

ABSTRAK

Ervina Budi Noor Sholihah. 2026. Kajian Yuridis Normatif Terkait Penentuan Pasal Penganiayaan Berat Berencana dan Pembunuhan Berencana Berdasarkan Klasifikasi Delik *Mens Rea* (Studi Perbandingan Antara KUHP Lama Dengan UU Nomor 1 Tahun 2023 Tentang KUHP Nasional). Skripsi. Program Studi Hukum, Fakultas Hukum, Universitas PGRI Madiun. Pembimbing (I) Dr. Siska Diana Sari, S.H., M.H. (II) Dimas Pramodya Dwipayana, S.H., M.H.

Penentuan pasal dalam tindak pidana penganiayaan berat berencana dan pembunuhan berencana yang keduanya mengakibatkan hilangnya nyawa seseorang sering menimbulkan persoalan dalam praktik penegakan hukum, letak perbedaannya terutama pada unsur *mens rea* pelaku. Penelitian ini bertujuan menganalisis pengaturan kedua delik tersebut dalam KUHP lama dan KUHP Nasional, mengkaji klasifikasinya berdasarkan konsep *mens rea*, serta membandingkan pengaturan dan penerapannya dalam kedua rezim. Penelitian menggunakan metode hukum normatif dengan pendekatan perundang-undangan, konseptual, dan perbandingan, jenis data yang digunakan data sekunder, dengan bahan hukum primer, sekunder, dan tersier, teknik pengumpulan data studi kepustakaan dan dokumentasi hukum yang dianalisis secara kualitatif melalui interpretasi hukum. Hasil penelitian menunjukkan bahwa pengaturan tindak pidana penganiayaan berat berencana sebagaimana diatur dalam Pasal 355 KUHP lama dan Pasal 469 KUHP Nasional, serta pembunuhan berencana sebagaimana diatur dalam Pasal 340 KUHP lama dan Pasal 459 KUHP Nasional memiliki perbedaan mendasar pada tujuan kehendak pelaku. Berdasarkan konsep *mens rea*, klasifikasi delik dibedakan melalui: (1) tujuan atau kehendak pelaku; (2) bentuk kesalahan (*culpa*); (3) hubungan batin antara pelaku dengan akibat yang ditimbulkan; (4) adanya unsur perencanaan terlebih dahulu (*voorbedachte raad*). Hasil perbandingan menunjukkan bahwa KUHP Nasional pada dasarnya mempertahankan substansi pengaturan dalam KUHP lama dengan melakukan penyesuaian sistematika, perumusan norma, dan ancaman pidana tanpa mengubah esensi pembedaan kedua tindak pidana. Praktik penerapannya, penentuan pasal tidak cukup didasarkan pada akibat berupa meninggalnya korban, melainkan harus mempertimbangkan pembuktian terhadap unsur subjektif pelaku (*mens rea*) beserta fakta-fakta yang menunjukkan adanya tujuan, kehendak, dan perencanaan perbuatan.

Kata Kunci: *mens rea*, penganiayaan berat berencana, pembunuhan berencana, KUHP lama, KUHP Nasional, klasifikasi delik.

ABSTRACT

Ervina Budi Noor Sholihah. 2026. *A Normative Legal Analysis Of The Definition Of Aggravated Premeditated Assault and Premeditated Murder Based On The Classification Of Mens Rea Offenses (A Comparative Study Between the Old Criminal Code and Law Number 1 of 2023 on the National Criminal Code)*. Thesis. Law Study Program, Faculty of Law, PGRI Madiun University. Supervisor (I) Dr. Siska Diana Sari, S.H., M.H. (II) Dimas Pramodya Dwipayana, S.H., M.H.

Determining the appropriate legal provision in cases of aggravated premeditated assault and premeditated murder resulting in the loss of a person's life frequently raises issues in law enforcement practice, with the primary distinction lying in the perpetrator's mens rea. This study aims to analyze the regulation of these two offenses under the former Indonesian Criminal Code (KUHP Lama) and the National Criminal Code (KUHP Nasional), examine their classification based on the concept of mens rea, and compare their regulation and application under both legal regimes. This research employs a normative legal method using statutory, conceptual, and comparative approaches. The study relies on secondary data consisting of primary, secondary, and tertiary legal materials collected through library research and legal documentation, which are qualitatively analyzed using legal interpretation. The findings indicate that the regulation of aggravated premeditated assault under Article 355 of the former Criminal Code and Article 469 of the National Criminal Code, as well as premeditated murder under Article 340 of the former Criminal Code and Article 459 of the National Criminal Code, differs fundamentally in terms of the perpetrator's intended purpose. Based on the concept of mens rea, the classification of offenses is distinguished by: (1) the perpetrator's intention or purpose; (2) the form of culpability; (3) the mental relationship between the perpetrator and the resulting consequence; and (4) the existence of prior planning (voorbedachte raad). The comparative analysis demonstrates that the National Criminal Code essentially maintains the substantive provisions of the former Criminal Code while introducing adjustments to its systematic structure, formulation of legal norms, and criminal sanctions without altering the fundamental distinction between the two offenses. In practice, the determination of the applicable legal provision should not be based solely on the consequence of the victim's death but must also consider proof of the perpetrator's subjective element (mens rea) and the facts demonstrating intention, purpose, and premeditation.

Keywords: *mens rea, aggravated premeditated assault, premeditated murder, former Criminal Code, National Criminal Code, classification of offenses.*