

CHAPTER I

INTRODUCTION

A. Background

Violence against women in its various manifestations has a long history in human civilization that continues to this day. Violence against women is a serious problem in many countries, including Indonesia. According to the annual record of Komnas Perempuan 2024 study, there were 445,502 incidents of violence against women, which is about 10% more than the 401,975 occurrences that occurred the year before. Among these, 330,097 incidences of gender-based violence against women (GBV) occurred, an increase of 14.17% from 289,111 occurrences the year before.¹ One form of extreme gender-based violence that is increasingly prevalent is femicide, which is the killing of women because of their gender. The term femicide was first introduced by Diana Russel in 1976 in her book entitled femicide: The Politics of Women Killing. Diana Russel and criminologist Jil Radford defined femicide as the misogynistic killing of women by men. However, in 2001, Diana Russel redefined femicide as “the killing of women by men because they are women”.²

¹ A. Fahira, “CATAHU 2024: 445.502 Kasus Kekerasan terhadap Perempuan, Naik Hampir 10%,” *Bincang Perempuan*, March 10, 2025, <https://bincangperempuan.com/catahu-2024-445-502-kasus-kekerasan-terhadap-perempuan-naik-hampir-10/>. Accessed on January 11th, 2025.

² Salsabila Putri Pertiwi, “Kamus Feminis: Apa Itu Femisida? Kekerasan Berbasis Gender Berujung Kematian,” *Konde.co*, January 17, 2024, <https://www.konde.co/2024/01/kamus-feminis-apa-itu-femisida-kekerasan-berbasis-gender-berujung-kematian/>. Accessed on January 11th, 2025.

Informal marriage status, age differences between partners, and poverty are sociodemographic characteristics linked to female killings by partners. One-third of the women killed in many nations had a history of frequent violence and assaults and were attempting to distance themselves from their relationships, particularly in the three months before the crime. Research carried out in the United States revealed a correlation between femicide rates and regions with greater rates of violent crimes, unemployment, poverty, instability, and the Black population.³ Numerous systemic and individual variables, including emotional rage, rejection in intimate relationships, pressure on economic and reproductive roles, masculinity identity crisis, and forced sexual activity, are the main causes of femicide occurrences in Indonesia. Unfortunately, similar occurrences continue to happen because the current criminal law has not had the best deterrent effect. Femicide, seen from the standpoint of human rights, particularly women's rights, is the state's inability to carry out its constitutional duty to shield citizens from gender-based violence and to end discrimination against women in general.⁴ Social roles between the victim and the offender, such as unequal power dynamics that portray the victim as weaker than the offender, also have an impact.⁵

The inequality of power relations has contributed to the increase in the frequency of murders of women due to their gender. Quoting from the United Nations, in 2023, there were reportedly as many as 140 cases of murder of women by their spouses and family members. In addition, globally, partners or family members are responsible for around 51,100 deaths of women and girls during 2023. The total number of victims of violence increased from around

³ Stela Nazareth Meneghel and Vania Naomi Hirakata, "Femicides: Female Homicide in Brazil," *Revista de Saúde Pública* (2011), 2.

⁴ Siti Zulaichah, "Femisida dan Sanksi Hukum di Indonesia," *Jurnal Egalita*, UIN Maulana Malik Ibrahim Malang, 2022, 2.

⁵ Y. B. Salamor, A. Purwanti, dan N. Rochaeti, "Pengaturan Tentang Femisida dalam Hukum Pidana Indonesia (Kajian Perbandingan UU HAM TPKS)," *Jurnal Litigasi*, Universitas Pasundan, 2017, 98.

