

Disparity in Sentencing in Premeditated Murder Crimes to Provide Justice in Indonesia

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Abstract

Sentencing disparity is the imposition of different punishments for similar criminal acts without justification. Disparity of punishment is also found in several judges' decisions regarding premeditated murder, for example, Cassation Decision No. 1727 K/PID/2009 and Cassation Decision No. 922 K/Pid/2018. The two verdicts, in principle, addressed the case of premeditated murder; however, they rendered disparate and quite lame sentences for each defendant. This study aims to examine the punishments associated with criminal offenses and the factors causing the disparities in sentencing for premeditated murder in Indonesia. This study constitutes doctrinal legal research that examines secondary data, specifically judicial verdicts and legal statutes about premeditated murder. This study revealed that criminal sanctions were initially designed to inflict suffering on perpetrators who committed crimes. Ultimately, the objective of the sanctions evolved into a mechanism for educating perpetrators to prevent the recurrence of their actions. This study identified factors that cause disparities in sentencing for premeditated murder in Indonesia, precisely the defendant's type of culpability, motives and intentions behind the crime, intrinsic characteristics of the defendant, how the defendant executed the criminal act, and the potential impact of the sentence on the defendant's future. These factors can become sentencing guidelines that can serve as a guide and control for judges in formulating and imposing sentencing verdicts so that the sentencing can provide justice for all parties, both for victims, defendants, and the wider community.

Keywords: Concept of punishment; Disparity of punishment; Premeditated murder

1. Introduction

Criminal law generally culminates in "punishment" or "imposition of punishment" (sentencing/*straftoemeting*). The parameters of the success of a punishment can be seen from the existing punishment guidelines, in which a judge needs to impose a proportional punishment according to the level of guilt committed by the perpetrator [1]. Punishment aims to free the perpetrator from feelings of guilt for the criminal acts he has committed. In addition, punishment also has another purpose, namely to determine sanctions for violators in order to maintain order, peace, and harmony in society [2]. If examined further, there are several judges' verdicts regarding similar types or types of cases, but they are decided with different verdicts. The difference between these judges' verdicts lies in the type and severity of the sanctions given. This difference is then referred to as disparity in punishment [3]. Two words make up the term disparity in sentencing, disparity, and punishment. Black's Law Dictionary defines disparity as the inequality of quality or quantity between two or more things. In contrast,

punishment is defined as pain, punishment, suffering, or imprisonment imposed by a body that has legal authority and a court judge on someone because of a crime he has committed or because of his negligence in carrying out an obligation mandated by law [4]. Disparity in sentencing can also be defined as the imposition of unequal punishment for similar criminal acts or similar criminal acts with a more dangerous nature without any justification [5].

Disparity in sentencing in criminal acts is an important issue because it concerns the fairness of the sentencing. In practice, disparity in sentencing is common because each case certainly has characteristics that are not the same. Problems arise when disparity in sentencing is caused by differences in position between the actors involved or who commit criminal acts, such as differences in position and social status [6]. It has the potential to cause injustice and suspicion in society. Sentencing verdicts that are too different regarding the same case will have quite significant consequences for the administration of correction. Convicts who are sentenced to a heavier sentence will consider themselves victims of the arbitrariness of the court and tend not to comply with the verdicts handed down to them when they find out that there is a case that is similar to their case but are sentenced to a much lighter sentence [7]. They also tend not to obey and believe in the law in the future. Thus, one of the objectives of criminal law is to make convicts respect the existing law, which will then be lost when there is a disparity in sentencing that is too drastic [8].

Disparity in sentencing was also found in several judges' verdicts regarding premeditated murder. One example of the disparity in verdicts regarding premeditated murder can be seen in Cassation Decision Number 1727 K/PID/2009 and Cassation Decision Number 922 K/Pid/2018. In Cassation Decision Number 1727 K/PID/2009, the supreme judge who tried the case upheld the Palembang High Court Judge's Decision, which sentenced the defendant with the initials MD to five years in prison because he was proven to have committed premeditated murder against the victim RA. Meanwhile, in Cassation Decision Number 922 K/Pid/2018, the supreme judge who tried the case upheld the Banda Aceh High Court Judge's Decision, which sentenced the defendant with the initials H to death because he was proven to have committed premeditated murder against his wife with the initials N. Both judges' verdicts, in principle, both tried premeditated murder, but both judges' verdicts gave the defendant different sentences. Based on several points above, the purpose of this study is to analyze the concept of punishment in criminal acts and the factors that trigger differences in punishment in premeditated murder cases in Indonesia.

