

The Urgency of Criminalizing Femicide as a Specific Crime within the Indonesian Legal System

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Abstract

*This research discusses femicide, which is the most extreme form of gender-based violence, but the Indonesian legal framework, particularly the Criminal Code (KUHP) and the Law on Sexual Violence Crimes (UU TPKS), does not explicitly recognize gender-motivated murder of women. As a result, femicide cases continue to be prosecuted under general homicide provisions without acknowledging discriminatory motives, leading to inadequate legal protection and disproportional sentencing. This research aims to analyze the urgency of criminalizing femicide as a special offense and to formulate an ideal legal concept for its regulation within the Indonesian criminal justice system. Using a normative juridical method supported by statutory, comparative, and conceptual approaches, this study examines national legal norms, international human rights instruments, and comparative legislation from Argentina, Chile, and Mexico. The findings show that a specific femicide offense is essential to fill normative gaps, incorporate gender-based motives as an aggravating factor, and strengthen state obligations under Convention on the Elimination of All Forms of Discrimination Against Women, the Belém do Pará Convention, and other global standards. The study concludes that Indonesia requires a dedicated femicide law based on *lex specialis* principles, gender-sensitive investigation and adjudication mechanisms, and integrated victim-protection measures to ensure a more just, responsive, and gender-equitable criminal law system.*

Keywords: Criminal Law Reform, Femicide, Gender-Based Violence, Human Rights Law, *Lex Specialis*, Women's Rights.

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1. Introduction

Femicide is the murder of a woman or girl specifically because of the victim's gender identity. This incident goes far beyond ordinary murder; it represents an extreme form of gender-based violence within a patriarchal society. The motives behind femicide often reflect hatred or domination of women (*misogyny*). The murder of women is often driven by gender stereotypes and unequal power

relations, where men position themselves as the dominant group and women as subordinates.¹

The phenomenon of femicide is rooted in a patriarchal society, where biases and norms that normalize violence against women are at the root of the phenomenon. Women who refuse to submit to male authority, fight for their rights, or violate socio-cultural norms are vulnerable to extreme violence. Therefore, the emergence of femicide is not something that occurs spontaneously, but rather a result of the dynamics of unequal power relations and biased gender awareness.²

To date, Indonesia does not have specific criminal provisions that explicitly recognize femicide as a separate crime, either through the regulation of specific offenses or as a separate criminal classification. Cases of murder against women are still categorized as general murder or domestic violence (*Kekerasan Dalam Rumah Tangga/KDRT*). Based on normative studies, the Law on the Elimination of Domestic Violence (*Domestic Violence Elimination Law/UU PKDRT*) and the Criminal Code (*Criminal Code/KUHP*) only regulate murder within the framework of domestic violence or as ordinary murder, without considering gender motives as an aggravating factor or providing special characteristics to the crime.³

Due to the lack of recognition of gender motives, many femicide cases are processed generally without special treatment, often resulting in light and disproportionate sentences. The inability of the national legal system to identify and respond to the specific patterns of gender-based violence demonstrates a lack of legal sensitivity to the structural issues behind femicide. This underscores the urgency of reformulating criminal law policy to specifically regulate and criminalize femicide as a form of crime with its own characteristics.⁴

Femicide has received significant attention internationally as part of the protection of women's human rights. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) requires state parties to take various measures, including legislation, to prohibit all forms of discrimination

¹ Dinda Sabrina, "Perempuan Indonesia Dalam Pusaran Kekerasan dan Ancaman Femicida," *Jurnal Cendekia Ilmiah* 3, no. 6 (2024): 23.

² Muhammad Kholis Hamdy dan M Hudri, "Gender Based Violence: The Relationship of Law and Patriarchy in Indonesia" *EMPATI: Jurnal Ilmu Kesejahteraan Sosial* 11, no. 2 (2022): 78.

³ Siti Zulaichah, "Femicida dan Sanksi Hukum di Indonesia," *Jurnal Kesetaraan dan Keadilan Gender* 17, no. 1 (2022): 12.

⁴ Komnas Perempuan, "Femicida Tidak Dikenal: Pengabaian Terhadap Hak Atas Hidup dan Hak Atas Keadilan Perempuan dan Anak Perempuan, 2021," *Komnas Perempuan*, February 27, 2023. Retrieved in October 2025 from. <http://www.komnasperempuan.or.id>.

against women and ensure effective legal protection. Through General Recommendation Number 35 of 2017, CEDAW explicitly states that violence against women, including fatal violence, is a form of gender-based discrimination that substantially hinders the realization of equal rights.⁵

Other international instruments emphasize similar issues. The Istanbul Convention on the Prevention and Combating of Violence against Women and Domestic Violence provides a comprehensive framework for addressing gender-based violence. While not explicitly mentioning the term femicide, the monitoring body, the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), encourages member states to identify and document cases of femicide as a basis for effective response policies.⁶

Meanwhile, the Yogyakarta Principles state that states must “take all necessary legislative, administrative and other measures to prevent and protect against all forms of violence and harassment related to sexual orientation and gender identity.” While there is currently no international norm explicitly mandating separate regulation of femicide, these international instruments, combined with the recommendations of the United Nations special rapporteur, reinforce the obligation of states to take proactive steps to prevent extreme gender-based violence.⁷

Empirical data reinforces the urgency of legal recognition of femicide. In Indonesia, the National Commission on Violence Against Women (*Komisi Nasional Anti Kekerasan terhadap Perempuan*/Komnas Perempuan) recorded a significant increase: between June 2021 and June 2022, 307 cases of femicide were recorded, with most victims killed by close relatives such as partners or ex-partners. This figure increased sharply in the following period, reaching 290 cases between October 2023 and October 2024. Global trends are also alarming: a 2023 joint report by the UNODC and UN Women reported that approximately

⁵ United Nations, “Convention on the Elimination of All Forms of Discrimination Against Women,” CEDAW, January 26, 2017. Retrieved in October 2025 from. <https://docs.un.org/en/CEDAW/C/75/D/111/2017>.

