

CRIMINOLOGICAL ANALYSIS OF THE PERPETRATORS OF PREMEDITATED MURDER (Study of Aging Court Decision No. 813 K/Pid/2023)

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Abstract: murder is one of the most serious crimes in the criminal legal system. By utilizing a criminological approach, this study aims to explore more deeply how the role of criminology as a science that studies the factors that encourage someone to plan and carry out a murder plan. This study also looks at the importance of effective prevention and law enforcement and rehabilitation for perpetrators as an effort to overcome premeditated murder in the community and also looks at the role of criminology of judges regarding considerations in deciding cases in Supreme Court Decision No. 813 K / Pid / 2023 against the defendant Ferdy Sambo. This research uses normative juridical methods with an empirical approach, research using secondary data in the form of primary, secondary and tertiary legal materials. The results showed that the factors that encourage someone to commit the crime of premeditated murder against Brigadier Joshua are emotional / hurt factors, psychological factors, and social environmental factors. Countermeasures are carried out preventive, respresentive and curative efforts. then the judge's consideration in deciding the case of the Supreme Court decision No. 813 K.Pid / 2023 against the perpetrators of premeditated murder is by taking into account the facts seen from the testimony of witnesses, experts, clues, statements of the accused and evidence. And as a legal arrangement, it is seen from the theory of legal patian, expediency and legal justice as a consideration of the Judge in the form of law enforcement against perpetrators of premeditated murder.

Keywords: criminology, crime, premeditated murder;

Introduction

In essence, every citizen is obliged to respect and obey the law. however, unlawful acts are inevitable there will always be people who are careless or deliberately fail to fulfill their responsibilities so as to adversely affect Society. Since these obligations are stipulated in law, negligence or willful fulfillment may be considered unlawful. A person who makes mistakes whether intentional or unintentional, so that the act harms others and often violates the law. That error can be a crime. [1]

One of the crimes committed by the Society is murder. Murder is an act done deliberately to take away the soul of another person. So that murder is considered an act that can disturb the balance of life, security, peace, and order in society. In the crime of murder the perpetrator is the soul (life) of a person who cannot be replaced with anything.

The crime of murder can be carried out in various ways, resulting in the loss of another person's life. In other words, criminal acts look at how the elements of crime are met. Criminal law focuses on proving an evil while criminology focuses on the factors that cause crime. Premeditated murder is one of the most serious crimes in the legal system, where a person intentionally plans and carries out an act that results in the death of another person. [2] The complexity of this crime encourages criminologists to understand more deeply about the factors that might influence a person to commit his crime. This crime usually occurs as a result of the psychological state of the perpetrator, where the perpetrator tends to experience instability and emotions in his soul.

It is undeniable that in analyzing and handling a crime event, legal arrangements or sanctions as a form of accountability for the actions of criminal actors must be held accountable. If we look into the Criminal Code (KUHP), it can immediately be seen that the framer of the law has intended to regulate criminal provisions regarding crimes shown against perpetrators of crimes.

The Criminal Code (KUHP) regulates murder in Book II of the XIX Baba which consists of 13 articles, namely from Article 338 to Article 350. The crime of premeditated murder is contained in Article 340 of the Criminal Code, which is committed immediately with the intent to kill[3]

As is the case today, many crimes against life or murder crimes are committed with advance planning. For example, such as the premeditated murder case as contained in Supreme Court Decision No. 813 K/Pid/2023, which occurred at the official house of Inspector General Ferdy

Sambo where a police officer Brigadier Joshua was killed. The premeditated murder occurred on July 8, 2022 at 5:00 p.m. at Ferdy Sambo's official house in the Police Complex, Duren Tiga, South Jakarta. The incident began with Princess Candrawathi's complaint who confessed to Ferdy Sambo that she was harassed by Brigadier J. because of this Ferdy Sambo became furious and emotional because it involved the dignity and dignity of the accused and his family. Furthermore, the defendant then devised a scenario plan to kill Brigadier J. The reason the defendant committed his act was because of heartache. The defendant was sentenced to life imprisonment by the Judge in accordance with the facts and with considerations in accordance with positive law in Indonesia based on the Judge's decree. On this basis, researchers are interested in formulating this problem by linking the role of criminology to understand, analyze, and overcome these crimes effectively.

