

Legal Review of Criminal Acts of Motor Vehicle Theft Accompanied by Violence

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Abstract: This study aims to analyze the factors causing theft accompanied by abuse and to assess the effectiveness of countermeasures taken by the Sorong City Police. **The research method** used is a combination of normative and empirical legal research, utilizing primary data obtained through interviews at the Sorong City Police Station and secondary data in the form of laws, regulations, literature, and related documents. **The novelty** of this research lies in the integration of juridical analysis and empirical findings related to the characteristics of theft cases accompanied by violence in the Sorong area, as well as how the pattern of cooperation between the police and the community can form a community-based prevention mechanism. **The results** of the study show that the increase in cases of theft with abuse is generally triggered by economic factors, lack of environmental supervision, and open opportunities for crime. Cases are handled through the collection of evidence, examination of witnesses who clearly saw the incident, and tracing the chronology to fulfill the elements of a criminal offense as stipulated in Articles 362–367 of the Criminal Code and Articles 351–355 of the Criminal Code. On the other hand, prevention efforts have not been fully optimal due to limited police resources and minimal community involvement. **In conclusion**, theft accompanied by abuse can be reduced through increased socialization of crime prevention, strengthening of neighborhood security systems such as neighborhood watch posts, and strategic collaboration between the Sorong City Police and the community to build collective awareness and reduce opportunities for crime.

Keywords : Crime; Theft; Assault.

Abstrak: Penelitian ini bertujuan untuk menganalisis faktor penyebab terjadinya tindak pidana pencurian yang disertai dengan penganiayaan serta mengkaji efektivitas upaya penanggulangan yang dilakukan oleh Kepolisian Resort Sorong Kota. **Metode penelitian** yang digunakan merupakan kombinasi antara penelitian hukum normatif dan empiris, dengan memanfaatkan data primer melalui wawancara di Polres Sorong Kota serta data sekunder berupa peraturan perundang-undangan, literatur, dan dokumen terkait. **Kebaruan penelitian** ini terletak pada integrasi analisis yuridis dan temuan empiris terkait karakteristik kasus pencurian yang disertai kekerasan di wilayah Sorong, serta bagaimana pola kerja sama antara kepolisian dan masyarakat dapat membentuk mekanisme pencegahan berbasis komunitas. **Hasil penelitian** menunjukkan bahwa peningkatan kasus pencurian dengan penganiayaan

umumnya dipicu oleh faktor ekonomi, kurangnya pengawasan lingkungan, serta peluang kejahatan yang terbuka. Penanganan perkara dilakukan melalui pengumpulan alat bukti, pemeriksaan saksi yang melihat secara jelas peristiwa, serta penelusuran kronologi untuk memenuhi unsur tindak pidana sebagaimana diatur dalam Pasal 362–367 KUHP dan Pasal 351–355 KUHP. Di sisi lain, upaya pencegahan belum sepenuhnya optimal karena keterbatasan sumber daya kepolisian dan minimnya keterlibatan masyarakat. **Kesimpulannya**, tindak pidana pencurian yang disertai penganiayaan dapat ditekan melalui peningkatan sosialisasi mengenai pencegahan kejahatan, penguatan sistem keamanan lingkungan seperti poskamling, serta kolaborasi strategis antara Polres Sorong Kota dan masyarakat guna membangun kewaspadaan bersama dan mengurangi peluang terjadinya kejahatan.

Kata kunci: Tindak Pidana; Pencurian; Penganiayaan.

1. INTRODUCTION

Everyone has needs that must be met in order to live their lives. As times continue to change, human needs continue to increase. The amount of income that each person has greatly affects their individual needs. Someone with a small income will certainly have difficulty meeting their needs¹. The need to continuously meet their needs requires a person to find work in order to survive. The ongoing economic crisis has resulted in fewer job opportunities, meaning that not everyone is equally fortunate in terms of employment, leading to widespread unemployment. Communities with low levels of welfare tend to disregard norms or legal regulations applicable. Seeing this situation, in order to fulfill their needs, people tend to use any means necessary, such as stealing².