⁶ Adelia Citra Dwi Trisnawati dan Firsty Chintya Laksmi Perbawani, “Efektivitas Upaya Penanganan Kekerasan Berbasis Gender di Yunani: Analisis Istanbul Convention 2018-2022,” *Journal Publicuho* 7, no. 1 (2024): 273.

⁷ Yogyakarta Principles, “Tentang Prinsip-Prinsip Yogyakarta,” *Yogyakarta Principles*, 2007. Retrieved in October 2025 from. <https://yogyakartaprinciples.org/wp-content/uploads/2016/10/Yogyakarta20Principles2020Bhs20Indonesia.pdf>.

51,100 women are killed by family members annually (an average of approximately 140 cases per day).⁸

Several Latin American countries have adopted legal provisions regarding femicide, albeit with varying approaches and levels of implementation. Argentina, for example, explicitly criminalized femicide through a 2012 reform of its Criminal Code (Ley 26.791). By adding a paragraph to Article 80, it was determined that the murder of a woman for gender reasons or in the context of domestic violence constitutes aggravated murder (*homicidio agravado*), which carries a maximum penalty of life imprisonment. Argentina also implemented progressive public policies such as *Plan Nacional de Acción contra la Violencia por Motivos de Género* serta memperkuat lembaga terkait, misalnya *Ministerio de las Mujeres, Géneros y Diversidad*.⁹

Meanwhile, Chile first regulated femicide through Law Number 20.480 (2010), which included the crime of femicide in Article 390 of its Penal Code, which initially only covered murder by a partner or former partner (intimate femicide). Through the reform of Law Number 21.212, this scope was later expanded to include non-intimate femicide committed for gender reasons. The criminal penalty stipulated in Chile is 15 years to life imprisonment, depending on certain aggravating factors. Although the recognition of femicide in Chile has become widespread, the main challenges lie in proving gender motives in non-intimate cases and policy coordination between institutions.¹⁰

Unlike both, Mexico has regulated femicide more systematically in Article 325 of the Federal Penal Code, a 2012 reform, which defines femicide as the killing of a woman for reasons of gender, and provides seven contextual indicators that must be examined in the investigation (e.g., the presence of sexual violence, a previous

⁸ Komnas Perempuan, "Siaran Pers Komnas Perempuan tentang Femisida (6 Desember 2020) Tentang Femisida Sebagai Puncak Kekerasan Berbasis Gender: Meningkatkan, Tidak Dikenali dan Diabaikan Negara," *Komnas Perempuan*, Indonesia, 6 Desember 2020. Retrieved in October 2025 from. <https://komnasperempuan.go.id/siaran-pers-detail/siaran-pers-komnas-perempuan-tentang-femisida-6-desember-2020>.

⁹ Michelle Carrigan, dan Myrna Dawson, "Problem representations of femicide/feminicide legislation in Latin American," *International Journal for Crime, Justice and Social Democracy* 9, no. 2 (2020): 13.

¹⁰ Pablo Cadena-Urzúa Pablo, Álvaro Briz-Redón, Javier Guardiola, and Francisco Montes, "Violence against women in Chile: a criminogenic approach to guide public policy in the global south," *Frontiers in Political Science* 7 (2025): 157.

relationship, or the mutilation of the victim's body). Criminal penalties range from 20 to 60 years in prison.¹¹

Of the three countries, Argentina has imposed the harshest sanctions and explicitly defines femicide as gender-motivated murder and domestic violence. Mexico has demonstrated a more systematic approach to establishing indicators for femicide, but still faces significant gaps in implementation. Meanwhile, Chile has experienced normative development, moving from regulations that initially only covered intimate femicide to a broader scope, although it still faces obstacles in the legal definition.¹²

Femicide is inseparable from its roots in misogyny and systemic gender inequality. Misogyny (hatred or prejudice against women) is internalized in cultural, social, and even legal norms that place women in a second-class position. Verbal discrimination, role stereotyping, and long-standing sexual or domestic violence are often precursors to femicide. For example, patterns of domestic violence or control over women's lives that are allowed to recur without consequence reflect the patriarchal structures that support these extreme acts.¹³

In this context, femicide appears as the logical culmination of a cycle of misogynistic oppression. Women who challenge norms of subordination, for example by resisting a partner's control or demanding their rights, face the threat of fatal violence. Therefore, femicide is a product of structural inequality, patriarchal social norms, and a culture that normalizes violence, making women vulnerable to gender-based homicide.¹⁴

Special criminal provisions for femicide are not a step to fragment criminal law, but rather an affirmative strategy to protect vulnerable groups and fill legal gaps. According to policy analysis, these provisions "do not necessarily aim to fragment the criminal justice system based on identity," but rather represent a state response to the complexity of criminal motives influenced by structural

¹¹ Herti Pridiyastuti Herti, Yayuk Anggraini, Frisca Alexandra, dan Andi Purnawarman, "Peran Spotlight Initiative Dalam Mengatasi Femicide di Meksiko," *Journal of Feminism and Gender Studies* 4, no. 2 (Juli 2024): 47.

