

CAUSALITY TEACHINGS IN PLANNED MURDER CRIMES (Case Study of Murder with Cyanide Poison)

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Abstract

The phenomenon of premeditated murder represents a grave criminal offense involving the intentional taking of another person's life through meticulous planning. At the core of any event lies a causal relationship, a fundamental concept known as causality. Causality, in the context of criminal investigations, refers to the cause-and-effect relationship applied to discern the primary factors leading to specific consequences. This research seeks to address the intricate nature of causality within the crime of premeditated murder, particularly examining the series of events identified by law enforcement officials as indicative of a causal relationship. The central challenge in this research pertains to unraveling the specific series employed by law enforcement as a foundation for establishing causality in cases of premeditated murder. Furthermore, the study delves into the question of how responsibility for the criminal act committed by Jessica Kumala Wongso against Victim Wayan Mirna Salihin is attributed based on the principles of causality. Investigating these aspects will contribute to a more comprehensive understanding of the legal mechanisms used to identify and assign accountability in cases of premeditated murder.

Keywords: Causality, Crime, Premeditated Murder

1. INTRODUCTION

1.1. Background

Indonesia is a state of law that upholds human rights and guarantees the position of its citizens in law and government. The purpose of the law itself is as a protection that guides humans to a full personality to become a good society, and together with other communities participate in building a just and prosperous Indonesian society. In addition, the purpose of the law is to regulate the association of human life in peace. This is based on because in their lives, humans always establish relationships with one another based on different characteristics and desires. The function of law is to regulate and balance these different characteristics and desires so that human relations are always in peace.

Criminal law as one of the laws in the State of Indonesia, its regulation is expressly stated in the Criminal Code (KUHP) as one of the positive laws.¹ Although the Republic of Indonesia is a state of law with a legal system, regulations, and law enforcement officials, law violations continue to occur. This is due to the idea that humans are wolves for other humans (*homo homini lupus*), always selfish and not concerned with others.² So it is not impossible for humans to commit mistakes and crimes that can refer to criminal acts. Moeljatno uses the term criminal offense which is defined as an act prohibited by a rule of law which prohibition is accompanied by threats (sanctions) in the form of certain criminal acts, for those who violate the prohibition.

The term criminal offense is used as a translation of the term *strafbaar feit* or delict. *Strafbaar feit* consists of three words, namely *straf*, *baar*, and *feit*, in *literlijk*, the word "*straf*" means criminal, "*baar*" means can or may and "*feit*" is an action. In relation to the term *strafbaar feit* as a whole, it turns out that *straf* is also translated with the word law.

And it is common that law is a translation of the word *recht*, as if the meaning of *straf* is the same as *recht*. For the word "*baar*", two terms are used, namely may and can. Meanwhile, the word "*feit*" is used in four terms, namely, act, event, offense, and action. 4 Basically, criminal acts are related to behavior or actions that are prohibited by law. Special criminal offenses focus more on issues related to the law, and this discussion does not cover matters regulated by the law. General criminal penalties do not govern these special criminal offenses.

Murder is one of the crimes committed and occurring in society. Murder is seen as a very terrible and inhumane act. The goal of the perpetrator of murder is a person's soul that cannot be replaced. One type of murder is the crime of premeditated murder. Premeditated murder in the Criminal Code is regulated in Article 340:

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

The premeditated murder was intended by the legislator as a special form of aggravated murder, the formulation of which could be "murder committed with premeditation shall be punished as murder with premeditation". Based on what is described above, it is possible that It can be concluded that by formulating Article 340 of the Criminal Code in this way, the legislator deliberately did so with the intention of it being a stand-alone crime. An event must have a cause, as well as the crime of premeditated murder. The event of cause and effect is called causality.⁵ In criminal law, the doctrine of causality is intended to determine the objective relationship between human actions and consequences that are not intended by law. The Criminal Code itself does not formulate any provisions on how to determine causation. But in several articles it is explained that in certain offenses it is necessary to have an effect which is the "cause" (causa) of a certain effect.

