



Application of the Law in the Crime of Murder With Premeditation of the Death of Women and Children in the Womb

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ABSTRACT

In Indonesian positive law, the form of guilt for the crime of taking the life of another person can be intentional and unintentional (negligence). Intentionality is an act that can occur with premeditation or unplanned, but what is important from an event is the existence of "intention" which is realized through the actions carried out to completion. The nature and type of this research is empirical juridical, which is a concrete explanation of the object of the problem regarding the application of the law on the crime of premeditated murder which results in leaving women and children in the womb in the Kulon Progo Police area, based on facts that occur in the field, used empirical research is research that requires objects directly in the field which are then used in the form of narratives, then empirical research is research on social reality in society. Based on the descriptions that have been explained at length in the chapters, the final conclusions are as follows The application of the law with Article 340 of the Criminal Code in the crime of premeditated murder which resulted in the death of women and children in the womb "Deliberately," meaning that the act must be intentional and the intent must arise immediately, because the intent (opzet / dolus) referred to in Article 338 is an intentional act in Article 340 is an intentional act to eliminate the lives of others formed with prior intent. The obstacles faced by investigators in the search for evidence of premeditated murder cases that resulted in the death of women and children in the womb in the Kulon Progo Police area.

Keywords: *Application, Murder, Premeditated*

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INTRODUCTION

In Indonesian positive law, the form of guilt for the crime of taking the life of another person can be intentional and unintentional (negligence) (Asman dkk., 2023). Intentionality is an act that can occur with premeditation or unplanned (B. Beribe, 2023), but what is important from an event is the existence of "intention" which is realized through the actions carried out to completion."

The legal aspect of murder cases is based on Chapter XIX of the Criminal Code on crimes against life, Articles 338-350 (Makniyah & Khotimah, 2023). Article 338 states

that anyone who intentionally takes the life of another person shall, being guilty of murder, be punished by a maximum imprisonment of fifteen years.

In terms of criminology, according to Morrall, murder is divided into 3 types, namely: (1) Justifiable, which is murder that can be justified because it is based on a correct duty or right (Yeltriana dkk., 2023); (2) Excusable, which is murder outside of rights or duties but without criminal intent; (3) Felonious, which is murder defined by law as a crime.

According to Article 338 of the Criminal Code, murder is: "followed, accompanied, or preceded by a crime". The word "followed" (gevolgd) means followed by another crime. The murder is intended to prepare for the commission of another crime (Lumban Gaol, Hansrainer, dkk., 2023). Premeditated Murder (Moord)

This crime is regulated by the death penalty in Article 340 of the Criminal Code, which reads:

"Whoever with deliberate intent and with premeditation takes the life of another person, shall, being guilty of premeditated murder, be punished by capital punishment or life imprisonment or a maximum imprisonment of twenty years."

The elements above have been fulfilled, and a perpetrator is aware and deliberate of the consequences but he does not cancel his intention (Louw dkk., 2023), then he can be subject to the death penalty in Article 340 of the Criminal Code.

The threat of criminal law on premeditated murder is more severe than murder in Articles 338 and 339 of the Criminal Code and is even murder with the most severe criminal sanction, namely death penalty, where the death penalty sanction is not listed in other crimes against life, which is the basis for the severity of this penalty is the existence of prior planning. In addition to the death penalty, perpetrators of premeditated murder can also be sentenced to life imprisonment or for a certain period of twenty years.

One of the criminal offenses that is increasing in number is murder. Data from the Central Bureau of Statistics shows that the number of infanticide cases in 2015 reached 1058 cases and in 2016 increased to 1467 cases (Mustajab dkk., 2023). In the Kulon Progo Regional Police area, the number of infanticide cases that occur every year is also quite large. It was recorded that in 2019 there were 76 cases of murder, planning which resulted in the death of women and children in the womb in 2019 with 58 cases of premeditated murder of women and children, and in 2020 to 48 cases of murder. Planned."

Coinciding with the Anti-Violence against Women Campaign in 2018, Komnas Perempuan found many complaints and cases of sexual violence that were not handled and protected, due to the absence of a legal umbrella that could understand and have the right substance about sexual violence (Pamungkas & Halimah, 2023). In addition, Komnas Perempuan also received at least 319 cases reported during the pandemic and two-thirds of them were cases of domestic violence (Roshayanti dkk., 2023). According to data from the Legal Aid Institute of the Indonesian Women's Association for Justice (LBH APIK), there were around 110 cases reported after the implementation of Large-Scale Social Restrictions (PSBB) from March to June.

