

**LAW ENFORCEMENT OF THEFT WITH VIOLENCE RESULTING IN DEATH BASED ON THE PERSPECTIVE OF JUSTICE****Alfian Widyatama<sup>1\*</sup>, Sujono<sup>2</sup>**<sup>1,2</sup>Dirgantara Marshal Suryadarma University, Jakarta, Indonesiaalfianwidyatama@gmail.com<sup>1\*</sup>, sujono@gmail.com<sup>2</sup>**Abstract**

Law enforcement must be carried out fairly and without discrimination in order to create justice and order in society. This study discusses law enforcement against the crime of theft with violence resulting in death based on Article 365 paragraph (3) of the Criminal Code, as well as an analysis of the legal considerations of judges in District Court Decision Number 33/Pid.B/2024/PN.Llg. The method used is normative juridical research with the approach of legislation and decision studies. The results showed that the perpetrator was sentenced to a maximum imprisonment of fifteen years as a form of fair law enforcement. The judge's consideration includes the fulfillment of the elements of the article charged, the demands of the public prosecutor, and the absence of reasons for criminal erasure. Law enforcement in the decision is in accordance with the principles of justice, certainty, and legal benefits. Therefore, law enforcement in the future must refer to the applicable rules of law in order to provide a deterrent effect, as well as protection and security for the community.

Keywords : Law Enforcement, Theft, Justice

**INTRODUCTION**

In Indonesia, criminal law that regulates everything about crimes and offenses and punishment for them, is contained in the Criminal Code, especially the crime of theft is regulated in the Criminal Code Book II in Article 362 to Article 367 of the Criminal Code. Article 362 of the Criminal Code defines theft, Article 363 of the Criminal Code defines petty theft, Article 365 of the Criminal Code defines theft with violence and Article 367 of the Criminal Code defines theft in the family. The type of theft is one of the most common forms of criminal offense in the community. One of them is theft accompanied by violence through threats of violence, for example hitting the victim by tying them up or holding them at gunpoint so that they are silent and do not move. Looking at the current state of society, it is very possible for someone to find a shortcut to commit theft, especially by using violence like this. The mass media and electronic media show that theft through violence often occurs against an economic background, so the community as a whole and law enforcement officials are obliged to overcome violent theft crimes as far as possible (Hartono, 2021).

The crime of theft in law is categorized into ordinary theft, theft with aggravation, petty theft and theft with violence. Of the four types of theft, the most troubling form is theft with violence, because this form of theft not only causes loss of goods but can also cause injury, disability or even death to the victim (Hartono, 2021). The crime of theft with violence is a crime against property that is not common and occurs in many developing countries. Furthermore, it is said that violent theft and its contents are the nature of criminal acts that accompany development (Soekanto, 2008). The law aims to achieve a peaceful and just society. Law is for humans, so the implementation of law or law enforcement must provide benefits or usefulness to society. The community is very concerned that in the implementation or enforcement of the law, justice is considered (Gulton, 2014). Law enforcement is an effort to tackle crime rationally, fulfill a sense of justice and be effective. In order to tackle crime against various means as a reaction that can be given to the perpetrators of crime, in the form of criminal and non-criminal legal means, which can be integrated with one another. When criminal means are called upon to tackle crime, it means that criminal law politics will be carried out, namely making elections to achieve the results of criminal legislation that are in accordance with the circumstances and situations at a time and in the future (Arief, 2012).

Law enforcement against crime in Indonesia where the government as the organizer of state life needs to provide protection and welfare of the community through various policies that are scheduled in the national development program. This government policy is incorporated in *social policy*. One part of this social policy is *law enforcement policy*, including *legislative policy*. Meanwhile, *crime prevention policy (criminal policy)* itself is part of *law enforcement policy* (Mulyadi, 2011). The study of criminal law enforcement can be seen from the way criminal law enforcement is known as the law enforcement system or criminal law enforcement, which is part of the crime prevention policy (*criminal policy*). In crime prevention, two means are needed, namely using penal or criminal sanctions, and using non-penal means, namely law enforcement without using criminal sanctions (penal). Law enforcement has the goal that people obey the law. Public obedience to the law is caused by three things, namely: (1) fear of sin; (2) fear because of the power of the authorities related to the imperative nature of the law; (3) fear because of shame of doing evil. Law enforcement with non-penal means has targets and objectives for the benefit of internalization (Sunarso, 2004). The existence of the Criminal Code is an effort of the Indonesian government's legal policy towards overcoming the crime of theft is expected to overcome theft with violence resulting in death by using criminal or penal means.