48,800 in 2022.⁶ A culture of violence results from women's humanity being subordinated. This perspective gives rise to the notion that women who do not have a desirable position in a society should be put to death. According to reports, 66,000 women are murdered each year. 87,000 murders of women were reported in 2017. According to this, 137 murders of women occur every day.⁷ Furthermore, nationally, in Indonesia, according to the data of Jakarta Feminist taken from several online media reports, between January 1 and December 31, 2024, 204 cases of femicide were documented, with the following details:

Table 1. Types of Femicide.⁸

Jenis Kasus	Jumlah	Persentase (%)
Femisida	165	80.9
Femisida Korban Transpuan	7	3.4
Femisida Anak Perempuan	13	6.4
Femisida Bermotif Kejahatan	14	6.9
Femisida Relasional Agresif	5	2.5
TOTAL	204	100.0

On July 24, 1984, Indonesia ratified the International CEDAW Convention, pledging to uphold the principles of the abolition of discrimination against women

⁶ Saras Bening Sumunar, "Laporan PBB: 140 Perempuan dan Anak Dibunuh Kerabat Setiap Harinya," *Parapuan.co*, 26 November 2024, <https://www.parapuan.co/read/534186691/laporan-pbb-140-perempuan-dan-anak-dibunuh-kerabat-setiap-harinya>. Accessed on January 13th, 2025.

⁷ Bannan Naelin Najihah, *Pembunuhan Perempuan: Langkah Al-Qur'an Menghadapi Praktik Budaya Femisida Honour Killing* (Bandung: Sekolah Tinggi Agama Islam PERSIS Bandung, 2022), 2.

⁸ Jakarta Feminist, *Laporan Femisida 2024* (Jakarta: Jakarta Feminist, Agustus 2025), <https://jakartafeminist.com/wp-content/uploads/2025/08/Laporan-Femisida-2024.pdf>. Accessed on January 13th, 2025.

and to prohibit discrimination in all its manifestations.⁹ In the same year, Brazil also ratified the Convention on the Elimination of All Forms of Discrimination against Women. By ratifying this Convention, these two countries are fully committed to eliminating all forms of discrimination against women through policies, legislation, and other special regulations. After 30 years of ratifying the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Indonesia has taken steps to protect women that should be appreciated but still need to be criticized. Looking deeper, these steps have not had a significant impact, given the lack of a gender perspective, the lack of the involvement of women in drafting regulations, as well as the attitude of state officials who still legalize practices that place women as second-class citizens.

In its application, the regulation on femicide certainly has advantages and disadvantages. The application of rules regarding femicide crime can build public awareness on gender-based violence, for instance, murder based on hatred of a gender. Besides that, the explicit recognition of femicide crime can aggravate punishment and provide a deterrent effect for the perpetrators, especially if the victims of femicide are pregnant women, children, the elderly, and groups with disabilities. Unfortunately, this regulation on femicide is not enough to stop the root of the problem of gender-based violence. The regulation must consider a social and cultural approach because the patriarchal culture has been embedded and rooted for

⁹ A. M. Valentina and E. Dewi, "Implementasi CEDAW tentang Penghapusan Diskriminasi Perempuan: Studi Kasus Pemilu di Indonesia Tahun 2009 dan 2014," *Jurnal Ilmiah Hubungan Internasional* (2017), 1.

decades in Indonesia, to change such culture through public awareness campaigns and strengthen support for victims.¹⁰

The new Indonesian Criminal Code has reformulated the types of murder. These are divided into ordinary murder (Article 458), premeditated murder (Article 459), infanticide (Article 460), euthanasia (Article 461), provocation to commit murder (Article 462), and abortion (Article 463).¹¹ The new Criminal Code has been quite complete in reformulating the rules of murder, but unfortunately, femicide is absent from the division. Therefore, the author considers the need to reformulate the new Criminal Code by adding rules regarding femicide to address the shortcomings of the new Criminal Code, which also aims to provide maximum protection for women. On the other hand, other countries have taken progressive steps in addressing femicide through special arrangements in their laws. One example is Brazil, a country like Indonesia in terms of legal system and geographical characteristics. Furthermore, Brazil has also been led by a female president. Law No. 13,104 of 2015, passed on 9 March 2015 under the leadership of President Dilma Rousseff, has recognized femicide as an aggravated crime (qualified homicide). This move not only provides stronger protection for women but also marks the country's commitment to structurally counter gender-based violence.

This study assumes critical importance due to the absence of a legal substance that explicitly defines femicide, which has resulted in inconsistent legal responses to the murders of women. Such inconsistency is largely attributable to the systematic disregard for gender-based injustice within the legal adjudication of femicide cases.

