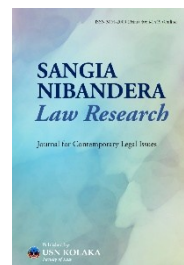


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Violent Theft in Criminal Law: Juridical Review of Causes and Sentencing Factors

Pencurian dengan Kekerasan dalam Hukum Pidana: Tinjauan Yuridis atas Penyebab dan Faktor Penentuan Hukuman

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Abstract

This study provides a juridical review of the crime of violent theft by examining both criminogenic factors and judicial considerations in the imposition of criminal sanctions. Violent theft represents a serious criminal offense that not only causes material losses but also threatens the physical and psychological safety of victims. This research employs a normative juridical method supported by a conceptual and case approach to analyze relevant legal provisions, doctrines, and judicial decisions. The findings indicate that criminogenic factors contributing to violent theft include economic pressure, social environment, low levels of education, and weak law enforcement deterrence. In

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addition, situational factors such as opportunity and group influence also play a significant role in the commission of the crime. From a juridical perspective, judges consider both juridical and non-juridical aspects in sentencing, including the severity of the act, the defendant's intent, prior criminal record, the impact on victims, and mitigating or aggravating circumstances. Judicial discretion is essential in ensuring that the punishment reflects principles of justice, legal certainty, and proportionality. However, disparities in sentencing are still evident, suggesting the need for clearer sentencing guidelines. This study concludes that a comprehensive approach integrating criminological insights and consistent judicial reasoning is necessary to enhance the effectiveness of law enforcement and ensure fair adjudication in cases of violent theft.

Keywords

Violent Theft, Criminogenic Factors, Judicial Consideration, Criminal Law, Sentencing

Abstrak

Studi ini memberikan tinjauan yuridis terhadap kejahatan pencurian dengan kekerasan dengan memeriksa faktor-faktor kriminogenik dan pertimbangan yudisial dalam pengenaan sanksi pidana. Pencurian dengan kekerasan merupakan tindak pidana serius yang tidak hanya menyebabkan kerugian materiil tetapi juga mengancam keselamatan fisik dan psikologis korban. Penelitian ini menggunakan metode yuridis normatif yang didukung oleh pendekatan konseptual dan studi kasus untuk menganalisis ketentuan hukum, doktrin, dan keputusan yudisial yang relevan. Temuan menunjukkan bahwa faktor-faktor kriminogenik yang berkontribusi terhadap pencurian dengan kekerasan meliputi tekanan ekonomi, lingkungan sosial, tingkat pendidikan yang rendah, dan lemahnya daya jera penegakan hukum. Selain itu, faktor situasional seperti kesempatan dan pengaruh kelompok juga memainkan peran penting dalam terjadinya kejahatan. Dari perspektif yuridis, hakim mempertimbangkan aspek yuridis dan non-yuridis dalam menjatuhkan hukuman, termasuk beratnya perbuatan, niat terdakwa, catatan kriminal sebelumnya, dampak terhadap

korban, dan keadaan yang meringankan atau memberatkan. Diskresi yudisial sangat penting dalam memastikan bahwa hukuman mencerminkan prinsip-prinsip keadilan, kepastian hukum, dan proporsionalitas. Namun, perbedaan dalam penjatuhan hukuman masih terlihat jelas, menunjukkan perlunya pedoman penjatuhan hukuman yang lebih jelas. Studi ini menyimpulkan bahwa pendekatan komprehensif yang mengintegrasikan wawasan kriminologi dan penalaran yudisial yang konsisten diperlukan untuk meningkatkan efektivitas penegakan hukum dan memastikan pengadilan yang adil dalam kasus pencurian dengan kekerasan.

Kata Kunci

Pencurian Dengan Kekerasan, Faktor-Faktor Kriminogenik, Tinjauan Yuridis, Hukum Pidana, Hukuman

A. Introduction

Indonesia is a country based on the law, so anyone who is guilty must be held accountable in court. The law is an instrument of punishment, and when a crime turns into an act that is not allowed by laws and regulations, the embargo uses a threat (punishment) in the form of criminal punishment, which is unique from the form of punishment. In this case, there is an interaction with the principle of legal criminality, namely that there is no criminal act that can be punished without the existence of laws and regulations. Thus there is a close interaction where the perpetrator can be punished and punished, and the threat of crime is directed at the perpetrator.

