

JURIDICAL ANALYSIS OF THE CRIME OF VIOLENT THEFT CARRIED OUT JOINTLY BASED ON ARTICLE 365 OF THE CRIMINAL CODE (CASE STUDY BASED ON BAP AT DOLOK MASIHUL POLICE)

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Abstract

This study examines legal issues involving robbery with violence, theft, law enforcement. It employs normative legal research with an empirical juridical approach and draws on interviews, official examination reports (BAP), statutory regulations, legal literature, official documents. The findings show that the applicable legal framework must be connected to the specific elements and facts of the case. Investigation or implementation also requires consistent documentary records, witness statements, relevant evidence, and procedural safeguards. The study highlights the need for accurate legal reasoning, coherent documentation, institutional coordination, and accountability. These findings support a more consistent application of Indonesian law concerning robbery with violence, theft.

Keywords: robbery with violence; theft; law enforcement; criminal law

1. Introduction

The crime of theft with violence is a form of crime against property that not only causes material losses, but also attacks the victim's sense of security and the community. This crime becomes more serious because the perpetrator does not just take other people's belongings, but uses violence or threats of violence as a means to facilitate the act. In the context of criminal law, theft with violence has a different character from ordinary theft because there is an additional element in the form of violence against people.

In the Criminal Code, theft by force is regulated in Article 365 of the Criminal Code. This article basically stipulates that theft that is preceded, accompanied, or followed by violence or threats of violence against persons may be subject to a heavier crime than ordinary theft. This regulation shows that the criminal law pays special attention to theft committed in a way that endangers the safety of the victim (Soesilo, 1995).

The problem becomes more complex when theft with violence is carried out together. The involvement of more than one perpetrator can indicate cooperation, division of roles, or mutual awareness to commit criminal acts. This is important to determine who can be held criminally responsible and the extent of the role of each perpetrator (Prasetyo, 2016).

Based on the attached Examination Report, this case is related to the alleged crime of theft with violence against the victim Jhon Crist Purba which occurred around Hamlet I, Batu 13 Village, Dolok Masihul District, Serdang Bedagai Regency. In the BAP, the victim explained that the incident occurred when the victim was riding a motorcycle, then was approached by several people who were suspected of committing violence and taking the victim's belongings. The items mentioned in the BAP include 1 unit of Honda Beat BK 3998 NAW motorcycle in silver, 1 unit of black OPPO Reno 6 mobile phone, wallet, and cash (Dolok Masihul Police, 2025).

From the information in the BAP, it also contains information about several parties allegedly involved, including Martin Harahap alias Martin, Toni Sitorus, Pebrin Siahaan alias

Febri, and Teguh Firmansyah alias Teguh; the information in the BAP shows the alleged involvement of several people with different roles, both in committing violence, obstructing the victim, and controlling the victim's belongings. Therefore, this case is important to be analyzed using Article 365 of the Criminal Code because there are elements of theft, elements of violence, and elements of being carried out together that need to be proven based on empirical facts in the BAP (Dolok Masihul Police, 2025). This study focuses on three issues: the application of elements of the crime of theft with violence carried out jointly based on article 365 of the Criminal Code in the practice of investigation as reflected in the bap at the Dolok Masihul Police Station; the role and form of involvement of each perpetrator in the crime of theft with violence committed jointly based on empirical facts in the BAP at the Dolok Masihul Police Station; The conformity between the facts revealed in the BAP and the provisions of the Criminal Law related to the criminal liability of the perpetrators of theft with violence together according to Article 365 of the Criminal Code.

2. Methodology

2.1. Research Methodology

The location of data collection in this study is at the Dolok Masihul Police Station, which is located at Jalan Lintas Sumatra, Dolok Masihul, Serdang Bedagai Regency, North Sumatra. The type of research used in this study is normative legal research with an empirical juridical approach. Normative legal research is carried out by examining primary and secondary legal materials related to the crime of theft committed together.

Thus, this study aims to assess the suitability between legal norms and their implementation in the investigation of theft crimes together (Marzuki, 2005; Scott, 2015; Arikunto, 2006). In this study, the data source used consists of primary data and secondary data. The primary data source was obtained directly through interviews with the Dolok Masihul Police, especially investigators or parties involved in handling cases of theft with violence committed jointly based on Article 365 of the Criminal Code.