2. Research Methods

This research is doctrinal legal research that analyzes secondary data [9]. This study used secondary data from three types of legal materials: primary legal materials, secondary legal materials, and tertiary legal materials. The primary legal materials used in this study are laws and regulations related to the topic being studied and court verdicts regarding premeditated murder. Secondary legal materials used in this study were books, journals, and articles. This study used tertiary legal materials of legal dictionaries, the Great Dictionary of the Indonesian Language, and foreign language dictionaries,

such as Dutch-Indonesian and English-Indonesian dictionaries. This study used data collection techniques from literature studies. This research was carried out by reviewing and citing various court verdicts, laws and regulations, literature, theories, and legal principles related to the topic being studied [10]. The analysis method used in this study was qualitative analysis with content analysis techniques. This method was chosen because this study analyzed the disparity in sentencing in premeditated murder cases in Indonesia based on court verdicts linked to textbooks, scientific papers, and other literature related to the topic of this research in order to produce a conclusion [11].

3. Results and Discussion

3.1 Punishment in Criminal Acts

Three aspects related to punishment in criminal acts are the terminology of criminal acts, elements of criminal acts, and punishment. The first is the terminology of criminal acts. Criminal acts are a phrase that comes from the Dutch word *strafbaarfeit* [12]. According to criminal law literature, the phrase criminal act is also known as a crime or criminal act. A crime or criminal act is an act that is not permitted according to the rules of law [13]. The prohibition is accompanied by the threat of criminal punishment for anyone who violates it. In addition, a criminal act can also be interpreted as an act that is prohibited by a legal regulation and is threatened with criminal punishment (sanctions) [14]. Prohibitions are intended for actions, while the threat of punishment (criminal) is intended for someone who commits a criminal act. The use of different phrases or terms between criminal acts, criminal acts, and criminal offenses is not a problem as long as it is known what is meant, and the main thing is the definition. However, lawmakers tend to use the term criminal act because this phrase is generally known and has been accepted by the community. The term criminal act will not be a problem when the community understands the meaning of the term that is commonly heard. Second, the elements of a criminal act. The elements of a criminal act are acts that are prohibited (by legal regulations) and have a criminal threat [15]. The elements of a criminal act can be divided into two: viewed from a theoretical perspective based on the views of legal experts as reflected in its formulation and viewed from the perspective of statutory regulations, that the criminal act is formulated as a criminal act in the articles contained in the statutory regulations.

Kanter and Sianturi put forward four elements in a criminal act [16]. The four elements are a) subject; b) error; c) nature is contrary to the law (act); d) an act that is not permitted or required by laws and regulations and violations of which can be subject to criminal penalties; and e) time, place, and conditions. Meanwhile, Simons, as quoted by Soedarto, divides criminal acts into two elements: subjective elements and objective elements. The objective elements of a crime include an action by a person, the real consequences of the action, and certain things that accompany the action; for example, it is carried out in a public place. The subjective element is that the perpetrator can be held accountable, but there is an error [17]. Third, punishment is related to the topic of crime and punishment. Hiariej argues that two postulates are the basis for punishment. First, *Poena ad paucos, metus ad omnes perveniat*, meaning that punishment is given to some people so that it becomes a lesson to others; this aims to be a universal prevention so that

others do not commit crimes. Second, *Nonpotest aliquis puniri ea poena quae suis actionibus non congruit*, meaning that a person cannot be punished with a punishment that is not commensurate with his actions. The retributive theory aims to ensure that the imposition of criminal penalties is in accordance with the crime accused or blamed [18].