**RESEARCH METHODS**

This research is included in the form of normative juridical research, namely research

that emphasizes the use of written legal norms and is supported by the results of interviews with sources and informants.

This type of research is descriptive analytical, namely a study that describes the applicable laws and regulations and is associated with legal theories in practice implementation related to the problem, and describes / describes the facts in real terms.

The type of data is secondary data obtained directly through literature searches or from official documents. This is important for the author to sort out and then analyze the regulations / statutory provisions. This secondary data consists of three legal materials, namely primary legal materials, secondary legal materials and tertiary legal materials supported by interviews from resource persons. While the types of legal materials are:

- a. Primary Legal Materials
- b. Secondary Legal Materials
- c. Tertiary Legal Materials

## **RESULT AND DISCUSSION**

### **Law Enforcement of the Crime of Theft with Violence Resulting in Death Based on the Perspective of Justice**

Theft with violence is regulated in Article 365 of the Criminal Code which is formulated as follows (Chazawi, 2007):

1. Shall be punished with a maximum imprisonment of 9 years for theft preceded, accompanied, or followed by violence or threat of violence against persons, with intent to prepare or facilitate the theft or in the event of being caught red-handed, to enable the escape of himself or other participants or to retain possession of the stolen object.
2. Shall be punished by a maximum imprisonment of 12 years:
  - a. If the theft is committed at night in an enclosed dwelling or yard where there is a dwelling, on a public road or in a moving train or tram.
  - b. If the theft is committed by two or more persons acting in concert.
  - c. If the entry into the place where the theft has been committed is by breaking or climbing in, or by means of false keys, a false order or a false costume. If the theft results in serious injury.
  - d. If the theft results in the death of any person, a maximum imprisonment of 15 years shall be imposed.
  - e. Death penalty or life imprisonment or a maximum imprisonment of 20 years shall be imposed if the theft results in serious injury or death and is committed by two or more persons jointly and is accompanied by one of the circumstances described in point 1 and point 3.

Meanwhile, in Law 1/2023 the act of theft with violence causing death is regulated in Article 479 of Law 1/2023 which reads as follows:

- (1) Any person who commits theft preceded, accompanied, or followed by violence or threat of violence against a person, with the intent to prepare or facilitate the theft or in the event of being caught red-handed, to enable himself or another person to retain possession of the stolen goods, shall be punished by a maximum imprisonment of 9 years.
- (2) Shall be punished by a maximum imprisonment of 12 years, any person who commits the act referred to in paragraph (1):
  - a. by night in a dwelling or enclosed yard where there is a dwelling, on a public street, or in a public transport vehicle in motion.
  - b. Theft by means of damaging, dismantling, cutting, breaking, climbing, using false keys, using false orders, or wearing false official clothes, in order to enter the place where the crime is committed or to reach the property taken;

- c. which results in serious injury to persons; or
  - d. jointly and severally.
- (3) If the act referred to in paragraph (1) or paragraph (2) results in the death of a person, he shall be punished by a maximum imprisonment of 15 years.
- (4) If the act as referred to in paragraph (1) results in serious injury or death of a person committed jointly and severally and is accompanied by one of the circumstances referred to in paragraph (2) subparagraphs a and b, he shall be punished by capital punishment or life imprisonment or a maximum imprisonment of 20 years.

