

Legal Parameters for Proving the Element of Premeditation in the Crime of Premeditated Murder: An Analysis of Article 459 of the Criminal Code and Judgment Number 1422/Pid.B/2025/PN.Mdn

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ABSTRACT

This research is driven by legal issues related to the lack of clear and operational parameters in proving the element of 'premeditation' in Article 459 of Law No. 1 of 2023 (Criminal Code), which could potentially trigger judicial subjectivity and inconsistency in law enforcement. To analyze the legal regulations, examine the legal parameters, and assess the application of this element in the Medan District Court Decision Number 1422/Pid.B/2025/PN.Mdn, this normative legal research uses a statutory and case approach through library studies of primary and secondary legal materials, analyzed qualitatively in a descriptive-analytical manner. The research results show that due to the absence of clear legal parameters, proving this key distinguishing element of premeditated murder heavily depends on the judge's interpretation through an inferential approach—which, although stated as fulfilled in the case studied, still leaves room for criticism—therefore, the formulation of more Firmness is really needed to ensure legal certainty, consistency of decisions, and fairness in enforcing criminal law.

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1. INTRODUCTION

Indonesia constitutionally affirms itself as a state based on the rule of law (*rechtsstaat*), as mandated by Article 1, Paragraph (3) of the 1945 Constitution (UUD 1945); this principle requires that all aspects of social life and state governance be consistently grounded in applicable law rather than merely in the exercise of power. The law serves as the primary instrument for establishing order, legal certainty, and substantive justice for all citizens. Within the framework of the rule of law, the protection of human rights—particularly the right to life—constitutes a crucial pillar that must not be compromised by any authority. Asshiddiqie (2013) emphasizes that a state based on the rule of law must be balanced by oversight of power and effective guarantees of fundamental rights. Consequently, any criminal law enforcement policy must be implemented proportionately and transparently to uphold human dignity. Criminal regulations must not be merely repressive in nature but must strike a balance between public interests and individual rights.

The state bears a constitutional responsibility to protect all its citizens from various threats that could undermine social stability and national security (Harun, 2025). Crimes against human life, such as murder, constitute a tangible threat that violates the most fundamental human rights. Such criminal acts not only harm individual victims but also generate collective anxiety that disrupts public order. Criminal law serves as an instrument of social engineering to shape societal behavior toward a better order. Rahardjo (2014) asserts that the law must be responsive to social dynamics and contemporary challenges to remain relevant in protecting society.

Therefore, the criminalization policy regarding the crime of murder needs to be designed comprehensively. Intentional killing is a crime that fundamentally violates the principles of just and civilized humanity. Murder constitutes the taking of a person's life in a manner that disregards or violates the law (Nova and Taufiqurrahman, 2024).

The protection of the sanctity of human life serves as a primary benchmark for the success of law enforcement in a country. The evolution of national law—specifically the enactment of Law Number 1 of 2023 concerning the Criminal Code (National Criminal Code)—marks a new era of legal decolonization in Indonesia (Prameswari, 2026). This National Criminal Code was designed to replace the colonial legal legacy, which is now considered incompatible with the nation's socio-cultural values. A significant aspect of this new codification is the provision regarding premeditated murder. This provision reflects a structured legal reform effort aimed at distinguishing the severity of criminal acts against human life. The principle of legality remains the fundamental cornerstone: no act is punishable unless based on a law that was already in effect prior to the commission of the offense. These updates are intended to provide greater legal certainty and enhanced protection of human rights within society.

The enforcement of Article 459 requires a comprehensive understanding of the elements of the crime, which have been explicitly formulated and clearly defined—including those pertaining to the law on premeditated murder. According to Imanuel Marentek, premeditated murder comprises two primary elements: a subjective element and an objective element. The subjective element refers to the killing being committed intentionally and with prior planning, whereas the objective element refers to the object of the act (another person's life) (Marentek, 2019).

A legal analysis of evidence regarding premeditated murder focuses not only on achieving substantive justice but also opens the door to criticism concerning potential inaccuracies in establishing the element of "premeditation." In judicial practice, the element of premeditation is often interpreted differently by judges, potentially leading to inconsistent crime classifications between ordinary murder and premeditated murder. Through an in-depth review of Medan District Court Decision Number 1422/Pid.B/2025/PN.Mdn, this study examines not only the implementation of Article 459 of Law Number 1 of 2023 but also whether the evidence of premeditation is based on clear and measurable criteria. Ambiguities regarding timeframes, thought processes, and the intensity of intent in determining premeditation can introduce subjectivity into judicial assessments. Without academic scrutiny, the application of Article 459 risks creating legal uncertainty and a mismatch between the offender's degree of culpability and the imposed sanctions. Therefore, analyzing this decision is crucial to determining whether evidentiary practices reflect the principles of caution and proportionality in criminal law.

