

Law Enforcement Against the Crime of Murder Motivated by Infidelity

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Abstract

The crime of premeditated murder is a very serious offense under criminal law, as it fundamentally deprives a person of their basic right to life. One of the motives often behind this crime is infidelity, triggered by emotional factors such as jealousy, interpersonal conflict, and heartbreak. Therefore, this study aims to analyze the enforcement of the law regarding premeditated murder motivated by infidelity and to examine or analyze the factors that can influence the imposition of criminal sanctions. This study employs a normative legal method using both a statutory approach and a case-based approach. This study employs a normative legal method using both a statutory approach and a case-based approach. The research findings confirm that provisions regarding premeditated murder are explicitly regulated in Article 459 of Law No. 1 of 2023 on the Criminal Code, which stipulates that any person who, with prior planning, takes the life of another person is subject to the death penalty, life imprisonment, or imprisonment for a specified term. This provision indicates that the element of planning is a key indicator of the high degree of culpability of the perpetrator. However, in its application, judges consider various aspects such as motive, the perpetrator's psychological state, mitigating factors, as well as

Keywords: Law Enforcement, Premeditated Murder, Infidelity, Criminal Law.

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3rd International Conference Epicentrum of Economic Global Framework (ICEEGLOF)

Theme: Cross-Sector and Cross-Disciplinary Strategies for Achieving the SDGS

<https://proceeding.pancabudi.ac.id/index.php/ICEEGLOF>

Introduction

Article 28 of the 1945 Constitution covers various fundamental rights in human life and is protected by law. So with this, every form of deprivation of life, especially in the form of the crime of premeditated murder, is a very serious act that receives special attention in the criminal law in Indonesia. Premeditated murder involves not only an element of intentionality, but also the existence of prior planning, which shows a higher rate of error and danger compared to ordinary murder. This crime of premeditated murder is often motivated by various motives, one of which is infidelity. Where infidelity can be said to be a social phenomenon that often triggers deep emotional conflicts, such as jealousy, heartache, and anger, which under certain conditions will encourage a person to commit actions that are very dangerous to the lives of others. So this motive is very interesting to study because it is related to the psychological aspects of the perpetrator as well as influencing the judge's view in making a verdict.

In essence, the law functions as a means to realize order, justice, and protection of human rights in the life of society, nation, and state. Therefore, any criminal act that deprives a person of his right to life must receive serious attention through effective law enforcement mechanisms.[1]

Normatively, the crime of premeditated murder has been expressly regulated in Article 340 of the Old Criminal Code as well as in the provisions of the new Criminal Code. However, in the implementation of law enforcement, the considerations used are not only limited to juridical aspects, but also include non-juridical aspects such as the perpetrator's motives, psychological conditions, and mitigating and burdensome factors. This shows that law enforcement against the crime of premeditated murder has a non-rigid character, because it considers various aspects, both juridical and non-juridical. However, this flexibility in practice has the potential to cause inconsistencies in the sentencing of the crime, resulting in a verdict that is considered less reflective of the principle of proportionality, especially when compared to the gravity of the act committed by the defendant. According to Victor Roland Lumbanraja, the lack of firm clarity regarding the element of "planned in advance" in Article 340 of the Criminal Code often causes differences in interpretation among law enforcers. These differences have an impact on the non-uniform application of penalties, thus opening up opportunities for inconsistencies in judges' decisions.[2]

Problems arise when there are differences in the application of the law by law enforcement officials, especially judges, in deciding premeditated murder cases motivated by infidelity. These differences have the potential to cause inconsistencies in decisions that can ultimately affect the sense of justice, legal certainty, and the usefulness of the law in society. Therefore, an in-depth study is needed to understand how law enforcement against these criminal acts and the factors that affect the imposition of criminal sanctions by judges. In addition, when viewed from the perspective of Human Rights (HAM), premeditated murder is a form of gross violation of a person's right to life as guaranteed in Article 28 of the 1945 Constitution of the Republic of Indonesia. Thus, the act of premeditated murder not only violates the norms of criminal law, but also injures the basic values of humanity that are upheld in the Indonesian legal system.