According to the Elucidation of Article 479 paragraph (1) of Law 1/2023, the crime of theft in this provision is qualified as theft with aggravation. The aggravating element is the existence of violence or threat of violence against the person in committing the theft. Violence or threat of violence can be committed before, during, or after the theft is committed. Violence refers to the use of physical force, either by bodily exertion or by using an instrument, while the threat of violence refers to a situation that causes fear, anxiety, or worry to the person threatened. Furthermore, the use of violence or threat of violence need not be directed solely at the owner of the goods, but can also be directed at other persons, such as domestic servants or house guards. Article 339 of the Criminal Code and Article 458 paragraph (3) of Law 1/2023 regulate murder that is followed, accompanied or preceded by a criminal act. Then, the contents of Article 339 of the Criminal Code and Article 458 paragraph (3) of Law 1/2023 are almost the same as the contents of Article 365 paragraph (3) of the Criminal Code and Article 479 paragraph (3) of Law 1/2023 which regulates theft with violence resulting in the death of another person. However, the difference is that in Article 339 of the Criminal Code and Article 458 paragraph (3) of Law No. 1/2023, the death of another person is intentional by the criminal, while in Article 365 paragraph (3) of the Criminal Code and Article 479 paragraph (3) of Law No. 1/2023 the death of the person is not intentional by the criminal, only as a result that is not even intended by the criminal (Sugandhi, 2007).

In Article 365 of the Criminal Code, the act of theft with violence also has an element of the unlawful nature of an act. Basically, human actions are of two nature, namely despicable (against the law), and not despicable (permitted by law). The despicable or prohibited nature of the act is what is called the "element against the law". Judging from its origin or source, the despicable nature or against the law comes from the law, which is called against form law (*formelle wederrechtelijk*) and there is a source of public legal awareness called against material law (*materiele wederrechtelijk*) (Silfiyah, Harwika, & Palmasari, 2021). The unlawful element of Article 365 of the Criminal Code can be said to fulfill the element of dealing with people who are against the law or acts against the law. From the perspective of the law, an act is labeled prohibited by legislation, which is what causes an act to be prohibited. Article 365 paragraph (3) of the Criminal Code has sanctions with severe penalties, namely if the theft with violence causes the death of a person, it is subject to a maximum imprisonment of fifteen years. The term *violence* or *violence* refers to behavior that must be contrary to the law, and per artificially threatens damage to property or physical including causing death to someone. These acts often use supportive tools such as firearms or sharp weapons, so the crime of robbery is also included in this article.

The main act in Article 365 paragraph (3) of the Criminal Code is theft, but there are also additional elements, namely preceded by violence or threats of violence, or accompanied by violence or threats of violence, or followed by violence or threats of violence. There is a difference in the application of the article here. The victim of the criminal offense of Article 365 paragraph (3) of the Criminal Code must be other than the husband or wife of the perpetrator, because if this is not the case, the criminal charges will be different, namely Article 368 of the Criminal Code on extortion. Likewise, the assets that can be categorized as

evidence of the criminal offense of Article 365 paragraph (3) of the Criminal Code are goods belonging to other people and the perpetrator does not have rights to these goods. Article 365 paragraph (3) of the Criminal Code contains, "if the act results in death, a maximum imprisonment of fifteen years shall be imposed". The punishment in this article can be imposed if the elements have been fulfilled. As clearly stated in Article 365 paragraph (3) of the Criminal Code that the punishment imposed is a maximum of fifteen years. However, a person can be sentenced if they have fulfilled the following conditions:

1. The suspect was sixteen (16) years old at the time of the crime as stated in Article 45 of the Criminal Code.
2. The perpetrator or one of the perpetrator's accomplices is not a spouse in the criminal offense in question, so they are not subject to criminal charges as in Article 367 paragraph (1) of the Criminal Code.

