



The Crime of Murder of Parents and Families in the Reform of Indonesian Criminal Law

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Abstract

This study aims to describe and analyze the regulation of the crime of murder of parents and families in Indonesian criminal law today and in the future. This study uses a normative legal research method with the statute approach, the conceptual approach and the comparative approach. The results of this study, firstly, the crime of murder of parents and families, is not explicitly regulated in the current Indonesian criminal law. The formulation of the offense of murder in the current Criminal Code (Article 338 and Article 340) is only aimed at taking the lives of others without distinguishing who is the object/target. Second, The formulation of the September 2019 New Criminal Code Concept has accommodated the concept of criminal law reform with a value-oriented approach, related to the inclusion of cultural values of respect, appreciation and protection of the dignity of parents and families as embodied in Article 464 paragraph (2). In this article, it has been distinguished who is the object/target of the crime of murder and it is also used as a reason for the aggravation of the crime. Until now, the New Criminal Code has not been ratified. Criminal law reform will not run optimally, if it has not been taken with a policy approach. The existence of the Bulgarian Criminal Code and the French Criminal Code can also be used as benchmarks or legal comparisons, thus enriching the formulation of the crime of murder of parents and families in the New Criminal Code Concept in the future.

1. Introduction

Indonesia is a country based on law as regulated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. As a state of law, to run a country and protect human rights, it must be based on law. This condition causes laws and regulations to play a very important and strategic role as the basis and strategy of the

state to achieve the goals that have been determined. In determining a prohibited act or criminal act in a statutory regulation, a criminal law policy (penal policy) is used.¹

According to Marc Ancel, criminal law policy (penal policy) is both a science and an art which ultimately has a practical aim to enable positive legal regulations to be formulated better and to provide a guide not only to legislators, but also to courts that apply the law. the law and also to the organizers or implementers of court decisions.² Furthermore, Sudarto stated that in implementing or carrying out criminal law policies or criminal law politics, it means holding elections to achieve the best results of criminal legislation in the sense of fulfilling the requirements of justice and efficiency for the community.³ On another occasion, he stated that carrying out criminal law policies or criminal law politics is defined as an effort to realize criminal laws and regulations that are in accordance with the circumstances and situations at a time and for the future.⁴

As with the current Indonesian criminal law policy, it can be said that it cannot be expected properly in the context of law enforcement in accordance with human rights because Indonesian criminal law, especially the Indonesian Criminal Code (WvS) is currently being made or is a relic of the Dutch colonial era in Indonesia and after Indonesia's independence on the August 17, 1945, of course out of date or no longer in accordance with the development of this complex society.⁵ Besides not being in accordance with the development of society, the current Indonesian Criminal Code (WvS) is not a criminal law that originates, is rooted in or comes from the views/concepts of basic values (grundnorm) and realities (sociopolitical, sociophilosophical and sociocultural) that live in Indonesian society. . Many countries have reformed their criminal laws, especially after World War II, both countries such as: Germany, Poland, Sweden, Japan, as well as countries that just grew up after World War II, such as: South Korea and Mali. South Korea, for example, had its own KUHP in 1953, while Mali ratified its own KUHP in 1963.⁶ Even the Netherlands, which incidentally had colonized and inherited its Criminal Code in Indonesia, has revised its Criminal Code several times. The current Dutch Criminal Code came into force in

¹ Teguh Prasetyo, *Kriminalisasi Dalam Hukum Pidana* (Bandung: Nusa Media, 2017).

² Vivi Ariyanti, "Kebijakan Penegakan Hukum Dalam Sistem Peradilan Pidana Indonesia," *Jurnal Yuridis* 6, no. 2 (2019): 33–54, <https://doi.org/http://dx.doi.org/10.35586/jjur.v6i2.789>.

³ Marthasian Y Anakotta, "Kebijakan Sistem Penegakan Hukum Terhadap Penanggulangan Tindak Pidana Terorisme Melalui Pendekatan Integral," *Jurnal Belo* 5, no. 1 (2019): 46–66, <https://doi.org/10.30598/BELOVOL5ISSUE1PAGE46-66>.