In practice, the crime of premeditated murder triggered by infidelity is not only normative, but also often occurs in people's lives. One relevant example is the case of premeditated murder committed by a husband against a man who is suspected of having a relationship with his wife, which in the judicial process was imposed under Article 459 of Law Number 1 of 2023 concerning the Criminal Code. In the case, the perpetrator was proven to have prepared tools and planned the act of murder driven by jealousy and heartache due to infidelity. The panel of judges stated that the element of "with a plan in advance" had been met, which was shown by the time gap between the appearance of the intention and the execution of the act and the existence of careful preparation. However, in imposing a penalty, the judge still considers the emotional condition of the perpetrator as a mitigating factor, so that the sentence imposed does not reach the maximum limit as stipulated in Article 459 of the Criminal Code which threatens

the death penalty, life imprisonment, or imprisonment for a certain time. This shows that although the premeditated murder arrangement has been affirmed in the new Criminal Code, in practice there are still variations in the application of the law, especially in balancing between juridical and non-juridical considerations. Therefore, the study of law enforcement against the crime of premeditated murder motivated by infidelity is important to understand how the provisions of Article 459 of the Criminal Code are applied and the factors that affect the imposition of criminal sanctions.

If you look at what happens in the field, it is often found that judges who impose relatively lighter sentences, even though the acts committed are classified as premeditated murder. The leniency of the crime is generally influenced by various considerations of the judge, including emotional factors behind the act, such as infidelity, the perpetrator's cooperative attitude, the existence of remorse, having never been punished before, and other circumstances that are considered mitigating. However, this condition has caused debate, especially regarding whether the verdict has reflected a sense of justice and is able to provide an optimal deterrent effect on the perpetrator.

Based on this description, this research is important to be carried out in order to analyze in depth the law enforcement against the crime of premeditated murder motivated by infidelity, as well as to examine the judge's considerations in imposing criminal verdicts. With this, the results of this research are expected to contribute to the development of criminal law as well as become an evaluation material in judicial practice to realize justice, certainty, and legal benefits.

Research Methodology

In the study of criminal law, law enforcement against the crime of premeditated murder cannot be separated from the theory of punishment and the principle of proportionality in criminal sentencing. Criminal theory basically explains that the purpose of punishment is not only retributive, but also contains elements of prevention (deterrence), reparation of perpetrators (rehabilitative), and community protection. In addition, the principle of proportionality emphasizes that the penalty imposed must be proportionate to the level of error and the severity of the act committed by the perpetrator. As explained by Mahrus Ali, the concept of proportionality in criminal law emphasizes the balance between the level of the crime committed and the criminal sanctions imposed.[3] In the context of premeditated murder motivated by infidelity, law enforcement not only focuses on the formal application of legal norms, but also involves consideration of various aspects, both juridical and non-juridical, such as motives, the psychological condition of the perpetrator, and mitigating and aggravating circumstances. Therefore, this theoretical review is important as a basis for analyzing how law enforcement against these criminal acts is carried out in order to realize justice, legal certainty, and the usefulness of the law.

Results

Law Enforcement Against the Crime of Murder Motivated by Infidelity.

Talking about law enforcement against the crime of premeditated murder in Indonesia, normatively regulated in Article 459 of Law Number 1 of 2023 with criminal threats in the form of the death penalty, life imprisonment, or imprisonment for a certain period of time. This provision shows that premeditated murder is one of the serious crimes that receives special attention in criminal law because it concerns the deprivation of a person's right to life. In the practice of criminal law enforcement, one of the elements that is very much considered in the crime of premeditated murder is the element of planning in advance (*voorbedachte raad*). This element is the main characteristic that distinguishes premeditated murder as stipulated in Article 459 from ordinary murder in Article 458 of the New Criminal Code. (According to Hosnah et al, 2024) that premeditated murder requires a sufficient time gap between intention and execution so that the perpetrator has the opportunity to think calmly before committing the crime.[4] Thus, in judicial practice, the interpretation of these planning elements often causes

differences of opinion among law enforcement officials, especially judges. This difference in interpretation has the potential to cause inconsistencies in the decision, especially related to proving the existence of planning elements. This is in line with the research of Echwan Iriyanto and Halif (2021) who stated that the definition and requirements of the premeditated element in the crime of premeditated murder are not expressly formulated in the Criminal Code, thus causing the dynamics of interpretation in judicial practice. As a result, judges are required to have accuracy and sensitivity in analyzing and considering the fulfillment of planning elements in a premeditated murder criminal case.[5]

In Proving the elements of planning in criminal justice practice is generally based on the time span between the emergence of the intention and the execution of the act, accompanied by the preparation of tools and actions of the perpetrator that reflect the will that has been carefully considered. However, according to (Prasetyo and Rusdiana, 2026), the interpretation of the element of "with a plan in advance" is not always uniform, so it often causes differences of opinion among judges, especially in assessing whether an act is carried out spontaneously or is the result of a pre-prepared plan.[6] In addition, in the context of premeditated murder motivated by infidelity, emotional factors have a significant role. Infidelity often triggers strong inner conflicts, such as jealousy, anger, and heartache, which in certain conditions can prompt a person to commit acts of violence to the point of taking the life of another.