Citizens in all countries should support and follow the rules, and anyone who breaks the rules should be held accountable for their actions according to the rules. Crime is an act that violates the provisions of the law and must be punished according to the offense committed by the person.¹

In general, a crime is an act committed by a person who is regulated by law, violates the law, and must be punished as a

¹ Putra, Hafiz Dwisyah, and Nurhafifah Nurhafifah. "Tindak Pidana Pencurian Yang Disertai dengan Kekerasan." *Jurnal Ilmiah Mahasiswa Bidang Hukum Pidana* 2, no. 1 (2018): 8-14.

crime. If a person commits a criminal act, then he must be held criminally accountable, if viewed from a social point of view at the time the crime occurred, and from a normative point of view of the crime, then the person is guilty. Who did that.² According to criminal law theory, criminal behavior is divided into several concepts, such as criminal behavior, criminal behavior and crime. The word "theft" translates as "theft" (act or behavior) in Dutch and "theft" or "theft" in English.

The Criminal Code defines criminal acts as serious crimes, minor offenses, minor offenses, or minor offenses. To understand society as a social unit, we need to consider the region or community where crime occurs, where we live and work, and other social contexts. Because in the case of murder, the time, age and other circumstances are unknown. Of course, most criminal cases that arise in the community are handled in court and result in prison sentences, fines and other sanctions so that it has an impact on increasing the prison population. This has led to overcrowding in many government facilities in Indonesia, leading to crimes such as sexual assault, drugs, and even the killing of inmates.³

Crime is generally defined as an act that violates the law and is punished accordingly. A criminal act can be committed either directly or indirectly by an individual or a group of people who violate the law or commit negligence so as to cause legal consequences.⁴ Although crimes are often committed first, crimes can actually be committed without anyone committing the crime. For example, a criminal act against a child occurs, but

² Hamzah, Andi. *Hukum Pidana Indonesia*. (Jakarta: Sinar Grafika, 2017).

³ Wajdi, Muhammad Farid, et al. *Pengantar Hukum Pidana Indonesia*. (Jakarta: PT. Sonpedia Publishing Indonesia, 2023).

⁴ Zaini, Zulfi Diane, and M. Rifky Hendrian Rifky. "Analisis Penjatuhan Sanksi Pidana Terhadap Pelaku Tindak Pidana Pencurian dengan Kekerasan (Studi Putusan Nomor: 329/PID. B/2021/PN. TJK)." *Jurnal Ilmiah Living Law* 15, no. 1 (2023): 86-95; Basuki, Astin Ratri Nur Anggraini, et al. "Minors and Crime: Law And Criminological Analysis on Theft by Children (Case of Central Java, Indonesia)." *Law Research Review Quarterly* 9, no. 1 (2023): 71-88.

someone does not immediately commit the crime and report it. police, it's a crime.⁵

Enforcement of laws requires a legal mechanism that can be used to regulate all levels of society to maintain balance and justice. JCT Simorangkir and Voerjono Sastropranoto³ argue that law is essentially a set of binding rules that determine the behavior of individuals in the social environment, and that official institutions deal with violations of those rules, especially by imposing certain sanctions.

Living in a society that is growing over time not only has a positive impact on society, but also has a widespread negative impact. In addition, people who have difficulty adapting cause many conflicts and various problems. As a result, people commit various crimes for profit and satisfaction and show deviant behavior without caring about the fate of others. The problem of crime is a phenomenon that often occurs among urban and rural residents without exceeding the level of control that has been set by existing regulations. Crime can arise due to dissatisfaction with the fulfillment of the essential needs of a person or a group.

