

IMPLEMENTATION OF CRIMINAL LAW PROVISIONS AGAINST SERIOUS KILLERS IN INDONESIA

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Abstract

This study aims to analyze the implementation of criminal law provisions and their punishment for serial killers in Indonesia. The type of research used is normative legal research through a statute approach, a conceptual approach, and a case approach which are analyzed qualitatively-inductively. The study results show that 1) in implementing the criminal law provisions against serial killers in Indonesia, the panel of judges always refers to Article 340 of the Criminal Code regarding premeditated murder because there are no provisions that standardly regulate this, causing criminal disparities. 2) The punishment for serial killers in Indonesia is sentenced to death, life imprisonment, and imprisonment for a certain period. In convicting perpetrators, the Criminal Code does not recognize any particular minimum limits and also does not explain what conditions can be categorized as serial murders. The panel of judges only upholds Article 340 of the Criminal Code with concurrent articles if, after being examined at trial, it is proven that they have committed an act that meets the elements of the article.

Keywords: *Implementation; Criminal law; Serial murder.*

Introduction

Implementation of criminal law in serial murder cases is seen not only in how the perpetrator takes the victim's life but also in the impact he has caused. Khan saw in punishment what he called "a categorical imperative which means that a judge must punish a person because he has committed a crime."¹ Criminal imposition of serial murder cases will not only be sentenced to death or life imprisonment but also be considered for imprisonment for a specific time. This cannot be taken simply because there are no standard provisions regarding why the criminal conviction of serial murder can lead to criminal disparities.

Serial murder is a behavior that deviates from normative rules and injures moral values in society. One way to control it is to carry out deterrence through criminal sanctions. This aims to restore social conditions to be safe again, provide retaliation to the perpetrators, and is a form of protection for society from individuals who have the possibility of being criminals. Thus, such actions can be subject to severe sanctions because the survival of everyone has been guaranteed by law as a right inherent in him since birth. However, in Indonesia itself, there is no regulation on serial killings.

To realize a state of the law with social justice, the existence of a court decision is an authority for the judiciary to

carry out its constitutional duties to enforce the law. In the judicial process, the judge in deciding the case he examines. Even though the type of crime is the same, not necessarily the decision handed down by one judge to another judge will also be the same because to make a judge's decision is influenced by two things, namely ratio and intuition. "Each judge's feeling of fairness is not the same because of the influence of their lives in the social world or the surrounding environment."²

Murder is more severe than other crimes because the consequences are so significant, namely the loss of other people's lives. Murder is also a heinous and inhuman act, especially with the serial murder case that raises awareness and creates fear in the community because there is no sense of security.

Life, which is understood as a union between soul, body, and spirit, is a manifestation of God's gift to the life of every human being. Humans certainly need legal protections to protect life as a gift from God. As a result, criminal acts against life can cause "the loss of a person's life or the death of another person referred to as murder, and the consequences are absolute provisions."³

A criminologist from the University of Indonesia, Yogo Tri Hendrianto, revealed several elements of the murder that could be categorized as serial killings.

¹ Mutia Khanadita E, "Prospek Pidana Kerja Sosial Sebagai Sanksi Pidana Bagi Pelaku Kejahatan Serius Tertentu Dalam Pembaharuan KuHP Indonesia" (UII, 2016).

² Thaufik Amirullah, "Pertimbangan Hukum Hakim Dalam Memutus Perkara Pembunuhan Berencana Dengan Motif Persembahan Upacara

Adat Oleh Suku Noaulu Maluku Tengah (Studi Terhadap Putusan Nomor 87/Pid. B/2005/PN. Msh Dan Putusan Nomor 25/PID/2006/PT. MAL)" (Brawijaya University, 2014).

³ Ismu Gunadi and Jonaedi Efendi, *Cepat Dan Mudah Memahami Hukum Pidana, Kencana* (Jakarta, 2014).