So through this thesis research, the compiler tries to study in more depth about the crime of premeditated murder which will then discuss it in the form of a thesis with the title (Fuadi & Mirsal, 2023): Application of Law in the Crime of Premeditated Murder Resulting in the Death of Women and Children in the Womb.

LITERATURE REVIEW

Overview of Crimes Against Women and Children

The term criminal offense used in Indonesia is a translation of the Dutch *Strafbaar feit*, which is actually an official term in the *Strafwetboek* or the Criminal Code or also known as *Delict* (Suryaningsih, 2021). According to Wirjono Prodjodikoro "criminal act means an act whose perpetrator can be subject to criminal punishment and the perpetrator can be said to be the subject of a criminal act."

According to Sudarto, various definitions do not matter, as long as it is known what is meant by the term and what is the content of the definition, "The use of the term criminal act is based on sociological considerations, because the term has been accepted by the community".

Definition of Women

Women's participation in improving the family economy is very important, to support the needs of the family women work in the industry regardless of gender differences between men and women (Mutalib & Dylan, 2021). The struggle of women in achieving equality and justice, which has been carried out since long ago, has not been able to raise the dignity of women to be equal to men (Mudinillah & Rizaldi, 2021). Even though the highest power in Indonesia has been held by women, and many women have held strategic positions in the government, gender injustice and the underdevelopment of women have not been resolved as expected (Arsul dkk., 2021). Women are still marginalized and left behind in all aspects of life, the economy, including in the legal field. This is a major challenge for the government. Legislation related to the protection of women's human rights include (Gusvita & Alon, 2021): Law No. 39/1999 on the Legal Protection of Women's Human Rights in Improving the Indonesian Economy.

Human Rights, Law No. 23/2004 on the Elimination of Domestic Violence, Law No. 12/2006 on Citizenship, Law No. 21/2007 on the Crime of Trafficking in Persons, Law No. 2/2011 on the amendment of Law No. 2/2008 on Political Parties, Law No. 7/2019 on General Elections, and other laws and regulations (Rahmah & Martin, 2022): Presidential Decree No. 9/2000 on Gender Mainstreaming (PUG), Presidential Decree No. 181/1998 on the Establishment of the National Commission on Violence Against Women (Komnas Perempuan) which was amended to Presidential Decree No. 65/2008.

Definition of Child

Children in the large Indonesian dictionary are defined as offspring, children also contain the meaning of a young human being (Afifah dkk., 2023). In addition, a child is essentially a person who is at a certain period of development and has the potential to become an adult.

A child is a man or woman who is not yet mature or has not yet experienced puberty (Yennizar dkk., 2022). Children are also the second generation, where the word "child" refers to the opposite of parents, adults are children of their parents, even though they are adults.

The following is a description of the definition of a child according to several laws and regulations:

1. According to Law No. 23/2002 on Child Protection The definition of a child according to Law No. 23/2002 on Child Protection is contained in Chapter I General Provisions. Article 1 point 1 states that "A child is someone who is not yet 18 (eighteen) years old, including children who are still in the womb".
2. Based on Law No. 11/2012 on the Child Criminal Justice System, A child victim of a criminal offense, hereinafter referred to as a child victim, is a child under the age of 18 (eighteen) years who has suffered physical, mental, and/or economic losses caused by a criminal offense.

Overview of the Crime of Murder

Definition of the Crime of Murder

Murder according to the Criminal Code is the act of intentionally and unlawfully taking the life of another person.

According to (Black Law Dictionary) murder is an act that violates positive law by another person with intentionally malicious intent whether it is done directly or indirectly.

Types of Sanctions for Murder

In the Criminal Code, criminal provisions on crimes against the lives of others are regulated in book II chapter XIX, which consists of 13 articles, namely Article 338 to Article 350. Crimes against the lives of others are divided into several types, namely:

Ordinary Murder (Article 338 of the Criminal Code)

regulated in Article 338 of the Criminal Code is a criminal offense in its main form, namely an offense that has been formulated in full with all its elements. The formulation in Article 338 of the Criminal Code is as follows:

"Whoever intentionally takes the life of another person, shall, being guilty of murder, be punished by a maximum imprisonment of fifteen years".

