In contrast, a doctor's statement is a statement given by a doctor at the request of a prosecutor, police, or another official in the process of investigation and prosecution that, according to the Criminal Procedure Code, Visum et reported psychiatric is also expert testimony which is considered valid evidence (Soeparmono, 2016).

Investigators make requests to court judges, suspects or defendants, victims, and legal advisors through officials appropriate to the level of the examination process aimed at the Director or head of a mental disorder patient care facility or a unique institution for examination with a copy to the head of the Regional Office of the Indonesian Ministry of Health. The Director or head of mental health patient facilities will give the doctor or psychiatrist the task of creating Ver Psychiatricum. Doctors or psychiatrists who make expert statements for the court have the following requirements:

1. Work in treating mental disorders or in particular institutions for examinations.
2. There is no working relationship with the suspect or victim.
3. Has no interest in the case at hand

However, post-mortem evidence is currently claimed to be something that is taboo and difficult for everyone to understand. Still, in reality, post-mortem means evidence that has an essential position in indicating a criminal act, especially in proving the occurrence of violence in a residence.

Ver's original aim, as explained above, is to show the truth of what happened to the judge, the existence of a correlation due to the impact that can then be drawn to a conclusion, to serve as a consideration for the judge in drawing a conclusion that can be assisted by expert doctors (Soepomono, 2016). Therefore, the presence of Psychiatric assistance in Ver in enforcing this law in the household is highly desirable to be able to ensnare the perpetrator, who is someone closest to the victim. In this way, Ver's psychiatry helps in enforcing the law within the family and is expected to be able to trap the perpetrator who is closest to the victim. Visum et repertum can have absolute power, but it needs to be balanced with other sufficient evidence to show whether the suspect has committed a criminal act regulated in Article 183 of the Criminal Code (Idries & Tjiptomartono, 2015).

There is also what is interpreted as using its legal force as written evidence to reveal a criminal act, which is described as follows:

1. Visum et repertum is evidence that has definite strength and is very often used to show the existence of a criminal act. Visum et repertum can be considered evidence, such as a letter. Article 187 of the

Criminal Code, letters A, b, and c, states that a letter is an appropriate form of evidence. This is because the letter means that the authentic deed that was drafted was made officially according to the procedures determined by law.

2. Visum et Repertum is evidence that cannot be used without other evidence to support it. Visum et Repertum cannot be considered a stand-alone piece of evidence showing that someone has committed a criminal act, according to the principles of section 183 of the Criminal Code. The provisions of Article 183 of the Criminal Code are closely related to the use of Article 185, paragraph 2 of the Criminal Code, which regulates that the mere presence of a witness is not enough to prove the defendant is guilty (Eddy O.S Hiariej, 2012).

Thus, the field of forensic psychiatry helps the law enforcement process by trying to reveal the causes through prevention and therapy, which ultimately reduces unlawful behavior and assists the authorities in enforcing the law rather than justifying unlawful behavior as people have thought. Understanding someone's actions and justifying their actions are different things (Kalapan et al., 1994). Requests for expert information and VeR Psychiatricum must include the identity of the suspect, the reason for requesting the examination, and a report of the event.

#### 4. Conclusion

This study highlights the critical role of psychiatrists in legal proceedings, particularly in cases of psychological abuse and domestic violence. The integration of expert testimony from the field of psychiatry into legal proceedings has shown a significant impact on the outcome of legal cases, underscoring the need for expert opinion to corroborate claims of psychological harm and its legal implications. With advances in legal and medical science, there is an increasing reliance on psychiatric evaluations to provide a comprehensive understanding of the defendant's mental state, the effects of psychological abuse, and the potential for resulting mental disorders.

In addition, this study outlines the procedural aspects of applying psychiatric insights to legal evidence, from the investigative stage to the final resolution in court. The importance of the Visum et Repertum (VeR) report in establishing the facts of a case is emphasized, especially in the context of psychological injury, where physical evidence may be minimal or non-existent. Through a detailed discussion of the legal framework surrounding expert testimony and the presentation of psychiatric findings, the study advocates for a more informed and nuanced approach to handling cases involving mental health issues. The synthesis of legal principles and psychiatric expertise helps achieve justice and ensures a more empathetic and informed legal process. By recognizing the profound impact of psychological violence and the critical insights provided by psychiatry, this paper encourages strengthened collaboration between the legal system and mental health professionals.

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