



Preventing Murder Without Expanding Punishment: Rethinking Homicide Policy Beyond Deterrence

Zul Khaidir Kadir¹

¹ Fakultas Hukum, Universitas Muslim Indonesia

Correspondence: zulkhaidir.kadir@umi.ac.id

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ABSTRACT

This article examines how murder can be prevented without making penal expansion the dominant reflex of criminal policy. The analysis starts from a basic tension in homicide law. Criminal punishment is necessary to condemn intentional unlawful killing, although punishment usually becomes most forceful only after prevention has failed. Using comparative criminal policy analysis, the article compares Japan, Germany, Scotland and England, and the United States to identify how states interrupt lethal violence before murder is completed. The analysis shows that deterrence based on sentence severity has limited preventive value when homicide emerges through coercive control, immediate retaliation, or easy access to lethal means. Japan illustrates the preventive force of strict weapon regulation. Germany highlights the need for legally disciplined early intervention. Scotland and England show how public health and multi-agency strategies can reach serious violence before trial becomes relevant. The United States exposes the weakness of severe punishment where firearm availability remains high and legal trust is uneven. The article advances the concept of homicide prevention architecture, a layered model that links risk intelligence, lethal-means restriction, victim-centred protection, community violence intervention, and accountable criminal law while preserving legality, proportionality, and culpability. This approach simultaneously resists punitive reflex and preventive overreach.



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INTRODUCTION

Intentional homicide remains one of the most reliable legal indicators for comparing lethal violence because death is harder to conceal than many other forms of crime (Buil-Gil et al., 2026). Murder, however, is not identical to homicide in every legal system. Homicide covers a wider family of unlawful and sometimes lawful killings, while murder usually refers to the gravest form of unlawful killing, shaped by intent, malice, premeditation, or other jurisdiction-specific elements (Handler, 2026). The term murder is used here as a normative entry point into the prevention of intentional unlawful killing. That clarification matters because a policy aimed at preventing murder cannot rely only on the categories used after a death has occurred. The legal label arrives at the end of a process that may have been visible earlier through threats, weapons, repeated violence, or failed protection.

Criminal law has a strong reason to treat murder with exceptional seriousness (Kadir, 2025b). The taking of life gives the state its clearest ground for condemnation, punishment, and public reassurance. Legal systems usually respond through offence grading, aggravating factors, minimum penalties, parole restrictions, and life sentences. Such devices are not inherently misguided. A legal order that treats intentional killing lightly would weaken its own claim to protect human life. The policy difficulty lies elsewhere. A state may punish murder severely and still lack the institutional capacity to stop ordinary disputes, coercive relationships, or local retaliations from becoming fatal (Chainey & Gomes de Almeida, 2021). Severity after death can coexist with weakness before death, and that tension is rarely solved by adding another layer of punishment.

Deterrence has long supplied the most convenient explanation for penal severity. The assumption is that a rational person who knows the cost of murder will refrain from killing. Criminal

law needs that assumption in a limited sense, since sanctions communicate the gravity of prohibited conduct. The assumption becomes fragile once it is asked to carry the whole burden of prevention. Many killings do not begin with a calm calculation of legal consequences. Domestic homicide may follow stalking, separation, economic control, earlier assault, and a threat that nobody assessed properly. A fatal stabbing may begin as a fight among young men after drinking, where the decisive factor is the presence of a knife, not the length of the prison term attached to murder.

A more precise account must separate criminal liability from homicide prevention. Criminal liability asks whether the accused possessed the required mental element, whether a defence applies, and what punishment is proportionate (Scobie, 2024). Prevention asks why a known risk was not interrupted earlier. The difference is not merely technical. A legal system can be sophisticated in proving intent yet poor in recognising lethal escalation. Reports of threats may be treated as private conflict. A violent partner may retain access to a firearm. A neighbourhood may expect retaliation after an assault, while no credible actor has enough trust to intervene. These failures do not belong outside homicide policy. They mark the places where homicide policy either starts early or becomes a post-mortem exercise.