Punishment is a logical consequence of a criminal act because punishment is a misery imposed by the government on someone who breaks the law [19]. Four aspects need to be considered in punishment in modern society. First, punishment cannot be avoided in modern society. Second, punishment is a reflection of a criminal justice system that continues to change, and the types of punishments applied cannot be separated from the form and nature of the crime committed. There is a very clear relationship between the act and punishment, so the *postulat culpa poenae par esto* arises, meaning that punishment should be proportional to the crime. Third, punishment must be updated. The renewal of punishment can refer to criminal law in North America and Western Europe. Fourth, punishment must provide guidelines for punishment to evaluate its implementation [20].

Initially, punishment was intended to cause suffering to a person who committed a crime or violated the rules. However, with the paradigm shift, the purpose of punishment has changed to a means of moral development for individuals who have committed crimes so that they do not commit similar acts again [21]. According to Hart in Singer and Gardner, there are five elements of punishment [22]. The five elements are: a) Punishment is suffering or something unpleasant; b) Punishment and punishment are directed at something that violates the law; c) The violation committed and the punishment given must be appropriate; d) Punishment is given to people who violate or commit crimes; and e) A party with authority imposes punishment.

Based on the evaluation of sentencing that the author has previously described, sentencing guidelines are important. Sentencing guidelines can be a basis or reference in evaluating the suitability between the implementation of punishment and the purpose of punishment. In addition, sentencing guidelines also play a role in controlling judges so that the sentences they give are appropriate and beneficial, both for convicts and the community [23]. There are four main points in the sentencing guidelines. First, sentencing guidelines are designed to cover the existence of a democratic deficit. Second, the purpose of sentencing guidelines is to form a consistent and rational approach in order to produce consistent verdicts. Third, sentencing guidelines aim to encourage openness in sentencing policies. Fourth, sentencing guidelines can control the effectiveness of the budget or costs of each different verdict [24]. Hence, sentencing guidelines can help judges determine the type and amount of sanctions, minimize disparities in sentencing, reduce judge subjectivity, and provide transparency and consistency in sentencing.

3.2 Disparity in Sentencing for Premeditated Murder Cases

Table 1 illustrates the disparity in sentencing for premeditated murder cases.

Table 1. Comparison of Verdicts in Premeditated Murder Cases

No.	Sentencing	Position Case	Position of the Defendant	Verdicts
1.	Cassation Decision No. 1727 K/PID/2009	The defendant committed premeditated murder against the victim because he could not accept being mocked by the victim. The defendant and one of his friends abused the victim by kicking and hitting the victim. The defendant's friend then stabbed the knife that had been prepared into the victim's thigh, which caused the victim to bleed to death.	The defendant is a 26-year-old student and a friend of the victim.	-Proven to have committed a crime under Article 340 in conjunction with Article 55 paragraph (1) of the Criminal Code. -The District Court's verdicts imposed a prison sentence of 9 years. -The High Court's verdicts imposed a prison sentence of 5 years. -The Supreme Court's verdicts upheld the High Court's verdicts.
2.	Cassation Decision No. 702 K/Pid/2020	The defendant and other witnesses felt that they could not accept being scolded by the victim for cutting down the victim's bamboo tree. The defendant and several of his friends then planned a scheme to kill the victim. The defendant and his friends abused the victim by repeatedly hitting the victim's body and head with wood and slashing the victim's neck until the victim bled to death.	The defendant is a 31-year-old farmer and is the victim's neighbor.	- Proven to have committed a crime under Article 340 in conjunction with Article 55 paragraph (1) of the Criminal Code. -The District Court's verdicts imposed a prison sentence of 14 years. -The High Court's verdicts imposed a prison sentence of 18 years. -The Supreme Court's verdicts upheld the High Court's verdicts.
3.	Decision No. 498 K/PID/2017	In January 2016, the defendant committed premeditated murder against the victim by inviting the victim to eat together with the victim's friends and the defendant to a famous cafe in Jakarta. The defendant then poured Sodium Cyanide poison into the victim's drink. After a few minutes after consuming the drink, the victim then fainted, followed by foam coming out of his mouth. After the incident, the victim was immediately taken to a hospital in Jakarta, but after being examined by a doctor, the victim was declared dead.	The defendant works as a graphic designer, is 27 years old, and is a friend of the victim.	-Proven to have committed a crime under Article 340 of the Criminal Code. -The District Court's verdicts sentenced him to 20 years in prison. -The High Court's verdicts upheld the District Court's verdicts. -The Supreme Court's verdicts upheld the High Court's verdicts.
4.	Cassation Decision No. 922 K/Pid/2018	The defendant was hurt because the victim's older brother asked the victim to divorce the defendant. The defendant then took the victim to his parents' house. After arguing with the victim, the defendant suddenly stabbed the victim with a kitchen knife into the victim's right chest. The defendant, who was still emotional, then took a machete and swung it at the victim's neck, face, back of the head, and several other areas of the victim's body, causing the victim to die. The defendant then took several valuables belonging to the victim.	The defendant is a 46-year-old farmer and the victim's husband.	-Proven to have committed a crime under Articles 340 and 362 of the Criminal Code -The District Court's verdicts imposed the death penalty. -The High Court's verdicts upheld the District Court's verdicts. -The Supreme Court's decision upheld the District Court's verdicts.