In the law enforcement stage, the process begins with an investigation by the National Police of the Republic of Indonesia which is in charge of collecting evidence to prove the planning element. Where the proof of the planning element can be done through preparatory evidence such as the purchase of equipment, communication before the incident, and reconstruction of the event. In addition, according to (Mohd. Yusuf DM, 2025) stated that the effectiveness of law enforcement is greatly influenced by the quality of law enforcement officers and the completeness of supporting facilities.[7] This suggests that the success of proof in premeditated murder cases is highly dependent on the professionalism of investigators. After the investigation, the case was transferred to the Prosecutor's Office of the Republic of Indonesia for prosecution. In this stage, the prosecutor drafted an indictment based on the available evidence. If the planning element is proven to be strong, then Article 459 of Law Number 1 of 2023 is used, while if weak, an alternative indictment of Article 458 of the New Criminal Code is used. In the alternative indictment system, it is a strategy to ensure that the defendant can still be convicted even if one of the elements is not perfectly proven. This is important in cases of infidelity-motivated murder where it is often difficult to prove the element of planning explicitly.

At the trial stage at the District Court, the judge assesses all the evidence and facts revealed at the trial. In assessing the planning element, the judge considers the opportunity for the perpetrator to think calmly before committing the act, as well as the existence of systematic preparatory actions. In the case of infidelity-motivated murder, the perpetrator's emotional state such as jealousy and anger does not remove criminal responsibility, but is only part of the consideration in the sentencing process. According to (Mukhtar et al., 2025), it is stated that the planning element can be seen from the opportunity to think calmly before committing murder and the existence of systematic preparatory actions.[8] In this case, the judge also considers the psychological aspects of the perpetrator and emotional conditions such as jealousy or anger that do not remove criminal liability, but can only be considered in the sentence. In law enforcement, according to (Sumarno, et al, 2022) that law enforcement against a criminal act is not only aimed at providing sanctions to the perpetrator, but also providing legal protection to the victim as a form of fulfilling the rights harmed by the criminal act.[9]

In sentencing the verdict, the judge not only considers the fulfillment of the elements of the criminal act judicially, but also pays attention to non-judicial aspects such as motives, psychological conditions of the perpetrator, the attitude of the defendant during the trial, as well as mitigating and aggravating circumstances. In some cases, emotional factors triggered by

infidelity are often used as mitigating reasons, so that the penalty imposed does not reach the maximum limit as stipulated in Article 459 of the Criminal Code.

In law enforcement practice against premeditated murder, facing various obstacles such as cultural, social, and legal structure factors can affect the effectiveness of law enforcement. In some cases, law enforcement officials also use justice collaborators, which are very important in uncovering the crime of premeditated murder. Justice collaborators can help law enforcement officials uncover the chronology of the murder, the role of each perpetrator, and the tools used in criminal acts. However, in the use of justice collaborators, it is used when the perpetrator is more than one person and not as the main perpetrator. Just as stated by (Krisdayanti, 2023) explained that in certain cases, the existence of a justice collaborator is very helpful in uncovering important facts related to the crime of premeditated murder.[10]

When viewed from the development of national criminal law, the regulation regarding premeditated murder is also contained in Law Number 1 of 2023 concerning the Criminal Code, especially in Article 459. This provision essentially retains the substance of the previous arrangement while still making premeditated murder a serious crime against human life. This shows that the state provides strong protection of the right to life and affirms that vigilante actions cannot be justified under any circumstances, including when triggered by infidelity. in line with the thoughts conveyed by (Sukma and Taufiqurrahman, 2024) explained that this provision shows the consistency of the state in providing protection for human life.[11]

In the end, law enforcement against premeditated murder triggered by infidelity is directed to ensure legal certainty, provide justice, and protect the right to life as a fundamental human right. Although infidelity can cause strong emotional distress, this condition cannot be used as a basis for justification for the act of taking the life of another person, because criminal law still considers it an unlawful act that causes consequences of criminal liability. Thus, law enforcement officials are required to prove every element of a criminal act carefully, objectively, and based on valid evidence, so that the verdicts produced are not only in accordance with the applicable legal provisions, but also reflect the justice that lives and is felt in society.

In this context, law enforcement that focuses too much on formal litigation mechanisms is inseparable from various criticisms. This is in line with the view of Abdul Rahman Maulana Siregar who stated that the settlement of cases through litigation often results in win-loss situations and is not necessarily able to reflect a sense of justice in society. On the other hand, the customary law-based approach focuses more on the principles of balance, harmony, and social harmony. Therefore, this condition shows that in the practice of criminal law enforcement, including in the case of premeditated murder, a balance is needed between legal certainty and the value of justice that lives in society.[12]

Criminal Liability for the Perpetrators of Planned Murder with Motive for Infidelity, accompanied by Cases.

