



Cassation-Level Sentencing Disparities and the Future of Criminal Justice in Indonesia

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How to cite

Rahmasari, Lisa., & Firmansyah,
Hery. 2026. Cassation-Level
Sentencing Disparities and the
Future of Criminal Justice in
Indonesia. *Jurnal Ilmu Hukum
Kyadiren* 8(1), 410-424.
<https://doi.org/10.46924/jihk.v8i1.465>

Original Article

Abstract

Sentencing disparities in serious criminal cases frequently generate debate concerning fairness, legal certainty, and the consistency of judicial decision-making, as reflected in the commutation of the death penalty to life imprisonment in Supreme Court Decision Number 813 K/Pid/2023 involving FS. This study aims to analyze sentencing disparities between appellate and cassation court decisions and to examine the implications of sentencing reforms under Law Number 1 of 2023 concerning the Criminal Code for judicial reasoning patterns and sentencing proportionality. The study employs a normative legal research method using statutory, case, conceptual, and comparative approaches, analyzed through a qualitative framework. The findings indicate that vertical sentencing disparities arise from differing penal philosophies adopted by the *judex facti* and *judex juris*. Furthermore, the 2023 Criminal Code has begun to shape judicial reasoning toward a more rehabilitative and humanistic approach to punishment. The study concludes that penal reform requires clearer sentencing guidelines to promote consistency in judicial decisions, strengthen legal certainty, and achieve substantive justice.

Keywords: *Sentencing Disparity, Criminal Punishment, Cassation Decision, 2023 Criminal Code.*

Abstrak

Disparitas pemidanaan dalam perkara pidana berat sering memunculkan perdebatan mengenai keadilan, kepastian hukum, dan konsistensi putusan hakim, sebagaimana terlihat pada perubahan pidana mati menjadi pidana penjara seumur hidup dalam Putusan Mahkamah Agung Nomor 813 K/Pid/2023 terhadap FS. Penelitian ini bertujuan menganalisis disparitas pemidanaan antara putusan tingkat banding dan kasasi serta mengkaji pengaruh pembaruan sistem pemidanaan dalam Undang-Undang Nomor 1 Tahun 2023 tentang KUHP terhadap pola pertimbangan hakim dan proporsionalitas pemidanaan. Penelitian menggunakan metode hukum normatif dengan pendekatan perundang-undangan, kasus, konseptual, dan perbandingan yang dianalisis secara kualitatif. Hasil kajian ini memandang bahwa adanya disparitas pemidanaan vertikal akibat perbedaan paradigma pemidanaan antara *judex facti* dan *judex juris*. Selain itu, KUHP 2023 mulai memengaruhi pertimbangan hakim menuju pendekatan rehabilitatif dan humanis. Kajian ini menyimpulkan bahwa reformasi pemidanaan memerlukan pedoman yang lebih jelas guna menjamin konsistensi putusan, kepastian hukum, dan keadilan substantif.

Kata kunci: *Disparitas, Pemidanaan, Putusan Kasasi, KUHP 2023*

1. INTRODUCTION

Indonesia, as a state governed by the rule of law, places law as the principal foundation for the organization of social, national, and governmental life, as affirmed in Article 1(3) of the 1945 Constitution of the Republic of Indonesia. The concept of the rule of law requires that all actions undertaken by citizens and state officials be subject to prevailing legal norms. Within this framework, law functions not only as an instrument of social control but also as a mechanism for protecting citizens' rights, maintaining public order, and realizing justice. One of the fundamental principles of a rule-of-law state is equality before the law, which guarantees equal treatment for all individuals regardless of status, position, or authority.¹

Within the Indonesian legal system, criminal law performs a strategic role in preserving social order through the imposition of punishment. However, punishment is not exclusively retributive in nature; it also incorporates rehabilitative, preventive, and protective dimensions. This evolving paradigm is increasingly evident in the reform of Indonesia's criminal law under Law Number 1 of 2023 concerning the Criminal Code, which repositions punishment as a corrective and proportionate instrument.

