

Legal Responsibility for Perpetrators of Predictive Murder (Study of Decision Number: 333/Pid.B/2022/Pn Smg)

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Abstract. *Murder is the intentional taking of another person's life, to take another person's life, a perpetrator must do something or a series of actions that result in the death of another person, with the note that the perpetrator must be aimed at the result of the death of the other person. This thesis aims to study and analyze: First, how is the construction of the crime of premeditated murder in the concept of legal certainty. Second, what is the legal responsibility for the perpetrator of the crime of premeditated murder according to Decision Number: 333 / Pid.B / 2022 / PN Smg. The approach method used in this study is a normative legal approach, the research specifications used are descriptive normative, primary and secondary data sources and using qualitative analysis. This writing is analyzed the problem is analyzed with the theory of criminal responsibility. Based on the research results, the Implementation of the Construction of the crime of premeditated murder is regulated in several related articles, namely Article 340 of the Old Criminal Code and Law of the Republic of Indonesia Number 1 of 2023 concerning the Criminal Code 459 of the New Criminal Code, namely relating to the punishment given to defendants of premeditated murder intentionally and with a plan in advance to take the life of another person, threatened because of premeditated murder, with the death penalty or life imprisonment or for a certain period of time for a maximum of 20 years. Legal responsibility for the perpetrator of premeditated murder according to decision number: 333/Pid.B/2022/PN Smg the defendant is legally responsible for his actions based on Article 340 of the Criminal Code, Article 76 C in conjunction with Article 80 paragraph (3) of the Republic of Indonesia Law Number 35 of 2014 concerning amendments to the Republic of Indonesia Law Number 23 of 2002 concerning Child Protection, and Law Number 8 of 1981 concerning the Criminal Procedure Code and other relevant laws and regulations. Sentencing the Defendant therefore to life imprisonment and a fine of Rp. 1,50,000,000.00 (one billion five hundred million rupiah) if the fine is not paid it will be replaced with imprisonment for: 10 (ten) months and charging the Defendant to pay court costs of Rp. 5,000.00 (five thousand rupiah)*

Keywords: *Criminal Act; Legal Responsibility; Premeditated Murder.*

1. Introduction

Results of the Fourth Amendment to the 1945 Constitution Article 1 Paragraph (3) of the 1945 Constitution states that "The Republic of Indonesia is a State of Law". This provision is an absolute must be implemented because it is regulated in the 1945 Constitution which is the highest source of law in accordance with Law Number 12 of 2011 concerning the Formation of Legislation as a source of legal order, because this is an absolute must be obeyed and implemented. If a violation occurs and the law is not obeyed, then the violators will be subject to sanctions in accordance with the provisions of the applicable laws and regulations without discrimination whoever the perpetrator is.¹ Law in its function of regulating all aspects of national and state life can provide maximum contribution if legal apparatus and all levels of society submit to and obey the law.²

Crime is a person's behavior that violates positive law or the law that has been in force in a country. It is present in the midst of society as a model of behavior that has been formulated legally as a violator and is prohibited by law and has been determined by a court that has permanent legal force. The problem of crime in society has very complex and vulnerable symptoms and is always interesting to discuss. According to Article 1 of Law Number 8 of 1981 concerning Criminal Procedure Law (KUHP).

In Book II of the Criminal Code which regulates Crime, where crime is reviewed from a legal perspective, crime is an act that is contrary to laws and regulations or meets the formulation of a crime in the Criminal Code (KUHP). As stated by WA Bongger, crime is an act that is very anti-social, which receives conscious opposition from the state, in the form of giving suffering (punishment/action).³

One of the problems that often arise in society is the crime of murder. The crime of murder is a form of crime in a person's life where the act is very contrary to the norms that exist in society, namely religious norms and customs, as well as contrary to the norms of criminal law and human rights, namely the right to life. This is stated in Article 338 of the Criminal Code, the formulation of which is "Anyone who intentionally takes the life of another person shall be punished for murder with a maximum sentence of 15 years in prison".

Murder is the deliberate act of taking another person's life. To take another person's life, the perpetrator must do something or a series of actions that result in the death of another person, with the note that the perpetrator must aim at the result of the death of the other person.⁴

The occurrence of murder is also inseparable from social control of society, both towards the perpetrator and the victim of murder so as not to provide an opportunity for the development of this crime. Moreover, for murder that is planned in advance, the threat of punishment is heavier than ordinary murder because of the element of planning in advance (Article 340 of the Criminal Code).

¹Leden Marpaung. 2011. Criminal Case Handling Process (Investigation and Inquiry), Third Printing, Jakarta, Sinar Grafika, p. 22

²Topo Santoso and Eva Achani Zulfa. 2011. Criminology, Tenth Edition, King, Grafindo Persada, p. 3.

