

The Formulation of Murder Crime Investigation Based on Legal Certainty

Edo Indra Sukma^{*)}

^{*)} Faculty of Law, Universitas Islam Sultan Agung Semarang, Indonesia, E-mail: edoindra1011@gmail.com

Abstract.

Law is the cornerstone of human life in society, nation and state. Assessment of human behavior that is contrary to or not with legal norms is a reflection of a rule of law state. The purpose of this research is to find out the construction of investigations into homicide according to positive law in Indonesia and to understand the formulation of homicide investigations in the future. The results of the study show that the construction process carried out by the National Police for murder cases is in accordance with the procedure. There are several similarities and differences in the formulation of the investigation into the crime of murder in Indonesia and Singapore. Likewise, there are some differences and similarities in the formulation of investigations into homicide crimes in Indonesia and in England.

Keywords: Certainty; Crime; Murder.

1. Introduction

Law is the cornerstone of human life in society, nation and state. Assessment of human behavior that is contrary to or not with legal norms is a reflection of a rule of law state. (F. Faramis, 2014). Acts that violate the law are referred to as crimes. Many crimes that occur in society ranging from violence, persecution, theft, murder and others. Article 362 of the Criminal Code reads: "Whoever takes goods, which completely or partially belong to another person, with the intention to own said goods unlawfully, is punished for stealing with a maximum imprisonment of five years or a fine of up to nine thousand rupiahs."

This crime against life is regulated in the Criminal Code Book II Chapter XIX Articles 338-350. The statutory provisions governing the criminal acts of theft and murder have been drafted and enforced, however, the crimes related to these crimes have

not been appeased. Alleged crime whoever deliberately and premeditatedly kills another person's soul, and/or theft which is preceded, accompanied or followed by violence against a person or any person is prohibited from placing, allowing, and committing violence against children resulting in death which is known on Wednesday February 4, 2021 approx. Pkl. 06.00 WIT in the victim's house with the initials S alias A on Ds land. Turusgede Rt. 04/Rw. 01 district. Rembang Regency Rembang or at least in other places that are still included in the jurisdiction of the Rembang District Court. As referred to in Article 340 of the Criminal Code, a subsidiary of Article 338 of the Criminal Code and/or Article 339 of the Criminal Code and/or 365 Paragraph (3) of the Criminal Code or Article 80 Paragraph (3) in conjunction with Article 76C of the Law of the Republic of Indonesia No. 35 of 2014 concerning amendments to the Law of the Republic of Indonesia No. 23 of 2002 concerning Child Protection.

In the context of comparative law, Indonesia has different arrangements regarding the formulation of articles and the imposition of sanctions for the crime of murder based on the Criminal Code of each country. In foreign countries, the regulation regarding the crime of murder is explained in detail in the United Kingdom Penal Code. The crime rate abroad tends to be lower when compared to Indonesia. Therefore, in order to perfect the provisions governing the criminal act of murder in Indonesia, it is necessary to conduct a comparative study between criminal laws. Indonesia and abroad to find out the similarities, differences and advantages and disadvantages of regulations regarding the crime of murder in each country. This needs to be done in order to better solve the problem regarding the criminal provisions for murder in Indonesia in the future. Departing from these problems, the author wishes to conduct research entitled: Formulation of an investigation into the crime of murder based on legal certainty. The purpose of this research is to find out the construction of investigations into homicide according to positive law in Indonesia and to understand the formulation of homicide investigations in the future.

2. Research Methods

The research method used in this study consists of: The method of approach is normative juridical (examining library materials or secondary data). The type of research used is descriptive analytical research, namely literature study as secondary data, then discusses, examines and compares conceptually with laws and regulations. The types and sources of data are: Primary (1945 Constitution of the Republic of Indonesia and the Criminal Code); Secondary (books, journals, and research documents in the field of law); and tertiary (Indonesian Dictionary, English Dictionary, Legal Dictionary, Encyclopedia and teaching tools (hand out) on procedures for writing scientific papers).

3. Results and Discussion

The results of the research and discussion contain the results of the research and at the same time the discussion based on the theory used as an analytical knife. If there is more than one research objective, sub-headings are made, as in the example below.