The location of the aggravation of punishment in this last form of theft with violence, from a maximum imprisonment of nine years (Article 365 paragraph 1 of the Criminal Code) to a maximum imprisonment of fifteen years, is because it incorporates the element of causing the death of a person. If this act is compared to one of the acts as stated in Article 339 of the Criminal Code, namely committing murder which is followed, preceded, or accompanied by a punishable act and which is committed with the intention of preparing and facilitating the act, then the two Articles have the same facts. The difference is that to apply Article 339 of the Criminal Code, death must come from the will of the perpetrator. Meanwhile, death for Article 365 paragraph (3) of the Criminal Code is not the will of the perpetrator. Therefore, the provisions of the criminal punishment are different (Ishaq, n.d.). The crime of Article 365 paragraph (3) of the Criminal Code is a crime of theft where the perpetrator uses violence and results in the loss of a person's life. The process of law enforcement against crimes in Indonesia starts from the arrest of the perpetrator of the crime to the implementation of the court's decision.

The trial stage is central to the criminal justice system, as it is at this stage that it is decided whether a defendant can be found guilty and sentenced, or found innocent and cleared of all charges. Prior to this, a three-person panel of judges will examine the suspect, except for suspects who file a pre-trial motion who will only be examined by a single judge. The process of sentencing is also inseparable from the legal process that has been carried out previously, which starts from investigation, prosecution, to examination before the court. In the context of sentencing, the court is tasked with considering the criminal offense and the responsibility of the perpetrator of the criminal offense in a balanced manner as the basis for imposing the punishment. On the one hand, criminal offenses emphasize the will of society that must be protected by legal norms. On the other hand, the legal obligation based on the specific circumstances and conditions of the criminal offender is emphasized by the guilt and responsibility of the criminal offender. Consideration of these two things is intended to place the "imposition of punishment" as a fulfillment of the needs of society and individuals based on *daad en dader strafrecht* (Syamsu, 2016).

Because it is possible that if these institutions are influenced by government power which is dominated by economic and political forces, then the community can no longer obtain security, order and justice as envisioned in Pancasila or in other words, community life will become chaotic. However, in the modern world, law enforcement is carried out by the executive and implemented by the bureaucracy under the power of the executive. A country that implements this kind of system is called a welfare state, because the law increasingly participates intensively in the development of various fields, such as the economy, health and infrastructure. The executive and its bureaucracy are part of the chain that aims to achieve the plans contained in the legal regulations that handle these fields (Rahardjo, n.d.). This proves that law enforcement must also run dynamically like other fields. According to Satjipto

Rahardjo, until now the law has also been created to be carried out and implemented. So it is not surprising if someone says that it is no longer a law if it is no longer implemented. However, this kind of thing is inevitable considering that life is developing rapidly where humans are required to improve their quality. Various crimes from many aspects continue to emerge because they are not matched by sufficient human resources so that people experience a sense of saturation to be effective in implementing law enforcement. In enforcing the law, the three parties cannot stand alone. Socialization must be sharpened in order to form harmony and not overlap between one party and another. So that law enforcement that runs less effectively cannot only be based on the lack of performance of law enforcement officials, but the community also participates in it.

Law enforcement is an effort to ensure the running of the law as it should be against violations that occur in the law itself. Different characteristics of society will have a major influence on law enforcement. Every violation of the law that occurs in society is a phenomenon that cannot be separated from the culture, socio-culture and economy and the community environment. Through each characteristic, it will give its own style in the framework of law enforcement. However, every society basically has the same goal to obtain peace as a result of formal law enforcement. Law enforcement must basically be carried out fairly, without discrimination. The characteristics of the law which is a method are always stated to be generally applicable, meaning for anyone, anywhere in the territory of a country without exception. Although there are exceptions stated explicitly and based on certain acceptable and justifiable reasons. Unless law enforcement officials or groups in social reality have applied the law in a discriminatory manner, laws and regulations generally do not apply in a discriminatory manner. Last but not least, the existence of legal clarity and a sense of justice in society is not reflected in law enforcement. In law enforcement, the need to maintain order is consistently emphasized. This can occur as a result of the link between the law and the implementation of laws and regulations. This assumption is completely wrong as the law should be viewed as a single system, which causes special relationships between different components of the legal system. As a result, many legal systems interact to produce laws that are fair, certain and beneficial to society. Each of these factors will affect the effectiveness of law enforcement in its own way.