In the enforcement of criminal law, judges occupy a central position in determining criminal liability through judicial decisions. Although judicial independence is guaranteed under the principle of an independent judiciary, court decisions must remain grounded in evidentiary findings, trial facts, and societal conceptions of justice. Nevertheless, criminal justice practice frequently gives rise to sentencing disparities, defined as differences in punishment for identical or comparable offenses, whether among offenders or across judicial levels.²

This issue resurfaced prominently in the FS case through Supreme Court Decision Number 813 K/Pid/2023. At the trial level, the defendant received a death sentence for the premeditated murder of Brigadier Nofriansyah Yosua Hutabarat. However, at the cassation stage, the Supreme Court commuted the sentence to life imprisonment, taking into account the defendant's service record, acknowledgment of wrongdoing, and prospects for rehabilitation. This sentencing modification generated considerable debate concerning sentencing consistency, the public sense of justice, and the extent to which the new penal paradigm introduced by the 2023 Criminal Code influenced judicial reasoning. Accordingly, this study is significant for examining sentencing disparities in the FS case and assessing their implications for national penal reform aimed at advancing justice, legal certainty, and proportionality.

¹ Haposan Siallagan, "Penerapan Prinsip Negara Hukum Di Indonesia," *Sosiohumaniora* 18, no. 2 (2016): 131–37, <https://doi.org/10.24198/sosiohumaniora.v18i2.9947>.

² Hamidah Abdurrachman et al., *Palu Hakim Versus Rasa Keadilan Sebuah Pengantar Disparitas Putusan Hakim Dalam Tindak Pidana Korupsi* (Deepublish, 2020).

Scholarly discussions concerning sentencing disparities, judicial reasoning, and the dynamics of cassation decisions within Indonesia's criminal justice system have gained increasing academic attention, particularly following Supreme Court Decision Number 813 K/Pid/2023 in the FS case. The commutation of the death penalty to life imprisonment has generated debate regarding the authority of cassation judges, the consistency of sentencing outcomes, and the relationship between legal certainty, substantive justice, and penal reform. Although several prior studies have examined this case from different perspectives, a gap remains in the comprehensive analysis of sentencing disparities and their broader implications.

Research conducted by Prima Audisyam Ananda examines the nature of cassation review as *judex juris* within the Indonesian legal system. The study demonstrates that, in principle, the Supreme Court is authorized to review the application of law rather than reassess factual findings. Nonetheless, judicial practice in Indonesia reveals a degree of flexibility that permits the Supreme Court to adjudicate cases substantively in pursuit of justice. While this study contributes significantly to understanding the legitimacy of sentence modification at the cassation level, it does not specifically address sentencing disparities or the implications of the 2023 Criminal Code reforms for sentencing practices.³

Furthermore, a study by Kayla Fellicia Putri et al. analyzes Supreme Court Decision Number 813 K/Pid/2023 through the lenses of Critical Theory and progressive legal thought. The findings indicate that sentencing modification is shaped not solely by normative legal considerations but also by social constructions of justice and power relations. The decision is interpreted as a judicial effort to reconcile legal certainty with the public sense of justice. However, the study primarily emphasizes legal philosophy and does not provide a detailed examination of sentencing disparities across different judicial levels.⁴

Research conducted by Andrew Trinovada and Hery Firmansyah examines sentence reduction at the cassation level through Supreme Court Decision Number 816 K/Pid/2023. The study found that cassation judges considered rehabilitative objectives and correctional policy dimensions that had previously received limited attention at lower judicial levels. These findings are relevant to understanding the rationale underlying sentence reductions; however, the study does not specifically address cases of premeditated murder or the evolving sentencing paradigm introduced under the new Criminal Code.⁵

³ Prima Audisyam Ananda, "Pemeriksaan Kasasi Oleh Mahkamah Agung Yang Terbatas Pada *Judex Juris*" (Sriwijaya Sriwijaya, 2026), <https://repository.unsri.ac.id/193061/>.

