

Criminal Responsibility for Criminal Acts Murder Accompanied by Theft of Victim's Property

Denesa Angel Nor Choir¹⁾ & Jawade Hafidz²⁾

¹⁾Faculty of Law, Universitas Islam Sultan Agung (UNISSULA), Semarang, Indonesia, E-mail: denesaangel@gmail.com

²⁾Faculty of Law, Universitas Islam Sultan Agung (UNISSULA), Semarang, Indonesia, E-mail: Jawade@unissula.ac.id

Abstract. *This study aims to analyze the criminal liability of perpetrators of murder accompanied by theft of the victim's belongings, focusing on the Demak District Court Decision No. 32/Pid.B/2023/PN Dmk. Murder and theft of the victim's belongings are two criminal acts regulated in the Criminal Code and can be subject to separate or concurrent criminal sanctions based on cumulative charges. In this study, the method used is a sociological approach with descriptive qualitative analysis. Data were obtained through interviews with judges and literature studies covering primary, secondary, and tertiary legal materials. The results of the study indicate that in the case analyzed, the defendant was sentenced to twelve years in prison based on Article 338 of the Criminal Code, while the charges regarding Article 365 paragraph (3) of the Criminal Code were not considered. This study suggests that the application of *concurus realis* be considered to ensure appropriate and just criminal liability.*

Keywords: *Criminal; Law; Liability; Murder.*

1. Introduction

Crime is a social phenomenon that continues to develop along with changes in human civilization. In Indonesian criminal law, murder and theft are included in the category of crimes against life and property, which are regulated in the Criminal Code.¹ Murder is the act of taking another person's life, while theft is the unlawful taking of another person's property.² The new Criminal Code which will come into effect in 2026 also regulates these two crimes in Article 458 (murder)

¹Umar, Mukhsin Nyak, and Zara Zias. "Study of Islamic Criminal Law and Positive Criminal Law on Criminal Sanctions for Assisting Perpetrators of Murder." *Legitimacy: Journal of Criminal Law and Legal Politics* 6.1 (2017): P. 131.

²Musahib, Abd Razak. "Criminal Liability for Loss of Life of a Person Carried Out Jointly." *Journal of Research Innovation* 2.9 (2022): p. 2989-2994.

and Article 476 (theft).³

In law enforcement, it is important to identify the main problems in a case in order to understand the elements that are fulfilled in the crime.⁴ Problem identification helps determine whether an action meets the elements of a particular crime, how applicable regulations are applied, and factors that influence the perpetrator's criminal responsibility.⁵ In cases of concurrent criminal acts, judges must consider objective and scientific legal aspects to render a fair verdict.⁶

The case that is the object of study in this research is a criminal act of murder accompanied by theft that occurred in Demak, as stated in the Decision of the Demak District Court No. 32/Pid.B/2023/PN Dmk. The incident began on October 25, 2022, when the defendant and the victim met at a food stall after attending a religious study event. They then went with the rest of the group to an empty house and consumed alcohol. While drunk, the defendant committed an indecent act against a female witness, which triggered the victim's anger and led to an argument.

The argument between the defendant and the victim was broken up, but then continued. When the victim was off guard, the defendant hit the victim's head repeatedly using a stone wrapped in a sarong until the victim was unconscious and eventually died. After making sure the victim was dead, the defendant covered the victim's body with grass and fled using the victim's motorbike.

The defendant tried to sell the victim's motorcycle in Jepara, but failed. Suspicious residents eventually caught the defendant and handed him over to the police. In the trial process, the judge considered various aggravating and mitigating factors in handing down a criminal sentence to the defendant.

This study aims to analyze criminal liability in cases of murder accompanied by theft based on a criminal law perspective and how judges consider legal aspects in the Demak District Court decision No. 32/Pid.B/2023/PN Dmk.

³Sutriani, Komang, Ida Ayu Putu Widiati, and Ni Made Sukaryati Karma. "Accountability for Criminal Acts of Theft Committed by a Kleptomaniac." *Journal of Legal Preferences* 3.1 (2022): p. 69.

