

Criminological Review Of Article 365 Kuhp On The Crime Of Theft Accompanied By Violence In Sorong City

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Abstrak This study aims to identify the factors causing the crime of theft accompanied by violence in the Sorong City Police area and analyze the countermeasures made by the police against these cases, in accordance with Article 365 of the Criminal Code. The research method used is empirical method by collecting primary data from the field and secondary data from relevant written legal materials. The results showed that factors such as economy, environment, education, alcohol (Miras), unemployment, association, and victim negligence significantly contributed to the increase in cases of theft accompanied by violence in the area. Countermeasures carried out by the police include preventive strategies such as blupatroli, socialization through Bhabinkamtibmas, and strengthening the environmental security system. In addition, repressive efforts involving rigorous investigation and prosecution are also applied in accordance with applicable legal provisions to handle these cases.

Keywords: Criminology, Crime, Theft Accompanied by Violence

INTRODUCTION

Indonesia is a state of law as stated in the 1945 Constitution of the Republic of Indonesia. Law has an important role in regulating people's lives and guiding behavior. Every aspect of life is regulated by law, including criminal law which regulates certain prohibited acts and carries the threat of sanctions. Fair and unqualified law enforcement aims to create security, order and prosperity.¹

Regulatory and coercive legal regulations must be enforced, respected and obeyed by anyone without exception. This aims to provide guidelines in living relationships, protect individuals in community relations, so that security, order and prosperity can be expected in the life of society, nation and state.² Although the law aims to create order

¹ Ateng Sudiby and Aji Halim Rahman, "Dekonstruksi Asas Legalitas Dalam Hukum Pidana," *Journal Presumption of Law* 3, no. 1 (2021): 55–79, <https://doi.org/10.31949/jpl.v3i1.985>.

² Muhammad Aldo Savero et al., "Pengaruh Aliran Filsafat Hukum: Aliran Hukum Alam, Positivisme Hukum, Dan Utilitarian Dalam Perkembangan Ilmu Hukum," *Perkara: Jurnal Ilmu Hukum Dan Politik* 2, no. 2 (2024):

and peace, in reality there are still many people who break the law. The urgency of this research arises because of the high number of crimes, especially theft with violence or "begal," which is increasingly troubling the community. This crime shows increasing cruelty, disrupting public security and order.³

This research is important because there is a gap in the understanding of the characteristics and impact of begal crimes, as well as a lack of in-depth studies on this phenomenon in small cities such as Sorong. In addition, the lifestyle of adolescents influenced by globalization has also influenced the increase in begging cases, but has not been comprehensively researched.⁴

This research was chosen to provide an in-depth criminological review of Article 365 of the Criminal Code on the crime of theft accompanied by violence, especially in Sorong City, with a case study at Sorong City Police Station. This is expected to provide a better understanding of the phenomenon of begal and assist law enforcement efforts as well as increased security in the community.⁵

METHODS

The research method used in this research is the Empirical Juridical method. This legal research is conducted by tracing or reviewing library materials (legal literature) on secondary data obtained as a basis for research. The approach used is a statutory approach which involves analyzing the laws and regulations relevant to the subject matter raised. In this research, the types and sources of legal materials used include primary, secondary, and tertiary legal materials. Primary legal materials include legislation, namely Article 365 paragraphs (1, 2, 3, and 4) of the Criminal Code and Emergency Law No. 12 of 1951. Secondary legal materials consist of literature related to legal science, such as opinions of experts, principles, theories, books, journals, articles, and sources from the internet that are relevant to the formulation of the problem. Meanwhile, tertiary legal materials include terms and meanings from legal dictionaries, law books, laws and regulations, and the Big Indonesian Dictionary (KBBI). Data analysis in this research uses a qualitative approach, which involves organizing data in patterns, categories, and basic descriptions. The results of data analysis are presented descriptively in accordance with the data obtained. This research adopts a deductive approach to

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³ Dista Anggraeni and Novi Damayanti, "Penegakan Hukum Yang Berkeadilan Di Indonesia," *Uns* 1, no. 2 (2022): 49–58.