¹⁰ S. Sidibé, “Breaking the Silence: Combating Femicide and Gender-Based Violence in Indonesia,” *Equal Measures 2030*, 2024, <https://equalmeasures2030.org/blogs/breaking-the-silence-combating-femicide-and-gender-based-violence-in-indonesia/>. Accessed on January 15th, 2025.

¹¹ Law Number 1 of 2023 on the Indonesian Criminal Code, arts. 460–471.

Consequently, the realization of justice for victims becomes significantly impeded. Moreover, the lack of a comprehensive juridical definition leads to the frequent underreporting of femicide and its misclassification as ordinary homicide. Accurate data collection is an essential foundation for the formulation of future evidence-based policies. Reliable data collection enables the identification of trends, patterns, and intersections with other social issues, thereby enabling the development of more effective prevention and intervention strategies. In the absence of explicit legal recognition, however, femicide continues to be perceived merely as a social symptom deeply entrenched in cultural norms and practices that normalize the devaluation of women's lives and perpetuate systemic oppression and gender-based violence within society.

Ignoring this issue can have a domino effect on women and the state. It creates fear and hatred in women for being born with the female gender; it also shows the failure of the state in creating a safe space for women, along with all the rules that do not consider women as legal subjects. Based on research on countries that have taken more advanced steps in dealing with femicide, such as Brazil, which has a high femicide rate, a reference in changing and adding regulations on femicide in Indonesia can be taken. Brazil, through the enactment of Law No. 13,104 of 2015, has succeeded in including femicide in the criminal offense of murder. This step not only provides legal recognition of gender-based crimes but also shows the state's commitment to fighting structural injustices that have been faced by women. Based on the explanation above, this research aims to analyze the need to regulate femicide

in the Indonesian criminal law system, as well as the potential of adopting femicide regulation in Brazil for Indonesia. Through an extensive study on femicide law in Brazil, it is hoped that concrete recommendations can be obtained regarding the steps that need to be taken to provide better protection for women while addressing gender injustice in Indonesia.

B. Problem Formulation

1. What are the critical factors driving the urgency of regulating Femicide in Indonesia?
2. How are the possibilities of Brazil's legal substance on femicide to be effectively transplanted into Indonesia's legal system to tackle femicide more comprehensively?

C. Research Objective

1. To analyze the critical factors driving the urgency of regulating Femicide in Indonesia
2. To analyze the possibilities of Brazil's legal substance on femicide to be effectively transplanted into Indonesia's legal system to tackle femicide more comprehensively

D. Benefits of Research

The benefits that can be taken from this research are:

1. From the theoretical side, this research is expected to contribute to giving recommendations for the advancement of legal science in general, and specifically for the field of Criminal Law.
2. Practically, the findings of this research are expected to serve as a reference for incorporating specific provisions on femicide into the Indonesian Criminal Code, as well as for further elaboration of the classifications of murder or homicide contained in Articles 460–471 of the new Code. This effort takes inspiration from Brazil’s Lei do Femicídio. In addition, the study seeks to raise public awareness and encourage greater attention to the issue of femicide.

E. Research Originality

No	Sources	Discussion	Difference
1	Meneghel, Stela Nazareth, and Vania Naomi Hirakata. “Femicides: Female Homicide in Brazil.” <i>Revista de Saúde Pública</i> , 2011.	According to the study, femicide in Brazil is a result of severe gender imbalance and persists despite strict legislation. It follows chronic violence that society frequently overlooks. Real change is challenging due to lax enforcement and inadequate protection for women, and many cases—particularly those involving minorities—go unreported. Better policies are also impeded by inadequate data recording.	This journal aims to analyse the characteristics, trends, and social factors underlying the increase in femicide rates in Brazil, using a quantitative approach based on national statistical data, to strengthen public policy advocacy for the prevention of gender-based violence. Meanwhile, the objective of this research proposal is to examine the need for specific legal regulation on femicide within the Indonesian criminal law system through a normative-juridical approach, by comparing the legal