One form of crime that often occurs in society is theft. Given the current social situation, it is very likely that people will look for shortcuts by stealing. The frequent occurrence of various types of theft is motivated by unmet basic needs. As theft crimes develop, other forms of theft also emerge. One such form is theft accompanied by assault. Criminal acts of theft are regulated in Book II Chapter XXII of Law Number 1 of 1946 concerning the Criminal Code (KUHP) Articles 362 to 367 and in Chapter XX II, Articles 351 to 355 of the Criminal Code concerning maltreatment. Article 362 of the KUHP does not explain the definition of theft, which has one element that is considered a criminal act of theft, namely taking something. The definition of something here refers to money, clothes, necklaces, animals, electricity, gas, bicycles/motorcycles, and so on. The item does not need to have economic value, so if

¹ Erick Wijaya Siagian, "Tinjauan Yuridis Normatif Terhadap Korban Tindak Pidana Pencurian Dengan Kekerasan (Jambret) Berdasarkan Perspektif Kuhp Di Indonesia," *Peshum: Jurnal Pendidikan, Sosial Dan Humaniora* 4, No. 4 (2025): 6101–11, <https://doi.org/10.56799/Peshum.V4i4.9390>.

² Ica Karina Et Al., "Kajian Viktimologi Tentang Perlindungan Hukum Bagi Pengendara Kendaraan Bermotor Yang Mengalami Tindak Pidana Pencurian Dengan Kekerasan Di Wilayah Hukum Kepolisian Resor Tanah Karo" 2 (2024): 12–27.

someone takes another person's property without permission, it is classified as theft³. If someone takes another person's property by force, causing that person to suffer injury or wounds, then the act is classified as maltreatment, which is covered in Article 351 of the Criminal Code.

Criminal acts of theft regulated in Articles 363 and 365 of the Criminal Code are classified as qualified theft. Wirjono Projodikoro defines it as "special theft" because it is committed in certain ways. Hermien Hediati Koeswadi, 1984, "Principles, Special Cases and Issues," first edition, Sinar Wijaya, Surabaya. 2 Criminal acts of theft accompanied by assault are thefts accompanied by one of the following circumstances: theft committed at night, committed by one person, committed by means of destruction, thereby causing significant harm⁴.

2. METHOD

This research is a study using normative and empirical research methods because the data obtained from the research is in the form of interviews conducted at the Sorong Resort Police, then the data obtained is sourced from books and all other forms of library documents. The types of data used by the author are primary and secondary data. The data collection technique used was qualitative data obtained using logical identification and inventory methods in accordance with the research problems that had been formulated for subsequent analysis. The data used in this study namely using qualitative analysis aimed at finding relationships that explain the causes and facts related to criminal acts.

3. DISCUSSION

3.1. Application of Substantive Criminal Law to Perpetrators of Substantive Criminal Acts Perpetrators of Motor Vehicle Theft Accompanied by Assault

A criminal act or crime is any action committed by a person that violates the law and is punishable by law. Criminal law, defined as "public law that regulates the behavior of society with the aim of maintaining order and peace," regulates the punishment imposed on those responsible for crimes. Crime is an act with harmful social consequences that targets specific individuals or groups. Criminal activity has a terrible effect on social harmony and thus contributes to the problem itself⁵. To prevent further harm and loss that could affect many people, society can react defensively when crime occurs as a social symptom with a negative history. Many people work hard to reduce crime in the hope of stopping or at least reducing the number of crimes caused by people who break the rules.

³ Nelssen Alessandro And R. Rahaditya, "Implikasi Yuridis Putusan Nomor 596/Pid.B/2023/Pn Jkt. Brt Terhadap Penegakan Hukum Tindak Pidana Pencurian Kendaraan Bermotor," *Ranah Research: Journal Of Multidisciplinary Research And Development* 7, No. 1 (2024): 174–83, <https://doi.org/10.38035/Rrj.V7i1.1241>.

