

## Proving Motive In Premeditated Murder Cases

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### KEYWORDS

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### ABSTRACT

The proof of motive in the crime of premeditated murder plays a crucial role but faces significant challenges due to the absence of a clearly defined motive within Article 340 of the Indonesian Criminal Code, leading to varying interpretations and inconsistent applications of the law. Some judges consider motive as a basis for sentencing, while others do not, resulting in legal uncertainty and concerns over fairness and uniformity in judicial decisions. This research aims to analyze the position of motive proof within the crime of premeditated murder and propose an ideal concept for its future application. Using a normative legal research method with statutory, conceptual, and case study approaches, the findings reveal that the absence of a clear directive regarding motive causes inconsistent judicial practices and undermines legal certainty. The study highlights the need to explicitly incorporate motive as an essential element of proof in Article 340 to enhance fairness and consistency in judicial decisions. It concludes that integrating motive into the legal framework of premeditated murder is critical to ensuring clarity for judicial interpretation, upholding justice, and strengthening the reliability of the legal system.

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### Introduction

The crime of premeditated murder is an unwanted act as well as an act that is condemned because it concerns the loss of a person's life. In addition, in the act of premeditated murder it is difficult to prove because to realize the crime of premeditated murder that has been planned requires evidence in accordance with the criminal procedure law to dismantle the crime, then sometimes it becomes difficult in terms of proof in the trial process in the Court in terms of proof, in the crime of premeditated murder which becomes interesting to be examined because of several of these things, namely: (Chazawi, 2021)

First, Article 340 of the Criminal Code (KUHP) does not include motive as an element of Article in the Criminal Code, but it is important for law enforcement to be considered in imposing criminal penalties on the perpetrators of the crime of premeditated murder. Second, the act of premeditated murder is so difficult to prove in the trial process, because the act of murder with pre-planning and coupled with the interpretation needs to

have a motive behind the planning so that premeditated murder is committed (Suadi, 2020). Third, the Public Prosecutor (JPU) has the responsibility to prove whether the act committed by the defendant is a premeditated murder or not, meaning that the prosecutor is obliged to prove (Kusumohamidjojo, 2016). Fourth, the evidence against the crime of premeditated murder has been regulated in the evidence contained in Article 184 paragraph 1 of the Criminal Procedure Code regarding evidence in criminal law, be it witness statements, expert statements, letters, instructions and statements of the defendant. Evidence in criminal law can determine what punishment will be received from the Panel of Judges for the acts committed. Fifth, the punishment for a person who commits the crime of premeditated murder in Article 340 of the Criminal Code (KUHP) with the death penalty or life imprisonment or imprisonment for 20 (twenty) years (Tanya et al., 2013).

In this research on motives, there is a lot of debate about the existence and absence of motives from academics and legal practitioners, so to discuss motives, you can use an explanation of motives from the perspective of psychological psychology in order to shed light on what is meant by motives in the crime of premeditated murder. Conveyed by Sigmund Freud said that the motive is as an energy contained in a person (Laoly & Fathoni, 2019). Thus encouraging someone to commit a crime. In the elements of Article 340 of the Criminal Code (KUHP) so that a revision is made to the elements of Article 340 of the Criminal Code (KUHP) in order to ensure a certainty, usefulness and legal justice. Article 340 of the Criminal Code (KUHP) should not be left alone because it can harm the perpetrator who is suspected of committing the crime of premeditated murder. The existence of clarity in an article, especially in the crime of premeditated murder in the Criminal Code (KUHP), can make it easier for law enforcers so that there is no multi-interpretation so that the values of justice cannot be seen, let alone realized in the application of the law (Nasional et al., 2015).

In analyzing the crime of premeditated murder, it is essential to emphasize the role of evidence as stipulated in Article 184 paragraph 1 of the Criminal Procedure Code. This provision underlines the need for comprehensive and robust evidence to establish the guilt of the accused beyond a reasonable doubt (Mochtar, 2023). The absence of concrete evidence can lead to a miscarriage of justice, either by convicting an innocent person or by failing to punish a guilty individual. The challenges of gathering such evidence often stem from the covert and calculated nature of premeditated murders, where the perpetrator takes deliberate steps to cover up their actions. Therefore, there is a need to strengthen investigative techniques and evidence-gathering methods to ensure that justice is served effectively (Sitanggang, 2018).

