

## EMBEZZLEMENT AND ILLEGAL TRADE OF MOTORCYCLES ACCORDING TO ARTICLE 372 OF THE KUHP AND ITS RELATIONSHIP WITH THE CRIMINAL ACT OF REMOVAL (ARTICLE 480 OF THE KUHP)

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### ABSTRACT

Motorcycle embezzlement and illegal trafficking are serious crimes in Indonesia. These practices involve a variety of illegal activities that harm the original owners, the government, and society at large. Based on the research results, it is known that the crime of illegal motorcycle embezzlement and its relation to the crime of receiving stolen goods are two crimes that are often closely linked in Indonesian law. The main perpetrator of embezzlement is charged with Article 372 of the Criminal Code, while the party who receives or purchases the goods obtained from the crime is charged with Article 480 of the Criminal Code (receiving goods). Embezzlement is a primary crime that produces illegal goods, while receiving goods is a secondary or subsequent crime that helps distribute or conceal the proceeds of the primary crime for economic gain. The presence of a receiver makes it easier for the perpetrator of embezzlement to sell stolen goods, so the crime of receiving goods indirectly supports the occurrence of embezzlement

### 1. Introduction

Law enforcement is an inseparable part of the law itself, in fact law enforcement is a reflection of the law in a country. Law enforcement can also be interpreted as upholding or maintaining the law by law enforcers when a violation of the law has occurred or is likely to be violated. Article 27 of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution of the Republic of Indonesia) explains "all citizens have the same status without exception. Equality of position before the law, including in law enforcement for every citizen, is a guide for law enforcers in carrying out their duties.



As a nation based on the rule of law, Indonesia consistently upholds human rights. The state guarantees equal status before the law and government for all citizens, and they are obligated to uphold the law and government without exception. Ideally, as a nation based on the rule of law, Indonesia adheres to a system of legal sovereignty, or the supremacy of law, which holds supreme power within the state. Criminal penalties and sentencing do not arise spontaneously but rather proceed through the judicial process.

Law, as a configuration of human civilization, goes hand in hand with the growth and development of society as a community where humans grow and develop. However, recently, various distortions and changes have occurred in Indonesian society, which have come to be known as a moral crisis. Rising unemployment and crime rates reflect the impact of this phenomenon.

Criminal law functions to regulate and organize social life to create and maintain public order. Human life is filled with various interests and needs, which are not only different from one another but sometimes even conflicting. In order to fulfill these needs and interests, humans behave and act.

To prevent a person's attitudes and actions from harming the interests and rights of others, the law provides guidelines in the form of certain limitations so that people cannot act and behave as freely as they please in order to achieve and fulfill those interests. This function is found in every type of law, including criminal law.

Crime in society evolves in line with the development of society itself, as crime is a product of society and needs to be addressed. Numerous crime phenomena have emerged in various regions of Indonesia, creating controversy among all segments of society. Every day, the mass media reports on various crimes occurring in this country. These crimes are undoubtedly influenced by the modernization occurring within a country.

Crime, as a social phenomenon occurring across the globe, will likely never end, keeping pace with the developments and social dynamics within society. This criminal problem appears to be constantly evolving and will never diminish, both in terms of quality and quantity. This development is causing concern for both society and the government.

The form of loss experienced by a person who is a victim of a crime is a loss in terms of wealth. To protect a person's wealth, the Criminal Code (hereinafter abbreviated as KUHP) places actions that can cause losses to wealth as crimes against wealth as regulated in Book II of the Criminal Code. Several crimes related to wealth and objects include a crime known as embezzlement where abuse of trust dominates as the main element in the occurrence of this crime. The crime of embezzlement is regulated in the Criminal Code in Article 372





(ordinary embezzlement), Article 373 (minor embezzlement), Article 374 and Article 375 (aggravated embezzlement) and Article 376 (embezzlement within the family). Article 372 of the Criminal Code in conjunction with Article 55 paragraph (1) 1 of the Criminal Code is the article charged by the public prosecutor in this title because this crime of embezzlement was committed together

## 2. Research Method

This research is descriptive analytical, that is, research that merely describes the condition of an object or event without any intention of drawing generally applicable conclusions. Descriptive analytical research tends towards normative juridical research, namely reviewed based on the Law. The approach method in this research is to use a "normative juridical approach and a case study approach, namely an approach carried out by collecting secondary data" in the form of legislation and materials that are relevant to the problems in this thesis and analyzing a decision/case that has binding legal force.

## 3. Results And Discussion

Crime is a phenomenon that cannot be eliminated anywhere and at any time. Crime is often perceived as being as old as human civilization, some even claiming it is as old as human existence. Consequently, it is difficult to pinpoint precisely when crime began in the world, just as it is difficult to define the precise definition of crime.

A crime can cause harm to its victim, as there is always an underlying factor or cause that gives rise to an effect. Using deductive logic, a crime can occur if an individual's actions lead to legal consequences for the perpetrator, namely, a form of accountability for their actions.

