

Criminal Liability for Murder Mutilation in Indonesia

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Article history:

Received in revised form: 09 July 2026

Acceptance date: 11 August 2026

Available online: 29 August 2026

Keywords:

Criminal Liability; Murder; Mutilation;
Criminal Law; Indonesian Criminal Code.

How to Cite:

I Nyoman Agus Andika Mahendra, I Made Arjaya, & Kade Richa Mulyawati. (2026). Criminal Liability for Murder Mutilation in Indonesia. *Al-Risalah Jurnal Ilmu Syariah Dan Hukum*, 26(2).
<https://doi.org/10.24252/al-risalah.v26i2.70269>

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Abstract

Murder accompanied by mutilation raises a distinct problem of criminal liability and sentencing because Indonesian criminal law punishes the taking of life but does not formulate mutilation as an independent homicide offense or as an expressly enumerated aggravating circumstance. This study analyzes the normative position of mutilation in homicide, the construction of criminal liability, and the direction of criminal-law reform after the National Criminal Code entered into force on 2 January 2026. It employs normative legal research using statutory, conceptual, and case approaches. Primary legal materials include the 1945 Constitution, Law Number 1 of 1946 on Criminal Law Regulations, Law Number 1 of 2023 on the Criminal Code as adjusted by Law Number 1 of 2026, and Kediri District Court Decision Number 67/Pid.B/2025/PN Kdr. Secondary materials include Indonesian criminal-law scholarship and international forensic studies on criminal dismemberment. The study finds that liability for mutilation homicide remains anchored in the elements of murder or premeditated murder; mutilation cannot automatically substitute for proof of intent or premeditation. In Decision Number 67/Pid.B/2025/PN Kdr, the court separately established intentional killing and treated the dismemberment and dispersal of the victim's body as aggravating circumstances when imposing life imprisonment. International studies further demonstrate that dismemberment may serve defensive purposes, such as concealment and body disposal, or offensive purposes reflecting extraordinary aggression, making its legal meaning context-dependent. The novelty of this study lies in distinguishing the evidentiary role of mutilation from its sentencing role, assessing the 2025 decision against the post-2026 National Criminal Code framework, and proposing explicit criteria for mutilation as a statutory aggravating circumstance. Such formulation is preferable to automatically treating every mutilation homicide as premeditated murder because it strengthens legal certainty and proportionality while preserving independent proof of each offense element.

INTRODUCTION

The protection of human life is one of the main functions of criminal law in the state of law. Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia affirms Indonesia as a state of law, while the protection of human life places the crime of murder as an attack on the most fundamental legal interests.¹ Criminal law therefore functions not only as an instrument of punishment, but also as a means of protecting the community and limiting the use of state authority through the principles of legality, error, and proportionality of punishment.²

In the doctrine of criminal law, murder is a material offense because its settlement is determined by the occurrence of the result of the loss of another person's life. However, the severity of liability is not solely determined by these consequences. The form of intentionality, the existence of a prior plan, the circumstances accompanying the act, and the behavior of the perpetrator before and after the victim's death can have different meanings in proving the element of delicacy and in the imposition of a criminal sentence. This distinction is important because the principle of *geen straf zonder schuld* requires that the crime be imposed on the basis of the offense that can actually be imposed on the perpetrator, not solely on the moral impression of the cruelty of an act.³

One form of crime that causes this problem is murder accompanied by mutilation, namely the cutting, separation, or destruction of the victim's body parts that can be done before or after death. The forensic literature shows that mutilation or dismemberment does not have a single criminological meaning. Guggenheimer et al. distinguish defensive mutilation, especially for body removal and trace-removal, from offensive mutilation related to the expression of extreme aggression, sadism, or psychopathological factors.⁴ Similar findings were found in the study of Wilke-Schalhorst et al., while Chopin and Beauregard showed that in certain contexts dismemberment can also be related to organized behavior patterns.⁵ Such diversity of functions demands caution when the fact

¹ Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, art. 1(3).

² Moeljatno, *Asas-Asas Hukum Pidana* (Jakarta: Rineka Cipta, 2008); E. O. S. Hiarij, *Prinsip-Prinsip Hukum Pidana* (Yogyakarta: Cahaya Atma Pustaka, 2016); and Barda Nawawi Arief, *Bunga Rampai Kebijakan Hukum Pidana* (Bandung: Citra Aditya Bakti, 2010).

