

# Legal Efforts on Forensic Examination of the Death of Polling Station Working Committees (KPPS) Members

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## Abstract

Indonesia has held its general election on April 17<sup>th</sup>, 2019. During the 2019 general election, there were 11.239 members of polling station KPPS members passing out and 527 people passing away. Due to this circumstance, forensic examination is required to examine the reason behind the cases of the dead and the sick members. Therefore, this present article analyzes two issues: 1) how legal effort is conducted regarding health services provided for polling station KPPS members; and 2) what action the government do to take the responsibility on the death of the members.

This research is categorized as legal research that employs four approaches. The first approach is statutory approach by using ordinance No. 350 of 1957 *Visum Et Repertum*, preamble of 1945 State Constitution of Republic Indonesia article 179 of Criminal Code, Law of Health No. 36 of 2009 and Election Law No. 7 of 2017. The second one is case approach. The next is conceptual approach for both death and ill health cases. The last one is using comparative approach.

The result showed that the members of polling station committee died due to some illness suffered by the members such as cardiovascular, heart attack, stroke, or even all of them. However, for members who do not suffer from hereditary disease, the cause the death is due to the heavy workload they had that surpasses 20 until 22 hours a day. Besides, lack of sleep is also considered contribute to the members' death and sickness.

**Keywords:** *Forensic medicine, Polling Station Working Committee, 2019 General Election*

## Introduction

General election or Pemilu had been conducted in Indonesia on April 17<sup>th</sup>, 2019. It was one of the biggest democracy parties yet ever as this election includes presidential election and Indonesian legislative elections. Therefore, General Election Commission (KPU) and Regional Election Commission (KPUD) have plenty of things to prepare. Ballot papers, ballot boxes and polling booths are some election supports should be prepared. Besides, the commission also recruit many people to be appointed as polling station KPPS members (KPPS

hereafter).

Due to the hectic 24-hour nonstop work and the heavy workload the KPPS members had prior to and after the election cause some people passing out, even many of them are confirmed pass away. According to research conducted by Sidiq Budi Sejati and Dewi Sendhikasari, there is a list of data issued by the KPU that showing the numbers of sick members and dead members. The data is listed as follow: (1)

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| NO | PROVINCE               | NUMBER OF SICK MEMBER | NUMBER OF DEAD MEMBER | TOTAL | NO           | PROVINSI           | NUMBER OF SICK MEMBER | NUMBER OF DEAD MEMBER | TOTAL |
|----|------------------------|-----------------------|-----------------------|-------|--------------|--------------------|-----------------------|-----------------------|-------|
| 1  | ACEH                   | 46                    | 2                     | 48    | 19           | LAMPUNG            | 40                    | 7                     | 47    |
| 2  | BALI                   | 5                     | 0                     | 5     | 20           | MALUKU             | 0                     | 5                     | 5     |
| 3  | BANTEN                 | 17                    | 6                     | 23    | 21           | NORTH MALUKU       | 0                     | 0                     | 0     |
| 4  | BENGKULU               | 8                     | 3                     | 11    | 22           | WEST NUSA TENGGARA | 113                   | 2                     | 115   |
| 5  | YOGYAKARTA             | 8                     | 5                     | 13    | 23           | EAST NUSA TENGGARA | 8                     | 2                     | 10    |
| 6  | DKI JAKARTA            | 26                    | 4                     | 30    | 24           | PAPUA              | 0                     | 1                     | 1     |
| 7  | GORONGTALO             | 64                    | 0                     | 64    | 25           | WEST PAPUA         | 2                     | 0                     | 2     |
| 8  | JAMBI                  | 8                     | 1                     | 9     | 26           | RIAU               | 25                    | 5                     | 30    |
| 9  | WEST JAVA              | 20                    | 38                    | 58    | 27           | WEST SULAWESI      | 43                    | 1                     | 44    |
| 10 | CENTRAL JAVA           | 103                   | 25                    | 128   | 28           | SOUTH SULAWESI     | 191                   | 1                     | 192   |
| 11 | EAST JAVA              | 13                    | 14                    | 27    | 29           | CENTRAL SULAWESI   | 83                    | 1                     | 84    |
| 12 | WEST KALIMANTAN        | 5                     | 0                     | 5     | 30           | SULAWESI TENGGARA  | 2                     | 0                     | 2     |
| 13 | SOUTH KALIMANTAN       | 15                    | 0                     | 15    | 31           | NORTH SULAWESI     | 3                     | 4                     | 7     |
| 14 | CENTRAL KALIMANTAN     | 10                    | 1                     | 11    | 32           | WEST SUMATERA      | 6                     | 0                     | 6     |
| 15 | EAST KALIMANTAN        | 0                     | 2                     | 2     | 33           | SOUTH SUMATERA     | 3                     | 7                     | 10    |
| 16 | BANGKA BELITUNG ISLAND | 2                     | 0                     | 2     | 34           | NORTH SUMATERA     | 0                     | 2                     | 2     |
| 17 | RIAU ISLAND            | 4                     | 1                     | 5     | TOTAL NUMBER |                    | 883                   | 144                   | 1027  |