⁴ Zainudin Hasan Et Al., "Kebijakan Hukum Tindak Pidana Pencurian Sepeda Motor Dengan Tindak Kekerasan," *Jurnal Hukum, Politik Dan Ilmu Sosial* 2, No. 3 (2023): 213–23, <https://doi.org/10.55606/Jhpis.V2i3.1948>.

⁵ Yulia Kurniaty Basri, Heni Hendrawati, "Kajian Yuridis Unsur Tindak Pidana Pencurian Dengan Kekerasan," *Ekp* 13, No. 3 (2015): 1576–80.

Both material and immaterial losses are caused by motor vehicle theft, especially two-wheeled vehicles. Victims will experience loss of property, such as motorcycles, and psychological trauma from being the target of violent crime. Criminals often act without considering the consequences⁶. The theft of 45 two-wheeled motor vehicles was carried out in various ways, with careful planning to reduce the possibility of the theft being foiled. When victims are careless in parking or securing their motorcycles, perpetrators can easily take advantage of the situation and steal the motorcycles. Theft accompanied by acts of violence against the victim, sometimes resulting in death, is carried out in various ways, including stealing two-wheeled vehicles. Substantive criminal law is criminal law that focuses on the part or substance of a criminal offense.

Substantive criminal law is also a branch of law that regulates criminal offenses and can regulate the sanctions to be imposed on offenders. Substantive criminal law generally regulates and passes judgment on those whose actions are considered harmful to society. In other words, substantive criminal law regulates all acts of theft, murder, rape, and fraud as defined in substantive criminal law.

Based on the results of an interview with Mr. Lingga Besli A. S, Sos. as Deputy Chief of the Sorong City Police Criminal Investigation Unit. The process of applying substantive criminal law to perpetrators of theft with violence requires obtaining "evidence and elements related to the victim of the crime of theft and violence, what the perpetrator did to the victim, and what the perpetrator used to assault the victim." According to the results of the interview above, the process of applying substantive criminal law before the case is submitted to court, as carried out by the investigating authorities, is as follows: Victim, Evidence is something that establishes the truth of an event, a tangible statement, or a sign. Evidence, The evidence used by the perpetrator was a machete and a screwdriver. The perpetrator used the screwdriver and machete to threaten the victim. Elements of Substantive Criminal Law⁷.

Elements of the Act (Actus Reus): The first element of substantive criminal law is the element of action, which refers to physical acts or concrete actions committed by the perpetrator. For an act to be considered a criminal offense, there must be an action or omission that violates the law. Examples include theft, murder, or fraud.

Element of Guilt (Mens Rea): The second element of substantive criminal law is the element of fault, which relates to the mental state and intent of the perpetrator when committing the act. This includes elements such as intent (with intent), wilful negligence, or culpable ignorance. The principle of fault requires that the perpetrator has the awareness and

⁶ Eddy Supratman, "Tinjauan Yuridis Pencurian Dengan Kekerasan (Studi Polrestabes Medan)," *Jurnal Rectum* 3, No. 2 (2021): 289–98, [Http://Jurnal.Darmaagung.Ac.Id/Index.Php/Jurnalrectum/Article/View/1933/1763](http://Jurnal.Darmaagung.Ac.Id/Index.Php/Jurnalrectum/Article/View/1933/1763).

⁷ Fia Trysari Mardodo, "Modus Operandi Tindak Pidana Pencurian Dengan Kekerasan," *Artikel Ilmiah* 13, No. 3 (2015): 1576–80.

free will to commit a criminal act.

Causation: The third element of substantive criminal law is causation, which requires a cause-and-effect relationship between the perpetrator's actions and the resulting impact. This means that the perpetrator's actions must be the direct cause of the unlawful or illegal result or consequence⁸.

Objectivity (Objective Elements): The fourth element of substantive criminal law is the objective element, which covers all external factors related to the criminal act. This includes the object of the crime, the situation or conditions in which the act was committed, or the social consequences of the act. The objective element helps to understand the context and environment in which the criminal act occurred.