The interview was conducted to find information about the chronology of case handling, the application of articles to the perpetrators, the process of proving elements of violence, the form of involvement of each perpetrator, and the obstacles faced in the investigation process; the data collection technique in this study was carried out through library research and field research. Literature studies are carried out by examining primary, secondary, and tertiary legal materials relevant to the crime of theft together, including laws and regulations, legal literature, scientific journals, and legal documents related to criminal law and criminal procedure law. The field study was carried out through direct interviews with the Dolok Masihul Police, especially investigators or parties who handle cases of theft with violence committed jointly based on Article 365 of the Criminal Code (Marzuki, 2005).

2.2. Theoretical Foundations

The second element is unlawful nature. An act is called unlawful if it is contrary to the provisions of laws and regulations, the rights of others, the legal obligations of the perpetrator, or legal norms that apply in society. In the crime of theft, the unlawful nature can be seen from the act of taking goods that do not belong to him with the intention of being illegally owned (Hamzah, 2010).

The main legal basis for the crime of theft in the Criminal Code is found in Article 362 of the Criminal Code. The article states that whoever takes an item, which belongs in whole or in part to another person, with the intention of unlawful possession, is threatened with theft. This formulation is a general basis for assessing all forms of theft, including aggravated theft and violent theft (_____, 2015).

Furthermore, Article 365 of the Criminal Code regulates theft by force. In this article, theft becomes more severe because it is carried out preceded, accompanied, or followed by violence or threats of violence against people. Therefore, Article 365 of the Criminal Code has a more serious character than ordinary theft (Gunadi, 2014).

In this study, the most relevant legal basis is Article 365 of the Criminal Code because the case studied is related to theft accompanied by violence and is carried out jointly. However, an understanding of Article 362 of the Criminal Code is still necessary because Article 365 of the Criminal Code cannot be separated from the main elements of theft. In other words, before proving the existence of violence, it must first be proven that an act of theft has occurred.

The first element of the crime of theft is the act of taking. The act of taking means the action of the perpetrator to move goods from the victim's control into the perpetrator's control. This element does not always have to be done by carrying goods far away, because the most important thing is that the goods are in the real power of the perpetrator (Tongat, 2015).

These four elements must be proven cumulatively. This means that if one of the elements is not met, then the perpetrator's actions cannot be qualified as theft. In relation to Article 365 of the Criminal Code, the element of theft must first be proven before the elements of violence and elements carried out together are further analyzed (Huda, 2011).

2.3. Legal Arrangements and Key Concepts

In the crime of theft committed together, participation can be seen from the cooperation between several people in committing criminal acts. The cooperation can be in the form of division of duties, for example, some commit violence against the victim, some take goods, some supervise the surrounding situation, or some help the perpetrator escape. Therefore, participation is not only judged from who takes the goods directly, but also from the role relationship between actors (Kanter, 2012).

The legal basis for inclusion in the Criminal Code is regulated in Article 55 and Article 56 of the Criminal Code. Article 55 of the Criminal Code regulates the parties who can be convicted as perpetrators of criminal acts, namely people who commit, order to commit, participate in committing, and people who encourage others to commit criminal acts. This provision shows that the perpetrators of criminal acts are not always limited to people who physically commit all criminal acts (_____, 2015).

In addition to Article 55 of the Criminal Code, Article 56 of the Criminal Code regulates assistance in criminal acts. Assistance occurs when a person deliberately provides assistance at the time of a crime or provides the opportunity, means, or information to commit a crime. In contrast to participating in the act, helpers usually have a role that is not as strong as the main perpetrator, but still contributes to the occurrence of criminal acts (Soesilo, 1995).

The difference between participating in doing and helping to do needs to be understood carefully. Participating shows that there is close and active cooperation in the implementation of criminal acts, while helping to do more emphasis on support or assistance that facilitates the occurrence of criminal acts. This difference is important because it can affect the level of criminal liability and the severity of the crime imposed (Huda, 2011).

The third form of participation is medepleger or participating in committing criminal acts. Medepleger occurs when two or more people consciously work together to commit a criminal act. In violent theft, the accomplice can be seen when several people jointly attack the victim, control the victim, take goods, or help the criminal act to be committed.¹³

2.4. Parameters of Juridical Analysis

Violence in criminal law is an act that uses physical force or threats to cause pain, suffering, or fear to others. In the context of criminal law, violence is not only understood as an act that causes physical injury, but also includes threats that can cause psychological distress to

the victim. Therefore, the concept of violence has a fairly wide scope in law enforcement practice (Hamzah, 2010).

The division of this form of violence is important for the sake of proof in criminal law. Physical violence can be proven through *visum et repertum*, witness statements, or other evidence. Therefore, investigators must be careful in identifying the form of violence that occurs (Harahap, 2012).