⁴ Elvi Lubis, Marsela, and Nico, "Tinjauan Hukum Terhadap Kejahatan Yang Dilakukan Oleh Anak Terlibat Geng Motor Mengakibatkan Kerusakan Barang," *Jurnal Ilmiah Penegakan Hukum* 1 (2018): 217–40, <http://www.ojs.uma.ac.id/index.php/gakkum/article/download/1855/1646>.

⁵ Saharuddin Daming et al., "PENGGUSURAN PEMUKIMAN DALAM PELAKSANAAN JALUR GANDA KERETA API BOGOR-SUKABUMI" 10, no. 1 (2023): 92–107.

testing hypotheses and is based on the traditional, positive, experimental, or empirical paradigm in legal research.

DISCUSSION

Countermeasures by the police of Sorong City Police on Article 365 of the Criminal Code, theft with violence

Based on an interview with Aipda M. Akbar I. Yudiono S.H. from the Criminal Investigation Unit of Sorong City Police on May 26, 2023, countermeasures against theft accompanied by violence at Sorong City Police have been carried out optimally. This countermeasure includes preventive, repressive, and joint patrols between POLRI and TNI, as mandated by Article 13 of Law No. 2/2002. Preventive efforts include blupatroli, socialization through various media, activation of environmental security systems (siskamling), increased regional security, liquor raids, investigations, and data analysis to identify perpetrators.

Blupatroli is a routine patrol in vulnerable areas conducted by the Sorong City Police unit, especially by the elite Detection unit. Socialization to the community is carried out through various media to increase awareness of areas prone to theft accompanied by violence. In addition, activation of neighborhood security posts (poskamling) and liquor raids are also routinely carried out. Repressive actions are carried out after a crime has occurred, involving investigations, arrests, and coordination with other regional police forces. This aims to catch perpetrators who often have extensive networks.

Joint patrols with the TNI, both agencies collaborate to maintain security and order, with POLRI focusing on law enforcement and TNI on military tactics. Countering these crimes is an integral part of efforts to protect society (social defense) and improve the welfare of society (social welfare). This policy aims to protect the community and achieve social welfare, in accordance with the ideals of law which include legal certainty, justice and expediency. These three elements must be present in every rule of law to achieve justice and order.⁶

Factors Causing the Occurrence of Criminal Acts of Theft Accompanied by Violence in the Sorong City Police Area.

Criminology emphasizes on preventive and repressive measures with a focus on the causes of crime in various areas such as economic, socio-cultural, legal, and individual natural factors. The main objective is to provide appropriate solutions in crime

⁶ Salman Alfansuri Muhammad et al., "AsSyar i {Jurnal} {Bimbingan} {Konseling} {Keluarga} 6 No" 6 (2024): 1448–60, <https://doi.org/10.47476/assyari.v6i3.6516>.

prevention. This effort is often interpreted as criminal politics, which is the regulation of crime control efforts by society which is an integral part of social politics. Criminal politics involves penal and non-penal law policies, with the aim of supporting broader social policies. Society and law have a close relationship, likened to two sides of one coin.⁷ It is hard to imagine a society without order supported by various institutions, including law and tradition. Laws reflect the ideas and will of the people about how society should be built and directed, including the concept of justice. Laws that are respected and obeyed are considered good, while laws that are not respected or obeyed can be replaced according to the needs of society.

