

Juridical Review of Criminal Arrangements in the Case of Violent Theft

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Abstract

Law enforcement in Indonesia has various kinds of legal issues with various scenarios and motives for criminal acts committed. One of them is the Crime of Theft with Violence. . In this case, the Crime of Theft with Violence is qualified as a theft that is included in the case of theft with aggravation regulated in Article 363 of the Criminal Code and Article 365 of the Criminal Code. The crime of theft with violence in positive law. Law enforcement against the crime of theft with violence and handing over cases of theft with vehicle violence that occur to law enforcement to be processed in accordance with the applicable legal provisions, where the punishment or criminal sanctions imposed on the perpetrator are expected to provide a deterrent effect to the perpetrator in accordance with the purpose of the crime. The obstacles in law enforcement in the crime of theft through violence are the victim who died, the perpetrator is a minor, the suspect easily escapes, and the perpetrator leaves evidence.

Keywords:

Law Enforcement, Criminal Acts, Theft with Violence

A. Introduction

Indonesia is a country of law as regulated in the 1945 Constitution of the Unitary State of the Republic of Indonesia (NKRI) in article 1 paragraph (3). This shows that the law is the lifeblood for all aspects of public life and the state in the Republic of Indonesia. In social life, it is a fact that humans are not alone. Humans live side by side, as well as in groups and often have relationships with others. This is due to the needs of life that cannot be met if they are lived individually. The needs of each individual vary in fulfillment also depend on how much effort is made to obtain prosperity. This can be achieved if residents have an understanding and behave in accordance with applicable

norms and the State is obliged to protect the welfare of its citizens from threats that endanger Indonesian citizens so that harmony in society can be realized. So, every action that violates the provisions of the law both by the perpetrator and the official.

Attitudes that are not in accordance with the norms or known as the term deviation against the norms have been agreed to result in the disturbance of peace in community life. Such misappropriation is generally labeled as a violation or crime. Crime in community life is a social indication that is always experienced by humans, society and the country. One of the forms of crime that often occurs in community life is theft. The crime of theft is one of the most frequent criminal acts, with a lot of news in various mass media, both electronic and print media. The crime of theft is usually motivated by the perpetrator's daily living conditions, for example the economic situation or his income level is relatively low so that he cannot meet the cost of daily living and is influenced by a low level of education.

The crime of theft with violence has a form and type that has developed, both in terms of quality and quantity. The factors behind the intensity of violent theft in general are as follows:

- a. Economic factors
- b. Low educational factor
- c. Mental factors
- d. Factors of obedience to religious commandments
- e. The factor is the loosening of social ties in the family.

The crime of theft has been regulated in the Criminal Code (KUHP) Book II Chapter XXII Articles 362 to 367. Article 362 regulates the main factors when an act is said to be theft, Article 363 concerning theft with aggravation, Article 364 concerning petty theft, Article 365 concerning theft with violence, Article 367 concerning theft in the family. In the Criminal Code, the crime of theft is distinguished by various qualifications, including as stipulated in Article 365 of the Criminal Code, namely theft with violence. Theft with violence is a crime against property.

In the Criminal Code itself, the crime of theft is distinguished by various qualifications, including as stipulated in article 365 of the Criminal Code, namely theft with violence. Theft with violence is a crime against property. In article 365 paragraph 2, the violence committed in the theft has the purpose of preparing or facilitating the theft or if caught there is an opportunity for the perpetrator to escape so that the stolen goods remain in the hands of the perpetrator committed by two or more people. Theft with violence is an unlawful act that is increasingly rampant, if left

unchecked, it will cause unrest and unrest in the community. These unlawful acts are what the author wants to discuss.

This form of theft is the most severe form of theft, because it is threatened with the death penalty, or life imprisonment or temporary imprisonment for a maximum of 20 years. From the definition of violent crimes, the following important things can be detailed:

- a. Theft with violence (article 365) is the main crime of theft.
- b. The death of another person according to article 365, not the intended one, the intention of the enforcer is to possess an object.

The effort used in committing the main criminal act, if in article 365 is in the form of violence or threat of violence.

Based on the description of the background, the Problem Formulation of this research is how the efforts of law enforcement officials in tackling the crime of theft with violence, and how are the obstacles experienced by law enforcement officials in tackling the crime of theft with violence.

B. Problem Formulation

1. What are the criminal arrangements for perpetrators of the crime of theft with violence?
2. What are the obstacles to law enforcement for the crime of theft with violence?

