

## Re-Explaining the Urgency of the Death Penalty in Realizing a Deterrent Effect in Cases of Premeditated Murder

Muhammad Ansari

Doctoral Program in Law, Borobudur University, Jakarta, E-mail: [ansari.ayi@gmail.com](mailto:ansari.ayi@gmail.com)

**Abstract.** *One of the extraordinary crimes in this country is premeditated murder, this is because premeditated murder is carried out with evil planning consciously and thinking in advance, where the result of this crime is the loss of a person's life. The death penalty in suppressing the number of premeditated murder cases through efforts to create a deterrent effect with fear of the death penalty needs to be re-examined legally, because the element of planning is difficult to interpret in premeditated murder, and there are fundamental changes in the imposition of the death penalty for perpetrators of premeditated murder has become an obstacle in itself in the implementation of the death penalty as a penal medium in creating a deterrent effect for perpetrators of premeditated murder. This article with a normative method tries to discuss the death penalty as a means of creating a deterrent effect for perpetrators of murder both in the aspect of normative studies and in comparative legal studies in the scope of the comparison between the death penalty according to the old Criminal Code and the new Criminal Code. So this article intends to describe the development of the death penalty system for perpetrators of premeditated murder according to the development of the National Criminal Code. Based on the existing study, it can be seen that the death penalty in preventing the increase in premeditated murder in society is currently not optimal, the cause is the difficulty in understanding the meaning of planning due to not being written down in the Criminal Code what is meant by planning in premeditated murder. The second problem is the change in the criminal threat for perpetrators of premeditated murder in Article 459 of the Republic of Indonesia Law No. 1 of 2023 concerning the Criminal Code, where the presence of this provision creates a loophole for perpetrators of premeditated murder to avoid the death penalty due to the minimum sentence of 20 years in prison. In addition, the change in the position of the death penalty to an alternative sentence with conditions also opens up a loophole for perpetrators of premeditated murder to be free from the death penalty.*

**Keywords:** *Death; Deterrent; Murder; Penalty; Premeditated.*

### 1. Introduction

Premeditated murder is a crime that is considered serious and is a crime that is threatened with the death penalty, this is because the crime of premeditated murder has an element of planning

that is carried out before the murder, this planning is what becomes an aggravation for the perpetrator of premeditated murder. If we look at the perpetrator's mental attitude and guilt (schuld), the threat of premeditated murder should be aggravated. Why is that, because the perpetrator of premeditated murder as a "cold-blooded killer," this is a different mental state from an emotional killer.<sup>1</sup>The crime of murder has several forms or qualifications (naming), including the crime of murder and the crime of premeditated murder. The crime of murder is regulated in Article 338 of the old Criminal Code, namely "Anyone who intentionally takes the life of another person, is threatened, because of murder, with a maximum imprisonment of fifteen years". While the crime of premeditated murder is regulated in Article 340 of the old Criminal Code, namely:

Anyone who intentionally and with prior planning takes the life of another person, is threatened, because of premeditated murder (moord), with the death penalty or life imprisonment or for a certain period of time, a maximum of twenty years.<sup>2</sup>

The difference between the two crimes above lies in the element of "with prior planning (planning)." The crime of murder is realized/occurred by the will or intention to kill and its implementation together. In other words, the emergence of the will to kill and its implementation become one unit. Meanwhile, the crime of premeditated murder is realized/occurred starting with a plan before the execution of the murder, such as the perpetrator thinking about the act to be carried out calmly, there is a time gap between the emergence of the will and the execution of the will. The crime of premeditated murder is the most severe crime. Judging from the form of punishment threatened, the maximum is the death penalty or life imprisonment or twenty years' imprisonment. The former Criminal Code formulated this crime as a form of special aggravating murder.<sup>3</sup>

Implementation of the death penalty in cases of premeditated murder is not easy in reality. The old Criminal Code did not formulate the definition and requirements of the element of premeditation. This is different from several terms in the old Criminal Code, such as serious injury, treason, and conspiracy. The definition of these terms is formulated by the old Criminal Code in Chapter IX concerning the meaning of several terms used in the law book. However, the definition and requirements of the element of premeditation can be obtained from the opinions of criminal law experts (doctrine) and judges' decisions (jurisprudence).

