



UNCOVERING INTENT: REASSESSING THE ROLE OF MOTIVE IN THE PUNISHMENT OF PREMEDITATED MURDER IN INDONESIA

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Abstract

The sentencing of premeditated murder cases in Indonesia has so far emphasized the elements of planning and the consequences of the act, but has paid little attention to the perpetrator's motive as a reflection of the degree of culpability. In many progressive legal systems, however, motive is considered important in assessing the extent to which criminal intent (*mens rea*) contributes to the quality of a criminal act. This study aims to reassess the role of motive in the sentencing of premeditated murder under Article 340 of the Criminal Code, and to propose an evaluative model that can be used to enhance substantive justice in Indonesia's criminal justice practice. Using a legal-normative method and a qualitative approach to twenty court decisions selected purposively (period 2018–2024), it was found that in 70% of cases, motive was not considered as a legal factor in the court's decision. Motives were merely mentioned in the chronology without legal weight. However, in criminal law practice in Germany and the Netherlands, motives serve as the basis for classifying murder and determining criminal sanctions. This study developed a conceptual model that categorizes motives into three categories: rational-emotional, manipulative-opportunistic, and pathological, each with its own evaluative implications for sentencing. This study recommends that motives be integrated into national sentencing guidelines and incorporated into judicial training based on contextual justice. In this way, Indonesia's sentencing system can become more humane, fair, and aligned with the values of substantive justice.

Keywords: Motive; Premeditated Murder; Indonesian Criminal Law; Disparity in Judgments; Judicial Decisions; Substantive Justice

1. Introduction

Premeditated murder is a crime that receives the most attention in the criminal justice system because it involves a high degree of intent (Aranda, 2020; Murdiana & Kusuma, 2023; Ploeg et al., 2024; Rauzi et al., 2023; Romdoni et al., 2022). Article 340 of the Criminal Code stipulates that murder committed with prior planning is punishable by death, life imprisonment, or a maximum of twenty years' imprisonment (Agusta et al., 2025; Armelia et al., 2024; Limbong & Adhari, 2022). Behind this normative framework, one crucial element that is not explicitly mentioned in the elements of the offense is the perpetrator's motive. In this context, motive refers to the reason or driving force behind the commission of the crime, which psychologically reflects the intensity of the perpetrator's criminal intent (*mens rea*) (Antill, 2022; Jafarnejad Sani, 2024; Ramadhani et al., 2025).

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Data from the Indonesian Supreme Court's Judgment Directory for the period 2020 to 2024 shows that in more than 100 premeditated murder cases, only 27% of judgments explicitly mention the perpetrator's motive as a legal consideration. This indicates that the judicial system tends to ignore motive as an important element in sentencing evaluations.

Theoretically, ideal criminal punishment does not only assess acts in terms of objective elements (*actus reus*) and subjective elements (*mens rea*), but also considers motivational background as a determinant of the degree of culpability (Kamsi et al., 2023; Palarczyk, 2023). The modern concept of criminal justice, as formulated by Hart (1968) and von Hirsch (1993), suggests the need to comprehensively consider the moral blameworthiness of the perpetrator—including the motives behind the crime (Gardner, 1976; Hoffmann & Zontek, 2022; Stahn, 2020; von Hirsch et al., 2004; Von Hirsch & Roberts, 2004). By excluding motives from the structure of legal analysis, punishment can become overly mechanistic and lose touch with individual morality, particularly in cases involving complex social relationships such as domestic violence, murder due to economic pressure, or psychological influence (Fabini, 2025a; McKeown, 2021; van Rooij et al., 2024).

The urgency of this research is also reinforced by the tendency for disparity in sentencing in similar cases. In cases of murder with almost identical methods and planning, the disparity in sentences can range from 10 to 20 years in prison, or even the death penalty, simply because there are no standard benchmarks for assessing the perpetrator's intent. Without an assessment of the motive, judges risk imposing disproportionate sanctions, which can lead to legal uncertainty and violations of the principle of justice.

Meanwhile, in Indonesian legal academic literature, studies on the role of motive have not been developed systematically. Criminal law studies tend to focus on proving elements of planning and intent, as well as discussing court decisions from a formalistic perspective (Butt & Nathaniel, 2024; Irianto, 2021; Ramadan & Mandala, 2025). There is a clear research gap in the lack of efforts to develop a legal framework that places motive as an interpretative tool in constructing sentencing arguments.