Subjective Elements: The fifth element of substantive criminal law is the subjective element relating to the mental state and inner condition of the perpetrator when committing the act. This involves factors such as malicious intent, the perpetrator's motivation or purpose, or the perpetrator's awareness of the unlawful nature of their actions.

Violation of the Law: The final element of criminal law is non-compliance with the law. This element indicates that the perpetrator's actions violate applicable laws. Such actions must be contrary to the legal norms established by the legal system in force in a country. Article 365 of the Criminal Code: This article regulates theft with violence or threats of violence against a person with the intent to steal. This type of theft is punishable by a maximum of 9 years imprisonment. Article 369 of the Criminal Code: This article discusses theft with violence that results in the death of the victim. This type of theft is punishable by life imprisonment or the death penalty. Article 370 of the Criminal Code: This article regulates theft with violence that results in serious injury to the victim. This type of thief is punishable by a maximum imprisonment of 12 years.

This was also revealed by Mr. Lingga Besli A. S, Sos. as Deputy Chief of Criminal Investigation at the Sorong City Police Headquarters in a case that occurred on Tuesday, May 30, 2023, namely: "Witness testimony in a case of theft with violence that occurred on Tuesday, May 30, 2023, in which a motorcycle was stolen in the city of Sorong, West Papua. The incident involved a motorcycle taxi driver (Amhad) who was assaulted by his passenger (Abdul), after which the motorcycle was stolen by the perpetrator (Abdul). Deputy Chief of Criminal Investigation Lingga Besli A. S, S.Sos., explained the chronology of the theft incident. The incident began when the suspect pretended to be a passenger, asking to be taken from the city to Sorong District. Upon arriving at a secluded location, the motorcycle taxi driver was then assaulted, and his motorcycle was stolen by the perpetrator to be sold. The police stated that upon learning of the incident, they immediately arrested the perpetrator and secured the

⁸ Zainudin Hasan Et Al., "Kebijakan Hukum Tindak Pidana Pencurian Sepeda Motor Dengan Tindak Kekerasan."

evidence. The perpetrator faces up to five years in prison or a fine of sixty rupiah.

Based on the facts revealed by the witness, the chronology of the theft was established. The perpetrator pretended to be a passenger (Abdul) and asked the victim (Amhad) to take him from the city to Sorong Regency. Once they arrived at a secluded location, the motorcycle taxi driver (Amhad) was assaulted and his motorcycle was stolen by the perpetrator (Abdul) to be sold. The evidence used by the perpetrator included a machete used to threaten the victim and a screwdriver found in the perpetrator's pants pocket. The evidence secured was a motorcycle belonging to the victim⁹.

Furthermore, if the case is to be pursued further, an investigation will be conducted. An investigation is a series of actions taken by investigators to search for and discover an event suspected of being a criminal act in order to determine whether or not an investigation can be conducted in accordance with the procedures stipulated by law¹⁰. The results of the investigation will be used as consideration in determining the punishment for the perpetrator of the crime of theft with abuse. In the application of substantive criminal law in Indonesia, it is important to ensure that the application of criminal sanctions does not violate the human rights of the perpetrator. For example, in a case where the perpetrator committed an offense under Article 370, but the perpetrator was punished under Article 369, which violated human rights or the rights of the perpetrator.

Table 1. Data on Criminal Acts of Theft Accompanied by Abuse in Sorong City Police Precinct in 2022/2023

NO	YEAR	NUMBER		CRIME CLEARANCE (CC)					DIVERSIO	SURPLUS	
		L	P	P21	SP2	RJ		SP3			N
						INVESTIGA	TION				
1	2022	247	145	13	119	12	0	0	0		
2	2023	172	27	6	8	5	0	1	0		

Source: Sorong City Police (2024).

Based on the data above, it can be seen that from 2022 to 2023 there has been a decrease. The number of cases in 2022 was 247 and 145 cases were resolved. Furthermore, in 2023 there were 172 cases and 27 were resolved.