Crime and law are human constructs. Crime does not exist without human action, and neither do laws created to eliminate crime. Criminology studies the symptoms of crime broadly to understand the factors that cause and impact, both on individuals and society. This understanding is important for establishing effective patterns of countermeasures, including handling individual perpetrators, determining criminal articles, criminal procedural law processes, and determining sanctions or Factors such as economics, environment, education, alcohol, unemployment, and socialization greatly influence criminal behavior. For example, violent theft in Sorong city is often caused by perpetrators who do not have a steady job or are addicted to alcohol. Economic factors are often the main trigger, where the urge to fulfill the needs of life drives a person to commit a crime. In addition, the family and community environment also plays an important role in shaping individual personality and behavior.⁸

Criminal law must be effective in tackling crimes such as theft with violence, by establishing clear sanctions and appropriate preventive efforts. According to Article 365 of the Criminal Code, theft with violence is punishable by a maximum imprisonment of nine years. Economic factors, environment, education, alcohol, unemployment, and victim negligence greatly influence the occurrence of theft with violence. The perpetrators are often alcoholics and do not have a permanent job, so they commit crimes to fulfill these needs. Preventive efforts and effective law enforcement are needed to address this problem.⁹

Crime prevention and control efforts should not only focus on punitive aspects,

⁷ Nur Rina Kus Afriana, Muslimah Muslimah, and Imam Qalyubi, "Peran Bahasa Dalam Teks – Teks Perkembangan Pemikiran Ekonomi Islam," *Jurnal Al-Qiyam* 2, no. 1 (2021): 140–48, <https://doi.org/10.33648/alqiyam.v2i1.159>.

⁸ Meliyawati, Suryadi, and Sitti Faoziyah, "Peran Keluarga Sekolah Dan Masyarakat Dalam Upaya Pencegahan Kekerasan Seksual Pada Anak Di Desa Astanajapura Kecamatan Astanajapura Kabupaten Cirebon," *Journal of Chemical Information and Modeling* 53, no. 9 (2017): 1689–99, <http://bit.ly/3perankeluarga>.

⁹ I Gede Aditya Putra Mahendra, "Upaya Kepolisian Negara Republik Indonesia Dalam Menanggulangi Tindak Pidana Pencurian Yang Dilakukan Pelaku Di Bawah Umur Dengan Penerapan Asas Restorative Justice," *Jurnal Hukum Media Justitia Nusantara* 12, no. 1 (2022): 99–145, <https://doi.org/10.30999/mjn.v12i1.2061>.

but also require a holistic approach that involves various elements of society. Rehabilitation programs for offenders and public education on the dangers and consequences of criminal acts can be important steps in reducing crime. Education and job training for offenders who have served their sentences can help them to return to society well-equipped to reduce the likelihood of re-offending. In addition, cooperation between law enforcement officials, educational institutions, community organizations, and the private sector is needed to create an environment conducive to crime prevention.¹⁰

On the other hand, strengthening the role of families and communities in educating and shaping children's character from an early age is a strategic step in long-term crime prevention. Harmonious and caring families tend to produce individuals who are more emotionally and mentally stable, and better able to avoid negative environmental influences. Character education in schools also plays an important role in shaping the attitudes and behaviors of children who are more responsible and have integrity. Youth mentoring and guidance programs that involve positive community leaders or public figures can provide real-life examples for children and teenagers about the importance of staying away from crime.¹¹

Finally, the treatment of crime victims should also be a priority in criminal policy. Victims of crime often experience physical and psychological trauma that requires special treatment. Legal aid services, counseling, and medical and psychological support for victims must be improved so that they can recover and return to living a normal life. The government and society need to work together to provide a network of protection and assistance for victims of crime, and ensure that their rights are fulfilled. With a comprehensive and integrated approach, crime prevention can be done more effectively, creating a safer and more prosperous society.¹²

The elements of the crime of theft accompanied by violence include the intention or intent of the perpetrator, acts of violence or threats of violence, and taking property without permission. Legal sanctions for perpetrators are more severe than ordinary theft because of the element of violence that increases the level of the crime committed.¹³

¹⁰ Intan Fadilah Nasution et al., "Peran Keterbukaan Komunikasi Dalam Membangun Budaya Organisasi Untuk Meningkatkan Citra Diri Kepolisian," *Observasi: Jurnal Publikasi Ilmu Psikologi* 2, no. 3 (2024): 303–15.