³WA Bongger. 2012. Introduction to Criminology. PT. Pembangunan Ghlmia Indonesia, Jakarta, p. 25

⁴PAF, Lamintang, Theo Lamintang. 2012. Crimes Against Life, Body, and Health, Sinar Grafika, Jakarta, p.1.

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The appropriate punishment for perpetrators of premeditated murder is the death penalty, the heaviest sanction applicable in a regulation. The provisions of the laws and regulations contained in the Criminal Code (KUHP) regulate one of them regarding the crime of murder which is stated in Articles 338 to 350. The heaviest threat in a crime against life is premeditated murder which is stated in Article 340 of the Criminal Code. When referring to this article, it is clear that the maximum penalty is the death penalty and the lowest is for a certain period of time, a maximum of twenty years, but in reality this is not realized as per the rules. The crime of premeditated murder is also included in legal issues that are very important to study in depth. Criminal responsibility for the crime of murder committed by a person is something that must be carried out by a person as a result of his actions in accordance with applicable legal provisions.

The formulation of Article 338 of the Criminal Code by mentioning the element of behavior as taking the life of another person, shows that the crime of murder is a material crime. Murder is not just taking someone's life intentionally, but murder is also based on an act. The act referred to here is whether the act was carried out either planned in advance or at that time (ordinary murder) or planned in advance based on a time span (premeditated murder)⁵. In principle, ordinary murder is different from premeditated murder, in terms of the act of both taking the life of another person but some are done over a period of time, structured and planned. Premeditated murder is stated in Article 340 of the Criminal Code "Anyone who intentionally and with prior planning takes the life of another person, is threatened with the death penalty or life imprisonment or for a certain period of time, a maximum of 20 years."

A judge is a State Judicial official who is authorized by law to adjudicate. Then the word "adjudicate" is a series of actions by a judge to receive, examine, and decide criminal cases based on the principles of freedom, honesty, and impartiality in a court hearing in terms and according to the methods regulated in this law. Law for humans as a tool to realize human welfare, not law for the law itself.⁶

The Judicial Power is a body that greatly determines the content and strength of positive legal rules and will be realized by Judges in their decisions, in other words it can be said that no matter how good all the legal regulations created in a country in an effort to guarantee the safety of society towards the welfare of the people are meaningless if there is no independent Judicial Power carried out by judges.

The case of premeditated murder was once handled by the Semarang Police which has also received a final and binding verdict from the Judge. As in the decision of the Semarang High Court Number 333/Pid.B/2022/PN Smg where the panel of judges finally decided that the Defendant with the initials DC had been legally and convincingly proven guilty of committing the crime of "Premeditated Murder and Committing Violence Against Children Resulting in Death" as in the First Cumulative Primary indictment and the Second Alternative First indictment of the Public Prosecutor; Sentencing the Defendant therefore to Life

⁵Hartono, B., & Aprinisa, A. (2021). Implementation of Criminal Sanctions for Perpetrators of Premeditated Crimes Against the Lives of Others (Premeditated Murder). *Journal of Student Scientific Research & Studies (JPPIM)*, 2(4), 31-44.

⁶Andi Hamzah. 2001. *Anthology of Criminal Law and Criminal Procedure*, Ghalia Indonesia, Jakarta, p. 22.

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imprisonment and a fine of Rp. 1,500,000,000.00 (one billion five hundred million rupiah) if the fine is not paid it will be replaced with imprisonment for: 10 (ten) months Charging the Defendant to pay court costs of Rp. 5,000.00 (five thousand rupiah);

Based on this, the author is interested in examining a case of premeditated murder committed by a lover as the perpetrator who committed the crime of premeditated murder which was given a permanent criminal sentence by the Judge, therefore the author will present it in the form of a thesis proposal entitled "Legal Responsibility for Perpetrators of Premeditated Murder (Study of Decision Number: 333/Pid.B/2022/PN Smg)".

2. Research Methods

In writing this thesis, the research specification that the author uses is descriptive analysis, namely research that describes or depicts the reality of a society's culture phenomenologically and as it is in the context of an integral whole. This research is needed to make a systematic, factual and accurate description of the theoretical review of the requirements for fulfilling planning in the crime of premeditated murder.

3. Results and Discussion

3.1. Construction of the Criminal Act of Premeditated Murder in the Concept of Legal Certainty

The most important part of a criminal justice system is to determine sanctions, its existence will provide direction and consideration regarding what should be used as sanctions in a criminal act to enforce the validity of norms. In a law, the existence of regulations on sanctions or criminal penalties is very important because in criminal law it can be seen which actions should not be done, are prohibited, and must be done with the threat or sanction in the form of certain criminal penalties for anyone who violates these provisions.