3.1. Construction of Investigation of Criminal Acts of Murder according to Positive Law in Indonesia

In the Criminal Code, murder is killing another person. According to Dutch it is called "doodslag", English (menslaughter), German (totchlag). According to the Big Indonesian Dictionary, murder is the process, method, act of killing. Article 338 of the Criminal Code defines that the crime of murder is "deliberately killing life", the penalty is fifteen years in prison. In criminal law, the crime of murder is a serious crime, where this can be seen from the criminal threat. In the Criminal Code, murder can be classified as a crime aimed at the lives of other people, this is regulated in Chapter XIX which consists of 13 articles, namely articles 338-350. These crimes can be classified into 2 types, namely crimes against lives committed intentionally (*dolus misdrijven*) and crimes against lives committed unintentionally (*culpose misdrijven*). Crimes against lives that are committed intentionally have several classifications in them, the first is ordinary murder in article 338 of the Criminal Code, murder that is followed, accompanied or preceded by other crimes commonly known as aggravated murder which is regulated in article 339 of the Criminal Code, premeditated murder as regulated in Article 340 of the Criminal Code, murder of children regulated in Article 341 of the Criminal Code, murder at the request of the victim regulated in Article 344 of the Criminal Code, murder in the form of advocating or assisting suicide in Article 345 of the Criminal Code,

According to Adami Chazawi, the act of killing another person has 3 conditions that must be met, namely: 1. There is a form of action; 2. There is a death (of another person); 3. There is a causal relationship (*causal verband*) between actions and the consequences that arise.

These three conditions form a unified whole, although they can be distinguished, but if one of the conditions above is not met, the offense of murder is deemed not to have occurred. So it can be concluded that the offense of murder can occur if there is a form of action and there is death (another person) and both of them have a causal relationship between the act and the resulting consequence, namely death. The Criminal Code (KUHP) has actually regulated provisions regarding criminal sanctions for perpetrators who commit crimes, but in reality these crimes still occur. To realize the success of law enforcement in eradicating the occurrence of criminal acts, it is necessary to strengthen the coordination of serious

cooperation from the police, prosecutors and judges at court.

The behavior of close friends is the best means of predicting whether a young person's behavior conforms to norms that deviate from the inability to live up to the dominant values and norms in society. Disability may be caused by socialization in a deviant culture.

People who commit acts of murder are not necessarily evil. There are people who can turn into a criminal if a great opportunity arises to commit a crime. Alleged crime whoever deliberately and premeditatedly kills another person's soul, and/or theft which is preceded, accompanied or followed by violence against a person or any person is prohibited from placing, allowing, and committing violence against children resulting in death. which is known on Wednesday 04 February 2021 around Pkl. 06.00 WIT in the victim's house with the initial S entering the land of Ds. Turusgede Rt. 04/Rw. 01 district. Rembang Regency Rembang or at least in other places that are still included in the jurisdiction of the Rembang District Court, the act was allegedly committed by the suspect with the initials SU as referred to in Primary Article 340 of the Criminal Code, a subsidiary of Article 338 of the Criminal Code and/or Article 339 of the Criminal Code or Article 80 Paragraph (3) Jo Article 76C of Law of the Republic of Indonesia No. 35 of 2014 concerning amendments to the Law of the Republic of Indonesia No. 23 of 2002 concerning Child Protection. The basis used is Police Report Number: LP/ B/ 08 / II / 2021/ JTG/ Res Rbg, dated 04 February 2021. Investigation Order Number: Sp. Sidik /08. a/ II / 2021 / Criminal Investigation Unit, 05 February 2021 and Notification of the start of investigation number: R / 08 / II / 2021 / Criminal Investigation Unit, 06 February 2021.

The Rembang Resort Police (Polres Rembang) is tasked with carrying out Polri's duties in the Rembang Regency area which is responsible for maintaining security and public order in the jurisdiction of the Rembang Police or what is commonly known as Kamtibmas. Kamtibmas development is a policy and strategy that aims to prevent crime, improve the quality of life, improve the quality of police services, and public trust in the police in proactive cooperation with community resources who want to change the conditions that cause crime. This means that there is a need for a more reliable police force, a greater role for society towards human rights and individual freedoms.