⁴ Kayla Fellicia Putri et al., "Perubahan Hukum Pidana Dalam Kasus Ferdy Sambo Dan Tinjauan Sosiologi Hukum Terhadap Putusan Kasasi," *Syariah: Jurnal Ilmu Hukum* 3, no. 2 (2025): 148–53, <https://doi.org/10.62017/syariah.v3i2.6603>.

⁵ Andrew Trinovada and Hery Firmansyah, "Pengurangan Hukuman Pidana Terdakwa Tindak Pidana Pembunuhan Berencana Pada Tingkat Kasasi Oleh Mahkamah Agung: Studi Kasus Putusan Nomor 816

Similarly, Isman Isman specifically analyzes the considerations of cassation judges in the FS case and their implications for the application of premeditated murder provisions under the 2023 Criminal Code. The study demonstrates that cassation decisions possess the potential to function as judge-made law, bridging the formulation of newly enacted norms with judicial practice. Nevertheless, it does not provide an in-depth examination of vertical sentencing disparities across first-instance, appellate, and cassation decisions.⁶

Furthermore, Wilda Nadia Fitri conducted a comparative analysis between Supreme Court Decision Number 813 K/Pid/2023 and Supreme Court Decision Number 498 K/Pid/2017. The findings indicate a shift in penal orientation from a predominantly retributive model toward a combined sentencing theory following the enactment of the 2023 Criminal Code. However, the study adopts an inter-case comparative approach and does not examine sentencing modifications occurring within the same case trajectory.⁷

Studies by Muhammad Ilham Akbar Akbar et al., Ranubaya et al., and Intan Alfiyatur Rizqiyah primarily focus on legal philosophy, morality, and normative analysis from the perspectives of positive law and Islamic law. Although these studies enrich scholarly understanding of the social legitimacy and moral dimensions of judicial decisions, they do not comprehensively examine the relationship between sentencing changes in the FS case and the broader reform of Indonesia's criminal justice system under Law Number 1 of 2023 concerning the Criminal Code.⁸

Based on the existing body of scholarship, most studies have concentrated on judicial reasoning, philosophical dimensions, moral considerations, or comparative analyses of premeditated murder decisions. To date, no study has specifically examined sentencing disparities between appellate and cassation decisions in the FS case while simultaneously linking these disparities to the broader reform of the penal system under the 2023 Criminal Code. Accordingly, this study offers a distinct element of novelty by integrating an analysis of vertical sentencing disparity, the rationality underlying

K/Pid/2023," *Syntax Literate: Jurnal Ilmiah Indonesia* 9, no. 3 (2024): 1603–15, <https://doi.org/10.36418/syntax-literate.v9i3.14601>.

⁶ Isman Isman, "Pertimbangan Hakim Kasasi Dalam Kasus Sambo Dan Implikasinya Terhadap Penerapan Norma Pembunuhan Berencana Dalam KUHP 2023," *Lex Jurmalica* 20, no. 3 (2023): 291–301, <https://doi.org/10.47007/lj.v20i3.7329>.

⁷ Wilda Nadia Fitri, "Disparitas Putusan Hakim Terhadap Tindak Pidana Pembunuhan Berencana: Studi Putusan MA No. 813 K/Pid/2023 Dan Putusan MA No. 498 K/Pid/2017" (Universitas Islam Negeri Syarif Hidayatullah, 2024), <https://repository.uinjkt.ac.id/dspace/handle/123456789/84460>.

⁸ Muhammad Ilham Akbar Akbar et al., "Keadilan Antara Masyarakat Dengan Analisis Persepsi Keadilan Antara Masyarakat Dengan Putusan Pengadilan Terhadap Kasus Pembunuhan Oleh Ferdy Sambo," *Legal System Journal* 1, no. 2 (2024), <https://doi.org/10.70656/ljs.v1i2.143>; Fransesco Agnes Ranubaya et al., "Analisis Kasus Pembunuhan Berencana Brigadir J Oleh Ferdy Sambo: Dalam Tinjauan Norma Moral Obyektif & Subyektif," *Gloria Justitia* 4, no. 1 (2024): 19–39, <https://doi.org/10.25170/gloriajustitia.v4i1.5430>; Intan Alfiyatur Rizqiyah, "Analisis Yuridis Pertimbangan Majelis Hakim Terkait Putusan Seumur Hidup Terhadap Pelaku Tindak Pidana Pembunuhan Berencana" (Universitas Islam Negeri Kiai Haji Achmad Siddiq, 2024), <http://digilib.uinkhas.ac.id/id/eprint/37374>.