			frameworks of Indonesia and Brazil, and to provide concrete recommendations for national legal reform to enhance the protection of women and achieve gender justice. Thus, while the journal focuses on the analysis of factual social phenomena, the proposal emphasizes the development of a legal framework as a solution to the regulatory gap in Indonesia.
2	Zulaichah, Siti. "Femisida dan Sanksi Hukum di Indonesia." <i>Jurnal Egalita</i> . UIN Maulana Malik Ibrahim Malang, 2022.	The journal " <i>Femicide and Legal Sanctions in Indonesia</i> " discusses how Indonesia still does not have a specific law that defines or punishes femicide separately from other forms of homicide. Although the new Criminal Code introduces several categories of murder, it fails to recognize killings motivated by gender-based hatred. This legal gap weakens the protection for women and does not fully address the seriousness of gender-based violence. The author points out that other countries, such as Brazil, have already made progress by creating special laws to punish femicide more heavily. Therefore, the journal argues that Indonesia urgently needs a specific legal regulation on femicide to uphold justice	The journal " <i>Femicide and Legal Sanctions in Indonesia</i> " aims to describe and critically analyze the absence of specific legal sanctions for femicide in Indonesia, focusing primarily on the gaps within the national criminal law framework and proposing the necessity of future regulation to explicitly address femicide cases. In contrast, the research proposal " <i>Enhancing Indonesia's Criminal Law Substance by Recognizing Femicide as A Crime</i> " seeks not only to highlight the legal vacuum but also to conduct a thorough analysis on Indonesia and Brazil response to femicide, using Brazil's femicide law as a reference to provide more concrete recommendations for reformulating Indonesia's criminal law to better protect women and promote gender

		for victims and strengthen efforts to achieve gender equality.	justice. Thus, while the journal concentrates on mapping and criticizing the current Indonesian legal landscape, the proposal advances further by offering insights from Brazil and structured legal reform strategies for Indonesia.
3	Implementasi Convention on the Elimination of All Forms of Discrimination Against Women	This article discusses the implementation of the CEDAW convention by the Indonesian government in addressing the issue of femicide, or the gender-based discrimination against women that occurs in patriarchal society. Although Indonesia has ratified CEDAW with Law No. 7 of 1984, its implementation has not been ideal since women are not specifically recognized by national law and are mostly classified as general citizens. Upaya pemerintah through Komnas Perempuan dan Kemen-PPPA, such as awal kajian, kekerasan pelaporan kampanye, and aduan layanan, has been completed; nonetheless, angka kekerasan based on gender is quite high. The main obstacle is the gender perspective in the legal system and discriminatory society, so the protection of women against femisida is still quite low.	The article "Implementasi CEDAW dalam Penanganan Kasus Femisida di Indonesia" discusses how the Indonesian government is implementing the CEDAW principle in promoting feminism, highlighting the challenges posed by patriarchal culture, and the lack of specific national legal frameworks for feminism. In contrast, the proposal "The Urgency of Legal Enforcement of Femicide in the Indonesian Criminal Law System" highlights the need for specific regulations regarding women through comparative analysis with Brazil, as well as the importance of defining women as gender-based kejahatan in KUHP. Generally speaking, journals focus on assessing the implementation of international standards at the national level, while proposals centered on the reform of the law of pidana are based on comparative studies to increase employee