*Fiat Justitia et Pereat mundus (ruat coelum)* is a proverb stating that the rule of justice must be upheld even if it means the end of the world (even if the sky must fall for it). The slogan shows a strong dedication to achieving justice in everyday life. Although the issue of law and justice has been around for a long time, it is still relevant today. Although tens or even hundreds of people may criticize the law and justice in a day, it is undeniable that these things are still needed to coexist (Anshori & Malian, 2017). Justice, truth and law are something that humans need and are basic values and needs of civilized humans.<sup>123</sup> The task of law as a tool of social engineering where the law is used as a tool (*tool*) to change the behavior and condition of society in accordance with the will of the law will dominate and change the state of society. Roscou Pound's opinion then developed and became the basis for the development of opinions on law and social change. Law and social change are developed solely to put law and justice can coexist with the social conditions of society. Law as a means of engineering society towards a better direction and upholding community justice.

Criminal law enforcement is the state's effort to provide a sense of security and comfort to the entire community so that they can carry out their activities calmly. The condition of a safe, peaceful society will have an impact on the community in improving their standard of living both economically and socially. Therefore, the national criminal law system must be able to work properly by paying attention to the elements of its sub-systems so that it will create an effective, efficient, professional, and proportional, as well as accountable criminal law order in the process of law enforcement in the community. The need for

progressive criminal law norms is a necessity at this time so that criminal law norms can survive and adapt to the conditions of Indonesian society in the future. The position of the Criminal Code as Indonesia's material criminal law has indeed been slowly improved, but the improvement (revision) and adjustment of the norms in the Criminal Code with the current conditions of the Indonesian nation are slow and seemingly not serious by the DPR and the President. This certainly makes the norms of criminal law in the Criminal Code which are still dominated by Dutch law which was equated to apply in Indonesia during the Dutch colonial period is still valid with the conditions of Indonesian society which are very much different today. The clash and criticism as well as the difficulty of criminal law enforcement to run optimally, optimally, efficiently, and accountably are also caused by the current Criminal Code norms that have not been harmonized with other laws and regulations outside the Criminal Code which also have criminal law norms.

### **Legal Considerations of Judges in Deciding the Crime of Theft with Violence Resulting in Death Based on District Court Decision Number 33/Pid.B/2024/PN.Llg.**

Lubuk Linggau District Court which tried criminal cases, namely:

#### 1. Case Position

##### a. Identity of the Defendant

Doni Rahmadon Bin Surono, Lubuk Linggau, 24 years old / December 18, 1999, Male, Indonesia, Islam, Laborer, residing in Lubuk Linggau.

##### b. Brief process

The defendant was arrested on November 16, 2023 and detained in detention by:

- 1) Investigators from November 16, 2023 until December 5, 2023.
- 2) Investigator Extended by Public Prosecutor from December 6, 2023 until January 14, 2024
- 3) Public Prosecutor from January 11, 2024 until January 30, 2024
- 4) District Court Judge from January 23, 2024 to February 21, 2024
- 5) District Court Judge Extended by the President of the District Court from February 22, 2024 to April 21, 2024.<sup>124</sup>

#### 2. Indictment

The defendant was brought to trial by the Public Prosecutor charged based on the following indictment:

FIRST: Article 365 paragraph (3) of the Criminal Code.

OR

SECOND: Article 338 of the Penal Code. 125

#### 3. Charges

The criminal charges filed by the Public Prosecutor were basically as follows:<sup>126</sup>

- a. To find the defendant DONI RAMADHON BIN SURONO guilty of committing the crime of "theft with violence, resulting in death" in violation of Article 365(3) of the Penal Code as set out in our first indictment.
- b. Sentenced the defendant DONI RAMADHON BIN SURONO to 15 (fifteen) years in prison, minus the period of arrest and detention, and the defendant shall remain in custody.
- c. Stating the evidence;
  - 1) 1 (one) blade of a stabbing weapon of the type of bayonet made of iron about 19 cm long with a wooden handle with a brown wooden handle.
  - 2) 1 (one) T-shirt Sweater type brown color NEW YORK brand.
  - 3) 1 (one) set of female prayer equipment / Mukenah which has been stained with blood.
  - 4) 1 (one) sheet of blue prayer mat which has been stained with blood.

