

DOI: <https://doi.org/10.38035/jlph.v4i5>

Received: 25 July 2024, Revised: 5 August 2024, Publish: 6 August 2024

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Legal Regulation of Forensic Autopsies in the Criminal Investigation Process: A Study of Concepts and Legal Reform

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Abstract: In criminal justice, forensic autopsies play a critical role in determining the cause and manner of death. Current provisions are unclear, leading to inconsistencies in the criminal investigation process. This study examines weaknesses in Indonesian law, particularly the ambiguity in regulating forensic autopsies, the obligation to conduct autopsies in suspected criminal deaths, and the procedures for notifying the victim's family. This study aims to provide an interpretation of the legal regulations concerning autopsies and to formulate regulatory reforms related to the conduct of autopsies in criminal investigation processes. The results of this study indicate that in criminal investigations, autopsies are crucial for determining the cause and manner of death, as well as providing scientific evidence linking the perpetrator's actions to the victim's death. However, ambiguity in interpreting the obligation to conduct autopsies under Article 134 of the Criminal Procedure Code (KUHAP) leads to inconsistencies. To address this, clear regulations are needed to define when an autopsy is considered "very necessary," providing consistent guidance to investigators. Mandatory autopsies for all unnatural deaths would ensure thorough examinations. While families must be informed, their consent is not required, and obstructing an autopsy is a criminal offence, supported by Article 222 of the Criminal Code, as amended by Article 283 of Law No. 1 of 2023 concerning the Criminal Code.

Keyword: Forensic Autopsies, Criminal Investigation Process, Legal Reform.

INTRODUCTION

In the realm of criminal justice, a forensic autopsy holds a unique and crucial position (Bakhtiar, 2022). Defined as a meticulous medical examination of a deceased body, a forensic autopsy aims to precisely determine the cause of death (Widowati, 2021). Its importance is magnified in cases where death occurs suddenly and unexpectedly, or in instances where there are no witnesses to provide an account of the circumstances leading up to the death. A forensic autopsy is not merely an investigation into how a person died; it is a comprehensive examination that seeks to uncover the truth behind the demise (Menezes, 2023). This procedure involves a detailed and systematic investigation conducted by a forensic pathologist, a medical doctor specialized in determining causes of death (Levy, 2015). The autopsy typically includes external and internal examinations of the body,

toxicology tests, and microscopic analysis of tissues (Buja, 2019). The primary goal of a forensic autopsy is to establish the cause and manner of death (Bakhtiar, 2019). The cause of death refers to the specific injury or disease that led to the death, such as a gunshot wound, heart attack, or poisoning (Bakhtiar, 2023). The manner of death categorizes the death into one of several broad categories: natural, accidental, suicidal, homicidal, or undetermined (Miner, 2022). Understanding both the cause and manner of death is essential for multiple reasons, particularly in cases involving criminal activity (Jauhani, 2023).

In criminal investigations, understanding both the cause and manner of death is essential. The detailed information gathered during an autopsy can shed light on critical aspects of a case, such as the nature of the injuries sustained, the presence of defensive wounds, or evidence of restraint (Freeman, 2016). Determining the cause and manner of death involves a thorough examination of the body by a forensic pathologist (Advenier, 2016). The autopsy process provides detailed findings that are indispensable in criminal investigations. The scientific and objective nature of autopsy findings supports the judicial process by providing irrefutable evidence that can be presented in court (Bakhtiar, 2024). The detailed reports prepared by forensic pathologists serve as key pieces of evidence that can substantiate charges against a suspect. These reports can withstand cross-examination and provide a solid foundation for the prosecution's case. By offering a clear and detailed account of the cause and manner of death, autopsies help ensure that the judicial process is based on accurate and reliable information (Bakhtiar, 2020). The role of an autopsy in constructing a coherent narrative of events leading up to the death cannot be overstated (Carpenter, 2016). By providing a detailed analysis of the injuries and other physical evidence, autopsies help investigators understand the sequence of events that culminated in the victim's death (Campobasso, 2015).