³ Roeslan Saleh, *Perbuatan Pidana dan Pertanggungjawaban Pidana: Dua Pengertian Dasar dalam Hukum Pidana* (Jakarta: Aksara Baru, 1983); and H. L. A. Hart, *Punishment and Responsibility: Essays in the Philosophy of Law* (Oxford: Oxford University Press, 1968).

⁴ D. Guggenheimer et al., "Criminal Mutilation in Sweden from 1991 to 2017," *Journal of Forensic Sciences* 66, no. 5 (2021): 1788-96, <https://doi.org/10.1111/1556-4029.14736>.

⁵ N. Wilke-Schalhorst et al., "Criminal Corpse Dismemberment in Hamburg, Germany from 1959 to 2016," *Forensic Science International* 300 (2019): 145-50, <https://doi.org/10.1016/j.forsciint.2019.04.038>; and J. Chopin and E. Beauregard, "Body Dismemberment in Sexual Homicide Cases: Lust Murder or Rational

of mutilation is translated into juridical conclusions regarding intentionality, planning, and criminal aggravation.

In Indonesian criminal law, mutilation is not formulated as a stand-alone murder offense. In the Criminal Code regime based on Law Number 1 of 1946, murder can be qualified, among others, through Article 338 concerning murder, Article 339 concerning murder that is followed, accompanied, or preceded by other criminal acts in certain circumstances, and Article 340 concerning premeditated murder. Since January 2, 2026, Law Number 1 of 2023 concerning the Criminal Code has been in effect as the National Criminal Code and has been adjusted through Law Number 1 of 2026 concerning Criminal Adjustment. In the National Criminal Code, the structure of crimes against life still provides the basis for murder and premeditated murder, but does not explicitly place mutilation as a separate criminal element or a specially formulated weighting factor.⁶

Previous research has confirmed this problem, but with varying emphasis. Ahmad, Ismail, and Lestari argue that murder accompanied by mutilation is still charged through the murder provision because there are no specific regulations regarding mutilation and propose more specific regulations.⁷ Tangkala and Qomarudin, through an analysis of Decision Number 101/Pid.B/2011/PN Parepare, also showed that the construction of accountability rests on the fulfillment of the element of murder.⁸ Meanwhile, Iriyanto and Halif reminded that the element of plan in premeditated murder is not enough to be judged only from the existence of preparations and time lags, but requires a thorough analysis of the formation of the will and the calm implementation of the plan.⁹ Thus, these studies show two issues that need to be brought together, namely the qualification of the murder offense accompanied by mutilation and the standard of proof of the elements of the plan.

The development of the study in 2026 further emphasizes the need for more specific research positions. Kartikasari, Prasetyo, and Febriansyah analyze the application of

Decision?" *Psychology, Crime & Law* 27, no. 9 (2021): 869-89, <https://doi.org/10.1080/1068316X.2020.1863403>.

⁶ Undang-Undang Nomor 1 Tahun 1946 tentang Peraturan Hukum Pidana, arts. 338-40; Undang-Undang Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana, as adjusted by Undang-Undang Nomor 1 Tahun 2026 tentang Penyesuaian Pidana.

⁷ Ahmad, Z. Ismail, and M. P. Lestari, "Tindak pidana pembunuhan dengan mutilasi dalam hukum pidana di Indonesia," *KRTHA BHAYANGKARA* 16, no. 2 (2022): 429-44, <https://doi.org/10.31599/krtha.v16i2.1223>.

⁸ A. F. R. Tangkala and H. Qomarudin, "Analisis tindak pidana pembunuhan dengan cara mutilasi dalam sistem hukum pidana Indonesia (Studi kasus Putusan No. 101/Pid.B/2011/PN Parepare)," *Jurnal Ilmiah Publika* 10, no. 2 (2022): 499-507.

⁹ Echwan Iriyanto and Halif, "Unsur rencana dalam tindak pidana pembunuhan berencana," *Jurnal Yudisial* 14, no. 1 (2021): 19-35, <https://doi.org/10.29123/jy.v14i1.402>.