At the Rembang Police Station, the division that handles criminal acts is in the Criminal Investigation Unit (Sat Reskrim), at the Rembang Police Criminal Investigation Unit consists of several units including: Unit I, namely the Pidum Unit (General Crime), Unit II, namely the Corruption Unit (Criminal Acts) and Tipidter Unit (Certain Crimes), Unit III, namely Resmob (Ops Unit), namely the unit tasked with carrying out investigations in the field as well as making arrests and searches.

Unit IV namely PPA (Protection of Women and Children), Unit HARDA (Property and Property).

The police are a government agency tasked with maintaining security and public order (arresting people who violate the law) or can also be interpreted as members of a government agency (public servants tasked with maintaining security and public order).

The investigation stage of an investigator in carrying out his duties has legal corridors that must be complied with and formally regulated what and how the procedures for carrying out the tasks in the investigation. This means that Investigators are bound by the rules, laws and regulations that apply in carrying out their duties. In carrying out the investigative process, it is not impossible that opportunities to commit deviations or abuse of authority for certain purposes will occur. That's why all criminalistic experts place investigative ethics as part of the professionalism that an investigator must have. Even, If the investigative ethics are not owned by an investigator in carrying out investigative duties, the officer's arbitrary actions tend to occur which of course will cause new problems. The scope of the investigation is that the police dig up the facts on the ground and summon witnesses. Summons against witnesses are carried out based on existing summons. After calling witnesses, an arrest was made. Based on the Case Analysis and Juridical Analysis mentioned above, the investigators concluded that the suspect SUMANI Bin (Alm) RATMIN, Rembang February 18, 1976, 45 years old, male, Muslim, Farmer/planter work, primary school education (did not graduate), As referred to in Article 340 of the Criminal Code, a subsidiary of Article 338 of the Criminal Code and/or Article 339 of the Criminal Code and/or 365 Paragraph (3) of the Criminal Code or Article 80 Paragraph (3) in conjunction with Article 76C of the Law of the Republic of Indonesia No. 35 of 2014 concerning amendments to the Law of the Republic of Indonesia No. 23 of 2002 concerning Child Protection.

3.2. Future Formulation of Murder Crime Investigation

a. Comparison of the elements of the crime of premeditated murder under Indonesian and Singaporean criminal law

Indonesia	Singapore
Premeditated killing is the crime of taking the life of another person, or killing, after planning a time or technique, for the sole purpose of securing	The crime of premeditated murder must fulfill the following elements: 1. There is an intention or will

death or avoiding capture.

Premeditated murder in law is generally the most genuine type of murder, and the perpetrator deserves the death penalty. The elements of premeditated murder according to Article 340 of the Criminal Code are:

1. Whoever, is a legal subject where the legal subject who can be held responsible according to criminal law is an individual, especially a person.

2. Deliberately, does the perpetrator have the will and belief to cause certain consequences that have been controlled by parents in laws and guidelines that are driven by the satisfaction of desires (theme).

3. With the previous plan, it implies that there is a delay between arrangement and activity which allows for orderly arrangement first

2. Have started to commit a crime (as the start of the implementation)

3. The intended action has been completed

4. An outcome or purpose that may lead to death.

Singapore penal code is an Early English Saxon penal framework, which is a criminal law system that began in the Early English Saxon countries, especially the US and the Unified Realm. Given that this system is an alternative nation, be it Asia, Australia, Africa, and America whose series of meetings experienced expansionism from the Early Saxon English countries which until now still adhere to and apply the British Saxon criminal law structure.

and then followed
by activities.

b. Comparison of Criminal Sanctions Against Premeditated Murder by the States of Indonesia and Singapore

Indonesia

The Unitary State of the Republic of Indonesia is a legal state based on Pancasila and the 1945 Constitution which truly safeguards shared freedom and guarantees the people and their situations in the law and government no matter what happens. To ensure compliance and consistency with the law, it belongs to every resident of Indonesia. Criminal demonstration offenses are a type of "degenerate behavior" that are consistently innate in the public arena, no one in general is exempt from wrongdoing. As far as mistakes and discipline. The judge is the police who decide the type and measure of discipline. Criminals are forced on the perpetrators of criminal demonstrations according to what is in the law. way of thinking through and through freedom. Cesare Baccria, an old style figure brought to the world in Italy, Walk 15,