Problem Statement

To find out more about how the role of criminology for premeditated murder with the following limitation of problem formulation:

The criminological role of perpetrators of premeditated murder based on Supreme Court Decision No. 813 K/Pid/2023.

The Judges in their criminological role determine the crime of premeditated murder according to Supreme Court Decision No. 813 K/Pid/2023.

Research Methods

The method used in this study is descriptive analysis with an approach using a normative juridical approach method with an empirical approach, meaning that the data obtained is guided by juridical aspects, also guided by normative aspects and empirical aspects used as tools. Descriptive analysis means describing and describing something into the object of research critically through qualitative analysis within the scope of legal science, then the normative approach includes legal principles, synchronization of laws and regulations, including inconcreto legal discovery efforts.

In this study, it is explained about the role of criminologists in studying the science of crime, including its causes, prevention, and handling. In the context of the criminal act of premeditated murder, as well as the judge's consideration in the case of premeditated murder with various legal considerations and facts to be considered,

Discussion

The criminological role of perpetrators of premeditated murder based on Supreme Court Decision No. 813 K/Pid/2023

Criminology is the study of crime. Or rather, criminology studies all aspects of crime. The crime of criminal or murder threatens to be an act that can harm others. Crime is something that is contrary to norms and laws, to find out why crime often occurs. Then it is necessary to know why the person committed the crime. According to Wolfgang, Savitz and Johnston in *The Sociology of Crime and Delinquency*, criminology as a collection of knowledge about crime that aims to obtain knowledge and understanding of the symptoms of crime by studying and analyzing scientifically the descriptions, uniformities, patterns and causal factors related to crime, perpetrators of crime and the reaction of society to both

According to Bonger, criminology is a science that investigates the symptoms of crime as widely as possible, which is divided into:

- 1) Criminal Anthropology
It is the science of evil (somatic) man. This science provides an answer to the question of what kind of signs does the bad person in his body have? Is there any connection between ethnicity and crime and so on.
- 2) Criminal Sociology
It is the science of crime as a symptom of society. The main problem answered by this field of science is to what extent the causes of crime lie in society.
- 3) Criminal Psychology
The science of the criminal seen from the angle of his soul.
- 4) Psychopathology and Criminal Neuropathology
It is the science of mentally ill criminals or nerve veins
- 5) Penology
It is the science of the growth and development of punishment. [4]

The foundational values of human rights protection mandated in the 1945 Constitution of the Republic of Indonesia represent the embodiment of basic rights that every individual should enjoy. (Irawati, 2023a) In finding the factors that cause crime, perpetrators of premeditated murder can be influenced by various factors involving psychological, social, and environmental aspects. Heartache / resentment due to someone's attitude or actions is the main factor driving someone to commit a crime or criminal act, there is a feeling that someone has suppressed because of an unwanted event so that someone who is vengeful wants to do something in return for what he has received so far. Then the conflict of the soul is a conflict caused by emotional feelings and hatred which becomes a desire for revenge. Social environmental factors play an important role in shaping a person's behavior, including being involved in premeditated murder.

Emotional/Hurting Factors

The factor that drives the perpetrator of Ferdy Sambo to commit his crime is Emotion / Heartache. According to an interview with Advocate Mr. Edy Sanjaya, S.H., M.H, Law Office Dr. Hendra Wijaya, S.T., S.H., M.H. & Partners that the Emotion/Heartache factor is the main factor causing someone to commit a crime[5]. From this statement, it can be concluded that heartache / resentment due to someone's attitude or actions is the main factor driving someone to commit a crime or criminal act, there is a feeling that someone has suppressed because of an unwanted event so that someone who is vengeful wants to do something in return for what he has received so far.

