

Reconstruction of the Regulation of Death Penalty Sanctions for the Criminal Act of Predictive Murder Based on the Values of Justice

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<http://dx.doi.org/10.47814/ijssrr.v8i7.2737>

Abstract

Criminal dead is type the most severe and incurring punishment effect cruel with remove life for the offender and the effects deterrent for anyone who violates article whose demands is criminal dead. Research Objectives This is: 1) for examine, analyze and find How regulation regulation sanctions criminal dead to act criminal murder planning Not yet based on value of justice; 2). to examine, analyze and find weaknesses regulation sanctions criminal dead to act criminal murder planning moment this; 3). for find reconstruction regulation sanctions criminal dead to act criminal murder planning based on mark justice. Research methods use paradigm constructivism, with method approach socio legal research. and types study descriptive. The type and source of data uses secondary data consisting of from material primary law, material law secondary, and materials law tertiary. Data collection method using bibliography, and methods analysis qualitative. Research result is: 1) Regulation sanctions criminal dead to act criminal murder planning Not yet based on mark justice that Regulation sanctions criminal dead to act criminal murder planning Not yet based on mark justice that implementation criminal death in Indonesia is often not consistent; 2). Weaknesses in death penalty regulation include unclear legal time limits and execution procedures, poor institutional coordination, and low public trust in police, reflecting issues in legal substance, structure, and culture; 3). Reconstruction regulation sanctions criminal dead to act criminal murder planning based on mark justice consists of from reconstruction values and norm reconstruction. The reconstruction of death penalty regulations for premeditated murder under Law No. 1 of 2023 (Article 459) and Article 28A of the 1945 Constitution aims to ensure justice and fairness, correcting past legal unfairness by aligning sanctions with human rights principles and clearer legal standards

Keywords: *Reconstruction; Regulation; Death Penalty; Murder*

Introduction

One of act criminal in case murder that is case murder planned. Murder is a action For remove life somebody with method violate law, or not opposed law. Murder can found the settings in the Criminal Code Article, and crimes This called dead maker or murder. Murder planning in the Criminal Code it is regulated in Article 340 is:

"Whoever intentionally and with plan more formerly to seize other people's lives, threatened Because murder with plan (*moord*), with criminal dead or criminal prison lifelong life or during time certain, maximum twenty year ".

Murder planning That intended by the creator Constitution as murder form specifically burdensome, the formulation of which is can in the form of " murder committed " with plan moreover formerly convicted Because of murder with plan "

Based on what is explained above, then can concluded that formulate Article 340 of the Criminal Code with method Thus, the former Constitution on purpose do it with Meaning as the crime that stands yourself. Terms criminal dead set up among others in Law No. 1 of 2023 regarding the Criminal Code (KUHP). For example, Article 17 paragraph (4) of the Criminal Code regulates test do act the criminal penalty that is threatened criminal dead or prison lifelong alive, convicted with criminal maximum imprisonment of 15 years.

In Semarang City, found case act criminal murder interesting planning attention public. Case of crime criminal murder planning in the city This often circulated in newspapers, news on TV, internet, social media, and so on. According to data from www.news.detik.com in Semarang City there is one case act criminal murder planned to occur on Friday, September 20, 2021, with perpetrator a man teenager aged (18) years and the victim is a woman mature aged (23) years. The case handled with good by the team investigator as well as investigator from party Semarang Police Headquarters. For proof in case act criminal murder plan, then an investigation process is required to be carried out by investigators from Semarang Police Headquarters. Which aims for to uphold law, justice as well as peace society. And also aims for look for know about constraint as well as solutions experienced team investigator moment handle case act criminal murder planning.

Although the Indonesian Criminal Code still maintain criminal dead as one of the criminal principal, but if referring to history development of the codification process law criminal law in the Netherlands which then become a role model for system criminalization in Indonesia, shows the opposite. Since 1870, criminal dead as one of from criminal main has deleted inside system Dutch law. Even in practice, the Dutch government does not Again apply criminal dead since 1860. Execution criminal dead in front public last applied in 1860 in Maastricht.

The 1945 Constitution places right life as right very important basic so that classified to in "rights" basic human being who is not can reduced in condition whatever", as set up in Article 28I paragraph (1) of the 1945 Constitution. Placement right for live in order First from seven classified rights in "rights" basic human being who is not can reduced in condition whatever" is a proof importance right life.