Meanwhile, Article 340 of the Criminal Code states as follows:

"Any person who with deliberate intent and with premeditation takes the life of another person shall, being guilty of manslaughter, be punished by capital punishment or life imprisonment or a maximum imprisonment of twenty years."

Murder with Aggravation

Set out in Article 339 of the Criminal Code which reads as follows (Lumban Gaol, Morales, dkk., 2023): "Murder which is followed, accompanied, or preceded by a crime and which is committed with the accompaniment of, or preceded by a crime and which is committed with intent to facilitate the commission of the crime, if caught red-handed, to release oneself or a participant from punishment, or to keep in his possession property obtained unlawfully, shall be punished by life imprisonment or a maximum imprisonment of twenty years (Amirudin dkk., 2022) ."

For example: A wants to kill B; but because B is escorted by P, A first shoots P, and then kills B. The word "accompanied" means, accompanied by another crime; the murder is intended to facilitate the execution of the other crime.

The second subjective element "with intent" must be interpreted as the personal intent of the perpetrator (Muhammadong dkk., 2023); namely, the intent to achieve one of the objectives (objective element), and for the perpetrator to be convicted, as formulated in Article 339 of the Criminal Code, the personal intent does not need to have been realized / completed, but this element must be charged by the Public Prosecutor and must be proven before the court.

Premeditated Murder

Murder with premeditation is an ordinary murder such as Article 338 of the Criminal Code, but is committed with prior planning. Planned in advance (voorbedachte rade) is the same as between the arising of the intention to kill and the execution there is still time for the perpetrator to calmly think about for example in what way the murder will be carried out.

The difference between ordinary murder and premeditated murder is that the execution of the murder referred to in Article 338 is carried out immediately when the intention arises, while the premeditated murder is deferred after the intention arises, in order to organize a plan, how the murder will be carried out. The time between the onset of the intention to kill and the execution of the murder is still so spare, that the perpetrator can still think, whether the murder is continued or canceled to plan the murder.

Regarding the element of premeditation, it basically contains three elements/conditions:

1. Deciding on the will in a calm atmosphere.
2. There is sufficient time available from the arising of the will to the execution of the will.
3. The execution of the will (action) in a calm atmosphere.

RESEARCH METHODOLOGY

The nature and type of this research is empirical juridical, which is a concrete explanation of the object of the problem regarding the application of the law in the crime of premeditated murder which results in leaving women and children in the womb, the facts occur in the field, empirical research is used is research that requires objects directly in the field which are then used in the form of narratives, then empirical research is research on social reality in society.

RESULT AND DISCUSSION

Application of Law with Article 340 of the Criminal Code in the Crime of Premeditated Murder Resulting in the Death of Women and Children in the Womb.

In the application of the law, Article 340 of the Criminal Code states as follows

"Any person who deliberately and with premeditation takes the life of another person shall, being guilty of manslaughter, be punished by death or life imprisonment or a maximum imprisonment of twenty years."

"With deliberate intent" means that the act must be intentional and the intent must arise immediately, because the intent (opzet/dolus) referred to in Article 338 is a deliberate act in Article 340 is an intentional act to take the life of another person formed with premeditation.

With regard to "the life of another person", it means the life of another person of the murderer. Against whom the murder is committed does not matter, even if the murder is committed against the father/mother himself, including the murder referred to in Article 338 of the Criminal Code.

So according to the Criminal Code we do not recognize the provisions stating that a murderer will be subject to more severe sanctions because he has intentionally killed a person who has a certain position or has a relationship with a punishable act, because the person who commits suicide is considered a person with a sick mind and he cannot be held responsible.

The implementation of investigation tasks is handled by investigating officials or assistant investigators, in accordance with their respective authorities as stipulated in Book Chapter II Article paragraph 7 and Article 11 of the Criminal Procedure Code.

Article 1 point 1 of the Criminal Procedure Code states that what is meant by an investigator is a State police officer or certain civil servant officials who are given special authority by law to carry out investigations.

Evidence of premeditated murder cases in the jurisdiction of the Kulon Progo Police, which is referred to as valid evidence, is as explained in Article 184 of the Criminal Procedure Code as follows:

Witness testimony: the testimony of the witness Ngumar and the witness Semiyah who testified that on that day, Friday, March 24, 2019 at approximately 10.00 WIB, Sdri. Rifka Anisa Rahmawati came to the house of witnesses Ngumar and Semiyah and met with the suspect Sunarto then Sdri. Rifka Anisa Rahmawati left with the suspect Sunarto and did not return, only the suspect Sunarto Alias Sunar Bin Sumarno returned home.

