

Analisis Medikolegal terhadap Kriteria Derajat Luka Menurut Kitab Undang - Undang Hukum Pidana = Medicolegal Analysis on The Degree of Injury According to The National Criminal Code

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Abstrak

Latar Belakang: Hasil pemeriksaan dokter dalam bentuk visum et repertum mengandung derajat luka yang merupakan gambaran dari efek kekerasan atau penganiayaan sesuai dengan KUHP Kitab Undang-Undang Hukum Pidana . Tidak ada uraian/batasan yang jelas mengenai derajat luka sehingga kesimpulan yang dibuat oleh para dokter pemeriksa menjadi berbeda. Ketidakteraturan penentuan derajat luka dapat menimbulkan ketidakadilan bagi korban maupun pelaku tindak pidana. **Tujuan:** Menentukan kriteria luka ringan, luka sedang, dan luka berat. **Metode:** Penelitian ini adalah penelitian kualitatif dengan rancangan Teori Grounded. Sampel penelitian adalah pakar hukum pidana, hakim, advokat, dokter forensik dan dokter forensik yang sekaligus sarjana hukum. Pengumpulan data dilakukan dengan wawancara mendalam dan Focus Group Discussion FGD . Penelitian dilakukan selama bulan September-Desember 2016. Teknik pengujian kredibilitas data dilakukan dengan triangulasi. **Hasil:** Berdasarkan wawancara mendalam dan FGD didapatkan bahwa luka ringan tidak ada di dalam undang-undang yang dipakai di Indonesia. KUHP memiliki definisi mengenai aniaya ringan, dan penganiayaan. Luka sedang dapat dirumuskan sebagai bukan luka berat maupun luka ringan, dan kriteria luka berat dapat dirumuskan dari pengertian luka berat dalam pasal 90 KUHP. **Kesimpulan:** Luka terbagi menjadi dua yaitu luka berat pada pasal 90 KUHP dan luka sedemikian rupa pada pasal 360 KUHP ayat 2 . Luka berat disimpulkan dengan menyebutkan kondisi mediknya saja. Ada perbedaan pemahaman antara pakar pidana, hakim, advokat dan dokter forensik. **Kata Kunci:** Analisis Medikolegal, Derajat Luka, KUHP

....."Background The result from the doctors rsquo examination can be written in a form of a medical report visum et repertum which includes the degree of the injury associated with the effect of the assault according to the National Criminal Code. There is still an unclear explanation on the degree of injury, which results in a variety of conclusions made by the physician examiner. Error in determining the degree of injury can cause injustice not only to the victim but also to the perpetrators of the crime. **Purpose** To determine mild, moderate and severe injury. **Method** This study is a qualitative study using grounded theory. The sample of this study were criminal law experts, judges, advocates, forensic doctor and also forensic doctors with a law degree. Data collection was by indepth interview and focus group discussion FGD which was done from September until December 2016. Triangulation is used to test the credibility of data. **Result** The results obtained from the indepth interview and FGD was that the description of a mild injury was not stated in the constitution used in Indonesia, there it is only stated the definition of assault and mild assault. A moderate injury is defined as an injury not categorized as a severe or mild injury, and the criteria a severe injury is defined from the definition of severe injury in the Criminal Code article 90. **Conclusion** The degree of injury is divided into two, a severe injury defined in the Criminal Code article 90 and an injury as stated in the Criminal Code article 360 paragraph 2 . The severe injury is conluded by stating the medical condition itself. There was a different understanding between law experts, judges, advocates and forensic doctors.