

# The Analysis of Victim Wound Quality and Quantity in Assuming The Perpetrator's Psychological Condition to Determine The Perpetrator's Legal Liability

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# The Analysis of Victim Wound Quality and Quantity in Assuming The Perpetrator's Psychological Condition to Determine The Perpetrator's Legal Liability

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**Abstract:** In the law enforcement process, cases are often found where the perpetrator/defendant has a psychological condition that positions them as mentally unstable subjects; or known in the famous plea of "innocent due to insanity". Procedurally, the examination to determine one's mental condition must meet several requirements as described in Article 44 of the Criminal Code (KUHP) and also Health Act No. 18 of 2014 on Mental Health Article 71; but these conditions tend to be inflexible to the dynamics of Indonesian society, especially due to the vast plurality and the legal system in Indonesia that are different from other countries. In addition, these conditions are vulnerable to exploitation as a method of avoiding legal liability in some cases that have occurred lately because the verification process tends to be held in the court, which gives the perpetrator some advantages. Therefore, other methods are needed in order to provide additional data that can raise the objectivity and reliability analysis of law enforcers, such as wound analysis. In this study, we will compare some medical examination reports with various properties that revolve around wounds. The conclusion is that there is a correlation between the number of injuries and the victim's manner of death which, when traced, can provide additional data that can be used to describe the emotional condition of the perpetrator at the time of the incident. It still needs to be retested with a larger sample to gain a more valid and reliable result considering the sample used is a coroner's report, and often the reports are (a) missing or (b) incomplete as attached to them are letters stating 'not willing to go through autopsy'.

## 1 INTRODUCTION

Today, in the law enforcement process there are often cases where the perpetrator/defendant has a psychological condition that positions the defendant as a mentally ill subject; in Indonesia it is legally known as ODMK/ODGJ. Some of the most common examples are shooting cases in the United States where the culprit after being captured/identified tends to be classified as ODMK/ODGJ. Indeed this does not very often appear in Indonesia, but with socio-economic conditions that tend to fluctuate this can be an exploited gap in order to keep the perpetrators/defendants from prosecution or punishment.

Globally, the handling of criminal acts involving actors as ODMK/ODGJ follows and is adapted by the World Health Organization (WHO) "Guidelines

for the Promotion of Persons with Mental Disorder" under the UN resolution in Geneva. Locally, in the process of law enforcement in Indonesia, if the perpetrator is found with conditions that meet the criteria already mentioned, the procedure will be handled under the protection of the Criminal Code Article 44 and also endorsed by Health Act No. 18 of 2014 on the Mental Health Article 71. Both regulations are based on the definition of psychology and psychopathology of insanity, which can be described as a behavioural or mental pattern that causes significant distress or impairment (D.F.L., 2008; Heffner, 2018; Hockenbury & Hockenbury, 2010) of personal functioning such as the cognitive process of the mind (Hastie & Dawes, 2010).

In addition, based on some experience shared by fellow Indonesian forensic colleagues, a unique fact was revealed that the presence of forensic psychologists in Indonesia tends to be scarce and the

use of psychological services tends to call in the help of psychologists from outside the region. Moreover, if the psychologist is not available then the one called by the police is a psychiatrist; which also makes the handling biased and cases more complicated due to different professional backgrounds and job focuses, where psychologists are more concerned with subject detection and history, while psychiatrists are more in the direction of medical treatment and drug delivery.

Moreover, the evaluation of a perpetrator's psychological condition is imperative for the criminal investigation (Heillburn, 1992; Klein-Benheim & Jacobs, 1995) and the advancement of the scientific scope which can also improve the value of an expert witness testimony (Solomon, 2017). Based on the explanations that have been described, it takes a method that could provide additional examination data that can improve the objectivity and reliability of the investigator's analysis in law enforcement. That method is in the form of wound analysis.

The wound is defined as the breakdown or loss of some body tissues (Kumar et al., 2007; Potter & Perry, 2017; Sjamsuhidayat & Jong, 2004; Budiyo, 1997; Dorland, 2002). Injury can result from sharp stabs/blows, blunt objects, accidents, shots, animal bites, chemicals, hot water, water vapour, exposure to fire, electricity and lightning (Murtutik & Marjiyanto, 2013). In some case development, it is often found that when the victim is injured with severe damage or with a large number of injuries, the offender is often the person diagnosed as ODMK/ODGJ. By pattern, a wound itself is differentiated into four patterns (Knight, 2002) such as: a) Abrasion like grazes or scratches; b) Contusion like bruises; c) Laceration like a cut or tear; and d) Incised Wound like cuts, slashes, stabs, etc.