Article 28I paragraph (1) of the 1945 Constitution: The right to life, rights for No tortured, rights for independence mind and heart conscience, rights religion, rights for No enslaved, rights for acknowledged as personal in front law and rights for No sued on base applicable law ebb is right basic human being who is not can reduced in condition whatever.

Related with criminal dead, there is a number of change important related criminal dead this, especially the updates that have been done in the Criminal Code (KUHP) which was ratified on December 6, 2022, the judge sentenced criminal dead with trial period for 10 years. This is there is in Article 100 of the Law Number 1 of 2023 concerning the Criminal Code. Article 100 Paragraph 1 of the Criminal Code regulates that the judge imposes criminal dead with trial period for 10 years with paying attention to regret the accused and there is hope for repair self or role defendant in act criminal.

Criminal dead is type the most severe and incurring punishment effect cruel with remove life for the offender and the effects deterrent for anyone who violates article whose demands is criminal dead.¹Indonesia is a country that recognizes existence of human rights Humans, in Law No. 39 of 1999 concerning Human Rights Man and also in development amendment The 2nd Constitution of 1945 Article 28A-28J in essence discuss about Human Rights Man.² Implementation criminal die in Indonesia will reduce Indonesia's credibility for speak on human rights at regional and global levels, including save life Indonesian citizens at risk criminal died in another country.³In terms of public can categorized as form protection and shelter. If you look at from corner perpetrator act criminal threat punishment This is form appropriate retribution. Implementation criminal died in Indonesia to become material enough talk current and ongoing polemics for civilized countries. This is based on the implementation criminal judged dead No in accordance with the philosophy of the state that adheres to understand Pancasila, which is always uphold high sense of just and civilized humanity.⁴ Criminal dead No there is in order type criminal principal. Criminal dead determined in chapter alone For show that type criminal This truly nature special as effort final For to protect public.⁵ Criminal dead is the most severe crime and must be always threatened in a way alternative with criminal prison lifelong life or criminal maximum imprisonment of 20 (twenty) years.⁶

Death Penalty from perspective please Just and civilized humanity. Humanity is the soul that feels that dignity man more tall from animal.⁷ Man own potential thought, feeling, will and creation. With reason His goodness man become cultured. With kindness his conscience man realizes values and norms. Death Penalty from perspective of the Principle of Indonesian Unity. Indonesian Unity is please third from Pancasila. According to Soekarno, the first principle This is please nationality. Nationality is related issues with problem nation. Nation is translation from the nation. According to Ernest Renan the nation is One soul or in French Une nation est un ame.⁸

judicial process is road settlement case criminal offenses that include investigation, prosecution and trial. The existence of products law namely decision a court of competent jurisdiction law permanent (incracht) is sign the end settlement case criminal. Prosecutor's Office as one of the institution enforcer law sued For more play a role in to squeak supremacy law, protection interest general, enforcement right basic human, in carry out functions, duties and authorities the prosecutor's office of the Republic of Indonesia as institution government as state power in the field of prosecution must realize certainty law,

¹ Anis Nur et al., "Analysis Implementation Death Penalty in Human Rights Perspective Human (Case Study of Herry Wirawan's Decision) Number 86/PID.SUS/2022/PT.BDG)," *Jurnal Hukum Lex Generalis* 3, no. 12 (2022): 969–87

² Herliana Heltaji, "Human Rights Dilemmas "Humans and the Death Penalty in the Indonesian Constitution," *Pamulang Law Review* 4, no. 2 (2022): 157, <https://doi.org/10.32493/palrev.v4i2.17747>.

³ Friska Rosita Roring, "Implementation Death Penalty in Indonesia from the Perspective of Human Rights Violations Humans," *Lex Privatum* 11, no. 4 (2023): 1–12.

⁴ M. Zen Abdullah, "Implementation Death Penalty in Indonesia Examined in the Context of Human Rights Human, *Journal Jambi University Scientific*, 2018, 61.

⁵ Melisa Dewi Nur Aeni and Bambang Tri Bawono, "The Law of Sentencing Death Penalty in Human Rights Perspective Humans," *Proceedings Conference Scientific Student Unissula (KIMU)* 4, 2020, <https://doi.org/10.56326/clavia.v20i2.1585>.

⁶ Cahyani Gisella Tiara and Sholehah Siti Bilkis, "Analysis of the Death Penalty in Indonesia from a Human Rights Perspective" *Humans and Alternatives Law Enforcement*," *Journal: AL- Qisth Law* 7, no. 1 (2023): 6. 12 M. Zen Abdullah, "Law Enforcement Death Penalty in Indonesia: An Examination in the Context of Human Rights

⁷ Soekarno, ' Pantja Sila as the Basis of the State, *Department Indonesian Information* 1959', 57.