Violence in Article 365 of the Criminal Code can occur before, during, or after theft is committed. Violence before theft usually aims to paralyze the victim, while violence at the time of theft aims to gain possession of goods. Meanwhile, violence after the theft is carried out aimed at maintaining goods or allowing the perpetrators to escape (Remmelink, 2003).

Proving the element of violence in the practice of criminal law is very important because it determines the application of the right article. If the element of violence cannot be proven, then the perpetrator's actions can only be qualified as ordinary theft. On the other hand, if the element of violence is proven, then the perpetrator can be subject to Article 365 of the Criminal Code with a heavier criminal threat (Sudarto, 1990).

3. Research Results

3.1. Application of Elements of the Crime of Theft with Violence Committed Jointly Based on Article 365 of the Criminal Code in Investigative Practices as Reflected in the BAP at the Dolok Masihul Police Station

Based on the results of the interview with investigators on June 2, 2026, it was obtained that the investigators first examined the police report, victim statements, witness statements, and suspects' statements to see if the reported acts contained elements of theft with violence. Investigators did not immediately conclude the application of Article 365 of the Criminal Code, but conducted a gradual examination of the chronology of the incident, the goods taken, the way the perpetrators committed the acts, and the relationship between violence and the taking of goods (Dolok Masihul Police, 2025). Based on the results of the interview on June 2, 2026, the investigator explained that in the case carried out jointly, the examination was directed to find out the role of each perpetrator.

There are perpetrators who play a role in taking goods, some who commit violence, some who supervise the surrounding situation, and some who help other perpetrators escape. These roles are then outlined in the BAP so that the construction of the case becomes clear (Dolok Masihul Police, 2025). Based on the results of the interview on June 2, 2026, the investigator said that the application of Article 365 of the Criminal Code was carried out after the investigator assessed the compatibility between the victim's report, the facts of the examination, and the evidence found.

Investigators also emphasized that if the element of violence cannot be proven, then the case can shift to ordinary theft; on the other hand, if the violence is proven to be directly related to the taking of goods, then Article 365 of the Criminal Code can be applied (Dolok Masihul Police, 2025). In the practice of investigation, the description of the evidence must be directed to each element of the crime; the victim's statement can explain the items taken and the form of violence experienced, witness statements can strengthen the chronology, while evidence can show the relationship between the perpetrator and the object of theft. If the evidence is in accordance with each other, then the application of Article 365 of the Criminal Code becomes stronger juridically (Indonesia, 1981).

3.2. The Role and Form of Involvement of Each Perpetrator in the Crime of Theft with Violence Committed Jointly Based on Empirical Facts in the BAP at the Dolok Masihul Police Station

The discussion of the role and form of involvement of each perpetrator in the crime of theft with violence needs to be seen from the relationship between the actions of the perpetrators and the consequences experienced by the victim. In this case, BAP showed that the act was not carried out by just one person, but involved several people who had different actions but were in a series of events. Therefore, analysis of the role of each perpetrator is important so that criminal liability is not only based on the existence of the perpetrator at the scene, but also on the real contribution made in the incident (Lamintang, 2009).

In this case, Teguh is also mentioned as one of the people involved in the series of acts. Based on the information in the BAP, Teguh and other perpetrators committed violence against the victim and participated in a series of taking goods. Although the role of each perpetrator is not always the same, Teguh's presence in a series of violence and theft shows the existence of factual cooperation between the perpetrators (Dolok Masihul Police, 2025).

Toni Leonardo Sitorus can be positioned as a perpetrator who helped strengthen the act of violence together. His own statement showed that he was not only present, but participated in beating the victim. In criminal law, this kind of active involvement can be considered a form of participation because its actions directly contribute to the success of criminal acts (Dolok Masihul Police, 2025).

Teguh was also placed as a party who participated in a series of acts, both in acts of violence and in the event after the victim's goods were controlled. In cases carried out jointly, this role remains important because any action that supports the implementation of violent theft can be the basis for accountability. Therefore, Teguh's involvement needs to be seen in a unity of events with other perpetrators (Dolok Masihul Police, 2025).

Interviews with investigators also showed that in the case of joint violent theft, investigators assessed the involvement based on the actual actions of each person. If a person is proven to have participated in hitting the victim or helping to control the goods, then the person cannot be considered to be only at the scene of the incident. This assessment is important so that criminal liability is not mistaken between witnesses, the main perpetrators, and the perpetrators who participate (Dolok Masihul Police, 2025).

Perpetrators who take or control the victim's goods also have a direct role in fulfilling the elements of theft. Even if he did not commit physical violence, the act of taking goods after the victim was rendered helpless still showed a connection with the main crime. In the context of participation, such a role can still be accounted for if the perpetrator knows and wants the series of joint acts (Indonesia).