These elements include “planning, targeting victims, repeating patterns from one murder to another, and strategies to eliminate evidence so that it is not quickly revealed.”⁴

Steven Egger states, “a homicide can be classified as a serial murder when one or more individuals have committed two consecutive murders.”⁵ So, several killers, such as Ed Gein, are classified as serial killers because they kill only two people. This act is usually done with psychological motivation. One hypothesis is that all serial killers have personality disorders, antisocial, for example. The term serial killer was coined by a Michigan State University alumnus and FBI agent named Robert Ressler in the 1970s. “Daily talk of the murders committed by Ted Bundy, and David Berkowitz in the middle of the decade.”⁶

Various things underlie the motivation of serial killers, ranging from psychological problems of perpetrators who are disturbed due to pressure from power and sexual deviations to classical reasons, namely economics, that often arise among other criminals. Usually, the perpetrator in his childhood experienced violence, neglect, or was in the social conditions of the people who fell into poverty. It is not surprising that economic problems have played a role as one of the factors behind this phenomenon.

From the formal legal aspect, the judge, in deciding the case, has fulfilled the qualifications for the premeditated murder offense as formulated in Article 340 of the Criminal Code. Although faced with complex conditions that judges independently and independently have constitutional rights to decide cases which are at the same time in line with the value system that judges in deciding cases are obliged to explore the sense of justice and values that live in society as mandated by Article 5 Paragraph (1) of the Law. -Law Number 48 of 2009 concerning Judicial Power. In the tradition of legal-positivism thought, widely adopted by democratic countries today, the law is conceptualized as a product of legislation. Laws are statutory regulations that are produced through the national legislative process.

The law applies solely because it has been stipulated in legislation, regardless of whether its contents contain the values of justice or not. In this system, legal actors (judges and bureaucracy), as in the doctrine of analytical jurisprudence, only serve as trumpets or mouthpieces of the law. Likewise, from the perspective of the fundamental values of Pancasila, especially the second principle, which reads, “just and civilized humanity.”⁷ then, in the construction of positive law, the judge’s decision from the formal legal aspect has been appropriate in applying the law as a form of juridical

⁴ TB Ronny R. Nitibaskara, *Analisa Pembunuhan Berantai di Batam*, https://www.academia.edu/19091073/Analisa_Pembunuhan_Berantai_di_Batam (diakses: 31 Desember 2021).

⁵ Hermawan Aksan, *Jejak Pembunuh Berantai: Kasus-Kasus Pembunuhan Berantai Di Indonesia Dan Dunia* (PT Grafindo Media Pratama, 2008).

⁶ *Ibid*

⁷ *Ibid*.

argumentation for criminal liability for the actions that have been committed.

Several previous studies that are relevant to this research are the research on the Accountability of the Actors of the Crime of Premeditated Murder that is Done Together which discusses the factors that cause the perpetrator to be caused by a factor of encouragement from outside the soul of the perpetrator, the revenge factor due to humiliation. And internal family factors. The perpetrator's criminal liability is related to the defendant's guilt, where the defendant intentionally committed the crime of premeditated murder according to Article 340 of the Criminal Code in conjunction with Article 55 Paragraph (10 to 1 of the Criminal Code). Based on the judge's consideration, it was seen that the defendant did not commit the murder directly. The defendant also played an essential role as an inactive person in realizing the intention to kill the victim's victim's life. Therefore, the panel of judges stated that the defendant had been legally and convincingly proven guilty of committing the crime of premeditated murder, which was carried out jointly, and sentenced the defendant to a prison sentence of 15 (fifteen) years. Then further research on the Judge's Judge's Consideration of the Criminal Imposition of the Criminal Acts of Premeditated Murder concluded that "the basis of the judge's judge's consideration in imposing a prison sentence for the defendant of the crime of murdering

Jessica Kumala Wongso in the decision Number 777/Pid.B/2016/PN.Jkt. Pst"⁸ Before the murder is committed, one or two days before the perpetrator has thought about how to do the deed, where to do it, and so on. Especially if the perpetrator himself gave such information, the defendant's actions, including criminal acts as stated in Article 340 of the Criminal Code and other regulations related to this case, tried the defendant Jessica Kumala Wongso had been legally and convincingly proven guilty of committing a crime of premeditated murder and sentenced the defendant to a prison sentence of 20 (twenty) year.