Psychological factors

Psychological is a picture formed from a person's behavioral condition or psychological condition that is related either directly or indirectly to the actions done and along with all the consequences. This psychological factor comes from within the soul or certain circumstances that are being experienced by a person. In other words, someone who has psychological disorders often commits crimes, his behavior and social relations are always bad, likes to do crazy deeds and lacks social awareness.

Social Environmental Factors

Social environmental factors play an important role in the formation of a person's behavior, including engaging in premeditated murder. Another factor driving the Brigadier Joshua murder case is the environment that influences a person's decision to commit premeditated murder. [6]

In order to overcome crimes against various means as a reaction that can be given to perpetrators of crimes in the form of criminal means and non-criminal law facilities, which can be integrated with one another. If criminal means are called upon to tackle crime, it means that criminal law politics will be carried out in accordance with the circumstances and situations at a time or in the future. [7]. criminal law reform places investigators' actions in making efforts to force the determination of suspects based on the principle of due process of law in the implementation of law enforcement originating from the ideals of the rule of law (rechtstaat). (Irawati, 2023b). The existence of someone who commits a crime or criminality felt by the Community is very troubling in addition to disturbing order and peace in the community.

The crime of premeditated murder committed by the perpetrator needs to be addressed. Therefore, with the crimes committed by perpetrators of premeditated murder crimes, efforts are needed to overcome these crimes. In efforts to overcome crime, perpetrators of premeditated murder are carried out preventively and repressively. These preventive efforts are to prevent the occurrence or occurrence of the first criminal offense, preventing the crime of murder is better than trying to educate the crime to be better. Preventive social control, among others, can be done through the socialization process. In socialization, advice, advice, prohibitions or orders can be conveyed so that a habit is formed to carry out the role as expected.

Prevention/prevention[8]

Legal prevention efforts are carried out before the occurrence of murder offenses, namely:

- a. Conducting legal counseling.
- b. Conducting religious counseling, in collaboration with religious leaders. This is meant because the role of faith can prevent someone from doing evil.
- c. Conduct routine patrol activities every day, especially crime areas.
- d. Convey to all levels of society, either directly or in writing or through print/electronic media to immediately report to the authorities a crime has occurred,

Eradication/repression

As for actions or applications to overcome the crime of premeditated murder.

- a. Conduct a pursuit and arrest of the suspected perpetrators of the murder.
- b. Conduct an examination of the suspected perpetrators of murder based on existing evidence
- c. Then transferred to the prosecutor's office for further processing.

Improvement and coaching/rehabilitation/curative

The guidance given to the assisted residents include:

- a. Mental coaching, this coaching aims so that fostered residents do not experience frustration, despair, feelings of inferiority and other mental coaching.
- b. Social development, this development aims to enable fostered residents to return to live in the midst of the community and be able to return to society. In this coaching, it is taught about the norms that exist in society.

In discussing the repressive system, of course, it is inseparable from the Indonesian criminal justice system, in which there are five sub-systems of justice, prosecutors, police, corrections and lawyers which are one whole that is connected and functionally connected. Criminal law in an objective art (*ius poenale*) is criminal law seen from the aspect of prohibition of action, which prohibition is accompanied by criminal threats for who violates the prohibition. While criminal law means subjective (*ius poeniendi*), in the sense of rules that are based on or concerning the right and authority of the State to determine prohibitions in an effort to achieve public order, enforce (its coercive nature) criminal law in its form by imposing penalties on violators of these prohibitions and carry out criminal sanctions that have been imposed by the state on violators of criminal law. In Roscoe Pound "Theory of Law is a tool of social engineering", which provides the basis for the possibility of using the law consciously to make changes to the public or in other words the legal acts actively in reverse change in society.(Irawati, 2020)

In repressive response to the ways taken through how to overcome or find solutions to murder crimes that have occurred. On that basis then, the steps taken tend to be how to take firm action against the perpetrators of murder crimes or how to provide a deterrent effect on perpetrators of premeditated murder crimes. Social institutions also have a role in social control, the institutions in society play a role. Institutions aimed at meeting basic human needs