¹² Pablo Cadena-Urzuá Pablo, Álvaro Briz-Redón, Javier Guardiola, and Francisco Montes, "Violence against women in Chile: a criminogenic approach to guide public policy in the global south," *Frontiers in Political Science* 7 (2025): 159.

¹³ Nurul Hikmah, "Penegakan Hukum Terhadap Korban Femisida Berdasarkan Kekerasan Berbasis Gender" (Universitas Islam Negeri Walisongo, 2023).

¹⁴ Dinda Sabrina, "Perempuan Indonesia Dalam Pusaran Kekerasan dan Ancaman Femisida," *Jurnal Cendekia Ilmiah* 3, no. 6 (2024): 23.

discrimination. By explicitly recognizing femicide, the law can effectively establish accountability mechanisms for systemic gender violence. These special provisions create a stronger deterrent effect: beyond targeting individual perpetrators, they serve as a moral-political statement that bias-motivated crimes are intolerable in a civilized society.¹⁵

In enforcement practice, the imposition of special offense status emphasizes that gender-motivated murder is a serious violation of the victim's right to life and dignity, and therefore its prevention and protection must be prioritized. With an inclusive and intersectional legal framework, the regulation of femicide can be a strategic instrument to correct structural inequalities and strengthen legal protection for women, as required by international norms and national empirical needs.¹⁶

The aim of this study is to analyze the urgency of criminalizing femicide as a special crime in the Indonesian criminal law system, and to formulate an ideal concept for its regulation by considering international practices, global human rights instruments, and national socio-cultural conditions. Based on this description, it appears there is an urgent need to push for the criminalization of femicide as a specific crime within the Indonesian legal system. Recognizing femicide would not only address gaps in legal protection for victims of gender-based violence but would also strengthen the state's commitment to upholding substantive justice and gender equality. Therefore, this study will examine the urgency and ideal concept of regulating femicide as a specific crime within national law, by comparing international practices and formulating a legal framework that is responsive to the complexity of this extreme gender-based violence phenomenon.

Based on the background outlined, the research questions can be formulated as follows:

1. Why is the criminalization of femicide necessary as a specific criminal offense in the Indonesian legal system?

¹⁵ Yonna Beatrix Salamor, Ani Purwanti, dan Nur Rochaeti, "Pengaturan Tentang Femisida dalam Hukum Pidana Indonesia (Kajian Perbandingan UU HAM dan UU TPKS)," *LITIGASI* 25, no. 1 (2024): 105.

¹⁶ Ainal Mardhiah, "Femisida Dalam Kerangka Hukum Indonesia," *PN Calang*, January 2, 2025. Retrieved in October 2025 from. <https://pn-calang.go.id/index.php/hubungi-kami/blog-pengadilan/2015-05-31-00-20/item/femisida-dalam-kerangka-hukum-indonesia-oleh-ainal-mardhiah-sh-mh-mantan-hakim-pengawas-daerah-pn-calang>.

2. What is the ideal legal framework for adopting the criminalization of femicide as a specific criminal offense in Indonesia?

2. Research Method

This research uses a normative juridical method by analyzing relevant norms, principles, and legal provisions to examine the urgency of criminalizing femicide in the Indonesian criminal law system. The choice of the normative juridical method was based on the need to examine gaps, weaknesses, and inconsistencies in norms related to femicide in the Indonesian criminal law system. Because the issues studied are directly related to legal regulation and the urgency of establishing a specific offense, the normative method is appropriate for analyzing whether applicable provisions, such as the Criminal Code, the Domestic Violence Law, and the Women's Empowerment and Victim Protection Law, are adequate in providing protection for women. A legislative approach was used to examine relevant national regulations, while a comparative approach was chosen because many countries have recognized femicide as a specific crime, making their legislative practices a conceptual reference for Indonesia. The approaches used include a legislative approach to examine national legal provisions related to the crime of femicide, a comparative approach to examine legislative practices in various countries, and a conceptual approach to formulate the concept and characteristics of femicide in Indonesian criminal law. Data were obtained through a literature review covering primary, secondary, and tertiary legal materials, then analyzed using comparative analysis and juridical analysis to identify weaknesses and formulate opportunities for criminal law reform related to the criminalization of femicide. Primary legal sources used include the Criminal Code, the Domestic Violence Law, the Women's Empowerment and Victim Protection Law, international instruments such as Convention on the Elimination of All Forms of Discrimination Against Women and General Recommendation Number 35, and other international documents regulating gender-based violence. Court decisions can also be used as material for evaluating the application of the law in cases of murder against women. Secondary legal sources include scientific journals, academic books, reports from official institutions such as the National Commission on Violence Against Women, and comparative literature from countries that have regulated femicide. The selection of sources is based on relevance to the issue of femicide, the authority and validity of the source, the ability to explain the social and gender context, and the contribution to the formulation of the ideal concept of regulating femicide.