Based on the data collected, the researcher found that there were at least 15 (fifteen) serial murder cases in Indonesia over more than 3 (three) decades, some of which were exceptional cases that shocked the public at that time. All articles in the case only refer to one potential article, namely Article 340 of the Criminal Code on premeditated murder. The penalties also vary because there are usually other crimes before or after the perpetrator kills. This is because there is no benchmark regarding the number of victims. Also, no parameters can be used as indicators in measuring the level of sadism and cruelty of the perpetrators. Therefore, this research needs to be done because no one has discussed this problem before, so this research needs to be studied.

⁸ Widharma Jaya Sentosa, "Tinjauan Pertimbangan Hakim Atas Penjatuhan Pidana Bagi Pelaku Tindak Pidana Pembunuhan Berencana

(Studi Putusan Nomor 777/Pid. B/2016/PN. Jkt. Pst)" (Jakarta: Universitas Pembangunan Nasional Veteran Jakarta, 2019).

Research Problem

The serial murder article is not regulated in the Criminal Code, and it causes gaps in its implementation because there are no explicit provisions in imposing a sentence. Therefore, this study will discuss: 1) how is the implementation of criminal law provisions against serial killers in Indonesia? 2) What is the punishment for serial murder cases in Indonesia? This study aims to analyze the implementation of criminal law provisions and their punishment for serial killers in Indonesia.

Methodology

The type of research used is normative legal research, which examines a norm or applicable provision. It can also be said as “research conducted by examining library materials or secondary data.”⁹ Meanwhile, the approach used in this type of research consists of a statutory approach, a conceptual approach, and a case approach. In this study, qualitative-inductive analysis was used, where serial murder cases that occurred in Indonesia were collected, then processed to conclude that these cases were applied to the same article, namely Article 340 of the Criminal Code on premeditated murder, even though they were sentenced to different sentences.

⁹ Irwansyah, *Penelitian Hukum ; Pilihan Metode & Praktik Penulisan Artikel*, ed. Ahsan Yunus (Yogyakarta: Mirra Buana Media, 2020).

Analysis and Discussion

A. Implementation of Criminal Law Provisions against Serial Murder Perpetrators in Indonesia

The rules contained in criminal law are one of the guidelines for social life to be able to manifest an ideal of justice. The Criminal Code (KUHP) is a solid basis for determining which actions are prohibited and has strict sanctions against the violators. According to the system in the Criminal Code, criminal acts are divided into crimes (*misdrijven*) and violations (*overtredingen*). Crime is regulated in the second book of the Criminal Code, while the third book regulates violations. However, this research will only focus on crime as an act that can injure the values of justice, especially in the case of murder.

An act is a murder because of the consequences of losing another person's life. Regarding serial killings as the main problem in this study, there is no general definition that defines it. Nevertheless, Egger argues that:

“A serial murder occurs when one or more individuals commit a second murder and/or commit murder in a row where there is no relationship between the victim and the perpetrator of the murder (where the victim does not know the perpetrator); occurred at a different time and had nothing to do with the previous murder, and this often happens in different locations or places..”¹⁰

¹⁰ Hermawan Aksan. *Loc.Cit*

Although the definition states that two serial murders are sufficient to meet the criteria for serial killings, “most sources use a higher homicide rate of 4-5 or more.”¹¹

The term serial murder is not known in the Criminal Code. However, the elements of the offense refer to the premeditated murder contained in Article 340 of the Criminal Code, which reads: “Anyone who deliberately and with a plan in advance takes the life of another person, is threatened with premeditated murder, with a criminal sanction. Death or imprisonment for life or a period of not more than twenty years.”

In terms of the application of criminal law, it is unavoidable to have an interpretation because of the following:¹²

- 1) Written law is static and cannot immediately follow the flow of community development.
- 2) When written law is formed, something is not regulated because it does not become the attention of the legislators.
- 3) Information explaining the meaning of several terms or words in the law itself (Chapter IX Book I of the Criminal Code) may not contain all crucial terms

or words in the articles of criminal legislation, given the many formulations of criminal law provisions.

- 4) Often a norm is formulated briefly and is very general so that it becomes unclear what it means and what it means.