2. METHODS

Research methodology is a crucial component of any scholarly work, serving as a guide for the processes of data collection, processing, and analysis to ensure that research findings are academically defensible. In legal research, the methodology serves to uncover and comprehend legal truths through the examination of norms, principles, theories, and judicial practices relevant to the research subject. This study aims to address issues concerning the proof of the crime of premeditated murder—viewed through the lens of Article 459 of Law No. 1 of 2023 regarding the National Criminal Code—in relation to the Medan District Court Decision Number 1422/Pid.B/2025/PN.Mdn. By employing an appropriate methodology, this research seeks to produce an analysis that is objective, systematic, and consistent with

criminal law principles. All stages of the research are conducted in a focused manner to ensure that the data obtained possess validity and relevance to the issues under examination.

The methodological approach employed in this study is the normative-juridical approach (Asiksin, 2012), which focuses on library materials or secondary data as the primary sources for legal research. This approach involves examining legal norms found in legislation, legal doctrine, and court rulings concerning premeditated murder. Specifically, the normative-juridical approach is used here to analyze the provisions of Article 459 of Law No. 1 of 2023 concerning the National Criminal Code and their application in the Medan District Court Decision Number 1422/Pid.B/2025/PN.Mdn. The study does not focus on fieldwork but rather on the analysis of legal texts and judicial reasoning in the adjudication of the case. Furthermore, this approach is utilized to assess the alignment between criminal law theory and its practical application in court rulings, particularly regarding the substantiation of the "premeditation" element in the crime of premeditated murder.

This study employs a descriptive-analytical approach, aiming to provide a systematic overview of the subject matter while analyzing the legal issues identified. The research goes beyond merely presenting legal facts found in court rulings; it also relates them to theories of criminal law, evidentiary principles, and criminal liability. In this study, the author describes the provisions regarding premeditated murder under Article 459 of Law Number 1 of 2023 and analyzes their application in Medan District Court Decision Number 1422/Pid.B/2025/PN.Mdn. Through this approach, the author seeks to provide a deeper understanding of the evidentiary process and the judicial reasoning involved in handing down a criminal verdict against the defendant.

The research was conducted using a library research method, involving the collection of secondary data from various legal sources. This process entailed examining legislation, legal textbooks, scholarly journals, and court rulings relevant to the research subject. Primary legal sources included the 1945 Constitution of the Republic of Indonesia, Law Number 1 of 2023 concerning the Criminal Code, the Criminal Procedure Code, and the Medan District Court Decision Number 1422/Pid.B/2025/PN.Mdn. Secondary legal sources comprised books, scholarly journals, research findings, and the opinions of criminal law experts relevant to the study. Additionally, the research utilized tertiary legal sources such as legal dictionaries, the "Kamus Besar Bahasa Indonesia" (Great Dictionary of the Indonesian Language), and legal encyclopedias to facilitate the understanding of legal terms employed in the study.

The data collection technique employed was a documentary or literature study, involving the gathering and examination of various literature and legal documents pertaining to premeditated murder and criminal evidentiary matters. The author analyzed statutory regulations, legal doctrines, and court rulings as the primary sources for the analysis. Furthermore, the author conducted an in-depth review of Medan District Court Decision Number 1422/Pid.B/2025/PN.Mdn, focusing specifically on the judges' considerations, evidence, and the application of the elements constituting the crime of premeditated murder. All data obtained were subsequently classified based on their relevance to the research problem.

The data analysis method employed in this study is qualitative juridical analysis. The analysis is conducted by systematically examining and interpreting the gathered legal materials in light of applicable legal norms. Rather than utilizing statistical data, the study relies on legal reasoning and the interpretation of statutory regulations and court rulings. The author analyzes each element of Article 459 of Law Number 1 of 2023 and relates them to the legal facts found in Medan District Court Decision Number 1422/Pid.B/2025/PN.Mdn. During the analysis, the author employs grammatical, systematic, and teleological interpretation techniques to understand the meaning of the element "premeditated" (or "planned in advance") and the purpose behind the enactment of the norm. The findings are then presented descriptively to provide a clear overview of the application of the law in cases of premeditated murder and to comprehensively address the research problem.