Expert testimony: dr. R.A. Kusparwati IP, Sp.F, SH. In this case as the Head of the Medical Team who conducted an external, internal examination and identification of the body of the deceased Rifka Anisa Rahmawati and as a Forensic Specialist at Dr. Sardjito Hospital. That according to Visum Et Repertum number 029/2019 the corpse of Rifka Anisa Rahmawati inner eyelids are reddish, the tissue under the nails is bluish, the blood vessels behind the sternum are dilated, the blood vessels appear dilated in the neck skin tissue, and some neck muscle vessels are dilated.

According to information from Dr. R.A. Kusparwati IP, Sp.F, SH. the cause of Rifka Anisa Rahmawati's death could not be determined because the internal organs had decomposed. In this case, it cannot rule out the cause of death of the deceased Rifka Anisa Rahmawati violence in the neck which resulted in asphyxia / suffocation. It was explained that there was one fetus in the womb, female sex, full term, no congenital defects.

Based on Visum Et Repertum number 029/2019, it explains that Rifka Anisa Rahmawati's corpse has reddish inner eyelids, bluish tissue under the nails, dilated blood vessels behind the sternum, dilated blood vessels in the neck skin tissue, and several dilated neck muscle vessels.

FACTS

1. Actions taken by the Police
2. Arrived and conducted an examination of the scene of the crime.
3. Taking notes and requesting testimony from witnesses
4. Seize and secure evidence
5. Requesting information from the suspect
6. Sending the victim's body for medical examination at Dr. Sardjito Central General Hospital.

Summons

With Summons Letter Number: S.Pgl/17/III/2019/ Criminal Investigation, dated March 25, 2019, a summons was made to the witness a.n PONIJO. The witness was present and gave testimony at Kulon Progo Police Station;

Arrest

With Arrest Warrant Number: SP. Kap/13/III/ 2019/Reskrim dated March 26, 2019, an arrest was made against SUNARTO Alias SUNAR Bin SUMARNO place of birth: Kulonprogo, June 18, 1995, religion Islam, private sector, address: Dsn. Balak RT 73/35, Pendoworejo, Girimulyo, Kulonprogo, then the suspect was taken to the Kulon Progo Police Office for examination.

Detention

With Detention Order Number: SP. Han/30/III/ 2019/Reskrim dated March 26, 2019, SUNARTO Alias SUNAR Bin SUMARNO was detained, place of birth : Kulonprogo, June 18, 1995, religion Islam, private sector, address: Dsn. Balak RT 73/35, Pendoworejo, Girimulyo, Kulonprogo, for 20 (twenty) days from March 26, 2019 to April 14, 2019 at the Kulon Progo Police Detention Center, then the detention of the suspect has been notified to the suspect's family with letter number: B/802/III/2019/Reskrim, dated March 26, 2019.

Search In conducting an investigation into this case, the Investigator / Assistant Investigator did not conduct a search. Confiscation With Confiscation Order Number: SP-Sita/37/III/2019/Reskrim, dated March 26, 2019, evidence was confiscated in the form of For the confiscation of the above items, a confiscation order has been requested to the Chairman of the Wates District Court. Witness statements Name: PAIJO, male, Kulonprogo, September 5, 1969, religion Islam, occupation farmer / gardening, citizen of Indonesia, Javanese, address: Dsn. Kamal RT 65/29, Pendoworejo village, Girimulyo sub-district, Kulonprogo district.

Explain: That the witness understands the reason for being examined and asked for information in connection with the discovery of the body of a woman without identity.

Description of suspect

Name: SUNARTO Alias SUNAR Bin SUMARNO, male, born in Kulonprogo on June 18, 1995, religion Islam, gender male, occupation private employee at Mc Donald Jombor Sleman, last education SMK Ma'arif 1 Nanggulan, nationality Indonesian, ethnic Javanese, address according to KTP Dusun Balak RT 73/35, Pendoworejo Village, Girimulyo District, Kulonprogo Regency.