Article 340 of the Criminal Code in the case of the 'Red Suitcase' based on the Kediri District Court Decision Number 67/Pid.B/2025/PN Kdr and emphasize the absence of special regulations regarding mutilation.¹⁰ Rori, Lumintang, and Sumilat also examined criminal liability in the same verdict and assessed that the construction of premeditated murder had been fulfilled, although there is still room for criticism of the consideration of mutilation as a ballast factor.¹¹ Both studies are important, but the main focus is still on the application of Article 340 and the accountability of perpetrators in one decision, has not specifically distinguished the value of proof of mutilation against the planning element from the mutilation function in the criminal stage and has not placed the analysis within the framework of the National Criminal Code that has been in force and adjusted in 2026.

On that basis, the novelty of this research lies in three things. First, the study clearly distinguishes the evidentiary function of mutilation in proving the element of murder or premeditated from the function of mutilation as a criminal aggravating circumstance. Second, Decision Number 67/Pid.B/2025/PN Kdr is analyzed *ratione temporis* based on the old Criminal Code that was in effect when the case was decided on September 9, 2025, then compared prospectively with the National Criminal Code that has been in effect since January 2, 2026. Third, the study uses international forensic literature on defensive and offensive mutilation to establish more measurable normative criteria for criminal incrimination, without directly importing the classification into a criminal element in Indonesian law.

Based on this construction, this study discusses two main problems: how to regulate the crime of murder and the normative position of mutilation in Indonesian criminal law; and how criminal liability and the position of mutilation are burdensome circumstances in Decision Number 67/Pid.B/2025/PN Kdr and the direction of its reformulation in the renewal of the Criminal Code. The purpose of the research is to produce legal arguments that are able to maintain a balance between legal certainty, proof of guilt, proportionality of punishment, and the need for a legal response to murder accompanied by extreme treatment of the victim's body.

¹⁰ D. Kartikasari, Y. Prasetyo, and F. I. Febriansyah, "The Mystery of the Red Suitcase: Uncovering the Crime of Heinous Murder with Mutilation," *SOSIOEDUKASI: Jurnal Ilmiah Ilmu Pendidikan dan Sosial* 15, no. 1 (2026): 446-54, <https://doi.org/10.36526/sosioedukasi.v15i1.7262>.

¹¹ M. F. Rori, D. Lumintang, and V. V. Sumilat, "Pertanggungjawaban pidana pelaku tindak pidana pembunuhan berencana disertai mutilasi (Studi kasus Koper Merah Putusan Nomor 67/Pid.B/2025/PN Kdr)," *Lex Crimen* 15, no. 1 (2026).

METHODS

This research is a normative legal research that places law as a system of norms consisting of principles, rules, laws and regulations, court decisions, and doctrines. The approaches used include the statute approach, the conceptual approach, and the case approach. The legislation approach is used to examine the 1945 Constitution of the Republic of Indonesia, Law Number 1 of 1946 concerning Criminal Law Regulations, Law Number 1 of 2023 concerning the Criminal Code as adjusted through Law Number 1 of 2026, as well as other relevant provisions. A conceptual approach is used to examine guilt, the ability to be responsible, intentional, plan in advance, aggravating circumstances, and the proportionality of the penalty. The case approach was used to analyze the application of criminal norms and considerations in the Kediri District Court Decision Number 67/Pid.B/2025/PN Kdr.

The election of Decision Number 67/Pid.B/2025/PN Kdr is based on three reasons.¹² First, the case is a murder case accompanied by mutilation that explicitly places the act of mutilating and disposing of the victim's body parts in several areas as an aggravating circumstance. Second, the indictment is prepared in a subsidiary manner with Article 340 of the Criminal Code as the primary indictment, Article 338 of the Criminal Code as a subsidiary indictment, and Article 351 paragraph (3) of the Criminal Code as a more subsidiary indictment, so it is relevant to test the relationship between the qualification of the delicacy, intentionality, and the element of plan. Third, the verdict was handed down on September 9, 2025, which is before the enactment of the National Criminal Code on January 2, 2026. This time position allows the research to distinguish the law applicable to concrete cases with prospective evaluation based on the new national criminal law framework.

Primary legal materials consist of laws and regulations and court decisions, while secondary legal materials include books, national journal articles, and international journal articles on criminal law, criminal punishment, criminal mutilation, and corpse dismemberment. The collection of legal materials is carried out through literature studies with stages of inventory, classification, and systematization based on legal issues. Analysis is carried out qualitatively-prescriptively through grammatical, systematic, and teleological interpretation of norms; analysis of ratio decidendi and criminal considerations in the verdict; as well as deductive arguments to formulate the legal position of mutilation. The international forensic literature is used in a limited way to explain the variation in the function of mutilation and to enrich the construction of

¹² Pengadilan Negeri Kediri, *Putusan Nomor 67/Pid.B/2025/PN Kdr* (September 9, 2025).

aggravation, not to replace Indonesian criminal law norms. The conclusions are then prepared prescriptively to assess the adequacy of positive laws and formulate alternatives for updating norms.