⁴ Fifink Praiseda Alviolita and Barda Nawawi Arief, "Kebijakan Formulasi Tentang Perumusan Tindak Pidana Pencemaran Nama Baik Dalam Pembaharuan Hukum Pidana Di Indonesia," *Law Reform* 15, no. 1 (2019): 130–48, <https://doi.org/https://doi.org/10.14710/lr.v15i1.23359>.

⁵ I Gusti Agung Kiddy Krsna Zulkarnain and Ida Bagus Surya Dharma Jaya, "Kriminalisasi Perbuatan Main Hakim Sendiri (Eigenrichtung) Dalam Hukum Pidana Di Indonesia," *Kertha Wicara: Journal Ilmu Hukum* 8, no. 6 (2019), <https://ojs.unud.ac.id/index.php/kerthawicara/article/view/54434>.

⁶ Augusta Ridha Minin, "Kebijakan Kriminal Terhadap Tindak Pidana Intimidasi Di Internet (Cyberbullying) Sebagai Kejahatan Mayantara (Cybercrime)," *Legalite: Jurnal Perundang Undangan Dan Hukum Pidana Islam* 2, no. 2 (2018), <https://doi.org/https://doi.org/10.32505/legalite.v2iII.345>.

September 1886 and had undergone several patchwork changes until 1994.⁷ The Netherlands itself drafted its national Criminal Code for only about 6 years before using the French penal code.⁸ Meanwhile, Indonesia, which has drawn up its new Criminal Code since approximately 58 years ago, has not yet been ratified. Therefore, a question arises when is Indonesia ready to reform its criminal law?

As is known, the current rapid development of society has led to many new criminal acts that have not been specifically regulated in the Criminal Code, such as the crime of murdering parents and family. Cases regarding this often occur in the community, such as the case in Cengkareng, West Jakarta where there was a murder case committed by a man with the initials PI (24 years old) who had the heart to kill or kill his own biological father named Abdurachman (60 years) just because offended. The incident occurred on January 29, 2019, at Jalan Kapuk Sawah RT 10/12, Kapuk, Cengkareng, West Jakarta. At first, the victim caught his son fighting with his friend. Not only that, the victim also saw PI drinking alcohol. The victim then reprimanded PI not to continue the fight and ordered him to go home. However, when he arrived at the house, PI then took a sharp weapon of the type of sickle and immediately swung the sickle once towards his father's neck. Although he was rushed to the Cengkareng Hospital, the perpetrator's father's life could not be saved. From the results of the examination, it is known that the perpetrator has been a drug addict since the last 6 months and the perpetrators often fight and scold their biological father on a daily basis.⁹ Another murder case also involved Marlina (40 years old), a resident of Kemu Dusun I Village, Pulau Beringin Subdistrict, Ogan Komering Ulu Selatan Regency, South Sumatra, who died at the hands of her own biological child with the initials ES (23 years old). The incident occurred on February 25, 2019. The motive for the murder of his biological mother was only because he was annoyed that he was not given pocket money. From the information from the Ogan Komering Ulu Selatan Police, it is known that the victim died after being hit with a wooden block with a length of 60 cm by the perpetrator 10 times. ES hit her mother's head multiple times with a wooden block until she died on the spot.¹⁰ Recently, there was also a murder involving the perpetrator with the initials IJ (52 years old), who had the heart to kill his biological father M. Selamat (80 years old) because of a trivial problem, namely: because of the smell of a cat cage. This incident took place on Jalan Pulau Nias, Kampung Baru Village, Buleleng, Bali, on March 10, 2022. The incident began when the perpetrator asked the victim to move the victim's cat cage which caused an unpleasant odor. However, the victim's request was not heard, so the perpetrator was furious. The

⁷ Ahmad Bahiej, "Perbandingan Jenis Pidana Dan Tindakan Dalam KUHP Norwegia, Belanda, Indonesia, Dan RUU KUHP Indonesia," *Sosio-Religia* 7, no. 4 (2008).

⁸ Topo Santoso, "Menjadi Negeri Tanpa KUHP Sendiri," 2019, <https://mediaindonesia.com/kolom-pakar/261057/menjadi-negeri-tanpa-kuhp-sendiri>.