⁸ Ibid.p.56

order law, justice and truth based on law and respect religious norms, decency and morality as well as must dig values humanity, law and living justice in public.

Based on description background behind on interesting for researcher for take title: “Reconstruction Regulation Sanctions Death Penalty Against Action Criminal Murder Planning Based on Justice Values”.

Research Methods

Writer in study This use paradigm constructivism, a paradigm that views that knowledge law That only deal with regulation legislation solely. Law as something that must be done applied, and more tend for No to question mark justice and its usefulness for society. Legal studies and their enforcement only range about what is right and what is not right, what is wrong and what is not wrong and more other forms nature prescriptive.

This study employs a socio-legal research approach, which is also commonly referred to as sociological jurisprudence. In this approach, law is conceptualized as an empirical social phenomenon that can be observed within real life. The type of research used to complete this dissertation is juridical descriptive-analytical research. This method involves conducting research based on secondary data obtained through a literature review (library research). The collected data is then systematically described, analyzed, and discussed.

Types of data used are primary and secondary data. For to obtain primary data, researchers refer to data or facts and cases law obtained direct through field research including information from related respondents with object research and practice that can see as well as relate with object research. Research This using primary data collection in the form of observation and interviews, while secondary data collection uses *Library Research* (study bibliography) namely collection of data obtained from literature sources, works scientific, regulatory legislation, sources written other related with the problem being studied as runway theory.

Discussion

1. Regulation Sanctions Death Penalty Against Action Criminal Murder Planning Not Yet Based on Justice Values

Relevance punishment dead with Human Rights Human (HAM) is very close, thing This based on a argumentation that the fall punishment dead related close with the most basic rights for human beings. In the context of the fall punishment dead to perpetrator crimes committed in condition certain must be under review in a way deep, remembering the fall punishment dead is the most severe crime in the sense of the perpetrator will lost his life which is something rights that are not invaluable the price.⁹HAM is a set rights inherent in existence man as creatures of God Almighty and are obligatory gift respected, upheld high and protected by the state, law, government and every person for the sake of honor as well as protection dignity and honor man.¹⁰

Every human right gives rise to obligation basis and responsibility answer to be respected reciprocally and task government for protect, promote and enforce it. In the 1945 NRI Constitution as The

⁹Abdur Rahim, Asruddin Azwar, Muhammad Hafiz, & Satrio Wirataru. Death Penalty: Problems of Legality & Humanity. Malang: Intrans Institute, 2015, pp. 54 – 57.

¹⁰Andrey Sujatmoko. Human Rights Law and Humanitarian Law. Jakarta: PT. Raja Grafindo Persada, 2015, p. 26.

country's constitution contains formulation about human rights. This can be found inside opening both inside and outside stem body, with existence formulation the means the state recognizes existence principle protection law against human rights.¹¹ Confession against human rights in Indonesia can be seen in Article 1 of the Law Number 39 of 1999 concerning Human Rights Humans (Law No. 39 of 1999) which provides limitation about human rights as a set of rights inherent in the nature and existence of man.¹²

CHAPTER IX of the 1945 Constitution Article 24 and Article 25 guarantee existence of a power of an independent judiciary, and explanation in Article 1 Paragraph (1) of the Law Number 48 of 2009, namely power of judiciary is independent state power for to organize justice use to uphold law and justice based on Pancasila and Law The 1945 Constitution of the Republic of Indonesia, for the sake of the implementation of the Republic of Indonesia as a legal state. As a legal state then Indonesia always uphold tall right basic human. Criminal death is one of the most controversial crime always get highlight from various circles all over the world. Various kinds of opinions and reasons put forward for support and oppose criminal death. In Indonesia, the Criminal Code that applies is made government Netherlands since January 1, 1918, in Article 10 still to include right criminal death in criminal basically, even though in the Netherlands itself criminal death already abolished in 1870.¹³