⁴Sri Jihan Akune, Fence M. Wantu, and Mohamad Taufiq Zulfikar Sarson. "The Concept of Samenloop Theory According to the Criminal Code and Its Application in the Concurrent Criminal Trial Process (Concursus)." *Journal of Comprehensive Science (JCS)* 2.4 (2023): P. 918.

⁵Afridus Darto, Arief Syahrul Alam, and Fifin Dwi Purwaningtyas. "Criminal Responsibility for Perpetrators of Murder of Mentally Ill Persons in the Perspective of Criminal Law." *Wijaya Putra Journal of Legal Studies* 1.2 (2023): p. 264.

⁶Baldwin Orvalla, Eka Juarsa. "Criminal Liability of Densus 88 Members in Premeditated Murder in Connection with Article 340 of the Criminal Code." *Journal of Legal Research* (2023): p. 108.

2. Research methods

2.1. Approach Method

This study uses a sociological approach or socio-legal research, which emphasizes the study of legal perceptions and behavior in society. This approach is accompanied by a descriptive qualitative method to describe cases of criminal responsibility for the crime of murder accompanied by theft of the victim's belongings.

2.2. Research Specifications

This research is descriptive analytical in nature, which provides a systematic and logical explanation of the problem being studied, and analyzes the data obtained to reach conclusions.

2.3. Data Collection Method

Data was obtained through interviews with informants, namely the Demak District Court judge who handled Decision No. 32/Pid.B/2023/PN Dmk, as well as literature studies to obtain secondary data from primary, secondary, and tertiary legal materials.

2.4. Data Analysis Methods

Data analysis was carried out by following steps such as data collection, data reduction, data presentation, and drawing conclusions in accordance with the procedures established by Miles and Huberman.

3. Results and Discussion

3.1. Criminal Responsibility for Murder Accompanied by Theft of Victim's Property in Positive Law

Criminal acts are always a serious threat to public order and security. Criminal acts committed by individuals or groups often cause losses, both material and non-material. Various forms of criminal acts occur with various motives and modus operandi and depend on the perpetrator's intentions and opportunities in carrying out their actions. The impacts of criminal acts are not only felt by the victim but also affect social stability in an environment. One form of criminal act is murder accompanied by theft of the victim's belongings.

Murder accompanied by theft is a very serious form of crime. The perpetrator not only takes the victim's life, but also takes the victim's property as an additional goal in his criminal act. This act shows a strong evil intention and disregard for human values. The victim loses his right to life while the

perpetrator tries to gain profit in an unlawful way. This act must be treated as a serious violation that demands maximum legal accountability.⁷

Every perpetrator of a crime must be held accountable for their actions. Criminal law functions to uphold justice and provide sanctions for those who commit unlawful acts. The sanctions given aim to provide a deterrent effect and prevent similar acts from happening again in the future. Society needs assurance that justice will be upheld for victims of crime and their families. Without clear accountability, the law will lose its function as an effective social control tool.

Criminal liability is the concept underlying the imposition of sanctions on perpetrators of crimes. A person can only be punished if they meet the elements of guilt specified in criminal law. Unlawful acts, the ability to be responsible, elements of intent or negligence, and the absence of excuses are the main requirements in determining a person's responsibility. Every act that is contrary to the law must be processed according to the rules so that justice can be upheld. The punishment given reflects the consequences of the actions that have been carried out by the perpetrator of the crime.

Criminal liability is the basis for imposing sanctions on perpetrators of crimes. Punishment can only be imposed if there is evidence of an element of guilt as regulated in criminal law. Fulfillment of the elements of an unlawful act, the ability to be responsible, intent or negligence, and the absence of a justification determine whether a person can be held accountable.⁸ One example is in the case of a crime of murder accompanied by theft. The perpetrator of murder accompanied by theft can be sentenced to criminal penalties if proven to meet the elements of an unlawful act, intentional murder, and theft committed with the intention of taking the victim's property, without any excuse that exempts from criminal responsibility.