The Republic of Indonesia is a country of law, a country of law was born as an idea in the struggle for human rights. Human rights are rights that are inherent in humans that are natural. Therefore, the state must be present to respect and protect. As a country of law, in addition to the protection of human rights, there is also an impartial judicial process to regulate the equality of everyone before the law, and guarantee justice for everyone against abuse of authority by the ruling party. One of the applications in a country of law is in rules that are certain, binding to achieve justice and protection, one of which is through criminal law.

Murder is the deliberate act of taking another person's life. To take another person's life, the perpetrator must do something or a series of actions that result in the death of another person, with the note that the perpetrator must aim at the result of the death of the other person.

The crime of murder is included in the material crime (*Materiale delict*), meaning that for the perfection of this crime, it is not enough to do the act, but it is also a condition that there are consequences from the act. The crime of murder is a disturbance to public order and state order. Nowadays, it is increasingly common for someone to kill because of simple things that can actually be resolved amicably so that physical or force cases can be avoided.

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The crime of murder is an act that intentionally or unintentionally takes the life of another person. The difference in the way of committing the crime of murder lies in the legal consequences. When the crime of murder is committed intentionally or planned in advance, the legal consequences, namely the criminal sanctions, will be more as described in Article 340 of the old Criminal Code, which reads:

"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, a maximum of 20 years."

Premeditated murder in the new Criminal Code is regulated in Article 459 of the New Criminal Code, Law Number 1 of 2023 concerning the Criminal Code, in this article are:

"Any person who with prior planning robs another person, shall be punished for premeditated murder with the death penalty or life imprisonment or a maximum imprisonment of 20 years."

There is an article that refers to article 459 of the new Criminal Code, namely Article 100 of the new Criminal Code, including the issue of probationary death sentences in article 100 of Law Number 1 of 2023 concerning the Criminal Code, the death penalty for death row convicts can be annulled as long as they behave well during the 10-year waiting period. Article 100 paragraphs 1-6 reads:

(1)The judge sentenced him to death with a probationary period of 10 (ten) years, taking into account

- a. The defendant's sense of regret and hope for self-improvement; or
- b. The role of the accused in the crime.

(2)The death penalty with a probationary period as referred to in paragraph (1) must be stated in the court decision.

(3)The 10 (ten) year probation period begins 1 (one) day after the court decision has permanent legal force.

(4)If the convict during the probationary period as referred to in paragraph (1) shows commendable attitudes and actions, the death penalty can be changed to life imprisonment by presidential decree after obtaining consideration from the Supreme Court.

(5)The life imprisonment sentence as referred to in paragraph (4) is calculated from the time the presidential decree is issued. If the convict during the probationary period as referred to in paragraph (1) does not demonstrate commendable attitudes and actions

(6)and there is no hope of improvement, the death penalty can be carried out by order of the attorney general. Life imprisonment becomes a prison sentence of 20 (twenty years) as intended in paragraph 1, regulated by government regulations.

The criminal act that occurred in the case study case number 333/Pid.B/2022/PN Smg, is not a murder problem as regulated in Article 338 of the Criminal Code, it is a criminal act in its main form, namely a crime that has been formulated completely with all its elements, the formulation of Article 338 of the Criminal Code is:

"Anyone who intentionally takes the life of another person is threatened, because of murder, with a maximum prison sentence of fifteen years."

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Meanwhile, what happened in case Number 333/Pid.B/2022/PN Smg was a criminal act that was planned in advance. Article 340 of the Criminal Code states

Anyone who intentionally and with prior planning takes the life of another person is threatened with premeditated murder, the intention here being directed at the loss of another person's life."

The defendant committed the assault by putting a headscarf around the victim's neck, which resulted in the victim's death. Because in assault with the intention of taking another person's life, a perpetrator makes a plan with the time of implementation of the plan, a requirement to ensure that there is prior planning.

In premeditated murder there is an element of intent in the field of criminal law which is divided into 3 forms, namely: intent as a goal, intent as certainty, intent as a possibility.

The intention in question is (Dolus) which is a criminal act of taking another person's life intentionally (dolus), the defendant clearly committed an intention which is an act that occurs with prior planning, in this case the most important thing is the existence of the defendant's intention which is manifested through his actions, namely beating the victim using an iron until the victim dies. "Intentionally" is generally included in a criminal norm, however the formulation of "intentionally" has automatically been included in a "word", for example the word "forcing".⁷

Culpa refers to an accident or negligence of the perpetrator in carrying out an act that results in harm or injury to another person. In this case, the perpetrator may not have intended to do the evil act, but their actions did not meet the standard of care expected in the circumstances, for example: If someone accidentally hits a pedestrian because they did not pay attention to a red light, it can be considered an act of culpa, but in this case the perpetrator has been proven to have intentionally committed a premeditated murder.

In many jurisdictions, criminal acts involving dolus tend to be punished more severely than those involving culpa. This is because the element of willfulness or intention in dolus indicates a higher degree of culpability and greater awareness of the violation of the law.

