International Journal of Social Science and Human Research

ISSN (print): 2644-0679, ISSN (online): 2644-0695

Volume 09 Issue 05 May 2026

DOI: 10.47191/ijsshr/v9-i5-46, Impact factor- 8.361

Page No: 3868-3874

Implementation of Criminal Sanctions Against Perpetrators of Predictive Murder

Winarti[1], Bellia Julian[2], Rahman Amin[3*]

[1,2,3]Faculty of Law, Bhayangkara Jakarta University, Jakarta, Indonesia

ABSTRACT. Criminal law is a means owned by the state to protect the interests of individuals, society, nation and the state of Indonesia by imposing penalties on every person who commits a criminal act as stipulated in the Criminal Code, one of which is the crime of premeditated murder that results in the death of the victim. However, in law enforcement practice, against the perpetrators of the crime of premeditated murder, in imposing a criminal verdict, the judge is still oriented to the theory of retribution as a form of punishment for the perpetrator who has committed the crime. This research is normative legal research, with a legislative approach. The results of the study show that the application of criminal witnesses against the perpetrators of the crime of premeditated murder with the defendant Mr. Fredy Sambo, the panel of judges applied the theory of retributive punishment as a form of retribution for the defendant's actions as per the South Jakarta District Court Decision Number 796/Pid.B/2022/PN Jkt.Sel dated February 13, 2023, Juncto the Decision of the DKI Jakarta High Court Number: 53/PID/2023/PT DKI dated April 12, 2023, Meanwhile, in the Decision of the Supreme Court of the Republic of Indonesia Number 813 K/Pid/2023 dated August 8, 2023, the panel of judges not only applied a criminal theory that is reributory, but also considered a change in the criminal paradigm as regulated in the new Criminal Code, things that mitigated the defendant Mr. Fredy Sambo, so that the judge sentenced him to life imprisonment, as punishment for the actions of the defendant Mr. Fredy Sambo, and as a general means of prevention for the community not to do the same act in the future, as well as to restore the social condition of the community.

KEYWORDS: Implementation, Criminal Sanctions, Perpetrators, Criminal Acts, Premeditated Murder.

I. INTRODUCTION

Crime is a shadow of human life that continues to develop along with the dynamics of the development of human civilization, where in the past crime occurred in traditional ways, considering that at that time science and technology had not yet been discovered and developed. However, along with the progress of today's times, crime has transformed and undergone development from a traditional nature to an increasingly modern crime characterized by the use of various sophisticated tools by the perpetrators with the aim of making it easier to commit crimes.

In essence, crime is an act or action committed by someone that can cause impact or harm to others, so instinctively, in the mind and conscience of everyone actually rejects or opposes the existence of evil in their daily life, and everyone also does not want to be a victim of such a crime. However, due to various factors that affect it, it encourages a person to do an act that is detrimental to others, for example due to economic factors, social factors, and other factors in people's lives.

To overcome acts that harm others in people's lives, there are applicable norms, such as religious norms, moral norms, norms of politeness, and others. However, if these acts still cannot be overcome, then the existence of legal norms becomes important as an ultimum remedium or last resort if other norms in people's lives are unable to overcome acts that harm others, considering that in legal norms there are sanctions that are coercive in nature to everyone who violates or does not comply with these legal norms.

The existence of legal norms is always inherent in people's lives, as stated by the philosopher Marcus Tullius Cicero, that where there is a society, there is a law (ubi societa ibi ius). Law is born, grows and develops along with the development of society, where initially the law is a habit between individuals in society, then develops into written legal rules that are codified into a book of laws by power as a guideline for living together, where the law applies not only to society, but also to the ruler in order to create order and peace in life.[1]

According to Mochtar Kusumaatmadja, the norm of law is the sum of the principles and rules that govern human life in society, and also includes the institutions, institutions, and processes that make the enactment of the rule in society a reality, where

[1] Rahman Amin, *Pengantar Hukum Indonesia,* Sleman: Deepublis, 2019, Hlm 1.

the meaning and function of law in society is reduced to one thing, namely order as the first goal of law.[2] From this understanding, it can be said that legal norms include principles, rules, institutions, and processes that function to regulate everyone's activities in order to achieve order and order in people's lives.

