

LEGAL ANALYSIS OF THE CRIMINAL ACT OF THEFT WITH VIOLENCE UNDER AGGRAVATING CIRCUMSTANCES RESULTING IN DEATH (Study of Decision Number 150/Pid.B/2023/PN Stb)

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ABSTRACT

The crime of theft is still a dilemma and is a serious problem that requires a solution. The legal provisions for the crime of theft accompanied by violence at the Indomaret minimarket are regulated in Article 365 of the Criminal Code. Theft with violence is theft that is preceded, accompanied, followed by violence aimed at people with the aim of making it easier to carry out the action. The responsibility of the perpetrator of the crime of theft with violence at the Indomaret minimarket is that the defendant's actions are in accordance with the indictment of the Public Prosecutor and have been legally and convincingly proven guilty of committing the crime of theft with violence which resulted in the victim's death and has fulfilled the elements of Article 365 paragraph 4) of the Criminal Code, so that the defendant must be held accountable for his actions, by serving a prison sentence of 20 (twenty) years. The consideration of the Panel of Judges who have decided this case is that the mitigating factor is that the defendant behaved politely during the trial, while the aggravating factor is that the defendant's actions disturbed the community.

1. Introduction

All aspects of life in this country are governed by the rule of law. All individual behavior is governed by law, whether applicable in a particular region, customary law, or the law applicable throughout Indonesia. This means that law is inseparable from the reciprocal influence of all aspects of society and is integral to societal life, regulating relationships between people and the state, ensuring orderly progress.

Mass and electronic media reports indicate that the frequent occurrence of various types of theft is driven by unmet needs. Population growth continues to increase, creating conditions that significantly impact the socioeconomic conditions of the community, particularly regarding the fulfillment of basic



necessities and employment. This can easily lead to vulnerabilities in the security and well-being of the community, such as the occurrence of crime or criminal acts.

Theft is a criminal act that significantly disrupts the comfort of society, requiring consistent action to enforce the law and foster harmony. Poverty is one of the dominant factors influencing theft behavior in society. Topo Santoso and Eva Achjhani Zulfa state that "poverty breeds crime and rebellion. Great crimes are not committed to obtain what is necessary for life, but for luxury."

Universally, humans have needs that always need to be met, including clothing and food, whether as a means to sustain life or simply to fulfill the desire for possessions or even to improve social status. The need for clothing and food can be met legally and is a religious obligation. However, this hope is not always fulfilled due to the diverse nature and methods of fulfilling these needs, which include committing crimes.

Economic problems, as a driving force behind crime, often occur everywhere, because the economic development of a country has a significant impact on the fundamentals of a person's life. Plato argued that in every country with a large population of poor people, there will be many criminals, religious violators, and criminals of various kinds.

Recently, various forms of theft have become increasingly frequent and are causing significant disruption in people's daily lives. Various methods of operation are employed in these thefts, ranging from hypnosis and drug use to gang thefts using firearms, which leave victims helpless. The scale of the thefts is also increasing, with targets no longer focused on homes at night but instead taking place during the day in crowded places like banks, gold shops, pawnshops, and supermarkets, with the resulting robberies amounting to substantial sums. This demonstrates how creative individuals are in committing crimes.

The various methods or *modus operandi* (methods of carrying out crimes) differ from one crime to another, especially with the availability of the means and infrastructure for committing crimes today. Criminals' *modus operandi* are increasingly oriented towards advances in science and technology. These methods can be categorized as simple theft, aggravated theft, petty theft, domestic theft, theft with violence, and others.

Violent theft frequently occurs, for example, when it is committed or accompanied by serious injury or death to another person. It occurs at night, and is committed by two or more people working together, using methods such as breaking, disabling, climbing, threatening the victim with a firearm, using fake keys, false orders, and other means to facilitate the theft.

In essence, violent theft is an act that violates religious norms, morality, and the law and endangers the lives of the community, the nation, and the state. From a national perspective, violent theft is considered negative behavior and is highly detrimental to public morals. The case of a crime with violence in aggravating circumstances resulting in the victim's death, for example, as in the decision of the Stabat District Court Decision Number 150 / Pid.B / 2023 / PN Stb with the defendant Tuahta alias Lilik committing the crime of theft in the form of 1 (one) unit of blue Samsung brand cellphone and cash worth Rp. 1,010,000 (one million ten thousand rupiah) belonging to the victim Reno, where the act of theft was accompanied or followed or preceded by violence that caused the victim's death. As a result of his actions, the defendant was sentenced to 20 (twenty) years in prison.