Moreover, the role of motive in premeditated murder cases is a subject of significant debate among legal scholars and practitioners. While Article 340 of the Criminal Code does not explicitly list motive as an element of the crime, understanding the motive can provide valuable insight into the perpetrator's intent and the circumstances surrounding the crime (Huda & S HI, 2021). Legal systems in other jurisdictions often consider motive to determine the severity of the sentence, as it reflects the psychological state and moral culpability of the offender. Integrating motive as a consideration in the Indonesian Criminal Code could help in achieving a more nuanced and equitable approach to sentencing (Hadiman et al., 2023).

Additionally, psychological perspectives, such as those proposed by Sigmund Freud, offer critical insights into the underlying factors that drive individuals to commit premeditated murder. Freud's theory suggests that motives stem from deep-seated

psychological energies that influence behavior (Leks, 2022). By incorporating psychological assessments into legal proceedings, courts can gain a more comprehensive understanding of the defendant's actions and the broader context of the crime. This approach can also assist in determining appropriate rehabilitation measures for offenders, ensuring that justice is not only punitive but also reformative (Salim, 2021).

Furthermore, the ambiguity in the elements of Article 340 of the Criminal Code creates room for multiple interpretations, potentially leading to inconsistent legal outcomes. This lack of clarity not only affects the accused but also poses challenges for law enforcement officers and the judiciary. A revision of Article 340 to provide a more precise definition of premeditation and its associated elements would enhance legal certainty, utility, and justice. Clearer legal provisions can serve as a guide for law enforcement and judicial bodies, reducing the risk of arbitrary or erroneous decisions in cases of premeditated murder (Prasetyo, 2010).

Lastly, the severe penalties prescribed under Article 340, including the death penalty and life imprisonment, highlight the gravity with which the law views premeditated murder. However, these penalties also necessitate a rigorous standard of proof and fairness in the judicial process to prevent wrongful convictions. Balancing the need for deterrence with the principles of justice and human rights is critical. This includes re-evaluating the proportionality of punishments and exploring alternative measures that focus on rehabilitation and social reintegration, particularly in cases where mitigating factors are present. Such efforts would align the criminal justice system with modern principles of restorative justice while maintaining its primary objective of upholding public safety and moral order (Handayani, 2018).

The urgency of this research lies in addressing the inconsistent judicial practices and interpretations surrounding the proof of motive in premeditated murder cases under Article 340 of the Indonesian Criminal Code. The lack of a clearly defined motive within the article has led to disparities in sentencing and a lack of legal certainty, which undermines the principles of justice and equality before the law. Considering the severe penalties associated with premeditated murder, such as life imprisonment or the death penalty, the absence of a standardized approach to proving motive presents a significant challenge to fair and equitable law enforcement.

The research gap emerges from the limited focus on integrating motive into the elements of premeditated murder within the legal framework. While other jurisdictions often consider motive as a critical factor in determining intent and culpability, Indonesian legal provisions lack explicit directives in this regard. Existing studies have largely overlooked the role of motive in bridging subjective and objective elements of Article 340, leaving a void in understanding its impact on legal certainty and fairness in judicial outcomes.

The novelty of this study lies in proposing an ideal concept for incorporating motive as an essential element of premeditated murder within the Indonesian Criminal Code. This research emphasizes the need for a multidisciplinary approach, integrating psychological perspectives to provide deeper insights into the intent behind criminal acts. By addressing the interpretative challenges and presenting a clear framework for motive-based legal assessments, this study contributes to the development of a more robust and equitable legal system.

The aim of this research is to analyze the role of motive in premeditated murder cases and propose a comprehensive legal framework for its inclusion within Article 340. The findings are expected to enhance legal certainty, improve judicial consistency, and

ensure a more equitable approach to sentencing. The study also seeks to benefit law enforcement officials, prosecutors, and judges by providing clearer guidelines for interpreting motive, ultimately strengthening the reliability and fairness of Indonesia's criminal justice system.

### **Research Methods**

This type of normative juridical research is research on positive legal principles and legal principles that is carried out by evaluating legal principles, namely relevant laws and regulations. Statute Approach, Case Approach, Historical Approach, Comparative Approach, Conceptual Approach (conceptual approach), and a philosophical approach. Prescriptive research is the object of this legal science is the coherence between legal norms and legal principles, between legal rules and legal norms and the coherence between behavior and legal norms. The source of research data was obtained from primary legal materials, secondary legal materials, and tertiary legal materials collected using library research techniques (Masidin, 2023).