3. Research Results and Discussion

3.1. Criminalization of Femicide as a Specific Crime in the Indonesian Legal System

Femicide is considered a serious crime against women that not only reflects gender discrimination but also demands global attention through various international legal and policy instruments. In this context, it is important to understand that femicide encompasses more than just gender-based violence against women, but specifically refers to the killing of women because of their gender identity.¹⁷

In other words, a new act of violence can be categorized as femicide if it results in the death of a female victim, whether perpetrated by an intimate partner, family, state, or other party, and is accompanied by a motive of hatred, domination, or discrimination against women.¹⁸ The Vienna Declaration lists nine categories of femicide, namely: (1) Intimate Femicide; (2) Cultural Femicide; (3) Femicide in the Context of Armed Conflict; (4) Femicide in the Context of the Commercial Sex Industry; (5) Femicide against Women with Disabilities; (6) Femicide due to Sexual Orientation and Gender Identity; (7) Femicide in Prison; (8) Non-Intimate Femicide (Systematic Murder); (9) Femicide against Human Rights Activists/Humanitarians.¹⁹

In line with the opinion of Russell and Radford²⁰ who first introduced the concept of femicide, this term is used to emphasize that the death of women due to violence cannot be seen simply as ordinary murder, but as the most extreme form of gender-based violence. The United Nations Office on Drugs and Crime 2019 also emphasizes that femicide is the “intentional killing of a woman because she is a woman,” which means there is an element of intent and gender-based power relations that lead to the victim’s death. Thus, the element of a woman’s death due to violence based on gender motives is an essential requirement for an act to be qualified as femicide.²¹

¹⁷ Dinda Sabrina, “Perempuan Indonesia Dalam Pusaran Kekerasan dan Ancaman Femicida,” *Jurnal Cendekia Ilmiah* 3, no. 6 (2024): 25.

¹⁸ Milica Kovacevi, and Marija Maljkovic, “Femicide-Certain Controversial Issues and Comparative Law Review,” *J. Crimin. & Crim. L.* 62 (2024): 69.

¹⁹ Majelis Umum PBB, Deklarasi Universal Hak-Hak Asasi Manusia,” no 3 (1948): 5.

²⁰ Jil Radford, and Diana E. H. Rusell, *Femicide: The Politics of Woman Killing* (Canada: Maxwell Macmillan Canada, Inc., 1992), 78.

²¹ UNODC, “Killings of Women and Girls by Their Intimate Partner or Other Family Members,” *United Nations publications*, November 11, 2021. Retrieved in October 2025 from.

The prevalence of femicide in Indonesia is alarming. The National Commission on Violence Against Women recorded an increase in femicide cases from 95 (strong indications) in 2020 to 307 in 2022, although this decreased to 159 in 2023. During the 2020–2023 period, a total of 798 femicide cases were recorded in Indonesia.²²

The majority of victims are killed by someone close to them, especially their husband, ex-husband, or boyfriend. These cases indicate that intimate femicide is the most prevalent type. Common motives include jealousy, refusal to break up, refusal to comply with the perpetrator's demands, sexual violence, and masculine superiority that views women as property. This situation is exacerbated by low reporting rates. Social stigma, victims' fear, and a lack of documentation by authorities mean that many cases go unidentified as femicide. As a result, impunity remains high because law enforcement often processes cases as ordinary murder without considering the gender context.²³

Although Indonesia has Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence (*Undang-Undang Tindak Pidana Kekerasan Seksual/UU TPKS*), this regulation does not explicitly address femicide. The criminal acts of sexual violence law only address sexual violence that does not result in death. Therefore, when gender-based violence results in loss of life, the case is processed through the general articles of the Criminal Code.²⁴ The Criminal Code itself does not recognize the category of "gender-motivated murder." The articles used, such as Article 338 and Article 340, focus solely on the loss of life without considering the context of gender discrimination. Thus, the misogyny, patriarchal power relations, and repeated patterns of violence that characterize femicide are not reflected in the prosecution or court verdict.²⁵

https://www.unodc.org/documents/data-and-analysis/statistics/crime/UN_BriefFem_251121.pdf.

²² Komnas Perempuan. "Siaran Pers Komnas Perempuan Tentang Fenomena Femisida: Namai, Kenali dan Akhiri Femisida," *Komnas Perempuan*, 2024. Retrieved in October 2025 from. <https://komnasperempuan.go.id/siaran-pers-detail/siaran-pers-komnas-perempuan-tentang-femisida-6-desember-2020>.

²³ Nechama Brodie, R., "Femicide: A Need for Orientation," *Sociology Compass* 18, no. 11 (2024): 7018.

²⁴ Yonna Beatrix Salamor, Ani Purwanti, dan Nur Rochaeti, "Pengaturan Tentang Femisida dalam Hukum Pidana Indonesia (Kajian Perbandingan UU HAM dan UU TPKS)," *LITIGASI* 25, no. 1 (2024): 105.

²⁵ Pemerintah Republik Indonesia, "Kitab Undang-Undang Hukum Pidana (KUHP)" (n.d.).

This weakness highlights a normative gap in Indonesia's criminal justice system. The Criminal Code remains too general to accommodate the complexities of gender-based violence, while the Criminal Acts of Sexual Violence Law does not address consequences that result in death. Consequently, femicide perpetrators are often charged with simple murder without considering discriminatory motives, which should be aggravating factors. This situation underscores the need for the creation of specific articles or laws that explicitly recognize femicide as a separate offense to address this legal gap.