Indonesia in handle a case act criminal own law as source rule applicable law through Constitution Number 1 of 1946 concerning the Criminal Code and the Law Number 8 of 1981 concerning Criminal Procedure Law. Second rule the has become source for Indonesia for a long time, even though one of rule the is Dutch heritage, but in provision transition Law be enforced rule law said. With existence principle concordance and provisions transition the law in Indonesia then every rule Dutch so applies in the country where he is colonizing although sometimes still there is a number of opinion that rule law Dutch no suitable applied in Indonesia. Criminal law arrange about a prohibited things committed, threatened, and punished for those who do an act that has been forbidden with so behavior in demand man can controlled. The purpose of the law criminal this actually own a meaning to prevention to symptoms unhealthy social. Function law criminal for limit behavior in demand human behavior in demand the can controlled, with restricted so every man must obey regulation so that it does not make violations that can harm a right other individual. Indonesia as a country of law own the concept, namely capable protect every rights individual inhabitant his country. Therefore, that is needed a set rules, norms and regulations for arrange life socialize every day. Through rule law criminal then the State can do action prevention and action Handling for prevent and implement legal instruments if happen violation the law that occurs. In Constitution Number 1 of 1946 concerning the Criminal Code arrange about crime to life through Article 338 and Article 340 of the Criminal Code. Article 338 regulates about a murder Meanwhile; Article 340 regulates about an act criminal murder planning. In the problems that occur in the judicial process criminal or during the investigation and inquiry process defendant sometimes object with the charges he made accept. In an Example: When the accused is charged with act criminal murder planning However in the description murder the pure a spontaneous action without planned moreover before. Or when a defendant does a murder spontaneous but indicted with murder planning. In the problem the there is confusion that occurred when the police get report on existence murder so that need an information from defendant to his actions with pay attention to the locus and tempos of the crime act criminal murder said. For set which article will charged naturally need an opinion expert or the investigation and inquiry process that is so ripe for determine which article will be charged to perpetrator murder. Because in second act criminal the own threat different punishments, in murder planning threat someone who does

¹¹BIP Editorial Team, ed. The 1945 Constitution of the Republic of Indonesia. Jakarta: PT. Bhuana Knowledge Popular, 2016, p. 199.

¹² Republic of Indonesia Law Number 39 of 1999 concerning Human Rights Human. State Gazette of the Republic of Indonesia No. 165 of 1999. Supplement to State Gazette No. 3886.

¹³Arief Bearnard Sidharta, Analysis Philosophical To punishment Matidi Indonesia. Paper presented in workshop organized by the Human Rights Commission Human (Bandung, December 7, 2005).

murder planning so can be jailed lifelong life or even until the fall criminal dead. Meanwhile, in Article 338 concerning murder normal somebody can be threatened with criminal imprisonment for a maximum of 15 (fifteen) years. In law criminal load about an applicable norms and rules that are of a nature public. Because arrange state relations with inhabitant his country. There are 2 (two) elements the main point of law criminal law. First, there is a norm regarding a prohibition or second commandment (rule), the existence of consequence law in the form of sanctions (sanctions) for violation of the norm in the form of threat with criminal law.² An action can it is said as an act criminal if action the has fulfilled elements action his crimes that have been done. Sometimes apparatus enforcer law difficulty in do the investigation that took place to the fall indictment on an act criminal murder. Action criminal murder and crime criminal murder planning often happened in Indonesia, both crime the is a very serious crime cause restlessness in the midst public accompanied by with an act criminal murder the has planned. Enforcement instruments the law is running in processing a case murder well planned or even those that don't planned moreover first. For make it easier in the process of searching truth material so police as gatekeepers it is necessary thorough in to drop indictment to a murder. Effectiveness enforcement law to act criminal murder good that has been planned moreover formerly or those who haven't planned moreover formerly emphasize to state representatives through police and prosecutors as agency that has the status as enforcer law for to observe more carry on to truth material that occurs to a provision the article that has been violated.

Problematics indictment to perpetrator murder and murder planning give room narrow for enforcer law in to cast indictment to perpetrator. An element offense that has equality added with a element planning that is still in progress become point reject measuring as action the planned or No become such a problem notice for society. A perpetrator or the accused Still own right the law that must be maintained in the judicial process criminal. Referring to to the Criminal Procedure Code in Article 1 paragraph (15) that defendant is a person who is being sued, examined and tried on trial court. In case This speak about protection law for defendant so he also has right For get advisor accompanying law in the trial process, rights to put forward opinion in front of law, and rights others as determined by regulations legislation.¹⁴ problems that arise on mistake indictment for defendant will causing a sense of justice to occur in the midst public decreased, because in matter This all decision The ideal court is one that has certainty, benefit, and justice.