### **Results and Discussions**

#### **The Position of Motive in the Crime of Premeditated Murder**

Law enforcement in force in Indonesia is carried out by law enforcement officials in the criminal justice system that has been given tasks by the state and is based on laws and regulations. Mardjono Rekspdiputro explained that the "Indonesian criminal justice system" is a crime control consisting of the Police, Prosecutor's Office, Courts and correctional institutions. Augustine in the maxim "an unjust law is not a law" but "an unjust law is not seen by me as a law", the meaning of the depth of the expression conveyed by Augustine shows the real and real law and what is expected is the law that can bring justice. Aristotle said that doing justice is not because we learn or know justice, but because we are used to upholding justice. Not only Augustine and Aristotle gave opinions on justice, but Gustaf Radbruch also said that the principles of justice are more important and take precedence over the principles of legal certainty.

In the law enforcement that should be carried out, the public can feel that the law in this country that is fair still exists. Law enforcers guide, as stated by Thomas Aquinas, that the law governs and protects all individuals and does not grant privileges to rulers. Regarding law enforcement, we are witnessing together where law enforcement is not in accordance with what is expected because a lot of law enforcement is carried out because there are political elements that produce law enforcement for the benefit of individuals and groups. Aquinas strongly emphasizes that in law enforcement it does not look at who the person is, whether he is rich or poor, here Aquinas prioritizes equality before the law. In providing justice as conveyed by experts, the role of law enforcement to find out the truth by the defendant makes it a challenge for law enforcement to further explore the truth of a fact that occurred, indeed finding the truth directly from the defendant is so difficult because "the truth is that only he (the perpetrator and victim) knows and only God knows".

Because in humans they are more likely to tell who can win them, it often happens in trials, the defendant lies more. However, lies and the truth are difficult for us to detect even though we use other science to find out, and from the events that occurred, it became a reference for law enforcement to really reveal the hidden truth of the defendant in the trial. Knowing the motives of the defendant in the trial is the same as knowing who is the real cause of the initial occurrence of a crime, the motives are often set aside and

considered only as aggravating things and things that can mitigate a sentence imposed by the judge in the trial. Jhon Rawls said "the most basic thing about justice, by giving them the same rights from their reasonable positions" Rawls added that "the good for the whole society cannot override or interfere with the sense of justice of everyone who has acquired a sense of justice, especially the weak of society". By revealing the motive in premeditated murder, it will shed light on law enforcement the cause of a result of premeditated murder and determine the justice that will be given to the defendant by law enforcement. This is inseparable from the role of law enforcement to really reveal who the truth of the case is in the crime of premeditated murder. Motives are movements or impulses, giving rise to desire so that there is energy in a person's actions as long as the cognitive or behavioral trajectory leads to the satisfaction of needs. Giddens explained about motives where motives are not always in a conscious state but can be a state of feeling. The difficulties in proving the motive are as follows:

Crimes that cause a lot of complexity, in cases of premeditated murder are difficult cases to solve because it is about proving the elements of Article 340 of the Criminal Code, both subjective elements and objective elements that must be proven and require precision in separating premeditated murder and ordinary murder in Article 338 of the Criminal Code. In premeditated murder cases, as a result of the difficulty of the elements of the article that must be proven, the Panel of Judges at the trial has difficulty in sentencing the defendant for premeditated murder and not least in premeditated murder cases where the verdict of sentencing is often wrong.

The quality of law enforcers, be it the Police, Prosecutors, Judges and Advocates in their duties makes the basis for courage, honesty and truth in realizing the goals of the law, namely certainty, usefulness and justice. Law enforcers must have the expertise and ability to find the perpetrators of premeditated murder with their abilities. However, the weakness of law enforcers starting from the police level is the initial determinant to determine a person to be a suspect, where the habit of the police who become investigators is not based on the principle of presumption of innocence but rather inclined to use the principle of presumption of guilt, then the result is forcing a person to become a suspect without going through the processes in the criminal procedure law and there are many other things that are the quality of the police investigator still doubtful in the handling of a case, especially in the case of premeditated murder.