This condition is very reasonable, as expressed by Mertokusumo, that the life of society is very broad, of course all of it cannot be regulated by complete and clear laws and regulations, so the law must be sought and found. The definition and requirements of the element of planning will always be dynamic, in accordance with the development and complexity of cases or cases of premeditated murder. Even in certain cases, determining the crime of murder or premeditated murder is not easy, because both have very thin differentiation or differences. Likewise,

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<sup>1</sup>A. Z. Abidin & A. Hamzah, (2010), *Hukum pidana Indonesia*, Yarsif Watampone, Jakarta, p.304-305.

<sup>2</sup>Moeljatno, (2007), *Kitab Undang-Undang Hukum Pidana*, Bumi aksara, Jakarta, p. 122-123.

<sup>3</sup>F. B. Yanri, (2017), "Pembunuhan berencana", *Hukum dan Keadilan*, Vol. 4, No. 1, p. 36-48.

determining the existence of an element of planning in a crime of premeditated murder is not an easy job.<sup>4</sup>

Premeditated murder has changed in the new Criminal Code, premeditated murder is no longer regulated in Article 340, but in Article 459 of the Republic of Indonesia Law No. 1 of 2023 concerning the Criminal Code or the new Criminal Code which reads "Any person who with prior planning takes the life of another person, shall be punished for premeditated murder, with the death penalty or life imprisonment or a maximum imprisonment of 20 (twenty) years".

This change clearly provides a loophole for perpetrators of premeditated murder to be punished with life imprisonment or 20 years imprisonment, considering that the death penalty is threatened optionally with an alternative prison sentence. In addition, the position of the death penalty in Article 100 Law of the Republic of Indonesia Number 1 of 2023 concerning the Criminal Code or KUHP only positions the death penalty as an alternative conditional punishment. In Article 100 Paragraph (1) of the Criminal Code, it is stated that judges can impose the death penalty with a probationary period of 10 years by considering three things. These considerations are the defendant's remorse and hope to improve themselves, the defendant's role in the crime, or mitigating reasons. This means that the new Criminal Code regulates that those sentenced to death cannot be executed immediately. They have the right to undergo a probationary period with a prison sentence of 10 years. So it is clear that the death penalty in cases of premeditated murder cannot yet be said to be legally able to be implemented fairly for the victim, especially the provisions for premeditated murder and the death penalty in Law of the Republic of Indonesia Number 1 of 2023 concerning the Criminal Code or the new Criminal Code makes it difficult to impose the death penalty on perpetrators of premeditated murder due to the conditions for imposing the death penalty contained in Article 100 of Law of the Republic of Indonesia Number 1 of 2023 concerning the new Criminal Code or the Criminal Code.

The difficulty of determining the planning aspect in sentencing perpetrators of premeditated murder also has an impact on sentencing. It can be understood together that in the construction of premeditated murder, the element of planning is an aggravating element for the perpetrator, thus making this premeditated murder crime threatened with the death penalty, the death penalty is the heaviest punishment, this is because after someone is executed with the death penalty, their life can no longer be returned. The existence of the requirements for imposing the death penalty in the new Criminal Code and the opportunity for mitigation of premeditated murder perpetrators from the new sentence clearly makes the death penalty no longer a frightening thing for premeditated murder perpetrators.

The fundamental issue in this writing is the relevance of the death penalty in realizing a deterrent effect for perpetrators of premeditated murder, so this writing aims to re-describe the death penalty as a means of punishment in realizing a deterrent effect for perpetrators of premeditated murder. Discussion of the death penalty on efforts to realize a deterrent effect for perpetrators of premeditated murder. Several articles related to the death penalty as a

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<sup>4</sup>S. Mertokusumo, (2009), *Penemuan hukum*, Liberty, Yogyakarta, p. 38.

means of punishment in creating a deterrent effect for perpetrators of premeditated murder are:

1. Widhy Andrian Pratama, "Enforcement of the Death Penalty for Premeditated Murder". This article was published in SIGn Jurnal Hukum, Vol. 1, No. 1, in 2019. This article analyzes the enforcement of the death penalty for premeditated murder and examines the inhibiting factors of the enforcement of the death penalty for perpetrators of premeditated murder, the results of the discussion of this article using the normative legal method state that the enforcement of the death penalty must be applied to premeditated murder because the application of the death penalty does not conflict with Human Rights which have been widely questioned so far.<sup>5</sup>
2. Krisnadi Bremi, "Criminal Law Politics Against the Death Penalty for Premeditated Murder Perpetrators Article 340 of the Criminal Code". This article was published in Jurnal Ilmiah Publika, Volume 9, Number 1, 2021. This article states that the National Criminal Law Policy still views the death penalty for premeditated murder perpetrators as relevant.<sup>6</sup>

The discussion in the two articles above has differences with this article, this article discusses more about the death penalty as a means of creating a deterrent effect for perpetrators of murder both in the aspect of normative studies and in comparative legal studies in the scope of the comparison between the death penalty according to the old Criminal Code and the new Criminal Code. So this article intends to describe the development of the death penalty system for perpetrators of premeditated murder according to the development of the National Criminal Code.