Based on this background, this article aims to explore the role of motive in the sentencing process for premeditated murder. Using a normative approach and case analysis, this study seeks to develop a new conceptual framework that places motive as part of rational consideration in sentencing. The scientific contribution of this study is expected to strengthen the moral basis of sentencing and provide input for the formulation of more objective, fair, and humane sentencing guidelines.

2. Research Objectives

This study aims to critically reassess the position and role of motive in the construction of punishment for perpetrators of premeditated murder in Indonesia. Although normative motive is not included in the formal elements of Article 340 of the Criminal Code, its existence as a psychological driving force behind criminal acts cannot be ignored. Within the framework of modern criminal justice, motive holds significant value in determining the extent to which a defendant's moral culpability can be held accountable in a proportionate manner through sentencing.



Specifically, this study aims to identify how motives are positioned in Indonesian criminal justice practices, particularly in judges' considerations when handing down verdicts in premeditated murder cases. This study also aims to examine inconsistencies in legal considerations related to motives in various court verdicts, as well as to examine the potential for disparity in sentencing due to the absence of a systematic evaluative framework regarding motives.

Another objective of this study is to develop a conceptual framework based on criminal law theory that can be used to assess the degree of guilt of defendants through a motive-based approach. This framework is expected to contribute to the formulation of sentencing guidelines that are more contextual, fair, and take into account the psychological and social conditions of defendants as a whole.

Thus, this study not only aims to enrich academic discourse in the field of substantive criminal law, but also to contribute practically to the reform of the penal system in Indonesia, particularly in developing a more humane approach to sentencing based on substantive justice.

3. Research Methodology

This study uses a normative-legal approach supported by qualitative analysis of court decisions as the main source of data (Christiani, 2016; Negara, 2023; Rohman et al., 2024; Taekema, 2018). The normative-legal approach was chosen because this study aims to conceptually and normatively reassess the role of motive in the punishment of premeditated murder based on the Indonesian positive legal system, particularly Article 340 of the Criminal Code. This approach enables researchers to analyze law not only as a collection of written norms but also as a social practice reflected in the process of legal interpretation and application by law enforcement officials, particularly judges.

The data used in this study consists of primary data in the form of first instance court decisions, appeals, and cassation in premeditated murder cases accessed through the Indonesian Supreme Court Decision Directory. A total of 20 selected decisions from the period 2018 to 2024 were chosen as the objects of analysis because they reflect the diversity of legal considerations, perpetrator motives, and variations in sentencing. The selection was made purposely based on the following criteria: (a) explicitly mentioning the motive in the factual narrative or considerations, (b) involving various types of relationships between the perpetrator and the victim (family, spouse, stranger), and (c) demonstrating disparity in the form of punishment. Additionally, secondary data was utilized, including criminal law literature, academic journal articles, legal textbooks, relevant theories on motives and sentencing, and comparisons with legal systems in other countries such as the Netherlands and Germany, which have adopted motive analysis within the framework of criminal justice.

Data collection techniques were carried out through document studies and literature analysis, which included tracing primary legal sources (laws and regulations and court decisions) and secondary legal sources (legal doctrines and theories). The analysis was conducted qualitatively through a content analysis approach, focusing on the legal narrative constructed in the decisions, including how motives were described, interpreted, and used as the basis for legal considerations in rendering the decisions.



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The analysis also uses comparative legal methods to examine how other legal systems treat motive in the construction of punishment, particularly in the context of German criminal law, which considers motive to be an important element in the structure of homicide offenses (Mord vs Totschlag), and Dutch criminal law, which takes into account the psychosocial background of the perpetrator in criminal considerations.

All data were systematically analyzed to identify patterns, inconsistencies, and opportunities for reconstructing the concept of motive in sentencing. With this approach, the study is expected to be replicable, meaning that it can be used again with similar methodological approaches and steps for other types of serious crimes, such as terrorism or sexual violence.

4. Result

4.1. Inconsistency in the Consideration of Motives in Court Decisions

The results of this study indicate that consideration of motive in sentencing for premeditated murder has not been treated consistently and systematically in judicial practice in Indonesia (Laia et al., 2025; Rahmawati et al., 2023). From 20 court decisions analyzed purposively, it was found that most panels of judges did not explicitly treat motive as a basis for legal consideration in imposing criminal sanctions in premeditated murder cases. Of these, only six decisions (30%) mentioned motive as part of the consideration. However, in five of the six cases, motive was only listed as a circumstance accompanying the facts, not as an instrument for evaluating the level of the perpetrator's guilt.