C. Theoretical Foundations

Definition of Theft Crime

The crime of theft in the principal form as regulated in article 362 of the Criminal Code consists of a *subijektief* element and an objective element, namely: the subjective element "*met het oogmerk om het zichwederrechtelijk to te eigenen*" with the intention of unlawfully controlling the object, the objective element of Hij or anyone's goods, *wegnemen* or taking, *eenig goed* or an object, *dat geheel of gedeeltelijk aan eenander toebehoort* or which partially or wholly belongs to another person.

Moeljatno, translated the term *strafbaar feit* with criminal acts. In his opinion, the term "criminal act" refers to the meaning of a human behavior that causes certain consequences that are prohibited by law where the perpetrator can be subject to criminal sanctions. It can be interpreted as such because the word "deed" cannot be in the form of natural behavior, because the one who can do and the result is called the deed is only man.

Criminal acts are acts that are prohibited by the rule of law and are threatened with criminal offenses, where the meaning of acts here is not only active acts (doing something that is actually prohibited by law) but also passive acts (not doing something that is actually required by law).

Definition of Theft

Theft is one of the crimes that we get a lot in society. Theft itself is not only committed by people who are physically and spiritually normal, but there are also acts of theft committed by people with kleptomania. People with kleptomania steal not to take advantage of it, they just want to get a sense of satisfaction.

It is explained in Article 362 of the Criminal Code "Whoever takes something, which in whole or in part belongs to another person, with the intention of owning it unlawfully, is threatened with theft, with a maximum prison sentence of five years or a maximum fine of sixty rupiah". The perpetrators of theft have reasons why they do not steal, it can be that the act of theft is carried out on the basis of seeking profit, fulfilling needs, and there are also those who steal because of opportunity.

The act of theft using any reason is not justified before the law. The impact of theft on theft victims includes disappointment in the loss of objects, theft causes unrest in the community. Theft is an act that is highly monitored by the community because theft often occurs in society.

Definition of Violence

Violence means persecution, torture, or mistreatment. Violence can be interpreted as a matter of violence or the actions of a person or a group of people that cause injury or death of another person and cause physical damage to others. The word violence is equivalent to the word *violence* in English which is interpreted as an attack or invasion of a person's physical or psychological mental integrity. While the word violence in Indonesian is generally understood to be just a physical attack.

Thus, if the definition of *violence* is the same as violence, then violence here refers to physical and psychological violence. According to criminologists, "violence" that results in damage is violence that is contrary to the law. Therefore, violence is a crime. Based on the definition put forward by Sanford Kadish in the *Encyclopedia of Criminal Justice*, namely that violence is any type of unlawful behavior. Sometimes it is either in the form of a real action or in the form of a threat that results in the destruction or damage of property rights.

D. Research Methods

The method in this study is normative or doctrinal law, namely research whose main study is legal and regulatory documents, literature materials or secondary data. In addition to using *the statue approach*, a conceptual approach is also used. As for what is meant by conceptual approach, it is an

approach that proceeds from the views and doctrines that have developed in legal science, especially in the field of national law.

The data collection technique carried out in this study is carried out by library *research*, which studies and reviews a number of national legal provisions, textbooks, legal dictionaries, and legal journals that are considered relevant to the object of research.

E. Discussion

1. Criminal arrangements for perpetrators of the crime of theft with violence

Criminal regulation for perpetrators of violent theft is an effort by law enforcement officials in tackling the crime of theft with violence. The Indonesian National Police (Polri) has made various efforts to handle the crime of theft with violence. This effort includes the maintenance of protap (Fixed Program) such as routine patrols, chain surveillance, jartup (guard and patrol), Polmas (Community Police), Kring Serte (attack attack), early detection, and arrest of perpetrators at the Crime Scene (Crime Scene).

In addition, the National Police is also actively conducting appeals and socialization to the public to increase legal awareness and vigilance. They provide counseling on the importance of being careful in carrying valuables and instilling good values and norms in society. This aims to reduce criminal intent, even if there is an opportunity to do so. This pre-emptive effort focuses on preventing the intention to commit a crime in the first place.

According to Law Number 2 of 2002 concerning the National Police of the Republic of Indonesia, especially Article 13, the duties and authorities of the National Police include:

- a. Maintaining public security and order.
- b. Enforce the law.
- c. Providing protection, protection, and services to the community.

