

Criminal Sanctions Against Theft With Violence

Ni Made Trisna Dewi

Department of Law, Dwijendra University, Bali, Indonesia

ABSTRACT

Talking about theft with violence, whether it concerns the case, its impact, or the relationship between the perpetrator and the victim of the crime must be based on and have a background in social, cultural, economic, and community structures. The type of research used in this research is normative research. Based on the discussion in the previous chapters, several conclusions can be drawn, namely: 1) Evidence of the elements of the criminal act of theft with violence, in this case it has provided the achievements of the applicable law, both in the handling process to the investigation and decision or punishment. imprisonment according to the mandate in Article 365 of the Criminal Code. Regarding theft which is preceded, accompanied or followed by violence or threats of violence, with the threat of imprisonment for fifteen years. 2) The provision of criminal sanctions against perpetrators of theft with violence above, in terms of giving this sanction, is based on the results of evidence from the elements of the criminal act of theft with violence, as has been done by investigators or law enforcement to give a verdict or punishment. to the perpetrator in accordance with Article 365 of the Criminal Code with a prison sentence of 15 years in prison.

Keywords: Theft, Violence, Victims, Crime

*Corresponding Author:

E-mail: madetrisnadewishmh@gmail.com (Ni Made Trisna Dewi)

Department of Law, Dwijendra University, Bali, Indonesia

1. INTRODUCTION

The crime of theft with violence is well known or at least known to the general public. People already know and understand if there is a crime of theft with violence, at least the community has imagined a crime called theft with violence. Theft with weighted violence is one of the diseases of the community that is single with crime, which in the historical process from generation to generation of the nation turns out that the crime is a crime that harms and tortures other people, therefore efforts need to be made so that the community avoids theft by weight or violent theft of others. The thief must actually enter the house and so on, and commit the theft there.

The crime regulated in Article 363 (KUHP) and Article 365 (KUHP) is also a geq ualificeerde diefstal or a theft with

qualifications or constitutes a theft with aggravating elements. Thus, what is regulated in Article 365 (KUHP) is actually only one crime, and not two crimes consisting of the crime of theft and the crime of using violence against people, from the crime of theft to the crime of using violence against people. (Simons, 2005:11)

Theft with violence in the perspective of law is a crime that is disturbing and detrimental to the community. Regarding the so-called violence, Simons said: "Onder geweld zal ook hier mogen worden verstan, elke uitoefening van lichamelijke kracht van niet al te geringe betekenis". Which means: "It can be included in the definition of violence, namely any use of body energy that is not too light". (Simons, 1997)

In connection with the description above, several problems can be formulated as follows: 1) How is the proof of the elements of the crime of theft with violence? 2) How are criminal sanctions imposed on perpetrators of violent theft?

2. METHODS

The type of research used in this research is normative research. Normative science research is the study of legal materials, both primary legal materials and secondary legal materials in books or laws. (Amirudin, 2010)

As a source of data, it is only secondary data, which consists of primary legal materials, secondary legal materials and tertiary legal materials. Data collection is carried out by an approach, namely the statutory approach. (Marzuki, 2008:29) A normative research must of course use a statutory approach, because what will be studied are various legal rules that are the focus as well as the central theme of a study.

The data processing method used in this study is a qualitative method, namely to find the quality of the data obtained through existing studies. (Narbuko, 2001:81). In analyzing the deductive method, namely by carrying out analyzes or explaining each data then connecting it with legal science theories or provisions in the field of criminal acts that are considered relevant to get a conclusion or what is known as a deductive method.

3. RESULT AND DISCUSSION

Proof of the elements of the crime of theft with violence

In reality, it is not easy to sharply distinguish each role played by the victim. "The situation and condition of the victim party can design the perpetrators to commit a crime against the victim", the victim himself does not take no action, is unwilling or willing to become a victim. These situations and conditions relate to, among other things, the physical and mental weakness of the elderly victim, or children with physical or mental disabilities, which can be exploited by the perpetrator because the victim is powerless.

It can be said that consciously or unconsciously the victim as the injured party can provide opportunities or opportunities for criminals to carry out their actions or intentions. Indirectly he (the victim) plays a role in the occurrence of the crime that befell himself.