Throughout the history of human civilization, theft has misled humans due to unbalanced needs, lack of needs, and lack of goods. Theft occurs in several ways, ranging from traditional to modern ways using modern tools with smart designs. Similar things can be seen everywhere and in many cases where people are circumventing the law. The worst thing is that they are not only stealing adults, but also children from future generations.⁶

Statistics show that crime in Indonesia has increased compared to previous years, especially in the capital city of Jakarta and other major cities. Theft in NTB was the most shocking crime throughout 2018. In total, the 10 types of crimes were divided into 3,805 cases. Of the total 3,805 cases, 274 of them were cases of theft by force, and the resolution rate was 91

⁵ Hamdiyah, Hamdiyah. "Analisis Unsur-Unsur Tindak Pidana Pencurian: Tinjauan Hukum." *Jurnal Tahqiq: Jurnal Pemikiran Hukum Islam* 18, no. 1 (2024): 98-108.

⁶ Zaini, Zulfi Diane, and M. Rifky Hendrian Rifky. "Analisis Penjatuhan Sanksi Pidana Terhadap Pelaku Tindak Pidana Pencurian dengan Kekerasan (Studi Putusan Nomor: 329/PID. B/2021/PN. TJK)." *Jurnal Ilmiah Living Law* 15, no. 1 (2023): 86-95.

or 33%. Even in Mataram, theft crimes decreased compared to previous years.⁷

Criminals can carry out their activities through various efforts and methods. Because of this situation, we often hear that different crimes have different methods. With today's technological advancements, the way criminals operate also leads to advances in science and technology. Muliana V. Crime Factor. Gusuma can be classified into four groups, namely:⁸

- 1) Basic or structural social factors, which usually include important cultural aspects and aspects of social patterns
- 2) Elements of social interaction, including all dynamic and procedural aspects of society and the way individuals think, act and behave in relation to crime
- 3) Contributing factors include personal and situational factors that are directly related to criminal behavior.
- 4) The components of social reaction, which include general reactions to attitudes, behaviors, and forms of political institutions in the environment, particularly elements of the criminal justice system, as well as "informally expressed reactions". How to "become a community member"

In addition, Article 362 of the Criminal Code regulates the crime of ordinary theft: "*Whoever attempts to seize all or part of another person's property is threatened with imprisonment for a maximum of five years or a maximum fine of nine thousand rupiah*". And, the nature of this criminal act is the same as ordinary theft (Article 362 of the Criminal Code), namely:

- 1) Take the item
- 2) The goods are wholly or partially owned by another person
- 3) Purpose of ownership of the subject
- 4) By violating the law and then adding to the law
- 5) Violence or threat of violence (paragraph 1).

As referred to in Article 372 of the Criminal Code, namely: "*Whoever deliberately and unlawfully takes the property of*

⁷ Watoni, Muhammad Khairul. *Analisis Tindak Pidana Pencurian Dengan Kekerasan (Studi Putusan No. 704/Pid. B/2018/PN. Mtr)*. Thesis. (Mataram: Universitas Mataram, 2019).

⁸ Lutfi, Muhammad Adnan, et al. "Studi Perbandingan Tentang Penetapan Sanksi Pidana Pencurian Berdasarkan Hukum Pidana Positif Indonesia dan Hukum Pidana Islam." *Borobudur Law and Society Journal* 1, no. 1 (2022): 20-30.

another person or part of the property of another person that does not belong to him, by committing a criminal act, is threatened with imprisonment for a maximum of 4 years or a fine of up to nine hundred rupiah."

The theft can be said to be complete. If an object is moved and the offender takes it for granted, but the owner does not, then it cannot be said to have been stolen, but rather has just happened. Absolutely not. This is called an "attempted theft".⁹ Violent theft is a very complex problem that requires a comprehensive approach. Therefore, we hope that this study can increase knowledge about the factors that influence the occurrence of violent robberies and help reduce the number of violent robberies. . Violent theft is a serious problem and is common in many regions in Indonesia.

Violent theft includes car theft and property theft. Factors that affect the occurrence of violent crime include economic factors, education factors, unemployment factors, neglect factors, social factors, urbanization factors, alcohol, personal factors, religious factors, and family. Owner

Theft or robbery is a crime that violates the dominant norms of society, including the legal and religious norms of the country. All religions prohibit theft committed by their followers because of its adverse impact on the victim and the social order. Indonesia's positive law also prohibits a person from illegally possessing property that is not his right under criminal law.