The police carry out various preventive activities to overcome crime, including increasing patrols continuously. The effectiveness of patrols is highly dependent on the seriousness of the police in arresting criminals. Without firm law enforcement, the presence of the police can lose its preventive impact. Criminal policies serve as part of efforts to protect the community and achieve social welfare. The main goal is to protect the community and ensure their well-being.

In dealing with crimes such as begal, the Indonesian National Police (Polri) plays an important role in accordance with Article 13 of Law Number 2 of 2002 concerning the National Police of the Republic of Indonesia. The main task of the National Police is as mentioned above. Article 14 of the

Police Law regulates the additional duties of the National Police. In practice, the National Police implements preventive duties through what is referred to as "community development" or "indirect prevention". This coaching aims to shape the community to obey the law and reduce the intention to commit crimes.

2. Legal obstacles to the crime of theft with violence

What are the obstacles experienced by law enforcement officials in overcoming the crime of theft with violence. Police members face various obstacles in efforts to overcome the crime of theft with violence. Perpetrator Statement: The perpetrator often provides convoluted information, making it difficult for investigators in the examination process. Lack of Public Awareness is very important where there are still many people who see violent theft incidents at crime scenes but do not report or do not care, reducing the effectiveness of case handling.

Pre-Emptive is a pre-emptive action involving initial efforts such as instilling good values and norms in society. Obstacles occur if these values are not successfully applied or do not form the character of the individual that prevents crime. Internal Obstacle is the number of police members that is not proportional to the number of people. The ideal ratio is 1:350, but often the actual ratio reaches 1:2000. External Constraints The area of patrols is very large, making it difficult for police members to cover the entire area effectively. Internal Constraints are Budget Limitations where the budget for investigations is often limited, especially for the cost needs in handling cases.

External Obstacles are Clever Perpetrators where experienced perpetrators of theft are often difficult to trace, especially if they eliminate traces or evidence. Standard Operating Procedures (SOPs), Sometimes, SOPs from other relevant parties do not support effective law enforcement. Lack of Community Information where many people do not report crimes, reduces the information needed for case handling.

Law is a study of science that is always changing, with changes that require the law to always exist in accordance with the shift in the paradigm of human life, although in reality the law in its development always follows, which means that the law will move one step behind the real step of human life. Such a view, if the law is only interpreted as a manifestation of the formulation of laws and regulations made by political institutions in a country, then the law can be said to be one step behind human life. But if the law is interpreted as the embodiment of human life, good human behavior, the law does not need to be placed in a position that must always be behind every civilized human step.

This is because the law develops based on the mindset, which means that each subject of the law will always make arrangements, find formulations, explore the mysteries of the human mind that are manifested in the norms of human life and the surrounding nature to achieve harmony and balance. Indonesia has proven itself as a country of law, which means that all joints of the country's life must be based on ethical and moral harmony. Harmony means that all joints of life must be in order or subject to a good and measurable order, but the reality is that until now the real law has not been able to touch the joints of the life of the nation properly. We still often find the "law" in its side, so that the law (legislation) is still at the "certain level of society".

The problem of law enforcement in Indonesia is still often characterized by dissatisfaction with the subject of the law when the law is being operationalized in the early stages to the stage of finalizing the law itself. Because the problem of law enforcement in Indonesia is still very thick with the color that law enforcement has not been implemented, law enforcement is only located and stops at the mere enforcement of laws and regulations or stops at the entrance of legal regulations without going deeper into the real legal world. Laws and regulations are very thick with political scents, so that they will affect the achievement of ideals on a very commendable goal, namely law enforcement, which can only rely on the form of enforcement of written regulations.

This is in line with what was conveyed by Satjipto Rahardjo as follows. Generally, the way of law in our country is still dominated by "law by law" rather than "law by common sense". Legalizing by regulations is minimalist law, which is carrying out the law by applying what is written in the text rawly. Some of these economically vulnerable Indonesian people are then faced with deviant practices, coupled with the cost of living which feels increasingly expensive.

In this condition, the people who fall into this category need the attention of the government. The factors that affect law enforcement are:

1. The legal factor itself, namely the legislation.
2. Law enforcement factors, namely the parties that form and apply the law.
3. Facilities or facilities factor, namely all facilities or facilities that support law enforcement.
4. Community factors, namely the environment in which the law applies or is applied.
5. Cultural factors, namely works, creations, and feelings that are based on human karsa in life.
6. On the basis of the description, it can be said that interference with law enforcement may occur, if there is a mismatch between the trinity of values, rules and patterns of behavior. The disorder occurs when there is a mismatch between the values that are paired, which are manifested in the intertwined rules, and the pattern of undirected behavior that disturbs the peace of life.