			protection.
4	Lenyap dalam Senyap Korban Femisida dan Keluarganya Berhak atas Keadilan	This book comprehensively discusses femicide in Indonesia as the most extreme form of gender-based violence that has not been detected in the legal data collection system or criminal statistics. Komnas Perempuan emphasizes the importance of building a femicide watch, improving data collection of femicide cases, encouraging recovery for victims' families, and developing legal policy recommendations based on good practices from various countries such as the Netherlands, Mexico and India. The main focus is to build a legal, structural and cultural framework in Indonesia to recognize femicide as a specific phenomenon, not just general murder, while also advancing public education and advocacy efforts.	The book "Lenyap dalam Senyap" discusses femicide more broadly in a social, structural, cultural, and legal context, starting from the problem of data collection and its social impact, then offering recommendations in the form of improvements to the legal system, culture, and recovery services. While the "Enhancing Indonesia's Criminal Law Substance by Recognizing Femicide as A Crime" proposal focuses specifically on the criminal law aspect, proposing the formulation of femicide regulations in the Indonesian Criminal Code through a comparative study with Brazil, with an emphasis on the need for more specific criminal law regulations. In other words, the book examines femicide as a multidimensional problem and systemic change, while the proposal focuses on formal legal advocacy.
5	Pengaturan Tentang Femisida Dalam Hukum Pidana Indonesia (Kajian Perbandingan Uu Ham Dan Uu Tpk)	According to this article, femisida, being the most extreme form of gender-based kekerasan, is not fully reflected in Indonesian positive law, such as the Undang-Undang Hak Asasi Manusia (HAM) and Undang-Undang Tindak Pidana Kekerasan Seksual	The journal "Penegakan Hukum terhadap Korban Femisida" discusses Indonesian law through a specific case study at Pengadilan Negeri Jakarta Timur, femisida based on gender-based kekerasan with an emphasis on existing legal implementations such as

		<p>(TPKS). Through the concept of <i>yuridis normatif</i>, this study demonstrates that, despite several forms of kekerasan, such as sexual kekerasan, pacaran kekerasan, and <i>tangga rumah</i> telah sudah akomodasi, there is no explicit norm that portrays femisida as a specific type of pidana. This article also identifies the goals of femisida that are closely related to patriarchy and kuasa relasi, and it suggests a legal reform, specifically through the revision of the UU TPKS, to address and modify femisida in a unique way within the Indonesian legal system.</p>	<p>KUHP, UU PKDRT, and UU TPKS. On the other hand, the proposal "Enhancing Indonesia's Criminal Law Substance by Recognizing Femicide as a Specific Crime" highlights the need to establish new legal regulations specifically aimed at promoting feminism at KUHP Indonesia, based on research comparing international laws, particularly those from Brazil.</p>
6	<p>Violence against women: An analysis of femicide in Brazil</p>	<p>The thesis explores femicide in Brazil, focusing on how deeply rooted <i>machismo culture</i> and structural inequalities contribute to the persistence of violence against women. Using Feminist Theory and particularly Intersectional Theory, it emphasizes that women who face multiple forms of discrimination such as based on race, class, and gender identity are disproportionately vulnerable to femicide. The study critiques Brazil's legislative framework,</p>	<p>While the thesis focuses on the sociocultural roots of femicide and critiques Brazil's existing legislative inefficacy through an intersectional and feminist lens, your proposal is legalistic and reform-driven, emphasizing the urgent need to create new specific regulations in Indonesia's KUHP to formally criminalize femicide. The thesis is descriptive and analytical, aiming to understand <i>why</i> femicide persists, while your proposal is normative and prescriptive,</p>

		including the Maria da Penha Law and the Femicide Law, arguing that although legal measures exist, they fail to address the cultural and institutional machismo that sustains gender-based killings. The work underscores the need for transformative societal and institutional change, not merely legal reform.	focusing on <i>how</i> to legally address femicide in Indonesia by learning from international experiences like Brazil. In essence, the thesis seeks <i>explanation and diagnosis</i> , whereas in writer's thesis seeks <i>solution and legislative action</i> .
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F. Literature Review

The literature review consistently and structurally relates this proposal to relevant sources, including previous research and literature that discuss the same topic.¹² For the sake of the direction of this research, it is necessary to conduct research and studies related to the urgency of special regulation of femicide, by taking a reference to Brazil, which was the first to regulate the crime of femicide.

A. Criminal law policy

Criminal policy or criminal politics can be understood as a logical and systematic effort made by society to handle and control crime. This definition refers to Marc Ancel's idea that criminal policy is a form of rational organization in controlling crime by society.¹³

¹² Kaelan, *Metode Penelitian Kualitatif Bidang Filsafat* (Yogyakarta: Paradigma, 2005), 237.

¹³ Sudarto, *Hukum dan Hukum Pidana* (Bandung: Alumni, 1981), 38.