Legal certainty is a concrete form of legal rules in written and unwritten form that contain general rules that serve as guidelines for everyone to behave in society. These regulations serve as limitations and references for society in taking action against other parties. The existence of such rules and the implementation of the rules are a form of legal certainty.

Legal certainty will guarantee everyone in carrying out actions in accordance with applicable legal provisions, and conversely without legal certainty, a person has no reference in determining his behavior. Gustav Radbruch revealed that there are four references related to the meaning of legal certainty. Among them are that the law is based on existing facts, not a formulation based on a judge's assessment, the facts must be formulated clearly to avoid ambiguity or error in interpreting the law, the law is positive in the form of legislation, the positive law is not easy to change.

The crime of premeditated murder refers to the deliberate and premeditated plan and attempt to kill someone. It is a serious crime that is considered the most extreme form of extortion. The construction of the crime of premeditated murder generally involves the

⁷Leden Marpaung. Principles of Criminal Law Practice Theory, Jakarta: Sinar Grafika, 2005. Page 15

Defendant having a clear and conscious intention to kill the victim. This shows that the act was carried out with a clear purpose, not just an accident or spontaneous act, there is evidence to show that the perpetrator had planned the act of murder in advance. This can involve elements such as the formulation of a plan, consideration of how the act would be carried out, and the necessary preparation.

The defendant has taken real steps to carry out the murder plan, although the action may not have succeeded or succeeded, but in the end the defendant succeeded in ending the victim's life by putting a headscarf around the victim's neck, then the victim died and the victim was the target of the premeditated murder plan that was the perpetrator's target.

Strong evidence to support the defendant's claim of committing premeditated murder has occurred. The evidence is in the form of (One) piece of blue patterned headscarf, and a gray tote bag. The actions taken by the defendant must be more than just a plan, must be real steps that show that the perpetrator really tried to carry out the murder. The sentence with the level of crime and its impact on the victim and society. The legal process that will be followed in this premeditated murder case includes the stages of investigation, prosecution, trial, and implementation of the sentence, ensure that the perpetrator has protected rights, including the right to obtain legal defense, the right to attend the trial, and the right to present evidence of defense, it is determined how evidence must be presented in court to prove the case of premeditated murder.

Identify factors that may influence sentencing, such as the perpetrator's cooperation during the investigation or the emotional impact on the victim's family. Ensure that the law is applied consistently in all cases of premeditated murder. This is important to prevent discrimination or unfair treatment of the perpetrator.

The law will be enforced, including the duties and authorities of law enforcement agencies in investigating and prosecuting perpetrators of premeditated murder, sanctions will be determined if the perpetrator is proven guilty, it is necessary to ensure that information about the crime of premeditated murder, the legal process, and punishments are available to the public in general. This will support transparency and trust in the legal system, the construction of the crime of premeditated murder in the concept of legal certainty must prioritize clarity, consistency, and protection of individual rights and ensure that the punishment imposed is in accordance with the level of crime committed.

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perpetrator is found guilty, ensure that information about the crime of premeditated murder, the legal process, and the punishment is available to the public in general. This will support transparency and trust in the legal system, the construction of the crime of premeditated murder in the concept of legal certainty must prioritize clarity, consistency, and protection of individual rights and ensure that the punishment imposed is in accordance with the level of crime committed.

The construction of the crime of premeditated murder is regulated in several related articles, namely Article 340 of the Old Criminal Code and Law of the Republic of Indonesia Number 1 of 2023 concerning the Criminal Code 459 of the New Criminal Code, namely relating to the punishment given to defendants of premeditated murder intentionally and with prior planning to take the life of another person, threatened because of premeditated murder, with the death penalty or life imprisonment or for a certain period of time, a maximum of 20 years.

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3.2. Legal Responsibility for Perpetrators of Premeditated Murder According to Decision Number: 333/Pid.B/2022/PN Smg

Criminal acts or crimes are an unavoidable problem in the life of society, the more dense the population in an area with various tribes, nations and races, and the increasing needs of people's lives that are not balanced with sufficient income to meet the needs of their

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families, then this can make someone commit a crime. Criminal acts or crimes in the life of society are increasingly developing consisting of various forms and types and are well organized with increasingly diverse modus operandi, so that it has consequences for law enforcement officers to work extra hard, firmly and responsively in eradicating and revealing every side of the crime that occurs, including in cases of murder.