The legal norms that apply in people's lives, judging from their sources, can come from customs or unwritten laws known as customary law which are the guidelines for community life which is recognized for its existence from generation to generation as a law that lives in the community (living law). In addition, in the Indonesian legal state, the existence of legal norms is very synonymous with written laws and regulations in the form of laws and regulations made by state or government institutions that are given the task and authority to make and establish written laws that are enforced in the life of the community, nation and state.

Historically, the criminal law that applies in Indonesia codified in the Criminal Code is a legacy law of the Dutch colonial government which was then adjusted and enforced in Indonesian territory based on the principle of concordance. This means that Indonesian criminal law is greatly influenced by the legal system that applies in the Netherlands which adheres to the Continental European legal system (civil law) which is very synonymous with the written legal tradition in the form of a law as a manifestation of the will or order of the law (law is command law giver) to every citizen who is obliged to obey and obey.

The provisions in the Criminal Code are material criminal laws, namely provisions that regulate acts that are prohibited from being carried out which are accompanied by criminal sanctions. According to Wirjono Prodjodikoro who stated that criminal law is a legal regulation regarding criminal law. Criminal means that things that are criminalized, namely by the powerful agency are delegated to a person as something that he does not feel good about and also things that are not daily delegated for reasons related to an act done by a person so that he is given a penalty or punishment for his actions.[3]

This means that the substance in the Criminal Code contains provisions that must be obeyed or obeyed by every person not to commit an act that is prohibited or known as a criminal act, and for every person who violates the provisions of criminal law or commits an act prohibited in criminal law, then criminal sanctions are imposed on that person. According to Soedarto, criminal acts are acts that meet the formulation of the law, are unlawful, committed by people who are able to be responsible for mistakes, both in the form of intentionality (dolus) and forgetfulness (schuld), and there is no excuse for forgiveness.[4]

The existence of criminal law in a country is a means owned by the state in order to protect various interests, namely the interests of individuals, society, the nation and the state from various prohibited acts or criminal acts. According to Teguh Prasetyo, the purpose of criminal law in the perspective of imposing criminal sanctions can be seen from two schools, namely, the classical school, to scare everyone away from doing bad deeds, and the modern school, to educate people who have done bad deeds to be good and acceptable again in the life of their environment.[5]

One type of criminal act that occurs in people's lives and is in the public spotlight is the crime of taking the life of another person or known as the crime of murder which is a criminal act that deprives the right to life or results in the loss of the life of others, so that the crime of murder can be categorized as a serious crime because it violates a person's human rights which is the most basic of its nature, namely the right to live in the world. Everyone has the right to live which is a gift given by Allah SWT that cannot be taken away by others.

Normatively, the provisions on the crime of murder are regulated in the Criminal Code, Chapter XIX on crimes against life, where the provisions on the main form of the crime of murder are regulated in Article 338 of the Criminal Code, which regulates the prohibition of committing the act of taking the life of another person with a maximum penalty of imprisonment of fifteen years. Then, for the crime of murder committed with planning is regulated in Article 340 of the Criminal Code which regulates the prohibition of taking the life of another person planned in advance with the threat of the death penalty or life imprisonment or imprisonment for a maximum of twenty years.

For example, the case of premeditated murder that occurred in Indonesia was the crime of premeditated murder committed by Mr. Fredy Sambo et al which resulted in the loss of the life of the victim Mr. Nofriansyah Yosua Hutabarat. This case has become the concern and attention of the wider community, because the perpetrator and the victim are active members of the National Police, and how to commit the crime of premeditated murder by using an official firearm borrowed from the perpetrator. For his actions, Mr. Fredy Sambo underwent legal proceedings until trial at the South Jakarta District Court.[6]

In the trial process, the Panel of Judges has handed down through the South Jakarta District Court Decision Number 796/Pid.B/2022/PN Jkt.Sel dated February 13, 2023, to impose a criminal verdict in the form of the death penalty against the defendant Mr. Fredy Sambo who was declared legally and convincingly proven to have committed a criminal act of participating in