Basically, criminal politics is an integral part of efforts to protect society (social defense) while supporting the achievement of social welfare. Therefore, it can be concluded that the main objective of criminal politics or policy is to protect the community and realize common welfare. Thus, criminal politics can also be seen as an inherent part of social policy.¹⁴

Criminal law policy in Indonesia encompasses not only the creation of laws but also their application and execution by law enforcement agencies, including courts, prosecutors, and police. For instance, reforming the Criminal Code (KUHP) requires more than merely altering written standards; it also considers social justice ideals, societal advancement, and the efficiency of the criminal justice system in deterring and combating crime in general. This calls for the introduction of sanctions suitable for the context of gender-based violence, as well as the inclusion of articles that specifically designate femicide as a distinct criminal offense in the context of femicide law enforcement. For the law to be effective, law enforcement authorities must also be more conscious of the need to handle gender-based issues with tact and objectivity, as well as to provide victims with protection and a secure reporting system.

B. Lex scripta

Lex scripta is one of the fundamental principles in the principle of legality, which means that criminal law must originate from the provisions written

¹⁴ John Kenedi, *Kebijakan Hukum Pidana (Penal Policy)* (Yogyakarta: Pustaka Pelajar, 2017), 41.

in the legislation. This principle emphasizes that a person can only be held criminally responsible for an act if there are legal provisions that explicitly and in writing declare the act as a criminal offense before the act is committed.¹⁵ As a result, this principle protects against any misuse of authority by law enforcement personnel in addition to guaranteeing legal clarity. Article 1, paragraph (1) of Law No. 1 of 2023, which declares that "no act can be punished, except on the strength of the provisions of existing criminal legislation," reflects the *lex scripta* principle within the framework of the Indonesian legal system.¹⁶

In the discussion of criminal law reform, the *lex scripta* principle is essential, particularly when addressing complicated crimes with a significant social component, like femicide. Law enforcement officers will likely define femicide as regular murder in the absence of a codified regulation specifically addressing it as a gender-based criminal offense, thereby neglecting the backdrop of discrimination and uneven gender-based power relations. Therefore, Indonesia must adopt criminal norms that clearly and in writing recognize femicide as a type of extreme violence against women that merits being specifically criminalized to provide victims with substantive justice and a solid legal basis for the law enforcement process.

C. Femicide

¹⁵ Annisa, "Asas Legalitas: Pengertian, Tujuan dan Prinsip," *Fakultas Hukum Universitas Muhammadiyah Sumatera Utara*, December 30, 2024, <https://fahum.umsu.ac.id/info/asas-legalitas-pengertian-tujuan-dan-prinsip/>. Accessed on January 17th, 2025.

¹⁶ Law Number 1 of 2023 on the Indonesian Criminal Code, *op. cit.* art. 1(1).

Quoting from the United Nations, Femicide (or feminicide, as it is referred to in some contexts) is defined as intentional killing with gender-related motivations. This contrasts with murder, whose motivation may not be gender-related. Femicide is driven by discrimination against women and girls, unequal power relations, gender stereotypes, or harmful social norms. It is the most extreme and brutal manifestation of violence against women and girls that occurs within a continuum of interconnected forms of violence, at home, in the workplace, school, or public spaces, including partner violence, sexual harassment, and other forms of sexual violence, harmful practices, and trafficking.¹⁷

In the Brazilian Penal Code, femicide is defined as a heinous crime, characterized by the following terms: the killing of women committed for reasons of hatred of the female gender, when the crime involves domestic violence and humiliation or discrimination against the female gender.¹⁸

A femicide victim is a person of the female gender who is a victim of murder, which is the pinnacle of gender-based violence. This is because it places women as victims and men as perpetrators. The crime of femicide can also be said

¹⁷ UN Women. “Five Essential Facts to Know About Femicide.” *UN Women*, June 28, 2024. <https://www.unwomen.org/en/articles/explainer/five-essential-facts-to-know-about-femicide>. Accessed on January 17th, 2025