Singapore

What is meant by criminal law according to the Singapore Penal Code is "a resource that contains guidelines regarding requests and commitments in public activities, and can also be denied to those who oppose them". Meaning: A set of guidelines that contain guidelines regarding commitments and prohibitions in public activities, and can be rejected for individuals who violate them. The essential types of offenses are marked as distinct offenses and carry heavy penalties. The offender is usually dependent on the most genuine criminal support that can be compelled, given the realities of the current case. By means of a statement made by the wrongdoer's attorney to the prosecution authority, investigators can agree to accuse the wrongdoer of a lesser offence. he agreed to admit to the charges, coerced penalties may be reduced. Criminal sanctions for premeditated murder according to the Singapore Penal Code are: As a rule, provisions relating to premeditated murder can be included in the provisions of the Singapore Criminal Code, particularly in Section XVI Region 300(c), especially Offenses Affecting Human

Bodies.

c. Comparison of the Crime of Murder According to the Indonesian Criminal Code and the United Kingdom Penal Code

According to Lamintang, in order to kill another person's life, an actor must do something or a series of actions that result in the death of another person, provided that the opzet of the perpetrator must be aimed at the consequences in the form of the death of another person. In other words, the offense of murder is included in the material offense, which is an offense that is formulated materially, that is, an offense that can only be considered as having been completed by the perpetrator if a prohibited result arises that is not desired by law.

According to Adami Chazawi, the act of killing another person has 3 conditions that must be met, namely:

- a. There is a form of action;
- b. There is a death(others); And
- c. There is a causal relationship (causal verband) between actions and the consequences that arise.

These three conditions form a unified whole, although they can be distinguished, but if one of the above conditions is not met, the offense of murder is deemed not to have occurred. 121

Table 1. Similar arrangements for the crime of murder based on the Indonesian Criminal Code and the United Kingdom Penal Code

Equality		
Indicator	Indonesia	English
Prohibited intentions and consequences	Murder must have an intention and from that action comes the prohibited result, namely	Murder must have an intention and from that action comes the prohibited result, namely the death of a person.

the death of a person.

Normal murder	Regulated in the provisions of Article 338 of the Criminal Code concerning ordinary murder.	Regulated in the provisions of Article 154 of the United Kingdom Penal Code regarding murder not planning.
Premeditated murder	Regulated in the provisions of Article 340 of the Criminal Code concerning premeditated murder.	Regulated in Article 149 of the United Kingdom Penal Code regarding murder (premeditated murder).
There are arrangements regarding matters that can eliminate and reduce punishment	Mentioned in CHAPTER III regarding matters that abolish, reduce or aggravate punishment.	In England, it is regulated in CHAPTER II concerning general rules as to criminal liability.

Arrangements regarding the crime of premeditated murder are regulated in regulations in Indonesia and in the United Kingdom Penal Code. The arrangement of these two countries explains that premeditated murder is an act of killing another person who is premeditated. Where in Indonesia it is regulated in the provisions of Article 340 of the Criminal Code, namely whoever intentionally and with prior planning takes the life of another person, is threatened with premeditated murder, with the death penalty or life imprisonment or for a certain period of time, a maximum of twenty years and in the United Kingdom The Penal Code is regulated in the provisions of article 149 (1) Subject to the provisions of sections 150, 152 and 155, any person who, of malice aforethought express or implied, causes the death of another person by an unlawful act or omission is guilty of murder: Provided that where on the facts found the offense would, under the law of England be reduced to one manslaughter, then the offense shall be so reduced. (2) For the purposes of this section malice aforethought, which may be express or implied, shall be deemed to be established by evidence proving either— (a) an *intention to cause the death of or to do grievous bodily harm to any person,*

whether such person is the person actually killed or not; or (b) knowledge that the act or omission causing death will probably cause the death of or grievous bodily harm to some person, whether or not such person is the person actually killed, although such knowledge is accompanied by indifference whether or not death or grievous bodily harm is caused, or by a wish that it may not be caused.