[2] Otje Salman dan Eddy Damian, *Konsep-Konsep Hukum Dalam Pembangunan*, Bandung: Alumni, 2002, Hlm 3-4.
[3] Wirjono Projodikoro, *Asas-Asas Hukum Pidana*, Bandung: Refika Aditama, 2009, Hlm 1.
[4] Soedarto, *Hukum Pidana I*, Semarang: Fakultas Hukum Undip, 1990, Hlm 48.
[5] Teguh Prasetyo, *Kriminalisasi Dalam Hukum Pidana*, Bandung: Nusamedia, 2011, Hlm 14.
[6] Ferinda K. Fachri, *Ferdy Sambo Terbukti Pembunuhan Berencana Terhadap Yosua Hutabarat*, https://www.hukumonline.com/berita/a/ferdy-sambo-terbukti-pembunuhan-berencana-terhadap-yosua-hutabarat-lt63ea4b7bf1074/, diakses tanggal 25 April 2026, Pukul 07.30 WIB.

premeditated murder, and without the right to take actions that result in the electronic system not working as it should be together, as per the First Primair indictment and the First Second Primair indictment filed by the Public Prosecutor..

Based on the sentencing decision of the Panel of Judges of the South Jakarta District Court against the defendant Mr. Fredy Sambo, it is interesting to study further, whether the imposition of the criminal verdict in the form of the death penalty is in accordance with the theory and purpose of the penalty, considering that on the one hand, the consequences of the defendant's actions who have committed premeditated murder have resulted in the loss of the life of the victim Mr. Nofriansyah Yosua Hutabarat, and on the other hand, the defendant Mr. Fredy Sambo also has the right to continue his life guaranteed in the Constitution of the Republic of Indonesia in 1945 and other laws.

II. RESEARCH METHODS

This research is normative legal research that examines written law in applicable laws and regulations.[7] The approach method in this study is a legislative approach by examining the content of laws and regulations related to the problem, and a case approach by examining cases related to the problem being researched. [8]

This study uses secondary data from various sources of legal materials, namely binding primary legal materials, namely laws and regulations, secondary legal materials that explain primary legal materials, such as reference books or scientific journals, and tertiary legal materials that explain primary and secondary legal materials, such as legal dictionaries. [9]

Techniques for collecting legal materials through field research or document studies to obtain secondary data related to the problem submitted. Literature study is a method used to obtain an overview or information related to the problem in research, as well as to find out the history and perspective of the research problem. [10]

The legal material analysis technique used in this study is qualitative analysis, where secondary data that has been obtained through literature research is then grouped based on its type, then described according to the subject matter, then interpreted, constructed and given arguments so that conclusions can be drawn. [11]

III. RESULTS AND DISCUSSION

Theoretical Review of Criminalization and the Crime of Premeditated Murder

The problems raised in this article will be studied using criminal theory as an analysis knife, to find out how criminal sanctions are applied to the perpetrators of the crime of premeditated murder in the case that is the object of research. The author's consideration is to choose the theory of punishment because this theory is very relevant as a foothold to analyze whether the imposition of a criminal offense against the perpetrator of the crime of premeditated murder is in accordance with the purpose of the penalty, where the sentence imposed is not only to punish the perpetrator, but also to protect the community from criminal acts in the future.

The oldest theory of punishment is the absolute theory, where in this theory the imposition of a criminal on the perpetrator of a crime is none other than to avenge the actions of the perpetrator who has committed a prohibited act or a criminal act. The absolute theory justifies punishment because a person has committed a criminal act, then the perpetrator absolutely must be punished in the form of a criminal act, there is no question about the consequences of punishment for the perpetrator, where the consideration for punishment is only the past when the crime occurred, while the future that intends to correct the perpetrator is not questioned. [12]