Besides, Ministry of Health through regional public health offices records that KPPS members who got sick surpass 11.239 people and the dead members surpass 527 people. According to press release held by Ministry of Health in Jakarta on Wednesday (May 16<sup>th</sup>, 2019), as cited by Antara, those total numbers are generated from the investigation of Ministry of Health in 28

provinces per May 15<sup>th</sup>, 2019. Compared to this data, the dead members of polling station KPPS are increase, particularly in following four provinces: nine people in North Sumatera, four people in South Sulawesi, one person in Bangka Belitung, and one person in West Sulawesi.

Referring to the report made by Public Health Offices in each province, the highest number of dead KPPS members is in West Java province. For more complete data is provided by: 177 people in West Java<sup>(2)</sup>. On the other hand, Ombudsman also released data of election related officers passing away during election period. However, the data is quite different. Ombudsman stated that there are 608 people including 486 KPPS members, 97 members of Election supervisory agency and 25 police officers who died. That is why Ombudsman conducts an assessment on the case by interviewing some officers of KPU, Regional KPU, Election Supervisory Agency, Ministry of Health, Indonesian Medical Association, and also the family members of the dead polling station working committee<sup>(3)</sup>.

Concerning the aforementioned case, authors are interested to deeply analyze about Forensic Legal Efforts in health services towards the death case of polling station KPPS members during 2019 General Election. Specifically, there are two main issues that will be elaborated. The first is regarding the legal efforts in health services provided for KPPS members and the second one is related to governments' responsibility in handling the death case of KPPS members.

### Research Methodology

This study is a legal research in which four approaches are used, namely statutory approach (4), comparative approach, case approach and conceptual approach. Particularly, *ordinantie* sth No. 350 of 1957 *Visum Et Repertum* (report of an autopsy) is employed for the statutory approach. Meanwhile, comparing forensic medical theories with the death case of KPPS members during 2019 general election is employed as comparative approach to analyze the phenomenon.

### Finding and Discussions

The field of medical forensic basically covers many components, namely forensic law, dentistry law, nursing law, clinical pharmacy law, hospital law, community health law, and environmental health law<sup>(5)</sup>. Particularly for medical forensic, it defines some terms including post-mortem, mortem, ante mortem, and *visum et repertum*<sup>(6)</sup>.

Prof. H.J.J. Leene defined medical forensic as medical science that provide direct health services. It relates to criminal laws and it uses sciences and literature as its legal sources. On the other hands, Prof. Van

Derminjn stated that medical forensic is closely related to the management and the application of health in criminal law and administration law<sup>(7)</sup>. Speculation sparks within society is that the polling station committee members are die unnaturally as they are poisoned by the political factions. Further discussion regarding the cause of the death of KPPS members will be elaborated in another article.

Forensic law is utilized when something unusual occurs regarding one's condition that causes severe injury or death<sup>(8)</sup>. In this case, forensic is required in order to know the cause of the death of polling station working members. Therefore, the authors are interested in analyzing deeply the concern regarding forensic employment.

In medical field, there are doctors who not only check the patients' condition, but also assist police officers in examining one's cause of death, particularly the unusual one<sup>(6)</sup>. Such doctors who have to contend with dead patients are called as forensics doctors. Specific skills and competencies in uncovering patient's cause of death is definitely required<sup>(9)</sup>. It is regulated in Article 179 of Indonesian Criminal Code as stated as follows: "(1) everyone who is asked for his/her opinion as medical/ juridical expert or as doctor or other expert is obliged to provide expert information for the sake of justice". Therefore, doctors' obligations are categorized into several classifications.