The Public Prosecutor in the Court who has the duty to prosecute someone but the prosecutor in resolving the case of premeditated murder cannot prove the motive, it is not that there is no basis for the prosecutor why not prove the motive, the prosecutor only proves the elements of Article 340 of the Criminal Code, but the prosecutor is required here to be professional in proving the motive in the crime of premeditated murder not only to prosecute but must know the motive of the crime of premeditated murder. The judge who is the last person in making the decision to impose a criminal sentence on the defendant in the Court really uses confidence based on a minimum of two pieces of evidence at trial. Judges should not be rash in making a decision because if they make the wrong decision, it will result in injustice to both parties, both the perpetrator and the perpetrator's family as well as to the victim or victim's family. The judge in revealing the motive has a very important role, because the judge can order the prosecutor to prove the motive and to the defendant to say the motive for the crime of premeditated murder committed against the victim. The Judge's decision on the premeditated murder case shows the quality of the Judge in imposing a criminal sentence against the defendant in Court.

Expert testimony, in the trial, is very necessary to shed light on the case of premeditated murder in court. Experts are often provided by both parties, both from the Public Prosecutor's Office and from the Legal Advisor in the submission of expert testimony in court, there is a difference of opinion, either expert testimony from the Public Prosecutor who says the motive does not need to be proved, while expert testimony from the Legal Advisor says that the motive needs to be proven in the case of premeditated murder, then it is returned to the Judge to assess the expert testimony that needs to be used. as well as finding out about experts by asking those who deserve to be questioned about the quality of the experts who have provided expert testimony, presented by the prosecutor and from PH, in order to see the assessment that is worthy of using expert testimony to make it brighter and need a motive or no motive in premeditated murder.

The honesty of the defendant, the honesty of the defendant in giving evidence in court is very important, but sometimes what is conveyed by the defendant is more telling that can benefit the defendant or not telling the truth. The defendant's confession is very helpful to mitigate or aggravate the sentence imposed by the Judge against the defendant. The experience that the Judge often encounters in Court is the defendant's dishonesty makes the Judge more careful in assessing the confession of the defendant. In the case of premeditated murder, honesty from the defendant is very necessary so that he can find the facts of the actual incident and shed light on the motive in the crime of premeditated murder. The difficulty in assessing the truth conveyed by the defendant in court is material for law enforcement and the government to be serious in finding a way to see the valid truth from what is conveyed by the defendant because what the defendant conveys "we cannot say everything is a lie and we cannot say everything is true", so psychological science is needed to see whether someone is lying or not. It is also possible to find a tool that guarantees to be able to check the truth and lies of a person, very helpful to see the honesty of the perpetrators of crimes in the trial.

Achievements affect, in resolving cases in the Court, both the Public Prosecutor, Legal Advisors and Judges use different interpretations even though they will return to the Judge to assess, the achievements made by the Public Prosecutor and the Legal Advisor in the Court both have a corroborating interpretation. In resolving the premeditated murder case, the prosecutor and PH produced a corroborating interpretation in which the prosecutor said that the motive in premeditated murder was not necessary and PH said that the motive in premeditated murder was very necessary.

In interpretation, there are 4 (four) interpretations that are often used in general, as follows:

### **Grammatical interpretation**

Grammatical interpretation is an interpretation that is often used in interpreting Article 340 of the Criminal Code where law enforcement interprets it by interpreting it with words that are often used daily.

### **Systematic or logical interpretation**

Systematic interpretation or *ligis* is an interpretation that is not only interpreted in one law but is associated with another law or when interpreting one article, it must be associated with another article to be interpreted so that it becomes a unit, this interpretation is often used in interpreting Article 340 of the Criminal Code by associating it with other articles, for example in Article 338 of the Criminal Code.

### **Historical interpretation**

This interpretation is carried out by looking at the history of the formation of laws and regulations and paying attention to the history of the law. This interpretation is carried

out to find out the history of the making of the law. Likewise, Article 340 of the Criminal Code is seen historically in the use of motives in premeditated murder.

### **Teleological or sociological interpretation**

Sociological interpretation by interpreting the law in accordance with the purpose of the lawmaker while teleological interpretation by looking at the actual community context. This interpretation is often used in the interpretation of Article 340 of the Criminal Code by looking at the purpose of the formation of the Criminal Code in the colonial period using motives or not, and at the same time paying attention to the justice that lives in society.