## **2. Research Methods**

The type of research used in this study is doctrinal research, where the research conducted is research related to the analysis of the norms behind the text of statutory regulations, both legally and philosophically.<sup>7</sup>

## **3. Result and Discussion**

### **3.1. The Death Penalty in Indonesia**

The existence of the death penalty in criminal law is not only a punishment, but more than that, the death penalty is a sanction that is expected to be a preventive media in criminal law in suppressing criminal acts in the social environment of society. This sanction is supported by the existence of the purpose of punishment according to the modern school, which sees that criminal law does not only regulate the types of crimes and their sanctions, but focuses more on protecting society from losses caused by criminal acts. This school then gave birth to the basis

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<sup>5</sup>Widhy Andrian Pratama, (2019), Penegakan Hukuman Mati Terhadap Pembunuhan Berencana, *SIGn Jurnal Hukum*, Vol. 1, No. 1, p. 30-32.

<sup>6</sup>Krisnadi Bremi, (2019), Politik Hukum Pidana Terhadap Pidana Mati Pelaku Pembunuhan Berencana Pasal 340 KUHPIDANA, *Jurnal Ilmiah Publika*, Volume 9, Nomor 1, p. 43-45.

<sup>7</sup>Sugiono, (2009), *Metode Penelitian Kuantitatif, Kualitatif dan R&D*, Alfabeta, Bandung, p. 29.

for reforming criminal law which is not only focused on actions and perpetrators, but also on prevention or preventive efforts so that criminal acts do not occur and do not harm society. This can be realized through the application of the death penalty as the heaviest punishment. This reality is in line with the function of the death penalty. The function of the death penalty in the criminal system in Indonesia is as a last resort to protect society from the evil deeds of perpetrators of serious crimes and to provide fear to society so that they do not commit serious crimes that are threatened with the death penalty.<sup>8</sup>

This is in line with the dimensions of criminal sanctions as an effective means of preventing massive damage due to a serious crime. Sanctions that meet various requirements from Ted Honderrich's perspective in overcoming the problem of serious crimes are the death penalty. This is because the death penalty as the heaviest sanction is able to create a high deterrent effect optimization when compared to other criminal sanctions, so that the death penalty can be another alternative in eradicating complex and massive crimes in Indonesia. This fact is because prison sanctions have so far been unable to suppress serious crimes in this country, so that the death penalty can be a sanction that is more feared and has a greater deterrent effect when compared to prison sanctions which are still relevant in this country. The existence of the death penalty in criminal law is not only a punishment, but more than that, the death penalty is a sanction that is expected to be a preventive media in criminal law in suppressing criminal acts in the social environment of society. This sanction is supported by the existence of the purpose of punishment according to the modern school, which sees that criminal law does not only regulate the types of crimes and their sanctions, but focuses more on protecting society from losses caused by criminal acts. This stream then gave birth to the basis for criminal law reform that is not only focused on the act and the perpetrator, but also on prevention or preventive efforts so that criminal acts do not occur and do not harm society. This can be realized through the application of the death penalty as the most severe punishment. This reality is in line with the function of the death penalty. The function of the death penalty in the criminal justice system in Indonesia is as a last resort to protect society from the evil deeds of perpetrators of serious crimes and to provide fear to society so that they do not commit serious crimes that are threatened with the death penalty.<sup>9</sup>

Although there are human rights and criminologists who oppose the death penalty, in its development there are several schools of thought in human rights teachings that support the death penalty, the supporters of the death penalty are retentionists. The retentionist group supports the imposition of the death penalty for perpetrators of serious crimes, retentionists put forward arguments in favor of the death penalty.