Legal provisions that always lag behind the needs and developments of the community require judges to conduct a comprehensive legal study called legal interpretation. Based on Ahmad Rifai's theory, the conception of judges in interpreting the law can be divided into 2 (two) theories, namely heteronomous law discovery theory and autonomous law discovery theory. The fundamental difference between the two theories lies in how written legal provisions bind judges. The theory of heteronomous law discovery “places judges as the mouthpiece of the law, while the theory of autonomous law discovery places judges in the freedom to understand and relate the law according to the development of society.”¹³ To make it easier to identify serial murder cases in Indonesia, the researchers present the data in the form of the table below :

¹¹ *Forensik Klinik*, <https://forensikklinik.wordpress.com/2006/07/16/definisi/>, (diakses: 8 Februari 2022).

¹² Andi Sofyan and Nur Azisa, *Hukum Pidana, Pustaka Pena* (Makassar, 2016).

¹³ Bambang Hartono and Aprinisa Aprinisa, “Implementasi Sanksi Pidana Pelaku Tindak

Pidana Kejahatan Terhadap Nyawa Orang Lain Yang Direncanakan (Pembunuhan Berencana),” *Jurnal Penelitian & Pengkajian Ilmiah Mahasiswa (JPPIM)* 2, no. 4 (2021): 31–44.

Table 1. List of Serial Murder Cases in Indonesia

No:	Case	Year	Total Victims:	Modus Operandi:	Verdict:	Execution:
1.	Ahmad Suradji	1986 -1997	42 women	Mutilating and sucking the victim's saliva	Death Penalty	2008
2.	Astini	1992 -1996	3 women	Mutilating	Death Penalty	2005
3.	Baekuni (Babeh)	1993 -2010	14 boys	Harassing and mutilating the victim	Death Penalty	Not executed yet
4.	Siswanto (Robot Gedek)	1994 -1996	12 boys	Harassing, mutilating and drinking the victim's blood	Death Penalty	Died 2007 before being executed
5.	Antonius Rio Alex Bulu (Rio Martil)	1997 -2005	5 people	Hitting the victim's head with a hammer	Death Penalty	2008
6.	Garibaldi Handayani	1999 -2004	7 people	Shoot and burn victims	Imprisonment Lifetime	Died in custody
7.	Prakash Agung Nugraha	1999 -2009	2 boys	Poisoning and robbing victims	Imprisonment Lifetime	Serving prison time
8.	Very Idham Henyansyah (Ryan)	2006 -2008	11 people	Mutilating and burying the bodies of victims	Death Penalty	Not executed yet
9.	Tubagus Yusuf Maulana (Dukun Usep)	2007	8 people	Deceive and poison the victim	Death Penalty	2008
10.	Yulianto	2010	7 people	Poisoning and slashing the victim's body	Death Penalty	Not executed yet
11.	Mujianto	2011	15 people (4 die)	Poisoning and sodomizing the victim	Imprisonment	9 Years
12.	Wisnu Sadewa	2013	2 people	Strangling, raping and stealing the victim's property	The death penalty or life imprisonment	Suicide in 2013 in custody
13.	Muhammad Delfian, Dita Desamala, Supiyan	2013 -2014	7 people	Kidnapping, committing sexual violence, mutilating, dismembering and selling the victim's flesh	Death Penalty	Not executed yet
14.	Nurma Andika Fauzy (NAF)	2021	4 women (2 die)	Robbing and poisoning victims	Imprisonment Lifetime	Serving prison time
15.	Muhamad Rian (MRI)	2021	2 women	Robbing and strangling the victim	Imprisonment	13 Years

Data Sources: Judge's Decision, KontraS and dari from several online page

The table above shows that serial killings in Indonesia continue to occur. The time interval between one case and another is less than ten years. While some cases are only one year apart, others occur in the same year. The perpetrators targeted various victims, ranging from children to adults, men and women, regular people and those suffering from

mental retardation, and civilians to military residents.