Theoretically, the crime of murder is regulated in several articles in the Criminal Code (KUHP). The crime of ordinary murder is regulated through Article 338 of the Criminal Code which states that anyone who intentionally takes the life of another person is threatened with murder with a maximum prison sentence of fifteen years. Meanwhile, the crime of theft with violence resulting in death is regulated in Article 365 paragraph (3) of the Criminal Code which states that if the act results in death, then the perpetrator is threatened with a maximum

⁷Muhammad Maulana,, Edi Yuhermansyah, and Sumita Dewi. "Concurrent Criminal Acts According to Islamic Criminal Law (Analysis of Judge's Decision Number 39/Pid. B/2019/Pn. Tdn)." *Jurnal Justisia: Journal of Law, Legislation and Social Institutions* 7.1 (2022): P. 191.

⁸Aryo Fadlian, "Criminal Responsibility in a Theoretical Framework." *Positum Law Journal* 5.2 (2020): p. 13.

prison sentence of fifteen years.⁹ Article 338 of the Criminal Code is applied when the crime that occurs is purely murder.¹⁰ Meanwhile, the crime of theft which is followed, accompanied or preceded by another crime, namely violence resulting in death, can be subject to Article 365 paragraph (3) of the Criminal Code with the threat of a maximum prison sentence of fifteen years.

Criminal liability implies that the perpetrator who intentionally takes the victim's life must be held accountable for his actions in accordance with applicable law. The perpetrator who has fulfilled the elements in Article 338 of the Criminal Code and Article 365 paragraph (3) of the Criminal Code can be considered to have violated legal norms prohibited by the state. This leads to objective blame, namely the defendant's actions which clearly contradict criminal law. Meanwhile, subjective blame is seen from the defendant's intention who knew and wanted the victim's death to result so that the defendant deserves to be punished according to the mistake that has been made.

Regarding the responsibility of the perpetrator of the theft, the Demak District Court Judge stated the following:

"Yes, the responsibility is if the defendant can return the loss of the stolen goods, it can be a mitigating factor. However, if the stolen goods have been sold or used for the defendant's personal interests, then the responsibility must still be carried out in accordance with the provisions of the law."

Based on the results of the interview, it can be seen that the responsibility of the perpetrator of theft can reduce the sentence if the defendant is able to return the stolen goods. This shows that the factor of returning the goods is a consideration in reducing the sentence, but still requires the defendant to be responsible for his actions.

Criminal liability for murder accompanied by theft of the victim's belongings cannot be separated from the crime of *concursum*. Concurrence of criminal acts is the occurrence of two or more criminal acts by one person where the first criminal act has not been sentenced or between the two criminal acts has not been limited by a judge's decision.¹¹ This crime of concurrent criminal acts is special because several criminal acts that occur at the same time are only carried

⁹Irene Ulfa, "Proof of Advocacy in the Crime of Child Murder." *Media Iuris* 1.2 (2018): Pp. 301.

¹⁰Rachmatin Artita, et al. "Criminological Study of the Perpetrators of Premeditated Murder and/or Theft with Violence Linked to Article 340 JO Article 338 JO Article 365 of the Criminal Code (CASE STUDY OF CASE NUMBER 377/PID. B/2008/PN. CIAMIS): Array." *Case Law* 1.1 (2020): P. 37.

¹¹Laurensius Androine Lengu Labamaking, Made Sugi Hartono, and Ni Ketut Sari Adnyani. "Implementation of *Concursum Realis* in the Criminal Act of Murder Accompanied by Assault (Study of Decision Number 194/PID. B/2015/PN. SGR)." *Journal of Sui Generis Law* 3.2 (2023): P. 38.

out by one person.¹²

One example is the defendant committed murder and then the defendant committed theft but both did not have the same purpose. Murder was committed with the aim of taking the victim's life while the theft was committed to obtain the victim's property. Both crimes occurred simultaneously, but with different intentions or purposes. In the context of concurrent criminal acts, even though both criminal acts were committed by one person and in close proximity, each criminal act can still be considered a separate criminal act with different elements of guilt. Thus, both are different criminal acts even though they occurred in the same incident and by the same perpetrator.