As in the case of the murder of Wayan Mirna Salihin, which was allegedly caused by cyanide poison found in coffee drinks. The case has a chain that is not easy to determine the act that caused the death of the victim because the act of putting cyanide poison in the coffee was not found. In cases that have a long chain of causes, it can cause difficulties in determining the act that causes death. Therefore it is difficult to determine the criminal liability of the perpetrator. While the criminal code does not explicitly refer to one particular doctrine of causality. Judges are given the discretion to choose between the theories in the causality doctrine, so it does not bind judges to use which causality doctrine in considering their decisions. Based on this background, the author is interested in knowing the extent of the application of the teaching of causality to one of the planned murders committed by Jessica Kumala Wongso by using cyanide poison against her victim, Wayan Mirna Salihin.

1.2. Problem Formulation

1. How is the criminal responsibility for premeditated murder in the 'cyanide coffee' case?
2. How is the series of causal relationships as the basis for law enforcement officials in proving the case of premeditated murder with 'cyanide coffee' poison?

1.3. Research Objectives

1. To discuss and analyze the criminal responsibility of premeditated murder in the 'cyanide coffee' case.
2. To discuss and analyze the series of causal relationships as the basis for law enforcement officials in proving the case of premeditated murder with the poison 'cyanide coffee'.

2. LITERATURE REVIEW

The research method used in this research is qualitative research method. The qualitative research method was chosen because the focus of the research was to understand and explore the point of view of the Mirna Salihin case, as well as to explain the problem based on the viewpoint of the teaching of causality in criminal law (Adami Chazawi, 2000). This qualitative research method was chosen to enable a deeper understanding of the context of the case. Thus, this research method is expected to provide a comprehensive insight into the conflict.

3. RESULT AND DISCUSSION

3.1. Case Chronology

This case occurred on Wednesday, January 6, 2016, at Oliver Restaurant in Grand Indonesia, Kebun Kacang Village, Tanah Abang Sub-district, Central Jakarta. The defendant in this case is Jessica Kumala Wongso and the victim in this case is Wayan Mirna Salihin. Jessica (the defendant) became friends with the victim Wayan Mirna Salihin (Mirna), at the Billy Blue College of Design in Sidney, Australia. In mid-2015, Victim Mirna learned of problems in the romantic relationship between the Defendant and his girlfriend so Victim Mirna advised the Defendant to break up with his abusive and drug-using girlfriend, saying why go out with people who are not good and not capital. Victim Mirna's words apparently made the Defendant angry and hurt so the Defendant cut off communication with Victim Mirna.

The Defendant eventually broke up with his girlfriend and experienced several legal events involving the Australian Police, which made the Defendant even more offended and hurt by Victim Mirna, so to avenge his hurt, the Defendant planned to eliminate Victim Mirna's life. On December 7, the Defendant contacted the Victim through the WhatsApp (WA) application to inform her of the Defendant's whereabouts in Jakarta and invited Victim Mirna to meet. Furthermore, the first meeting between the Defendant and Victim Mirna and the Victim's husband, Arif Setiawan Soemarmo at a cafe in the North Jakarta area. The Defendant requested that the Victim Mirna create a WA Group with the name Billy Blue Days which consisted of: Defendant, Victim, Hani (witness), Vera (witness), where in the WA Group conversation, the Defendant took the initiative to invite a meeting and finally agreed on January 6, 2016 at 6:30 pm at Olivier Restaurant, Grand Indonesia.

On Wednesday, January 6, 2016, the Defendant prepared himself to realize his plan by saying that he would treat Victim Mirna, Hani, Vera and told them that the Defendant would come first to Olivier Restaurant to reserve a place. Furthermore, a conversation (chat) took place in Group WA where the Victim said about her favorite Vietnames Iced Coffee (VIC) at Restaurant Olivier, from this conversation the Defendant immediately

took the initiative to order VIC for the victim. At approximately 3.30pm the Defendant arrived at Restaurant Olivier and immediately booked a table for 4 people, after observing the restaurant, in preparation to take the victim's life. At 4:14 p.m. the Defendant returned to the restaurant, chose table 54, and placed the 3 peper bags he had brought with him.

Then went to the bar to order VIC drinks for the Victim and 2 (two) Cocktails and the Defendant went straight to the cashier to pay (close bill). Rangga (witness) made the VIC order for the Defendant, then Agus Triono (witness) delivered the VIC order, shortly thereafter Marlon (witness) delivered 2 (two) Old Cocktail drinks to table 54.