Serial killers in Indonesia target victims according to their underlying motives. Although in terms of the relationship between the perpetrator and the victim, in some cases, some only know him after a brief meeting, and some even have never known him before, most serial

killers in Indonesia have specific characteristics. Usually, some aspects stand out in determining the victim. As in the case of pedophilia, perpetrators choose children as their victims, for example, in Babeh/Baekuni and Siswanto. Furthermore, perpetrators who have fantasies or ideals that are considered can only be achieved if he kills. This type is based on the idea that after killing them, they will gain supernatural powers through shamanism, as in the case of Ahmad Suradji and Muhammad Delfi. Dita Desamala and Supiyan assisted them. In addition, some cases occur because of revenge and hurt motives, and this is still divided into several parts, namely, revenge caused by jealousy, for example, in the case of Mujianto and Fery Idham Henyansyah, revenge due to debts, for example, the case that happened to Yulianto, Prakash Agung Nugraha, Astini and the rest are cases that are motivated by economic motives.

Some of the motives above show that an abnormal mental condition can trigger someone to act evil to encourage them to kill. This agrees with one of the hypotheses that all serial killers have personality disorders, as in antisocial people. Understanding human behavior related to psychological problems has weaknesses in the decision-making process by judges. This can happen because no standardization determines how a person who commits a crime can be free from all

charges. After all, his psychology is disturbed.

Psychological errors contain several weaknesses, and in them, there are also various variants of the meaning of the error, so the concept of normative error (normative *Schuldbegrip*) appears as a correction for the psychological error earlier. According to normative error, an error is defined as a criminal act that can be reproached because, from the perspective of society, he can do something else if he does not want to do the act'. A person can be said to have made a mistake if, at the time he committed a crime, from the perspective of the community, he could be blamed for it, namely, "why do you do an act that harms the community even though you can know the meaning of the act and therefore you can even have to avoid such an act."¹⁴

Roeslan Saleh said that the component of 'can be blamed for criminal acts' affirms the normative assessment of wrongdoing. In the subject of human law, whether or not there is an error is not determined by how in reality, the defendant's mind is, but it depends on that mind whether it is judged to be there or not. So, the point of emphasis lies in "a normative assessment of the maker's mental state and the relationship between that mental state and his criminal act so that the person can be reproached for his actions."¹⁵

¹⁴ Lukman Hakim, *Asas-Asas Hukum Pidana Buku Ajar Bagi Mahasiswa* (Yogyakarta: Deepublish, 2020).

¹⁵ *Ibid*, hal. 51.

In short, what is judged is not on the person's inner guilt but on how the judge assesses his inner state and the facts. Thus, "as long as it is against the subject of human law, the normative understanding of error stems from the legal assessment of the maker's psychology."¹⁶ It is not the psychological that is important but the normative assessment of the psychological state of the maker when committing a crime. The normative sense of error in it contains a psychological meaning. In other words, whether the defendant will be convicted or acquitted. If he is convicted, it must be proven that "the act committed was against the law and the defendant is capable of being held accountable."¹⁷

To find the truth to determine a person's guilt, a judge must know what is right and what is wrong. So there must be a size or handle. In applying the law, it must be proven that there is a relationship between a person's actions and an action or event in order to fulfill the element of premeditated murder in a serial murder case.

From the description above, there is a criminal disparity in the application of criminal law to serial killers. This is because, in some cases, they also take the victim's property apart from killing the perpetrator. Then in subsequent cases,

sexual violence and cruel and sadistic acts in the form of mutilation were found.

Muladi and Barda Nawawi argue that criminal disparity has the following meanings:

1. "Unequal criminal application of the same crime;
2. The application of unequal punishments to crimes of comparable severity;
3. The application of unequal punishment to those who jointly commit a crime."¹⁸

Rusli Muhammad suggested that judges' considerations can be divided into 2 (two) categories: juridical and non-juridical considerations. Juridical considerations are judges' considerations based on "juridical facts that are revealed in the trial and by law are determined as things that must be included in the decision."¹⁹ for example, the indictment of the public prosecutor, criminal charges, statements of the defendant, the testimony of witnesses, evidence, and articles in criminal law regulations.

In addition to considering juridical matters, judges, in making decisions, make non-juridical considerations. Non-juridical considerations start from the adverse impact and damage to the order in the life of society and the state. The non-juridical considerations, according to Lilik Mulyadi, are:

¹⁶ *Ibid.*

¹⁷ *Ibid*, hal. 39-40.