Supporters of the death penalty are not only retentionists, Jonkers, Lombroso, and Gorofalo are criminologists who support the death penalty. Jonkers argues that the opinion of Ernest Bowen

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<sup>8</sup>Jeaniffer Rachel Gabriella Dotulong, Olga A. Pangkerego, and Roy V. Karamoy, "Functions and Implementation of the Death Penalty in the Criminal Justice System in Indonesia," *Lex Administratum*, Vol. 10, No. 3 2022, pp. 1–13.

<sup>9</sup>Jeaniffer Rachel Gabriella Dotulong, Olga A. Pangkerego, & Roy V. Karamoy, (2022), "Fungsi Dan Pelaksanaan Pidana Mati Dalam Sistem Pemidanaan Di Indonesia," *Lex Administratum*, Vol. 10, No. 3, p. 1–13.

Rowlands who said that the death penalty cannot be corrected if a judge has made a mistake and the death penalty has been carried out, is not true, this is because in court the judge's decision is usually based on rational and correct reasons.<sup>10</sup> Lombroso and Gorofalo then argued that the death penalty is an absolute tool that must exist in society to eliminate individuals who cannot be corrected and have committed extraordinary crimes.<sup>11</sup>

Based on the above view, it is clear that the death penalty is a means needed to prevent the occurrence of extraordinary crimes and their extraordinary damaging impacts. Honderrich as explained on page seven in the background of this dissertation research, states that criminal sanctions for serious crimes must be truly firm and serious in providing a deterrent effect so that criminal law can become a means of preventing crime, then criminal sanctions must be able to stem and prevent even greater damage from the crime. Based on the explanation above, it is clear that fundamentally the provisions on the death penalty in the new Criminal Code see that the death penalty is still needed to prevent crimes that are extraordinary crimes along with their fatal consequences in the life of the nation and state, however, in imposing the death penalty must also consider and be based on the guarantee of protection of human values.

Indonesia is one of the countries that still maintains the death penalty, this is because the death penalty is a criminal sanction that is still relevant in preventing and eradicating serious crimes. This can be clearly seen in the Constitutional Court Decision Number 2-3 / PUU-V / 2007. The Constitutional Court Decision Number 2-3 / PUU-V / 2007 lawsuit is more directed at the constitutional test of the death penalty provisions in Law No. 22 of 1997 concerning Narcotics, in the decision, precisely in the consideration section of the Panel of Judges of the Constitutional Court point letter (f), the Constitutional Court interpreted that the death penalty in Indonesia can still be said to be relevant, this is because the death penalty is a punishment intended to prevent and overcome serious crimes that can damage the economy, culture, and political foundations of Indonesian society and cause great danger that threatens the lives of Indonesian society.<sup>12</sup>

*The Indonesian Human Rights Watch* then argued that there are three main reasons why the death penalty is often used by courts, including:<sup>13</sup>

1. The results of the application of the death penalty threat were used by the Dutch colonial regime, then in practice continued to be used until the authoritarian regime of the New Order to provide fear and even eliminate political opponents. This can be seen in the application of political crimes Article 104 of the Criminal Code;
2. Efforts to issue several new legal provisions that include the threat of the death penalty as a political compensation measure due to the inability to fix the corrupt legal system. Whereas the

<sup>10</sup>Bungasan Hutapea, (2016), *Kontroversi Penjatuhan Hukuman Mati*, Badan Penelitian dan Pengembangan Hukum dan HAM, Kementerian Hukum Dan HAM Republik Indonesia, Jakarta, p. 25.

<sup>11</sup>*Loc. Cit.*

<sup>12</sup> Constitutional Court Decision Number 2-3/PUU-V/2007, Constitutional Court, Jakarta, p. 425.

<sup>13</sup>Waluyadi, (2009), *Kejahatan, Pengadilan dan Hukum Pidana*, Mandar Maju, Bandung, p.57.



threat of the death penalty has never been able to prove its effectiveness in reducing crime rates including narcotics;

3. The increase in crime rates is seen solely as the responsibility of individual perpetrators.

Some research results conducted by several law enforcement institutions in Indonesia, consisting of:

1. Report on Cooperation between the Attorney General's Office of the Republic of Indonesia and FH Undip Research on "The Threat of the Death Penalty in the Criminal Justice System", in 1981-1982.

2. Final Report of the Review Team of the National Legal Development Agency of the Indonesian Ministry of Justice, 1989/1999, chaired by Andi Hamaza on "Effectiveness of the Implementation of the Death Penalty in Indonesia".

