

WEIGHTING ANALYSIS CRIMINALIZATION IN CRIME FILICIDE CRIME BASED ON PERSPECTIVE CRIMINOLOGY (THEORY POSITIVIS CRIMINAL)

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Received : 08 June 2026

Accepted : 26 June 2026

Revised : 12 June 2026

Published : 10 July 2026

Abstract

Filicide is a criminal act of murder committed by a parent against their own child, becoming one of the most complex forms of crime criminologically because the perpetrator is the party who is legally most responsible for the victim's safety. This study examines the provisions for aggravating filicide punishments in Indonesian positive law and analyzes the perpetrator's criminogenic factors through the perspective of the criminal positivist theory developed by Lombroso, Ferri, and Garofalo. The method used is a juridical-normative with a literature study of several court decisions. The results of the study indicate that the judge's considerations in aggravating punishments have not fully integrated the perpetrator's biological, sociological, and psychological factors systematically, so that standardized criminological guidelines are needed to produce more proportional and just decisions.

Keywords: *Filicide, Increased Sentences, Positivist Criminal Theory, Criminology, Indonesian Criminal Law*

INTRODUCTION

The murder of a child by a parent, also known as filicide, is a complex crime to understand. This crime not only involves the loss of a child's life, but also touches on a much deeper issue, namely the breakdown of the most fundamental relationships within the family and community structure. In the relationship between parents and children, there is trust, dependence, and responsibility for protection that should be unshakable, but in filicide, all of these are transformed into sources of danger for the victim.¹ This is what makes filicide considered one of the most complex forms of crime from a criminological perspective, because the perpetrator is not a stranger, but rather the party who is legally and morally most responsible for the victim's safety.

In Indonesia, the phenomenon of violence against children in the household sphere Keep going happen from year to year. Data Commission Protection Child Indonesia recorded an increase in cases of violence against children, from 2,971 in 2021 to 3,407 in ²⁰²², with a number of cases involving parents as perpetrators. The pattern of punishment as a reference and guideline in making criminal legislation, because the Criminal Code is the parent of the system and pattern of punishment for regulations outside the Criminal Code, to ensnare the perpetrators of filicide. Law Number 1 of 2023 concerning the Criminal Code, which will be fully effective starting in 2026, regulates premeditated murder in Chapter 458 with a maximum criminal penalty of fifteen years, and contains provisions special murder child by the biological mother in Articles 460 and 461. In addition, Law Number 35 of 2014 about Protection Child through Chapter 80 paragraph (3) give aggravating penalties for perpetrators of violence that results in the death of a child. However, in practice, existence rules That Not yet Enough For produce consistent decisions.³ shows that crimes in domestic relations are an accumulation of various interacting factors, so that their handling cannot only rely on formal legal norms without considering the perpetrator's criminogenic background.

This is where the criminological approach becomes important. The positivist school of crime developed by Lombroso, Ferri, and Garofalo holds that action crime No born from will free solely, but formed by factors biological, psychological, And social Which encompassing perpetrator. Garofalo specifically introduced the determining the severity of criminal sanctions.

¹ Kobandaha, M. (2017). Protection law to child victim violence in household in the legal system in Indonesia. *Unsrat Law Journal*, 23(8), 82–91.

Previous research confirms that criminological theories should become runway in formulate program targeted crime handling, because without understanding the perpetrator's background, punitive efforts will not address the root of the problem. in Indonesia Still dominated by approach normative Which focus ⁴From this perspective, the severity of the sentence in filicide cases should not only be based on what the perpetrator has formally done, but also on the potential danger to those around him in the future From various existing studies, it is clear that studies on filicide on analysis chapter per chapter without touching factors the background to behavior the perpetrator in a way more deep. Temporary That, study criminology which exists more Lots target crime in realm public, No crime Intrafamilial crimes like filicide have their own dynamics. The lack of studies that specifically link positivist criminal theory to the analysis of filicide sentencing in the context of Indonesian law presents an academic gap. Which need filled. Study This make an effort respond gap the by offering a more integrated analysis between positive criminal law and criminological approaches, so as to produce a more comprehensive perspective on how the increased sentencing in filicide cases should be formulated and applied. Based on the background that has been described, this study aims to, first, analyze the provisions on increasing the punishment for filicide in Indonesian positive law; second, examine the criminogenic factors of filicide perpetrators through perspective theory positivis criminal; and third, formulate the ideal concept of its integration into the judge's considerations in order to produce more proportional and just sentencing. From here, there are three problem statements that are the focus of this research: first, that the criminogenic complexity of filicide has not been adequately accommodated within the framework of the aggravation of sentencing in positive Indonesian law; second, that the integration of positivist criminal theory into the judge's considerations is still very limited in judicial practice; and third, that the absence of standardized criminological guidelines contributes to disparities in decisions that weaken the function of legal protection for children.