The case of premeditated murder was once handled by the Semarang Police which also received a final and binding verdict from the Judge. The case is contained in Court Decision Number 333/Pid.B/2022/PN Smg. That in the decision there is a chronology of events as follows:

Starting in November 2021, the defendant met Sweetha Gatra Subandriya alias Tata binti Heru Kasna at the UNY Yogyakarta Hotel when they were both swabber officers (people who swab other people); After a week, the defendant met Sweetha Gatra Subandriya alias Tata binti Heru Kasna, then Sweetha Gatra Subandriya alias Tata binti Heru Kasna introduced her son named Muhammad Faeyza Alfarisqi bin Saefurrokhman who was still 4 years old; - Then because Muhammad Faeyza Alfarisqi bin Saefurrokhman experienced motoric delays, the defendant told Sweetha Gatra Subandriya alias Tata binti Heru Kasna to have her son treated at the Sardjito General Hospital in Yogyakarta where the defendant worked and during the therapy, Muhammad Faeyza Alfarisqi bin Saefurrokhman lived with the defendant at the defendant's boarding house in the Kaliurang area of Yogyakarta for 2 weeks; because the defendant was no longer working at Sardjito Hospital Yogyakarta and because Sweetha Gatra Subandriya alias Tata binti Heru Kasna had to work every day so that there was no one to take care of Muhammad Faeyza Alfarisqi bin Saefurrokhman, then on the grounds of continuing therapy, on December 12, 2021 the defendant invited Muhammad Faeyza Alfarisqi bin Saefurrokhman to the defendant's rented house in Mbarik Hamlet, Sumber Girang Village, RT 02 RW 01, Lasem District, Rembang Regency to live with Her Dwi Finalia (the defendant's wife) and Aqila Nazwa Permata (the defendant's child)

On December 14, 2021 at around 15.00 WIB, the defendant saw Muhammad Faeyza Alfarisqi bin Saefurrokhman urinating in the living room, then the defendant scolded and was about to hit Muhammad Faeyza Alfarisqi bin Saefurrokhman, then Her Dwi Finalia (the defendant's wife) came out of the room and tried to prevent him by hugging the defendant from behind, but the defendant fought back and kicked Her Dwi Finalia's (the defendant's wife) stomach until she fell and the defendant said "don't bother joining in" then the defendant pulled Her Dwi Finalia (the defendant's wife) into the room; on December 15, 2021 at around 08.00 WIB because Muhammad Faeyza Alfarisqi bin Saefurrokhman defecated and urinated on the carpet in the living room so that the defendant felt annoyed then the defendant used his right hand with an open palm to hit Muhammad Faeyza Alfarisqi bin Saefurrokhman's leg 2 (two) times then with his right hand in a clenched palm position hit Muhammad Faeyza Alfarisqi bin Saefurrokhman's stomach 1 (one) time;

On December 17, 2021 at around 10.00 WIB, Muhammad Faeyza Alfarisqi bin Saefurrokhman urinated (peed) while walking from the kitchen, then the defendant dragged and pulled Muhammad Faeyza Alfarisqi bin Saefurrokhman to the living room, then the defendant scolded Muhammad Faeyza Alfarisqi bin Saefurrokhman then hit Muhammad Faeyza Alfarisqi bin Saefurrokhman using his right hand with the palm of his hand clenched into a fist, hitting from bottom to top hitting Muhammad Faeyza Alfarisqi bin

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Saefurrokhman's genitals and that evening the defendant saw that Muhammad Faeyza Alfarisqi bin Saefurrokhman's scrotum was swollen and the defendant treated it using thrombopop;

After returning from Bhina Bhakti Husada Hospital in Rembang, the defendant never invited Muhammad Faeyza Alfarisqi bin Saefurrokhman to go for a check-up at the hospital; in early January 2022 at around 18.00 WIB in front of the refrigerator, the defendant patted Muhammad Faeyza Alfarisqi bin Saefurrokhman's chest and cheeks using his palms and Her Dwi Finalia (the defendant's wife) tried to prevent it by holding the defendant's hand but instead the defendant's hand hit Her Dwi Finalia;

Around the end of January 2022 at around 09.00 WIB because Muhammad Faeyza Alfarisqi bin Saefurrokhman defecated in front of the garage door, the defendant approached Muhammad Faeyza Alfarisqi bin Saefurrokhman until Muhammad Faeyza Alfarisqi bin Saefurrokhman walked backwards into the garage, then the defendant used his hand to hit Muhammad Faeyza Alfarisqi bin Saefurrokhman's legs 4 times using his right hand with an open palm position hitting both of Muhammad Faeyza Alfarisqi bin Saefurrokhman's legs, after that he took a coconut broom that was next to the shoe rack, then the defendant used the coconut broom to hit Muhammad Faeyza Alfarisqi bin Saefurrokhman's legs 1 time so that a red wound appeared on Muhammad Faeyza Alfarisqi bin Saefurrokhman's legs;