Motorized vehicles, especially motorcycles, are crucial for society. In today's world, motorcycles are a dominant mode of transportation among other means of transportation. This is because motorcycles are much more affordable than other modes of transportation, making them accessible to all levels of society. These vehicles are used for a variety of human activities and needs. As this demand increases, the consequences for crime increase. Crime is an act prohibited by law, and anyone who violates the law will be punished. Furthermore, crime is a form of violation of social norms. Violations are defined within the limits of values held dear in a society.

One of the most common crimes against property, especially motorcycles, is embezzlement. Embezzlement is a crime regulated in Article 372 of the Criminal



Code. Embezzlement includes the act of taking someone else's property, partially or completely, where control of the property already rests with the perpetrator, but the control occurs legally. Lamintang has an opinion on the meaning of embezzlement which is basically the same as the description of Article 372 of the Criminal Code. According to Lamintang, the crime of embezzlement is the abuse of rights or abuse of trust by a person where the trust is obtained without any unlawful element.

Embezzlement is a type of criminal act, namely a crime against human property which is regulated in the Criminal Code (KUHP), the main formulation of which is regulated in Article 372 which is formulated as follows: "Anyone who intentionally and unlawfully owns an object which is wholly or partly owned by another person, which is in his control not because of a crime, is threatened with embezzlement."

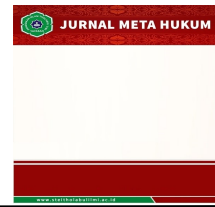
The purpose of embezzlement is to possess goods or objects that are in one's control, which are essentially the property of another person. In general, the crime of motorcycle embezzlement is carried out together, where the perpetrator requires the assistance of others to carry out the action. Therefore, in criminal law this crime is often referred to as participation (Deelneming). This Deelneming has been regulated in Article 55 of the Criminal Code. As for criminal acts carried out together, there must be cooperation, whether planned or unplanned, but in carrying out the cooperation, the occurrence of the act is still realized and desired, therefore, criminal acts together can be said to be a dolus crime because they are done intentionally. Because cooperation is impossible if it is not intentional.

Embezzlement seems to have become an alternative option for criminals who typically commit motor vehicle theft, as it's considered easy. One common form of embezzlement is motor vehicle theft. Embezzlement seems to have become an alternative option for criminals who typically commit motor vehicle theft.

Embezzlement and receiving are closely related, especially in the case of motorbikes, and often occur sequentially, namely:

1. The receiving of stolen goods occurs due to a previous crime, such as embezzlement. The perpetrator of the embezzlement needs a receiver to sell or pawn the motorcycle he stole.
2. The party who embezzles and the party who cheats can be charged with different articles but in one series of crimes.
3. These crimes are generally motivated by economic gain, with the receiver playing a role in the circulation of illegal goods.

Basically, receiving goods provides a "market" for embezzled goods, making it easier for the perpetrators of embezzlement to gain profits. For perpetrators of



the crime of receiving goods, the reason for committing this crime is more directed towards obtaining or taking advantage of themselves or others by means of carrying out "evil assistance", however, the meaning of this "evil assistance" does not mean "helping to commit a crime" (medeplichtigheid) as referred to in Article 55 of the Criminal Code. Receiving goods is classified as one of the triggers for people to commit crimes. Because it can be said that most of the results of stolen goods are actually resold to obtain profits in the form of money, as regulated in Article 480 paragraph (1) of the Criminal Code.

The methods criminals use to carry out their actions are called *modus operandi*. Over time, the *modus operandi* of criminals has evolved, from traditional/simple to modern. Similarly, the crime of receiving stolen goods has also experienced developments.

After the thieves take possession of the stolen goods, they then sell the stolen goods at a relatively low price. The receiver then sells each component individually at a higher price, which is relatively cheaper than the actual market price so that this act goes unnoticed and tends to be aimed at deceiving the authorities or people feeling like they have lost the stolen goods.

Every day, people experience deviations from social norms, especially legal norms, in their daily lives. These deviations from legal norms are referred to as crime. As a deviation from social norms, crime is a social problem, a problem that arises within society, where both the perpetrators and victims are members of that society.

Perpetrators of the crime of motorbike embezzlement can be held responsible for their actions as regulated in Article 372 of the Criminal Code. When discussing criminal liability, it cannot be separated from criminal acts. Although criminal liability is not included in the definition of a criminal act, a criminal act simply refers to the prohibition of an act.

The basis for a crime is the principle of legality, while the basis for punishing the perpetrator is fault. This means that the perpetrator of a crime will only be punished if he or she is at fault in committing the crime. This means that the perpetrator of a crime will only be punished if he or she is at fault in committing the crime. Based on this, it is not sufficient for a person to be punished if that person has committed an act that is contrary to the law or is unlawful. So even though the act meets the definition of a crime in the law and is not justified (an objective breach of a panel provision), it does not yet meet the requirements for sentencing.