3. FINDINGS AND DISCUSSION

Analysis of the Regulation on the Offense of Premeditated Murder in Article 459 of Law Number 1 of 2023

Law Number 1 of 2023 concerning the Criminal Code (hereinafter referred to as the National Criminal Code) represents a long-awaited milestone in the reform of Indonesian criminal law. After more than a century of applying the legacy of Dutch colonial criminal law, Indonesia finally possesses a criminal code codified based on the nation's own values and legal needs. One of the provisions reformulated in the National Criminal Code is the offense of premeditated murder, set forth in Article 459.

Article 459 of the National Criminal Code stipulates: "Any person who, with premeditation, takes the life of another person shall be punished for premeditated murder with the death penalty, life imprisonment, or imprisonment for a maximum term of 20 (twenty) years." Based on this formulation, there are several normative elements that constitute the offense of premeditated murder: first, the subject element, namely "any person"; second, the element of "with premeditation"; third, the act element, namely "taking the life"; and fourth, the object element, namely "another person." These four elements are cumulative, meaning that all elements must be satisfied concurrently for a person to be prosecuted under Article 459 of the National Criminal Code.

Premeditated murder (*moord*) is a form of crime against life regulated under Article 340 of the Criminal Code. The offense of premeditated murder constitutes a distinct offense, separate from the ordinary murder offense regulated under Article 338 of the Criminal Code. The formulation of the premeditated murder offense essentially replicates the murder offense found in Article 338, with the addition of one specific element: "with premeditation" (Suganda, 2024).

The first element, "any person," refers to a legal subject capable of bearing criminal liability for their actions. From a criminal law perspective, the subject of a criminal offense must possess the capacity for accountability (*toerekeningsvatbaarheid*); this means the perpetrator must be of sound mind and thus able to comprehend the unlawful nature of their actions. If it is proven that the perpetrator suffers from a mental disorder that negates this capacity for accountability, then criminal liability cannot be imposed upon them, in accordance with Article 38 of the National Criminal Code.

The second element—which serves as the primary distinguishing factor in the construction of this offense—is the element of "premeditation," or what is known in criminal law doctrine as "*voorbedachte raad*". This element constitutes the very essence of the crime of premeditated murder and is simultaneously the most complex aspect to prove. According to Prodjodikoro (2012), "*voorbedachte raad*" implies that between the emergence of the intent to kill and the execution of the act, there exists a sufficient interval for the perpetrator to reconsider that intent with a calm mind. In other words, this element does not merely require a lengthy time gap; rather, it focuses on the perpetrator's psychological state, allowing for the conscious and rational contemplation and preparation of the act.

In criminal law doctrine, premeditated murder is categorized as a serious offense requiring planning as a form of heightened intent—known in legal terminology as "*dolus premeditates*" (Iriyanto & Halif, 2021). Unlike *dolus directus* (direct intent) found in ordinary murder—where intent and action occur as a unified whole without a pause for reflection—*dolus premeditatus* requires a planning process that precedes the act itself. The Supreme Court has consistently clarified in various rulings that *voorbedachte raad* cannot be assessed based on the duration of the planning; instead, it is determined by whether the perpetrator had the opportunity to reflect on their actions with a clear mind, free from the influence of momentary emotional pressure.

The third element is the act of "taking a life," which constitutes the "*actus reus*" of this offense. This act encompasses any form of active conduct that directly causes the death of another person, whether committed using a sharp weapon, a firearm, poison, or other means capable of extinguishing life. Regarding the burden of proof, there is an absolute requirement to establish a legally provable causal link (*causal verband*) between the defendant's actions and the victim's death. Establishing this

causal link generally relies on forensic expert testimony —specifically the visum et repertum (forensic medical report)—which scientifically explains the mechanism and cause of the victim's death.

The fourth element, “another person,” clarifies that the object of the crime of premeditated murder is the life of a human being other than the perpetrator themselves. This provision implicitly excludes acts directed against oneself from the category of premeditated murder. In judicial practice, this element rarely becomes a point of contention, as the victim can generally be easily identified through various forms of evidence.

A comprehensive analysis of the normative construction of Article 459 of the National Criminal Code reveals that the legislature has endeavored to formulate this offense in a more systematic and structured manner compared to previous provisions. The explicit placement of the element “with premeditation” at the beginning of the offense's definition reflects the legislature's intent to emphasize the role of planning as the decisive element that most distinguishes this offense from other crimes against life.

Analysis of the Parameters of the "Premeditated" Element in the Offense of Premeditated Murder

Within the dogmatic structure of criminal law, intent (*dolus*) is neither singular nor uniform. Criminal law scholars distinguish between various gradations of intent based on the perpetrator's level of volition and awareness at the time the act is committed. The highest gradation of intent—which specifically characterizes the offense of premeditated murder—is known as *dolus premeditatus*, or intent accompanied by prior planning.