Through a deep understanding of the factors that trigger premeditated murder, criminology can provide valuable insights to develop criminal prevention programs that can reduce the risk of criminal acts, criminal law as a form of effort that aims to make perpetrators of criminal acts not repeat similar crimes, therefore applied criminal law as a form of countermeasures against frequent criminal acts in Indonesia. [9]

The Judge in his criminological role determines the perpetrators of premeditated murder in accordance with Supreme Court Decision No. 813 K/Pid/2023

The judge's decision in deciding the crime of premeditated murder through other relevant considerations to ensure that justice is upheld and that the verdict is taken in accordance with applicable law and legal principles[10]

Rusli Muhammad stated that the judge's consideration can be divided into 2 (two) categories, namely: juridical considerations and non-juridical considerations are the arrival of judges based on juridical facts revealed in the trial and by law determined as things that must be contained in the verdict such as the public prosecutor's indictment, criminal charges, defendants' statements, witness statements, evidence, and articles in criminal law regulations. While non-juridical considerations can be seen from "the background, the consequences of the defendant's actions, the condition of the defendant and the religion of the defendant".

Taking into account the facts contained in the Supreme Court decision No. 813 K / Pid / 2023, both from the testimony of witnesses, experts, clues, statements of the accused and evidence, that the accused has committed premeditated murder in accordance with Article 340 of the Criminal Code jo Article 55 paragraph (1) 1 of the Criminal Code and Article 49 jo Article 33 of Law No. 19/2016 jo Article 55 paragraph (1), as well as other relevant legal regulations. Articles of the Criminal Law. in this case

Indictment

The formulation of the charges is based on the results of preliminary examinations prepared primarily and subsidiarily. In Supreme Court Decision Number 813 K / Pid / 2023 concerning the criminal act of murder committed by the defendant Ferdy Sambo

Criminal Prosecution

The criminal charges made by the defendant Ferdy Sambo in his actions can be charged with article 340 juncto article 55 and article 56 of the Criminal Code with maximum criminal penalties of the death penalty, life imprisonment, and 20 years imprisonment. This subsidiary article can be seen in the sentence given to the defendant. The accused was charged with article 340 of the Criminal Code regarding premeditated murder as the primary article. The primary article of the union is a subsidiary of article 338 juncto articles 55 and 56 of the Criminal Code on murder. Quoting the Indonesian Civil Code article 340 of the Criminal Code contained in Chapter XIX concerning crimes against life or premeditated murder.

Witness testimony

In the Supreme Court decision 813 K/Pid/2023 premeditated murder case committed by the defendant Ferdy Sambo, there are approximately 8 witnesses who stated their testimony as attached and the testimony of these witnesses has been confirmed by the perpetrator. Based on witness statements Putri Candrawathi (witness-1), Arif Rahman (witness-2), Khatma'ruf (witness-3), witness Richard Eliezer (witness-3), witness Ricky Rizal (witness-4), witness Chuck Putranto (witness-5), witness Ridwan Soplanit (witness-6), witness Hendra Kurniawan (witness-7), witness Baewino Wibowo (witness-8)

Expert information

Based on the information of *a charge* experts, namely Expert-1 Aji Febrianto Arrosyi (polygraph expert), Expert-2 Arif Sumirat, ST (ballistics expert), Expert-3 Heri Prianto (CCTV checking expert), Expert-4 Vira Saamiaa, S.S.I., M.Biomet (DNA expert), Expert-5 Irfan Rofiq (criminalistic technical examiner expert of the crime scene), Expert-6 Farag Primadani Kaunov (forensic expert), Expert-7 Ade Firmansyah Sugiharto (examination expert), Expert-8 Eko Wahyu Bintoro, SH (facial identification and crime scene expert), Expert-9 Adi Setya (digital forensic cyber Bareskrim expert), Expert-10 Muhammad Mustofa (criminologist), Expert-11 Dra. Reni kusumawardani (forensic psychology expert, Expert-12 Dr. Afli Sahari S.H, S.Hum (criminal law expert, Expert-13 Dr. Effendi Saragih (criminal law expert).