Based on the comparison of several court verdicts above, the similarity of the type of crime does not result in the same outcome of the verdicts. Several factors cause disparities in sentencing in premeditated murder cases in Indonesia, including:

1. The Defendant's Mistakes

It is critical to know the extent to which the defendant intended the consequences of the crime. A person's mistake can be characterized by intent and negligence [25]. The Criminal Code does not regulate and clearly limits intent. However, the *Memorie van Toelichting*, or the treatise on forming the *Wetboek van Strafrecht*, defines intent as the will to carry out an act that is not permitted or not to carry out an act that is required by statutory regulations [26]. Prodjodikoro divided intent into three types, including intent as a certainty, intent as a goal, and intent as a possibility. Intention as a goal is when someone commits a crime intentionally and wants the consequences of the crime. Intention as a certainty is when someone commits a crime without actually intending to cause the consequences of the criminal act. However, the defendant knows that the consequences of his actions will definitely occur. Intention as a possibility is when someone who commits a crime imagines the consequences of his actions [27]. In addition, negligence can be interpreted as a lack of caution from someone so that consequences that are not intended to happen occur [28]. From several judges' verdicts regarding premeditated murder, we can identify that the form of error of the defendant's actions is the intention as a goal because, in fact, they wanted the consequences of the actions they did by planning.

2. Motive and Intent for Committing Criminal Acts

The motive and intent of the defendant in committing the crime may play a role in determining the severity of the sentence imposed by the judge. However, other experts say that motive is not an element of a crime, so it does not need to be proven by the prosecutor. Still, motive can be a consideration for the judge when determining the sentence for the defendant [29]. Most of the defendant's motives for committing premeditated murder were because of annoyance with the victim. In the first verdicts, the defendant actually only intended to abuse the victim because he was annoyed and wanted to take revenge on the victim. However, the defendant's partner then drew his knife that had been prepared on the victim's thigh so that the victim bled to death and eventually died. In the first verdict, the judge found the defendant guilty and sentenced him to five years in prison. In the second verdict, the defendant and several of his friends were already annoyed with the victim because the victim accused the defendant and several of his friends of cutting down the victim's bamboo tree. Hence, the defendant and several of his friends decided to kill the victim. In the second verdict, the judge sentenced the defendant to eighteen years in prison. Based on this description, judges used motives as one of the reasons and basic considerations in imposing criminal penalties in each case.

3. The Defendant's Inner Character

The inner character can be seen from the defendant's behavior when and after the defendant committed the crime. The inner character of the defendant can be seen from the defendant's remorse for the actions he committed and by seeing the defendant's good

faith in providing information to law enforcement officers. In the third verdict, the defendant seemed not to care about the victim when the victim had convulsions. The defendant only sat there without any reaction and did not make any effort to help the victim as his friends had done. This consideration then became the basis for the panel of judges to assess that there were no reasons that benefited or mitigated the defendant and sentenced the defendant to the same sentence as the prosecutor's demands, which was 20 years in prison. The appeal decision and the cassation decision of the Supreme Court of the Republic of Indonesia then confirmed this first-level court decision.