Evidence can also clarify the form of involvement of each perpetrator. If the stolen goods are found in one of the perpetrators, then it can be an indication of the possession of the goods. Thus, the evidence helps to connect the role of the perpetrator with the elements of Article 365 of the Criminal Code (Indonesia, 1981).

3.3. Conformity between the Facts Revealed in the BAP with the Provisions of Criminal Law related to Criminal Liability of Perpetrators of Theft with Violence Together According to Article 365 of the Criminal Code

The conformity of the facts of BAP with Article 365 of the Criminal Code can also be seen from the existence of acts committed by more than one person. The victim and witnesses said that the perpetrator was not only one person, but several people who jointly committed violence against the victim. In the suspect's statement, it was also mentioned that the names of Martin Harahap, Toni Sitorus, Febrin Siahaan, and Teguh were involved in a series of acts (Dolok Masihul Police, 2025).

Based on the results of an interview with BRIPKA Pordinan H. Naeak, S.H. on June 2, 2026, the investigator explained that the compatibility between the facts of the BAP and the provisions of Article 365 of the Criminal Code was seen from the fulfillment of the elements of theft, violence, and joint involvement. Investigators also consider that each information in the BAP must be interrelated in order to describe the criminal incident in its entirety. Thus, the responsibility of the perpetrator is not only inferred from one statement, but from the entire evidence and facts of the examination (Dolok Masihul Police, 2025).

Criminal liability together does not mean that all perpetrators must have identical roles. A person who participates in violence against the victim can be held accountable because the violence is a means of theft. Likewise, a person who takes or helps control goods after the victim is helpless can still be held accountable because his actions are part of a series of thefts (_____, 2014).

The fact that the perpetrators committed violence first, then the victim's belongings were lost, shows that there is a pattern of acts in accordance with Article 365 of the Criminal Code. Violence does not occur separately from theft, but is in the same series. Thus, the facts of the BAP show that this case is more appropriately qualified as theft by force, not just persecution or ordinary theft (Soesilo, 1995).

When associated with Article 365 paragraph (2) of the Criminal Code, acts committed by two or more people together can be an incriminating situation. In this case, BAP showed that the perpetrators were more than one person and each had an action in a series of incidents. Therefore, this fact can support the implementation of the provisions on theft by violence carried out jointly (Indonesia).

4. Discussion

4.1. Analysis of the Application of Elements of Theft with Violence Committed Jointly Based on Article 365 of the Criminal Code in Investigative Practices as Reflected in the BAP at the Dolok Masihul Police Station

Based on the results of an interview with investigators on June 2, 2026, it was explained that one of the important considerations in implementing Article 365 of the Criminal Code is the relationship between violence and theft. Investigators consider that violence must serve to make it easier for perpetrators to take goods, flee, or defend stolen goods. If the violence occurred separately and was not related to the taking of goods, then the investigator needed to reassess the construction of the article used (Dolok Masihul Police, 2025).

In the case studied, the application of the element of violence should be seen from the chronology listed in the BAP. If it is known from the victim's and witness's statements that the perpetrator exerted physical pressure or threats against the victim before the goods were taken, then the element of violence can be said to be attached to the act of theft. Thus, violence is not just a side effect, but part of the way the perpetrator commits a criminal act (Dolok Masihul Police, 2025).

The application of elements of Article 365 of the Criminal Code in the BAP must be carried out systematically. Each element should not only be mentioned in general, but should be supported by a concrete description of the facts. In this way, BAP can show a clear relationship between the facts of events and legal elements (Waluyo, 2008).

Investigators also need to pay attention to the elements of being carried out together because these circumstances can aggravate the qualification of the act. The element of togetherness is not enough, evidenced by the number of people at the scene, but it must be seen that there is involvement in a series of actions. Thus, BAP must be able to describe the relationship between the actions of the perpetrators, both as perpetrators who commit violence, take goods, or assist in the control of goods resulting from crime (Indonesia).

4.2. Analysis of the Role and Form of Involvement of Each Perpetrator in the Crime of Theft with Violence Committed Jointly Based on Empirical Facts in the BAP at the Dolok Masihul Police Station

In addition to Martin Harahap, BAP also showed the involvement of Toni Leonardo Sitorus. In his statement as a suspect, Toni admitted that he and his colleagues committed violence against the victim before the victim's belongings were taken. Toni also explained that the act was carried out after they suspected the victim and his colleague of carrying stolen tools such as scissors and snares (Dolok Masihul Police, 2025).