Theft and theft are one of the social evils related to crime and are crimes that cause loss and suffering to others in the historical process of generational inheritance. Therefore, you should try to avoid serious theft or violence against others. Law is a social institution that functions as a tool of community regulation. However, its function is not just to regulate society, but to regulate it fairly. Rule justly because all people are equal before the law.

Theft is closely related to violence in the form of threats of violence. For example, when the victim is hit, tied up or

⁹ Lindsey, Tim, and Helen Pausacker. "Crime and punishment in Indonesia." *Crime and Punishment in Indonesia*. (London: Routledge, 2020), pp. 1-17; Ali, Mahrus. *Dasar-Dasar Hukum Pidana*. (Jakarta: Sinar Grafika, 2022).

threatened to be silent. If we look at the human condition, we find people stealing and looking for shortcuts to commit such violence. Since the theft of media and electronic media is often carried out for economic reasons, it is clear that the public can mobilize police forces to stop these violent crimes. Maybe. Lately, the word "escape" has been associated with violent crime.

Violent theft has become a serious and widespread problem in many regions of Indonesia. This problem not only impacts the victims but also society and the country as a whole. Theft by force includes car theft, property theft, etc. Factors that affect the occurrence of robberies with violence include economic factors, education factors, unemployment factors, victim abandonment factors, social factors, urbanization factors, alcohol, personal factors, religious and family factors. Violent theft can increase crime rates in a community and threaten safety. Robbery can also have a psychological impact on its victims, making them feel scared and anxious.

Therefore, more effective efforts must be made to reduce the number of violent robberies. The purpose of this study is to analyze the factors that influence the occurrence of violent theft in Indonesia. The study also aims to find out how to reduce violent theft and improve public safety.

This study focuses on the factors that affect the occurrence of robberies with violence and efforts to reduce the occurrence of robberies with violence. The study also describes strategies used to reduce violence and improve public safety. In this study, the researcher used qualitative and quantitative methods to collect data. Data was collected through interviews, observations and document analysis. Researchers also use statistical analysis to analyze the data collected. Therefore, we hope that this study can increase knowledge about the factors that influence the occurrence of violent robberies and help reduce the number of violent robberies.

The formulation of the problem that can be taken from the above context is as follows. :

- 1) What factors contribute to violent theft?
- 2) On what basis can a court consider a sentence for someone suspected of committing violent theft?

In accordance with the title of the paper included, the objectives of this research are:

- 1) Identify and analyze the factors that contribute to violent theft.
- 2) Understand the basis of considerations that are the guideline for judges in determining punishment in cases of robbery with violence.

B. Method

The method used by the author in the research is the normative method. The author also uses the case method. The case method used in this study is the normative legal method or the library law method. Norm studies are studies that aim to understand the normative questions faced by dogmatic jurisprudence by analyzing, examining, and selecting appropriate norms for the legal interpretation of norms.

The collection of legal data is carried out using secondary data in the form of court decisions in corporate corruption cases. Information was obtained from a variety of sources, including District Court and Supreme Court decisions. In addition, several books on corruption and several magazines on violent theft were used for data collection.

C. Results of the Discussion

1. Factors Causing Theft with Violence

Criminal behavior refers to the behavior of a person who is governed by the law, unlawful and punishable by law. Criminals must account for their actions against the guilty person. What is meant by crime is whether a norm is proven from a social point of view at the time the crime is committed. If it's a crime, it's a crime. The types of crimes of theft with violence are regulated in article 365 of the Criminal Code:

- (1) Theft is threatened with deprivation of liberty for a period of up to 9 years, and before, accompanies or follows violence or threats of violence against a person who is preparing or participating in such theft, or if he is caught committing such an act. (caught) committing a crime against himself or against the same Friend, allowing him to escape or allowing the stolen goods to remain in his possession.