Violent crimes that lead to the loss of life cannot be seen solely as individual acts, but are the result of the interaction of various factors such as psychological conditions, power relations, and social dynamics in the life of the perpetrator. However, these factors do not remove criminal liability as long as the perpetrator still has the ability to understand and control his actions.[13] Accountability in the crime of premeditated murder basically departs from the principle that every person who commits a criminal act with guilt (schuld) must be held accountable for his actions. In the context of the new Criminal Code (Law No. 1 of 2023), especially Article 459, premeditated murder is qualified as a serious crime that requires an element of "premeditated murder", which indicates a higher rate of guilt than ordinary murder. According to (Yohanes, et al, 2025) Conceptually, criminal liability does not only stop at proving the act (actus reus), but also requires the existence of an element of guilt (mens rea), which in premeditated murder is reflected in the existence of intentions that have been carefully thought out before the act is committed.[14] Thus, the perpetrator cannot argue that his actions were solely triggered by

momentary emotions, if there is evidence of a gap in time and preparation before the act was committed. This shows that modern criminal law places the rationality of the perpetrator as the main basis in determining guilt.

In the practice of murder motivated by infidelity, the perpetrator often tries to justify his actions by postulating the existence of emotional pressure in the form of jealousy, heartache, or deep anger. However, in the perspective of the new Criminal Code, such emotional conditions cannot remove criminal liability, but can only be considered as a mitigating factor in criminal imposition. This is in line with the basic principle of criminal law which emphasizes that the excuse for forgiveness can only be applied if there are conditions that completely eliminate the ability to be responsible, such as mental disorders, and not just a momentary overflow of emotions.

Furthermore, in determining whether or not there is criminal liability for the perpetrator of premeditated murder, the judge must conduct an in-depth assessment of several main elements, namely the existence of the ability to be responsible (*toerekeningsvatbaarheid*), the existence of mistakes in the form of intentionality accompanied by planning, and the absence of justification or forgiving reasons. These three elements are the main basis for assessing whether a perpetrator can be held fully criminally responsible.

In the scope of premeditated murder, the element of intentionality occupies the most dominant position because it not only reflects the will to take the life of another person, but also indicates the existence of a mature planning process before the act is committed. Therefore, theoretically, the level of error in premeditated murder is at a very high level, so that the perpetrator in principle deserves to be sentenced to a heavy sentence, even close to the maximum as stipulated in Article 459 of the Criminal Code. Thus, the use of the motive of infidelity as a basis for mitigating the crime must be done carefully so as not to reduce the essence of the crime which is essentially a serious violation of the right to life.

When viewed from the perspective of criminal law policy in the New Criminal Code, the existence of Article 459 shows that the state provides maximum protection for the right to life as the most fundamental human right. Thus, although infidelity can cause severe psychological suffering for the perpetrator, the law still requires everyone to resolve the conflict through legitimate means and not by performing vigilante acts on their own. If emotional reasons are used as a justification for committing murder, then the purpose of criminal law to protect human life will lose its meaning. One example of a case that often occurs is that a husband finds out that his wife is having a relationship with another man. After finding out about the affair, the perpetrator did not immediately commit murder. For several days he prepared sharp weapons, studied the victim's routine, and determined the right time to carry out his actions. When the victim was alone, the perpetrator went to the victim and took his life.

In these cases, the element of criminal liability is fulfilled because:

1. The perpetrator has the ability to be responsible and does not experience a mental disorder.
2. The perpetrator consciously wanted the victim's death.
3. There is a sufficient grace period between intention and implementation.
4. There are preparatory actions that indicate planning.
5. There is no justification or excuse.

Based on these facts, the perpetrator can be held criminally responsible based on Article 459 of the Criminal Code. The motive for infidelity can only be considered as part of the background of the criminal act, but it does not remove the guilt of the perpetrator. Therefore, the crimes imposed must reflect a high level of error and provide protection for fundamental values in the form of human rights.

Conclusion

Based on the results of the research and discussion, it can be concluded that law enforcement against the crime of premeditated murder motivated by infidelity basically has a

clear normative foundation, but in practice it still faces the main problem in the form of inconsistency in the imposition of penalties due to the dominance of non-juridical considerations, such as emotional factors and the psychological condition of the perpetrator, which often shifts the principle of proportionality, so that even though the factors This is relevant as a consideration, its application should not excessively reduce the severity of the crime for crimes that are essentially serious violations of the right to life, so that stricter standards and consistency are needed in punishment in order to achieve a balance between legal certainty, justice, and legal usefulness.

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