Regulations concerning forensic autopsy are outlined in Articles 133 and 134 of the Indonesian Criminal Procedure Code (KUHAP):

Article 133

1. In cases where an investigator, for the sake of judicial proceedings, handles a victim who is injured, poisoned, or deceased and suspected to be the result of a criminal act, the investigator is authorised to request expert information from a forensic medical expert or a doctor and/or other experts.
2. The request for expert information as referred to in paragraph (1) is made in writing, specifying explicitly whether it is for the examination of injuries or a deceased body and/or an autopsy.
3. A body sent to a forensic medical expert or doctor at a hospital must be treated with respect and dignity. The body should be labelled with the deceased's identity, sealed with an official stamp, and attached to the big toe or another part of the body.

Article 134

1. In cases where an autopsy is deemed necessary and unavoidable for evidentiary purposes, the investigator must first notify the victim's family.
2. If the family objects, the investigator is obliged to explain clearly the purpose and necessity of the autopsy.
3. If there is no response from the family within two days or if the family or relevant parties cannot be located, the investigator shall proceed according to the provisions outlined in Article 133, paragraph (3) of this law.

The issue to be discussed in this journal concerns the weaknesses in the current provisions, specifically the ambiguity in the regulation of forensic autopsies within Indonesian legislation. This ambiguity includes the obligation to conduct an autopsy in cases of death suspected to be the result of a criminal act, the mechanism for notifying and obtaining consent from the victim's family, and the steps to be taken if the family refuses the

autopsy. Therefore, a clearer and more comprehensive legal reform is needed to ensure that the investigation process runs smoothly and fairly.

METHOD

This study is a normative legal research that employs both statute and conceptual approaches. The statute approach will examine and interpret the provisions related to forensic autopsies in the Criminal Procedure Code (KUHP), specifically Articles 133 and Articles 134 and The conceptual approach will analyse and formulate an ideal legal framework for forensic autopsies. This study emphasises a literature review of scientific articles, books, and relevant legal documents. The analysis used is prescriptive, aiming to provide recommendations on the conceptual regulation of forensic autopsies in the criminal investigation process.

RESULTS AND DISCUSSION

Criminal acts resulting in death are classified as material offences (Hamzah, 2015). A material offence is a type of crime that requires a tangible result from the perpetrator's actions. In this context, it means that to prove the crime of murder, there must be evidence that the perpetrator's actions directly caused the victim's death (Sofian, 2018). Proving a material offence necessitates two main elements: actus reus and causation (Cross, 2023). Actus reus refers to the unlawful action or omission by the perpetrator (Stasi, 2021). This can include actions such as attacking the victim with a sharp weapon. It is the physical component of the crime, indicating that the perpetrator engaged in conduct that is considered unlawful. Causation, on the other hand, is the relationship between the actus reus and the resulting consequence, namely the victim's death (Saffary, 2020). To establish causation, it must be demonstrated that the victim's death would not have occurred without the perpetrator's actions. This means showing a direct link between what the perpetrator did and the resulting death of the victim. In legal terms, proving causation involves demonstrating that the perpetrator's actions were a substantial and operating cause of the death. This is crucial because it establishes that without the perpetrator's unlawful conduct, the victim would not have died. Therefore, to secure a conviction for murder under the classification of a material offence, it must be shown that the actus reus (the unlawful act) committed by the perpetrator directly resulted in the death of the victim, fulfilling the requirement for causation.

Determining the cause and mechanism of death can be established through an autopsy conducted by a forensic pathologist (Levy, 2015). In murder cases, the results of a forensic autopsy provide crucial scientific evidence linking the perpetrator's actions to the victim's death (Kamijantono, 2023). A forensic autopsy helps identify various critical pieces of information. Firstly, the mechanism of death is revealed, showing how the death occurred. This could be through severe bleeding, damage to vital organs, or poisoning. Understanding the mechanism is essential for reconstructing the events leading to the victim's death. Secondly, the type of injuries is determined. This involves assessing the nature and characteristics of the injuries found on the victim's body. The injuries might be caused by a sharp weapon, a firearm, or a blunt object. Identifying the type of injuries helps establish the method and tools used in the crime. Thirdly, the time of death is estimated. This information can assist investigators in establishing the perpetrator's alibi and reconstructing the sequence of events. Knowing when the victim died is critical for matching the timeline of the crime with the suspect's whereabouts and activities. In the context of murder, these findings are invaluable. The forensic autopsy provides a comprehensive understanding of the physical evidence, which is essential for proving the perpetrator's actions directly caused the victim's death. By linking the actus reus to the resulting death, the autopsy results help ensure a thorough and fair investigation.