- (2) If theft by force meets the provisions of paragraph 2 of Article 365 of the Criminal Code. Criminal threats can be increased for a maximum of 12 years.
- (3) Similarly, if this violent crime results in the death of the victim or another person, the threat of punishment is equivalent to deprivation of liberty for up to 15 years.
- (4) If the crime by violence is committed by two or more persons, resulting in serious injury or death to one person, and the provisions of paragraphs 1 and 3 are added to it. Paragraph 2 of this article, criminal threats can be further aggravated. 20 years in prison (Article 4).¹⁰

The nature of this criminal act is the same as ordinary theft (Article 362 of the Criminal Code), namely:

- 1) Take the item
- 2) The goods are wholly or partially owned by another person
- 3) Purpose of ownership of the subject
- 4) By violating the law and then adding to the law
- 5) Violence or threat of violence (paragraph 1).

In accordance with Articles 362-363 of the Criminal Code. The objective and subjective elements of the adoption of the article include:¹¹.

1) *Objective Elements*

The target element is the operation (delete). The existence of elements of these prohibited acts shows that theft is a formal criminal act. Typing is an active act or material activity that usually involves using the fingers and hands to perform deliberate muscle movements such as pointing, grasping, grasping, picking, carrying, and moving objects to other locations. The first place has been changed or confirmed. East. East. The hand and finger movements described above are not a prerequisite for movement. A key element of this activity is the transfer of initiative and object-oriented rights associated with this object to its sub-objects. Therefore, ownership can be interpreted as having real and absolute control over an object.

¹⁰ Mangkeprijanto, Extrix. *Hukum Pidana dan Kriminologi*. (Yogyakarta: Guepedia, 2019).

¹¹ Lubis, Muhammad Ridwan. "Analisis Kualitatif Dampak Hukum Pidana Terhadap Masyarakat." *Jurnal Ilmu Hukum, Humaniora dan Politik (JIHHP)* 4, no. 4 (2024).

This is a condition for the cessation of theft, and it is also a condition for the cessation of the crime of theft.

The Supreme Court (SC) decision of November 12, 1894 stated: "If the defendant accepts his case, then the trial of the case is stopped even if he later retracts it on the basis of knowledge."

In addition, a stationary object refers to a stationary or stationary object, contrary to the definition of a stationary object. Everything that can be stolen must belong to its owner. A full or partial ownership agreement means that an object cannot be wholly owned by another person, but only a part of the object, and the rest belongs to the perpetrator himself. Objective Elements Section:

- a. The Act of Taking: Theft with violence has an objective element in the form of the act of taking, namely taking the property of another person without permission.
- b. Object of Object: The object of the object taken is an object that belongs partly or wholly to another person.
- c. Accompanying Conditions: The condition that accompanies or attaches to an object is that the object belongs partially or wholly to another person.

2) *Subjective Elements*

If it concerns the element of intentionality, it means that you have a desire for the stolen goods before committing the act. Illegal possession means that the perpetrator knows in advance that what he is doing is illegal. Therefore, elements that violate the law are classified as subjective elements. The essence of an unlawful activity is the reprehensibility of a certain activity or prohibited activity.

Based on this, the doctrine recognizes two (two) types of illegality, namely: violation of formal rights and violation of substantive rights. Violation of formal rights is a violation of legal rights. At the same time, violations of substantive rights constitute violations of the principles of public law, both written and unwritten, and the reprehensible nature of such acts is in society. Subjective Element Section:

- a. Intent to Possess with Threat of Violence: Intent to possess with threat of violence means that the intention is to use the threat of violence to obtain the desired object.

- b. Intentional Threat of Violence: Intentionality with the threat of violence in theft by force means that the intention is to use the threat of violence intentionally to obtain the desired object.
- c. Intent to Possess with Violence and Threat of Violence: Intent to possess with force and threat of violence means that the intention is to use force and threat of violence to obtain the desired object.
- d. Intentionality with Violence and Threat of Violence: Intentionality with violence and threat of violence in theft by force means the intention of intentionally using violence and threats of violence to obtain the desired object.
- e. Intent to Possess by Violence, Threat of Violence, and Intentionality: Intent to possess by force, threat of violence, and intentionality means the intention of using violence, threat of violence, and intentionality to obtain the desired object.
- f. Intentional Violence, Threat of Violence, and Intentionality: Intentional with violence, threat of violence, and intentional theft with violence means intentionally using violence, threats of violence, and intentionally obtaining the desired object.
- g. Intent to Possess by Force, Threat of Violence, Intentionality, and Consciousness: Intent to possess by force, threat of violence, intentionality, and consciousness means the intention of using violence, threat of violence, intentionality, and consciousness to obtain the desired object.
- h. Intentionality with Violence, Threat of Violence, Intentionality, and Awareness: Intentionality with violence, threat of violence, intentionality, and awareness in theft with violence means intentionally using violence, threat of violence, intentionality, and awareness to obtain the desired object.
- i. Intent to Possess by Force, Threat of Violence, Intentionality, Awareness, and Intentionality: Intent to possess by force, threat of violence, intentionality, awareness, and intentionality means the intention to use force, threat of violence, intentionality, awareness, and intentionality to obtain the desired object.