For example, in the Bandung District Court Decision No. 345/Pid.B/2020/PN.Bdg, in a case of murder of a spouse due to infidelity, the judge mentioned the motive of "blind jealousy" but did not take it into account in the legal considerations. On the other hand, in Supreme Court Decision No. 198 K/Pid/2021, the motive of being influenced by heretical teachings was considered an aggravating factor because it was deemed a form of severe moral deviation, even though the defendant was proven to have a personality disorder. This inconsistency highlights the absence of a standardized framework or parameters that judges can rely on when evaluating motives.

Furthermore, disparities are also evident in the range of sentences between 10 and 20 years for similar acts, simply because the motives were not assessed proportionally. This situation creates legal uncertainty and has the potential to undermine the principle of equality before the law, whereby perpetrators with irrational motives receive the same punishment as those who plan cold-blooded and strategic murders.

4.2. The Relevance of Motive in the Evaluation of Criminal Offenses

Legally, the Indonesian Criminal Code does not include motive as part of the elements of a criminal offense, especially in the case of premeditated murder (Oktatianti et al., 2023; Rahmawati et al., 2023). However, in modern criminal law doctrine, motive is an important component of the approach to criminal justice, which not only assesses the act itself but also the intent and moral background of the perpetrator (Berg & Schreck, 2021; Chuasanga & Argo Victoria, 2019; Horowski, 2022). Punishment should take into account the



mens rea in its entirety, including the subjective reasons that drive an individual to commit a crime (Horowski, 2022; Schwartz et al., 2022).

This view is in line with von Hirsch's idea that the main purpose of punishment is to balance the degree of wrongdoing with the punishment imposed (Schwartz et al., 2022; von Hirsch, 1992). Within this framework, motive serves as a crucial indicator for distinguishing between crimes committed under emotional duress or personal emergency circumstances, and crimes committed with opportunistic and calculated malicious intent. Failing to consider motive amounts to disregarding the principle of proportional punishment, which forms the foundation of the criminal justice system.

In Satjipto Rahardjo's perspective, law should not only be seen as text, but also as an expression of human justice (Herlindah & Darmawan, 2022; Pangestu & Endah Wahyuningsih, 2025). Therefore, the perpetrator's motive cannot be regarded merely as background information, but must serve as a window into understanding the moral culpability of a defendant. In other words, motive functions as a moral filter for malicious intent, and when used appropriately, can serve as the basis for differentiating treatment in sentencing to achieve greater fairness.

The criminal justice systems of European countries such as Germany and the Dutch have given clear consideration to motive in the structure of offenses and sentencing (Bohlander, 2021; Liem et al., 2022). In Germany, as stated in StGB § 211, reprehensible motives form the basis for classifying murder into the category of aggravated murder (Mord), while murder committed under the influence of a sudden impulse is categorized as Totschlag. This reflects the principle that the reasons for committing a crime are as important as the act itself.

4.3. Discussion

Based on the above analysis, this study offers a conceptual model for positioning motive as an evaluative tool in the sentencing of premeditated murder. This model consists of three main categories of motive based on their characteristics and implications for sentencing: (1) rational or reactive motives, (2) manipulative or opportunistic motives, and (3) pathological motives.

Rational or reactive motives are motives that arise from emotional or psychological pressure or coercive circumstances, such as murder resulting from repeated domestic violence (Fabini, 2025b). In such situations, the perpetrator does not act entirely with malicious intent but rather as a form of psychological outburst or defense mechanism. Therefore, this motive should be considered as a mitigating factor, as it reflects an unstable mental state.

Conversely, manipulative or opportunistic motives—such as killing to obtain inheritance, planned revenge, or financial gain—indicate a high degree of malicious intent and planning, as well as a greater degree of moral wrongdoing. In this context, such motives should be considered aggravating factors because they indicate the level of social harm and moral wrongdoing of the perpetrator's actions.

Pathological motives, such as those arising from mental disorders, extreme social pressure, or personality imbalances, require a more humanistic and rehabilitative approach. In such cases, criminal sanctions do not always have to take the form of



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imprisonment, but can be directed toward the psychological and social recovery of the perpetrator.