Action criminal murder with murder planning is a crimes regulated in the Criminal Code with chapter Crime to life. Both action the can impact the disappearance the victim's life on a murder. Still a problematic is determination charges, sometimes defendant feel object with an indictment on his crime like object if He charged with threat criminal murder planning so that want indictment on an act criminal murder. An element that have Lots equality between murder with murder planning make enforcer law difficulty in identify crime said, the thing This will more and more made difficult if in murder planning No existence witnesses involved in his actions. A elements to consider in heart in offense murder planning become because identification whether with information perpetrator just Already Enough prove that perpetrator has do murder planning or with a information perpetrator regarding the implementation process murder planning become proof main in fulfillment element offense murder planning, while in matter This murder planning can fulfilled if There is consideration in heart For do murder, so that the Arrest Hoge Raad gives the verdict that murder normal is murder committed in a way spontaneous

Regulation sanctions criminal dead to act criminal murder planning Not yet based on mark justice that implementation criminal death in Indonesia is often not consistent. There are cases where criminal dead enforced in a way selective and careful, while case other no. This is can cause injustice in system justice criminal. There are efforts law outside the usual submitted in a way many times and requests

¹⁴Gabriela K. Kaawoan, 2017, Protection To Defendants and Convicts As Perpetrator Action Criminal Murder, LEX ADMINISTRATUM, <https://ejournal.unsrat.ac.id/index.php/administratum/article/view/15140> accessed on

forgiveness or clemency from the convicts. Until moment This Not yet There is mechanism that explains possibility commutation criminal dead enforced based on success coaching, so that convict dead undergo 2 forms punishment without clarity, namely criminal prison that is not culminating in a return to society and execution dead That Alone.

2. Weaknesses - Weaknesses Regulation Regulation Sanctions Death Penalty Against Action Criminal Murder Planning Now

a. Weakness Aspect Legal Substance

Weakness aspect substance law that is No existence the rules that provide limitation time to When implementation law dead done, in implementation criminal dead, no There is clear rules about mechanism placement including coaching convict dead in waiting period before implementation execution. In addition, Criminal dead considered violate right basic humans, especially right for live and improve life. Some party to argue that punishment dead contradictory with the principles of human rights that are regulated in Universal Declaration of Human Rights Human Being (UDHR).

b. Weakness Aspect Legal Structure

Weakness aspect structure law that is coordination between institutions involved in Handling a case often occurs in Indonesia, including also in matter implementation punishment dead. Even though in a way legal The prosecutor's office was given mandate by law as executor Decision The court, however, the fact in matter punishment dead its implementation must also be involving other institutions in matter This: Police as the implementing party in a way real and correctional institutions which are place convict detained during wait coming execution dead.

c. Weaknesses of Aspects Legal Culture

Weakness aspect culture law that is openness public to party police Still classified as low. This is related with factor fourth Where culture laws that are less responsive and aspirational produce a number of doctrine widespread distrust widespread among society. Therefore, it is expected that the country's leaders capable give role models obey and respect law, giving channel justice that can satisfying society, then with by itself public will more value law.

3. Reconstruction Regulation Sanctions Death Penalty Against Action Criminal Murder Planning Based on Justice Values

a. Foreign Country Review

1). Saudi Arabia

A sentencing verdict convict with dead or stoning or cutting part body only can be carried out after existence Royal Orders issued by the King or its authorized representative; So that palm the fall punishment the can it is possible convict avoid from punishment when He get forgiveness from the King. In executing, punishment the witnessed must witnessed by Representative Governor Administrative, Courts, Promotion of Virtue and Prevention Agency Sin, and the police. This is set up in Article 220 paragraph (2) of the Criminal Code in Saudi Arabia.

Saudi Arabian Constitution has peculiarity constitution namely existence Haqul 'Aam (king's rights) and Haqu / Khos (rights of the victim's family). In the Basic Law Constitution, it is stated that the

King has consolidation law highest namely own veto power in ministerial council resolution namely authority judicial, executive and regulatory in accordance with its function.

The process of falling punishment money before enter to in justice high sharia completed through a diplomatic process! at Lajnah Aflah Ul-islahil Baby. On the mechanism This the government represented by the Ministry of Foreign Affairs carried out mentoring in the negotiation process and diplomatic approach as well cultural to the victim's family. This is as approach in forgiveness for perpetrator qishas and if forgiven so negotiation continue in the range payment money.