4. How the Defendant Committed the Crime

The defendant's method of committing a crime or *modus operandi* is also a consideration for the judge in sentencing the defendant [30]. Currently, the methods used by defendants to commit crimes vary widely, such as stabbing, stabbing, and suffocating the victim. Even the development of science and technology has also had an impact on the methods used by defendants to commit crimes, such as poisoning the victim's food. The defendant's cruelty in committing a crime will influence the judge's considerations in sentencing [31], proven by comparing the method used by the defendant to commit premeditated murder in the first and fourth verdicts. In the first verdict, the defendant played a role in the victim's death by hitting and kicking the victim. Meanwhile, in the fourth verdict, the defendant took the victim's life by wielding a machete at the victim's neck, head, and several other areas of the victim's body, causing the victim to breathe his last breath directly at the scene. Therefore, the method used by the defendant to commit a crime will be one of the judge's considerations when deciding whether the sentence or type of sentence imposed on the defendant is light or heavy.

5. The Impact of Criminal Verdicts on the Defendant's Future

The modern criminal law paradigm currently focuses more on the theory of goals and is no longer oriented toward the theory of retribution. The theory of goals seeks to make punishment a means of integrating the accused into society and a means of specific and general prevention [32]. In the first decision, the judge used several reasons as considerations for deciding the premeditated murder case, namely that the accused was still young and the accused had just committed a crime for the first time. These various reasons then became the background for the judge to impose the lowest sentence among other similar cases, as described in Table 1.

Based on the description above, the disparity in sentencing in premeditated murder cases is influenced by various factors. These various factors can actually be used as sentencing guidelines for judges in order to provide substantive justice to the parties. On the other hand, the disparity in sentencing in criminal cases is actually also a criticism of the Old Criminal Code (from now on referred to as the Old Criminal Code), which does not yet regulate sentencing guidelines. Sentencing guidelines have an important role in providing decisive guidance. However, currently, the sentencing guidelines are stated in Law No. 1 of 2023 concerning the Criminal Code (from now on referred to as the Criminal Code). In Article 54, paragraph (1) of the Criminal Code, eleven guidelines need to be considered by judges when sentencing the accused: 1) The accused's guilt; 2) The motive and purpose of committing the crime; 3) The defendant's mental attitude;

4) Whether the crime was committed with planning or not; 5) The method of committing a crime; 6) The attitude and actions of the defendant after committing the crime; 7) The defendant's life history; 8) The influence of the criminal act on the defendant's future; 9) The influence of the criminal act on the victim or the victim's family; 10) Forgiveness from the victim and the victim's family; and 11) The values of law and justice that live in society.

With these sentencing guidelines, the Criminal Code has advantages when compared to the Old Criminal Code. This advantage is that the articles containing criminal provisions in the Criminal Code cannot be interpreted subjectively by judges who may have different interpretations or interpretations [33] because the sentencing guidelines have provided parameters that must be considered by judges when making sentencing decisions. Thus, the sentencing guidelines are expected to be a guide as well as a control for judges in formulating and imposing sentencing decisions so that sentencing decisions can provide justice to all parties, both victims, defendants, and the wider community [34].

4. Conclusions

Punishment is a logical consequence of a criminal act because punishment is a form of suffering imposed by the state on lawbreakers. Initially, punishment was intended to cause suffering to someone who committed a crime. However, with the change in paradigm, the purpose of punishment has changed to a means of education for the perpetrator or defendant so that they do not repeat their actions. Sentencing guidelines are one form of manifestation of the change in the criminal paradigm. Sentencing guidelines are important because they aim to review the suitability of the practice of implementing criminal law with the purpose of punishment. Sentencing guidelines can help judges determine the type and amount of sanctions, minimize disparities in punishment, reduce the subjectivity of judges, and provide transparency in decisions and consistency in sentencing.

Several factors cause differences in punishment in various decisions on premeditated murder cases in Indonesia. These factors include the form of the defendant's mistake, the motive and intention of the defendant in committing the crime, the mental character of the defendant, the way the defendant committed the crime, and the effect of the punishment given on the defendant's future. These factors can actually be a guideline for sentencing judges when trying and deciding criminal cases in order to provide substantive justice to the parties. Sentencing guidelines are actually contained in the Criminal Code. Sentencing guidelines are expected to be a guide and control for judges in formulating and issuing sentencing decisions so that sentencing decisions can provide justice to all parties, both victims, defendants, and the wider community.