In February 2022 at around 10:00 WIB the defendant put Muhammad Faeyza Alfarisqi bin Saefurrokhman into the bathroom and in a face-to-face position the defendant held Muhammad Faeyza Alfarisqi bin Saefurrokhman's mouth then hit Muhammad Faeyza Alfarisqi bin Saefurrokhman's head against the bathroom wall 2 times to the right and left hitting the wall and bathtub; On February 18, 2022 between 22.00 WIB - 23.00 WIB when the defendant was watching TV Muhammad Faeyza Alfarisqi bin Saefurrokhman said that his stomach hurt then the defendant gave him Sucralfat medicine and told the defendant to sleep in the back room;

At around 13.00 WIB, the defendant was working at the Bhina Bhakti Husada Hospital in Rembang and received a call from Her Dwi Finalia (the defendant's wife) who said that Muhammad Faeyza Alfarisqi bin Saefurrokhman was sick. At around 13.15 the defendant returned home and when he arrived home the defendant saw Faeyza Alfarisqi Bin Saefurrokhman sleeping on his back without a mattress next to the refrigerator where in the morning he slept in front of the refrigerator on a carpet and Muhammad Faeyza Alfarisqi bin Saefurrokhman's stomach looked enlarged then the defendant moved Muhammad Faeyza Alfarisqi bin Saefurrokhman to the front of the refrigerator on the carpet then Her Dwi Finalia (the defendant's wife) held the oxygen cylinder then the defendant checked his pulse and performed first aid by performing Cardiopulmonary Resuscitation (CPR) and pumping oxygen from the oxygen cylinder held by Her Dwi Finalia (the defendant's wife) after that the defendant took the oxygen cylinder and pumped it back into Muhammad Faeyza Alfarisqi bin Saefurrokhman then the defendant checked Muhammad Faeyza Alfarisqi bin Saefurrokhman's pulse in the neck but Muhammad Faeyza Alfarisqi bin Saefurrokhman was no longer breathing. After that, the defendant, assisted by Her Dwi Finalia (the defendant's wife), removed the clothes worn by Muhammad Faeyza Alfarisqi bin Saefurrokhman. Then the defendant tied the hands and head of Muhammad Faeyza Alfarisqi bin Saefurrokhman with gauze. Then the defendant ordered Her Dwi Finalia (the defendant's wife) to go into

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the room. Then the defendant took a blanket and placed the body of Muhammad Faeyza Alfarisqi bin Saefurrokhman in the front room and covered the body with a blue blanket with yellow stripes;

Arriving at the gas station located in the Kudus ring road, the defendant felt confused and afraid, then the defendant thought about dumping the body of Muhammad Faeyza Alfarisqi bin Saefurrokhman in a place far from residential areas, after that the defendant opened the Google map on the defendant's iPhone XS to find a quiet location, then the defendant found a place at KM 425 around the Semarang - Solo toll road, precisely at the Susukan bridge, Susukan Village, East Ungaran District, Semarang Regency, then the defendant went to the place, upon arrival at the place, the defendant stopped his car, then took the body of Muhammad Faeyza Alfarisqi bin Saefurrokhman out of the car and kissed him 3 times, then the defendant threw him off the bridge; As a result of the defendant's actions in committing violence against Muhammad Faeyza Alfarisqi bin Saefurrokhman who was still 4 years old and was born on October 9, 2017 based on the Birth Certificate Extract issued by the Brebes Civil Registry Office on November 13, 2017, Muhammad Faeyza Alfarisqi bin Saefurrokhman died;

On Sunday, March 6, 2022 at around 22.30 WIB, the defendant together with Sweetha Kusuma Gatra Subardiya entered the hotel room number 203 at the Permata Motel and Restaurant Hotel Semarang, then Sweetha Kusuma Gatra Subardiya immediately took a shower and after finishing showering, the defendant took turns to take a shower, then the defendant and Sweetha Kusuma Gatra Subardiya joked together, then until Monday, March 7, 2022 at around 01.30 WIB in the morning, the defendant and Sweetha Kusuma Gatra Subardiya had intimate relations like husband and wife, after finishing intimate relations the defendant went into the bathroom then lay down and Sweetha Kusuma Gatra Subardiya also went into the bathroom then lay down beside the defendant while joking, 15 (fifteen) minutes later Sweetha Kusuma Gatra Subardiya asked to have intimate relations again, after finishing intimate relations the defendant went back into the bathroom after coming out of the bathroom the defendant went to bed and found paper under the bed that had Arabic letters written around the writing DONY, then the defendant jokingly strangled Sweetha Kusuma Gatra Subardiya's neck, and the defendant's hand was pushed away by Sweetha Kusuma Gatra Subardiya and let go, at that moment Sweetha Kusuma Gatra Subardiya said "KOWE AMEH MATENI AKU YO?" in Indonesian "YOU WANT TO KILL ME, YES?" then the defendant answered "NOT JOKING..JOKING" in Indonesian "NOT JOKING... JOKING" then the defendant was silent for a moment, then around 02.00 WIB Sweetha Kusuma Gatra Subardiya asked the defendant again "TOMORROW I WILL REALLY MEET FAESYA" in Indonesian "TOMORROW I WILL REALLY MEET FAESYAH" then the defendant answered "YES..YO" in Indonesian "YES..YES", then Sweetha Kusuma Gatra Subardiya asked to make sure again "NO JO..YO TOK TOMORROW I WILL REALLY MEET FAESYAH" in Indonesian "NOT YES..YES, TOMORROW I WILL REALLY MEET FAESYAH" then the defendant answered "YES TENAN" in Indonesian "YES REALLY" then with a higher tone and an angry expression and turning her face away Sweetha Kusuma Gatra Subardiya emphasized again "TENAN LHO" because the defendant worried and scared then the defendant immediately climbed up and sat on Sweetha Kusuma Gatra Subardiya's waist while the defendant strangled Sweetha Kusuma Gatra Subardiya's neck and Sweetha Kusuma Gatra Subardiya fought back by using both hands to hit the defendant's waist and back until there was a sound