2. Research Method

This research is descriptive in nature, meaning it merely describes the circumstances of an object or event without any intention of drawing general conclusions. This paper outlines matters concerning law enforcement against perpetrators of violent theft resulting in death.

Given that the object of the research is positive law, the type of research employed in this study is a normative juridical approach. As a normative juridical study, this study also analyzes the law, both written in books (law as it is written in the book) and the law as it is decided by the judge through the judicial process (often referred to as doctrinal research).

This research employs a normative juridical approach. The normative juridical approach and the case approach are used to analyze the laws and regulations and the Stabat District Court decision Number 150/Pid.B/2023/PN Stb.

Data collection used library research methods. Data were obtained through various sources, including scientific books, laws and other documentation related to law enforcement against perpetrators of violent theft resulting in death.

3. Results And Discussion

Results

Every human action or deed has a cause and effect, and crime is no different. Every crime has a motive or reason for committing the crime, and these reasons are unique. This difference occurs because each person has different interests.

The occurrence of violent theft is due to the perpetrator's relatively low economic status, despite their pressing needs. This pressure or compulsion leads

perpetrators to commit theft as a shortcut to meet their needs. This imbalance is a factor in people seeking alternative employment to earn more money and meet their living expenses.

As time and technology advance, societal behavior becomes increasingly complex, resulting in a variety of theft crimes, one of which is violent theft. Violent theft can also occur due to a lack of education. Violent theft caused by a lack of education can be overcome or minimized by instilling good morals and ethics in students in schools and by conducting community outreach regarding the law. This situation is also influenced by emotional strength, which reflects a person's mental state when facing a problem. Emotional strength within a person's psyche typically arises spontaneously and is volatile, with a desire to learn and try new things. A mature person typically acts and thinks carefully when facing a problem.

The connection between theft and theft is that the person is unable to use their intelligence to correctly assess the merits and demerits of their behavior. This low mental and emotional state results in a lack of self-control, leading many to fall prey to theft.

One factor contributing to violent theft is the desire to control stolen goods. Perpetrators caught stealing are often willing to resist violently to retain their stolen goods. Efforts to address this issue focus more on the victim, ensuring they can anticipate potential untoward incidents. Crime is not solely caused by the perpetrator but can also occur due to opportunities arising from the victim's negligence. The tendency of people, especially young people, to prefer foreign films with violent themes, such as nighttime robberies using sophisticated methods and tools, is indeed impressive and awe-inspiring for viewers. However, this can also inspire and inspire new ideas for implementing better methods of committing crimes, as they already know how to do them.

4. Discussion

The policies to be implemented will primarily encompass law enforcement activities aimed at improving order and legal certainty in society. To this end, the coordination system will be strengthened and the duties of law enforcement agencies harmonized. This will be achieved, among other things, by streamlining the functions, duties, powers, and authorities of law enforcement agencies according to their respective professional areas and based on a sound cooperative system.

Crime prevention can be implemented through preventive and repressive means. This form of prevention involves the imposition of sanctions on

perpetrators of criminal acts. Criminal sanctions are the best available tool we have to deal with threats of harm. Criminal sanctions are the primary guarantor, and ethics are the primary threat to human freedom. Criminal liability, also known as "teorekenbaardheid," or "criminal responsibility," refers to the punishment of an offender, with the aim of determining whether a defendant or suspect is held responsible for a criminal act.

A perpetrator's conviction requires that the crime they committed fulfill the elements stipulated in the law. From the perspective of the occurrence of a prohibited act, a person will be held accountable for those actions if the act is unlawful and there is no justification or justification for the unlawful nature of the crime.

From the perspective of capacity to be responsible, only a person capable of being responsible can be held accountable for their actions. The principle of criminal liability is that a criminal act, without fault, constitutes the basis of criminal liability. Therefore, the punishment of a person who commits an act as threatened, depends on whether they committed the act at fault.

To determine liability, a person committing a crime must demonstrate the "unlawful nature" of the crime, which is the most important characteristic of a criminal act. Regarding the unlawful nature of the perpetrator's mental state, the criminal act can be either "intentional" (opzet) or "negligence" (culpa). However, most crimes involve an element of intent, not negligence. This is reasonable because the perpetrator usually does something intentionally.