The ambiguity regarding the obligation to perform autopsies in criminal cases

The ambiguity regarding the obligation to conduct autopsies refers to the lack of explicit explanation in legislation about whether autopsies are a legal requirement in cases of suspected criminal deaths, or merely an optional procedure based on the needs or considerations of the case. Article 134, paragraph 1 of the Criminal Procedure Code (KUHAP) states, "In cases where it is deemed very necessary for the purposes of proving, a post-mortem examination cannot be avoided." This phrase grants full authority to investigators to decide whether an autopsy will be conducted or not. This authority creates uncertainty as there are no clear criteria on when an autopsy is considered "very necessary." Consequently, the decision to perform an autopsy can vary depending on the investigator's interpretation in the field, leading to inconsistencies in handling similar cases.

The authority granted to investigators to decide on the necessity of an autopsy without clear guidelines results in variability and inconsistency in applying this critical procedure. Each investigator's interpretation of what constitutes a "very necessary" situation can differ, leading to different decisions in similar cases. This variability can undermine the consistency and reliability of forensic investigations, potentially affecting the outcome of legal proceedings. When investigators have the discretion to determine whether an autopsy is needed, the lack of standardized criteria means that some deaths may not receive the thorough examination required to uncover the true cause. This can result in crucial evidence being overlooked or lost, weakening the case against potential perpetrators and jeopardizing the pursuit of justice. The inconsistency in conducting autopsies can erode public trust in the legal system. If the public perceives that similar cases are handled differently, they may question the fairness and effectiveness of law enforcement and judicial processes. Transparency and uniformity in the decision-making process are essential to maintaining confidence in the system.

To address these issues, there is a pressing need for more specific and clear regulations regarding the obligation to conduct autopsies in cases of suspected criminal deaths. Regulations should outline clear criteria for when an autopsy is deemed "very necessary," providing guidance to investigators and ensuring consistency across cases. These regulations could include mandatory autopsies for all cases classified as unnatural deaths, thereby removing ambiguity and standardizing procedures. By mandating autopsies in such cases, the legal framework would ensure that every suspicious death receives the necessary scrutiny to uncover the truth. This approach would not only enhance the effectiveness of criminal investigations but also bolster public confidence in the judicial system's ability to deliver justice transparently and consistently.

Mechanism of notification and family rejection of autopsy

The mechanism for notifying families about the performance of autopsies is regulated in Article 134, paragraphs 1 and 2 of the Indonesian Criminal Procedure Code (KUHAP). Paragraph 1 states that when it is deemed very necessary, the investigator must first inform the victim's family that an autopsy will be conducted. The phrase "must inform the family" emphasises the investigator's obligation to provide information to the family regarding the autopsy's performance, reflecting the principles of transparency and accountability in the legal process. This obligation aims to respect the family's rights, provide them with necessary information, and maintain public trust in law enforcement institutions. However, this notification is solely to inform, not to seek permission or consent from the family. The legal requirement for investigators to inform the victim's family about the planned autopsy highlights a fundamental aspect of the justice system: transparency. By mandating that families be informed, the law seeks to ensure that they are not left in the dark about critical procedures that concern their deceased loved ones. This transparency is intended to build

trust between the public and law enforcement agencies. Families, being in a state of grief, may find some solace in knowing that there is a legal process aimed at uncovering the truth behind the death of their loved ones.

However, the law makes it clear that this notification process does not equate to seeking the family's permission or consent. The clarification that notification does not imply seeking permission or consent indicates that the investigator has full authority to decide on the performance of the autopsy as an essential part of the investigation needed to determine the cause of death and gather crucial evidence for legal proceedings. The decision to conduct an autopsy is a professional and legal consideration that cannot be influenced by the family's wishes.