⁹ Wira Prawira, "5 Kasus Pembunuhan Anak Terhadap Orang Tua Sendiri Sejak Awal 2019," 2019, <https://kitakini.news/23733/6-kasus-pembunuhan-dilakukan-anak-durhaka-terhadap-orang-tua-sendiri-paling-sadis-di-2019/>.

¹⁰ Ibid.

perpetrator immediately took a stick of wood and hit the victim in the head. Furthermore, the victim was found covered in blood in the victim's house.¹¹

Regarding the regulation or formulation of a murder offense in the current Criminal Code (Article 338 and Article 340) it is only aimed at "taking other people's lives" without distinguishing who is the object/target. The Criminal Code does not recognize or has not regulated the murder of parents (parenticide), nor is it even used as a reason for criminal prosecution. The absence of such a provision is felt to be odd when compared to the offense of persecution. According to Article 356 of the Criminal Code, the punishment provided for in Article 351, Article 353, Article 354 and Article 355 is increased by a maximum of one third, if it is committed against the parents (father/mother), his wife or children. Due to this discrepancy, it is hoped that in the Draft New Criminal Code, it is hoped that provisions such as Article 356 of the Criminal Code can also be formulated in a murder offense.¹² Based on this description, it is interesting to study comprehensively related to the formulation policy of the crime of killing parents and families in the renewal of Indonesian criminal law.

This study aims to describe and conduct an in-depth study related to the regulation of the crime of murder of parents and families in Indonesian criminal law today. Furthermore, this study also aims to examine in depth the regulation of the crime of murder against parents and family in Indonesian criminal law in the future.

Regarding *state of the art*. In the process of compiling this research, several previous studies were found that discussed legal issues regarding the crime of murder and the concept of reforming Indonesian criminal law. First, the journal with the title Kebijakan Sistem Pemidanaan dalam Upaya Penanggulangan Tindak Pidana Pembunuhan dalam Keadaan Mabuk,¹³ with the formulation of the problem, namely: bagaimana kebijakan sistem pemidanaan tindak pidana pembunuhan yang sedang berlaku saat ini, and bagaimana kebijakan sistem pemidanaan tindak pidana pembunuhan pada masa yang akan datang. Second, a journal with the title Studi Komparasi Sanksi Pidana Pembunuhan dalam Kitab Undang-Undang Hukum Pidana (KUHP) dengan Hukum Islam dalam Rangka Pembaharuan Hukum Pidana,¹⁴ with the formulation of the problem, bagaimanakah sistem sanksi pidana terhadap tindak pidana pembunuhan antara KUHP dengan hukum islam, and seberapa jauh sistem pidana pembunuhan dalam hukum pidana islam yang dapat disumbangkan dalam pembaharuan hukum pidana (KUHP). If you pay attention to the two studies, then there are elementary differences with this study, first in terms of the title, second in terms of problem

¹¹ Radar Bali, "Gara-Gara Bau Kandang Kucing, Anak Bunuh Ayah Kandung Di Buleleng Bali," 2022, <https://radarbali.jawapos.com/hukum-kriminal/10/03/2022/gara-gara-bau-kandang-kucing-anak-bunuh-ayah-kandung-di-buleleng-bali>.

¹² Barda Nawawi Arief, *Pembaharuan Hukum Pidana Dalam Perspektif Kajian Perbandingan* (Bandung: Citra Aditya Bakti, 2011).

¹³ Corina Hidayah and Eko Soponyono, "Kebijakan Sistem Pemidanaan Dalam Upaya Penanggulangan Tindak Pidana Pembunuhan Dalam Keadaan Mabuk," *Law Reform* 9, no. 2 (2014), <https://doi.org/https://doi.org/10.14710/lr.v9i2.12445>.

¹⁴ Rafida Sinulingga and R Sugiharto, "Studi Komparasi Sanksi Pidana Pembunuhan Dalam Kitab Undang-Undang Hukum Pidana (KUHP) Dengan Hukum Islam Dalam Rangka Pembaharuan Hukum Pidana," *Sultan Agung Fundamental Research Journal* 1, no. 1 (2020): 31-43, <https://doi.org/http://dx.doi.org/10.30659/safjrj.1.1.31-43>.

formulation, and third in terms of the scope of the discussion. This research is entitled *The Crime of Murder of Parents (Parenticide) and Families (Familicide) in the Reform of Indonesian Criminal Law*, with the formulation of the problem how the regulation of the crime of murder of parents and families in current Indonesian criminal law, and how the regulation of the crime of murder of parents and families in Indonesian criminal law in the future. Regarding the scope of the discussion, this research will focus on the concepts of criminal law reform, as well as comparative studies from various countries.