Confiscated for destruction.

d. Sentenced the defendant to pay court costs of Rp. 2,000.- (two thousand rupiah).

#### 4. Verdict

The Panel of Judges delivered their verdict, which was basically as follows:127

##### M E N G A D I L I:

- a. Stating that the Defendant Doni Rahmadon Bin Surono mentioned above, is legally and convincingly proven guilty of committing the crime of theft with violence resulting in death as in the first alternative charge.
- b. Sentencing the Defendant therefore to 14 (fourteen) years imprisonment.
- c. Determining that the period of arrest and detention that has been served by the Defendant shall be deducted in full from the punishment imposed
- d. Determine that the Defendant shall remain in custody
- e. Determine the evidence in the form of:
  - 1) 1 (one) blade of a stabbing weapon of the type of bayonet made of iron about 19 cm long with a wooden handle with a brown wooden handle).
  - 2) 1 (one) sheet of brown sweater type shirt brand NEW YORK
  - 3) 1 (one) set of female prayer equipment / Mukenah which has been stained with blood
  - 4) 1 (one) sheet of blue prayer mat which has been stained with blood Destroyed
- f. Charged the Defendant to pay court costs in the amount of Rp5,000.00 (five thousand rupiah).

#### 5. Legal Considerations of the Panel of Judges

The aforementioned verdict is based on legal considerations basically as follows:128

- a. That in the opinion of the Panel of Judges the element "Causing death" has been legally fulfilled, because all elements of Article 365 paragraph (3) of the Criminal Code have been fulfilled, then the Defendant must be declared legally and convincingly proven to have committed the crime as charged in the First alternative charge.
- b. That during the trial, the Panel of Judges did not find anything that could eliminate criminal liability, either as justification or excuse, so the Defendant must be held accountable for his actions, because the Defendant is capable of being responsible, he must be found guilty and sentenced. The purpose of punishment is not solely retaliation but aims to educate and foster so that the Defendant realizes / realizes his mistakes so that it is hoped that he can become a good member of society in the future and is associated with aggravating and mitigating circumstances which will be considered later, so the Panel of Judges is quite appropriate and fair if the Defendant is sentenced as stated in the verdict below.
- c. That in this case the Defendant has been subject to lawful arrest and detention, therefore the period of arrest and detention must be deducted in full from the sentence imposed.
- d. That because the Defendant is detained and the detention of the Defendant is based on sufficient reasons, it is necessary to determine that the Defendant remain in detention.
- e. That the evidence in the form of 1 (one) blade of a stabbing weapon of the type of bayonet made of iron about 19 cm long with a wooden handle with a brown wooden handle, 1 (one) sheet of brown sweater type shirt brand NEW YORK, 1 (one) set of female prayer equipment / Mukenah which has been stained with blood, 1 (one) sheet of blue prayer mat which has been stained with blood, which has been used to commit a crime and it is feared that it will be used to repeat the crime, it is necessary

to determine that the evidence be destroyed.

- f. That because the Defendant is sentenced, he must also be burdened to pay court costs.

Legal considerations of the Panel of Judges above with due regard to Article 365 paragraph (3) of the Criminal Code and Law Number 8 of 1981 concerning Criminal Procedure Law and other relevant laws and regulations.