⁹ R R Novianty, "Penegakan Hukum Terhadap Tindak Pidana Pencurian Kendaraan Bermotor Dengan Kekerasan Di Wilayah Hukum Polresta Pekanbaru" 8, No. 1 (2019): 324–30, [Http://Repository.Uir.Ac.Id/Id/Eprint/10028](http://Repository.Uir.Ac.Id/Id/Eprint/10028).

¹⁰ Clavia, "Kriminologis, Analisis Anak Terhadap Berkonflik Yang Hukum Dengan Tindak Dalam Pencurian Pidana," *Journal Of Law*, 2024, 69–83.

3.2. How does the Sorong City Police Department address criminal acts of theft with violence?

The police force plays a leading role in the law enforcement process in Indonesia, ahead of prosecutors and judges¹¹. Furthermore, the police act as investigators in matters of law enforcement related to criminal acts. Provisions regarding the police are regulated in Law Number 2 of 2002 concerning the Indonesian National Police. The police have the following powers: to arrest, detain, search, and confiscate¹².

Prohibiting anyone from leaving or entering the scene of the crime for the purposes of investigation. Bringing and presenting individuals to investigators in the course of an investigation. Ordering suspected individuals to stop, questioning them, and checking their identification. Summoning individuals to be heard and examined as suspects or witnesses. Submitting case files to the public prosecutor¹³. The revision of the Indonesian Police Law, Law No. 2 of 2002, is intended to further strengthen the position and role of the police as a government function covering the maintenance of security and public order, law enforcement, protection and security, and service to the community that upholds human rights (Article 4, Law No. 2 of 2002). This government task is carried out by the police through the enforcement of criminal law, particularly through crime prevention and the resolution of crimes that occur.

The role of the police according to Article 1 paragraph (5) of Law No. 2 of 2002 concerning the Indonesian National Police is related to: "public security and order is a dynamic condition of society as one of the requirements for the implementation of the national development process, which is characterized by the guarantee of order and the enforcement of law, as well as the establishment of peace, which includes the ability to foster and develop the potential and strength of society in countering, preventing, and overcoming all forms of law violations and other forms of disturbances that may cause unrest in society." However, in creating this sense of security, the police also have the duty to maintain order or regularity. The police are no longer the only law enforcement agency, but one of several alongside the judiciary and the prosecutor's office¹⁴.

¹¹ Karina Et Al., "Kajian Viktimologi Tentang Perlindungan Hukum Bagi Pengendara Kendaraan Bermotor Yang Mengalami Tindak Pidana Pencurian Dengan Kekerasan Di Wilayah Hukum Kepolisian Resor Tanah Karo."

¹² Sesilia Intan, "Penerapan Sanksi Pidana Terhadap Pelaku Tindak Pidna Pencurian Dengan Kekeraan," *Jurnal Hukum*, No. 268 (2017): 1–18.

¹³ Sarah Afifa Ritonga And Sri Hadiningrum, "Upaya Kepolisian Dalam Menanggulangi Tindak Pidana Pencurian Kendaraan Bermotor Dengan Pemberatan Di Wilayah Polsek Medan Helvetia," *Jurnal Pendidikan Kewarganegaraan* 9, No. 1 (2025): 267–76, <https://doi.org/10.31571/Jpkn.V9i1.8064>.

¹⁴ Rurencha Ramanda, Arie Purnomo, And Saiful Ichwan, "Kinerja Satreskrim Dalam Menangani Tindak Pidana Pencurian Dengan Kekerasan Pada Polres Sorong Kabupaten Sorong," *Jurnal Faksi: Ilmu Sosial Dan Ilmu Politik* 4, No. 3 (2019): 58–68, <http://ejournal.um-sorong.ac.id/index.php/Jf/article/view/1298>.