Criminal liability for the crime of murder accompanied by theft can be applied *concursum realis* with Article 338 of the Criminal Code in conjunction with Article 365 paragraph (3) of the Criminal Code on the condition that the existing charges are cumulative. The calculation of the criminal penalty follows *concursum realis* in the form of a crime threatened with a similar principal penalty because the threat of Article 338 of the Criminal Code and Article 365 paragraph (3) of the Criminal Code is the same, a maximum of 15 years in prison. The calculation of the *concursum realis* criminal penalty in the form of a crime threatened with a similar principal penalty, the sentence may not be more than the maximum for the most serious crime plus one third.¹³ In the real *concursum* of Article 338 of the Criminal Code in conjunction with Article 365 paragraph (3) of the Criminal Code, the calculation of the criminal penalty is $15 + (1/3 \times 15)$ so that the maximum criminal responsibility is 20 years.

3.2. Legal Analysis of the Criminalization of the Perpetrator of the Crime of Murder Accompanied by the Theft of the Victim's Property in the Decision of the Demak District Court No. 32/Pid.B/2023/PN Dmk

Criminalization is one of the important things in criminal acts. Criminalization is interpreted as an action taken to provide punishment or sanctions against someone who is proven to have committed a crime.¹⁴ The purpose of punishment is not merely to provide retribution to the perpetrator but also to correct the perpetrator's behavior, provide an opportunity for rehabilitation for the perpetrator, provide justice for the victim and the affected community, and

¹²Raju Kana Redha, Nila Trisna. "Analysis of the Decision on Human Trafficking Cases Based on the *Concursum Realis* Teaching (Case Study of Decision Number 69/PID. SUS/2021/PN. SKM)." *Cahaya Mandalika Journal* ISSN 2721-4796 (online) 3.2 (2023): P. 811.

¹³Raju Kana Redha, Nila Trisna. "Analysis of Human Trafficking Case Decisions Based on the *Concursum Realis* Teachings (Case Study of Decision Number 69/PID. SUS/2021/PN. SKM)." *Cahaya Mandalika Journal* ISSN 2721-4796 (online) 3.2 (2023): P. 801.

¹⁴Failin Alin, "Criminal System and Punishment in the Reform of Indonesian Criminal Law." *JCH (Jurnal Cendekia Hukum)* 3.1 (2017): P. 18.

so on.¹⁵ This criminalization is reflected in one of the cases of murder accompanied by theft of the victim's belongings which occurred in the Demak District Court Decision No. 32/Pid.B/2023/PN Dmk.

Chronology of this case on Tuesday, October 25, 2022 witnesses Wahyu Aditya Jaya Pratama, Nur Hakim, Gema Dara Dinanti, and Vivi Indah Sari left Kudus for Semarang by hitchhiking in a truck. After the truck's tire was punctured at the red light intersection on Jalan Lingkar Desa Botorejo and stopped at a food stall near the hanging lamp. The victim Rudiansyah bin Zulianto and the defendant then arrived. The victim then borrowed the witness's cellphone to call the victim's wife. After eating they joined the witness to hang out at an empty house near the Kadilangu red light, then consumed alcohol together.

While at the location, the defendant groped Vivi Indah Sari's body and kissed her neck which was then reported to witness Wahyu Aditya Jaya Pratama. Witness Wahyu was angry and a commotion occurred between the victim Rudiansyah and the defendant. After several arguments, the victim challenged the defendant to a fight. When the problem was not resolved, the victim brought a piece of wood and the defendant brought a stone wrapped in a sarong, but both of them stopped fighting and continued drinking alcohol.

The defendant, while drunk, swung a stone wrapped in a sarong at the victim's face and head three times. When the victim tried to escape, the defendant chased and hit the victim again until the victim fell and was unconscious. The defendant then covered the victim's body with grass and took the victim's motorbike to escape to Jepara. However, after being asked by residents, the defendant surrendered himself to the Mlonggo Jepara Police and evidence in the form of a motorbike and stone were taken to the Demak Police for further processing.