METHOD STUDY

Reason Study

The choice of filicide as a subject of analysis is based on the criminological uniqueness of the act of parents taking the lives of their own offspring, an event that goes against the instinct to protect. This research focuses on sanctions which is heavier to measure the extent of the system law currently able to protect individuals in an unbalanced power relationship. The Positivist Criminal Theory approach is very useful for uncovering the causes of crime from the perpetrators, including dimensions psychological, social, and biology transcends the concept of freedom act. With analyze decision court Which it's final (in-the-work), study This study method judge consider These determining factors are used in determining the sentence. The goal is to ensure that the additional sentence serves as a deterrent. Which based on understanding Which strong about aspect the perpetrator's criminality, not merely as retribution.

Type Study

The type of research used by the author in this study is juridical-normative, because the discussion in this study uses or is based on court decisions and positive law. And regulation legislation invitation Which applies, as well as theory criminal positivism in criminology to explain about weighting criminal penalties against perpetrators in the crime of filicide.

Source Data

a. Source law primary is material law main in In this research, the main legal sources used by the author are:

- 1) Constitution Base Republic Indonesia
- 2) Book Constitution Law Criminal
- 3) Decisions Court

b. Source law secondary

In this study, the secondary legal sources used by the author are journals and previous research results.

Source law tertiary

In order to enrich the analysis, the author integrates tertiary legal materials such as information from the internet to support primary and secondary materials in order to provide a more comprehensive explanation in this research.

² <https://www.kpai.go.id/kanal/informasi-publik/laporan-tahunan> accessible on 16 May 2026

concept of dangerosité, namely the level of danger inherent in the perpetrator as a basis for consideration in

³ Kholiq, Abdul, Barda Nawawi Arief, and Eko Soponyono. "LIMITED IMPRISONMENT: AN IDEA AND REORIENTATION OF THE POLICY FORMULATION OF TYPES OF CRIMINAL LAW SANCTIONS IN INDONESIA." *LAW REFORM*, vol. 11, no. 1, 31 Mar. 2015, pp. 100-112, <https://doi.org/10.14710/lr.v11i1.15759>.

⁴ Dolok Saribu, MCP, & Yusuf, H. (2025). A criminological analysis of the crime of murder in relation House ladder: Case study stabbing wife by husband in Medan. *Indonesian Legal Media (MHI)*, 3(3), 746–755.

⁵ Mocodompis, KA (2025). Analysis of the influence of criminological theory on the reform of the correctional system in handling crime in Indonesia. *Amendment: Journal Knowledge Defense, Politics and Law of Indonesia*, 2(3), 97–114.

Method Collection Data

On study This the author did collection data with method library study Research) by collecting and researching and studying data regarding the positive theory of crime and legal regulations related to the research material.

Technique Data analysis

This research applies qualitative analysis techniques that focus on presenting descriptive data in detail and systematically to answer the problems being researched.

FINDINGS STUDY

This research is based on 3 court decisions, namely Decision Number 771/Pid.B/2024/PN Srg, Decision Number 863/Pid.B/2015/PN Dps, Decision Number 64/Pid.B/2024/PN Sng, that based on these decisions, several facts were found, namely:

1. Findings Study 1
 - a. Decision Number 771/Pid.B/2024/PN Srg Perpetrator on Name Agus Bin Suta and the victim Nur Laila (3 years old) have a relationship in the household as biological father and biological child.
 - b. Decision Number 863/Pid.B/2015/PN Dps perpetrator on Name Margriet Christina Megawe (Tely) had a relationship with the victim named Engeline (8 years old). household as adoptive mother and adopted child.
 - c. Decision Number 64/Pid.B/2024/PN Sng perpetrator named Yosep Hidayah with victim on Name Tuti Suhartini & Amelia Mustika Ratu has a relationship in the household as husband, wife and biological child
2. Findings Study 2
 - a. Decision Number 771/Pid.B/2024/PN Srg Do not have motif Clear and rational. The perpetrator admitted to suddenly having the thought of slaughtering his child and hearing whispers. This is suspected to be related to the occult practices he had been studying autodidactically for approximately one year.
 - b. Decision Number 863/Pid.B/2015/PN Dps is suspected to be motivated by economic exploitation of the victim, who was employed as a livestock worker, while the defendant enjoyed the proceeds from the sale. done For remove footsteps exploitation which is conducted.
 - c. Decision Number 64/Pid.B/2024/PN Sng Perpetrator feel treated unfairly by wife and his biological child. The immediate trigger was a conflict over money (his wife's request for money was rejected), which prompted the perpetrator to commit premeditated murder involving other people.
3. Findings Study 3
 - a. The perpetrator is a parent or protective figure who actually becomes the perpetrator
 - b. Victim is group prone to Which No empowered
 - c. Action done with cruel and planned.
4. Findings Study 4

All three cases used Article 340 of the Criminal Code (premeditated murder) as the basis for sentencing. The severity of the sentences differed. influenced by level cruelty, number victim, There is whether or not there are mitigating circumstances, as well as a combination with special child protection laws.

⁵ Decision Court No. 771/Pid.B/2024/PN Srg

⁶ Decision Court No. 863/Pid.B/2015/PN Dps

⁷ Decision Court No. 64/Pid.B/2024/PN Sng

DISCUSSION

Factors Considered by Judges in Increasing Criminal Sentences for the Crime of Filicide

The three decisions that are the object of the study, namely Decision No. 771/Pid.B/2024/PN Srg,⁵ Decision No. 863/Pid.B/2015/PN Dps,⁶ and Decision No. 64/Pid.B/2024/PN Sng,⁷ all impose penalties based on Chapter 340 Criminal Code about murder planning, but produce different sentences: the death penalty, life imprisonment, and twenty years' imprisonment.⁸ These differences are not a form of judicial inconsistency, but rather a reflection of the casuistic nature of the judge's considerations, which are based on two interrelated dimensions: the legal dimension in the form of fulfilling the elements of the crime and the non-legal dimension in the form of humanitarian values and the social impact of the decision. In Indonesian criminal law, intrafamilial murder is not regulated as a special crime, so its application still refers to the provisions. general Articles 458 and 459 are amendments to Article 338 and Article 340 concerning murder and premeditated murder in Law No. 1 of 2023⁸ with based on the principle of *geen straf zonder schuld*, which requires judges to consider the manner in which the act was committed, the perpetrator's mental attitude, the impact on the victim, and the perpetrator's social condition as variables determining the gradation of punishment. The most consistent aggravating factor found in all three cases was the parent-child relationship, which the judges treated not simply as a factual context but as an aggravating circumstance. in a way normative. Based on Article 1 number 2 of Law Number 35 of 2014 concerning amendments to Law Number 23 of 2002 concerning the protection of minors,⁹ the protection of minors is a series of actions aimed at protecting children and their rights to guarantee and protect life, growth, development and participation optimally in accordance with human dignity and dignity and receive protection from violence and discrimination.¹⁰

The next determining factor is the presence or absence of mitigating circumstances, which have been shown to significantly differentiate the severity of the sentence. In the Serang and Denpasar cases, the judge explicitly stated: not a single mitigating circumstance was found; this absence is not merely a procedural note, but rather a substantive conclusion that opens the way for the imposition of the highest penalty. On the other hand, in the Subang case, two mitigating circumstances, namely never having been convicted and being polite during the trial, were clearly evident. pressing limit on verdict become two tens year. Interactions with family members, friends, or society as a whole can shape norms and values that influence an individual's actions. In cases of intra-family homicide, interactions within the family are also important because they can shape the dynamics and conflicts that drive individuals to take extreme actions.¹¹ Discretion This kind of practice does not actually conflict with legal certainty, because legal certainty in the modern legal paradigm is no longer understood as the mechanical application of laws, but also includes the institutions and processes needed to realize the legal objectives of order and substantial justice.¹²