Compared to ordinary murder, femicide has characteristics that fundamentally distinguish it. First, gender motives are at the core of this crime. Murder in the context of femicide is driven by hatred, discrimination, or patriarchal power relations against women. Second, femicide is almost always associated with recurring patterns of violence such as domestic violence and sexual violence. This indicates that femicide is not an incidental event, but rather the result of an unequal social system. Third, femicide has structural impacts because it not only harms the individual victim but also perpetuates gender inequality and collective fear of women as a social group. Therefore, this offense cannot be sufficiently processed within the general framework of the Criminal Code; it requires a special category that is sensitive to the gender dimension.²⁶

From a comparative perspective, the urgency of recognizing femicide as a specific crime is also emphasized through various state practices and global human rights instruments. Argentina, for example, through Law Number 26,791 of 2012, added a new article to its Criminal Code that increases the penalty for the murder of women due to gender-based violence, with the threat of life imprisonment.²⁷ Chile also implemented legal reform through Law Gabriela Number 21.212 of 2020, which expanded the definition of femicide not only by intimate partners but also by anyone with a gender-based motive, with penalties of up to 40 years in prison. In Mexico, Article 325 of the Federal Penal Code defines *feminicidio* as the murder of a woman for gender reasons and includes seven contextual indicators, such as the presence of sexual violence or a history of threats. This approach

²⁶ Milica Kovacevi, and Marija Maljkovic, "Femicide-Certain Controversial Issues and Comparative Law Review," *J. Crimin. & Crim. L.* 62 (2024): 69.

²⁷ Michelle Carrigan, dan Myrna Dawson, "Problem representations of femicide/feminicide legislation in Latin American," *International Journal for Crime, Justice and Social Democracy* 9, no. 2 (2020): 15.

demonstrates how gender-based indicators can be a tool for investigators and prosecutors to objectively identify femicide.²⁸

Recognition of femicide is also part of the state's obligation to protect the right to life and gender equality as guaranteed in various international human rights instruments. Article 28A of the 1945 Constitution affirms the right of every person to life, in line with Article 3 of the Universal Declaration of Human Rights (UDHR) and Article 6 of the International Covenant on Civil and Political Rights (ICCPR), which places the right to life as a fundamental right that must be protected by law. Article 2 paragraph (1) of the ICCPR even requires the state to adopt laws to guarantee the fulfillment of these rights, including for women who are victims of gender-based violence.²⁹

The international normative framework was also strengthened by the 1994 Belém do Pará Convention. This Inter-American Convention explicitly states that violence against women is a violation of women's human rights and fundamental freedoms. Article 3 affirms that every woman has the right to live free from violence in both public and private spaces. Furthermore, Article 1 establishes a broad definition of violence that includes gender-based acts that result in death or physical, sexual, or psychological harm to women. Article 7 mandates state parties to uphold the principle of due diligence through policies and legislation on prevention, investigation, punishment of perpetrators, and restitution and rehabilitation for victims. This convention was a significant milestone because it was the first interregional convention to explicitly require member states of the Organization of American States (OAS) to recognize femicide as a gender-based crime. Based on this framework, many countries in Latin America subsequently adopted anti-femicide laws within their national systems.³⁰

In line with this, the Istanbul Convention 2011 strengthens international recognition that gender-based violence is a violation of human rights and a form of discrimination. As a comprehensive instrument, this convention requires state parties to implement integrated policies at all levels of

²⁸ Vinicius Ferreira Baptista, "Criminal Reaction to Women Murdering in Latin America in 21st Century: A Legal Approaches to Femicide and Feminicide," *Revista Critica Penal y Poder (Nueva Época)*, no. 25 (2023): 351.

²⁹ Majelis Umum PBB, Deklarasi Universal Hak-Hak Asasi Manusia," no 3 (1948): 5. See too, Tunggul Ansari Setia Negara, "Normative Legal Research in Indonesia: Its Origin and Approaches," *Audito Comparative Law Journal* 4 (2023): 23.

³⁰ Organization of American States, "Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará)," 1994.

government. Article 3 defines violence against women as a “violation of human rights and a form of discrimination,” while Article 4 affirms the right of everyone to live free from violence in both the public and private spheres. Furthermore, Article 5 requires states to take preventive and law enforcement measures in accordance with the principle of due diligence, including investigation, criminal prosecution, and victim reparation.³¹

The Convention also specifically criminalizes previously under-regulated forms of fatal violence, such as genital mutilation, forced marriage, and “honor” killings. Article 42 even prohibits justifications based on culture, custom, or “honor” in cases of gender-based violence. With this scope, the Istanbul Convention serves as a global normative reference, encouraging states to establish femicide as a separate crime in national law.³²

Unlike the two conventions mentioned above, the Yogyakarta Principles (2007) are not a binding treaty, but rather a soft law document formulated by international human rights experts. Nevertheless, this document expands the recognition of human rights by affirming that all individuals, regardless of sexual orientation or gender identity, are entitled to full protection against violence and discrimination.³³

Principle 30 (YP+10) recognizes the right to “state protection” from violence based on sexual orientation or gender, including the state’s obligation to prevent, investigate, prosecute, and redress. While not binding, the rights framework outlined in the Yogyakarta Principles provides strong normative legitimacy for recognizing femicide and gender-based violence as serious human rights violations, thus influencing the interpretation of national law and policy formulation. However, the enforcement of these international norms at the national level still requires further attention.³⁴

³¹ Adelia Citra Dwi Trisnawati dan Firsty Chintya Laksmi Perbawani, “Efektivitas Upaya Penanganan Kekerasan Berbasis Gender di Yunani: Analisis Istanbul Convention 2018-2022,” *Journal Publicuho* 7, no. 1 (2024): 274.

³² Adelia Citra Dwi Trisnawati dan Firsty Chintya Laksmi Perbawani, “Efektivitas Upaya Penanganan Kekerasan Berbasis Gender di Yunani: Analisis Istanbul Convention 2018-2022,” *Journal Publicuho* 7, no. 1 (2024): 276.

³³ The Yogyakarta Principles, “Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity,” *The Yogyakarta Principles*, Maret 2007. Retrieved in October 12, 2025 from. https://yogyakartaprinciples.org/wp-content/uploads/2017/11/A5_yogyakartaWEB-2.pdf.