- j. Intentionality with Violence, Threat of Violence, Intentionality, Awareness, and Intentionality: Intentionality with violence, threat of violence, intentionality, awareness, and intentionality in theft by force means the intention of using force, threat of violence, intentionality, awareness, and intentionality to obtain the desired object.
- k. Awareness: The awareness that the act is against the law must be present in the perpetrator.
- l. Intent to Possess by Force: The intent to possess by force means to use force to obtain the desired object.
- m. Violence: Violence in violent theft means that the intruder uses violence to obtain the desired object.
- n. Threat of Violence: Threats of violence in violent theft mean that the perpetrator uses the threat of violence to obtain the desired object.
- o. Intentional with Violence: Intentionality with violence in theft by force means the intention of deliberately using force to obtain the desired object.

There are many factors that contribute to the crime of violent theft. To find out the cause of the crime, law enforcement officials carried out several stages by looking at the chronology of events in the case.¹²

1) Economic Factors

Unstable economic problems can affect a person's behavior and make them commit the crime of violent theft to make ends meet

2) Malicious intent factor

Many of the demands of the people in Bandar Lampung are not met, so the only way is to commit the crime of extortion, theft, and persecution. In addition, the defendant has reached the age of adulthood, has high social desires or personal needs and does not have a permanent job, so there is criminal intent and the possibility in this field is very open, so the criminal intent has been committed. get out and the

¹² Daeng, Yusuf, et al. "Kajian Terhadap Faktor Yang Mempengaruhi Penegakan Hukum Pidana di Indonesia." *Innovative: Journal of Social Science Research* 3, no. 5 (2023): 6030-6038; Syabrina, Leshia. "Prevention of Motor Vehicle Theft by the Samapta Patrol (Study at the Demak Resort Police)." *Unnes Law Journal* 9, no. 1 (2023): 129-148.

criminals no longer consider the possibility of stealing the victim's property.

3) Educational Factors

Low levels of education can increase violent theft crimes because people who do not have a good education tend to commit crimes to make ends meet

4) Factors of Victim Negligence

Victim negligence can be one of the factors that affect the occurrence of violent theft crimes

There are several things that support the occurrence of theft crimes with other violent crimes, namely:

5) Lifestyle Factors

High lifestyle and low legal awareness can influence people to commit violent crimes in the form of theft. They view stealing as a way to gain more wealth and meet the necessities of life.

6) Social Factors

Poor interpersonal relationships and lack of legal awareness can influence individuals to commit the crime of violent theft. They view stealing as a way to gain more wealth and make ends meet

7) Unemployment Factors

The high unemployment rate and lack of legal awareness can influence people to commit the crime of theft with violence. They view stealing as a way to gain more wealth and meet the necessities of life.

8) Civilian and Army Power Factors

The power gap between civilians and the military and the lack of legal awareness can influence people to commit violent crimes. They believe that this power helps them commit violent theft without fear

9) Factors of Lack of Public Awareness:

A lack of legal awareness of the community and a lack of understanding of the importance of legal knowledge can influence individuals to commit the crime of violent theft. They believe that the law will not be enforced and that they can commit violent theft without fear.