¹⁸ Irfan Ardiansyah, "Pengaruh Disparitas Pemidanaan Terhadap Penanggulangan Tindak Pidana Korupsi Di Indonesia," *Jurnal Hukum Respublica* 17, no. 1 (2017): 76-101.

¹⁹ Deti Rahmawati, I Ketut Siregig, and Zainudin Hasan, "Pertimbangan Hakim Dalam Menjatuhkan Pidana Terhadap Pelaku Tindak Pidana Pembunuhan Berencana," *Widya Yuridika: Jurnal Hukum* 4, no. 1 (2021): 207-18.

- a) "The defendant's condition can be held accountable for his actions in the sense that he is mature and aware (not crazy);
- b) the motive and purpose of committing a criminal act;
- c) how to commit a criminal act;
- d) the inner attitude of the perpetrator of the crime;
- e) curriculum vitae and socioeconomic conditions;
- f) the attitude and actions of the perpetrator after committing a crime;
- g) criminal influence on the perpetrator's future."²⁰

Problems regarding crime in law enforcement in Indonesia cannot simply be abolished. The only thing that can be taken is efforts to minimize the criminal disparity in society. The most critical effort that must be taken in dealing with the problem of criminal disparity is the need for judges to "appreciate the principle of proportionality between the interests of the community, the interests of the state, the interests of the perpetrators of crimes and the interests of victims of criminal acts."²¹

Proportionate punishment is a sentence that is appropriate to the seriousness of the crime committed. In essence, proportionality requires a value scale to weigh and assess the severity of the crime associated with the crime. Values and norms prevailing in society and culture tend to be the determinants in

determining the ranking of sanctions that are deemed appropriate and appropriate in particular historical contexts. "Judges' discretion is likely to be misused, so sentencing guidelines are considered the best way to limit judges' freedom."²²

With the implementation of a legal provision in Article 340 of the Criminal Code and the defendant is proven to have violated the article, it has an impact on the realization of a legal certainty where the defendant can be held accountable for his actions, and by him also, the decision can be of justice for the victim and bring benefits to the maintenance of order and peace in the community.

B. Sentencing in Serial Murder Cases in Indonesia

Sentencing can be interpreted as the stage of determining sanctions and imposing sanctions in criminal law. The word "criminal" is generally defined as law, while "criminal" is defined as punishment. Sentencing as an act against a criminal can be justified typically, not mainly because the punishment contains positive consequences for the convict, the victim, and the community. Therefore this theory is also called the theory of consequentialism. "Criminals are imposed not because they have done evil, but so that the perpetrators of crimes no longer

²⁰ *Ibid*, hal. 211.

²¹ Himawan Putra Pradiptha, "Disparitas Pidana Terhadap Pelaku Pembunuhan Berencana Dengan Mutilasi (Studi Kasus Putusan Nomor: 1036/Pid/B/2008/PN. DPK Dan 44/Pid.

B/2014/PN. Srp)" (Mataram: Universitas Mataram, 2020).

²² Nimerodi Gulo, "Disparitas Dalam Penjatuhan Pidana," *Masalah-Masalah Hukum* 47, no. 3 (2018): 215-27.

do evil and other people are afraid to commit similar crimes."²³

According to Ruben Achmad, the essence of criminal sanctions to punish them is centered on modern schools. Modern schools look at the maker (the perpetrator of the crime) and require criminal individualization, meaning "in sentencing, pay attention to the characteristics and circumstances of the maker."²⁴

Roeslan Saleh stated, "*criminal responsibility* is defined as the continuation of objective reproach that exists in a criminal act and subjectively fulfills the requirements to be punished for that act. More simply is that the basis for the existence of a criminal act is the principle of legality. In contrast, the basis for criminal prosecution is the principle of no crime without error (abbreviated as the principle of error). This means that the perpetrator will only be punished if he has a mistake in committing the crime."²⁵

The criminal proceedings in cases punishable by death (Article 340 of the Criminal Code) and other types of murder have the same procedure, with no differences or different qualifications.