"Arrrrrrrrggggggghhhhhhhh" at the same time Sweetha Kusuma Gatra Subardiya's blows became weaker the defendant immediately took the veil that was beside Sweetha Kusuma Gatra Subardiya then the defendant held the veil with both hands and the defendant pressed it harder towards Sweetha Kusuma Gatra Subardiya's neck until she was helpless until her face turned purple, then the defendant wrapped the veil until it was finished and the defendant tied it. And the defendant saw both of Sweetha Kusuma Gatra Subardiya's eyes glaring upwards, the mouth was open and there was blood mixed with saliva on the lower front teeth, then the defendant closed Sweetha Kusuma Gatra Subardiya's mouth by pressing her chin but her mouth could not close, then the defendant got off Sweetha Kusuma Gatra Subardiya's body to the right and made sure whether Sweetha Kusuma Gatra Subardiya had died or not by looking at her chest and stomach, it turned out that there was no breathing movement, then the defendant sat on the chair to the left of Sweetha Kusuma Gatra Subardiya while taking a pillow and the defendant placed it on the left side of Sweetha Kusuma Gatra Subardiya's face, because the defendant was afraid to see Sweetha Kusuma Gatra Subardiya's face, then the defendant opened the room curtain and saw the hotel staff, then the defendant closed the curtain again while pacing back and forth because he was afraid.

In the criminal code contained in article 340 is an act related to premeditated murder, but because it was carried out after being planned in advance, it makes its implementation more difficult. The intention of the law makers to strengthen the threat of article 340 of the Criminal Code is actually used to thwart the intention. Therefore, the implementation of premeditated murder not only shows the success of the plan, but also a strong determination to achieve the intention to kill, because there is an opportunity to reveal the intention carried out. If the formulation in article 340 of the Criminal Code is explained in terms of its aspects, the following aspects arise:

1. Objective aspect: Which includes the element of taking another person's life as referred to in the description, in the formulation of the crime of murder, the crime of extortion means that the perpetrator must have the intention to kill another person. The term taking another person's life in this article is a translation into another language translated by the BPH team, it has been interpreted that the word "taking" in the sense of taking another person's life. another term, namely taking another person's life, is stated in Dutch as "beroven". If the action is related to life, then the word to take or take, then the action should be carried out with violence, regarding the element of taking another person's life. whether for the act of taking life and is considered an action carried out by that person. Simons has firmly stated that a person can commit the crime of murder without having to do something about it.

2. Subjective Elements:

1) Elements of intention

By considering the above factors, it can be seen that the crime of intentional murder regulated in Article 340 of the Criminal Code also includes the element of "intentional". From the text of Article 340 of the Criminal Code above, it is also clear that the element of "intentional" is placed before other elements in the text. This means that other elements behind the element of "intentional" are considered to be absorbed or considered to be infused by one element of intention. Intention (dolus) is considered wrong (guilt) if the

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perpetrator has a closer psychological relationship than *kulpa* with his actions (prohibited/obligatory). Therefore, the threat of a crime is much heavier if it is done intentionally than if it is done due to negligence.

There are also exclusive acts that if done intentionally are crimes. There are many different desires, and these desires can lead to actions that are prohibited and threatened by law. If he is very interested in having the object, one day he can take action to have the object, even though it is prohibited by law. If he then plans how to have the object, then he already has a will (*oogmerk*). To cause a crime, he does the desired action. To fulfill his desire, he goes through several stages. In other words:

- a) The presence of stimulants.
- b) There is a will.
- c) There is action

In the event of a crime, even if the motive has no meaning, thoughts and ideas are formed in connection with the motive to realize the desire. After the decision is made, the mental process is completed and the confession is based on the actions taken to realize the desire, and from the attitude of the perpetrator, whether intentional or not, what actions can be concluded, you can know his intention. Any conclusion before, during, and/or after the execution of the act is prohibited. Proving intention is often difficult, especially when the perpetrator (defendant) denies his intention and cannot even prove it. To prove the existence of intent, the circumstances that occur are often relied on.