³⁴ The Yogyakarta Principles, “Additional Principles and State Obligations on the Application of International Human Rights Law in Relation to Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristic to Complement the Yogyakarta Principles,” *The Yogyakarta*

Thus, various international instruments demonstrate that femicide has been recognized as a serious violation of women's human rights, demanding that the state take active action. However, in Indonesia, the protection standards mandated by these instruments have not been fully reflected in the national legal system. The murder of women is still categorized generally without considering the underlying gender motives. Therefore, concrete efforts are needed to harmonize national law with international principles by regulating femicide as a specific crime.³⁵ Although femicide has not yet been categorized as a gross human rights violation, this gender-based crime remains a serious and urgent matter that requires a response. This has prompted various parties to demand a stronger legal framework for women's protection. These proposals include a specific bill on femicide to more effectively address cases of gender-based violence.

By analogy, the formulation of a specific criminal offense for femicide could adopt an approach similar to the Criminal Acts of Sexual Violence Law. The Criminal Acts of Sexual Violence Law provides a comprehensive framework by defining categories of sexual violence, establishing specific sanctions, regulating law enforcement mechanisms, and guaranteeing recovery and protection for victims. A similar approach would ensure that the draft specific criminal offense for femicide includes a clear definition, case handling procedures, and state obligations in prevention and recovery for victims. Thus, the analogy with the Criminal Acts of Sexual Violence Law is expected to strengthen the legitimacy of recognizing femicide as a specific crime and clarify the state's responsibility in providing protection for women.³⁶

The urgency of criminalizing femicide as a specific crime lies in the legal need to fill a normative gap in the criminal justice system. First, without specific regulations, gender motives in murder are often overlooked, thus eliminating the inherent discriminatory context of the case. Second, recognizing femicide allows law enforcement officials to have more gender-sensitive investigative

Principles, November 10, 2017. Retrieved in October 12, 2025 from. https://yogyakartaprinciples.org/wp-content/uploads/2017/11/A5_yogyakartaWEB-2.pdf.

³⁵ Milica Kovacevi, and Marija Maljkovic, "Femicide-Certain Controversial Issues and Comparative Law Review," *J. Crimin. & Crim. L.* 62 (2024): 69.

³⁶ Yonna Beatrix Salamor, Ani Purwanti, dan Nur Rochaeti, "Pengaturan Tentang Femisida dalam Hukum Pidana Indonesia (Kajian Perbandingan UU HAM dan UU TPKS)," *LITIGASI* 25, no. 1 (2024): 106.

and evidentiary standards, as contextual indicators in Mexico demonstrate.³⁷ Third, this regulation is in line with Indonesia's international obligations under CEDAW and the *Belém do Pará* Convention, which require the state to address gender-based violence with effective legal measures.³⁸ Finally, the recognition of femicide as a special crime not only serves as a legal instrument, but also as a symbol of the state's commitment to upholding women's right to life and dignity, while also stating that gender-based violence is an intolerable crime.

3.2. The Concept of Ideal Legal Arrangements for Adopting the Criminalization of Femicide in Indonesia as a Specific Crime

An act cannot be considered a crime without fulfilling certain elements and requirements. According to Moeljatno et al.³⁹ a crime (*strafbaar feit*) is a human act prohibited by law and punishable by punishment. Its main elements include the human act, the legal prohibition (principle of legality), the unlawful nature, and the fault or criminal responsibility.⁴⁰ The principle of legality (*nullum crimen sine lege*) in Article 1 paragraph (1) of the Criminal Code emphasizes that a person can only be punished if their actions are regulated by law. The unlawful nature indicates a conflict between the perpetrator's actions and norms and justice, while the element of fault requires that there be deliberate intent or negligence that can be accounted for.⁴¹

However, in the context of modern law, not all crimes are equally serious. Some crimes, due to their more serious nature and impact on human values and social order, are categorized as special crimes that require separate regulation outside the Criminal Code. According to Teguh Prasetyo⁴², special criminal law is a field of law that regulates certain acts or certain legal subjects that do not apply to everyone. This view aligns with Pompe's opinion, which

³⁷ Council of Europe, "(CETS 210) Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence," *Council of Europe*, 2011. Retrieved in October 23, 2025 from. <https://rm.coe.int/168008482e>.

³⁸ Organization of American States, "Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará)," 1994.

³⁹ Dion Valerian, "Kriteria Kriminalisasi: Analisis Pemikiran Moeljatno, Sudarto, Theo De Roos, Dan Iris Haenen," *Veritas et Justitia* 8, no. 2 (2022): 432.

⁴⁰ Zaini Zaini, "Tinjauan Konseptual Tentang Pidana dan Pemidanaan," *VOICE JUSTISIA: Jurnal Hukum dan Keadilan* 3, no. 2 (2019): 132.

⁴¹ Pemerintah Republik Indonesia, "Undang-Undang Republik Indonesia Nomor 1 Tahun 2023 Tentang Kitab Undang-Undang Hukum Pidana" (2023).