Perpetrators of crimes can be subject to criminal sanctions or punishment. Specifically regarding punishment, as one of the fundamental issues in criminal



law, a crucial issue is the concept of the purpose of punishment, which seeks to justify punishment as an effort to make it more functional.

Sudarto in Niniek Suparni stated that punishment is the suffering given by the state to someone who violates the provisions of the law (criminal law), deliberately so that it is felt as suffering. Roeslan Saleh in Niniek Suparni stated that punishment is a reaction to a crime in the form of suffering that is deliberately imposed by the state on the perpetrator of the crime.

On the one hand, punishment is not only intended to inflict suffering on the offender or to deter him, but also to enable him to return to a normal life in society. These two aspects are known in criminal law as a double-edged sword.

These actions are not intended to inflict suffering, but rather to reform, heal, and educate individuals in order to protect society. If these actions result in suffering, then this is clearly not the intention.

The main perpetrators who embezzle motorcycles can be charged under Article 372 of the Criminal Code concerning Embezzlement. The elements of the crime of embezzlement include:

1. Intentionally and unlawfully possessing something that belongs wholly or partly to someone else.
2. The item is in his possession not because of a crime (for example, it was loaned or entrusted).

The penalty is a maximum of four years' imprisonment or a maximum fine of nine hundred rupiah (as per the old Criminal Code). If the embezzlement is committed by someone in an employment relationship or because of their position, the penalty can be even more severe (Article 374 of the Criminal Code), namely a maximum of five years' imprisonment.

Those who receive, purchase, rent, or profit from stolen motorcycles can be charged under Article 480 of the Criminal Code concerning Fencing. The main elements of fencing are that the perpetrator:

1. Buying, renting, exchanging, accepting a pawn, receiving a gift, or making a profit from an item.
2. Knowing or reasonably suspecting that the goods originate from a crime (embezzlement or theft).

The threat of punishment for those who receive stolen goods is a maximum prison sentence of four years or a maximum fine of nine hundred rupiah (according to the old Criminal Code).

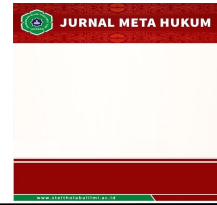


## 4. Conclusion

The crime of illegal motorcycle embezzlement and its relation to the crime of receiving stolen goods are two crimes that are often closely linked in Indonesian law. The main perpetrator of embezzlement is charged under Article 372 of the Criminal Code, while the party who receives or purchases the proceeds of the crime is charged under Article 480 of the Criminal Code (fencing). Embezzlement is a primary crime that produces illegal goods, while receiving stolen goods is a secondary or subsequent crime that helps distribute or conceal the proceeds of the primary crime for economic gain. The presence of a receiver makes it easier for the perpetrator of embezzlement to sell stolen goods, so the crime of receiving stolen goods indirectly supports the embezzlement. The arrest of a receiver is often a development of an embezzlement or theft case.

Criminal liability for the perpetrator the crime of illegal motorcycle embezzlement and its relation to the crime of receiving money. The main perpetrator who embezzles a motorcycle can be charged with Article 372 of the Criminal Code concerning Embezzlement, which carries a maximum sentence of four years' imprisonment or a maximum fine of nine hundred rupiah. If the embezzlement is committed by a person who has an employment relationship or because of his position, the penalty can be heavier (Article 374 of the Criminal Code), namely a maximum prison sentence of five years. Parties who receive, buy, rent, or profit from embezzled motorcycles can be charged with Article 480 of the Criminal Code concerning Handling and the threat of punishment for the perpetrator of handing money is a maximum prison sentence of four years or a maximum fine of nine hundred rupiah.

Efforts to overcome the crime of illegally embezzling a motorbike and its relation to the crime of receiving stolen goods is pre-emptive efforts, repressive efforts, and preventive efforts. Pre-emptive efforts are efforts to prevent crime for the first time. Repressive efforts are efforts to handle crimes that have already occurred, and preventive efforts are efforts to overcome crime by imposing criminal sanctions on the perpetrators and must be seen as urgent actions to be implemented immediately by collaborating with related agencies such as Non-Governmental Organizations (NGOs), government agencies, and collaborating with the community



## References

- Ali. Mahrus, *Basics of Criminal Law*, Sinar Grafika, Jakarta, 2011.
- Arief, Barda Nawawi, *Problems of Law Enforcement and Criminal Law Policy in Crime Prevention*, Kencana Prenada Media Group, Jakarta, 2017.
- Bawengan, *GW Criminal Case Investigation and Interrogation Techniques*, Pradnya Paramita, Jakarta, 2014.
- Chazawi, Adami, *Criminal Law Lessons Part 2*, Raja Grafindo Persada. Jakarta, 2017.
- Dirdjosiswoyo, Soedjono, *Scope of Criminology*, Remaja Karya, Bandung, 2014.
- Djamali, R. Abdoel, *Introduction to Indonesian Law*, Raja Grafindo Persada, Jakarta, 2015
- Gosita, Arif, *Problems of Crime Victims*, Akademika Presindo, Jakarta, 2014.