Existing scholarship has not fully joined these strands (Cook, 2025). Doctrinal criminal law remains strong in analysing murder, manslaughter, intent, provocation, self-defence, and sentencing. Homicide studies and criminology give richer accounts of risk, victimisation, weapon availability, and social concentration of lethal violence (Krüsselmann et al., 2025). Public health approaches add a practical language of risk factors, protective factors, and early intervention (Mehra et al., 2018). Each strand is useful, yet their points of contact remain underdeveloped. The legal literature may treat prevention as a sentencing or policing issue. The criminological literature may describe risk without clarifying the limits of lawful intervention (Kadir, 2026a). Public health language may understate the danger of turning risk into a basis for coercion. That unresolved junction is where a comparative criminal policy analysis becomes necessary.

The inquiry pursued here is to explain how murder prevention can be designed without making harsher punishment the main policy reflex. The analysis links criminal law, homicide studies, and violence prevention in order to identify the conditions under which states can reduce lethal violence before criminal liability becomes the only available response (Silva et al., 2023). A comparative approach allows that problem to be tested across different institutional arrangements rather than through abstract theory alone. Japan is relevant as a low-homicide and lethal-means restriction model, particularly because strict firearm control reduces the chance that conflict becomes fatal. Germany offers a legal-institutional model where serious criminal law is supported by broader social and regulatory capacity. Scotland and England provide a public health violence reduction model, especially in relation to serious youth violence and knife crime. The United States supplies the sharpest contrast, since penal severity and extensive criminal enforcement exist alongside high firearm availability and uneven local prevention capacity.

The aim is not to rank legal systems. The comparison is used to isolate which parts of prevention depend on punishment and which parts depend on institutions that act before murder becomes a completed offence. A useful homicide policy cannot be built by collapsing all prevention into deterrence. Risk intelligence, lethal means restriction, victim-centred protection, community violence intervention, and accountable criminal law need to be understood as connected parts of one prevention structure. Such a structure also has to remain legally cautious. Prevention can slide into over-policing, predictive control, or punishment based on identity rather than conduct. A defensible policy must prevent lethal violence without confusing risk with culpability, since people cannot be treated as offenders merely because the state believes they may become dangerous.

The concept advanced here is homicide prevention architecture. The term refers to a layered design of criminal policy that reduces murder without treating penal expansion as the default answer. The concept differs from a general public health approach because it keeps criminal law, legality, proportionality, and due process inside the model. Criminal law remains necessary, but its role becomes more exact. Rather than carrying the whole burden of prevention through severity, criminal law works alongside institutions that identify risk, limit access to lethal means, protect likely victims, and interrupt retaliation before the final act occurs. The core question is no longer how severely a state punishes murder after death, but how carefully it prevents lethal violence before punishment becomes the only language left.

RESEARCH METHODS

This study uses comparative criminal policy research to examine how murder prevention can be designed without making penal expansion the dominant response. The analysis combines doctrinal and socio-legal inquiry because the prevention of intentional unlawful killing cannot be explained by homicide offences alone. Doctrinal analysis is used to clarify how criminal law defines and responds to serious unlawful killing, including offence classification, culpability, aggravation, sentencing, and the limits of preventive intervention. Socio-legal analysis is used to examine how legal rules interact with institutions that act before a killing occurs, such as firearm regulation, domestic violence risk assessment, youth violence intervention, victim protection, and community-based prevention. This combined approach is necessary because murder is legally completed at the moment of unlawful death, while prevention operates through earlier signals that may appear as threats, coercion, repeated assaults, weapon access, or local retaliation.

The jurisdictions are selected through purposive comparison rather than geographical representation. Japan is used as a low-homicide and lethal-means restriction model, with attention to how strict firearm control narrows the capacity of ordinary conflict to become fatal. Germany is examined as a legal-institutional model where serious homicide law operates alongside broader regulatory and social capacity. Scotland and England are treated as a public health violence reduction model, particularly through policies concerned with serious youth violence, knife crime, and multi-agency intervention. The United States is included as a contrast case because penal severity, extensive criminal enforcement, and high firearm availability coexist in a more unstable prevention environment. These jurisdictions are not presented as fixed success or failure stories. Their value lies in the analytical contrast they provide between punishment, institutional capacity, weapon availability, public health prevention, and legal trust.