cassation judges' considerations, and the implications of national criminal law reform within a single comprehensive analytical framework. This study aims to analyze the commutation of the death penalty to life imprisonment in Supreme Court Decision Number 813 K/Pid/2023 and to assess the implications of Criminal Code reform for the realization of justice, legal certainty, and sentencing proportionality in Indonesia.

2. RESEARCH METHODOLOGY

This study employs a normative legal research method using qualitative-descriptive and prescriptive approaches to analyze sentencing disparities in the FS case as reflected in Supreme Court Decision Number 813 K/Pid/2023 and to examine their implications for criminal justice reform under Law Number 1 of 2023 concerning the Criminal Code. A normative legal approach was selected because the study focuses on the analysis of legal norms, legal principles, legal reasoning, and the ratio decidendi underlying judicial decisions.

The research adopts several complementary approaches. First, a statutory approach is employed to examine relevant provisions contained in the Criminal Code, the Criminal Procedure Code, the Law on Judicial Power, the Supreme Court Law, and the 2023 Criminal Code in order to assess the legal basis for the commutation of the death penalty to life imprisonment. Second, a case approach is utilized through an examination of the South Jakarta District Court Decision Number 796/Pid.B/2022/PN.Jkt.Sel, appellate decisions, and, in particular, Supreme Court Decision Number 813 K/Pid/2023 to identify vertical sentencing disparities and evaluate the rationality of the cassation judges' considerations. In addition, a conceptual approach is applied to explore theories of sentencing disparity, punishment theory, the principle of equality before the law, and the concepts of justice, proportionality, and legal certainty.

The study relies on primary, secondary, and tertiary legal materials obtained through library-based research. Data analysis is conducted qualitatively using interpretive and prescriptive methods, supported by systematic, grammatical, and teleological interpretation, to evaluate the consistency of the cassation decision with the principles of justice, legal certainty, and the reformed sentencing paradigm introduced by the 2023 Criminal Code.

3. RESEARCH RESULT AND DISCUSSION

3.1. Sentencing Disparities Between Appellate and Cassation Decisions in the FS Case: An Analysis of Supreme Court Decision Number 813 K/Pid/2023

The FS case originated from the premeditated murder of Nofriansyah Yosua Hutabarat in 2022, in which FS was identified as the principal perpetrator and intellectual author

of a coordinated murder scheme. In South Jakarta District Court Decision Number 796/Pid.B/2022/PN.Jkt.Sel, the panel of judges found the defendant legally and convincingly guilty of committing premeditated murder pursuant to Article 340 in conjunction with Article 55(1)(1) of the Criminal Code, as well as the offense of obstruction of electronic systems. Based on the evidentiary findings presented at trial, the court regarded the defendant's conduct as highly culpable due to its premeditated nature, abuse of authority, and extensive impact on the institutional credibility of the Indonesian National Police and public trust in law enforcement. Consequently, the death penalty was considered the most proportionate form of criminal accountability in light of the gravity of the offense.

This decision was subsequently affirmed by the Jakarta High Court through Decision Number 53/Pid/2023/PT.DKI. At the appellate level, the panel of judges substantially endorsed the reasoning of the *judex facti*, concluding that no mitigating circumstances justified a reduction in punishment. The appellate court emphasized the defendant's status as a high-ranking official within the Indonesian National Police as an aggravating factor, reasoning that the defendant possessed a clear understanding of legal norms yet deliberately engaged in conduct contrary to justice and the ethical principles governing the police institution. The decisions rendered at both the trial and appellate levels reflect consistency in a sentencing paradigm grounded in retributive principles, whereby punishment is imposed primarily as a proportionate response to the seriousness of the offender's wrongdoing.