RESULTS AND DISCUSSION

1. Regulation of Murder and the Normative Position of Mutilation in the Indonesian Criminal Code

The regulation of the crime of murder is basically an instrument of protection for the interests of the law in the form of human life. In the old Criminal Code regime, Article 338 formulated murder as the act of deliberately taking the life of another person with a maximum penalty of fifteen years in prison. Article 340 provides a more severe threat of premeditated killing. This gradation shows that criminal law does not stop at proving the consequences of death, but also assesses the quality of the mistakes and the circumstances that accompany the acts. Therefore, the separation between the elements of the crime and the relevant factors in the crime is important so that factual cruelty does not automatically replace the proof of the juridical element.

Murder is a material offense so there must be a causal relationship between the perpetrator's actions and the victim's death. In addition, criminal liability requires the ability to be responsible, the form of error in the form of intentionality or forgetfulness according to the formulation of the delicacy, and the absence of a justifiable or forgiving reason. Fadlian explained that criminal liability functions to connect proven criminal acts with perpetrators who are legally reprehensible.¹³ This principle is in line with the doctrine of *geen straf zonder schuld* and emphasizes that any conclusion about the perpetrator's fault must be built on provable elements, not solely from the consequences or social response to an act.

In the context of premeditated murder, the element of premeditated murder first has a distinguishing function from ordinary murder. A plan is not identical to any seemingly organized action after the victim dies. Iriyanto and Halif show that the analysis of the elements of the plan needs to pay attention to the process of forming the will, the existence of adequate opportunities to reconsider the decision, and the implementation of the will in circumstances that show the calmness that is juridically relevant.¹⁴ Therefore, post-mortem actions such as dismemberment, site cleaning, wrapping, or

¹³ A. Fadlian, "Pertanggungjawaban pidana dalam suatu kerangka teoritis," *Jurnal Hukum Positum* 5, no. 2 (2020): 10-19.

¹⁴ Echwan Iriyanto and Halif, "Unsur rencana dalam tindak pidana pembunuhan berencana," *Jurnal Yudisial* 14, no. 1 (2021): 19-35, <https://doi.org/10.29123/jy.v14i1.402>.

disposal of body parts may be supporting facts in the series of evidence, but should not be used as a substitute for independent evidence of a plan before or when the murder was committed.

The National Criminal Code through Law Number 1 of 2023 came into effect on January 2, 2026 and its status has been adjusted through Law Number 1 of 2026 concerning Criminal Adjustment. Article 458 of the National Criminal Code retains the basic construction of the crime of murder with a maximum criminal threat of fifteen years for its basic form, while Article 459 regulates premeditated murder with the threat of the death penalty, life imprisonment, or imprisonment for a maximum of twenty years.¹⁵ The codification change is temporally important: cases committed and tried before the enactment of the National Criminal Code must be analyzed based on the law in force at that time by taking into account criminal law principles related to regulatory changes, while the National Criminal Code serves as a prospective evaluation basis for policy updates after January 2, 2026.

Despite the codification reform, mutilation is still not formulated as a stand-alone murder offense nor as a term that specifically specifies the criminal imposition in the murder provisions. This situation is more appropriately referred to as the absence of specific regulation or normative under-specification than the total legal vacuum. The law still has a basis for punishing the perpetrator through the offense of murder, premeditated murder, or other relevant provisions according to the facts. The main problem lies in the lack of uniform normative criteria to determine when and why mutilation increases the level of reproach, danger, or severity of the crime that should be imposed.

International literature findings reinforce the reasons for the need for these criteria. Guggenheimer et al. found that most of the criminal mutilation cases they studied were defensive, especially related to the disposal of the body, while some others were offensive.¹⁶ Wilke-Schalhorst et al. also distinguish between defensive and offensive corpse dismemberment.¹⁷ This classification shows that two outwardly identical acts of body cutting can have different subjective functions. In criminal law, these different functions are relevant because the purpose of concealing the body or hindering the

¹⁵ Undang-Undang Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana, arts. 458-59, as adjusted by Undang-Undang Nomor 1 Tahun 2026 tentang Penyesuaian Pidana.