Parties can also act as those who feel that they are victims of other people's actions and then commit crimes as revenge. Victims, namely: those who experience themselves or who do not experience evil acts, the perpetrators (family members, organizations) often feel themselves harmed by the actions of a person or collective (private groups or the government) and then commit acts that are also crimes (acts of crime). carry on)".

Because it is considered unsatisfactory and unsatisfactory, the victim takes vigilante action which is also a crime (Santika, 2019). In this case, the victim is the perpetrator of the crime. The crime committed by the victim can be the same, similar or different. If the malicious act is directed at the original

perpetrator, then the original perpetrator is now a victim.

Victims who are known to belong to the mentally, physically and socially weak group who cannot or do not dare to fight back as adequate retaliation, are often used as they please by the perpetrators who feel they are strong, and more powerful than the victim, for example: in a family, children and wives often become victims of evil actions from fathers and husbands. Often the children and wives are very dependent on the father or husband, as a result they accept that the crime is taking place.

In the case of crimes against property, the dishonesty of the victim plays the same role, for example, a merchant who is dishonest and deceives his customers should be made a victim. The unlawful act is stated as an act of moral discontent, discontent and extreme hatred towards all considerations regarding the rights of the victim.

The victim's active participation in a deviation with the aim of achieving something for the benefit of oneself or others can cause oneself to become a victim, for example:

1) Want to get good stuff at a very cheap price, it turns out that the goods you buy are counterfeit / counterfeit goods. So the victim here becomes a fraud.

2) Participate in smuggling, because they want to get money quickly, then it doesn't work and is the object of extortion by officers. So they become victims of extortion.

In the author's opinion, regarding proof of the elements of the criminal act of theft with violence, it states: if the perpetrator is proven to have committed

an act with elements of intent in the case of the criminal act of theft with violence in particular, the perpetrator will be charged with the applicable article in accordance with the laws and regulations. invitations in criminal law, namely;

Article 365 paragraph 3 of the Criminal Code concerning theft with violence states that the perpetrator is threatened with a maximum sentence of 15 years in prison if the theft with violence results in the death of a person.

Regarding the discussion above, namely, that there are elements of intent by the perpetrator of the crime against the victim to control the goods or property belonging to the victim, and then the victim has suffered a loss of his property, and his physical weakness, health, because it was done regularly. the act of theft with violence by the perpetrator against the victim. Then the perpetrator is proven to have committed the crime of theft with violence, then he is charged with Article 365 of the Criminal Code, with a penalty of 15 years in prison. (Lamintang, 1989)

The problem of violent theft is a social reality that does not stand alone. Because it requires certain techniques and ways to overcome it without previously seeing or looking for the cause

Internal factors (factors contained in individuals) these factors are seen specifically from individuals and look for things that have a relationship with crime, this can be viewed from:

a) Age: from childhood to adulthood, humans always experience changes, according to the development of the mind and other circumstances.

b) Sex: this is related to physical condition, men are physically stronger than women, so there is a greater possibility to do evil (general crimes).

c) The position of the individual in society.

d) Individual Education: this affects the mental state of behavior, especially intelligence.

e) Individual recreation/entertainment issues

f) Individual Religion: religion is one of the main social controls through religious organizations, religion itself can determine human behavior in accordance with religious values.

External factors (factors that are outside the individual) these external factors are based on the environment, namely:

a) Time of crime: this is intended to find out at which time the crime was mostly committed.

b) Place of activity: the place of the crime is also the same problem as the time of the crime. This place also determines the amount of crime, this relates to the crime area in a broad sense.

c) Family circumstances in relation to crime.

These internal factors, in addition to being viewed from the general characteristics of individuals, are also focused on psychological factors which are their special characteristics, because in addition to internal factors, these factors also influence individuals in misbehaving because the psychological (psychological) element plays a very important role in every individual. human behavior. "Pleasure, happiness, or otherwise misery are psychological

elements that also play a role in human behavior".

Wirjono Prodjodikoro (1986) says that: "theft is usually a crime that arises out of misery and despair."

Apart from the problems of the factors that exist within the individual and outside the individual, economic problems are also one of the factors that influence the occurrence of crime.