A significant shift, however, emerged at the cassation stage when the Supreme Court, through Decision Number 813 K/Pid/2023, overturned the previous rulings by commuting the death sentence to life imprisonment. In contrast to the *judex facti*, the Supreme Court adopted a broader evaluative framework that extended beyond the gravity of the offense to encompass personal circumstances deemed relevant to sentencing. In its legal reasoning, the Court emphasized that judges are required to consider favorable aspects of the defendant's character and background, as stipulated in Article 8(2) of the Law on Judicial Power. Accordingly, the defendant's approximately thirty years of service within the Indonesian National Police, his strategic role in safeguarding national security, his acknowledgment of wrongdoing, and his willingness to accept responsibility were recognized as mitigating considerations.

This modification of the sentence constitutes a concrete illustration of judicial discretion and legal reasoning (*rechtsvinding*) within Indonesian criminal justice practice.⁹ In this respect, the Supreme Court did not merely apply statutory provisions in a textual manner but instead interpreted sentencing objectives more broadly by incorporating considerations of humanity, rehabilitation, and the offender's potential

⁹ Erdianto Effendi, "Expansion of Interpretation of the Indonesian Criminal Procedure Code in Pre-Trial Authority," paper presented at 2nd Riau Annual Meeting on Law and Social Sciences (RAMLAS 2021), 2022, <https://doi.org/10.2991/assehr.k.220406.026>.

for remorse alongside retributive concerns. In other words, the Court appears to have embraced a sentencing paradigm more closely aligned with an integrative theory of punishment rather than the predominantly absolute or retributive approach adopted at the *judex facti* level.

This interpretation is consistent with the argument advanced by Wilda Nadia Fitri, who contends that Supreme Court Decision Number 813 K/Pid/2023 reflects a paradigmatic shift in sentencing from a retributive orientation toward a more distributive and rehabilitative model following the enactment of the new Criminal Code.¹⁰ Nevertheless, the present study extends previous scholarship by demonstrating that sentencing disparities in the FS case arise not solely from differences in the severity or form of punishment but also from contrasting judicial paradigms across levels of adjudication regarding the objectives of punishment. While the *judex facti* prioritized retribution and deterrence, the *judex juris* placed greater emphasis on balancing sentencing proportionality with the possibility of the offender's moral rehabilitation.

This study is consistent with the findings of Isman Isman, who argues that the cassation ruling in the Sambo case has the potential to function as judge-made law or jurisprudence in the implementation of sentencing norms under the new Criminal Code.¹¹ From this perspective, Supreme Court Decision Number 813 K/Pid/2023 may be regarded as an early indication of a shifting orientation in Indonesia's penal system, particularly concerning the repositioning of the death penalty. Rather than being treated exclusively as an absolute principal punishment, the death penalty is increasingly viewed as a sanction to be imposed selectively and proportionately based on the circumstances of each case.

Nevertheless, this study identifies significant concerns regarding the consistency of legal application and the principle of legal certainty. From the standpoint of equality before the law, questions emerge as to whether the defendant's record of service as a high-ranking state official should legitimately constitute a mitigating factor in a crime committed through the abuse of official authority and institutional power. Critics argue that such considerations may create the perception of differential treatment for offenders occupying particular social or institutional positions. Accordingly, sentencing disparity in the FS case extends beyond mere differences in punishment severity and encompasses broader concerns regarding social legitimacy, judicial independence, and public perceptions of justice.

In principle, sentencing disparities in the FS case may be understood as a consequence of judicial independence in evaluating legal facts and the defendant's subjective circumstances. Differences in outcomes across judicial levels do not

¹⁰ Wilda Nadia Fitri, "Disparitas Putusan Hakim Terhadap Tindak Pidana Pembunuhan Berencana: Studi Putusan MA No. 813 K/Pid/2023 Dan Putusan MA No. 498 K/Pid/2017."