After Marlon (witness) left table 54, then the Defendant sat down, placed the glass containing VIC on his right and arranged 3 peper bags on the table with the intention of blocking the view of the surrounding people so that the act would be carried out to put sodium cyanide poison (Na Cn) into a glass containing VIC drinks that would be served to Victim Mirna. A few moments later the Victim Mirna and Hani (witness) came to the Defendant who was waiting at table 54, the Victim Mirna sat right in front of the glass containing VIC which had been filled with sodium cyanide poison, then the victim asked the Defendant "whose drink is this?" and the Defendant replied "this is for you Mir, you said you wanted it", then the Victim Mirna said "oh, geez, why did you order first, I mean later, just order it, when I come ... thank you for ordering". Then the Victim took the glass containing VIC and drank it, immediately the Victim reacted by saying "it's really bad, this is awful" while waving her hand in front of her mouth due to the stinging heat, 2 (two) minutes later the Victim immediately fainted, Ileng (witness) took the Victim to the Damayanti Clinic, Grand Indonesia Branch, Dr. Andry as a general practitioner at the Clinic saw the Victim's condition as faint, the body was rather stiff.

The victim was taken to Abdi Waluyo Hospital, Dr. Adiyanto (witness) the duty doctor examined the victim who was already in a condition with no palpable pulse, no breath and no heartbeat, but Dr. Adiyanto took medical action for the victim in the form of respiratory support and resuscitation (heart-lung pump) but the attempt to help had no results and the victim was declared dead as stated in Abdi Waluyo Hospital Letter No. 004/DIR/RSWA/I/2016 dated January 11, 2016 which contains a Medical Resume. As a result of the actions of the Defendant Jessica Kumala Wongso, Victim Mirna died in accordance with the Visum et Repertum Number Pol. R/007/1/2016 /Rumkit. Bhay. Tk.1 dated January 10, 2016 made and signed by Dr. Arief Wahyono, Sp.F. and Dr. Selamat Poernomo, Sp.F., DFM, concluded: "In the examination of a woman aged 25-30 years, embalming and makeup have been carried out, on external examination no openings were found, bluish inner lips were found. On forensic histopathology examination of gastric preparations, abnormalities caused by corrosive materials were seen. The cause of death of this person awaits the results of the examination from the Forensic Laboratory." And Minutes of Criminalistic Laboratory Examination of Evidence: Remains of drinks and organs of body fluids Number LAB: 086.A/KTTA/2016 on Thursday, January 21, 2016 signed by Dra. Noorhayati, Azhar Darlan, M.Si., Helmiyadi, S.Si., Eti Susanti, A.Md. Farm, and dictated by Dr. Nursamran Subandi, M.Si. as KABID KIMBIOFOR at the Forensic Laboratory Center of the National Police Criminal Investigation Agency.

3.2. Criminal Liability for Premeditated Murder in the 'Cyanide Coffee' Case

Murder is the intentional taking of the life of another person, to take the life of another person, a perpetrator must do something or a series of actions that result in the death of another person with a note that the opzet of the perpetrator must be aimed at the

result in the form of the death of another person. Thus, one cannot talk about the occurrence of a criminal act of murder, if the result of the death of another person has not been realized. In the Criminal Code, criminal offenses that result in the loss of life of another person are:

- a. Ordinary murder (Article 338 of the Criminal Code).
- b. Murder with aggravation (Article 339 of the Criminal Code).
- c. Aggravated murder (Article 340 of the Penal Code).
- d. Infanticide by the mother (Article 341 of the Penal Code).
- e. Premeditated infanticide (Article 342 of the Penal Code).
- f. Murder at the request of the person concerned (Article 344 of the Penal Code).
- g. Persuading/assisting a person to commit suicide (Article 345 of the Penal Code).
- h. Miscarriage of pregnancy with the consent of the mother (Article 346 of the Penal Code).
- i. Miscarriage of pregnancy without the mother's permission (Article 347 of the Penal Code).
- j. Death of the fetus with the consent of the woman carrying the child (Article 348 of the Penal Code).
- k. Doctor/midwife/druggist who assists in the termination/death of pregnancy (Article 349 of the Penal Code).
- l. Death of a person due to negligence (Article 359 of the Criminal Code).