The analysis proceeds in three steps. First, the study maps how each jurisdiction locates murder or intentional unlawful killing within criminal law and how far penal severity is treated as a preventive tool. Second, the study traces the non-penal and para-penal mechanisms used to reduce lethal violence before death occurs, including lethal-means restriction, risk intelligence, victim-centred protection, and community violence intervention. Third, the findings are reconstructed into the concept of homicide prevention architecture, a layered model that connects prevention with legality, proportionality, due process, and accountability. The method is not designed to measure causal effects statistically. Its purpose is to develop a normative and comparative policy account of how states can prevent murder while avoiding a slide from prevention into over-policing, predictive control, or punishment based on risk detached from culpable conduct.

RESULTS AND DISCUSSION

1. The Limits of Deterrence in Homicide Prevention

Punishment remains necessary in homicide law because murder cannot be treated as an ordinary wrong. Yet the moment at which punishment becomes most forceful is also the moment at which prevention has mostly failed. Criminal law speaks after death, after the facts can be reconstructed and the accused can be placed inside a doctrine of culpability (Kadir, 2026d). The preventive question arrives earlier and in a less settled form. A warning may not yet look like a homicide case. A household marked by repeated intimidation may still be processed as a private dispute (Juste Abramovaite et al., 2022). The difficulty for criminal policy lies in that unstable interval. Sentence severity becomes a weak substitute when the state has already missed the point at which danger could still be interrupted.

A familiar account of deterrence gives too much weight to the harshness of punishment. Severity is politically attractive because it is visible. Certainty is harder because it depends on whether the person expects the law to reach him. Timing is harder still because intervention must occur while the conflict can still be redirected (Buckenmaier et al., 2021). That distinction matters for homicide. A planned killing may leave room for legal calculation in a way that a retaliatory attack does not (Kadir, 2026c). The person who acts after public humiliation may be responding to a local audience that feels immediate (Braga et al., 2026). The future court is distant. The problem is not that deterrence has no influence. Its influence weakens in precisely those situations where violence moves quickly from grievance to death (Kroll et al., 2024).

Coercive control gives this weakness a sharper legal form. A victim who tries to leave an abusive partner may face a threat that appears legally modest because serious injury has not yet occurred. The danger lies in the pattern that gives the threat its meaning (Rumpf et al., 2024). Control works by shrinking the victim's safe choices before the final act. A later murder conviction can confirm culpability, but it cannot repair the earlier failure to read the relationship as an escalating course of conduct (Graham et al., 2021). The question for prevention is not whether every domestic conflict should be treated as impending murder. That would be legally dangerous. The harder question is why some repeated conduct remains invisible until the victim's death turns the pattern into evidence (Chopra et al., 2022).

Lethality can also be produced by a small material difference (van Breen et al., 2023). A fight that might have ended as assault can become murder because a weapon was already within reach. Criminal doctrine will later examine intent and causation. Prevention has to ask why the encounter was allowed to unfold under conditions where a brief loss of control could become fatal (Mappaselleng & Kadir, 2025). The weapon does not erase agency. The offender remains answerable for using it. Still, the presence of lethal means changes the practical architecture of the event. Time becomes shorter. Withdrawal becomes harder. Emergency response becomes less useful. A sentence imposed months later cannot alter the condition that made death possible in seconds.

Penal expansion survives because it avoids a more uncomfortable inquiry. After a killing, government can promise a heavier sentence without admitting that earlier intervention may have failed. A serious review would ask why a warning was treated as routine, why protection had no practical force, or why access to a weapon remained possible despite a known history of danger (Garcia-Vergara et al., 2024). Those questions are administratively inconvenient because they concern institutions before the homicide file exists. Severe punishment gives the state a visible answer after the wrong is complete. Prevention asks the state to act during uncertainty, where the legal category is still forming and public attention is usually weak.