¹¹ Isman Isman, "Pertimbangan Hakim Kasasi Dalam Kasus Sambo Dan Implikasinya Terhadap Penerapan Norma Pembunuhan Berencana Dalam KUHP 2023."

necessarily indicate legal inconsistency; rather, they may reflect the discretionary authority afforded to judges in pursuing substantive justice in light of the specific context of a case. However, excessive disparities may also undermine legal certainty if they are not supported by transparent and coherent legal reasoning.¹² In the FS case, the commutation of the death sentence to life imprisonment demonstrates the Supreme Court's stronger emphasis on proportionality and humanitarian considerations, while simultaneously generating debate concerning the permissible boundaries of judicial discretion in serious criminal cases.

Moreover, mass media coverage and public opinion significantly shape perceptions of judicial decisions. The extensive media attention surrounding the FS case has resulted in the cassation ruling being evaluated not only through a legal lens but also from moral and societal perspectives concerning justice. This circumstance illustrates that, in the contemporary legal environment, the legitimacy of judicial decisions is determined not solely by normative legal validity but also by the extent to which judicial reasoning is socially accepted and perceived as fair.

The sentencing disparity in the FS case ultimately represents a form of vertical disparity arising from differences in sentencing orientation and judicial interpretation of aggravating and mitigating circumstances between the *judex facti* and *judex juris*. Through Decision Number 813 K/Pid/2023, the Supreme Court adopted a more progressive and proportionate sentencing approach than that employed at prior judicial levels. At the same time, however, the decision generated ongoing debate regarding legal consistency, the principle of equality before the law, and the legitimacy of the public sense of justice. Consequently, more measurable and consistent sentencing parameters are required in serious criminal cases to ensure that judicial discretion operates within the framework of legal certainty without undermining the pursuit of substantive justice.

3.2. The Impact of Penal System Reform Under Law Number 1 of 2023 Concerning the Criminal Code

One of the most fundamental reforms introduced by the 2023 Criminal Code concerns the transformation of sentencing orientation, shifting from a predominantly retributive framework toward a more corrective, rehabilitative, and restorative model. Under the previous Criminal Code, the objectives of punishment were not explicitly articulated, resulting in a sentencing framework largely directed toward imposing proportionate retribution upon offenders in accordance with the just deserts theory. This orientation was reflected in the penal structure established under Article 10 of the former Criminal

¹² Rocky Marbun and Agus Solichien, "Disparity of the Application of Adequate Legal Considerations: The Truth-Games in Criminal Court Decisions," *KnE Social Sciences*, October 4, 2022, 293–305, <https://doi.org/10.18502/kss.v7i15.12098>; Holli Sargeant and Måns Magnusson, "Formalising Anti-Discrimination Law in Automated Decision Systems," *Proceedings of the 2025 ACM Conference on Fairness, Accountability, and Transparency*, June 23, 2025, 181–94, <https://doi.org/10.1145/3715275.3732015>.

Code, which positioned the death penalty, imprisonment, confinement, and fines primarily as instruments for imposing suffering upon offenders. Such a paradigm prioritized deterrence and the preservation of social order, operating under the assumption that severe punishment constituted the principal mechanism for crime prevention.

In contrast, the 2023 Criminal Code introduces a more progressive sentencing framework by explicitly defining the objectives of punishment under Article 51. This provision emphasizes that punishment is not solely intended to inflict suffering upon offenders but also to prevent criminal conduct, facilitate offender rehabilitation and reintegration, resolve conflicts, restore social balance, and provide a sense of security for society. Consequently, the orientation of sentencing has undergone a significant transformation from a predominantly punitive approach toward a more integrative and human-centered model. This philosophical shift has substantially influenced judicial reasoning, particularly in relation to evaluating the defendant's subjective circumstances, prospects for rehabilitation, and the proportionality of punishment.