2. Research Method

The research method used in this paper is a normative legal research method, with an approach namely the statute approach, conceptual approach and comparative approach. The legal materials studied in this paper consist of primary legal materials, namely: the 1945 Constitution of the Republic of Indonesia and the Criminal Code, as well as secondary legal materials, namely: books, information or studies on criminal acts. the crime of killing parents and families, comparative studies from various countries, and the concept of criminal law reform. The legal materials were analyzed and presented using qualitative descriptive analysis.

3. Result and Discussion

3.1. Regulation of the Crime of Murder of Parents and Families in Current Indonesian Criminal Law

The development of society that is so rapid and complex at this time has given rise to many new cases or criminal acts that have not been specifically regulated in the Criminal Code, such as the crime of murdering parents and family. Previously, an act that was called murder was an act to eliminate someone's life in a way that violated the law, or that was not against the law. Murders are usually motivated by various motives, whether political, jealousy, hurt, revenge, annoyed, self-defense and so on.¹⁵

Regarding the crime of murder against parents and family, it is not explicitly regulated in the current Indonesian criminal law (KUHP/WvS). The formulation of the offense of murder in the Criminal Code is regulated in Article 338 and Article 340. In Article 338 of the Criminal Code it is stated that: "Anyone who deliberately takes the life of another person, is threatened with murder, with a maximum imprisonment of fifteen years". Meanwhile, Article 340 of the Criminal Code states that: "Anyone who deliberately and with a premeditated plan takes the life of another person, is threatened with murder with a plan (moord), with a death penalty or imprisonment for life or for a certain time, a maximum of twenty years. Year". Article 338 and Article 340 of the Criminal Code are clearly only aimed at taking the lives of others without distinguishing who is the object/target. The Indonesian Criminal Code (KUHP) does not recognize or has not regulated the murder of parents (parenticide), and is not even used as a reason for criminal prosecution.

¹⁵ Gabriela K Kaawoan, "Perlindungan Hukum Terhadap Terdakwa Dan Terpidana Sebagai Pelaku Tindak Pidana Pembunuhan," *Lex Administratum* 5, no. 1 (2017): 125-31.

According to Barda Nawawi Arief, the absence of such a provision is considered odd when compared to the offense of persecution. According to Article 356 of the Criminal Code, the punishment provided for in Article 351, Article 353, Article 354 and Article 355 is increased by a maximum of one third, if it is committed against the parents (father/mother), his wife or children. Due to this discrepancy, it is hoped that in the Draft New Criminal Code, it is hoped that provisions such as Article 356 of the Criminal Code can also be formulated in a murder offense.¹⁶

3.2. Regulation of the Crime of Murder of Parents and Families in Indonesian Criminal Law in the Future

3.2.1. Formulation of the Crime of Murder of Parents and Families in Various Countries

Respect and protection of parents through criminal law, among others, is manifested by the formulation of the crime of parenticide in several foreign penal codes, such as in the Bulgarian Criminal Code and the French Criminal Code.

1. Bulgarian Criminal Code

According to Article 115 of the Bulgarian Criminal Code, regulates the ordinary murder (of people in general) punishable by deprivation of liberty 10 years to 20 years. However, if the murder is committed against certain people, namely: the father/mother or their own child, by certain people or under certain circumstances, which according to Article 116 of the Bulgarian Criminal Code is punishable by an aggravated sentence of 15 to 20 years of confiscation. independence or life or death.¹⁷ The complete formulation of Article 116 of the Bulgarian Criminal Code is as follows:¹⁸

a. (As amended – SG, Nos. 28/1982, 50/1995, 62/1997)

For murder:

- 1) of an official, of a representative of the public, as well as of a serviceman, including one of an allied or friendly state or army, during or in connection with the performance of his duty or function, or of a person enjoying international protection;
- 2) by an official, as well as by a representative of the public, by a person from the police force, during or in connection with the performance of his duty or function;
- 3) of father or mother, as well as of one's own son or daughter;
- 4) (As amended – No. 62/1997) of a pregnant woman, of a minor or of more than one person;
- 5) of a person in helpless state;
- 6) in a way or by means dangerous for the life of many, in a particularly painful manner for the victim or with particular cruelty;
- 7) for a venal goal;

¹⁶ Arief, *Pembaharuan Hukum Pidana Dalam Perspektif Kajian Perbandingan*.