Explained:

That the suspect understood to have been arrested and questioned by police officers because the suspect had committed the act of eliminating the life or soul of another person;

CASE ANALYSIS

1. That on Saturday, March 25, 2019 at approximately 21.00 Wib in the ditch in front of the house of the witness PAIJO, address: Dsn. Kamal RT 65, RW 29 Ds Pendoworejo, Kec. Girimulyo, Kab. Kulonprogo, a body of an unidentified woman of female sex was found lying on her back towards the north with her head and hands submerged in the water, wearing a black bh, there were abrasions on both knees, long hair loose with red hair ends, a distended stomach, and a swollen body.
2. That after the female corpse was brought to the regional general hospital (RSUD) Wates, it was then known that the identity of the corpse was sdri. RIFKA ANISA RAHMAWATI, female, 20 years old, Muslim, student, address: Dsn. Selokambang Rt.2/Rw-, Ped. Gatak, Ds. Tamantirto, Bantul Regency because there are families who recognize.

Juridical Analysis

Based on the analysis of the case above, evidence was obtained that Br. SUNARTO Alias SUNAR Bin SUMARNO has committed the crime of intentionally and premeditatedly taking the life of another person or intentionally taking the life of another person or premeditated maltreatment that results in the death of the person or maltreatment that results in the death of the person or committing violence against a child that results in death, as referred to in Article 340 subsection of Article 338 subsection of Article 353 paragraph (3) subsection of Article 351 paragraph (3) of the Criminal Code subsection of Article 80 paragraph (3) jo Article 76C of Law No. 35 of 2014 on the Amendment to Law No. 23 of 2002 on child protection, with the following elements:

Criminal elements in Article 340 of the Criminal Code: "Any person who with deliberate intent and with premeditation takes the life of another person, shall, being guilty of premeditated murder, be punished by death or life imprisonment or a maximum imprisonment of twenty years".

The element of who, This element has been fulfilled, that Br. SUNARTO Alias SUNAR Bin SUMARNO (TSK) who has committed the act of eliminating the life / life of Sdri. RIFKA ANISA RAHMAWATI based on:

1. The statement of the suspect SUNARTO Alias SUNAR Bin SUMARNO who testified that he was the one who had taken the life of RIFKA ANISA RAHMAWATI by strangling her neck until she died.
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2. Statement of SUGENG MULYANTO (father of the victim) that Sdri. RIFKA ANISA RAHMAWATI (victim) left home since Friday, March 24, 2019 at approximately 08.30 WIB but until Saturday, March 25, 2019 at approximately 18.00 WIB had not returned home, so the family was looking for her.

Interview with Bripda Rurry Feby Prabawati Assistant Investigator Position of Kulonprogo Police. From the description of the investigator's case in proving the case of premeditated murder which resulted in the death of women and children in the womb in the jurisdiction of the Kulon Progo Police, it is known that for the investigation the Police used the legal basis of the Criminal Procedure Code (KUHP) to be fulfilled to ensnare the perpetrator with the article of premeditated murder.

Based on the discussion of the facts in the case analysis and juridical analysis, Br. Sunarto (Tsk) has been reasonably suspected of committing the crime of "intentionally and with premeditation the loss of life of another person or intentionally the loss of life of another person or premeditated maltreatment that results in the death of the person or maltreatment that causes the death of a person or violence against a child that results in death" as regulated and punishable in accordance with Article 340 subsection of Article 338 subsection of Article 353 paragraph (3) subsection of Article 351 paragraph (3) of the Criminal Code subsection of Article 80 paragraph (3) jo Article 76C of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, so that the P21 file has been completed and can be upgraded to the prosecution stage of the Kulonprogo District Attorney. Yogyakarta.

Obstacles Faced by Police Investigators in the Search for Evidence of Planned Murder Cases Resulting in the Death of Women and Children in the Womb.

Many obstacles arise or arise in carrying out the tasks carried out by the Police which can affect the optimality of their functions and roles. These constraints include: lack of optimal facilities and infrastructure, limited budget or lack of human resources. Meanwhile, the most fundamental obstacle lies in the lack of discipline and lawfulness.

The obstacles facing law enforcement in the crime of premeditated murder which resulted in the death of women and children in the womb, include:

Obstacles from the Investigator's Side

Lack of Investigator personnel

The occurrence of a criminal act of premeditated murder which resulted in the death of women and children in the womb requires the role of the Kulon Progo Police evidence search investigator and the participation of the community. Because the task of the police is to maintain public security and order, with the existence or occurrence of a criminal act of murder, it is the obligation of the police to overcome it.

With the personnel of the investigation to carry out these obligations, to be able to obtain maximum results from the murder crime, a sufficient number of police officers are needed so that all kinds of criminal acts that occur can be resolved or resolved immediately.