References

- [1] E. Endri, S. Suryadi, and P. R. Sucipta, "Proporsionalitas Putusan Hakim Berdasarkan Ide Keseimbangan," *J. Selat*, vol. 7, no. 2, pp. 199–222, Oct. 2020, doi: 10.31629/selat.v7i2.2391.
- [2] J. . Van Bemmelen, *Hukum Pidana 1 : Hukum Penitentier*. Jakarta: Binacipta, 1984.

- [3] N. Gulo, "Disparitas dalam Penjatuhan Pidana," *Masal. Huk.*, vol. 47, no. 3, p. 215, Jul. 2018, doi: 10.14710/mmh.47.3.2018.215-227.
- [4] H. C. Black, *Black's Law Dictionary*. Minnesota: West Publishing Co., 1968.
- [5] Muladi and B. N. Arief, *Teori-teori dan Kebijakan Pidana*. Bandung: Alumni, 2010.
- [6] M. Nurasih, B. Harefa, and R. P. R. Waruwu, "Disparitas Pidana Terhadap Justice Collaborator Dalam Tindak Pidana Korupsi," *J. Esensi Huk.*, vol. 4, no. 1, pp. 88-98, Dec. 2022, doi: 10.35586/esh.v4i1.155.
- [7] H. Eryke, "Faktor Penyebab Terjadinya Diparias Pidana terhadap Penyalahguna Narkotika di Pengadilan Negeri Bengkulu," *Univ. Bengkulu Law J.*, vol. 7, no. 1, pp. 16-33, 2022.
- [8] V. S. Yuliati and Yanto, "Disparitas Putusan Hakim pada Tindak Pidana Asusila dengan Anak sebagai Korbannya di Pengadilan Negeri Sleman," *Kaji. Has. Penelit. Huk.*, vol. 1, no. 2, 2017.
- [9] K. Benuf and M. Azhar, "Metodologi Penelitian Hukum sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer," *Gema Keadilan*, vol. 7, no. 1, pp. 20-33, Apr. 2020, doi: 10.14710/gk.2020.7504.
- [10] M. N. Adlini, A. H. Dinda, S. Yulinda, O. Chotimah, and S. J. Merliyana, "Metode Penelitian Kualitatif Studi Pustaka," *Edumaspul J. Pendidik.*, vol. 6, no. 1, pp. 974-980, Mar. 2022, doi: 10.33487/edumaspul.v6i1.3394.
- [11] M. S. W. Sumardjono, *Bahan Kuliah Metodologi Penelitian Ilmu Hukum*. Yogyakarta: Universitas Gadjah Mada, 2019.
- [12] E. S. Baehaqi, "Keturtsertaan Dalam Tindak Pidana," *An-Nahdliyyah J. Stud. Keislam.*, vol. 1, no. 1, 2022.
- [13] D. Andini and D. Sintara, "Tinjauan Yuridis Penerapan Hukum Pidana terhadap Tindakan Main Hakim Sendiri (Studi Kasus pada Polres Serdang Bedagai)," *J. Huk. Bisnis*, vol. 12, no. 04, pp. 159-165, 2023.
- [14] A. S. J. Mandagie, "Proses Hukum Tindak Pidana Pembunuhan yang Dilakukan oleh Anak Dibawah Umur Ditinjau dari Undang-Undang Nomor 11 Tahun 2012 tentang Sistem Peradilan Pidana Anak," *Lex Crim.*, vol. 9, no. 2, 2020.
- [15] Moeljatno, *Asas-Asas Hukum Pidana*. Jakarta: Rineka Cipta, 2008.
- [16] E. Y. Kanter and S. R. Sianturi, *Asas-asas hukum pidana di Indonesia dan penerapannya*. Jakarta: Stora Grafika, 2002.
- [17] Sudarto, *Hukum Pidana 1*. Jakarta: Yayasan Soedarto, 2018.
- [18] E. O. S. Hiariej, *Prinsip-prinsip hukum pidana / Eddy O.S. Hiariej*. Yogyakarta: Cahaya Atma Pustaka, 2017.
- [19] N. A. Rahmawati, "Hukum Pidana Indonesia: Ultimatum Remedium atau Primum Remedium," *Recidiv. J. Huk. Pidana dan Penanggulangan Kejahatan*, vol. 2, no. 1, 2013.
- [20] W. Cragg, *The Practice of Punishment: Towards a Theory of Restorative Justice*. Routledge, 1992.
- [21] A. Syatar, "Relevansi Antara Pemidanaan Indonesia Dan Sanksi Pidana Islam," *DIKTUM J. Syariah dan Huk.*, vol. 16, no. 1, pp. 118-134, Jul. 2018, doi: 10.35905/diktum.v16i1.525.