Defendant's Statement

Based on the defendant's testimony that partially confirmed the whole chain of events which in essence admitted that. Based on the defendant's deep heartache after hearing the story from Putri Candrawati, then there was a preliminary act that began with witness Ricky Rizal Wibowo securing the HS firearm belonging to victim Joshua which although on his own initiative but obtained the fact that until Jakarta the HS fire was still stored on the dashboard of the Lexus LM car, where since from Magelang before leaving for Jakarta actually Witness Ricky Rizal could have returned The weapon was to Joshua's victim, but this was not done and what happened was that Joshua's victim did not sit in the Lexus LM accompanied by Princess Candrawathi as his main duty as an aide or ADC ordered by the defendant.

Evidence

Based on the evidence presented in the trial, there were 10 (ten) bullet casings and 1 (one) Glock 17 firearm Number: MPY851 (9mm) belonging to witness Richard Eliezer which was used to shoot the victim and 1 (one) HS rifle Number: H233001 belonging to Victim Nofriansyah Joshua which contained 9 (Nine) bullet casings used by defendant Ferdy Sambo to shoot the victim to deceive as if there was a shootout between witness Richard Eliezer and Victim Joshua Hutabarat.

Articles of Criminal Law

Taking into account the facts found in the Supreme Court decision No. 813 K / Pid / 2023 both from the testimony of witnesses, experts, clues, statements of the accused and evidence, that the accused has committed premeditated murder and fulfilled Article 340 of the Criminal Code jo

Article 55 paragraph (1) 1 of the Criminal Code and Article 49jo Article 33 UU.No 19/2016 jo Article 55 paragraph (1) of the Criminal Code

Non-juridical considerations can be seen from the background, the consequences of the defendant's actions, the defendant's personal condition, and the defendant's religion.

Background

The understanding of the background of the defendant's actions in this discussion is any circumstance that causes a strong desire and impulse in the defendant in committing a criminal act. Psychological conditions, social environment are factors that encourage the defendant to commit his actions. In the case study of Supreme Court Decision No. 813 K / Pid / 2023, the thing that underlies the defendant to commit premeditated murder is due to emotional / hurt factors. The defendant felt hurt because he heard the story of Candrawathi's daughter who was abused by Victim Joshua which caused the defendant to be furious so that it triggered the defendant's emotions which was the cause of the premeditated murder committed by the defendant Ferdy Sambo.

As a result of the defendant's actions;

The criminal acts committed by the defendant will definitely result in victims or losses to other parties. The act of premeditated murder carried out by the defendant Ferdy Sambo resulted in the death of another person, namely Joshua. In this case, of course, the defendant's actions fulfilled the elements of the crime of premeditated murder, namely the element of deliberate intent, the element of premeditation. And the element of taking other people's lives. If these 3 (three) elements are fulfilled, the criminal act committed by the defendant is regulated in Article 340 of the Criminal Code and the penalty is punishable by death, or life imprisonment, or temporary imprisonment for a maximum of twenty years.

The condition of the defendant

In this case, it has been proven that the defendant's physical condition at the time of the premeditated murder was carried out consciously, he was not crazy, and his actions could be accounted for. At the time of the examination the defendant was conscious and admitted his actions. The defendant's psychological condition at the time of the murder was based on emotions and heartache, so this is what caused the defendant to make up his mind to kill Joshua Hutabarat.

Non-juridical considerations can be seen from the background, the consequences of the defendant's actions, the defendant's personal condition, and the defendant's religion. The background to the defendant's actions in this discussion is any situation that causes the defendant to have strong desires and urges to commit a criminal act. Psychological conditions and the social environment are factors that encourage the defendant to commit his actions. In the case study of Supreme Court Decision No. 813 K/Pid/2023. As a result of the defendant's actions, the criminal acts committed by the defendant will definitely result in victims or losses to other parties. [11]

Law enforcement in the premeditated murder case committed by the defendant Ferdy Sambo is one of the important aspects in the criminal justice system to uphold justice and provide justice to the victim Brigadier J. Supreme Court Cassation Decision Number 813 K/Pid/2023 in imposing sentences is theoretically based on factors - factors that influenced the decision, which was initially a death sentence to life imprisonment. In the trial evidence it is necessary to state whether the Defendant fulfilled the criminal elements of Article 340 of the Criminal Code in conjunction with Article 55 paragraph (1) to 1 of the Criminal Code, and violated Article 49 in conjunction with Article 33 of Law Number 19 of 2016 in conjunction with Law Number 11 of 2008 concerning ITE in conjunction with article 55 paragraph (1) 1st.