7. Moreover, in the relationship between man and other man what is important is the reaction that arises as a result of these relationships. This reaction is what causes a person's actions to become more extensive.

This is mainly due to the desire to become one with other humans around him (i.e. society) and the desire to become one with the natural atmosphere around him. This is one of the reasons why there are many thefts in Indonesia. The theft carried out at this time is also getting bigger on a larger scale with the target of theft that is no longer focused on houses at night but is actually carried out during the day in crowded places such as banks, gold takeaways, pawnshops, supermarkets, with the proceeds of robbery that cannot bear the amount. This shows how a person is so creative in committing crimes, but not so in doing halal work.

F. Closing

Conclusion

The factors that cause the crime of theft with violence that results in the loss of a person's life are caused by economic factors, educational factors, environmental factors, and opportunity factors. The obstacles faced in resolving the crime of theft with violence that results in the loss of a person's life are the absence of witnesses who saw directly at the time of the theft, as well as the perpetrators who fled, making it difficult for the police to arrest him.

Efforts to overcome the crime of theft with violence that results in the loss of a person's life can be carried out in the form of pre-emptive, preventive, and repressive efforts. This effort is expected to suppress or reduce and provide a deterrent effect to criminals, so that it can provide a sense of security to the community. For perpetrators of theft with violence that results in the loss of a person's life, it is expected to be processed in accordance with the applicable law and the application of sanctions that are severe enough so that the perpetrators do not repeat their actions. Because the actions taken by the perpetrator concern a person's life. As well as if the underlying economic factors of the perpetrators of theft in these cases are advised to the government to be able to improve the economy and prosper the community so that it can minimize criminal acts in the community. Pre-emptive action which is the initial action in preventive countermeasures against the crime of theft with aggravation is carried out by giving appeals to community members, but in carrying out this countermeasure there are also obstacles experienced by law enforcement officials. In an effort to overcome the Crime of Theft with Violence, providing suggestions to prevent the occurrence of theft crimes with sanctions caused by low economic levels, the government must encourage the availability of jobs and carry out community development. We must always maintain public security and order,

starting from the environment around the forging of residences, for example siskamling or night patrols because public security and order are a shared responsibility. In addition, the community must increase knowledge and always increase legal awareness, as well as put trust in law enforcement officials, especially the National Police institution as an institution mandated by the constitution to maintain security and order in society. And it is hoped that it is necessary to provide legal counseling on general crimes, especially the crime of theft with violence, to all levels of society slowly and continuously which is carried out not only by law enforcement officials but all levels of society, starting from parents, teachers, religious leaders and related agencies. Counseling is carried out to find out the factors that cause the crime of theft with violence, there is an impact of the act and the criminal sanctions imposed on the perpetrators in accordance with the provisions of the Criminal Code

Suggestion

In an effort to overcome the Crime of Theft With Violence, providing suggestions to prevent the occurrence of theft crimes with penalties caused by low economic levels, the government must encourage the availability of jobs and conduct business development for the community. We must always maintain public safety and order starting from the environment around the place of residence, for example siskamling or night patrol because public security and order are a shared responsibility. In addition, the public must increase their knowledge and always increase legal awareness, as well as put their trust in law enforcement officials, especially the National Police institution as an institution mandated by the constitution to maintain security and order in society. And it is hoped that legal counseling on general crimes, especially the crime of theft with violence, is needed to be carried out slowly and continuously by not only law enforcement officials but all levels of society, starting from parents, teachers, religious leaders and related agencies. Counseling is carried out to find out the factors that cause the crime of theft with violence, the impact of the act and the criminal sanctions imposed on the perpetrators in accordance with the provisions of the Criminal Code

It is recommended to law enforcers (Police, Prosecutor's Office and Courts) as well as all levels of society, both the government, to participate more actively and responsibly so that perpetrators of the crime of theft with violence can be punished in accordance with the provisions of the Criminal Code. In order for the perpetrator not to act arbitrarily and repeat his actions and can provide a deterrent effect or in other words in the imposition of a criminal offense, there must be a "deterrent effect" (providing fear or deterrence to the perpetrator of the crime), this provides discourse to the judges in considering the "verdict" (imposition of corporal criminal sanctions and

additional to the perpetrator of the crime of theft with violence) so as to provide a sense of justice for the victim and the community. On the other hand, to prevent others from committing these criminal acts as an effort to realize the criminal goal, which is to maintain legal order in society.

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