A more credible homicide policy would give deterrence a narrower role. Punishment should remain the language of culpability after unlawful killing has been proved. Earlier intervention needs a different legal basis. A threat from a violent partner may justify action before death occurs, but only because the threat is conduct that can be evidenced and challenged. Risk cannot be allowed to become a free-standing substitute for guilt. That boundary is essential. A state that acts too late leaves victims exposed. A state that acts too early without legal discipline turns prevention into coercion. The unresolved task is to enter the space of visible danger without treating predicted harm as completed blame.

2. Comparative Models of Non-Penal Homicide Prevention

The comparison across jurisdictions matters only if it explains how states interrupt lethality before punishment becomes relevant. Japan offers the clearest example of prevention through material restriction. The *Firearms and Swords Control Law* does not merely punish unlawful firearm conduct after violence occurs. It narrows the ordinary availability of lethal means before conflict begins (Greenberg, 2024). The policy effect is not that Japan eliminates interpersonal violence. No serious comparison should make that claim. The point is more precise. A quarrel that occurs without easy access to a firearm has a different pathway from one that occurs in an environment where a gun is already available. Japan's model changes the practical threshold between violence and death.

That threshold is central to homicide prevention. Deterrence asks whether a person refrains from killing because punishment is severe. Lethal-means restriction asks whether the person can transform conflict into death with minimal effort. The second question is often more useful. A firearm compresses distance and time. It can make a transient decision irreversible before other actors can intervene (Schell et al., 2024). Japan's policy lesson is therefore not cultural exceptionalism. The relevant lesson is institutional. Criminal law is supported by a regulatory structure that prevents lethal capacity from becoming ordinary. Punishment remains available when killing occurs, but prevention has already operated through the conditions that make killing harder to complete.

Germany offers a different lesson because its preventive value lies in legal discipline rather than in a single homicide rule. The *Weapons Act* treats weapons as matters of public security that require legal authorisation. The *Protection against Violence Act* gives victims of domestic violence a legal route to protection before the relationship produces more serious harm. The homicide relevance of these instruments lies in their timing (Kadir, 2026b). They act before murder, but they do not abandon legal

form. This is crucial for the argument developed here. Prevention cannot be reduced to a managerial desire to control risk. In the German model, the state's earlier action still has to pass through legal authority, evidentiary threshold, and a recognisable institutional procedure.

The German example prevents the analysis from becoming naïvely preventive. A state may intervene before death to protect a likely victim, yet that intervention can become abusive if risk is detached from conduct. Domestic violence protection works best when the law recognises a concrete pattern rather than relying on a vague profile of dangerousness (Mennear et al., 2024). Weapon regulation works best when possession is treated as a matter of public security without turning ordinary citizens into permanent suspects. Germany's contribution is not that it solves homicide prevention. Its contribution is that it keeps the prevention question tied to legality. That tie matters because the line between protection and preventive coercion can become thin once the state begins acting before a completed offence.

Scotland brings another mechanism into view. The Scottish Violence Reduction Unit uses a public health approach that treats violence as preventable rather than as a matter left solely to prosecution after injury or death. The institutional shift is important. A stabbing victim in a hospital is not only a patient and not yet necessarily a future defendant. That moment can become an opportunity to interrupt retaliation. A public health model asks who can intervene before the next violent episode occurs (Sidebottom & Tilley, 2023). This is not soft justice. It is a recognition that the criminal trial often arrives after the social rhythm of violence has already produced another victim.

England and Wales move the same idea into statutory policy through the *Serious Violence Duty*. The duty requires specified authorities to collaborate in preventing and reducing serious violence. Its significance lies in the movement away from a single-agency view of crime (Lightowlers & Duke, 2024). Serious violence can be noticed by schools, health services, local authorities, and community actors before police have a complete criminal case. That arrangement has a clear homicide-prevention logic. Some risks become visible outside the ordinary criminal process. A child carrying a knife for protection is not yet a murderer, but the practice may reveal a local environment where fear is being converted into lethal readiness (Cornish et al., 2025). The law's challenge is to turn that early visibility into action without making youth vulnerability indistinguishable from criminal blame.