Based on the chronology of the Demak District Court Decision No. 32/Pid.B/2023/PN Dmk, it can be seen that the crime of murder occurred when the defendant deliberately swung a stone wrapped in a sarong at the victim's face and head three times until the victim fell and became unconscious and then died after being chased and beaten again by the defendant. Meanwhile, the crime of theft was committed when the defendant took the victim's motorbike which was parked near the angkringan stall after the victim died to escape to Jepara. It should be emphasized that the victim's main intention to kill the victim was to steal the victim's belongings, but there was indeed a problem and argument with the victim.

The defendant in this case was charged by the Public Prosecutor with alternative

¹⁵M. Abdul Kholiq, Ari Wibowo. "Application of the theory of the purpose of punishment in cases of violence against women: A study of judges' decisions." *Ius Quia Iustum Law Journal* 23.2 (2016): p. 201.

charges. Alternative charges are theoretically charges that contain more than one crime allegedly committed by the defendant.¹⁶The alternative indictment contains several charges mentioned with the word or. This alternative indictment gives the judge the option to determine which charges are held responsible to the defendant for the crime committed. Proof of the alternative indictment does not need to be carried out according to the Article charged but directly to the Article deemed proven by the panel of judges.¹⁷ Although the alternative charge consists of several Articles charged, only one Article will be proven in the alternative charge. If one of the Articles charged has been proven, then the other Articles do not need to be proven again.¹⁸

The first alternative charge in this case is Article 338 of the Criminal Code concerning murder, which regulates acts that intentionally result in the death of another person. While the second alternative charge is Article 365 paragraph (3) of the Criminal Code concerning theft accompanied by violence, which regulates theft with the threat of violence that results in the death of the victim. Based on this case, two important points can be identified regarding the prosecutor's charges. First, the prosecutor applied the alternative charge of Article 338 of the Criminal Code or Article 365 paragraph (3) of the Criminal Code. Second, the prosecutor did not apply *concursum*, which can be seen from the absence of the use of *juncto* in the charges. These prosecutor's charges were the points considered by the panel of judges. Meanwhile, the criminal charges filed by the Public Prosecutor in this case were a prison sentence of 12 (twelve) years minus the period of detention that the defendant had served, with an order that the defendant remain detained during the legal process.

The judge handling this case stated that the considerations were based on legal facts in the trial. This is as per the interview results as follows:¹⁹

"In handling a case, the first thing that needs to be considered is the legal facts revealed in the trial. These facts are obtained from witness statements, the defendant's statement, and the available evidence. These legal facts must be understood in their entirety so that they can be used as a guideline in deciding the case. One of the factors revealed is the defendant's motive of hurt because the victim tried to prevent indecent behavior towards women. This hurt then triggered the defendant's emotions, which eventually committed the crime of

¹⁶Chandra Adi Mauli, S. Kristiyadi. "Evidence of Public Prosecutor's Alternative Charges in Fraud Crimes." *Verstek* 5.1, 2019, p. 112.

¹⁷Gatot Aji Waluyo, "Utilization of Information Technology in the Process of Proving Criminal Acts Without Rights and Against the Law (Case Study of Decision Number 699/Pid. Sus/2020/PN Jkt. Pst)." *Wahana Pendidikan Scientific Journal* 9.9 (2023): P. 503.

¹⁸Arsyad Aldyan, "Analysis of the Use of Subsidiary Alternative Charges by Public Prosecutors in Child Protection Cases." *Verstek* 11.3: 2022, p. 488.

¹⁹Interview, Judge of Demak District Court, Mr. Obaja David JH Sitorus, SH, January 31, 2025.

murder. This motive is an important part of the judge's considerations. After committing the murder, the defendant fled using the victim's motorbike. The use of the victim's vehicle is considered part of the crime of theft, which adds to the defendant's guilt."

Based on the results of the interview, it can be seen that the handling of the case by the judge refers to the facts in the trial. After committing the murder, the defendant in this case fled using the victim's motorcycle. The use of the victim's vehicle is considered part of the crime of theft, which adds to the defendant's guilt. This shows the defendant's intention to profit from his actions, not only by killing the victim but also by taking possession of the victim's belongings as a result of his crime.