Thus, this model does not place motive as a new element of crime, but as an important component in the principle of individualization of punishment, which helps judges in assessing the psychological and moral complexity of a crime. This model is also in line with the direction of reform of the Indonesian criminal justice system towards a restorative and corrective approach, and supports the formulation of context-based sentencing guidelines.

4.4. Novelty and Research Contribution

This study presents important scientific innovations in the field of criminal law, particularly regarding the evaluation of the role of motive in the sentencing of premeditated murder in Indonesia. Until now, motive has tended to be treated as merely part of the chronology of events, without being given adequate analytical consideration in the legal deliberations of the panel of judges. However, motive can reflect the intensity of moral blame (moral blameworthiness) of the perpetrator, which directly influences the appropriateness of the punishment. Therefore, this study explicitly positions motive as an important interpretive tool in constructing proportional and contextual sentencing arguments.

One of the main innovations of this study is the development of a conceptual framework that categorizes motives into three types, namely: (1) rational-emotional motives, such as jealousy or self-defense against violence, (2) manipulative-opportunistic motives, such as motives for material gain or planned revenge, and (3) pathological motives, such as those driven by mental disorders or extreme social pressure. Each of these motives is assigned an implicative weight in sentencing, ranging from mitigating considerations, aggravating factors, to the basis for rehabilitation. This framework contributes theoretically to a more systematic and measurable understanding of the role of motives, and provides a foundation for more objective considerations in criminal sentencing decisions.

This study also enriches the criminal law discourse in Indonesia by using a comparative legal approach that compares sentencing practices in the German and Dutch legal systems. In Germany, for example, the motive considered heinous serves as the legal basis for distinguishing between aggravated murder (Mord) and ordinary murder (Totschlag), as stipulated in Sections 211 and 212 of the German Criminal Code (StGB). In the Netherlands, however, the motive is considered part of the defendant's personality profile in determining the severity of the sentence. This approach is still relatively rare in criminal law studies in Indonesia, thereby providing a valuable comparative dimension in developing progressive legal arguments.

In terms of practical contributions, this study makes a significant contribution to the reform of the national sentencing system. One of these contributions is the proposal that motive be made an explicit part of the sentencing guidelines applicable to judges and prosecutors in drafting indictments and verdicts. Currently, there are no official parameters regulating how motive should be considered in a measurable way in cases of



premeditated murder, thereby opening the door to inconsistencies and significant disparities in court rulings. The motive evaluation model proposed in this study can serve as both a normative and practical foundation for addressing these issues.

Furthermore, this study also contributes conceptually to strengthening the principle of individualization of punishment, namely the principle that every perpetrator of a crime must be punished based on their personal, social, and psychological circumstances. Motive is an important entry point in recognizing the social context of perpetrators and in developing a legal approach that is not only repressive but also corrective and restorative.

Overall, the novelty and contribution of this research lies in the reformulation of a substantive justice-based approach to sentencing, which does not merely assess the consequences of an act, but also the reasons and background behind why the act was committed. By establishing a normative foundation, theory, and practical model, this research is expected to serve as an important basis for the development of a more just, consistent, and human-centered criminal sentencing system in Indonesia.

5. Conclusion

This study concludes that motive plays a crucial role but has not been adequately accommodated in the framework of premeditated murder sentencing in Indonesia. Although not a formal element in Article 340 of the Criminal Code, motive substantively reflects the quality of intent (*mens rea*) and the moral culpability of the perpetrator, which should be part of the legal considerations in imposing punishment. Findings from an analysis of twenty court decisions reveal inconsistencies in the treatment of motive. Most decisions ignore motive as a basis for consideration, treating it merely as part of the narrative of events rather than as an evaluative basis.

This raises important issues in the context of criminal justice: sentencing that does not take motive into account has the potential to result in disparate punishments, disregard the principle of proportionality, and erode sensitivity to the social and psychological conditions of offenders. When criminal motive is not integrated into the judicial process, the legal process becomes overly mechanistic and tends to ignore the complexity of human reality as subjects of law.

This study successfully formulated a conceptual framework that divides motives into three main categories—rational-emotional, manipulative-opportunistic, and pathological—each of which has normative implications for the weight of criminal responsibility. With this model, judges and law enforcement officials can have a tool to assess motives in a more structured and proportional manner. This model also fills a gap in judicial practice, which currently lacks standardized guidelines for addressing motives in cases of premeditated murder.

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