¹⁷ Arief.

¹⁸ Arief.

- 8) for the purpose of facilitating or concealing another crime;
- 9) performed with premeditation;
- 10) performed by hooligan motives; and
- 11) representing a case of dangerous recidivism or performed by a person who has committed another intentional murder under the preceding or this article, for which no sentence has been pronounced;

The punishment shall be deprivation of liberty for fifteen to twenty years, life imprisonment or death. In the cases of subparagraphs 10 and 11 the court may also rule compulsory domicile.

b. (New - No. 62/1997)

For murder of a judge, prosecutor, examining magistrate or a person from the staff of the ministry of interior, in the course of or in the event of carrying out his/her duties or functions, the punishment shall be deprivation of liberty for twenty to thirty years, life imprisonment or death.

Based on Article 116 of the Bulgarian Criminal Code above, the punishment for murder is not only directed at the parents (father/mother), but also if it is committed:

- a. Against officials who are carrying out their duties or related to the implementation of their duties;
- b. Against people who have international protection;
- c. By officials who are carrying out their duties or related to the implementation of their duties;
- d. By the police while on duty or in connection with the performance of their duties;
- e. Towards his own son;
- f. Against pregnant women;
- g. Against small children/minors;
- h. Against more than one person;
- i. Against helpless people;
- j. By means or tools that are harmful to the lives of many people;
- k. In a way that is very painful for the victim or very cruel;
- l. For purposes affected by bribery (venal goals);
- m. For the purpose of facilitating or concealing another crime;
- n. Done with a plan in advance;
- o. Done with evil motives (hooligan motives);
- p. Which symbolizes/depicts cases of dangerous repetition or carried out by people who have committed other murders on purpose, but have not been sentenced;
- q. Against judges and public prosecutors or staff of the Ministry of Home Affairs (Especially for this sub q, the punishment is between 20-30 years in prison, or life in prison, or the death penalty; added by Act Number 62 of 1997).

2. French Criminal Code

Based on Article 221-1 of the French Criminal Code, the crime of murder is punishable by imprisonment for 30 years. However, according to articles 221-4, if the murder was committed against a natural or legitimate ascendant or the adoptive father or mother, the penalty is increased to life imprisonment. The full formulation of Articles 221-4 of the French Criminal Code is as follows:¹⁹

Act No. 1994-89 of 1 February 1994 Article 6 Official Journal of 2 February 1994 into force 1 March 1994; Act No. 1996-647 of 22 July 1996 Article 13 Official Journal of 23 July 1996.

Murder is punished by criminal imprisonment for life where it is committed:

- 1) Against a minor under fifteen years of age;
- 2) Against a natural or legitimate ascendant or the adoptive father or mother;
- 3) Against a person whose particular vulnerability, due to age, sickness or disability, or to any psychic or psychological deficiency or to a state of pregnancy, is apparent or known to the perpetrator;
- 4) Against a judge or prosecutor, a juror, an advocate, a legal professional officer or a public officer, a member of the Gendarmerie, a civil servant belonging to the national police, the customs, the penitentiary administration or on any other person holding public authority or discharging a public service mission, in the exercise or at the occasion of the exercise of his functions or mission, when the capacity of the victim is known or apparent to the perpetrator;
- 5) Against a witness, a victim or civil party, either to prevent him from denouncing the action, filing a complaint or making a statement before a court, or because of his denunciation, complaint or statement.

Based on Articles 221-4 above, it can be seen that the punishment for murder is not only if it is directed at parents (father/mother), but also if it is directed at certain other people, including children under 15 years old; very vulnerable/weak people; judges, prosecutors, jurors, lawyers and public officials in carrying out their duties; and also to witnesses and groups of victims/residents, either to prevent them from reporting the incident, making a complaint, or because of their complaint or because of their statement.