The judge's considerations in sentencing the perpetrator of premeditated murder took into account that the defendant was present at trial with charges in the form of Primair Subsidiarity, namely violating Article 340 of the Criminal Code, and Subsidiarity, namely violating Article 338 of the Criminal Code. A judge can declare someone guilty of committing a criminal act, then the actions of the person accused must fulfill the elements of the article for which the defendant was charged. In this case, the elements of the crime of premeditated murder in Article 340 of the Criminal Code.

Legal considerations are the basis of legal arguments in deciding a case. In law enforcement, there are three elements that must be considered, namely: legal certainty, expediency and justice. Likewise, the judge's decision to resolve a case submitted to the court means that the judge's decision applies the law in the Supreme Court's Cassation Decision No. 813 K/Pid/2023 the judge has

considered various factors, including reasons for continued legal certainty in this decision. The defendant was sentenced to life imprisonment in accordance with the existing facts and with considerations in accordance with positive law in Indonesia based on judge's decision because it is the judge's authority based on the authority of *Res judicata* which has authority and finality.

Conclusion

The causes of the crime of murder against another person's life are initiated by the factors that encourage a person to commit a crime and how to overcome the crime of premeditated murder in society. Therefore, the role of criminology is very necessary. From what happened, chronologically, the fact is revealed that in the case of Supreme Court Decision No. 813 K/Pid/2023 premeditated murder of Brigadier J., Defendant Ferdy Sambo contains several motivating factors that caused the perpetrator to commit premeditated murder, namely emotional factors/hurt, deep hurt which gave rise to feelings of revenge for committing acts that violate the law and resulting in a criminal act committed by the defendant against the victim Yosua Hutabarat. Psychological factors and social environmental factors. Efforts to overcome the criminal act of premeditated murder through efforts in the form of law enforcement by imposing penalties to take action against the perpetrators in accordance with their actions and make amends so that they are aware that the actions they have committed are unlawful and detrimental to society so that they do not repeat them and Other people also don't do it considering that the sanctions they bear are very heavy. By properly understanding the factors and context behind criminal acts of premeditated murder, society, government and related professionals can work together in efforts to prevent these tragic incidents and create a safer and more supportive environment for all individuals.

The legal regulation regarding premeditated murder is regulated in Article 340 of the Criminal Code concerning premeditated murder, criminal law policies for perpetrators of criminal acts whose rules are implemented in existing laws to be enforced and enforced as appropriate. The judge based on Supreme Court Decision Number 813 K/Pid/2023 determined that the defendant was proven guilty based on legal facts revealed from several juridical and non-juridical considerations. The judge mentions the public prosecutor's indictment, witness statements, defendant's statements, evidence, and articles in criminal law regulations. In this case the judge sentenced the defendant to life imprisonment, which was previously sentenced to death, was appropriate. The judge in proving that the elements contained in Article 340 of the Criminal Code were in accordance with the facts revealed in the Supreme Court decision no. 813b K/Pid/2023. Apart from that, the judge in imposing a life imprisonment sentence on the Defendant also went through considerations in accordance with positive law in Indonesia, that in this case the judge remembered Article 340 of the Criminal Code in conjunction with Article 55 paragraph (1) 1st of the Criminal Code and Article 49 in conjunction with Article 33 Law number 19 of 2016 concerning amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions in conjunction with Article 55 paragraph (1) 1 of the Criminal Code.

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Constitution

Constitution of the Republic of Indonesia 1945

Article 340 of the Criminal Code

Article 1 paragraph (3) of the Criminal Code

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