⁸ Chapter 340 Book Constitution Law Criminal about murder planning

⁹ Constitution Number 35 Year 2014 about Protection Child

¹⁰ Helga Aryananda, Amir Junaidi, & Femmy Silaswaty Faried. (2023). Legal Protection for Minors as Victims of Divorce According to Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning ChildProtection.BEVINDINGJOURNAL,1(08),60–72, <https://journal.uniba.ac.id/index.php/JB/article/view/659>

¹¹ Awalokita, S. (2024). "Analysis of Social Environment and Social Support in Cases of Parental Murder by Biological Children: A Socio-Criminology Approach in Rias Village, Bangka Belitung Islands.". Journal of Legal Facts, 2(2), 71–80. <https://doi.org/10.58819/jfh.v2i2.116>

¹² Samuel Dharma Son Nainggolan & Kholilur Rahman, "Criminology No Part in Criminal Law Science," ACADEMOS: Journal of Law & Social Order 1, no. 1 (2022): 38–49.

¹³ Marcella Camellia Daughter Mountain Thousand & Hudi Joseph, "Analysis Criminology to "Criminal Act of Murder in Domestic Relations: Case Study of Stabbing of Wife by Husband in Medan," Indonesian Legal Media (MHI) 3, no. 3 (2025): 746–755.

The Criminal Code explains that premeditated murder is an extraordinary crime, considering that the penalty can be up to the death penalty¹³ and in the family context, the victims are often children. The victim's vulnerability as a child is a separate consideration that significantly increases the criminal responsibility of the perpetrator of filicide. Children are a group that requires state protection and lacks the ability to defend themselves, so the perpetrator not only violates norms prohibition kill but also betrayed obligation protection Which in a way law attached to his status as person parent or caregiving figure. Premeditated murder within the family, even committed against minors, is considered an extraordinary crime, the penalty for which can be the death penalty. The preventive-general dimension appears consistent in the first two cases: the death penalty in the Serang case is interpreted as a firm message from the state. that action criminal planning to group prone to No will be tolerated, while the Denpasar case confirms the deterrent effect on society. The child's complete dependence on the perpetrator makes this crime equivalent to a violation of trust. structural Which in a way criminology put filicide in the category of crimes with a very high level of violation of collective moral sentiment. Overall, the severity of filicide punishment is built on three mutually reinforcing normative pillars: proof of intent and strict planning, an assessment of the perpetrator-victim relationship as a betrayal of parental rights, and a sentencing orientation that takes into account social impact. These three pillars work cumulatively, with the stronger the element of planning, the closer the perpetrator-victim relationship, and the more vulnerable the victim, the greater the severity of the punishment, pushing the judge toward the highest penalty. The author is of the opinion that the element of the perpetrator-victim relationship is the most influential factor compared to the other two factors, because this element... nature still And No depends on method proof in trial. Criminological studies of intrafamilial homicide behavior confirm that this relational context contributes to the psychological, social, and biological dimensions underlying the crime, so that it cannot be ignored in the formulation of proportional punishment.¹⁴

Correlation of the Crime of Filicide with the Positivist Theory of Criminal Sentencing