In its development, absolute theory has been criticized so that it gives birth to a relative theory that views punishment as not just retaliation. Relative theory or utilitarian theory views crime as not just to take revenge on the person who has committed a crime, but also to have certain useful purposes. The basis for justifying the imposition of a criminal sentence lies in the goal of reducing the frequency of crime in people's lives, so that the imposition of a crime is not because people commit crimes, but so that people in society do not commit crimes.[13]

According to Muladi and Barda Nawawi Arief, that in relative theory, there is a criminal purpose for the prevention of crime which is divided into two, namely: [14]

1. Special prevention; with special prevention, it is intended that the criminal influence on the convict is intended, where the prevention of crime is intended to be achieved by the criminal by influencing the behavior of the convict not to

[7] Jonaedi Efendi dan Johny Ibrahim, *Penelitian Hukum Normatif dan Empiris*, Jakarta : Kencana, 2016, Hlm. 124.
[8] Peter Mahmud Marzuki, *Penelitian Hukum*, Jakarta: Kencana, 2013, Hlm 133-134.
[9] Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*, Jakarta: PT. RajaGrafindo Persada, 2003, Hlm. 13.
[10] Bambang Sunggono, *Metodologi Penelitian Hukum*, Jakarta: PT. RajaGrafindo Persada, 2013, Hlm. 112-113.
[11] Soerjono Soekanto, *Pengantar Penelitian Hukum*, Jakarata : UI Press, 1986, Hlm. 68-69.
[12] Fitri Wahyuni, *Dasar-Dasar Hukum Pidana di Indonesia*, Tangerang Selatan: Nusantara Persada Utama, 2017, Hlm 13.
[13] Ayu Efrita Dewi, *Modul Hukum Pidana*, Tanjung Pinang: UMRAH Press, 2020, Hlm 9.
[14] Rahman Amin, *Pidana dan Pemidanaan Menurut Hukum Nasional*, Sleman: Deepublis, 2024, Hlm 55.

commit a criminal act again, meaning that the crime aims to make the convict turn into a better and useful person for society;

2. general preponderance; By general prevention, it is intended that the criminal influence on society in general, meaning that the prevention of crime is to be achieved by criminals by influencing behavior.

As a middle ground between the theory of retribution and the relative theory, a combined theory has developed that seeks to accommodate the views of the theory of retribution and the relative theory, in which for evil acts, the community's desire to take revenge is responded, namely by sentencing the perpetrator of the crime, but in imposing a retaliatory sentence against the perpetrator, it still follows the opinion of the relative theory or purpose. That is, the criminalization of the perpetrator is coached, so that after serving a sentence, the perpetrator of the crime will no longer commit the crime in the future.[15]

Then, related to the term criminal act, it is a term derived from Dutch criminal law, namely Straft baar feit, which is then translated by legal experts into Indonesian, among others, criminal acts, criminal events, delicacies, criminal offenses, punishable acts, punishable acts, criminal acts.[16] According to Moeljatno, criminal acts are acts that are prohibited by the rule of law, which are accompanied by sanctions in the form of criminal penalties for anyone who violates the prohibition, or acts that are prohibited and threatened with sanctions by the rule of law. [17]

One of the criminal acts regulated in the Criminal Code is the crime of murder, as regulated in Chapter XIX crimes against life. Article 338 of the Criminal Code, that whoever deliberately takes the life of another person is threatened with murder with a maximum prison sentence of fifteen years. Then, the crime of premeditated murder is regulated in Article 340 of the Criminal Code, that whoever deliberately and with the intention of taking the life of another person, is threatened with premeditated murder, with the death penalty or life imprisonment or for a certain period of time, a maximum of twenty years

Application of Criminal Sanctions Against Perpetrators of Premeditated Murder

To examine how the implementation of the criminal theory in the case of premeditated murder, the author will analyze one of the cases of premeditated murder against the victim Mr. Nofriansyah Yosua Hutabarat, with one of the defendants being Mr. Fredy Sambo who has obtained the Decision of the South Jakarta District Court Number 796/Pid.B/2022/PN Jkt.Sel dated February 13, 2023, Juncto the Decision of the DKI Jakarta High Court Number: 53/PID/2023/PT DKI dated April 12, 2023, Juncto Decision of the Supreme Court of the Republic of Indonesia Number 813 K/Pid/2023 dated August 8, 2023, with the Defendant a.n. Mr. Fredy Sambo.