In this research, the author will discuss the premeditated murder committed by Jessica Kumala Wongso against Wayan Mirna Salihin by using the chemical substance cyanide mixed into Vietnames Iced Coffee based on the teaching of causality (Sofian, 2016). This criminal offense is regulated in Article 340 of the Criminal Code. Premeditated murder carries a heavier penalty than the murder penalty found in Articles 338 and 339 of the Criminal Code. In fact, the death penalty, which is the most severe penalty, is listed in premeditated murder, but not listed in other crimes against life (P.A.F. Lamintang & Theo Lamintang, 2012). The reason for the severity of this punishment is that there is prior planning. The perpetrator of premeditated murder can also be sentenced to life imprisonment or for a certain period of time, a maximum of twenty years. Like the actions committed by Jessica Kumala Wongso, who was convicted under the provisions of Article 340 of the Criminal Code, the elements of which are as follows:

1) The element of who

What is meant by the element "Whoever" is always oriented towards humans as legal subjects, supporters of rights and obligations who are capable of being legally responsible. Jessica Wongso as the Defendant who was brought to trial, juridically meets the criteria of this element and the Defendant has confirmed his identity after being questioned by the Panel of Judges. Therefore, the element of "Whoever" has been proven legally and convincingly according to the law.

2) The Element of Intentionally

In criminal law, intent is a form of guilt, namely the relationship between the inner attitude of the accused and the act committed. The requirement for willfulness is *wetten en willen* (knowing and willing). Based on witness testimony, evidence, and evidence at trial, the Panel of Judges considered and concluded that the cause (motive) for the death

of the victim Mirna was due to an element of hurt or revenge from Jessica, because it has been proven that there was a motive before the criminal incident occurred, the Panel of Judges will prove whether there is an element of intent related to Mirna's death or not. And based on the conscience of the Panel of Judges connected with the relevant legal facts and expert opinions, the act of the element "intentionally" to commit murder has been proven legally and convincingly according to the law (Zulyadi, 2020).

3) The element of premeditation

This element is a continuation of the element of intentionally. This means that the element of intentionally will not be fulfilled, if there is no prior planning as already considered. Based on the facts described in the trial, the Panel of Judges assessed and considered that in order to vent the hurt and resentment to the victim Mirna, it turned out that before the time/event occurred, the Defendant Jessica had deliberately "planned a quiet time to think about the right time to come first to Cafe Olivier on the pretext of not being hit by traffic and finally at around 15.29 WIB the Defendant arrived at Café Olivier." (4) The element of taking the life of the victim is the element of premeditation.

4) The element of taking the life of another person

This element is the result of the actions that have been carried out intentionally and premeditatedly by the defendant Jessica Kumala Wongso.

The four elements are cumulative, meaning that each element must be proven, whether all elements of the offense are proven legally and convincingly according to the law or not. Because the four elements have been fulfilled, the Central Jakarta District Court sentenced Jessica to 20 years in prison. This decision was upheld by the DKI Jakarta High Court. At the cassation level, the Supreme Court upheld the Judex Facti's decision with 20 years in prison.

In the case of taking the life of another person, there will be an unlawful attitude, where a person's actions have unlawfully taken the life of another person. The above is intended that a person in eliminating someone's life, whether intentionally or not, has caused another person to die, so he must be held accountable. A person's motive for committing a criminal offense that results in the loss of life of another person as described is as follows, where the most influential things are the two main factors, namely internal factors and external factors, and based on criminological studies the things that influence a person to commit a criminal offense are divided into several types. Based on the study of criminology, the things that influence a person to commit a criminal offense are divided into several theories, namely, classical theory, neo-classical theory, cartographic/geographic theory, socialist theory, typological theory, lambroso theory, mental tester theory, psychiatric theory, sociological theory and bio-sociological theory. A person who commits a criminal offense that results in the loss of life of another person must be responsible for his actions as regulated by Article 340 of the Criminal Code.