3.3.Criminal Responsibility for Perpetrators of Murder Accompanied by Theft of the Victim's Property in the Future

Criminal liability for the perpetrator of the crime of murder accompanied by theft of the victim's belongings must be viewed from various aspects, both in the context of substantive law and the evidentiary process. The crime of murder and theft of the victim's belongings occurred in a series of events that combined two different crimes, namely intentional murder resulting in death according to Article 338 of the Criminal Code and theft accompanied by violence as regulated in Article 365 paragraph (3) of the Criminal Code. These two crimes cannot be viewed separately because they occurred at the same time and place, but each has different elements.

The process of proof must be carried out thoroughly based on the facts revealed in court. The prosecutor's alternative charges between murder and theft play a very important role in determining the proven crime. Without the element of theft in the indictment, the judge cannot find the perpetrator guilty of the crime of theft. This proof requires valid and convincing evidence, both from witness statements, the defendant, and existing evidence.

The liability of the perpetrator of theft also depends on whether the stolen goods have been sold or used for the defendant's personal interests. If the stolen goods have been used for personal purposes, the perpetrator remains responsible for his actions in accordance with applicable legal provisions. However, if the perpetrator can return the stolen goods, this can be considered a mitigating factor in sentencing.

Judges consider various factors in assessing the case, including the nature of the crime committed, whether murder or theft, as well as mitigating and aggravating factors. If the perpetrator shows remorse or returns the stolen goods, this can be a consideration for reducing the sentence. Even so, the perpetrator must still be held accountable for his actions in accordance with applicable legal provisions, considering the seriousness of the crime that has been committed.

The main purpose of criminalization is of course to uphold justice and provide a deterrent effect to the perpetrator. The punishment imposed aims to provide a preventive effect so that the perpetrator and society in general do not repeat similar actions.²⁰ The twelve-year prison sentence imposed on the defendant serves as a preventive measure and provides a deterrent effect for the perpetrator and society as a whole.

Criminal liability for perpetrators of crimes involving more than one crime such as murder and theft must reflect justice that is commensurate with the actions committed by the defendant. Based on the existing legal understanding, if two crimes occur in one series of events, the application of *concursum realis* is very important to provide proportional punishment and in accordance with the elements in both crimes.²¹ In the future, criminal responsibility for perpetrators of murder and theft must go through a more comprehensive process and ensure that each crime is punished separately and added up in accordance with applicable legal provisions.

One example is if the defendant is proven to have committed intentional murder and also proven to have stolen the victim's belongings (for example the victim's motorbike) then these two crimes must be punished separately. Although the punishment can be added up in the case of *concursum realis*, the judge must still give a punishment that is commensurate with the crime committed by the defendant. Thus, the defendant is not only punished for the murder committed, but also for the theft of the victim's belongings which increases the defendant's guilt.

Future sentences should also consider weighting factors such as the return of stolen goods, the defendant's attitude during the trial, and the social impact of the crime committed. However, it should be noted that the application of *concursum realis* will ensure that each crime is punished proportionally according to the act committed while still providing space for the defendant to undergo rehabilitation.

Appropriate criminalization in the future must of course take into account the following aspects:

a. Implementation of *Concursum Realis*

Concursum realis requires prosecutors to use cumulative charges where the

²⁰Marcus Priyo Gunarto, "The attitude of criminalizing that is oriented towards the purpose of criminalizing." *Pulpit Hukum-Faculty of Law, Gadjah Mada University* 21.1 (2009): P. 99.