¹⁶ D. Guggenheimer et al., "Criminal Mutilation in Sweden from 1991 to 2017," *Journal of Forensic Sciences* 66, no. 5 (2021): 1788-96, <https://doi.org/10.1111/1556-4029.14736>.

¹⁷ N. Wilke-Schalhorst et al., "Criminal Corpse Dismemberment in Hamburg, Germany from 1959 to 2016," *Forensic Science International* 300 (2019): 145-50, <https://doi.org/10.1016/j.forsciint.2019.04.038>.

discovery of evidence has different implications than acts that are part of the way of killing or the expression of extreme violence against the victim.

The distinction also prevents two mistakes. First, not every post-mortem mutilation proves the existence of a murder plan before death occurs. Post-crime behavior may indicate an awareness of circumvention of law enforcement, but its logical relationship to the *voorbetachte raad* must be proven through the entire set of facts. Second, the fact that mutilation does not always prove planning does not mean that the act loses its meaning to the criminal. If it is done to hide identity, destroy evidence, complicate investigations, treat the body in a very degrading manner, or is part of violence that prolongs the victim's suffering before death, it can increase the level of seriousness and reproach against the perpetrator.

Such an approach is in line with the principle of proportionality. Fair criminalization requires a relationship between the seriousness of the crime, the degree of the offense, the losses caused, and the concrete circumstances of the crime. Mitchell and Roberts emphasized the importance of principle and consistency in the criminalization of murder so that aggravating factors are not applied intuitively without structure.¹⁸ In the Indonesian context, this need is increasingly relevant because the unclear position of mutilation can cause judges to give different weight to similar facts, while perpetrators and the public do not obtain clear enough guidelines regarding the juridical significance of postmortem acts.

Thus, legal reform does not always have to be in the form of the formation of a stand-alone mutilation offense. The formation of new offenses has the potential to cause overlap if the main object of the act remains murder, while the act of mutilation is carried out in the same series of events. A more measured alternative is to place mutilation as a aggravating circumstance explicitly formulated in the penal guidelines or provisions relating to crimes against life. The formulation must still require the independent proof of the element of murder or premeditated murder and prevent double counting, which is the use of the same facts twice to prove the element of delinquency while aggravating the crime without different reasons.

2. Criminal Liability and the Position of Mutilation as an Incriminating Circumstance: An Analysis of Decision Number 67/Pid.B/2025/PN Kdr

The Kediri District Court Decision Number 67/Pid.B/2025/PN Kdr provides a concrete example of how judicial practice places murder and mutilation in two different

¹⁸ B. J. Mitchell and J. V. Roberts, "Bringing Principles and Fairness to the Sentencing of Murder," *Criminal Law Forum* 24, no. 4 (2013): 501-26, <https://doi.org/10.1007/s10609-013-9215-7>.

stages of analysis. At the first hearing on June 12, 2025, the Public Prosecutor charged the defendant Rohmad Tri Hartanto on a subsidiary basis, namely Article 340 of the Criminal Code as a primary charge, Article 338 of the Criminal Code as a subsidiary indictment, and Article 351 paragraph (3) of the Criminal Code as a more subsidiary charge. The case was related to the death of the victim at a hotel in Kediri City which was then followed by mutilation and disposal of the victim's body parts in several areas. The structure of this indictment shows that the core of criminal liability is still built from the act that caused the death and the intentional quality of the perpetrator, while mutilation is an important part of the series of facts of the case.¹⁹

In the consideration published by the Kediri District Court on September 9, 2025, the panel of judges assessed the element of intentionality from the fact that the defendant strangled the victim because he was overwhelmed with anger, the victim resisted, but the defendant continued to act until the victim died. These considerations are conceptually important because they establish the intentionality of taking life from actions that are directly related to death, rather than from the mutilation that occurs afterwards. In this way, *actus reus* in the form of an act that causes death and *mens rea* in the form of intentional deprivation of life still have its own evidentiary basis.

The panel of judges then stated that the defendant was proven to have committed premeditated murder based on Article 340 of the Criminal Code. One of the descriptions published by the court is that there is a time or pause for the defendant to think about stopping the choking when the victim tries to resist, but the defendant does not release the victim. From a doctrinal point of view, these considerations need to be read critically. A time gap can indeed be an indicator of an opportunity to reconsider the will, but as stated by Iriyanto and Halif, the elements of the plan require a more complete analysis of the formation of decisions and their implementation.²⁰ Therefore, the existence of mutilation after the death of the victim should not be treated as automatic evidence that the intention to kill was planned before the murder event.