So far, the number and pattern of injuries inflicted by violence/crime in which the offender is implied as ODGJ/ODMK has not been widely studied; the wound analysis is often used but only as a variable to support the analysis of medical treatment methods and is rarely used in forensic and law enforcement aspects (Mustafa, 2007). As a past study concludes, there are factors that can be described from the condition of the wound regarding the perpetrator's mental health condition (Turvey, 2007). Thus, practically, judgment based on this wound analysis can provide concise, valid and reliable decisions without the aid of psychological tests on the psychiatric condition of the offender.

In this study, we will compare some medical reports that include some of the following criteria: (1) unnatural death, (2) deaths due to the actions of others, (3) victims with severe injuries, (4) victims with a large number of wounds. Researchers also do not eliminate the possibility of emergence of interference/restriction that hinders maximum data retrieval. The interruptions include, among other things, missing reports and incomplete reports that do not meet the criteria.

## 2 MATERIALS AND METHOD

This research method used paralleled literature reviews on available studies of wounds and the psychological condition based on DSM-V guidelines. The data collection process was conducted at the Department of Forensic Medicine, RSUD Dr. Soetomo, Surabaya. The methodology of this research is described as follows;

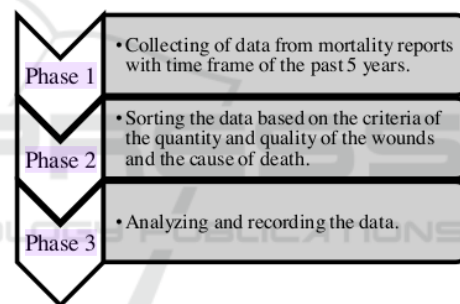


Figure 1: Methodology of the research

## 3 RESULTS AND DISCUSSION

Based on the data collected, there are approximately 170 cases with the properties that match the criteria for the studies. But after further inspection, there are only 40 cases that can be used as data for this study; which is described in the tables below.

Table 1: Number of reports used in the study.

Year	Number of Cases
2011	1
2012	5
2013	6
2014	1
2015	4
2016	6
2017	14

Year	Number of Cases
2018	3
TOTAL	40

Table 2: CoD and MoD comparison of reports used

Year	CoD Type			Total	MoD Type	
	BFT	SFT	Others		Torture	"Quick"
2011	1			1	1	
2012	2	3		5	2	3
2013	2	3	1	6	4	2
2014		1		1	1	
2015	1	5		4	3	1
2016	4	2		6	1	5
2017	7	4	3	14	10	4
2018	2	1		3	1	2
TOTAL				40		

Table 3: Classification of wounds from the report data under study.

Year	Type of Wound			
	Bruise	Abrasion	Stab	Bite mark
2011	24	16	15	
2012	25	20	17	
2013	27	19	18	
2014	30	18	18	
2015	31	22	19	
2016	26	23	25	
2017	30	19	17	
2018	29	20	19	1
TOTAL				

Figure 2: The 1<sup>st</sup> bite mark on the bodyFigure 2: The 2<sup>nd</sup> bite mark on the body

In one particular case, there is a wound that can be described as a bite mark (photos below). As per further research indicates, the perpetrator of the corresponding case is regarded as mentally ill.

The obstacle in this study is that the sample used is strictly evidence-based on the report from the morgue. The researcher cannot determine the exact validity from the perpetrator's side due to the fear of contaminating ongoing investigation. Furthermore, the pool of the data has reduced from 170 reports to 40 reports due to the impartiality of the reports. The impartiality is caused by the existence of the letter for "not undergoing normal autopsy", which happens in Indonesia due to the social norms that the body must not be tampered with and must be quickly buried.

## 4 CONCLUSIONS

In this research, it is found that bite marks are more likely to occur in cases that indicate the victim and the offender have a kinship/emotional relationship. This conclusion still needs to be reconfirmed by increasing the number of samples because cases with bite marks found in this study account for only one and the overall types of bite mark lesions tend to be rare and not even categorized as an individual type of wound. From the cases, there is a correlation between the number of injuries and the manner of death in which in the further search and the manner of death can provide a partial picture for the emotional state of the perpetrator. The emotional picture also needs to be confirmed because this research did not study the perpetrator's end for fearing disturbing ongoing police investigation. By these results and circumstances, it is concluded that the psychological measurement of a perpetrator can not be seen based on the form of his crime, but the consequences of the offender's offense can be used to look at the emotional state of the offender at the time of his/her conduct for further examination if there is a strong allegation that person is ODMK/ODGJ.

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## APPENDIX

- ODGJ: Orang Dengan Gangguan Jiwa (person with mental disorder)
- ODMK: Orang Dengan Masalah Kejiwaan (person with psychiatric problems)

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PAGE 1

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