The development of science in the 19th century, particularly in biology and psychology, gave rise to new ideas that rejected the view that crime was solely the result of free will. The birth of the Positivist School marked a major paradigm shift in criminology.¹⁵ The main figures of this school are Cesare Lombroso, Enrico Ferri, and Raffaele Garofalo, who emphasize that crime factors are caused by deterministic factors that can be measured scientifically, such as biological, psychological, and social conditions. In Decision Number 771/Pid.B/2024/PN Srg, the psychological examination of the defendant Agus bin Suta reveals the level of intelligence Grade IV with an IQ range of 81–90, a sensitive and impulsive personality, and a history of drug use—a combination of criminogenic factors that, in Lombroso's perspective, indicates a structural predisposition to violent behavior. The study of developmental psychology and criminology is closely related to decision-making, emotional regulation, and tendencies towards criminal acts,¹⁶ these internal factors such as psychological disorders and low abilities regulations this emotion recognized by criminology studies contemporary as the main determinant that drives someone to commit extreme violence within the family.¹⁶ Most influential factors in case This is combination between low cognitive capacity and history of substance use, which explains the inability defendant withhold impulse violence; condition here it is which the judge views as potentially irreducible danger, so that the death penalty is imposed imposed as a form of protection for society in the future. Decision Number 863/Pid.B/2015/PN Dps display profile fundamentally different perpetrators. The forensic psychologist concluded that the defendant met the criteria for dissocial personality disorder characterized by with lie chronic, egocentrism, absence flavor guilty, low empathy, and a tendency to exploit others. From the perspective of view positivis criminal, disturbance personality antisocial This kind of thing is called an innate moral deficiency or moral anomaly which places the perpetrator as a permanent threat to the social order.

¹³ Turnip, J.M., Sagala, J.P.D., Sembiring, H.B. and Siburian, S.M.P., 2024. Legal Analysis of Premeditated Murder Crimes Committed by Minors. *Prima Legal Science (IHP)*, 7(1), pp.118-124. <https://doi.org/10.34012/jihp.v7i1.5374>.

¹⁴ Faisal Malik, "Review To Theory Positivism Law in System Indonesian Criminal Justice," *Undiksha Citizenship Education Journal* 9, no. 1 (2021): 188–196.

¹⁵ Kurniawati, S.B., 2025, CHAPTER 3 MAZHABS IN CRIMINOLOGY. INTRODUCTION TO CRIMINOLOGY, p.29.

Genetic and biological factors are not always the sole determinants of criminal behavior; these factors environment and psychological plays a major role in shaping a person's violent tendencies,¹⁷ as reflected in this case where the perpetrator's manipulative capacity actually increases, rather than reduces, the level of social danger. Criminological theories emphasize that understanding the perpetrator's background is very important. needed For formulate program handling crime right target, including determination level criminalization Which proportional.¹⁸ The third case, Decision Number 64/Pid.B/2024/PN Sng, revealed that the defendant felt that his access to Money by wife And his son Alone, so that arise the intention to give a "lesson" that ended in murder planned involving a third party. This condition reflects Ferri's view that socio-economic factors, namely individuals and their families face two burdens at once, struggling with economic difficulties and facing social stigma that continues to oppress.¹⁹ Economic pressure is one of the main triggers for domestic violence which can lead to acts of filicide,²⁰ in where is the pressure due to failure to fulfill The role as the family's economic provider pushes the perpetrator towards deviant behavior until end on violence fatal.²⁰ Different from two previous cases were dominated by individual biological and psychological factors, case Subang show that vulnerability socio-economic factors can be the main trigger for extreme violence, so the involvement of third parties in planning precisely show level of intent high and full awareness of the consequences of actions. The three cases collectively demonstrate a pattern of increased sentencing rooted in the structural relationship between perpetrator and victim a highly relevant dimension within a criminal positivist framework. From Garofalo's perspective, the level of social danger or the dangerousità of a perpetrator is not only measured by his actions, but also by the depth of the violation towards moral sentiment universal which supports social life.

The murder of a child by a parent is the most fundamental violation of that sentiment because it destroys the trust that is the foundation of the institution. family. This principle is reflected in the gradation of punishment for the three cases: the death penalty (Serang), life imprisonment (Denpasar), and twenty years' imprisonment (Subang); the lower the perpetrator's capacity for self-control, the greater their moral deficiency, and the heavier the sentence imposed. The three decisions emphasize that the positivist theory of crime does not function as a mitigating reason in context filicide, but precisely as foundation for weighting Which strong. Condition psychobiological And social good actors in the form of low intelligence and impulsivity, dissocial personality disorder, and economic stress all indicate a high degree of social danger. The author is of the view that the three decisions reviewed have shown the right direction by considering biological, psychological, and social factors simultaneously, but these considerations are still conveyed implicitly and are not structured within a standard analytical framework. guidelines criminology for judges in examining filicide cases will help ensure consistency in the assessment of each criminogenic dimension of the perpetrator, so that disparities in decisions are reduced. in time front can be pressed without reduce authority judges to impose proportionate sentences.