Lack of Information from the Community

The obstacles faced by law enforcers against the crime of murder can be handled immediately by the police if the police get fast information from the police officers themselves or from the wider community, therefore the lack of information about the crime of murder causes the crime of murder that occurred in Kulonprogo District Police to be less well resolved.

Geographical situation

In the Kulonprogo District Police area, the geographical conditions are densely populated, the roads are still from narrow alleys and still look remote, which is an obstacle for the Police apparatus to carry out the murder crime.

Information regarding the occurrence of a criminal offense can be obtained from the results of investigations by police officers or from the public, in this case a small part of the big city community is still afraid of the police so that obtaining information is a little hampered.

Factors that come from outside the perpetrator

Pluralistic society

The occurrence of a pluralistic society in the Kulonprogo District Police has led to the possibility of the movement of people (a group of people) who often act badly in their area or area of origin and then move to the big city area.

The crime of murder has become a phenomenon and is getting louder, namely: upholding reason for the benefit of mankind. Its implementation is highly dependent on our efforts to always balance our mind and emotions.

The balance of physical strength and spiritual strength of mankind is needed. The result of the balance of reason and intellect will be a recommendation to make a decision that is mutually agreed upon for the sake of togetherness and peace of mankind.

Social environment

By hanging out in a negative social environment, it will cause the person concerned to commit a negative act, because one of the things that can shape human personality or actions is concluded that the factors that cause murder crimes in Kulon Progo Regency include two factors, namely internal factors and external factors. These internal factors are the unstable emotions of children, misunderstandings, grudges, the psychology of the suspect or the psychology of the suspect, weak faith, the suspect needs recognition, while external factors are the neglect of the suspect, the environment around the community where the child lives and economic factors. Alcoholic drinks also greatly affect the behavior of children because it can have a direct impact on the user, someone can become more aggressive, and cannot control themselves well.

Investigators' factors in the evidence of premeditated murder cases that resulted in the death of women and children in the womb are as follows:

1. Expert witnesses in the field of forensic computer physics, explained that the Class Characteristic method obtained results found similarities in the form of other special characteristics in footprints so that the witness concluded that it was identical and these results had been stated in the minutes of examination of evidence
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2. Based on the visum et repertum certificate, the witness concluded that there was a fracture of the head due to blunt force violence that could cause death and there were bruises on other parts of the body due to blunt force violence.
 3. Lack of human resources investigating personnel. Lack of investigating personnel, which is not balanced between the number of investigating personnel and the number of citizens who must be served. This can make it difficult for the police to control the surrounding environment.

CONCLUSION

Based on the descriptions that have been explained at length in the previous chapters in this paper, the following final conclusions are obtained

1. The application of the law with Article 340 of the Criminal Code in the crime of premeditated murder which resulted in the death of women and children in the womb. "Intentionally" means that the act must be intentional and the intent must arise immediately, because the intent (opzet/dolus) referred to in Article 338.
2. The obstacles faced by Police investigators in the search for evidence of the criminal offense of murder with premeditation which resulted in the death of women and children in the womb, must have experienced obstacles experienced by the police, among others:
 - a) Lack of police personnel
 - b) Lack of information from the community
 - c) Geographical conditions
 - d) No evidence found
 - e) From the above legal facts, the defendant was charged with violating Article 340 of the Penal Code in conjunction with Article 55 paragraph (1) to 1 of the Penal Code (primary charge), as well as Article 338 of the Penal Code in conjunction with Article 55 paragraph (1) to 1 of the Penal Code or Article 365 point (4) of the Penal Code or Article 339 of the Penal Code in conjunction with Article 55 paragraph (1) to 1 of the Penal Code (subsidiary charge), where the criminal provisions applied hereinafter are Article 339 in conjunction with Article 55 paragraph (1) to 1 of the Penal Code, namely the elements are fulfilled:
 - 1) whoever,
 - 2) murder,
 - 3) accompanied by a criminal act, which is carried out with the intention of obtaining possession of goods obtained unlawfully, and
 - 4) participation in the act. This stipulation also takes into account the recommendations of the results of the juvenile community service.
 - 5) The elements of the death penalty in Article 340 of the Criminal Code:

"Any person who with deliberate intent and with premeditation takes the life of another person, shall, being guilty of premeditated murder, be punished by death or life imprisonment."

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