Based on research and interviews with Mr. Besli A. Lingga, S.Sos., Deputy Chief of Criminal Investigation at the Sorong City Police, he explained as follows: "In efforts to addressing motor vehicle theft, there are two general approaches taken by the police," namely as follows:

Preventive measures, Preventive measures are carried out by: Improving security in the Sorong City Police jurisdiction to minimize the occurrence of theft. Examples of security improvements carried out by the Sorong City Police include: patrolling vulnerable areas and constantly reminding residents to be careful when traveling¹⁵.

Conducting raids on alcoholic beverages, because in the Sorong City Police jurisdiction, perpetrators of theft with violence and other crimes are more often intoxicated or have consumed alcoholic beverages before committing their crimes

The Sorong City Police Department conducts outreach to the community regarding theft with violence to raise awareness about all types of crimes occurring in the Sorong City Police Department area, particularly theft with violence. Residents are advised not to travel alone and to always be accompanied by family or relatives

The Sorong City Police Department is working with neighborhood watch posts in various sub-districts to remain vigilant and conduct patrols in areas with poor lighting, vulnerable areas, and isolated areas, as the role of neighborhood watch posts is also essential in minimizing the occurrence of theft

Repressive countermeasures, Repressive countermeasures are countermeasures taken after a crime has been committed. The repressive countermeasures taken by the Sorong City Police to address and counteract crimes of theft with violence are that the police act as investigators and, at the same time, protectors, guardians, and servants of the community, in particular. The Sorong City Police must be thorough and meticulous in searching for evidence such as medical reports, witness statements, or tools used to facilitate the perpetrator's actions, so that the perpetrator of theft with violence does not simply escape the alleged crime. The Sorong City Police's repressive measures involve punishing perpetrators of theft with violence with the maximum penalty possible, thereby deterring them from repeating such crimes do not dare to repeat such criminal acts once they have been released from prison¹⁶.

Based on an interview with Mr. Besli A. Lingga, S.Sos, Deputy Chief of Criminal

¹⁵ A Indriyuni, "Urgensi Penerapan Pidana Mati Di Indonesia (Telaah Terhadap Pelaku Pencurian Sepeda Motor Menggunakan Kekerasan)," *Muhammadiyah Law Review* 4, No. 1 (2020): 1–13, <https://www.ojs.ummetro.ac.id/index.php/Law/Article/View/1267>.

¹⁶ Agra Putra Riady Purba, "Upaya Kepolisian Dalam Menanggulangi Tindak Pidana Pencurian Kendaraan Bermotor Roda Dua (Studi Kasus: Polres Tanah Karo)," *Kepolisian Negara Republik Indonesia*, 2002, 10–29, <https://peraturan.go.id/common/dokumen/ln/2002/uu2-2002.pdf>.

Investigation at the City Police Station on September 7, 2023, he said that there were several obstacles encountered by the Sorong City Police in tackling violent theft crimes, namely that the perpetrators studied police techniques in uncovering violent theft crimes. such as using gloves to avoid leaving fingerprints and wearing helmets to avoid being identified by CCTV cameras. Another obstacle is that the police cannot monitor or patrol every location or place at the same time due to limited police personnel and the fact that the police's duties are not only to maintain order but also to create peace and harmony between personal interests and public interests, as well as between innovative values and sustainability.

4. CONCLUSION

Perpetrators of theft accompanied by abuse of the victim must be determined after finding evidence and circumstances. The application of substantive criminal law to perpetrators of criminal acts is one of the measures to deter criminals. Crime is an act with harmful social consequences that targets individuals or groups. To prevent further losses that greatly affect many people, substantive criminal law is applied. Substantive criminal law is a branch of law that regulates criminal offenses and can regulate the sanctions to be imposed on criminal offenders. In the application of substantive criminal law, the first thing that must be obtained is evidence related to the case. The elements that need to be done are to prioritize the victim of abuse and chronologically develop the case by collecting evidence and presenting witnesses who clearly saw how the incident occurred, "what the perpetrator did to the victim," "what the perpetrator used to assault the victim." This evidence will be collected and clarified with the suspect to determine whether he or she actually used this evidence.

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