

Legal Analysis of Law Enforcement of Motorcycle Theft Crimes Using Pawning Method, Study of Decision No. 264/Pid.B/2025/PN. Ptk

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Abstract. *This study analyzes the crime of motorcycle theft using the pawn method and the application of criminal law in the Pontianak District Court Decision Number 264/Pid.B/2025/PN.Ptk. The study focuses on the suitability of the judge's considerations with the elements of Article 363 of the Criminal Code and the effectiveness of law enforcement in providing certainty, justice, and public protection. The study uses a normative juridical method through a case, statutory, and conceptual approach with primary and secondary legal materials. The results of the study indicate that all elements of Article 363 of the Criminal Code are proven valid through existing evidence, and the panel of judges consistently applies norms in accordance with criminal law doctrine. The criminal sentence of 1 year and 6 months is considered proportional because it reflects a balance between legal certainty and justice. The study emphasizes the need to strengthen norms, professionalism of officers, and increase public legal awareness in dealing with the rise of motor vehicle theft using the pawn method.*

Keywords: *Criminal; Law; Pawning.*

1. Introduction

Indonesia faces serious challenges in maintaining public security, particularly the rise in property crimes such as theft, fueled by social and economic disparities. Indonesia's criminal justice system, still rooted in the colonial legacy of the Criminal Code, also faces difficulties adapting to modern crime patterns, including motor vehicle theft through pawning schemes.

This theft method involves unlawfully taking a vehicle and pawning it for financial gain, creating more complex legal issues because it involves both civil and criminal elements. Law enforcement requires careful evidence, as perpetrators often disguise their crimes through seemingly legitimate pawn transactions.

In addition to causing material losses, this method also undermines public trust in

official pawnshops. Therefore, its handling must be comprehensive, encompassing legal, social, and economic aspects. The Islamic legal perspective (sariqah) provides the additional perspective that theft is a serious violation of social stability, so sanctions should not be solely repressive but also consider morality and social reconciliation.¹

The views of academics such as Sri Endah Wahyuningsih emphasize the importance of criminalization that not only provides formal punishment, but also restores social balance.² Thus, the integration of positive criminal law and Islamic law can provide a fairer and more effective approach in handling theft cases, including in the application of Article 363 of the Criminal Code.

Pontianak District Court Decision No. 264/Pid.B/2025/PN.Ptk provides a concrete example of the application of Article 363 of the Criminal Code to motorcycle theft through pawning. Studying this case is crucial for understanding how the elements of the crime are applied, the factors influencing the verdict, and the extent to which substantive justice has been achieved.³

2. Research Methods

This research method uses a normative juridical approach to examine the application of Article 363 of the Criminal Code in the case of theft under the guise of pawning based on the Pontianak District Court Decision Number 264/Pid.B/2025/PN Ptk. The research was conducted through three approaches, namely a case approach to examine the judge's considerations and the application of norms in the decision, a statute approach to examine the provisions of legislation, especially Article 363 of the Criminal Code and related regulations, and a conceptual approach to link the theory of punishment, the theory of criminal responsibility, the theory of justice, and the concept of jarimah sariqah in Islamic law. The research data are all secondary data consisting of primary legal materials such as the Criminal Code and court decisions, secondary legal materials in the form of legal doctrines, scientific journals, and academic works, and tertiary legal materials such as legal dictionaries and encyclopedias. Data collection was carried out through literature and documentation studies in accordance with the character of normative research that focuses on written sources. All data were analyzed qualitatively using descriptive-analytical methods, namely by describing legal norms and facts, then interpreting them based on relevant theories to produce logical and argumentative conclusions.

¹Al-Qur'an Surah Al-Maidah verse 38 regarding the sanctions for theft in Islamic law.

²Sri Endah Wahyuningsih, The Concept of Just Sentencing, which emphasizes the importance of substantive justice in the application of criminal sanctions.

³Criminal Code

3. Results and Discussion

Decision Number 229/Pid.B/2025/PN Llg (July 15, 2025) is in line with Indonesian positive law, using the old Criminal Code and the Criminal Procedure Code because the transitional period for the 2023 Criminal Code has not yet fully taken effect. The evidence follows a negative-legal model with a minimum of two valid pieces of evidence and the judge's conviction, and the considerations are outlined in a transparent reasoned decision.

The panel of judges upheld the principles of legality, due process, and gender equality, ensuring that women were treated equally as perpetrators and victims. The trial process was thorough and accountable, protecting the rights of the accused and ensuring transparency in the reasons for the verdict.

The verdict reflects proportionality and a social welfare orientation, with a one-month sentence reduced by house arrest, and consideration of mitigating factors (remorse, reconciliation, and contribution to medical expenses) and aggravating factors (criminal record). This verdict aligns with the principles of Pancasila Justice: combining legal certainty, justice, expediency, and human dignity.