Precisely at the criminal stage, the position of mutilation in the case is clearer. The court explicitly called the way the defendant mutilated the victim's body parts and disposed of them in several areas as aggravating circumstances and classified as sadistic. This placement shows that judicial practice has recognized the juridical value of mutilation as a factor that increases the seriousness of the act, although the Criminal Code

¹⁹ Pengadilan Negeri Kediri, "Sidang Perkara Pidana Kasus Mutilasi Pengadilan Negeri Kediri," June 12, 2025, <https://pn-kediri.go.id/sidang-perkara-pidana-kasus-mutilasi-pengadilan-negeri-kediri/>.

²⁰ Echwan Iriyanto and Halif, "Unsur rencana dalam tindak pidana pembunuhan berencana," *Jurnal Yudisial* 14, no. 1 (2021): 19-35, <https://doi.org/10.29123/jy.v14i1.402>.

does not specifically formulate it. The Public Prosecutor demanded the death penalty, while the panel of judges sentenced him to life imprisonment after considering the death penalty as a last alternative and the possibility of improving the behavior of the perpetrator.²¹

These considerations show the importance of distinguishing accountability for murder from the evaluation of criminal seriousness. In the first stage, the state must prove that the perpetrator meets the elements of the crime and can be accounted for. In the second stage, the judge assesses how severe the crime is proportionate by taking into account mitigating and aggravating circumstances. Mutilation can have strong weight in the second stage if it proves a systematic attempt to deceive, conceal or destroy evidence, obstruct an investigation, treat the victim's body in a manner that is highly degrading, or demonstrate an intensity of violence that exceeds that necessary to cause death.

Such analysis is also more consistent with forensic findings. If mutilation is carried out after death, mainly to move or dispose of the body, this fact is closer to the category of defensive dismemberment in the international literature.²² The category remains legally serious because it shows a deliberate act to conceal the crime and can complicate law enforcement, but it is not synonymous with proving that the murder was planned in the first place. Conversely, if mutilation is part of an attack before death or is connected to a pattern of offensive violence, these facts may contribute more directly to the analysis of the manner in which it is carried out, the intensity of intentionality, and the level of suffering of the victim. In other words, the time, purpose, and causal relationship of mutilation to death must be analyzed, not just the existence of mutilation itself.

The position of this research differs from the tendency of previous research which generally calls for specific arrangements regarding 'mutilation' without separating the type of normative function. Ahmad, Ismail, and Lestari have shown the limitations of specific arrangements,²³ while Kartikasari et al. and Rori et al. have focused on the

²¹ Pengadilan Negeri Kediri, "Sidang Putusan Perkara Pidana Pembunuhan dan Mutilasi (Koper Merah)," September 9, 2025, <https://pn-kediri.go.id/sidang-putusan-perkara-pidana-pembunuhan-dan-mutilasi-koper-merah/>.

²² D. Guggenheimer et al., "Criminal Mutilation in Sweden from 1991 to 2017," *Journal of Forensic Sciences* 66, no. 5 (2021): 1788-96, <https://doi.org/10.1111/1556-4029.14736>; N. Wilke-Schalhorst et al., "Criminal Corpse Dismemberment in Hamburg, Germany from 1959 to 2016," *Forensic Science International* 300 (2019): 145-50, <https://doi.org/10.1016/j.forsciint.2019.04.038>.

²³ Ahmad, Z. Ismail, and M. P. Lestari, "Tindak pidana pembunuhan dengan mutilasi dalam hukum pidana di Indonesia," *KRTHA BHAYANGKARA* 16, no. 2 (2022): 429-44, <https://doi.org/10.31599/krtha.v16i2.1223>.

application of Article 340 in the Red Suitcase case.²⁴ The study adds that the need for reform should not be answered by assuming that every murder accompanied by mutilation must be a new or automatic offense including premeditated murder. Such a model risks obscuring the standard of proof of *voorbedachte raad* and ignoring the variation in mutilation purposes that have been shown in forensic studies.