The state of the economy is a factor that will directly or indirectly affect the patterns of people's lives, this situation also affects the ways of life of a person. In times of economic downturn, employment and official income will be much reduced which will lead to a tendency towards bad behavior.

One of the main problems associated with the increase in crime in urban areas is the problem of urbanization, the development of which is much influenced by industrial developments which have a high correlation between urbanization and crime, not population movement. but a change in the attitude of life experienced by rural people who come to the city." One of the problems caused by urbanization (negative urbanization) is unemployment. As stated by Bruce Smith that:

In connection with the foregoing, the author says: in addition to economic factors, another thing that causes crime, especially violent theft, is the human factor or human resources (human resources), and related to that is also the educational factor, because these two things are closely related (Santika, 2021).

Because of their inability to find work, someone tends to take the easy way to take money and one of them is the

way they are forced to commit acts of violence. In this case the author says that the average level of education of the perpetrators is very low, namely from elementary school (SD) to junior high school (SMP). But in general, according to him, the highest background of the perpetrators is to commit crimes because they are based on economic factors.

As stated above regarding the factors that lead to crime, in the opinion of the author, crime does not arise by certain factors alone but by several factors. Until now, it has not been able to satisfactorily determine which factors might be the causes of crime. But in principle all these things return to each human being as a social creature to adjust himself in social interaction

Criminal Sanctions Against Perpetrators of the Crime of Theft With Violence

The term “weighted theft” is usually doctrinally referred to as “qualified theft”.

This qualified theft refers to a theft that is carried out in certain ways or under certain circumstances, so that it is more serious and therefore punishable by a heavier penalty than ordinary theft. (Sugandi, 1980)

Theft in aggravating circumstances may be translated as special theft, namely as a theft in certain ways so that it is serious, therefore it is threatened with a higher maximum sentence, which is more than five years in prison or more Article 362 of the Criminal Code, and this is also regulated in Article 363.

This qualified theft with violence refers to a theft that is carried out in certain ways or under certain circumstances, so that it is more serious

in nature, and therefore is threatened with a heavier punishment than ordinary theft. Theft by force or qualified theft is regulated in Articles 363 and 365 of the Criminal Code. (Moeljatno, 2005: 128). Because the qualifying theft is theft carried out in certain ways and under certain aggravating circumstances, the proof of the elements of the crime of theft with violence must begin with proving the theft in its principal form. Theft is regulated in Article 363 of the Criminal Code. Theft as regulated in Article 363 of the Criminal Code is formulated as follows: By a maximum imprisonment of seven years, theft of livestock, theft in the event of a fire, eruption, flood, earthquake or sea quake, volcanic eruption, shipwreck, shipwreck, train accident, riot, rebellion or danger of war ; theft at night in a house or a closed yard where there is a house, committed by the person who is there unknown or unwanted by the rightful, theft committed by two or more people together, the theft to enter a place commit a crime, or to arrive at the goods taken, is carried out by dismantling, breaking or climbing or by using false keys, false orders or false official clothes (uniforms). earthquake, or sea quake, volcanic eruption, shipwreck, ship stranded, train accident, riot, rebellion or danger of war; theft at night in a house or a closed yard where there is a house, committed by the person who is there unknown or unwanted by the rightful, theft committed by two or more people together, the theft to enter a place commit a crime, or to arrive at the goods taken, is carried out by dismantling, breaking or climbing or by using false keys, false orders or false official clothes (uniforms). earthquake, or sea quake,

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4. CONCLUSIONS

Based on the discussion in the previous chapters, several conclusions can be drawn based on the subject matter, namely as follows: 1) Evidence of the elements of the criminal act of theft with violence, in this case has provided the achievements of the applicable law, both in terms of the handling process up to the investigation and decision or imprisonment in accordance with the mandate in Article 365 of the Criminal Code. Regarding theft which is preceded, accompanied or followed by violence or threats of violence, with a penalty of fifteen years in prison. 2) The provision of criminal sanctions against the perpetrators of the theft with violence above, in terms of giving this sanction, is already based on the results of the evidence from the elements of the criminal act of theft with violence.

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