3.1. Construction of the Crime of Theft in the Concept of Legal Certainty, and How to Enforce the Law Based on the Theory of Legal Certainty and Criminal Law Doctrine

The criminal act of theft, as defined in the Criminal Code, constitutes the act of taking another person's property as a core offense that must be proven based on objective and subjective elements to ensure legal certainty. This certainty is based on the principle of *nullum crimen sine lege*, so that every act can only be punished if it fulfills the elements of "taking," "goods," "belonging to another person," and "intent to possess unlawfully" as formulated in Articles 362–367 of the Criminal Code.⁴The formulation of clear norms serves to ensure predictability and avoid interpretative deviations by law enforcement officials.

Criminal law doctrine provides analytical boundaries that help authorities interpret these elements. Van Hamel emphasized that the element of "taking" is the act of intentionally transferring control of goods.⁵Meanwhile, Moeljatno explains that goods are anything that has economic value and can be controlled.⁶The element of "belonging to another person," according to Pompe, indicates the existence of a legal subject who is harmed by the revocation of control of the goods,⁷Meanwhile, Simons emphasized that the intention to possess unlawfully can be seen from further actions such as hiding, selling, or

⁴Criminal Code (KUHP)

⁵Van Hamel, *Het Nederlandsche Strafrecht*, (Haarlem: HD Tjeenk Willink, 1889).

⁶Moeljatno, *Principles of Criminal Law*, (Jakarta: Rineka Cipta, 2008).

⁷Pompe, *Leerboek van het Nederlandse Strafrecht*, (Zwolle: Tjeenk Willink, 1953).

pawning goods.⁸These doctrines help distinguish theft from civil disputes, thus preventing mistaken criminalization.

From a law enforcement perspective, Soerjono Soekanto's theoretical framework emphasizes that the success of handling theft cases is influenced by five factors: law, law enforcement officers, infrastructure, society, and culture.⁹A clear formulation of the crime will be ineffective without the support of professional law enforcement, modern investigative tools, and a legally aware public. The lack of any one factor can create legal uncertainty and hinder the process of proof.

Law enforcement solutions for theft require integrating legal certainty theory and law enforcement theory. From a normative perspective, harmonization of theft provisions in the Criminal Code is needed to ensure they are relevant to modern methods, including pawnshop theft and technology-based crimes. From an implementative perspective, there is a need for a unified interpretation of the elements of the offense, strengthening due process of law, improving the competence of officers, modernizing investigative facilities, and strengthening community moral values to prevent deviant behavior.

According to the author, legal certainty in the crime of theft is determined not only by clearly formulated norms, but also by the consistency of authorities in interpreting these elements. Differences in interpretation of subjective and objective elements can disrupt legal stability, especially in cases involving new methods. The simultaneous application of criminal law doctrine and reform of the law enforcement system are essential requirements for achieving substantive legal certainty.

3.2. Legal Analysis of Law Enforcement of Motorcycle Theft Crimes Using Pawning Method (Study of Decision Number 264/Pid.B/2025/PN.Ptk) and Legal Solutions Based on Theory

Analysis of Decision Number 264/Pid.B/2025/PN.Ptk shows that the case of motorcycle theft using pawn method has been systematically proven through the elements of Article 362 and Article 363 of the Criminal Code. The judge assessed that the crime occurred when the defendants damaged the handlebar lock of the victim's motorcycle and took the vehicle away at night. The act was carried out by two people together, so that the aggravating elements in Article 363 paragraph (1) 3 and 4 of the Criminal Code were fulfilled. The fact that the motorbike was to be pawned further strengthens the perpetrator's intention to possess the item unlawfully.

In terms of proof, the panel of judges used evidence in the form of statements from the victim, police witnesses, the defendant's confession, and evidence in the

⁸Simons, *Het Nederlandsche Strafrecht*, (Arnhem: Gouda Quint, 1931).

⁹Soerjono Soekanto, *Factors Influencing Law Enforcement*, (Jakarta: RajaGrafindo Persada, 2008).

form of a motorcycle and vehicle registration certificate. This evidentiary construction fulfilled the requirements of Articles 183–184 of the Criminal Procedure Code, which require a minimum of two valid pieces of evidence and the judge's conviction. With the perpetrator's possession of the evidence and a confession consistent with other facts, the element of "taking" as understood by Moeljatno¹⁰ has been fulfilled. Motorcycles as "goods" clearly meet the definition of objects of economic value according to Sudarto,¹¹ Meanwhile, the victim's ownership was proven through the STNK as confirmed by Hamzah.¹²

The judge's considerations also demonstrate the correct legal reasoning, namely proving the basic elements of theft first, followed by the aggravating elements. The judge considered the subjective element to be the intention to possess unlawfully through the perpetrators' plan to pawn the motorcycle. This interpretation of mens rea aligns with the doctrine of animus rem sibi habendi as explained in Moeljatno's theory. The application of the principle of proof beyond reasonable doubt is carried out by assessing the consistency between the evidence and rejecting any reasonable doubt regarding the defendant's involvement.