¹¹ Dila Nurul Maghfira Arrahman and Tajul Arifin, "Penyalahgunaan Narkotika Di Kalangan Remaja Berdasarkan Pasal 1 Uu No. 35 Tahun 2009 Dan Hr Abu Daud Dan Ahmad," *Jurnal Hukum Dan Kewarganegaraan* 3, no. 35 (2024): 1–21.

¹² Andi Aina Ilmih, "Membangun Tembok Perlindungan Hak Asasi Manusia Di Era Kejahatan Lintas Negara," no. 4 (2024): 25–35.

¹³ Mahendra, "Upaya Kepolisian Negara Republik Indonesia Dalam Menanggulangi Tindak Pidana Pencurian Yang Dilakukan Pelaku Di Bawah Umur Dengan Penerapan Asas Restorative Justice."

Based on this description, the author will present data on theft accompanied by violence in the Sorong City Police area consisting of data on the number of cases reported, cases resolved as the author obtained from the results of research at the Sorong City Police which can be seen in the table below:

Table 1.1

NO	Tahun	Jumlah Laporan	Kasus Yg Selesai	Jumlah Tersangka
1.	2022	35	25	70
2.	2023	18	1	18
Total		53	26	88

Data Source: Sorong City Police

The table shows data on cases of theft accompanied by violence at Sorong City Police for the last 2 years. In 2022, there were 35 cases reported, with 25 resolved cases and 70 suspects. Whereas in 2023, the number of cases recorded was 18, with only 1 case resolved and 18 suspects. This shows that while the number of cases in 2023 decreased, the case resolution rate decreased significantly compared to the previous year. In the last 2 years in total, 53 cases were recorded, with 26 cases successfully resolved and 88 suspects involved.

The age of the perpetrators based on the results of interviews with Mr. M. Akbar I. Yudiono that the perpetrators of theft cases accompanied by violence, the perpetrators of theft in the Kota Sorong Police area are as follows:

Table 1.2

NO	Usia Pelaku	Presentasi
1	14 tahun – 17 tahun	10 %
2	18 tahun – 20 tahun	20 %
3	25 tahun – 30 tahun	20 %
4	31 tahun – 35 tahun	50 %
Total		100%

Data Source: Sorong City Police

The data table above clearly shows that most of the perpetrators of the crime of theft accompanied by violence are between 14-35 years old, reaching 50%. The various behaviors or actions of adolescents that deviate from morals often cause anxiety in society and problems for others. Adolescent socialization also has the potential to cause social unrest because not a few teenagers are involved in negative associations such as getting drunk and committing criminal acts of theft accompanied by violence. Such teenage behavior contains multiple risks and negative impacts both on their own health and the surrounding environment.

CONCLUSION

In the effort to overcome the crime of theft accompanied by violence in the Sorong Kota Police area, several causal factors become the main focus to be understood in depth. Economic factors are one of the main triggers, especially in difficult economic conditions with high unemployment rates, which often encourage individuals to look for quick ways to obtain money, including through criminal acts. An unfavorable social environment, such as high population density and lack of security facilities, also contributes to the high risk of crime. In addition, low levels of education in some areas can affect legal awareness and the character of the community towards crime. Alcohol consumption is also a significant factor, as it can change behavior to be more impulsive and prone to violence. The Sorong Kota Police have made various comprehensive countermeasures. Preventive efforts are carried out through routine patrols (blupatrol), socialization to the community through Bhabinkamtibmas, and strengthening the environmental security system through siskamling initiatives. Meanwhile, repressive efforts focused on investigation and strict law enforcement against perpetrators of crimes in accordance with Article 365 of the Criminal Code. By identifying, understanding, and overcoming these triggering factors, it is expected to increase the level of security and overall community welfare in the Sorong Kota Police area. It is expected that the government provides wide employment opportunities to the community so that the community can fulfill their daily needs and it is also expected that the government will also provide the following eradicating alcohol so that the community is not influenced and does not fall into negative things. Increasing the security of the community can help prevent or reduce the crime of theft accompanied by violence. This can include increased lighting on dark streets, installation of security cameras, stricter surveillance in public places.

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