In some cases, these factors can interact and influence a person to commit the crime of theft with violence. Therefore, it is necessary to make efforts so that the community increases their legal awareness, builds virtue and stays away from bad things.¹³ In addition to the triggering factors for violent theft, there are also factors that trigger the increase in cases, namely:

- 1) **Income:** Less income from criminals can be the main cause of motor vehicle theft crimes. Those who do not have a permanent job or have insufficient income are more likely to commit crimes to provide for their family's economic needs
- 2) **Unemployment:** Unemployment can increase the crime rate of theft. When a person does not have a job, he is more likely to commit crimes to make ends meet and reduce economic inequality in his family
- 3) **Poverty:** Poverty can also affect the crime rate of theft. High poverty rates can increase the crime of theft because poor people tend to commit crimes to meet their basic needs
- 4) **Effect of Criminal Settlement:** The settlement of criminal acts can affect the rate of theft crimes. When crime settlements increase, the rate of theft crimes does not significantly decrease because the increase in arrested criminals can increase economic inequality and unemployment
- 5) **Education** Education also affects the rate of theft crimes. Low levels of education can increase theft crimes because people who do not have a good education tend to commit crimes to make ends meet.
- 6) **Economy:** An unsatisfactory economy can increase the crime of theft. Unsatisfactory economic conditions can increase the crime rate of theft because people who do not have a permanent job or have insufficient income are more likely to commit crimes to make ends meet
- 7) **Population Density:** Population density also affects the rate of theft crimes. High population density can increase theft crime because people living in unsatisfactory conditions tend to commit crimes to make ends meet.

¹³ Lamintang, Paulus Anselmus Felix, and Franciscus Theojunior Lamintang. *Dasar-Dasar Hukum Pidana di Indonesia*. (Jakarta: Sinar Grafika, 2022).

2. The Basis of Judge's Consideration in Imposing Sanctions on Suspects of Theft with Violence

Among the various opinions of the judge in the defendant's sentencing file, the author summarizes the judge's opinion as follows:¹⁴

- a. Based on the indictment and case file, the Panel of Judges is of the opinion that Yiko Sanjaya Bin Yusuf Arifin who is currently charged in court is a corporation. An error occurred. This article is finished..
- b. nsur of the property belonging to another person in whole or in part meets the second element, because the goods are handed over to Mohammad Fadilla bin Mansoor, the suspect and witness, thus making the suspect's actions confiscated.
- c. Those who seek to evict the suspect must, as a sensible adult, understand that even though his actions are unlawful, the suspect still acts deliberately, thus fulfilling the third element.
- d. Factors that accompany or result in the occurrence of violence or threats of violence against the person who prepares or assists the theft, or who is detained or who has stolen goods, or who allows himself or another participant to escape.
- e. The composition of crimes committed at night in private homes or in closed courtyards, on public roads or in running trains or trams is complete.
- f. An important part of this operation is that two or more people act together to steal from the crime scene or use a fake key.

Because during the trial the jury did not find anything that could free the defendant, either out of mercy or justice, the defendant must be punished according to his own feelings. If there is a suspected criminal act, then law enforcement must be able to investigate for When there is an alleged criminal act, law enforcement must be able to confirm whether the perpetrator's actions are indeed a criminal act. The process is then carried out

¹⁴ Lamintang, Paulus Anselmus Felix, and Franciscus Theojunior Lamintang. *Dasar-Dasar Hukum Pidana di Indonesia*. (Jakarta: Sinar Grafika, 2022).

based on evidence to determine which rules are most often violated and the extent to which the perpetrator's behavior violates those rules. Finally, after the verification process is completed, a decision is made regarding the legal action to be taken against the perpetrator.¹⁵

Aggravated robbery or violent robbery is a crime of theft and is also a criminal offense of aggravated robbery. Aggravated theft is theft that is committed in a certain way or under certain circumstances and is more serious and has a greater risk of crime than ordinary theft. The element of proof of theft in this capacity begins with proving the basic type of theft. Articles 363 and 365 of the Criminal Code allow serious theft or theft according to the law.