Broadly speaking, the position of the case of premeditated murder committed by Mr. Fredy Sambo together with other perpetrators that resulted in the death of the victim Mr. Nofriansyah Yosua Hutabarat began with an incident that occurred in Magelang, Central Java, where from the incident, Mr. Fredy Sambo et al became angry and then told Mr. Richard Eliezer Pudihang Lumiu to shoot the victim Mr. Nofriansyah Yosua Hutabarat which occurred on July 8 2022, located at the official house of Mr. Fredy Sambo located at the Duren Tiga Police Complex Number 46, South Jakarta.

In this case, Mr. Fredy Sambo was charged with premeditated murder and other alleged criminal acts as per the Indictment Reg. Case Number: PDM-242/JKTSL/10/2022, as follows:

1. First indictment:
   a. Primary; the actions of the defendant Mr. Fredy Sambo, as regulated and criminally threatened in Article 340 of the Criminal Code Juncto Article 55 paragraph (1) 1 of the Criminal Code;
   b. Subsider; the actions of the defendant Mr. Fredy Sambo as regulated and criminally threatened in Article 338 of the Criminal Code, Juncto Article 55 paragraph (1) 1 of the Criminal Code.
2. Second indictment:
   a. First:
      1) Primary; the actions of the defendant Mr. Fredy Sambo, as regulated and criminally threatened in Article 49 Juncto Article 33 of Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions, Juncto Article 55 paragraph (1) 1 of the Criminal Code;
      2) Subsider; the actions of the defendant Mr. Fredy Sambo, as regulated and criminally threatened in Article 48 Juncto Article 32 paragraph (1) of Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions, Juncto Article 55 paragraph (1) 1 of the Criminal Code;

[15] Diah Gustiniati dan Budi Rizki, *Pembaharuan Hukum Pidana di Indonesia,* Bandar Lampung: Pusaka Media, 2018, Hlm 66.

[16] Adami Chazawi, *Pelajaran Hukum Pidana I,* Jakarta: PT. Raja Grafindo, 2010, Hlm 67-69.

[17] Moeljatno, *Asas-Asas Hukum Pidana,* Jakarta: Rineka Cipta, 2008, Hlm 61.

b. Second:
   1) Primary; the actions of the defendant Mr. Fredy Sambo as regulated and criminally threatened in Article 233 of the Criminal Code Juncto Article 55 paragraph (1) 1 of the Criminal Code;
   2) Subsider; the actions of the defendant Mr. Fredy Sambo as regulated and criminally threatened in Article 221 paragraph (1) 2, Juncto Article 55 paragraph (1) 1 of the Criminal Code.

After the evidentiary process, the Public Prosecutor of the South Jakarta District Prosecutor's Office filed a letter of demand against the defendant Mr. Fredy Sambo, as follows:

First, declaring that the defendant, Fredy Sambo, has been legally and convincingly proven guilty of committing the crime of premeditated murder jointly in violation of Article 340 of the Criminal Code Juncto Article 55 paragraph (1) 1 of the Criminal Code, and stating that it has been legally and convincingly proven to have committed a criminal act without rights or against the law to commit an act that results in the disruption of the electronic system so that it does not work together as it should, violating Article 49 Juncto Article 33 Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions in Conjunction with Article 55 paragraph (1) 1 of the Criminal Code, as well as the First Indictment of Primair and the Second First Indictment of Primair. Second, to sentence the defendant to life imprisonment..."

Furthermore, the Panel of Judges established the decision of the Panel of Judges against the defendant Mr. Fredy Sambo as per the South Jakarta District Court Decision Number 796/Pid.B/2022/PN Jkt.Sel dated February 13, 2023, as follows:

1. Declaring that the defendant Mr. Ferdy Sambo has been legally and convincingly proven guilty of committing a criminal act of participating in premeditated murder, and without the right to commit actions that result in the electronic system not working as it should be done together, as well as the First Primary Indictment and the First Second Indictment of the Public Prosecutor;
2. Imposing a criminal sentence on the defendant therefore with the death penalty;
3. Ordering the defendant..." etc.