According to the author, the legal considerations of the panel of judges at the Lubuk Linggau District Court who decided case number 33/Pid.B /2024/PN.Llg., outline legal considerations that are relevant and in accordance with existing regulations, starting from the demands of the public prosecutor, the fulfillment of the elements of the article charged and whether or not there are things that can eliminate criminal liability, both as justification and or excuse, to aggravating and mitigating circumstances for the defendant in imposing punishment. Based on the evidence at trial, it is also related to the evidence that there is congruence, namely between witnesses, with other evidence, including the testimony of the defendant who confirmed the testimony of witnesses and the defendant's confession of the charges against him. Basically, the basis for the Judge's consideration in terms of imposing the severity of criminal sanctions against the perpetrators of theft with violence resulting in death is if the perpetrators commit acts in accordance with what has been mentioned as a criminal offense of theft with violence resulting in death as in Article 365 paragraph (3) of the Criminal Code. The provisions of Article 183 of the Criminal Procedure Code state that the Judge may not impose a penalty on a person unless he or she, with at least two valid pieces of evidence, is convinced that a criminal offense has actually occurred and that the defendant is guilty of committing it. This provision aims to ensure the establishment of truth, justice and legal certainty for a person. The judge's decision is closely related to how the judge expresses his opinion or consideration based on the facts and evidence in court and the judge's belief in a case, therefore the judge has an important role in imposing a court decision, in a court decision there are things that aggravate and mitigate other punishments (Nurhafifah & Rahmiati, 2015).

There are 2 (two) categories of Judges' considerations in deciding a case, especially decisions containing punishment, namely juridical Judges' considerations and non-juridical Judges' considerations. Juridical considerations are considerations of the Judge based on factors revealed in the trial and by law have been determined as things that must be contained in the decision. The basis for the Judge's consideration in imposing a prison sentence on the perpetrator of theft with violence resulting in death in the Lubuk Linggau District Court Decision Number: 33/Pid.B/2024/PN.Llg., is with juridical considerations that refer to the article charged by the Public Prosecutor in the indictment, namely drawing on the legal facts revealed in the trial that arose which was the conclusion of the testimony of the witnesses who had been presented, the testimony of the defendant, and the evidence submitted and examined in court.

With that, the legal considerations of the Lubuk Linggau District Court judges in considering cases of theft with violence resulting in death are closely related to the main task of a judge, namely the duty to receive, examine and try and resolve every case submitted to him, then the judge examines the case and finally adjudicates which means giving the interested party his rights or law.<sup>130</sup> The judge's legal consideration is one of the most important aspects to determine the realization of the value of a judge's decision that contains a justice (*ex aequo et bono*) and contains legal certainty in addition to the benefits for the parties concerned so that the judge's consideration must be addressed carefully and carefully. If the judge's consideration is not examined properly and carefully, then the judge's decision derived from the judge's consideration will be canceled by the High Court or the Supreme Court.<sup>131</sup> Every judge's decision must be pronounced in a trial that is open to the public

(Article 195 of the Criminal Code) if not, the decision is null and void. The punishment of announcement of judge's decision can only be imposed in cases determined by law. For example, Article 377 paragraph (1) (referring to Article 372, Article 374, KUHP, namely the crime of embezzlement), Article 405 paragraph (2) KUHP (referring to Article 396 to Article 402 KUHP, namely harming the debtor or the rightful party). In the criminal announcement of the judge's decision, the judge is free to determine how to carry out the announcement. This can be done through newspapers, placards affixed to notice boards, through radio and television media, the cost of which is borne by the convicted person. If we look at the offenses that can be subjected to additional punishment in the form of announcement of the judge's decision, it can be concluded that the purpose of this additional punishment is to make the public aware of crimes such as embezzlement, fraudulent acts and so on.

## CONCLUSIONS

Law enforcement against the crime of theft with violence resulting in death must be carried out fairly and without discrimination, in accordance with the principles of justice in law. Article 365 paragraph (3) of the Criminal Code stipulates that if violence in theft results in death, the perpetrator can be sentenced to a maximum imprisonment of fifteen years. In the law enforcement process, starting from the investigation to the court decision, it must consider the elements of the crime as a whole. Based on District Court Decision Number 33/Pid.B/2024/PN.Llg, the panel of judges has considered the evidence, testimony of the defendant, and witnesses objectively, and assessed aggravating and mitigating circumstances. The judge made a decision based on the conviction obtained from at least two valid pieces of evidence, as stipulated in Article 183 of the Criminal Procedure Code. Law enforcement like this is expected to ensure justice, certainty, and legal benefits for all parties.

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