Moeljatno (2015) explains that under classical criminal law doctrine, intent (*dolus*) is generally categorized into three forms, one of which is *opzet als oogmerk* (intent as a specific aim), wherein the perpetrator consciously desires the consequences of their actions. The concept of *dolus* (intent) constitutes a form of culpability in criminal law, signifying the presence of both volition and awareness on the part of the perpetrator regarding their conduct. Such intent is typically classified into various forms, including *dolus directus*, *dolus indirectus*, and *dolus eventualis* (Ahirudin et al., 2026).

Opzet als zekerheidsbewustzijn (intent with certainty) is where the perpetrator is certain that a specific consequence will arise from their actions, even if that consequence is not their primary objective. *Opzet als mogelijkheidsbewustzijn* (or *dolus eventualis*) is where the perpetrator is aware of the possibility that a consequence may arise and consciously accepts that possibility. All three gradations of intent can serve as a basis for criminal liability; however, only *dolus premeditatus* requires premeditation as an additional element.

As a criminal law concept, *dolus premeditatus* (a form of criminal intent involving prior planning) occupies a position fundamentally different from the three gradations of *dolus* mentioned above (Nano et al., 2026). This distinction lies not in the intensity of the will to commit the act, but rather in the existence of a temporal and psychological process preceding the act itself. While a perpetrator acting with *opzet als oogmerk* (intent as a specific aim) might kill a victim impulsively—driven by strong intent yet without any preparation—*dolus premeditatus* requires that the intent to kill existed and was maintained by the perpetrator over a period sufficient to allow for reflection, deliberation, preparation, and the decision to proceed with the intended act.

Soesilo (1991) emphasizes that the primary distinction between *dolus premeditatus* and ordinary *dolus* lies not in the strength or weakness of the intent to kill, but in the presence or absence of *rustig overleg*—a state of calm reflection enabling the perpetrator to clearly consider the planned act before its execution. An individual who kills in a fit of explosive emotion—even if harboring a very strong intent to kill at that moment—cannot be categorized as a perpetrator of *dolus premeditatus* if there was no intervening period of calm reflection prior to the act.

From the perspective of criminal law psychology, *dolus premeditatus* can be understood as a cognitive process comprising three sequential and interconnected stages. The first stage is the emergence of intent (*intentio*), the moment when the will to take another person's life first forms in the perpetrator's mind. The second stage is deliberation (*deliberatio*), a process of reflection and

consideration regarding that intent, during which the perpetrator has the opportunity to either abandon or proceed with the plan. The third stage is resolution (*resolutio*), the moment the perpetrator makes the final decision to carry out the intent and begins concrete preparations for its execution.

Collectively, these three stages constitute what criminal law doctrine terms *voorbodachte raad*, or premeditation. Failure to satisfy any of these three stages—particularly the deliberation stage, which lies at the heart of the concept of a "calm state of mind"—means the act cannot be classified as premeditated murder; instead, it would be classified merely as ordinary murder or even aggravated assault resulting in death.

Understanding the concept of *dolus premeditatus* is crucial, not only from an academic perspective but also from the standpoint of practical law enforcement. The precise classification of the form of intent proven in a murder case determines the specific charge brought, the nature of the evidence the public prosecutor must present, and, ultimately, the severity of the sentence the judge may impose.

Analysis of Court Judgment Number 1422/Pid.B/2025/PN.Mdn

In case Number 1422/Pid.B/2025/PN.Mdn, the Medan District Court bears a legal obligation to meticulously and systematically examine whether all elements of the offense of premeditated murder—as formulated in Article 459 of Law No. 1 of 2023 concerning the National Criminal Code—have been satisfied based on the admissible evidence presented at trial. This obligation is not merely a formal procedural requirement but a manifestation of the principle of legality, which serves as the cornerstone of modern criminal law, as affirmed by the maxim **nullum crimen sine lege, nulla poena sine lege**.

Upon closer analysis, the panel of judges' legal reasoning in the ruling essentially follows the standard structure for examining the elements of an offense commonly applied in Indonesian judicial practice. The panel sequentially examined the fulfillment of each element of the offense charged by the Public Prosecutor, ranging from the subject element of "any person" and the act element of "taking the life of another person" to the most crucial element: "with premeditation."

Regarding the examination of the element "any person," the panel of judges correctly determined that the defendant is a legally competent subject capable of bearing criminal responsibility for their actions. No facts emerged during the trial indicating the presence of mental illness, a state of unconsciousness, or any other condition that would negate the defendant's capacity for responsibility as stipulated in Article 38 of the National Criminal Code. Consequently, the assessment of this element by the panel of judges is deemed adequate.