2) Elements with Plan

In Advance From the elements contained in the formulation of Article 340 of the Criminal Code, it is clear that the crime of murder containing additional elements is a planned act. Therefore, the only factor that distinguishes ordinary murder in the sense of Article 338 of the Criminal Code from premeditated murder in the sense of Article 340 of the Criminal Code is the element of prior planning. In this case, Article 338 of the Criminal Code has been explained, and further explanation of Article 340 of the Criminal Code has been omitted.

Based on the elements contained in the text of Article 340 of the Criminal Code, the next element to be discussed is first of all the element of planning. If observed, the criminal law itself does not explain what is meant by planning in advance. From the explanation of the meaning of "pre-planned", it is clear that the term "met voorbedachte raad" or "pre-planned" indicates a point in time that should be considered carefully. This term is the opposite (opposite) of the rapid growth of will.

In the accountability of someone who commits premeditated murder, this can be seen from several elements, namely:

- a. Objective elements are elements related to an unlawful act.
- b. Subjective elements are elements related to an action in which there is intent.

If seen from the explanation above, then the responsibility can be seen whether a person commits the crime or not. If a person commits the crime then those who must be held accountable:

- a. His mental state, for example, is not disturbed by physical or mental illness.

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b. The ability of the soul, which includes the senses in the body, works normally, and can tell whether the action was done unconsciously or not.

Several aspects can be seen to determine whether a person can be held accountable or not, namely:

a. There is a sense of responsibility that the perpetrator has to be held accountable for his actions.

b. There is no reason given for someone committing such an act.

In order for someone to be subject to criminal penalties, the act committed by the person must fulfill the elements that have been determined in the law. That criminal responsibility can be carried out against someone if it is related to his actions, namely intentional and negligence (negligence) and there is no justification or reason that eliminates criminal responsibility. the ability to be responsible or accountable from the perpetrator, the existence of an unlawful act. In this case, the judge orders a special examination of the defendant's mental state even though it is not requested by the defendant. If the results are still doubtful to the judge, it means that the ability to be responsible has not stopped, so that there is no error and the penalty cannot be imposed based on the principle of not being punished if there is no error

Therefore, regardless of whether someone has committed a crime, their guilt must still be proven. The definition of legal responsibility states that a crime cannot be committed without any fault. The idea of justice is deeply ingrained in Indonesian society, therefore it would be considered unfair to punish an innocent person for committing a crime. Based on the results of the study, the legal responsibility for the perpetrator of premeditated murder according to the decision number: 333 / Pid.B / 2022 / PN Smg the defendant is legally responsible for his actions based on Article 340 of the Criminal Code, Article 76 C in conjunction with Article 80 paragraph (3) of the Republic of Indonesia Law Number 35 of 2014 concerning amendments to the Republic of Indonesia Law Number 23 of 2002 concerning Child Protection, and Law Number 8 of 1981 concerning the Criminal Procedure Code and other relevant laws and regulations. Sentencing the Defendant to Life Imprisonment and a fine of Rp. 1,50,000,000.00 (one billion five hundred million rupiah) if the fine is not paid it will be replaced with imprisonment for: 10 (ten) months and the Defendant will be charged with paying court costs of Rp. 5,000.00 (five thousand rupiah);

4. Conclusion

Based on the results of the discussion and research on the problem, the following conclusions can be drawn: 1. The construction of the crime of premeditated murder is regulated in several related articles, namely Article 340 of the Old Criminal Code and Law of the Republic of Indonesia Number 1 of 2023 concerning the Criminal Code 459 of the New Criminal Code, namely relating to the punishment given to defendants of premeditated murder intentionally and with prior planning to take the life of another person, threatened because of premeditated murder, with the death penalty or life imprisonment or for a certain period of time, a maximum of 20 years. 2. Legal responsibility for the perpetrator of premeditated murder according to decision number: 333/Pid.B/2022/PN Smg the defendant is legally responsible for his actions based on Article 340 of the Criminal Code, Article 76 C in

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conjunction with Article 80 paragraph (3) of the Republic of Indonesia Law Number 35 of 2014 concerning amendments to the Republic of Indonesia Law Number 23 of 2002 concerning Child Protection, and Law Number 8 of 1981 concerning the Criminal Procedure Code and other relevant laws and regulations. Sentencing the Defendant therefore to life imprisonment and a fine of Rp. 1,50,000,000.00 (one billion five hundred million rupiah) if the fine is not paid it will be replaced with imprisonment for: 10 (ten) months and charging the Defendant to pay court costs of Rp. 5,000.00 (five thousand rupiah);

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