From the above provisions (Bulgarian Criminal Code and French Criminal Code), it can be seen that there is an embodiment of cultural values of respect, appreciation and protection of the dignity of parents and family. As in the formulation of the Bulgarian Criminal Code that what is prohibited and aggravated by the threat of punishment is not only the crime of murder against the father/mother or their own parents but also against their own children and in the formulation of the French Criminal Code in addition to their own family/parents but also against their adoptive father and mother. The formulation of the Bulgarian Criminal Code and the French Criminal Code can be used as benchmarks or legal comparisons in the New Criminal Code Concept in the

¹⁹ Arief.

future, thus enriching the formulation of murder offenses with the embodiment of cultural values of respect, respect and protection of dignity and family.

3.2.2. Criminal Law Reform Concept

Criminal law reform is not just a “patchwork” change to the provisions or articles of the Criminal Code, but is very closely related to the background and urgency of holding the criminal law reform which can be viewed from socio-political, socio-philosophical, sociocultural, and social aspects. from various policy aspects (social policy, criminal policy and law enforcement policy.²⁰ According to Barda Nawawi Arief, the reform of Indonesian criminal law essentially implies an effort to reorient and reform the positive criminal law seen from the concepts of the Indonesian nation's central values (sociopolitical, sociophilosophical and sociocultural aspects) that underlie social policies, criminal policies and law enforcement policies in Indonesia.²¹ It can be said that criminal law reform in essence must be pursued with a policy-oriented approach and at the same time a value-oriented approach.²²

Criminal law reform must be carried out with a policy approach, because in essence it is only part of a policy or policy step (part of legal politics/law enforcement, criminal law politics, criminal politics and social politics). Each policy contains value considerations. Therefore, criminal law reform must also be oriented to a value approach.²³ Based on the description above, it can be understood and concluded the meaning and nature of criminal law reform as follows:²⁴

1. From a policy approach point of view:
 - a. As part of social policy, criminal law reform is essentially a part of efforts to overcome social problems (including humanitarian problems) in order to achieve/support national goals (community welfare and so on).
 - b. As part of criminal policy, criminal law reform is essentially a part of community protection efforts (especially crime prevention efforts).
 - c. As part of law enforcement policies, criminal law reform is essentially part of efforts to renew legal substance in order to make law enforcement more effective.
2. Viewed from the point of view of the value approach:

Criminal law reform is essentially an effort to review and reevaluate (reorient and reevaluate) the sociopolitical, sociophilosophical and sociocultural values that underlie and provide content for the normative and substantive content of

²⁰ I Wayan Didik Prayoga and I Ketut Rai Setiabudi, “Relevansi Mediasi Penal Di Indonesia Dalam Perspektif Pembaharuan Hukum Pidana,” *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)* 10, no. 4 (2021): 841–56, <https://doi.org/https://doi.org/10.24843/JMHU.2021.v10.i04.p13>.

²¹ Barda Nawawi Arief, *Beberapa Aspek Pengembangan Ilmu Hukum Pidana (Menyongsong Generasi Baru Hukum Pidana Indonesia)* (Semarang: Badan Penerbit Universitas Diponegoro, 2021).

²² Barda Nawawi Arief, *Bunga Rampai Kebijakan Hukum Pidana Perkembangan Penyusunan Konsep KUHP Baru* (Jakarta: Kencana, 2017).

²³ Ibid.

²⁴ Ibid.

the criminal law that is aspired to, especially in this case regarding the formulation of the crime of murder of parents and families in the New Criminal Code Concept in the future.