The examination of the element "taking the life of another person" within the panel's deliberations was likewise supported by valid and sufficient evidence. The **visum et repertum** (forensic medical report) submitted by the public prosecutor scientifically established that the victim died as a result of physical violence inflicted upon them, while witness testimonies and other physical evidence consistently identified the defendant as the perpetrator of said violence. Thus, the causal link between the defendant's actions and the victim's death has been legally proven in accordance with the evidentiary standards set forth in Article 183 of the Criminal Procedure Code (KUHAP).

Nevertheless, the examination of the element of "premeditation"—which is the most decisive and complex component of the crime of premeditated murder—requires a deeper and more critical analysis. Evaluating the adequacy and soundness of the panel of judges' reasoning regarding this specific element forms the core of the analysis in this section, as will be detailed in the subsequent subsection.

Overall, the author assesses that the panel of judges' application of Article 459 of the National Criminal Code in this case followed the correct structural approach regarding the examination of the offense's elements. However, the quality and depth of the examination—particularly concerning the element of *voorbodachte raad* (premeditation)—warrant closer scrutiny.

The second parameter examined is the existence of concrete preparations made by the defendant prior to committing the act. Concrete preparation is the most tangible and easily provable indicator

among the three parameters formulated by the author, as preparation generally leaves behind factual traces identifiable through physical evidence, witness testimony, or electronic recordings.

The facts established at trial reveal a series of actions that can logically be understood only as part of deliberate preparation. These include the presence of the tools or means used to commit the act—items which, based on witness testimony and physical evidence, were not in the defendant's possession merely by coincidence at the time of the incident. Furthermore, the manner in which the defendant approached the victim—reflecting knowledge of the victim's habits and routines—indicates that the defendant had engaged in prior observation and strategic preparation.

The third parameter—and the most difficult to prove—concerns the defendant's state of calm deliberation (*rustig overleg*) during the formation and maintenance of their intent. This parameter assesses whether the defendant acted with a clear, rational mind or, conversely, while in a state of acute emotional agitation that deprived them of the capacity for calm reflection.

The facts established during the trial do not indicate the presence of an acute affective state that would negate the fulfillment of the element of *voorbedachte raad* (premeditation). There is no psychiatric expert testimony or witness account describing the defendant as being in a state of pathologically uncontrolled emotion at the time of, or leading up to, the commission of the act. Conversely, the manner in which the defendant approached the victim and carried out the act demonstrates a level of self-control and calculation inconsistent with the profile of someone acting impulsively and without planning.

Nevertheless, based on the totality of the facts revealed at trial, the third parameter—namely, the presence of a calm state of mind—can be deemed indicatively satisfied, with the caveat that proof of this parameter would ideally be reinforced by relevant forensic psychiatric expert testimony. Based on an assessment of the three aforementioned parameters, the author concludes that the element of "premeditation," as required by Article 459 of the National Criminal Code, has been established legally and convincingly in this case. The three parameters—time interval, concrete preparation, and a calm state of mind—all point to the same conclusion: that the defendant's actions were the result of deliberate planning rather than a spontaneous reaction to a sudden situation.

4. CONCLUSION

The regulation and application of the offense of premeditated murder under Article 459 of Law Number 1 of 2023 continue to present fundamental legal issues, particularly regarding the proof of the element of "premeditation." Although introduced as part of the reform of national criminal law, the construction of the offense essentially retains the core characteristics of Article 340 of the old Criminal Code. This indicates that the reform was codificatory rather than substantive in nature, meaning that classic issues concerning the proof of the premeditation element persist in judicial practice. Doctrinally, the element of "premeditation" requires a deliberate thought process, a sufficient lapse of time, and preparatory actions prior to the commission of the crime. However, the absence of clear and operational legal parameters in the statute means that proving this element relies heavily on the judge's interpretation of the facts presented at trial. This broad judicial discretion creates room for subjective assessment, potentially leading to inconsistent rulings and sentencing disparities, thereby undermining legal certainty and the principle of proportionality. This situation is exemplified by the Medan District Court Decision Number 1422/Pid.B/2025/PN.Mdn, in which the panel of judges employed an inferential approach to conclude that premeditation existed. While formally acceptable, this method of proof fails to substantively establish a clear distinction between ordinary murder and premeditated murder. The gap between the normative framework and actual practice underscores the urgent need to strengthen doctrinal standards and judicial guidelines to uphold justice and legal certainty within the criminal justice system.

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