The United States supplies the most difficult contrast because severe punishment coexists with high firearm lethality. The issue is not that American homicide can be explained by guns alone. Such a claim would be too thin. The sharper point is that firearm availability changes the time structure of violence. A dispute that might remain non-fatal elsewhere can become a shooting before any deterrent calculation has practical force. Federal law recognises this problem in domestic violence through firearm prohibitions for certain convicted abusers and for persons subject to qualifying protection orders. The Supreme Court's decision in *United States v Rahimi* confirms that the legal system can treat credible domestic violence danger as a ground for temporary disarmament (Tobin-Tyler, 2024). That example matters because it connects risk to conduct and legal process rather than to a general prediction of dangerousness.

American variation also warns against equating punishment with prevention (Frey et al., 2020). A jurisdiction may impose severe sentences and still fail to interrupt the moment when a gun enters a volatile conflict. Community violence intervention programmes and hospital-based initiatives try to work in that earlier space, although their stability depends on funding, local credibility, and protection from being absorbed into ordinary surveillance (Lund et al., 2025). The American lesson is therefore double-edged. It reveals the weakness of penal severity where lethal means remain widely available. It also shows that earlier intervention must earn trust in places where residents may see the state as punitive at the end and absent at the beginning.

The comparative finding is clear enough. Homicide prevention depends less on the formal severity of murder punishment than on the capacity to reduce lethality before violence crosses the threshold of criminal homicide (Kadir & Mappaselleng, 2025). Japan demonstrates the preventive force of restricting lethal means. Germany shows why early action needs legal discipline. Scotland and England illustrate how prevention can begin outside the courtroom. The United States exposes the weakness of punitive severity when lethal capacity remains socially available and legal trust is uneven. These cases should not be copied mechanically. Their value lies in showing where each system tries to interrupt the movement from danger to death.

3. Reconstructing Homicide Policy Beyond Punishment

Homicide prevention architecture begins from a simple problem that criminal law cannot solve alone. Murder is legally clear after death, but prevention has to operate before the event has acquired that clarity. The state must decide what can be done when danger is visible but culpability for murder has not yet been established. That space is uncomfortable. Acting too late leaves the victim unprotected. Acting too early without legal restraint risks punishing a person for what the state fears he might do. The model proposed here does not replace criminal law with public health language. It reorganises criminal policy around the point at which lethal harm may still be interrupted.

The first element is risk intelligence, but the term must be kept legally modest. Risk intelligence is not prediction dressed as proof (Valdivia et al., 2025). Its purpose is to make existing conduct intelligible before it becomes fatal. A threat during separation may be treated as a minor incident if no one reads it against the prior course of control. A hospital visit after a stabbing may remain a medical episode if no institution asks whether retaliation is likely. The comparative lesson from Scotland and England is useful here. Public health violence reduction and the *Serious Violence Duty* both assume that serious violence is visible in more than one institutional location. The legal issue is how to connect that visibility without creating a system of suspicion that cannot be challenged.

The second element is control of lethal means. Japan gives this element its clearest form, while the United States gives its clearest warning. A homicide policy that ignores weapon access leaves too much work to punishment after death. Lethal means restriction does not claim that weapons cause murder by themselves. It claims that weapons change what a moment of anger or fear can produce. This is why firearm rules in domestic violence cases matter. Disarming a person subject to a qualifying protection order is not punishment for murder in advance (Reed et al., 2025). It is a legally bounded response to conduct that has already reached a recognised level of danger. The principle is narrow, but its preventive value is substantial.

The third element is victim-centred protection that works before the victim becomes evidence in a homicide case. Germany's domestic violence protection framework helps clarify the point. Protection is not merely a service added after criminal law has acted (Aung, 2022). It can be the central mechanism through which homicide is prevented. The practical question is whether the victim has a safe way to leave, whether a protection order can change the offender's access, and whether breach produces a response soon enough to matter. A symbolic order may satisfy procedure while leaving the victim exposed. A coercive response may take control away from the victim in the name of safety. The architecture has to hold both dangers in view.