3. Final Report of the research on "Effectiveness of Death Penalty in Indonesia", Compiled by the Team of the Indonesian Ministry of Justice and Human Rights, National Legal Development Agency, chaired by Loebby Loqman, in 2000.

Explaining that the death penalty is still needed to overcome very large crimes with a large impact of damage, such as serious crimes. The relevance of the death penalty in the national legal system is also supported by the history of the implementation of the death penalty during the Majapahit Kingdom. The death penalty during the Majapahit Kingdom (13th to 16th centuries) was included in the category of basic punishments in addition to amputation, fines, and compensation for losses.<sup>14</sup>

The death penalty is also maintained in the new Criminal Code as a special principal punishment. The change of the death penalty as a principal punishment that is regulated specifically and separately shows that, although national criminal law has paid much attention to the aspect of perpetrator development and abandoned the classical criminal law paradigm that only relies on retribution, the death penalty is still maintained as an effort to protect the interests of society from the threat of extra ordinary crime that has great destructive power against the interests of the wider community, in addition to the change of the death penalty as a special principal punishment is basically an attempt at compromise in finding a way out between the "retentionists" and the "abolitionists". This means that the death penalty is an exceptional punishment. Judges must give serious and careful consideration before imposing the death penalty.<sup>15</sup>Based on the various opinions above, it can be observed that the death penalty can still be said to be relevant and urgent in national criminal law policy.<sup>16</sup>

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<sup>14</sup>Sumangilepu Hamzah A, (1985), *Pidana Mati Di Indonesia Di Masa Lalu, Kini Dan Masa Depan*, Ghalia Indonesia, p. 59.

<sup>15</sup>Supriyadi W. Eddyono, Op.cit, p. 20-21.

<sup>16</sup>Barda Nawawi Arief, (2005), *Bunga Rampai Kebijakan Hukum Pidana*, PT. Citra Aditya Bakti, Bandung, p. 238.

### **3.2. The Urgency of the Death Penalty in Realizing a Deterrent Effect in Cases of Premeditated Murder**

The death penalty in its development is the most severe punishment intended to create a deterrent effect for perpetrators of crimes optimally. Another reason that the death penalty is universally needed in this country is for the protection of society, to prevent serious crimes, for the sake of justice and the unity of Indonesia. Likewise, those who reject the death penalty always base themselves on the reason that, the one who has the right to take human life is God Almighty and based on the Principle of Humanity, the death penalty is considered incorrect. This opinion is also seen from the perspective of Pancasila is quite reasonable.<sup>17</sup>

Considering the development of the drafting of the new Criminal Code Concept, it can be clearly seen that drafting changes to the Criminal Code not only objectively examines the real conditions in society, but has also considered issues and movements that occur in the international community. We can see this reality in determining the position of the death penalty, where in the new Criminal Code, the death penalty is no longer included in the main criminal group, but rather as a special (exceptional) criminal. The position of the death penalty in Article 100 Law of the Republic of Indonesia Number 1 of 2023 concerning the Criminal Code or the new Criminal Code, in its development, positions the death penalty as an alternative conditional punishment. Article 100 Paragraph (1) of the Criminal Code states that judges can impose the death penalty with a 10-year probationary period by considering three things. These considerations are the defendant's remorse and hope to improve themselves, the defendant's role in the crime, or other mitigating reasons. This fact shows that convicts sentenced to death cannot be executed immediately because of reasons such as changes in attitude and remorse and mitigating circumstances for the perpetrator of the crime. This is emphasized by the fact that criminals sentenced to death still have the right to undergo a probationary period with a prison sentence of 10 years.

Changes in the essence of the death penalty in Law of the Republic of Indonesia Number 1 of 2023 concerning the Criminal Code can create loopholes for perpetrators of serious crimes to escape the death penalty. This has clearly deviated from the operational reasons for the death penalty, which are none other than to prevent extraordinary crimes with their great damaging impacts. These legal loopholes can also occur in premeditated murder, the perpetrator of premeditated murder has resulted in the loss of another person's life that cannot be replaced by anything, life is a basic human right, because the most fundamental human right in human history is the right to life and freedom from threats that can eliminate life and human welfare. So it is clear that premeditated murder is a serious problem in the world of criminal law. Premeditated murder has changed in the new Criminal Code, premeditated murder is no longer regulated in Article 340, but in Article 459 of the Republic of Indonesia Law No. 1 of 2023 concerning the Criminal Code or the new Criminal Code which reads "Any person who with prior planning takes the life of another person, shall be punished for premeditated murder, with the