Basically task from Lajnah Aflah more to give input to victim's family to applicable wise in making decision. Decision taken no off from influence head tribes and communities in the tribe.¹⁵

Replacement punishment dead become payment data in Saudi Arabia must through the court process. The number ransom is very dependent at the judge's discretion after negotiate with the victim's family. In general, the judge will consider a number of matter among others, proven people in a way legitimate according to law killing a believer, in category intentionally, not intentional, or similar deliberate. If the victim's family is willing money said, the convict and his family No must pay money the.

2. Singapore

Department of Home Affairs in January 2004, issued response on Amnesty International report about punishment died in Singapore. Other crimes threatened with punishment death is also regulated outside "The Penal Code of Singapore" through Constitution individually, including are: (i) ownership and trade weapon fire based on the "Arms Offences Act" Weapons); (ii) exporting, importing, and possessing narcotics exceed the amount that has been determined in Article 2 of the " Misuse of Drugs Act" Narcotics), including producing narcotics; (iii) possession weapon fire, ammunition and materials explosives in the area security based on the "Internal Security Act" (UU Internal Security); and (iv) kidnapping For ransom as offense main based on the " Kidnapping Act."

3. United States

Arrangement act the criminal penalty that is threatened with punishment died in the United States set up in the United State Code (USC). The United State Code (USC) is law crimes that have been codified. Settings punishment dead the set up in a way special in Title to 18. about Crime and Criminal Procedure chapter 228.

In the United States of America there is a number of type the method used for execute punishment dead convicts, including with method punished hanging, bored dead, shoot death, gas chamber and electrocution. For make it easier understand method what is used in each country for do execution dead.

Based on description about setting and implementing waiting periods execution criminal died in Malaysia, Singapore, Saudi Arabia and the United States above, then in a way general can concluded that the countries of Malaysia, Singapore, Saudi Arabia and the United States still maintain criminal dead in law nationally, the same as it is with the State of Indonesia which is still maintain criminal dead. The difference is, namely lies in the procedure execution of a crime dead. Malaysia and Singapore executed convict dead with method hung up until dead in the room hanging inside prison, in Saudi Arabia executed

¹⁵ Final Report of Cooperation Ministry of Foreign Affairs of the Republic of Indonesia with the UI Postgraduate Program, 2015. *Diyat: A Public Analysis*. Jakarta pp. 24-25

dead with method stoned or qisas, then in the United States done with method hanging, bored dead, shoot death, gas chamber and electrocution, while in Indonesia they execute convict dead with method shot until dead and usually held on Nusakambangan Island Cilacap.

b. Reconstruction of Regulatory Values Sanctions Death Penalty Against Action Criminal Murder Planning Based on Justice Values

Formulation Article 340 of the Criminal Code with mention element behavior in demand as "eliminating other people's lives" shows that crime murder planning is a act criminal material. Actions remove life formulated in form active and abstract. There are murders in Article 340 of the Criminal Code, this is murder committed with on purpose and planned moreover formerly in condition calm to eliminate other people's lives. Planning here cover show method implementation murder, tool or means that will be used, place or location will execution of the murder, time its implementation, or even method the murderer planning for remove traces, for example: with throw away tool or means used to do crime, wearing sarong hand in hand not leaving fingerprint finger perpetrator or with throw away the victim's body in the place where it was felt safe. The designers of the Criminal Code (WvS) considered that murder planning is very offensive crime principles just and civilized humanity. In murder planning This required a reason cunning or very evil intentions, tools or adequate facilities, time appropriate and strong motives for move someone for do a cruel murder. Therefore, that threat criminal for murder plan, more weight compared with murder in Articles 338 and 339. This is placed on the existence element with plan first.

Murder planning threatened with criminal dead for protect peace and prosperity general. Planned moreover formerly difference between murder and premeditated murder moreover formerly located in what 's happening inside self the perpetrator before implementation remove soul somebody.

Justice will feel while relevant systems in structures base public organized with good. Sense of justice public we can also find in implementation enforcement law through judge's decision. In practice, the meaning modern justice in Handling problems law it turns out Still *debatable*.¹⁶

In relation to social justice, the view of justice in law literally means that what is in accordance with the law is considered fair, while that which violates the law is considered unjust. If it happens violation law, then must done court for restore justice. In terms of the occurrence violation criminal or the deep one Language daily called "*crime*", then must done the court that will do recovery justice with to drop punishment to the person who does violation criminal or crime.

View justice in law national The Indonesian nation is guided by the state philosophy, namely Pancasila, which is the principle the fifth reads " Justice" Social for All Indonesian People". Which became problem Now is what is it called fair according to Conception law national which is based on Pancasila.