⁴² Teguh Prasetyo, and Tri Astuti Handayani, "Theory of Dignified Justice as A Legal Foundation of Law Reform in Indonesia," *Ragam Penelitian Mesin* 1, no. 1 (2018): 49.

emphasizes that special criminal law has its own purpose and function within the criminal law system.⁴³

Furthermore, Moeljatno⁴⁴ emphasized that the difference between general and special crimes lies not only in the location of their regulation, but also in the existence of specific principles that deviate from general criminal law, such as a reversal of the burden of proof, the threat of heavier penalties, or different judicial procedures. Femicide meets these criteria. The murder of women for gender-based reasons is not simply a violation of life, but an attack on human dignity and equality. This act contains elements of gender-based hatred that are not fully accommodated in the general murder articles in the Criminal Code. Therefore, femicide deserves to be categorized as a special crime that requires separate regulations to ensure effective protection for women as a vulnerable group.⁴⁵

In the context of criminalization, the creation of new legal norms must be based on sociological, philosophical, and juridical considerations. Sociologically, the increasing number of murders of women based on patriarchal power relations demands the existence of laws capable of identifying and punishing discriminatory motives. Philosophically, the criminalization of femicide embodies the values of substantive justice and respect for human dignity, particularly for women. Meanwhile, from a juridical perspective, the creation of the offense of femicide is necessary to fill the gap in norms in the Criminal Code, which does not yet address the gender dimension as an aggravating factor.⁴⁶

Law Number 1 of 2023 concerning the Criminal Code (*Kitab Undang Undang Hukum Pidana/KUHP*) does update several criminal provisions, but retains the gender-neutral form of the murder article without addressing discriminatory motives. As a result, the murder of women remains a general offense (Article 458), with no room for recognizing gender-based hatred as an aggravating factor. While implicitly allowing for the prosecution of femicide cases, the criminal code does not provide an explicit basis for distinguishing

⁴³ Laila Badriyatul Mukamala, “Urgensi penyusunan norma hukum Femisida perspektif hukum teori Progresif dan siyasah Dusturiyah,” (PhD diss., Universitas Islam Negeri Maulana Malik Ibrahim, 2025).

⁴⁴ Dion Valerian, “Kriteria Kriminalisasi: Analisis Pemikiran Moeljatno, Sudarto, Theo De Roos, Dan Iris Haenen,” *Veritas et Justitia* 8, no. 2 (2022): 435.

⁴⁵ Ruslan Renggong, *Hukum Pidana Khusus: Memahami Delik-Delik di Luar KUHP* (Jakarta: Kencana, 2016).

⁴⁶ Fakhruddin Arrozi, “Perbuatan Melawan Hukum Materiil Menurut Hakim Pengadilan Negeri Kepanjen,” *Al-Daulah: Jurnal Hukum dan Perundangan Islam* 4, no. 1 (2014): 356.

it from ordinary murder. Therefore, regulation through special legislation is necessary based on the principle of *lex specialis derogat legi generali*, which states that special law overrides general law so that gender-based crimes receive more proportionate regulation and sanctions.⁴⁷

The urgency of establishing a specific law on femicide is also based on three fundamental principles of human rights law. First, equality before the law, which guarantees that women have the right to equal legal protection and freedom from discrimination. Second, the non-discrimination principle, as mandated by the CEDAW Convention, requires states to eliminate all forms of discrimination against women, including in the criminal justice system. Third, protection of vulnerable groups, which affirms the state's responsibility to protect vulnerable groups from structural and systemic violence. These three principles serve as the moral and legal basis for adopting the criminalization of femicide as a gender-based crime.⁴⁸

In terms of legal certainty, if femicide is merely an extension of the Criminal Acts of Sexual Violence Law or an additional article in the Criminal Code, it has the potential to create legal ambiguity. The absence of a clear definition and legal elements will complicate law enforcement officials' efforts to establish evidence, thereby weakening victim protection. Meanwhile, in terms of effectiveness, norms related to gender-based violence are currently scattered across various regulations, such as the Criminal Acts of Sexual Violence Law, the Domestic Violence Law, and the Criminal Code. This fragmentation leads to overlapping jurisdictions and hinders coordination between law enforcement agencies. Therefore, specific legislation is needed to comprehensively integrate all aspects of the law, from the elements of the offense, forms of accountability, to mechanisms for victim redress.⁴⁹

Furthermore, regulations on femicide need to emphasize contextual and proportional punishment. The penalty should be more severe than for ordinary murder, with additional penalties such as social rehabilitation or restitution for the victim's family. Aggravating factors need to be explicitly

⁴⁷ Herman Handrawan Sabrina Hidayat, Fuad Nur, Idaman, Lade Sirjon, dan Nur Suhada, "Analisis Asas Lex Systematische Specialiteit Terkait Penegakan Hukum Kekerasan Seksual Berbasis Elektronik," *Halu Oleo Legal Researc* 7, no. 1 (2025): 184.

⁴⁸ Prabowo Cahyandaru, "Implementasi Prinsip-Prinsip Cedaw Dalam Penanganan Kasus Kekerasan Terhadap Perempuan Di Spek-Ham Solo," *Journal of Law, Society, and Islamic Civilization* 1, no. 1 (2013): 90.