²¹Muhammad Maulana, Edi Yuhermansyah, and Sumita Dewi. "Concurrent Criminal Acts According to Islamic Criminal Law (Analysis of Judge's Decision Number 39/Pid. B/2019/Pn. Tdn)." *Jurnal Justisia: Journal of Law, Legislation and Social Institutions* 7.1 (2022): P. 191.

defendant is charged with two separate crimes that occurred in the same series of events. Therefore, the judge must consider each crime separately and impose a sentence according to the severity of the crime committed.²² The application of *concursum realis* will ensure that the accused is not only punished for one crime, but also for other crimes involving theft. For example, if the accused is proven to have committed intentional murder (Article 338 of the Criminal Code) and theft of the victim's belongings (Article 365 paragraph (3) of the Criminal Code), both crimes must be punished according to the provisions of each article, and the punishment for both crimes is then added together. This will provide more appropriate justice, because both crimes have serious consequences for the victim and society.

b. Consideration of Mitigating and Aggravating Factors

In the sentencing process, the judge must take into account mitigating and aggravating factors. Mitigating factors may include the defendant's remorse, the return of stolen goods, or the existence of certain conditions that indicate that the defendant is trying to improve his actions. Conversely, aggravating factors may include the cruelty of the murder, the continuation of the crime committed (such as running away with stolen goods), or the social impact caused. Future sentences must reflect efforts to provide a deterrent effect for the defendant and society, as well as provide an opportunity for the defendant to rehabilitate. Thus, although sentences are imposed based on each crime, these factors must still be considered in determining a fair sentence.

c. Thorough and Fair Evidence Process

The process of proof in cases like this must be carried out carefully and refer to the facts revealed during the trial. Proof must be carried out thoroughly, both for murder and theft, using valid and convincing evidence. The use of alternative charges prepared by the prosecutor must be adjusted to the existing facts, so that the judge can decide by considering all elements of the crime committed. For example, if the defendant is proven to have committed deliberate murder and used stolen goods to escape, these two crimes must be evaluated separately and punished in accordance with applicable provisions.

d. Preventive and Rehabilitative Effects

The main objective of punishment is to uphold justice and provide a deterrent effect, both for the perpetrator and society as a whole.²³ In this case, the

²² Laurensius Androine Lengu Labamaking, Made Sugi Hartono, and Ni Ketut Sari Adnyani. "Implementation of *Concursum Realis* in the Criminal Act of Murder Accompanied by Assault (Study of Decision Number 194/Pid. B/2015/PN. SGR)." *Journal of Sui Generis Law* 3.2 (2023): 36-49.

²³ Syarif Saddam Rivanie, et al. "The Development of Theories of the Purpose of Punishment." *Halu Oleo Law Review* 6.2 (2022): p. 178.

sentence imposed must serve as a deterrent effect for the defendant and the community so that they do not repeat similar acts. In addition, the sentence must also provide an opportunity for the defendant to undergo rehabilitation, which can reduce the possibility of similar crimes in the future.

Criminal liability for perpetrators of murder accompanied by theft of the victim's belongings must prioritize the application of *concursum realis* in the indictment and sentencing. The application of *concursum realis* will ensure that each crime is punished separately, in accordance with applicable legal provisions. Thus, justice will be more achieved because each crime committed by the defendant is punished proportionally. In addition, judges need to consider mitigating and aggravating factors in determining the sentence and provide rehabilitation opportunities for the defendant so that they can improve their behavior in the future.

Based on the analysis, it can be seen that the punishment of perpetrators of crimes involving more than one crime such as murder and subsequent theft should adopt the application of *concursum realis*. In this case, the Public Prosecutor must use cumulative charges and apply *concursum realis*. This is necessary so that the judge can consider both crimes separately, sentence the defendant based on each article applied, and then add up the sentences that reflect more appropriate and adequate justice.

4. Conclusion

The conclusion of this study is that criminal liability for perpetrators of murder and theft of the victim's belongings can be charged with relevant articles, such as Article 338 of the Criminal Code for intentional murder and Article 365 paragraph (3) of the Criminal Code for theft with violence, with a maximum prison sentence of fifteen years. In the case of the Demak District Court Decision No. 32/Pid.B/2023/PN Dmk, the perpetrator was sentenced to twelve years in prison based on Article 338 of the Criminal Code, and the charge of Article 365 paragraph (3) was not considered. This decision was correct, considering that the prosecutor's charges were alternative. In the future, the application of *concursum realis* needs to be considered to ensure appropriate criminal liability, taking into account careful evidence and providing a preventive and rehabilitative effect for the defendant.

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