Reconstruction desired value achieved in study This that regulation sanctions criminal dead to act criminal murder planning that was before Not yet fair now has based on mark justice.

c. Reconstruction of Regulatory Norms Sanctions Death Penalty Against Action Criminal Murder Planning Based on Justice Values

Criminal procedure law is overall rule law about method carry out provision law criminal, if There is violation against the norms referred to in the provisions this. So that criminal procedure law created as means in frame enforcement law and justice in realize orderly and peaceful life in society. The

¹⁶ Accessed through <http://repository.unpas.ac.id/3690/4/F.%20BAB%20I.pdf> on December 20, 2023, at 21.45 WIB.

realization of Indonesia as a country of law made regulation legislation which is one of from legislation the is the Criminal Procedure Code which regulates How method to hold a hearing in law criminal, which in book guidelines implementation of the Criminal Procedure Code is For search and get truth material, namely the complete truth from a case criminal with apply provision law in a way honest and precise, with objective For look for who is the perpetrator who can charged a violation law and further ask for examination and verdict court use determine whether proven that an act criminal has committed and whether the person charged can blamed.

Long history humanity and law criminal, in fact has to debate criminal dead and not visit stop, okay from side theory criminalization with prevention or deterrence effect, or from side philosophical theological about right drop it, while from side right basic man with international and regional human rights instruments, after formation United Nations (UN).¹⁷ Global trends of deep states respond criminal dead in policy criminalization they can see the amount as following: (i) delete criminal dead For all type act criminal totaling 102 countries; (ii) removing criminal dead only For act normal totaling 6 countries; (iii) removing criminal dead in practice totaling 32 countries; and (iv) maintain criminal dead totaling 58 countries. In the system Indonesian law, at least there is three twelve (13) regulations existing legislation to list criminal dead as threat criminalization outside provisions regulated in the Criminal Code (KUHP).

Sanctions the dropped to act regulated criminal law in the Criminal Code or as regulated outside the Criminal Code. Basic idea implementation criminal dead in system Indonesian law exists in Article 10 of the Criminal Code which contains two types punishment, namely criminal principal and criminal additional. Criminal main the consists of from: (1) criminal death; (2) criminal prison; (3) criminal imprisonment; and (4) criminal fine. While criminal addition in the form of: 1) revocation right certain; (2) confiscation goods certain; and (3) announcements decision judge. From criminal main that's the criminal idea dead That originated. While that, in level practice, implementation criminal dead set up in Law No. 2/PNPS/1964 concerning Procedures for the Implementation of the Death Penalty Imposed by Courts in the Environment General Courts and Trials The military, which arrived moment This still applicable. Violation rampant law happened in Indonesia recently This is murder. Definition murder a action crime that causes the disappearance life someone, when This Lots happen murder in various the Indonesian region. This is besides influenced by motives or background behind from the perpetrator, is also description the decline of national morals this. Moral decline, oppression economy, impatience and hatred is a number of factors that cause the occurrence murder. So easy somebody remove this other person's life worthy investigated the cause. The severity life and its fragility religious education may also be factor so easy somebody remove other people's lives.¹⁸

Aristotle stated that " poverty cause crime and rebellion. The great crime No made for to obtain what is needed for alive, but for luxury". Speaking about crime specifically murder, people used to kill with a simple way, for example with weapon sharp without torture so that easy revealed by the authority of police. However Now happen incident murder with different and quite way sadistic, namely with method cruel, no Can denied that part big and background behind the occurrence this murder in Indonesia is Sick heart and hatred. When someone No own religious knowledge and control good emotions, then when pain appears heart can culminating in an event murder of a hated person.

The rise murder happened Because various factor, good That Because condition psychic from somebody Where happen disturbance to mental health from somebody so that can do actions that can be classified as action that is not human said, because factor economy, because factor social or also because factor House ladder from the perpetrator.

¹⁷ Flower Hutapea, "Alternative The Drop Death Penalty in Indonesia Seen from a Human Rights Perspective," Jurnal HAM 7, no. 2 (2017): 69, <https://doi.org/10.30641/ham.2016.7.69-83>.