⁴⁹ Adhelia Ananda Putri, Ugi Putri Pamungkas, and Habib Anwar, "Efektivitas Aturan Hukum Yang Menjerat Kekerasan Gender Berbasis Online," *IBLAM Law Review* 4, no. 1 (2024): 28.

regulated, for example, if the murder is committed with extreme violence, in front of children, against a partner or former partner, or accompanied by a gender-based motive. This provision aligns with practices in Latin American countries such as Argentina and Mexico, which have recognized femicide as a gender-based hate crime.⁵⁰

In addition to normative aspects, the law enforcement approach to femicide must be based on substantive justice and gender-sensitive. Law enforcement officers need to be equipped with an understanding of gender-based investigation, namely an investigative method capable of identifying gender motives and power relations underlying the act. Prosecutors must also construct evidence by involving gender experts, psychologists, and women's protection agencies. Judges, ultimately, have the responsibility to interpret the law by considering the victim's social and psychological context so that the verdict rendered is truly substantively just.⁵¹

An ideal legal system also includes guarantees of protection for victims and their families through clear legal mechanisms. The state is obliged to ensure security, confidentiality of identities, and access to legal, psychological, and medical assistance. The Witness and Victim Protection Agency (*Lembaga Perlindungan Saksi dan Korban/LPSK*) need to be involved from the outset of the legal process to guarantee restitution and compensation for victims' families.⁵²

Strengthening the legal framework for femicide must be accompanied by gender mainstreaming (*Pengarusutamaan Gender/PUG*) within law enforcement. Gender mainstreaming requires every public policy and law enforcement to adopt a gender perspective. Without gender sensitivity, law enforcement practices often fail to recognize the characteristics of violence against women. Therefore, law enforcement officers need to be trained and

⁵⁰ Adhelia Ananda Putri, Ugi Putri Pamungkas, and Habib Anwar, "Efektivitas Aturan Hukum Yang Menjerat Kekerasan Gender Berbasis Online," *IBLAM Law Review* 4, no. 1 (2024): 29.

⁵¹ Laila Badriyatul Mukamala, ""Urgensi penyusunan norma hukum Femisida perspektif hukum teori Progresif dan siyasah Dusturiyah," (PhD diss., Universitas Islam Negeri Maulana Malik Ibrahim, 2025), 24.

⁵² Adhelia Ananda Putri, Ugi Putri Pamungkas, and Habib Anwar, "Efektivitas Aturan Hukum Yang Menjerat Kekerasan Gender Berbasis Online," *IBLAM Law Review* 4, no. 1 (2024): 30.

guided in applying gender analysis at every stage of case handling, from investigation to trial.⁵³

Presidential Instruction (*Instruksi Presiden/Inpres*) Number 9 of 2000 concerning Gender Mainstreaming in National Development states that gender mainstreaming must be integrated into the planning, formulation, implementation, monitoring, and evaluation of all government policies and programs, and the 2025–2045 National Long-Term Development Plan (*Rencana Pembangunan Jangka Panjang Nasional/RPJPN*) affirms PUG as a national development mandate. Therefore, every institution (the National Police, the Prosecutor's Office, the judiciary) is required to integrate gender analysis into its procedures and training.⁵⁴

Consequently, every investigator, prosecutor, and judge must be able to recognize indicators of gender-based violence: for example, increasing patterns of domestic or dating violence, pre-incident death threats, and economic neglect. Gender-responsive law enforcement agencies will take more comprehensive law enforcement measures, such as swift arrest of perpetrators, guaranteeing security for victims' families, and fulfilling victims' rights, such as legal assistance and compensation. Without a gender-sensitive culture, femicide cases, which are the peak of violence against women, have the potential to be overlooked in the early stages of investigation.⁵⁵

Thus, the establishment of a specific law on femicide is not only a legal necessity, but also a moral and social one. This regulation will ensure that every murder of a woman motivated by gender is recorded and prosecuted as a gender-based hate crime, not simply a general crime. Based on *lex specialis*, the principle of non-discrimination, and protection of vulnerable groups, the state can create a more just, responsive, and humanitarian legal system.⁵⁶

⁵³ Hana Faridah dan Wiwin Triyunarti, "Masyarakat Adat Perempuan dan Anak dalam Proses Pengadilan Menuju Sistem Peradilan yang Berkeadilan dan Responsif terhadap Hak Asasi Manusia," *Proceedings Series on Social Sciences & Humanities* 27 (2025): 102.

⁵⁴ Pemerintah Republik Indonesia, "Instruksi Presiden Republik Indonesia Nomor 9 Tahun 2000 Pengarusutamaan Gender dalam Pembangunan Nasional Presiden Republik Indonesia" (2000).

⁵⁵ Annisa Hafizah, Madiasa Ablisar, dan Rafiqoh Lubis, "Asas Legalitas dalam Hukum Pidana Indonesia dan Hukum Pidana Islam," *Mahadi: Indonesia Journal of Law* 1, no. 1 (2022): 35.

⁵⁶ Herman Handrawan Sabrina Hidayat, Fuad Nur, Idaman, Lade Sirjon, dan Nur Suhada, "Analisis Asas *Lex Systematische Specialiteit* Terkait Penegakan Hukum Kekerasan Seksual Berbasis Elektronik," *Halu Oleo Legal Researc* 7, no. 1 (2025): 184.

4. Closing

Criminalizing femicide as a specific crime is urgent because the Criminal Code and the Law on Sexual Violence have not been able to fairly prosecute gender-based murders of women. Femicide is the most extreme form of gender-based violence, reflecting discrimination and patriarchal power relations. Regulations need to be formulated as a specific crime based on the principle of *lex specialis derogat legi generali*, which emphasizes gender as an aggravating factor and gender-sensitive victim protection mechanisms. Therefore, the establishment of a specific law on femicide and increasing the capacity of law enforcement are important steps towards a gender-responsive and just legal system. However, it must be emphasized that the formulation of this specific offense must be formulated by considering international best practices and the Indonesian social context. The regulation must also be accompanied by a comprehensive victim protection mechanism, a gender-sensitive recording and investigation system, and strengthening the capacity of law enforcement officials to understand the structural patterns of gender-motivated violence in Indonesia's patriarchal society. Thus, the ideal concept of femicide in Indonesian law should not only adopt a global framework but also adapt it to national socio-cultural realities.

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