The necessity of an autopsy in cases of suspicious deaths, especially those potentially involving criminal activity, is a matter of professional and legal judgement. Investigators and forensic pathologists are trained to identify when an autopsy is crucial for determining the cause of death and for collecting evidence that may be pivotal in legal proceedings. Their expertise and training equip them to make these decisions objectively, based on the facts and circumstances of each case. The investigator's discretion to perform an autopsy, despite potential family objections, underscores the importance of ensuring that justice is served. The primary goal is to uncover the truth and ensure that any criminal activity is properly investigated and prosecuted. This professional autonomy is essential in maintaining the integrity of the investigative process.

In practice, it is not uncommon for families to reject the performance of autopsies for various reasons. Families often feel that the autopsy of the victim is their right as guardians. Many families believe they have the right to determine the treatment of their relative's body, including rejecting the autopsy. This rejection can be due to various factors, including religious, cultural, or emotional reasons. To address these potential objections, Article 134, paragraph 2 of the Criminal Procedure Code (KUHAP) stipulates that the investigator must explain the purpose and objectives of the autopsy to the objecting family. This explanation must include the benefits and importance of the autopsy, as well as how its results can aid in the investigation process and provide clarity regarding the cause of death. This comprehensive explanation aims to convince the family that the autopsy is a necessary step to uphold justice. The purpose of this detailed explanation is to help families understand that the autopsy is not merely a bureaucratic formality but a crucial step in ensuring that the truth about the death is uncovered. By explaining the scientific and legal importance of the autopsy, investigators can demonstrate that this procedure is in the best interest of justice and may ultimately benefit the family by providing answers and potentially holding any responsible parties accountable.

In such cases, the law grants investigators the authority to proceed with the autopsy without family consent. This authority is derived from Article 222 of the Criminal Code (KUHP), which states: "Anyone who intentionally prevents, obstructs, or thwarts a forensic examination of the corpse is liable to a maximum imprisonment of nine months or a maximum fine of four thousand five hundred rupiah." As amended by Article 283 of Law No. 1 of 2023 concerning the Criminal Code, states that "Any person who prevents, obstructs, or hinders the examination of a corpse for judicial purposes shall be punished with imprisonment for a maximum of one (1) year or a fine of up to Category III." This article grants the investigator the right to perform the autopsy without the family's consent, and family members who obstruct the autopsy are considered to be impeding the investigation. The legal provision for proceeding without consent underscores the importance of forensic autopsies in criminal investigations. It recognises that the pursuit of justice and the need to uncover the truth take precedence over individual preferences in these critical situations. Hindering the performance of a forensic autopsy is not just an ethical or administrative issue but also involves legal consequences. Obstructing a forensic examination of the body is

considered a criminal offence and can be subject to criminal sanctions. With this legal provision, it is hoped to prevent actions that could harm the investigation process and ensure that the rights to law enforcement and justice are preserved. The imposition of legal penalties for obstructing an autopsy serves as a deterrent to those who might otherwise impede a lawful investigation. It reinforces the message that the investigative process is a serious and critical component of the justice system, and any attempt to interfere with it will be met with appropriate legal action.

CONCLUSION

In criminal investigations, autopsies are critical for determining the cause and manner of death. The forensic autopsy provides essential scientific evidence linking the perpetrator's actions to the victim's death, supporting law enforcement and judicial processes. However, the ambiguity in the interpretation of the obligation to conduct an autopsy in Article 134 of the Criminal Procedure Code can lead to inconsistencies in investigations. To address the ambiguity in the obligation to conduct autopsies, specific and clear regulations are needed. These should outline criteria for when an autopsy is "very necessary," providing consistent guidance to investigators. Mandatory autopsies for all cases classified as unnatural deaths would standardize procedures and ensure that every suspicious death is thoroughly scrutinized. Additionally, while families must be informed about autopsies, their consent is not required, and obstructing an autopsy is a criminal offence. The authority to perform autopsies without consent, supported by Article 222 of the Criminal Code as amended by Article 283 of Law No. 1 of 2023 concerning the Criminal Code, underscores their importance in uncovering the truth in criminal investigations. Obstructing an autopsy is a criminal offence, with penalties serving as a deterrent to interference. This ensures that the investigative process remains effective and that justice is pursued without hindrance.

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