- [22] M. R. Gardner and R. G. Singer, *Crimes and Punishment: Cases, Materials, and Readings in Criminal Law*. New York: LexisNexis, 2006.
- [23] D. O. Ariyanti and M. Ramadhan, "Pedoman Pemidanaan Dalam Konteks Pembaharuan Hukum Pidana Indonesia Dimasa Mendatang," *Kaji. Huk.*, vol. 7, no. 1, pp. 92-102, May 2022, doi: 10.37159/kh.v7i1.7.
- [24] W. Young and A. King, "The Origins and Evolution of Sentencing Guidelines," in *Sentencing Guidelines*, Oxford University Press, 2013, pp. 202-217. doi: 10.1093/acprof:oso/9780199684571.003.0013.
- [25] J. T. Siska and Tantimin, "Analisis Hukum terhadap Kelalaian dalam Pemasangan Arus Listrik yang Menyebabkan Hilangnya Nyawa Orang Lain di Indonesia," *J. Komun. Huk.*, vol. 7, no. 2, 2021.
- [26] N. Mahyudin, "Pertanggung Jawaban Pidana Masing-Masing Peserta dalam Pembunuhan Berencana Karena Perintah Jabatan," *Lex Priv.*, vol. 12, no. 3, 2023.
- [27] W. Prodjodikoro, *Asas-asas hukum pidana di Indonesia*. Bandung: Refika Aditama, 2011.
- [28] E. Sengi, "Konsep Culpability dalam Perkara Pidana Suatu Analisis Perbandingan Putusan Nomor 18/Pid.B/2017/PN.TOBELLO," *Era Huk. J. Ilm. Ilmu Huk.*, vol. 17, no. 2, Oct. 2019, doi: 10.24912/erahukum.v17i2.5993.
- [29] A. H. Henok, "Konstruksi Motif dalam Pembuktian Perkara Pidana," *Honeste Vivere*, vol. 33, no. 2, pp. 113-129, Jul. 2023, doi: 10.55809/hv.v33i2.242.
- [30] D. Rahmawati, I. K. Siregig, and Zainudin, "Pertimbangan Hakim dalam Menjatuhkan Pidana terhadap Pelaku Tindak Pidana Pembunuhan Berencana," *Widya Yuridika J. Huk.*, vol. 4, no. 1, Jul. 2021, [Online]. Available: <https://www.ejournal.warmadewa.ac.id/index.php/juprehum/article/view/2009>
- [31] D. Hananta, "Pertimbangan Keadaan-Keadaan Meringankan Dan Memberatkan Dalam Penjatuhan Pidana / Aggravating and Mitigating Circumstances Consideration on Sentencing," *J. Huk. dan Peradil.*, vol. 7, no. 1, p. 87, Mar. 2018, doi: 10.25216/jhp.7.1.2018.87-108.
- [32] O. S. Gunadi, *Penologi dan pemyarakatan*. Sleman: Deepublish, 2020.
- [33] Mudzakkir and Tim Kerja Departement Hukum dan Hak Asasi Manusia, *Perencanaan Pembangunan Hukum Nasional Bidang Hukum Pidana dan Sistem Pemidanaan (Politik Hukum dan Pemindanaan)*. Jakarta: Badan Pembinaan Hukum Nasional, 2008.
- [34] N. D. Irmawanti and B. N. Arief, "Urgensi Tujuan Dan Pedoman Pemidanaan Dalam Rangka Pembaharuan Sistem Pemidanaan Hukum Pidana," *J. Pembang. Huk. Indones.*, vol. 3, no. 2, pp. 217-227, May 2021, doi: 10.14710/jphi.v3i2.217-227.