The crime of aggravated theft is regulated under Article 363 of the Indonesian Criminal Code (*Kitab Undang-Undang Hukum Pidana*). This provision stipulates that certain forms of theft, due to their aggravating circumstances, are subject to enhanced criminal sanctions. Under Article 363 paragraph (1), perpetrators may be punished with imprisonment of up to seven years in cases involving: (1) theft of livestock; (2) theft committed during disasters such as fire, volcanic eruption, flood, earthquake, tsunami, shipwreck, train accident, riot, or wartime conditions; (3) theft of property located in a dwelling or enclosed premises during nighttime; (4) theft committed jointly by two or more persons; and (5) theft involving the use of false keys, forged documents, or disguises, or carried out by breaking, climbing, or using force to gain access to the crime scene.

Furthermore, under Article 363 paragraph (2), if the theft is accompanied by more severe aggravating circumstances as specified in paragraph (1), the offender may be subject to a higher penalty, namely imprisonment for a maximum of nine years. These provisions reflect the legislature's intention to impose stricter sanctions on theft offenses that involve

¹⁵ Saputra, Rian Prayudi. "Perkembangan Tindak Pidana Pencurian di Indonesia." *Jurnal Pahlawan* 2, no. 2 (2019): 1-8; Muhajirin, Ahmad, and Akhmad Ghofar Ismail. "Theft With Violence in Criminology Aspect: How People Dealing with Law?." *Journal of Law and Legal Reform* 1, no. 3 (2020): 381-394.

heightened social danger, organized conduct, or exploitation of vulnerable conditions, thereby ensuring greater protection of public security and legal order.

Furthermore, Article 365 of the Indonesian Criminal Code (*Kitab Undang-Undang Hukum Pidana*) regulates the offense of theft accompanied by violence or threats of violence, commonly referred to as robbery. This provision criminalizes acts of theft that are preceded, accompanied, or followed by violence or threats of violence, where such actions are intended to facilitate the commission of theft, ensure escape, or retain possession of stolen goods. The violence or threats must be directed against persons rather than property and may occur before, during, or after the act of theft. Typical manifestations include the use of force to immobilize victims, confinement, or intimidation aimed at overcoming resistance. The provision also covers situations where violence is used to secure escape or to assist co-offenders involved in the criminal act.

Under Article 365 paragraph (2), the offense is punishable by a maximum imprisonment of twelve (12) years. Paragraph (3) provides for an increased penalty of up to fifteen (15) years of imprisonment if the act results in serious injury or aggravating consequences. Furthermore, Article 365 paragraph (4) stipulates that if the robbery is committed jointly by two or more persons and results in death or serious harm, the perpetrators may be subject to the death penalty, life imprisonment, or imprisonment for a maximum of twenty (20) years. These provisions reflect the seriousness with which the Indonesian legal system treats violent theft, particularly when it endangers human life and public security, thereby reinforcing the protective function of criminal law.

D. Conclusion

Violent theft is a serious criminal phenomenon that requires comprehensive and integrated preventive and repressive measures. The analysis shows that such crimes are influenced by multiple interrelated factors, including economic hardship, unemployment, low educational attainment, weak social control, urbanization, substance abuse, and individual behavioral tendencies, as well as victim vulnerability. These

conditions are further reinforced by inadequate security systems and limited public legal awareness. Therefore, effective countermeasures must combine preventive approaches—such as legal education, strengthening public awareness, and improving social welfare—with preventive actions in the form of enhanced security systems and institutional capacity building, particularly within law enforcement agencies.

In addition to preventive strategies, repressive efforts must also be strengthened through firm and consistent law enforcement. Perpetrators of violent theft must be subjected to appropriate legal sanctions to ensure a deterrent effect and reduce recidivism within society. However, judicial decisions should remain balanced by considering both aggravating and mitigating circumstances in order to uphold the principles of justice. Ultimately, the effectiveness of addressing violent theft depends on the synergy between legal institutions, social systems, and community participation. Through integrated efforts, it is expected that the incidence of violent theft can be reduced, thereby enhancing public safety and reinforcing respect for the rule of law.

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F. Competing Interest

The authors state that there is no conflict of interest in the publication of this article.

G. Publishing Ethical and Originality Statement

All authors declared that this work is original and has never been published in any form and in any media, nor is it under consideration for publication in any journal, and all sources cited in this work refer to the basic standards of scientific citation.

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