From the perspective of Radbruch's theory of legal certainty,¹³ This decision reflects normative stability because the judge applied Article 363 of the Criminal Code firmly, consistently, and predictably. The use of valid evidence, consistent interpretation of the elements of the crime, and strict application of evidentiary procedures demonstrate that this decision meets the formal and substantive aspects of legal certainty. The clarity of the application of the elements of "theft at night" and "jointly" also provides predictability for the public and law enforcement officials.

The 1 year and 6 months sentences imposed on the defendants also reflect the proportionality between the level of culpability, modus operandi, and harm. The judge still considered mitigating circumstances, such as the defendant's confession, so that the verdict was not overly repressive but remained firm in maintaining public order. This approach demonstrates a balance between legal certainty, justice, and expediency, as per Radbruch's principle that these three values must go hand in hand.

Overall, the panel of judges' ratio decidendi demonstrates the appropriate application of positive law, strong evidence, and legal considerations consistent with the doctrine of criminal law experts. This decision not only demonstrates how the elements of the crime are matched to the facts of the trial, but also serves as

¹⁰Moeljatno. (2002). Principles of Criminal Law. Jakarta: Rineka Cipta.

¹¹Sudarto. (1996). Law and Criminal Law. Bandung: Alumni.

¹²Andi Hamzah. (1991). Certain Offenses in the Criminal Code. Jakarta: Pradnya Paramita.

¹³Gustav Radbruch. (1973). Rechtsphilosophie. Heidelberg: Verlag.

a concrete example of how criminal law theory, the principle of proof, and the theory of legal certainty can be applied in an integrated manner in judicial practice. Thus, this case provides a clear illustration of the professional and accountable application of Article 363 of the Criminal Code in a motorcycle theft case involving a pawn.

4. Conclusion

The construction of the crime of theft in Articles 362–367 of the Criminal Code provides clear normative boundaries regarding the elements of the offense, thereby creating legal certainty in the protection of property rights. The doctrines of criminal law experts such as Van Hamel, Pompe, Simons, and Moeljatno increasingly clarify the meaning of the elements of "taking," "goods," "belonging to another person," and "intent to possess unlawfully," thus distinguishing theft from civil disputes. However, legal certainty depends not only on the formulation of norms, but also on the consistency of law enforcement officials in interpreting and applying the elements of the offense, especially when dealing with modern theft methods such as pawning a motorcycle. Effective law enforcement is also largely determined by factors outlined in Soerjono Soekanto's theory: legal quality, the professionalism of officials, the availability of infrastructure, public participation, and legal culture. Therefore, law enforcement solutions must be realized through strengthening norms that are responsive to crime developments, improving the competence of investigators, prosecutors, and judges, providing adequate forensic facilities, and fostering legal awareness and social values in society. Integrating the formulation of definite norms with the implementation of effective law enforcement is key to addressing theft crimes, including theft by pawning. In the context of Decision Number 264/Pid.B/2025/PN.Ptk, the panel of judges has applied the provisions of Article 363 of the Criminal Code appropriately and consistently. The elements of aggravation were legally proven through witness testimony, the defendant's confession, and evidence, thus fulfilling the evidentiary standards of Articles 183–184 of the Criminal Procedure Code and the principle of beyond reasonable doubt. The judges' considerations demonstrate a logical relationship between facts and norms, and are in line with the doctrines of Moeljatno, Sudarto, and Hamzah regarding the elements of the crime of theft. The sentence of 1 year and 6 months is considered proportional because it reflects a balance between legal certainty, substantive justice, and public protection from the rise of motor vehicle theft. Overall, this decision is a concrete example of the consistent and rational application of positive law in handling motorcycle theft under the guise of pawning.

5. References

Al-Qur'an:

Surah Al-Maidah ayat 38.

Books:

Hamzah, A. (1991). *Delik-Delik Tertentu dalam KUHP*. Jakarta: Pradnya Paramita.

Moeljatno. (2002). *Asas-Asas Hukum Pidana*. Jakarta: Rineka Cipta.

Moeljatno. (2008). *Asas-Asas Hukum Pidana*. Jakarta: Rineka Cipta.

Pompe. (1953). *Leerboek van het Nederlandse Strafrecht*. Zwolle: Tjeenk Willink.

Radbruch, G. (1973). *Rechtsphilosophie*. Heidelberg: Verlag.

Simons. (1931). *Het Nederlandsche Strafrecht*. Arnhem: Gouda Quint.

Soekanto, S. (2008). *Faktor-Faktor yang Mempengaruhi Penegakan Hukum*. Jakarta: RajaGrafindo Persada.

Sudarto. (1996). *Hukum dan Hukum Pidana*. Bandung: Alumni.

Van Hamel. (1889). *Het Nederlandsche Strafrecht*. Haarlem: H.D. Tjeenk Willink.

Wahyuningsih, S. E. (n.d.). *Konsep Pemidanaan Berkeadilan*.

Regulation:

Criminal Code (KUHP).