This evolving paradigm has gradually begun to manifest in criminal justice practice, including in the FS case. Although the case was formally adjudicated under the provisions of the former Criminal Code, the reasoning adopted by the Supreme Court in Decision Number 813 K/Pid/2023 reflects a tendency to incorporate contemporary sentencing values embodied in the new Criminal Code. The Supreme Court did not confine its analysis to the gravity of the defendant's premeditated murder offense but also considered personal factors, including the defendant's service record within the Indonesian National Police (Polri), acknowledgment of wrongdoing, and potential for moral and personal rehabilitation. These considerations suggest a shift in judicial reasoning from a purely retributive orientation toward a more humane and proportionate sentencing approach.

Significant conceptual changes are also evident in relation to the death penalty. Under the former Criminal Code, capital punishment was classified as an absolute principal punishment that could be imposed directly for certain offenses, including premeditated murder. However, Articles 67 and 98 of the 2023 Criminal Code reposition the death penalty as a special form of punishment to be applied as *ultimum remedium*, or a measure of last resort. Under the new framework, the death penalty is imposed as an alternative to life imprisonment or a maximum term of twenty years' imprisonment, with due consideration given to the offender's prospects for rehabilitation. This reform indirectly shapes judicial reasoning in premeditated murder cases by expanding interpretive space concerning sentencing proportionality.

In the FS case, the commutation of the death sentence to life imprisonment at the cassation stage may be understood as an early manifestation of this shifting sentencing paradigm. The Supreme Court appears to have recognized that, despite the gravity of

the defendant's conduct and its extensive societal consequences, capital punishment should no longer be viewed as the sole proportionate response to serious criminal conduct. By incorporating rehabilitative and humanitarian considerations, life imprisonment was regarded as a more proportionate sanction capable of ensuring criminal accountability while preserving opportunities for moral reflection and rehabilitation. Accordingly, the reforms introduced under the 2023 Criminal Code have begun to influence judicial deliberation even prior to the full implementation of the new statutory framework.

This interpretation is consistent with the findings of Muhammad Ilham Akbar Akbar et al., who argue that the sentencing modification in the FS case reflects a broader transformation in Indonesia's penal philosophy from a retributive orientation toward a rehabilitative model.¹³ Nevertheless, the present study demonstrates that this transformation extends beyond penal philosophy and also affects the consistency of cassation decisions and the structure of judicial reasoning in interpreting substantive justice.

This interpretation is also consistent with the findings of Wilda Nadia Fitri, who argues that Supreme Court Decision Number 813 K/Pid/2023 demonstrates the growing influence of a combined theory of punishment and reflects a broader transformation in sentencing orientation following the enactment of the new Criminal Code.¹⁴ Nevertheless, the findings of the present study indicate that the influence of the 2023 Criminal Code on cassation decisions remains largely implicit and is not yet supported by standardized sentencing guidelines. As a consequence, judicial discretion is substantially expanded, creating the potential for disparities in sentencing across comparable cases.

The reform of the penal system also presents significant challenges concerning the consistency of cassation decisions. On the one hand, flexibility in judicial reasoning enables the realization of substantive justice by allowing sentences to be tailored to the offender's individual circumstances and the specific context of the offense.¹⁵ On the other hand, the absence of clear parameters governing the application of rehabilitative principles may contribute to inconsistencies across judicial decisions.¹⁶ In cases of premeditated murder, for instance, one judge may uphold the death penalty on the basis of the gravity of the offense and its consequences, whereas another may impose life

¹³ Muhammad Ilham Akbar akbar et al., "Keadilan Antara Masyarakat Dengan Analisis Persepsi Keadilan Antara Masyarakat Dengan Putusan Pengadilan Terhadap Kasus Pembunuhan Oleh Ferdy Sambo."

¹⁴ Wilda Nadia Fitri, "Disparitas Putusan Hakim Terhadap Tindak Pidana Pembunuhan Berencana: Studi Putusan MA No. 813 K/Pid/2023 Dan Putusan MA No. 498 K/Pid/2017."