3.3. Series of Causal Relationships as a Basis for Law Enforcement Officials in Proving the Crime of Premeditated Murder with 'Coffee Cyanide' Poison

Basically, every event, whether natural or social, cannot be separated from the series of causes and effects that surround it. The second event that occurs next can also bring about the next effect again, and so on. Not only that, the causality or causal

relationship is also often found in daily life, in every event and in certain events. This is because humans are social creatures who always interact with one another. The causal relationship that occurs between one human being and another does not always produce positive events but sometimes it also causes various uncertain problems.

This uncertain problem will become even more difficult when determining which one is the cause and which one is the effect, especially if there are factors that frame the incident. Causality is a relationship or process between two or more events or states of affairs in which one factor causes another. To take a simple example of a statement of causality: if the light switch is turned up, the light will come on. In criminal law there are several theories of causality, namely:

a. Conditio Sine Qua Non Theory

This theory was proposed by von Burri who argued that every act is the cause of the consequences that arise. All conditions for the occurrence of an effect are the same as causes of effects that cannot be eliminated and must be given the same value. The essence of this theory explains that a cause of a criminal act is a series of events that can be traced back endlessly seen as giving rise to an effect that is valued equally. Because all acts are causes and are conditions for the occurrence of effects, Von Burri's teaching greatly expands the basis of criminal liability. Because actions that are distantly related to the consequences must also be seen as the cause of the consequences, so according to Sofjan Sastrawidjaja, Von Burri's teaching is not used in criminal law. Meanwhile, according to (Moeljatno, 1985), as long as it determines a scientific understanding so separate from the understanding adopted by a law, the theory of condition sine qua non is good as long as it is accompanied or complemented by a theory of error that can regulate it.

b. Causa proxima theory

This theory seeks to make a distinction between conditions and causes. According to this theory, in each event there is only one cause, namely the most decisive condition for the emergence of an effect. This theory looks at all the conditions that exist after the act occurs (post factum) and tries to find one condition that can be considered the most determining condition for the emergence of an effect. The essence of this theory explains that what is understood as the cause of a criminal act is the act that most closely causes the effect. According to G.E. Mulder, this theory is motivated by the idea that cause and effect should not be too far apart.

c. Relevance Theory

The essence of this theory is that the judge can choose the cause (causa) that is most relevant to causing the consequences of an event or legal action. What is meant by the most relevant cause or causa is the cause intended by the legislator. Therefore, Jan Remelink states that the legislator, with regard to maltreatment that causes the death of another person, reconstructs that the injury suffered by the victim, even though it is difficult to foresee it causing death, is still considered as causing the effect.

d. Adequate Theory

The essence of this theory is that the judge determines the cause that is thought to be the most reasonable or fulfills the most common requirements to be the causa that

causes the effect of an act or event in question that may be found in the existing causal chain.

Linking the actions of the Defendant Jessica Kumala Wongso that resulted in the death of the Victim (linking the defendant's series of actions with the consequences). The series of Causality are:

- a. Defendant Jessica Kumala Wongso contacted Victim Mirna via WhatsApp (WA) application, that she (Defendant) was in Jakarta and invited Victim Mirna to meet.
- b. The Defendant again invited to meet and treat Victim Mirna, Hani, Vera and informed the Victim and her friends that the Defendant would come first to Olivier Restaurant to reserve a place (conversation in the WA Group where the Victim said about her preference for Vietnames Iced Coffee) from this conversation the Defendant immediately took the initiative to order VIC for the victim.
- c. The Defendant arrived at Olive Restaurant early and ordered 1 (one) glass of Vienam Iced Coffe for Victim Mirna and 2 (two) glasses of Cocktail
- d. The victim arrived with Hani and the Defendant invited the victim to sit at table 54 and invited her to drink Vietnames Iced Coffee.

If analyzed using the theory of causality, the act of injecting poison or poisoning the victim with Natriun Cyanide resulting in death is not found, instead the series of actions creates a clue about the existence of an act that causes death. Doctrinally, it is difficult to answer whether the series of actions (calling, conversation on WhatsApp application, inviting to meet at Cafe Olivier, booking a place, ordering a Vietnames Iced Coffee drink and putting cyanide into the drink) is a causal verband. Thus, the causal relationship established to prove the criminal responsibility of the perpetrator is a logic of thinking of the judge in building a series of actions committed by the defendant. This regularity is built by the court so that the regularity is seen in the chain of actions so that the chain is connected into a single unit and is not interrupted.