It can be explained that in the formulation of the New Criminal Code Concept September 2019 has accommodated the concept of criminal law reform with a value-oriented approach, related to the inclusion of cultural values of respect, appreciation and protection of the dignity of parents and families which is manifested by the formulation the crime of murder in Article 464 paragraph (2). In this article, it has been distinguished who is the object/target of the crime of murder and is also used as a reason for the aggravation of the crime. The complete formulation of Article 464 of the September 2019 New Criminal Code Concept is as follows:

- (1) Setiap orang yang merampas nyawa orang lain dipidana karena pembunuhan dengan pidana penjara paling lama 15 (lima belas) tahun.
(Anyone who takes the life of another person shall be punished for murder with a maximum imprisonment of 15 (fifteen) years).
- (2) Jika tindak pidana sebagaimana dimaksud pada ayat (1) dilakukan terhadap ibu, ayah, istri, suami, atau anaknya, pidana dapat ditambah 1/3 (satu per tiga).
(If the crime as referred to in paragraph (1) is committed against the mother, father, wife, husband, or child, the penalty may be increased by 1/3 (one third)).
- (3) Pembunuhan yang diikuti, disertai, atau didahului oleh suatu tindak pidana yang dilakukan dengan maksud untuk mempersiapkan atau mempermudah pelaksanaannya, atau untuk melepaskan diri sendiri atau peserta lainnya dari pidana dalam hal tertangkap tangan, atau untuk memastikan penguasaan barang yang diperolehnya secara melawan hukum dipidana dengan pidana penjara seumur hidup atau pidana penjara paling lama 20 (dua puluh) tahun.
(Murder which is followed, accompanied, or preceded by a criminal act committed with the intention of preparing or facilitating its implementation, or to free oneself or other participants from the crime in the event of being caught red-handed, or to ensure control of the goods obtained illegally shall be sentenced to life imprisonment or a maximum imprisonment of 20 (twenty) years).

In terms of criminal law reform, it is not a criminal law reform, if the value orientation of the aspired criminal law (the New Criminal Code Concept) is the same as the value orientation of the colonial legacy of the old criminal law (Old Criminal Code or WvS).²⁵ A Criminal Code must reflect the cultural values of a nation where the Criminal Code applies, as well as cultural values of respect, appreciation and protection of the dignity of parents and families which are manifested by the formulation of the crime of murder in Article 464 paragraph (2) of the New Criminal Code concept September the 2019. Because what is considered a disgraceful act and or should not be done, in accordance with the values and views of the nation's community itself. As stated by Sudarto, that criminal law should be a reflection of the cultural values that live in the society concerned. Criminal law as a system of negative sanctions provides sanctions

²⁵ Ibid.

for actions that are not desired by the community.²⁶ However, until now the concept of the New Criminal Code has not been ratified. In the context of a criminal law reform, it will not run optimally, if it has not been taken with a policy approach, because in essence it is only part of a policy or policy step (part of legal politics/law enforcement, criminal law policy, criminal policy and social policy).

4. Conclusion

Based on the explanation above, it can be concluded that the crime of murder against parents and family is not explicitly regulated in the Indonesian Criminal Code (KUHP/WvS). The formulation of the offense of murder in the current Criminal Code (article 338 and article 340) is only aimed at taking the lives of others without distinguishing who is the object/target. The Criminal Code does not recognize or has not regulated the murder of parents (parenticide) and family, nor is it even used as a reason for criminal prosecution. This is considered odd when compared to the offense of persecution. According to Article 356 of the Criminal Code, the punishment provided for in Article 351, Article 353, Article 354 and Article 355 is increased by a maximum of one third, if it is committed against the parents (father/mother), his wife or children. Furthermore, related to the regulation of the crime of killing parents and families in Indonesian criminal law in the future that in the formulation of the New Criminal Code Concept September 2019 has accommodated the concept of criminal law reform with a value-oriented approach, related to the inclusion of cultural values respect, appreciation and protection of the dignity of parents and families which is realized by the formulation of the crime of murder in Article 464 paragraph (2). In this article, it has been distinguished who is the object/target of the crime of murder and is also used as a reason for the aggravation of the crime.

Based on the conclusions in this study as described above, the authors provide advice to policy holders to immediately ratify the New Criminal Code Concept. Because in the context of a criminal law reform will not run optimally, if it has not been taken with a policy approach, because in essence it is only part of a policy or policy step. The makers and/or drafters of the New Penal Code can also see the formulation of the Bulgarian Criminal Code and the French Criminal Code to be used as benchmarks or legal comparisons in the New Criminal Code Concept in the future, thus enriching the formulation of murder offenses in the future.

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