In proving the motive in the crime of premeditated murder, it is indeed not easy to prove due to the many obstacles in proving the motive. Requires Psychology because of the science of individual behavior or activity. These behaviors or activities in a broad sense are visible behaviors or invisible behaviors. Quoting Walgito, he explained that Psychological Dynamics is a force that occurs in humans that affects their mental or psychological to experience development and changes in their daily behavior, be it in their thoughts, feelings or actions. Walgito, there are three components in humans that can affect behavior. This is related to psychological dynamics, namely: First, the cognitive component; is a component related to knowledge, views, and beliefs, which is related to human perception of the object of behavior or the event being experienced.

Second, the affective component; is this component related to the feeling of pleasure or displeasure towards the object of behavior. Furthermore, this component is directly related to the emotional aspect of humans. Third, the conative component; is a component that explains the tendency of humans to act towards objects. This component shows the magnitude of human tendency to act. This component also shows how humans behave towards the surrounding environment. The three components above are always related to each other, both cognitive, affective and conative, at one time they can go hand in hand or harmoniously and at different times they can be accompanied by conflicts with each other. Psychological dynamics is a force that occurs in human beings sourced from inside and outside the individual, which affects the mental and helps individuals adjust to circumstances and changes.

The researcher emphasized that the motive still needs to be proven because it concerns justice for the defendant, it does not mean that he wants to free the defendant from criminal bondage for the crime committed or does not pay attention to justice to the victim, but the motive should not be underestimated because the researcher insists that "the perpetrator can be the victim and the victim can be the perpetrator", so it is important for law enforcement to prove the motive in the premeditated murder. The motive is not always negative, there is a positive motive in committing the crime of premeditated murder, do not assume that the motive is always negatively oriented, that is the importance of proving the motive.

### **Ideal Concept for the Future Application of Proof of Motive in the Crime of Premeditated Murder**

The motive has been included in the criminal guidelines, so it is a reference to law enforcement to follow up in an effort to find a motive in the crime of premeditated murder. If Article 340 of the Criminal Code does not include a motive in the criminal guidelines, then law enforcement does not have a basis for legal certainty that has legal force that requires law enforcement to look for motives in the crime of premeditated murder.

With the motive in the criminal guidelines, it is very closely related to the punishment of the perpetrator of the crime for the acts committed, this is the duty and

responsibility of a Judge in exploring the motives in every criminal act of premeditated murder so that he can give the fairest verdict. On the certainty of usefulness and justice in the decisions of Judges in the Court, we have many doubts, not without reason, if we pay attention to the decisions of the District Court, the High Court and the Supreme Court are all different, even though they both study law, maybe the Judges in the Court are fellow Alumni at the same Faculty of Law at the time of college, but it is surprising why the verdict can be colorful, there is no similarity, so don't be surprised if it happens, let's just say that it is the uniqueness or superiority of law enforcers in Indonesia

The motive in the criminal guidelines has been listed, but to avoid causing a biased interpretation because the motive is not listed in the elements of the Criminal Article of Premeditated Murder, it requires other science that has expertise in explaining the motive, such as the expertise of a psychologist. Hans Kelsen, a postivist who said that "in certain circumstances, the law needs the help of other experts", meaning that it is not only sufficient to convict the perpetrators of the crime of premeditated murder, but also the importance of doctrines and other sciences that support in making decisions by law enforcement.

### **Conclusion**

The Criminal Code does not explicitly include motive as an element in Article 340, leading to its exclusion from formal proof. However, motive often emerges through the interpretation of subjective and objective elements in Article 340, with several judicial decisions highlighting its significance in premeditated murder cases. Despite this, law enforcers—including prosecutors, advocates, and judges—often rely on varying doctrines and interpretations, resulting in inconsistent applications of the law. To address these disparities, an ideal future framework should explicitly incorporate motive as a fundamental element in premeditated murder cases under Article 340. This inclusion would reduce interpretative ambiguities and enhance legal uniformity. Additionally, the analysis of motive should be supported by interdisciplinary approaches, particularly involving psychological expertise, to provide a comprehensive understanding of the defendant's intent. While Article 459 of the National Criminal Code acknowledges premeditated murder, it still omits motive as an explicit element. However, Article 54 paragraph (1) part b of the criminal guidelines underscores the importance of considering motive in legal proceedings. Therefore, law enforcers must prioritize the evaluation of motive to ensure justice, consistency, and clarity in handling premeditated murder cases.



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