The similarities in regulations regarding premeditated murder in these two countries are related to the elements of the criminal act of murder. In Indonesia, the act can be categorized as premeditated murder if there is an intentional element based on the intention to kill and the act is thought out in advance, similar to the case in England, which can be categorized as premeditated murder, if the act is accompanied by the intention to kill and there is knowledge or planning of the act committed. will eventually lead to the death of others. Arrangements in the Indonesian Penal Code and the United Kingdom Penal Code both provide arrangements regarding matters that can mitigate or eliminate punishment. In the Indonesian Criminal Code, the provisions are contained in CHAPTER III concerning matters that abolish, reduce or aggravate punishment, i.e. against a person whose mental development is disabled or impaired due to an illness is not punished, against a person who is not yet an adult or a minor, due to the influence of coercion, commits an act to carry out statutory provisions, a person who commits an act to carry out an order of office given by a competent authority authorized. A person accused of a criminal offense in the UK, can present reasons of defense or reasons of expiation. The reason for this defense or criminal abolition is general in nature, which means it can be submitted for crimes or criminal acts in general (Barda Nawawi Arief, 2013: 70). commits an act to carry out the provisions of the law, a person who commits an act to carry out a position order given by the competent authority. A person accused of a criminal offense in the UK, can present reasons of defense or reasons of expiation. The reason for this defense or criminal abolition is general in nature, which means it can be submitted for crimes or criminal acts in general (Barda Nawawi Arief, 2013: 70). commits an act to carry out the provisions of the law, a person who commits an act to carry out a position order given by the competent authority. A person accused of a criminal offense in the UK, can present reasons of defense or reasons of expiation. The reason for this defense or criminal abolition is general in nature, which means it can be submitted for crimes or criminal acts in general (Barda Nawawi Arief, 2013: 70).

Differences in the regulation of the crime of murder based on the Criminal Code and the United Kingdom Penal Code

Defender	Indonesia	English
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Homicide setting	It is regulated in CHAPTER XIX articles 338-350 of the Criminal Code for intentional killing and in CHAPTER XXI Article 359 of the Criminal Code for killing due to hunger.	Regulated in CHAPTER XII in articles 149-162 United Kingdom Penal Code.
Death penalty	Applies to premeditated murderers	Has been abolished in the United Kingdom Penal Code.
Provocation to kill	Unregulated	Regulated in article 152 United Kingdom Penal Code.
Infanticide	Regulated in articles 341, 342, and 343 of the Criminal Code.	Regulated in article 155 United Kingdom Penal Code.
Death threats	Regulated in Articles 336 and 337 of the Criminal Code.	Death threats in the United Kingdom Penal Code are regulated in article 156.
Conspired to kill	Not regulated in the Criminal Code	Regulated in article 157 of the United Kingdom Penal Code regarding conspiracy to kill.
Deadline	Not explained in the Criminal Code.	Described in article 162 United Kingdom Penal Code.

4. Conclusion

In the Criminal Code, the definition of murder is to take the life of another person. Meanwhile, according to Dutch it is called "doodslag", English (menslaughter), German (totchlag). According to the Big Indonesian Dictionary, murder is the process, method, act of killing. To kill another person's life, a person must carry out a series of actions that result in the loss of another person's life or the death of a person where the act was carried out with an element of intent (opzet). This is based on articles 338-350 of the Criminal Code chapter XIX. In the Criminal Code, murder can be classified as a crime aimed at the lives of other people, this is regulated in Chapter XIX which consists of 13 articles, namely articles 338-350. These crimes can be classified into 2 types, namely crimes against lives committed intentionally (dolus misdrijven) and crimes against lives committed unintentionally (culpose misdrijven). Imposing the maximum sentence in accordance with the provisions of the Criminal Code to the perpetrators of the murder. The legal policy that can be imposed on the perpetrators of the murder refers to the Criminal Code which is adapted to the articles of murder against the soul of a person based on the actions of the perpetrator and the victim in proving the case according to the proof of the case in accordance with the evidence of the Criminal Code.

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