¹⁶ Kurniawan, I., Umar Anwar, Budi Priyatmono, & Ali Muhammad. (2025). Analysis of Impulsive Factors in Cases of Violent Crimes Against Children in the Class I Special Children's Development Institution in Kutoarjo. *Al-Zayn: Journal of Social Sciences & Law*, 3(4), 4254–4262. <https://doi.org/10.61104/alz.v3i4.2019>

¹⁷ Kadir, ZK (2025). *The Development of Neo-Lombrosian Thought: A Theoretical Review of Determinism Biological in Criminology*. *Law Innovative: Journal Knowledge Law Social and Humanities*, 2(1), 01-18.

¹⁸ Zaidan, M. A., & Sh, M. (2021). Policy criminal. Ray Graphics (Earth Script).

¹⁹ Ciek Julyati Hisyam, Allia Putri Saskia, Najwa Nabila, Salwa Nur Azizah, Maulidia Lathifah, Kayla Nahla Hanina, Alya Septin Nuraini, Eysha Adhiyah Adha, & Soraya Azura. (2025). WHEN INEQUALITY BREEDS CRIME: A STUDY OF MURDER IN THE COMMUNITY ENVIRONMENT. *JOURNAL OF STUDENT RESEARCH*, 4(1), 718–730. <https://doi.org/10.61722/jipm.v4i1.1964>.

²⁰ Purba, Yedija Otniel. "Criminogenic Factors in Indonesian Filicide Cases: A Strain Theory Perspective Analysis of Criminogenic Factors in Filicide Cases in Indonesia from a Strain Theory Perspective." (2025).

²¹ Maula, A. S, (2026), "The Intersection of Criminal Law and Family Protection and Harmony in the Criminalization of Behavior under the New Criminal Code", *Journal of Legal, Political, and Humanistic Inquiry*, 1(3), pp. 352–363. <https://doi.org/10.65310/k8ap0633>

²² *Ibid*

Different from the classical perspective which only considers the act, the positivist perspective encourages judges to assess the perpetrator more comprehensively, including psychological background, conditions social, and potential future dangers. The use of positivist theory in judicial practice still requires caution, considering that this theory has been criticized from the start. Because his tendency to ignore environmental factors when only relying on individual biological characteristics. In practice, law enforcement does not always move linearly with the public's perception of justice regarding moral and social obligations,²¹ family relationships do not eliminate the element of crime or criminal responsibility; protection of life is universal and the principle of equality before the law remains fully applicable, so that a standardized criminological approach must be integrated into law enforcement officers must assess the elements of error, negligence, and proportionality of defense in dynamic²² factual conditions not to mitigate, but to ensure proportionality between the level of social danger of the perpetrator and the severity of the sentence imposed.

CONCLUSION

This study found that the increased sentencing in the three filicide cases studied was built on three pillars that worked cumulatively: the degree of planning and intent, the perpetrator-victim relationship as a betrayal of parental rights, and the victims' vulnerability as a powerless group. Although all three were charged under Article 340 of the Criminal Code, the judges sentenced verdict Which different criminal dead, prison lifetime life, And two twenty years in prison which reflects the level of social danger of the individual perpetrator. The most important finding that could not have been obtained without this research is that the relationship person parents–children proven become factor weighting most determinant, because of its inherent nature and does not depend on the method of proof in The positivist theory of crime has also proven relevant: Garofalo's concept of *dangerosità*, Lombroso's biological predisposition, and Ferri's social factors have been substantially reflected in consideration judge, although without systematization Which explicit. This study has limitations in the form of a limited number of decisions and a normative approach that does not directly capture the perspectives of judges or forensic experts. Therefore, generalization of the findings requires caution. Future research is recommended to expand the scope of decisions from various jurisdictions to map sentencing disparities more comprehensively. Furthermore, empirical research based on interviews with judges and forensic psychologists would be helpful in revealing the extent to which criminological considerations truly influence decision-making in court. The most pressing issue is the formulation of standardized criminological guidelines that can be used to integrated to in consideration judge in case filicide, so that the proportionality between the level of social danger of the perpetrator and the severity of the sentence imposed can be consistently guaranteed.

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