¹⁸ Monteiro, Claudinei Cesar. “Feminicídio: do conceito à lei.” *Jus.com.br*, November 24, 2023. <https://jus.com.br/artigos/107337/feminicidio-do-conceito-a-lei>. Accessed on January 17th, 2025

to be gender discrimination.¹⁹ From the perspective of victimology, victims of femicide are divided into several types, namely:

a) Participating Victim

A participating victim is one whose behavior increases the potential for conflict, even if he or she does not intend to incite violence.

b) Latent Victim

Latent victims refer to those who are targeted because of their structural vulnerability.

c) Provocative Victim

Provocative victims are victims who actively provoke conflict that leads to murder.²⁰

D. Gender-based violence

Gender-based violence, according to the 2006 UN General Assembly, is described as a form of discrimination and a violation of human rights. Gender-based violence refers to sexual behavior that is based on a person's inequality of power, which is the result of gendered behavior. The recognition that girls and women suffer greatly from socially constructed gender-based power imbalances is reflected in the UN definition of Violence against Women as “acts of gender-

¹⁹ Salamor, Purwanti, and Rochaeti, *op. cit.*, 8.

²⁰ *Ibid.* 15-16.

based violence that are directed against a woman because she is a woman or that affect women disproportionately”.²¹

The World Health Organization highlights that “Violence against women comes in many forms, not just limited to intimate partner violence, but also includes violence by family members, sexual harassment by authority figures, trafficking of women for prostitution, child marriage, dowry-related violence, honor killings, and sexual violence perpetrated by armed forces in conflict situations”.²² Gender-based violence can occur in the public and private spheres, and can be committed by close people or strangers.

The widespread and multifaceted nature of gender-based violence underscores its status as a critical global social issue. At its core, this violence is intrinsically linked to the imbalance of power relations between men and women, an imbalance deeply rooted in patriarchal structures that have been entrenched for millennia. These enduring systems have shaped social hierarchies that render women disproportionately vulnerable to various forms of violence, whether in the private (domestic) or public sphere. Furthermore, violence against women transcends geographical boundaries, as women across the world encounter similar patterns of discrimination and abuse. Consequently, addressing gender-based violence necessitates a comprehensive, intersectional approach, with the

²¹ Ani Purwanti, *Kekerasan Berbasis Gender* (Yogyakarta: Bildung, 2020), 26–27.

²² World Health Organization, *Violence Prevention: The Evidence* (Geneva: WHO, 2010), 82.

integration of a gender-sensitive perspective in the formulation and implementation of laws and public policies.

G. Definition of Term

a. Criminal Law Enforcement

The process by which law enforcement officials (police, prosecutors, and courts) apply criminal law norms against femicide perpetrators is referred to in this study as criminal law enforcement. The presence or lack of legislative standards that expressly govern femicide within the Indonesian legal system is another aspect of this enforcement.

b. Murder

In the latest Criminal Code Article 458, paragraph 1, it is stated that “every person who takes the life of another person shall be punished for murder, with a maximum imprisonment of 15 (fifteen) years.”²³ This definition will be analyzed in the context of the study to determine whether it sufficiently addresses femicide as a crime based on gender or not.

c. Femicide

Femicide, also known as **feminicide**, refers to the intentional killing of individuals motivated by animosity toward a specific gender, namely, women. This act is driven by systemic discrimination against women and girls, unequal power relations, entrenched gender stereotypes, and harmful societal stigmas directed at women. This concept alludes to the gendered

²³ Law Number 1 of 2023 on the Indonesian Criminal Code, *op. cit.* art. 458(1).

Brazilian legal framework that categorizes femicide as a type of aggravated homicide.

d. Urgency of Femicide Regulation

Given the growing statistics on violence against women and the shortcomings of the existing legal protections, urgency in this context is understood to mean the urgent need to include femicide as a distinct criminal offense in national law.