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<sup>17</sup>Muladi, *Proyeksi Hukum Pidana Materiil Indonesia Masa yang akan Datang*, Pidato Pengukuhan Jabatan Guru Besar, pada Fakultas Hukum UNIDIP 24 February 1997



death penalty or life imprisonment or a maximum imprisonment of 20 (twenty) years". This change clearly provides a loophole for perpetrators of premeditated murder to be punished with life imprisonment or 20 years imprisonment, considering that the death penalty is threatened as an option with the alternative of imprisonment.

Another issue is the issue of the position of the death penalty as an alternative punishment with the requirements as explained above. Kthe death penalty provisions for perpetrators of premeditated murder inLaw of the Republic of Indonesia Number 1 of 2023 concerning the Criminal Code has made it difficult to impose the death penalty on perpetrators of premeditated murder, this is due to the requirements for imposing the death penalty in Article 100 of Law of the Republic of Indonesia Number 1 of 2023 concerning the Criminal Code or the new Criminal Code. This situation has clearly violated the guarantee of protection of the right to life for humans, especially victims of premeditated murder, this situation is clearly far from degrading the dignity of human life, and has automatically been far from the concept of protecting human values in a civilized manner. So in this matter, a death penalty system is needed that is able to create a deterrent effect for the perpetrator, restore the losses of the victim's family, for example by replacing all economic needs if the victim of premeditated murder is the backbone of the family. However, it does not ignore the perpetrator's right to be protected from overcriminalization so that the perpetrator becomes a victim of the misapplication of the death penalty. So the idea of legal balance is needed in this case.

This is in line with the idea of balance in criminal law. The idea of balance in question includes: Monodualistic balance between "public/community interest" and "individual/personal interest". Balance between "formal" and "material" criteria. Balance between "legal certainty", "flexibility/elasticity/flexibility", and "justice".<sup>18</sup> Regarding the idea of reforming criminal law that is oriented towards the idea of balance in criminal law, Barda Nawawi stated that:

Criminal law reform is essentially an effort to reorient and re-evaluate the socio-political, socio-philosophical, socio-cultural values that underlie and provide content for the normative and substantive contents of the desired criminal law... And, the national legal system, in addition to being able to support national development and the needs of international relations, must also be sourced from and not ignore the values and aspirations that live and develop in society, the values that live in society can be sourced or explored from customary law values or religious law values.

According to Barda Nawawi Arief, efforts to realize the idea of developing criminal law as explained above are realized by adding criminal law thinking based on the idea of balance at the formulation stage to the implementation of a penal policy. The concept of the idea of balance in criminal law as intended by Barda Nawawi Arief consists of:<sup>19</sup>

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<sup>18</sup>Barda Nawawi Arief, Op.Cit, p. 11.

<sup>19</sup>Ibid, p. 11.

- a. Monodualistic balance between public or general interests and individual or personal interests. In the idea of the balance of public or individual interests, it also includes the protection of the interests of victims and the idea of individualization of crime;
- b. Balance between objective elements or factors or outer and subjective actions or people or inner thoughts or inner attitudes;
- c. Balance between formal and material criteria;
- d. The balance between legal certainty, legal flexibility or elasticity and legal justice.

#### **4. Conclusion**

The death penalty is still needed in the criminal system in Indonesia, this is because the death penalty is an optimal means of punishment in preventing extraordinary crimes that have extraordinary destructive power so that they can damage the order of national and state life. Premeditated murder is a crime that is considered serious because the consequence is none other than the loss of a person's life. The death penalty is needed to prevent the increase in premeditated murder in society today is not optimal, the cause is the difficulty in understanding the meaning of planning because it is not explicitly stated in the Criminal Code what is meant by planning in premeditated murder. The second problem is the change in the threat of punishment for perpetrators of premeditated murder in Article 459 of Law of the Republic of Indonesia Number 1 of 2023 concerning the Criminal Code, where the presence of this provision creates a loophole for perpetrators of premeditated murder to avoid the death penalty due to the minimum sentence of 20 years in prison. In addition, the change in the position of the death penalty to an alternative sentence with conditions also opens up a gap for perpetrators of premeditated murder to be free from the death penalty.

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