On this decision, the defendant Mr. Fredy Sambo filed an Appeal, and then obtained a decision from the panel of Judges at the Appeal level against the defendant Mr. Fredy Sambo as per the Decision of the DKI Jakarta High Court Number: 53/PID/2023/PT DKI dated April 12, 2023, as follows:

1. Receiving an appeal from the defendant Mr. Ferdy Sambo and the Public Prosecutor at the South Jakarta District Attorney's Office;
2. Upholding the South Jakarta District Court Decision Number 796/Pid.B/2022/PN. Jkt.Sel. dated February 13, 2023 which was requested for the appeal;
3. Stipulating that the defendant remains in custody..." etc.

Furthermore, the defendant Mr. Fredy Sambo filed an appeal and has obtained the decision of the Panel of Cassation Judges against the defendant Mr. Fredy Sambo as stipulated in the Decision of the Supreme Court of the Republic of Indonesia Number 813 K/Pid/2023 dated August 8, 2023, as follows:

1. Declaring that the defendant Sdr. Ferdy Sambo has been legally and convincingly proven guilty of committing the crime of committing premeditated murder jointly, and without the right to commit actions that result in the electronic system not working as it should be done jointly;
2. Sentence the defendant to life imprisonment;
3. Charging case fees at the cassation level to the State.

Based on the description mentioned above, in the South Jakarta District Court Decision Number 796/Pid.B/2022/PN Jkt.Sel dated February 13, 2023, the Panel of Judges who tried the case handed down a criminal verdict in the form of the death penalty against the defendant Mr. Fredy Sambo, where the verdict was heavier than the criminal charges filed by the Public Prosecutor who charged the defendant Mr. Fredy Sambo with life imprisonment. From the verdict, according to the author, the Panel of Judges of the South Jakarta District Court applied the theory of absolute punishment or retribution for the acts that had been committed by the defendant Mr. Fredy Sambo.

The imposition of the death penalty on the defendant Mr. Fredy Sambo was solely to provide retribution for the actions of the defendant Mr. Fredy Sambo who had committed the crime of premeditated murder so that the victim Mr. Nofriansyah Yosua Hutabarat died. The purpose of imposing the death penalty was aimed at the defendant Mr. Fredy Sambo, in his consideration there were no mitigating matters, and on the contrary, the Panel of Judges considered matters that were incriminating to the criminal, namely: [18]

1. The defendant's actions have caused deep sorrow for the family of Nofriansyah Yoshua Hutabarat;
2. As a result of the defendant's actions, it caused widespread anxiety and uproar in the community;

[18] Putusan Pengadilan Negeri Jakarta Selatan Nomor 796/Pid.B/2022/PN Jkt.Sel tanggal 13 Februari 2023, Hlm 655.

3. The defendant's actions were inappropriate in his position as a law enforcement officer and the main official of the National Police, namely the Head of the Propam Division;
4. The defendant's actions have tarnished the institution of the National Police in the eyes of the Indonesian people and the international world;
5. The defendant's actions have caused many other members of the police to be involved;
6. The defendant convoluted his testimony at the trial and did not admit his actions.

Then, in the Decision of the Supreme Court of the Republic of Indonesia Number 813 K/Pid/2023 dated August 8, 2023, the Panel of Judges who tried the case handed down a lighter criminal verdict than the South Jakarta District Court Decision Number 796/Pid.B/2022/PN Jkt.Sel dated February 13, 2023, namely a sentence of life imprisonment, with consideration of the penal guidelines in the new Criminal Code which are no longer retaliatory in nature, but has been rehabilitated, the reason or motive of the defendant Mr. Fredy Sambo to commit the criminal act, the service that has been given by the defendant Mr. Fredy Sambo to the institution of the National Police for approximately 30 years.