In serial murder cases in Indonesia, it is often found that other criminal acts were committed either before or after the perpetrator killed his victims. This makes

the panel of judges impose a sentence by juxtaposing Article 340 of the Criminal Code with concurrent articles such as Article 65 of the Criminal Code contained in the Baekuni/Babeh and Muhammad Delfi cases.

The definition of *concursum* (concurrent), according to Aruan Sakidjo and Bambang Poernomo, is someone who commits an act that violates several criminal law regulations or commits several acts, each of which is a stand-alone act that will be tried at once. One of the acts has not been sentenced by a judge.²⁶

The essence of the teaching of concurrent criminal acts is practically essential for judges in terms of wanting to impose a sentence on perpetrators who are proven to have committed a series of criminal acts, which in this case is to determine the type of crime (*strafsoort*) and the size/light weight of the crime (*strafmaat*).²⁷

In essence, everything that is decided depends on various factors that are taken into consideration by the judge, such as how the murder was committed and what was the basis for it. Other considerations can also be measured through personality indicators displayed by the perpetrator, whether the perpetrator is a sadistic type of killer or not, whether there is any remorse that is

²³ Amir Ilyas and Maulana Mustamin, *Asas-Asas Hukum Pidana: Memahami Tindak Pidana Dan Pertanggungjawaban Pidana Sebagai Syarat Pemidanaan: Disertai Teori-Teori Pengantar Dan Beberapa Komentar* (Kerjasama Rangkang Education Yogyakarta & PuKAP-Indonesia, 2012).

²⁴ Azalea Zahra Baidlowi, "Kajian Yuridis Tentang Perbarengan Melakukan Tindak Pidana Pembunuhan Berencana Berdasarkan Pasal 340 KUHP," *LEX ET SOCIETATIS* 5, no. 9 (2017): 89.

²⁵ Amir Ilyas, *Loc.cit.*

²⁶ Andi Sofyan dan Nur Azisa, *Op.Cit.*, hal. 210.

²⁷ *Ibid*, hal. 211.

shown, or whether it is a feeling of pleasure that appears after being researched and observed. Assessment of the perpetrator's personality can not only be identified through the method used when killing the victim's life. However, it can also be seen through the crimes before or after the offense is committed. This can determine whether the perpetrator is a hazardous person and deserves the death penalty or a life sentence. Imprisonment is considered inappropriate if imposed on the perpetrator. This is because the murders committed have gone through the planning process and have been carried out repeatedly. It is a wise move for death row convicts to be executed immediately, or at least the convict can be sentenced to life in prison without parole.

Conclusion

1. In implementing the provisions of the criminal law against serial killers in Indonesia, the panel of judges always refers to Article 340 of the Criminal Code regarding premeditated murder because there are no provisions that standardly regulate this, causing criminal disparities.
2. The punishment for serial killers in Indonesia is sentenced to death, life imprisonment, and imprisonment for a certain period. In convicting perpetrators, the Criminal Code does not recognize any particular minimum limits and also does not explain what conditions can be categorized as serial murders. The judges only adjudged Article 340 of the Criminal Code with concurrent articles if, after being

examined at trial, it was proven that they had committed an act that fulfilled the elements of the article.

Suggestion

1. The government should take firm steps in laying the political basis for a total codification of criminal law, one of which is the regulation of serial killings. Explicitly, this crime can be added to and become part of Article 340 of the Criminal Code or as an independent article, which is in order after Article 340 of the Criminal Code in the chapter on crimes against life provisions. This is needed so that the application of criminal law does not become ambiguous, as found in this study.
2. The government should make provisions on sentencing guidelines, especially regarding the severity of the sentence, namely the death penalty, or at least be able to include a minimum limit provision, namely life imprisonment for serial killers in Indonesia, because these crimes are crueller than murder in general which is usually only sentenced to imprisonment. This is an effort to provide justice to victims and their families because their rights must be protected. Besides that, it is also an action that can restore a sense of security and create order in society.

References

Books:

Amir Ilyas and Maulana Mustamin, *Asas-Asas Hukum Pidana: Memahami Tindak Pidana Dan Pertanggungjawaban Pidana Sebagai Syarat Pemidanaan: Disertai Teori-Teori Pengantar Dan Beberapa Komentar* (Kerja sama Rangkang Education Yogyakarta & PuKAP-Indonesia, 2012).