¹⁵ Ralph Henham, "Sentencing Policy, Social Values and Discretionary Justice," *Oxford Journal of Legal Studies* 42, no. 4 (2022): 1093–117, <https://doi.org/10.1093/ojls/gqac011>.

¹⁶ Ferisa Dian Fitria et al., "Sentencing Under The Special Minimum Threat For Small-Scale Drug Traffickers: Challenges And Implications For Justice And Drug Eradication Policy," *International Journal Of Humanities Education and Social Sciences (IJHESS)* 4, no. 3 (2024): 1363–72, <https://doi.org/10.55227/ijhess.v4i3.1336>.

imprisonment based on considerations of rehabilitation and humanitarian values. This situation illustrates that penal reform requires further harmonization to minimize legal uncertainty and ensure greater consistency in sentencing practices.

Under the 2023 Criminal Code, the principle of justice is no longer narrowly interpreted as the imposition of proportionate punishment alone but increasingly incorporates corrective and restorative dimensions. In the context of the FS case, some segments of society perceive the commutation of the death sentence to life imprisonment as inconsistent with the seriousness of the crime and, therefore, inadequate in reflecting public expectations of justice. However, the Supreme Court appears to have adopted a proportional justice approach by balancing the offender's degree of culpability, the defendant's personal circumstances, and the long-term objectives of sentencing.

The reform of Indonesia's penal system under the 2023 Criminal Code has consequently driven a transformation in criminal justice practice toward a more humane and proportionate model of punishment. However, this transformation also carries the consequence of expanding judicial discretion, which, if not accompanied by clear sentencing standards, may generate disparities and inconsistencies across judicial decisions. Accordingly, the effective implementation of the new Criminal Code depends substantially upon the judiciary's ability to establish coherent sentencing standards while preserving judicial independence.

The sentencing reforms introduced under the 2023 Criminal Code have exerted a substantial influence on judicial reasoning, particularly in premeditated murder cases, by strengthening the principles of rehabilitation, proportionality, and humanity in sentencing. In the FS case, the commutation of the death penalty to life imprisonment reflects the Supreme Court's internalization of contemporary sentencing values. Nevertheless, these reforms continue to pose challenges concerning consistency in judicial decisions, legal certainty, and the appropriate boundaries of judicial discretion. Therefore, the formulation of more comprehensive national sentencing guidelines is necessary to ensure that criminal law reform remains aligned with the principles of justice, legal certainty, public protection, and sentencing proportionality in Indonesia.

4. CONCLUSION

This study aims to examine sentencing disparities between appellate and cassation decisions in the FS case based on Supreme Court Decision Number 813 K/Pid/2023 and to analyze the implications of sentencing reform under Law Number 1 of 2023 concerning the Criminal Code for judicial reasoning patterns, the consistency of cassation decisions, and the implementation of the principles of justice, legal certainty, and proportionality in premeditated murder cases. The findings demonstrate the existence of a vertical sentencing disparity between the decisions of the *judex facti* and

judex juris, as reflected in the commutation of the death penalty to life imprisonment. This disparity is influenced by differing sentencing paradigms and judicial assessments of aggravating and mitigating circumstances surrounding the defendant. The Supreme Court appears to adopt a more proportionate and humane sentencing approach by considering rehabilitative objectives, the defendant's service record, acknowledgment of wrongdoing, and prospects for personal reform.

Furthermore, the 2023 Criminal Code has begun to influence sentencing orientation toward a more corrective, rehabilitative, and restorative framework, although its implementation continues to present risks of inconsistency due to the broad scope of judicial discretion. This study contributes theoretically to the development of criminal law scholarship and provides evaluative insights into national penal reform. Nevertheless, its principal limitation lies in its exclusive focus on a single cassation case. Accordingly, the government and the Supreme Court should formulate more measurable and standardized sentencing guidelines to ensure consistency in judicial decisions and strengthen legal certainty. Future research is recommended to undertake comparative analyses of multiple premeditated murder cases following the implementation of the 2023 Criminal Code in order to empirically assess the effectiveness of penal system reform in Indonesia.

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