According to the author, the imposition of a life sentence on the defendant Mr. Fredy Sambo as stipulated in the Decision of the Supreme Court of the Republic of Indonesia Number 813 K/Pid/2023 dated August 8, 2023, in its deliberations, the Panel of Judges is not only oriented towards the theory of retributive punishment, but has considered the imposition of a criminal sentence oriented in the future, meaning that the defendant Mr. Fredy Sambo will still be sentenced as a form of punishment for the acts that have been committed and the sentencing of the crime aims to provide an opportunity for the defendant Mr. Fredy Sambo to improve himself.

In this regard, according to Muladi, the imposition of a criminal verdict by the judge in the trial in the form of imprisonment against the perpetrators of criminal acts who are proven to have committed criminal acts, in addition to providing a deterrent effect to the perpetrators so that they do not repeat their actions in the future, also aims to improve the behavior of the defendant, and can function as a means of prevention, namely as an example to other people not to commit the same act Because they will be subject to imprisonment as a form of protection and maintaining solidarity in the lives of the people who are disturbed by the criminal acts that occurred. [19]

In other words, the imposition of a life prison sentence on the defendant Mr. Fredy Sambo can also be a general prevention to the wider community so that they do not commit the same act, namely the crime of premeditated murder in the future, because for the perpetrator who is legally and convincingly proven guilty, he will be subject to the crime of deprivation of liberty in the form of life imprisonment. which is the most severe principal crime in the new Criminal Code, considering that the death penalty has undergone changes so that it is no longer a principal crime but as a special crime that is threatened alternatively with the principal crime.

The change in the death penalty in the new Criminal Code philosophically presents the orientation of the criminal law as an instrument of state power to a mechanism of social justice, where the criminal law does not only function to punish the perpetrator, but also to rebuild social relations that have been disrupted as a result of the criminal act that occurred. This means that, the application of life imprisonment against the defendant Mr. Fredy Sambo who has committed the crime of premeditated murder, in addition to providing punishment to the defendant Mr. Fredy Sambo, is also to restore the state or social condition of the community.

IV. CONCLUSION

Based on the description of the discussion, it can be concluded that the implementation of the criminal theory of premeditated murder in the case of the South Jakarta District Court Decision Number 796/Pid.B/2022/PN Jkt.Sel dated February 13, 2023, the Panel of Judges applied a retributive or retribution theory for the acts committed by the defendant Mr. Fredy Sambo who had committed the crime of premeditated murder which resulted in the victim Mr. Nofriansyah Josua Hutabarat died. Meanwhile, in the Decision of the Supreme Court of the Republic of Indonesia Number 813 K/Pid/2023 dated August 8, 2023, the Panel of Judges not only handed down a retaliatory criminal verdict, but also considered the benefits of the criminal sentence imposed on the defendant Mr. Fredy Sambo which is oriented towards the future to protect the community from committing the same acts that have been committed by the defendant Mr. Fredy Sambo, and to provide an opportunity for the defendant Mr. Fredy Sambo to make improvements to himself by serving a life prison sentence, as the purpose of the punishment stipulated in the new Criminal Code which is not only oriented towards retribution, but also rehabilitative efforts against the perpetrators of criminal acts. The advice that can be given, I hope that in adjudicating the case, it can consider things that mitigate the defendant in criminal sentencing, and is not only oriented towards retribution for the defendant's actions, but also verdicts that provide benefits to society, and for the perpetrators of criminal acts, while still considering the main goal of the law, namely justice.

[19] Mursal Anis, *et al*, *Analisis Putusan Hakim Dalam Penerapan Teori Retributif Dikaitkan Dengan Rasa Keadilan Bagi Korban Pada Tindak Pidana Penganiayaan,* Unes Journal of Swara Justisia, Volume 7, Issue 2, Juli 2023, Hlm 582-583.

ACKNOWLEDGMENTS

The author would like to thank the Rector and Dean of the Faculty of Law, Bhayangkara University, Jakarta for providing support in this research until the publication of this article.

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1) Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.
2) Undang-Undang Nomor 1 Tahun 1946 tentang Kitab Undang-Undang Hukum Pidana.

Journal

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