Andi Sofyan and Nur Azisa, *Hukum Pidana, Pustaka Pena* (Makassar, 2016).

Hermawan Aksan, *Jejak Pembunuh Berantai: Kasus-Kasus Pembunuhan Berantai Di Indonesia Dan Dunia* (PT Grafindo Media Pratama, 2008).

Irwansyah, *Penelitian Hukum; Pilihan Metode & Praktik Penulisan Artikel*, ed. Ahsan Yunus (Yogyakarta: Mirra Buana Media, 2020).

Ismu Gunadi and Jonaedi Efendi, *Cepat Dan Mudah Memahami Hukum Pidana, Kencana* (Jakarta, 2014).

Lukman Hakim, *Asas-Asas Hukum Pidana Buku Ajar Bagi Mahasiswa* (Yogyakarta: Deepublish, 2020).

Mutia Khanadita E, "Prospek Pidana Kerja Sosial Sebagai Sanksi Pidana Bagi Pelaku Kejahatan Serius Tertentu Dalam Pembaharuan Kuhp Indonesia" (UII, 2016).

Journals:

Azalea Zahra Baidlowi, "Kajian Yuridis Tentang Perbarengan Melakukan Tindak Pidana Pembunuhan Berencana Berdasarkan Pasal 340

KUHP," *LEX ET SOCIETATIS* 5, no. 9 (2017): 89.

Bambang Hartono and Aprinisa Aprinisa, "Implementasi Sanksi Pidana Pelaku Tindak Pidana Kejahatan Terhadap Nyawa Orang Lain Yang Direncanakan (Pembunuhan Berencana)," *Jurnal Penelitian & Pengkajian Ilmiah Mahasiswa (JPPIM)* 2, no. 4 (2021): 31-44.

Deti Rahmawati, I Ketut Siregig, and Zainudin Hasan, "Pertimbangan Hakim Dalam Menjatuhkan Pidana Terhadap Pelaku Tindak Pidana Pembunuhan Berencana," *Widya Yuridika: Jurnal Hukum* 4, no. 1 (2021)

Himawan Putra Pradiptha, "Disparitas Pidana Terhadap Pelaku Pembunuhan Berencana Dengan Mutilasi (Studi Kasus Putusan Nomor: 1036/Pid/B/2008/PN. DPK Dan 44/Pid. B/2014/PN. Srp)" (Mataram: Universitas Mataram, 2020).

Irfan Ardiansyah, "Pengaruh Disparitas Pidanaan Terhadap Penanggulangan Tindak Pidana Korupsi Di Indonesia," *Jurnal Hukum Respublica* 17, no. 1 (2017)

Nimerodi Gulo, "Disparitas Dalam Penjatuhan Pidana," *Masalah-Masalah Hukum* 47, no. 3 (2018)

Thaufik Amirullah, "Pertimbangan Hukum Hakim Dalam Memutus Perkara Pembunuhan Berencana Dengan Motif Persembahan Upacara Adat Oleh Suku Noaulu Maluku Tengah (Studi Terhadap Putusan Nomor

87/Pid. B/2005/PN. Msh Dan Putusan Nomor 25/PID/2006/PT. MAL)” (Brawijaya University, 2014).

Widharma Jaya Sentosa, “Tinjauan Pertimbangan Hakim Atas Penjatuhan Pidana Bagi Pelaku Tindak Pidana Pembunuhan Berencana (Studi Putusan Nomor 777/Pid. B/2016/PN. Jkt. Pst)” (Jakarta: Universitas Pembangunan Nasional Veteran Jakarta, 2019).

Website:

Forensik Klinik, <https://forensikklinik.wordpress.com/2006/07/16/definisi/>, (diakses: 8 Februari 2022).

TB Ronny R. Nitibaskara, *Analisa Pembunuhan Berantai di Batam*, https://www.academia.edu/19091073/Analisa_Pembunuhan_Berantai_di_Batam (diakses: 31 Desember 2021).