The crime of violent theft has caused considerable public unrest, as many factors influence its occurrence. Given the high prevalence of these factors, efforts to address these factors are essential.

Mitigation efforts are defined as efforts to prevent and reduce cases of violent theft and improve case resolution. Finding effective measures to address violent theft is indeed challenging, so the role of the community and government officials in taking steps to reduce violent theft is highly desirable.

Any effort to maintain effective long-term social order must be based on a theory of legitimate human behavior. Without this, it is difficult to achieve this social order through crime prevention, guidance, and prosecution. Therefore, before formulating how to prevent theft, in addition to the characteristics mentioned above, it is also necessary to examine the factors that cause a crime. Only then can we determine what actions to take to combat theft be determined.

Violent theft is a form of disturbance to public order and security, and it is disturbing residents. Thefts are not only committed at night; perpetrators also commit their crimes during the day.

Addressing crime should not only focus on the crime itself but also on identifying the underlying causes, which are what efforts should be made to eliminate. Therefore, prevention includes understanding the causes of crime, as society is in a time of crisis, experiencing emotional instability, often adrift in a search for identity, and this is a fertile time for crime to flourish.

To prevent them from falling into crime, especially theft, they need guidance. Guidance is part of prevention, even if conscious, but effective only if there is general prevention.

General prevention involves identifying and understanding the characteristics of criminals and providing them with the support they need for self-development, thus protecting them from harm. The responsibility of a person who commits the crime of theft with violence under aggravating circumstances resulting in the victim's death. In this case, there are no grounds to waive the sentence, so the defendant is deemed physically and mentally fit to commit the crime. Based on these reasons, the judge rendered the verdict.

According to the author, the judge's legal considerations in handing down the verdict were in accordance with applicable provisions, based on all the facts and evidence revealed during the trial. Therefore, the Panel of Judges' decision against the defendant for the crime of theft with violence resulting in death was appropriate and commensurate with the crime. According to the author, the sentence imposed on the defendant should not only create discomfort for the perpetrator but also consider the aspect of development for the defendant himself so that he becomes aware and will not repeat his actions. It should also consider the social implications.

The Panel of Judges considered numerous factors, including the Public Prosecutor's demands, the fulfillment of the elements as stipulated in the articles of indictment, the lack of justification or excuse, leading to a guilty verdict, and the aggravating and mitigating factors. The author believes that the sentence imposed on the perpetrator in Stabat District Court Decision Number 150/Pid.B/2023/PN Stb should have been more severe because the crime of theft with violence resulting in death is deeply disturbing to the community. This theft case can have a significant impact on both the victim and the perpetrator. For the victim, the impact of the theft includes the loss of their possessions.

Furthermore, the victim experiences profound trauma due to the theft. For the perpetrator, the consequences of their actions include the potential for criminal penalties as outlined in Book 2 of the Criminal Code and the potential for social sanctions, including censure and exclusion from society.

5. Conclusion

The legal provisions for the crime of theft accompanied by violence resulting in death are regulated in Article 365 paragraph (4) of the Criminal Code. The perpetrator of the crime of theft accompanied by violence resulting in death is responsible for the indictment of the Public Prosecutor, who has been legally and convincingly proven guilty of the crime of theft with violence resulting in death. This fulfills the elements of Article 365 paragraph (4) of the Criminal Code. Therefore, the defendant must be held accountable for his actions and serve a prison sentence of 20 (twenty) years.

Efforts to prevent the crime of theft with violence resulting in death include both non-penal and penal measures. Crime prevention through non-penal measures emphasizes preventive measures, namely actions taken before the crime occurs. Second, crime prevention through criminal law (penal), namely efforts to prevent actions taken after the crime has occurred, law enforcement, and sentencing for crimes committed, emphasize repressive measures (oppression, eradication, and suppression).

The judge's legal considerations in the Stabat District Court decision Number 150/Pid.B/2023/PN Stb are that the Panel of Judges has considerations starting from the demands of the Public Prosecutor, the fulfillment of elements in accordance with the articles charged and there are no justifications and excuses, so that they are declared guilty, as well as aggravating and mitigating factors. The considerations of the Panel of Judges who have decided this case are that the mitigating factor is that the defendant behaved politely during the trial, while the aggravating factor is that the defendant's actions are very disturbing to the community.

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