1. Based on the object of examination: live people, corpse, organ or parts of body.
2. Based on the service: conduct examination and provide opinion on the result of examination, only provide opinion without conducting examination.
3. Based on the working place: in hospital/ laboratory, in the crime scene, and in the court.

Examination concerning cause of death is necessary in order to prove whether someone is suicide, homicide/ murdered, poisoned or etc. In this case, *Visum Et Repertum* shall be taken place. Basically, there are two types of *Visum Et Repertum*. They are:

- a. *Visum Et Repertum* on body or corpse: it is conducted to know an odd cause of death due to criminal issue through autopsy
- b. *Visum Et Repertum* on injured patients:

1) Patients who do not need particular treatment after examination: outpatients, autopsy on types of wound, trauma, and injury classification.

2) Patients who decline medical treatments after examination: types of trauma, description on treatment decline even though need some.

Autopsy report can be utilized as a proof in police investigation report to prove the criminal occurrences. It not only covers the examination result of the victims, but it also should be reported in written form. Following is how to write *Visum Et Repertum*:

a. Write it on the stamped paper with word “*Pro Justitia*” written in left corner and use general and logical language.

b. Do not use abbreviation on any sentences, numbers or symbols.

c. Any incorrect parts should be signed by the authorities’ officers by providing correction statement.

d. Type the result of *Visum Et Repertum* neatly and it should be sealed<sup>(10)</sup>.

### Pro Justitia

### Visum Et Repertum

1. Introduction: it states the identity of all involved parties; people who are being examined; officers who examine the case; time and place where the examination takes place; and modus operandi.

2. Examination part: it states whether the object being examined is dead or alive and provides statement that can be seen or perceived as the expert information that is used as a real proof.

3. Conclusion part: it states the opinion of the examining doctor; causes of death, damage, or negligence. In this part, a judge is allowed not to take side with the suggested opinion.

4. Closing part: According to *ordinantie* sth No. 350 of 1957, *Visum Et Repertum* is closed or finalized by such oath or promise when accepting the position”.

The result of *Visum Et Repertum* is submitted to the authorities. However, according to the applicable law, it does not state the exact time of the submission. *Visum Et Repertum* is usually required during investigation in which police officers need the post mortem result as one

of undeniable proof<sup>(11)</sup>.

In the case of the polling station KPPS members, the autopsy result is used by the family or police to find out whether or not intentional acts that lead to criminal acts are involved. Autopsy examination is expected to provide brief result regarding the cause of the death. It may also give a clue for the investigator teams to examine the case. If the result of *Visum Et Repertum* indicates any crime issues, the death case can be proceeded to the court<sup>(12)</sup>.

Even though there are hundreds of victims, none of the family members give permission for the authorities to conduct *Visum Et Repertum*. They said that it possibly has been their destiny. The same thing goes to the family members of the injured committee. They refuse to conduct the autopsy and only give oral statement regarding the case. Conducting general election requires the involvement of polling station KPPS members (KPPS). Unless the committee involvement, the election will not run as expected. However, not everyone could easily appointed as polling station working committee. The requirements are strictly regulated on Law No. 7 of 2017 on General Elections. To form polling station working committee, seven adults living near the polling station. The selection of committee members is conducted fairly by considering their competencies, capacities, and integrity<sup>(13)</sup>.

Researchers from Universitas Gajah Mada investigated the cause of death of polling station KPPS member during 2019 general election. The researchers observed 400 polling stations out of 11.781 available polling stations throughout the Special Region of Yogyakarta. The result showed that from 400 dead members of polling station KPPS member, 12 of them are coming from Special Region of Yogyakarta. This result is reported in a press release in KPUs, Jakarta on June 25<sup>th</sup>, 2019. The more detail results obtained by the researchers are elaborated as follows:

1. The primary cause of the death of polling station KPPS members is not due to poisoning, but due to some illnesses formerly suffered by the committee members. The illnesses include cardiovascular disease such as heart attack, stroke, or both of them. Other illnesses is excessive fatigue (20%), severe dizziness (12%), low back pain (10%), shortness of breath (5%), etc. As for the sick members, 29 percent of the available members suffered from 1 up to 3 of deadly diseases.



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