From the perspective of criminal law policy, a more proportionate solution is to establish explicit enforcement guidelines. First, the judge must first determine the proven basis of the offense, such as murder or premeditated murder. Second, the judge assesses whether the mutilation was carried out before or after death and what purpose can be proven from a series of facts. Third, the weight of the burden must be attributed to the identified reasons, such as increased suffering of the victim, loss of identity, destruction of evidence, obstacles to investigation, disposal of body parts in several locations, or treatment that severely degrades the dignity of the victim's body. Fourth, these considerations must be stated openly in the decision so that they can be tested on legal remedies and compared with other cases.

Normatively, the formulations that can be considered in the sentencing guidelines or provisions for crimes against life are: 'In the event that the crime against life is accompanied by mutilation of the victim's body before or after death, and such acts are carried out to increase the suffering of the victim, eliminate identity, hide or destroy evidence, complicate investigations, facilitate the disposal of the body, or in a manner that manifestly degrades the dignity of the victim. the victim's body, this situation can be considered as a reason for criminal charge.' Such a formulation does not make mutilation a substitution for the element of the plan first, but provides a more transparent basis for the judge to determine its weight in the punishment.

The formulation also requires two safeguards. First, if the aspect of mutilation has become a direct part of the other elements of the offense that are charged and proven, the same fact should not be used mechanically to incriminate the crime without additional argument. Second, the heavier the legal implications drawn from mutilation, the higher the need for judges to explain the relationship between the facts, the perpetrator's intentions, and the degree of guilt. This approach maintains legal certainty while still providing room for criminal individualization. Thus, reform is not only oriented towards

²⁴ D. Kartikasari, Y. Prasetyo, and F. I. Febriansyah, "The Mystery of the Red Suitcase: Uncovering the Crime of Heinous Murder with Mutilation," *SOSIOEDUKASI: Jurnal Ilmiah Ilmu Pendidikan dan Sosial* 15, no. 1 (2026): 446-54, <https://doi.org/10.36526/sosioedukasi.v15i1.7262>; M. F. Rori, D. Lumintang, and V. V. Sumilat, "Pertanggungjawaban pidana pelaku tindak pidana pembunuhan berencana disertai mutilasi (Studi kasus Koper Merah Putusan Nomor 67/Pid.B/2025/PN Kdr)," *Lex Crimen* 15, no. 1 (2026).

increasing criminal threats, but also on improving the quality of the legal grounds underlying criminalization.

Case Number 67/Pid.B/2025/PN Kdr ultimately shows two things. On the one hand, the positive law that applies at the time the case is decided is sufficient to impose serious criminal liability through Article 340 of the Criminal Code and life imprisonment. On the other hand, the way the court explicitly refers to mutilation as an aggravating circumstance shows the need to change the practice that currently relies heavily on the discretion of judges to more structured normative guidelines. The National Criminal Code, which has been in effect since January 2, 2026, provides momentum to clarify these aspects through legislative policies, criminal guidelines, or strengthening the consistency of jurisprudence without damaging the conceptual boundary between proving the crime and determining the seriousness of the crime.

CONCLUSION

Criminal liability for murder accompanied by mutilation in Indonesia can basically still be built through the provisions of murder and premeditated murder, both in the construction of the old Criminal Code that is relevant to cases before January 2, 2026 and in the National Criminal Code that is currently in force. The absence of a stand-alone mutilation offence does not mean that there is a legal vacuum to punish the perpetrator, but there is an absence of specific regulations regarding the meaning and weight of mutilation in proof and punishment. Therefore, mutilation should not automatically be considered to prove a plan in advance. The elements of intentionality and planning must still be proven independently of the facts directly related to the murder process, while mutilation is judged based on its time, purpose, and relationship to the victim's death.

Analysis of the Kediri District Court Decision Number 67/Pid.B/2025/PN Kdr shows that the panel of judges established the intentionality of the act that caused the death and separately placed the mutilation and disposal of victims' body parts in several areas as aggravating circumstances. This pattern favors a more precise reform model than the automatic formation of new offenses. Lawmakers or the Supreme Court need to formulate explicit guidelines that mutilation can be grounds for aggravation if proven to be committed, among other things, to increase suffering, eliminate identity, hide or destroy evidence, hinder investigations, facilitate the disposal of the body, or treat the victim's body in a very degrading manner. The guidelines must be accompanied by a prohibition of double counting and the obligation of the judge to explain the reason for the burden concretely. With such a formulation, criminal law reform can improve legal

certainty, consistency of decisions, and proportionality of punishment without reducing the standard of proof of each element of criminal acts.

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