H. Research Method

a. Type of Research

This research employs a normative juridical method to examine the urgency of enforcing femicide law in Indonesia. It further aims to explore the possibilities of Brazil's legal substance on femicide to be effectively transplanted into Indonesia's legal system context to tackle femicide more comprehensively.

b. Method of Approach

This legal research uses a normative statutory and a conceptual approach to analyze the legal vacuum related to femicide in Indonesia and explores the potential adoption of femicide regulations in Brazil as a reference to be applied in the Indonesian legal system. The focus is on the study of laws, doctrines, and legal principles related to femicide.

c. Research Object

- a. The critical factors driving the urgency of regulating Femicide in Indonesia.
- b. The possibilities of Brazil's legal substance on femicide to be effectively transplanted into Indonesia's legal system context to tackle femicide more comprehensively.

d. Data Sources

This study uses two types of data, namely primary data and secondary data. Primary data comes straight from the source and is analyzed by researchers without the need for intermediaries.²⁴ This study did not use primary data. On the other hand, secondary data is information that researchers do not directly access, but rather that is gathered by third parties through a variety of techniques.²⁵ These secondary sources of information fall into two categories: primary and secondary legal materials. Primary legal materials include all legal rules created by state institutions or government agencies, including court rulings, legislative products such as basic laws or implementing laws, executive products such as government regulations, and legal products created by international organizations. The main legal resources consulted for this dissertation are as follows:

- a. Republic of Indonesia's 1945 Constitution.
- b. Law No. 1 of 2023 on the Indonesian Penal Code.
- c. Law No. 39 of 1999 on Human Rights.

²⁴ Suteki and Galang Taufani, *Metodologi Penelitian Hukum (Filsafat, Teori, Dan Praktik)*, 4th ed. (Depok: PT RajaGrafindo Persada, 2022), 214.

²⁵ *Ibid.* 216.

- d. Law No. 21 of 2007 on the Eradication of the Crime of Trafficking in Persons.
- e. Law No. 7 of 1984 on the Ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).
- f. Law No. 13.104 of 2015 on the Brazilian Penal Code.

Secondary legal materials include various forms of information related to legal issues, but they are not classified as positive law since they are not issued by legislative, executive, judicial, or administrative bodies.²⁶ This dissertation uses secondary legal materials that are pertinent to the issue of femicide, gender-based violence, and human rights, particularly for women, such as books, journals, research papers, and other scientific works, including online materials.

e. Data Collection Technique

The researcher collects the data by conducting a study on documents and also a library study. The documents studied or reviewed are Law No. 1 of 2023 on the Indonesian Penal Code, Republic of Indonesia's 1945 Constitution, Law No. 39 of 1999 on the Human Rights, Law No. 21 of 2007 on the Eradication of the Crime of Trafficking in Persons, Law No. 7 of 1984 on the Ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and Law No. 13.104 of 2015 on the Brazilian Penal Code.

²⁶ Soetandyo Wignjosoebroto, *Hukum Konsep Dan Metode*, 1st ed. (Malang: Setara Press, 2013), 68.

Meanwhile, the literature study was conducted by examining books and journals related to femicide and gender-based violence, utilitarian theory, feminist legal theory, criminalization theory, and criminal law policy.

f. Data Analysis Method

This research employs a descriptive-qualitative data analysis method to analyze the potential for enforcing femicide laws in Indonesia, by analyzing the possibilities of Brazil's legal substance on femicide to be effectively transplanted into Indonesia's legal system to tackle femicide more comprehensively through two main approaches: first, by examining the urgency of implementing femicide laws in Indonesia. Subsequently, the study will explore the possibilities of Brazil's legal substance on femicide to be effectively transplanted into Indonesia's legal system to tackle femicide more comprehensively. The conclusions drawn from this analysis will offer recommendations for improving law enforcement responses to violence against women in Indonesia.

I. Research Framework

CHAPTER I: Contains Background of the Problem, Problem Formulation, Research Objectives, Research Benefits, Literature Review, Research Methods, and Thesis Writing Systematics.

CHAPTER II: Contains a literature review. This chapter describes the theory used in the research.

CHAPTER III: Contains the results of analysis and discussion on the urgency of femicide regulations in Indonesia based on femicide cases that occur, as well as the ideal construction of femicide regulations in Indonesia by referring to Law No. 13.104 of 2015 on the Brazilian penal code, which regulates the matter of femicide.

CHAPTER IV: Chapter IV is a closing that contains conclusions and suggestions in accordance with the problems discussed in the research.