To assess the withdrawal of logic based on the doctrine of causality, until the decision made by the court results in a decision that fulfills a sense of justice for the convicted person is:

- a. Causal 1
The defendant contacted Victim Mirna via WhatsApp application
- b. Causal 2
The defendant invited Victim Mirna to meet at Olivier Restaurant
- c. Causal 3
The Defendant came first to Olivier Restaurant to order a Vietnames Iced Coffee drink for the Victim.
- a. Causal 4
T he defendant put sodium cyanide into the victim's drink which caused the victim to die.

In a series of acts, a causal relationship is established between one act and another. In the fourth causal, putting poison into the drink is a criminal act that can cause death, while the first, second, and third causal are actions that precede it. In the panel of judges' consideration, the "intentionally" element states that if someone dies after eating or drinking anything containing Sodium Cyanide, in a reasonable calculation, Sodium Cyanide is what caused Wayan Mirna Salihin's death. However, further investigation is

needed to find out how much Sodium Cyanide was contained in the drink and whether it could cause death.

The judge was very confident that Mirna died due to the presence of cyanide poison. The judge was of the opinion that based on the available evidence, Jessica was legally proven to have taken Mirna's life. The judge believed that it was the defendant who put the poison in Mirna's coffee on the basis that the coffee was under the supervision of the defendant for approximately 51 minutes. Although until the end of the trial the defendant Jessica did not admit her actions, the judge emphasized that in this case, it is not necessary to have an eyewitness who sees someone commit a criminal act. Judges can obtain circumstantial evidence. Indeed, only the Defendant Jessica knew when the cyanide poison was put into the Vietnamese iced coffee of the victim Mirna.

The Panel of Judges described one by one the events that had been carried out by the defendant Jessica, starting from being the first person to arrive at the Grand Indonesia Mall, then buying hand washing soap, ordering drinks and at the same time buying drinks for her friends and placing 3 paper bags on table 54. According to the Panel of Judges, the things that the defendant did were very unusual. The Panel of Judges considered that some of Jessica's actions were not like people in general, such as paying the bill in advance even though the Olivier cafe did not apply the payment system at the beginning of the order, the Panel of Judges considered that the purpose of the Defendant Jessica to make an advance payment was so that the Defendant could quickly leave the scene (Olivier cafe).

4. CONCLUSION

Criminal responsibility by the Defendant Jessica Kumala Wongso for the crime of premeditated murder committed against the Victim Wayan Mirna Salihin is based on Article 340 of the Criminal Code, with a prison sentence of 20 years. The criminal offense stipulated in Article 340 of the Criminal Code can be subject to death penalty or life imprisonment or for a certain period of twenty years at most, with the elements as the element of whoever, the element of intentionally, the element of premeditation, the element of depriving the life of another person. The four elements are cumulative, meaning that each element must be proven, whether all elements of the offense are proven legally and convincingly according to the law or not.

Stringing together the actions of the Defendant Jessica Kumala Wongso which resulted in the death of the Victim (linkage of the defendant's series of actions with the consequences). The series of Causality is that the Defendant Jessica Kumala Wongso contacted the Victim Mirna via the WhatsApp (WA) application, that he (the Defendant) was in Jakarta and invited the Victim Mirna to meet. The Defendant again invited to meet and treat Victim Mirna, Hani, Vera and informed the Victim and her friends that the Defendant would come first to Olivier Restaurant to reserve a place (conversation in the WA Group where the Victim said about her preference for Vietnames Iced Coffee) from this conversation the Defendant immediately took the initiative to order VIC for the victim. The Defendant arrived at Olive Restaurant early and ordered 1 (one) glass of Vienam Iced Coffe for Victim Mirna and 2 (two) glasses of Coktail. The victim arrived with Hani and the Defendant invited the victim to sit at table 54 and invited her to drink Vietnames Iced Coffee. There are four causal factors that can be concluded, namely the Defendant contacted Victim Mirna via WhatsApp application (K1), the Defendant invited

Victim Mirna to meet at Olivier Restaurant (K2), the Defendant came first to Olivier Restaurant to order Vietnames Iced Coffee for the Victim (K3), the Defendant put Sodium Cyanide into the Victim's drink which caused the victim to die.

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