¹⁸WA Gerungan, 2004, *Psychology Social*, Bandung: Aditama, p.1

⁴ Adam Chazawi, 2010, *Crime To Body and Soul*, Jakarta: King of Grafindo Persada, p.56

The rise act criminal murder very much required roles and duties the authorities among them Police, Prosecutor's Office and Judiciary.¹⁹ Murder in the background behind the three motifs, namely Treasure object or Economics, Power, and relations social. One of the motives is Can So reason for perpetrator for do murder. murder Can due to Because light things and spontaneity. For example, Because of emotion perpetrator hooked such that tall so that He dark eyes and do murder.

Based on what is explained above, then can concluded that formulate Article 340 of the Criminal Code with method Thus, the former Constitution on purpose do it with Meaning as the crime that stands yourself. Terms criminal dead set up among others in Law No. 1 of 2023 regarding the Criminal Code (KUHP). For example, Article 17 paragraph (4) of the Criminal Code regulates test do act the criminal penalty that is threatened criminal dead or prison lifelong alive, convicted with criminal maximum imprisonment of 15 years.

Like put forward by R. Soesilo that planning That among other things it is stated: ²⁰" Planning It means with planned more before, translation from the foreign word " metvoorbedacterade " between the emergence Meaning will kill with its implementation Still there is a time for the maker with calm think about with method How should murder That done.

Based on description above, then served table reconstruction as following:

Table 5.1. Summary Reconstruction Regulation Sanctions Death Penalty Against Action Criminal Murder Planning Based on Justice Values

No.	Construction	Weakness	Reconstruction
1.	Constitution Number 1 of 2023 concerning the Criminal Code, namely: Article 459 Every person who with plan moreover formerly to seize other people's lives, is punishable Because murder plan, with criminal dead or criminal prison lifelong life or criminal maximum imprisonment of 20 (twenty) years	Not yet fair	Reconstruction Constitution Number 1 of 2023 concerning the Criminal Code, in Article 459 with add words based on mark justice, so that reads: Article 459 Every person who with plan moreover formerly to seize other people's lives, is punishable Because murder plan, with criminal dead or criminal prison lifelong life or criminal maximum imprisonment of 20 (twenty) years
2	1945 Constitution of the Republic of Indonesia Article 28A Everyone has the right on live and defend his life	Not yet received protection on soul and body (life)	Reconstruction The 1945 Constitution of the Republic of Indonesia, in Article 28A, states: add the word get protection on soul and body (life), so reads: Article 28 A Everyone has the right on live, maintain his life, and get protection on his body and soul (life)

Closing

Conclusion

Regulation sanctions criminal dead to act criminal murder planning Not yet based on mark justice that Regulation sanctions criminal dead to act criminal murder planning Not yet based on mark justice

²⁰R. Soesilo, 2013, *Complete Criminal Code (KUHP) Article by Article*, Politeia, Bogor. p. 16

that implementation criminal death in Indonesia is often not consistent. There are cases where criminal dead enforced in a way selective and careful, while case other no. This is can cause injustice in system justice criminal. There are efforts law outside the usual submitted in a way many times and requests forgiveness or clemency from the convicts. Weaknesses regulation sanctions criminal dead to act criminal murder planning moment This consists of from weakness aspect substance law, structure law and weaknesses aspect culture law. Weaknesses aspect substance law that is No existence the rules that provide limitation time to When implementation law dead done, in implementation criminal dead, no There is clear rules about mechanism placement including coaching convict dead in waiting period before implementation execution. In addition, Criminal dead considered violate right basic humans, especially right for live and improve life. Some party to argue that punishment dead contradictory with the principles of human rights that are regulated in Universal Declaration of Human Rights Human (UDHR). Weakness aspect structure law that is coordination between institutions involved in Handling a case often occurs in Indonesia, including in matter implementation punishment dead. Even though in a way legal The prosecutor's office was given mandate by law as executor Decision The court, however, the fact in matter punishment dead its implementation must also be involving other institutions in matter This: Police as the implementing party in a way real and correctional institutions which are place convict detained during wait coming execution dead. Weakness aspect culture law that is openness public to party police Still classified as low. This is related with factor fourth Where culture laws that are less responsive and aspirational produce a number of doctrine widespread distrust widespread among society. Reconstruction mark regulation sanctions criminal dead to act criminal murder planning based on mark justice that is regulation sanctions criminal dead to act criminal murder planning that was before Not yet fair now has based on mark justice. Reconstruction of regulatory norms sanctions criminal dead to act criminal murder planning based on mark justice in Reconstruction Constitution Number 1 of 2023 concerning the Criminal Code, in Article 459 and the 1945 Constitution of the Republic of Indonesia, in Article 28A.

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