Community violence intervention forms the fourth element, but it should not be romanticised. In retaliatory violence, the first person who hears that another attack is coming may not be a police officer. A hospital worker, a youth mentor, or a trusted local figure may reach the conflict before formal law can. The Scottish public health experience gives institutional legitimacy to that earlier point of contact (Brennan & Myhill, 2022). American community violence intervention shows the promise and fragility of the same idea (Buggs et al., 2022). Such intervention can interrupt violence before a case exists, yet it can lose legitimacy if the community sees it as informal policing. The purpose is not to move criminal justice into the neighbourhood through another channel. The purpose is to create a credible pause before retaliation hardens into lethal action.

The final element is accountable criminal law. Earlier prevention still needs coercive capacity at times (Duffy et al., 2023). A credible threat may require arrest. A breach of a protection order may require swift consequence. A weapon kept in defiance of a legal prohibition may justify immediate state action. The important limit is that criminal law must enter through conduct that can be proved. Germany's insistence on legal form and the American domestic violence firearm prohibitions both help clarify this boundary. Risk may justify attention. Conduct justifies coercion. That distinction keeps homicide prevention from becoming punishment without culpability.

The model therefore rests on an ordered relationship between institutions rather than on a new slogan. Risk intelligence identifies conduct that might otherwise remain fragmented. Lethal means restriction reduces the chance that conflict becomes fatal before reflection is possible. Victim protection turns safety into a practical condition rather than a symbolic promise. Community intervention reaches conflicts that formal law may not reach in time. Accountable criminal law supplies coercive authority where danger has taken a legally recognisable form. These elements are not a checklist to be copied.

Their function is relational. Each compensates for a limit in the others, and each needs legal restraint because prevention without restraint can become a different kind of harm (Simanovic et al., 2024).

A serious objection remains. Prevention can become the language through which the state expands control over people who are already heavily policed. Predictive systems can convert poverty, place, or association into signs of future guilt (Berk, 2021). Gang databases can follow young people long after the conduct that first placed them under suspicion. Domestic violence intervention can also become paternalistic if victim safety is used to silence the person the policy claims to protect. Homicide prevention architecture must therefore be built with auditability, contestability, and procedural humility. The state must be able to explain what conduct triggered intervention. The person affected must have a route to challenge coercive action. The victim must not disappear behind institutional claims of protection.

The reconstruction offered here changes the order of homicide policy. The conventional order begins with murder as a completed wrong and then asks how severe punishment should be (Kadir, 2025a). A prevention architecture begins earlier and asks what lawful action could keep visible danger from becoming death. That shift does not make punishment less serious. It makes punishment less isolated. Criminal law remains the institution that condemns murder after proof, but it should not be left alone to prevent murder before proof exists. The difficult work lies in the space where risk has become visible, the victim is still alive, and the state must act without pretending that danger is already guilt (Hobson et al., 2023).

CONCLUSION

This article has argued that murder prevention cannot be reduced to the expansion of punishment. Severe criminal sanctions remain necessary because intentional unlawful killing requires the strongest form of legal condemnation. Yet deterrence becomes a fragile policy foundation when severity is expected to prevent violence that emerges through coercive control, immediate retaliation, or access to lethal means. The comparative analysis supports a more precise conclusion. Japan demonstrates how strict control of lethal means can raise the practical threshold between conflict and death. Germany shows that earlier intervention must remain tied to legality and conduct-based justification. Scotland and England illustrate how serious violence can be interrupted through public health and multi-agency prevention before a homicide case exists. The United States exposes the weakness of penal severity where firearm availability and uneven legal trust shorten the time available for intervention.

Homicide prevention architecture offers a way to organise these lessons without abandoning criminal law or turning prevention into unchecked state control. The model places punishment within a wider sequence of risk intelligence, lethal means restriction, victim-centred protection, community violence intervention, and accountable criminal law. Its central claim is not that the state should act earlier at any cost. Earlier action is justified only when danger is tied to conduct that can be evidenced, challenged, and restrained by legal safeguards. A policy that waits for murder leaves punishment as the state's final language. A policy that treats risk as guilt damages legality in the name of safety. The more defensible path lies between those failures, where visible danger is taken seriously before death occurs, but culpability remains the boundary of criminal punishment.

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