Sanggam's statement also showed that he had fled after the stabbing and beating incident occurred. This situation illustrates that the situation at the scene is quite threatening and makes the witness unable to provide direct help to the victim. In the context of proving the role of the perpetrator, this information supports that the perpetrators create violent conditions that make the victim and witnesses in a state of fear and helplessness (Dolok Masihul Police, 2025).

In the BAP, the victim explained that the missing items were in the form of a silver Honda Beat BK 3998 NAW motorcycle, a black Oppo Reno 6 cellphone, and cash. This information shows that after the violence occurred, there was control of the victim's property by the perpetrators. Thus, the criminal act does not stop at the persecution, but continues to take the victim's property illegally (Dolok Masihul Police, 2025).

In discussing the role, it is also important to see that the victim said that the perpetrators committed the persecution together. This was strengthened by Sanggam's testimony that the victim was hit by several people, as well as the suspect's testimony that admitted to joint action. Thus, the role of the perpetrator is not only proven from one source of information, but from several statements that support each other (Dolok Masihul Police, 2025).

In assessing the involvement of the perpetrator, investigators must also be careful not to generalize everyone's responsibilities. Everyone who is in a criminal incident must be described for their respective actions. This principle is important because criminal liability still requires personal fault, even though the criminal acts are committed jointly (Huda, 2011).

4.3. Analysis of the Conformity between the Facts Revealed in the BAP and the Provisions of Criminal Law related to Criminal Liability of Perpetrators of Theft with Violence Together According to Article 365 of the Criminal Code

Criminal liability in cases of theft with violence is not only seen from the act of taking goods, but must also be seen from the fulfillment of the elements of guilt, the ability to be responsible, and the relationship between the perpetrator's actions and the consequences caused. In this case, the facts listed in the BAP show that there was a series of acts committed by several people against the victim Jhon Crist Purba, ranging from the act of chasing, grabbing, pulling, hitting, to taking the victim's belongings. This series of acts is the basis for assessing whether the perpetrators can be held criminally responsible under Article 365 of the Criminal Code (Moeljatno, 2008).

Violence in Article 365 of the Criminal Code must have a relationship with theft. In this case, violence was carried out to make the victim helpless and make it easier for the perpetrator to take goods. The victim, who previously rode a motorcycle with Sanggam, was made to fall, then was beaten by several perpetrators (Dolok Masihul Police, 2025).

Martin Harahap in BAP is seen as one of the actors who has a prominent role. He was mentioned in the victim's and witness's statements as the party who committed violence against the victim. In his statement as a suspect, Martin also explained that there was an act of violence carried out with his colleagues before the victim's belongings were controlled (Dolok Masihul Police, 2025).

The conformity between the facts of the BAP and the provisions of the criminal law must be assessed by looking at whether the facts meet the objective and subjective elements of the

criminal act. The objective element can be seen from the act of taking goods and the use of violence against the victim, while the subjective element can be seen from the perpetrator's intention to possess goods illegally. These two elements must be present simultaneously so that criminal accountability can be built in its entirety (Moeljatno, 2008).

The conformity of BAP facts with criminal liability is also evident from the existence of several perpetrators involved in a series of events. In criminal law, the involvement of several people can be qualified as participation if there is a relationship of deeds and common will. Therefore, the BAP must show that the perpetrators did not act by chance, but supported each other in committing criminal acts (Indonesia).

5. Conclusion

The investigation at the Dolok Masihul Police Station connected the reported taking of the victim's property, unlawful intent, violence, and the participation of several people to the elements of Article 365 of the Criminal Code. The BAP describes beatings and other violence within the same sequence as the loss of the victim's belongings, providing a factual basis for examining the relationship between violence and theft. The conclusion is also supported by the interview with assistant investigator BRIPKA Pordinan H. Naeak, S.H., on June 2, 2026.

The BAP identifies differentiated participation: Martin Harahap was involved in violence and the seizure of property, while Toni Leonardo Sitorus and Febrin Siahaan were also described as participating in the violence. Teguh Firmansyah's role must likewise be examined through his actual contribution to the sequence of events rather than mere presence at the scene. Taken together, the victim's, witnesses', and suspects' accounts indicate alleged coordinated conduct, but each person's liability still depends on proof of the individual role and the elements of participation.

The BAP records acts of violence and the taking of property in a connected incident involving several alleged perpetrators, which must be measured against Article 365 in conjunction with Article 55 of the Criminal Code. Criminal liability additionally requires proof of fault, capacity for responsibility, and the absence of a legally established justification or excuse; suspicion directed at the victim does not itself justify violence or theft. Accordingly, responsibility must be established for each alleged perpetrator through mutually consistent evidence rather than presumed solely from group involvement.

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