

The Role of Criminal Sanctions in Combating Minor Theft Crimes

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Abstract

Petty theft is a form of crime that often occurs in everyday life and has the potential to cause social unrest. In the context of positive Indonesian law, petty theft is regulated in Article 364 of the Criminal Code which provides limits on the value of goods and forms of criminal sanctions. This article aims to analyze the effectiveness of criminal sanctions in overcoming petty theft and to examine the reality of law enforcement in the field. Through a normative and empirical legal approach, this study found that the application of criminal sanctions for petty theft often faces obstacles to effectiveness, especially in terms of the burden on the court, the condition of the perpetrator, and considerations of the values of justice and benefit. Strengthening alternative case resolutions, such as restorative justice, is needed in an effort to create a more proportional and humane criminal system.

Keywords: criminal sanctions, petty theft, Criminal Code, legal effectiveness, restorative justice

Introduction

The crime of theft is one of the most common forms of crime in society, because it directly affects personal property rights and can occur in various forms, from grand theft to petty theft. Petty theft, although it sounds simple, actually includes various incidents involving the theft of goods with a value that is not too large, but has a significant social impact. In Indonesia, this crime is regulated in Article 364 of the Criminal Code (KUHP), which provides limitations on the value of stolen goods and the types of sanctions that can be imposed.

Petty theft is often committed by individuals from disadvantaged economic backgrounds or in urgent situations. Although the value of the stolen goods tends to be small, the impact on the victim's life, as well as the social discomfort caused, cannot be underestimated. In this case, criminal law plays a role in imposing sanctions on the perpetrators in order to provide a deterrent effect and as a form of protection for private property rights. However, the application of criminal sanctions for petty theft, which are generally in the form of imprisonment or a small fine, often does not have a significant impact on reducing the number of these crimes. In fact, in many cases, perpetrators of petty theft often return to committing similar acts after serving their sentence.



Existing criminal sanctions, which aim to provide a deterrent effect, can face various obstacles in practice. One of them is the inaccuracy of the sanctions imposed, considering that many perpetrators of petty theft come from economically disadvantaged backgrounds and who often commit crimes because of urgent needs. The mismatch between the sanctions imposed and the socio-economic conditions of the perpetrators often leads to injustice. In addition, the high caseload in court, as well as limited resources, are obstacles to the effective application of sanctions.

On the other hand, there is a view that the current criminal justice system needs to be adapted to a more humanistic and restorative approach. Approaches such as restorative justice that emphasize peaceful resolution of cases and prioritize the restoration of relationships between perpetrators and victims have been considered as more effective alternatives for dealing with minor crimes. The success of this approach can reduce recidivism rates and provide opportunities for perpetrators to improve their behavior without having to serve a prison sentence that ultimately does not solve the root of the problem.

Through this article, the author attempts to further analyze the role of criminal sanctions in overcoming petty theft, by examining both the effectiveness of the provisions in the Criminal Code, as well as the reality of the application of the law in the field. In addition, this article will also examine alternative more progressive criminal policies, such as restorative justice, which can provide better solutions in dealing with petty crimes without ignoring aspects of social justice and rehabilitation of the perpetrators.

Research methods

This study uses a normative legal approach and an empirical legal approach. The normative legal approach is used to analyze laws and regulations, especially Article 362 and Article 364 of the Criminal Code and related implementing regulations. Meanwhile, the empirical legal approach is used to describe legal practices that occur in the field, including data from the police, prosecutors, and the results of interviews with law enforcement officers and the community.

The types of data used include secondary data (literature, laws, and court decisions) as well as primary data from observations and interviews. The analysis technique used is descriptive analytical, namely describing factual conditions and examining the gap between theory and practice.

Results and Discussion

1. Criminal Law Provisions on Petty Theft

Article 364 of the Criminal Code states that minor theft is theft committed against goods of low value, and the penalty is a maximum imprisonment of three months or a maximum fine of sixty rupiah (a value that is now adjusted in practice). This article is a form of differentiation of punishment based on the severity of the crime.

However, in practice, the “light” threshold is often subject to interpretation, and courts have no standard guidelines for assessing the value of stolen goods after inflation or changes in economic conditions. This ambiguity has resulted in inconsistent law enforcement.

2. Effectiveness of the Implementation of Criminal Sanctions

Based on police data and interviews with prosecutors and judges, the majority of perpetrators of petty theft are people from poor backgrounds, with economic motives or urgent needs. Sentencing with short imprisonment or fines often does not have a significant impact on changing the perpetrator's behavior, even creating a cycle of recidivism.

Furthermore, the burden of petty theft cases that go to court is quite high and takes up resources of the justice system that should be focused on serious crimes. This shows that conventional criminal sanctions are not yet fully effective as a mitigation instrument.

3. Alternative Approach: Restorative Justice

In order to overcome these limitations, the restorative justice approach has begun to be implemented in several regions as a pilot project. This approach focuses on restoring the relationship between the perpetrator and the victim, as well as resolution outside the formal justice system.

Restorative justice offers a faster, more cost-effective, and more humane resolution, especially if the stolen goods have been returned and the perpetrators have shown good faith. In addition, this approach is considered to provide a more social deterrent effect and increase public legal awareness more effectively than summary sentencing.

Conclusion

Criminal sanctions for minor theft crimes regulated in Article 364 of the Criminal Code have normatively provided a sufficient legal framework. However, the effectiveness of its implementation in practice still faces many challenges, especially related to aspects of substantive justice, the condition of the perpetrator, and the burden of the justice system. Therefore, an alternative approach is needed, such as restorative justice, which is more adaptive to the values of justice and humanity in society. The future criminal justice system must be more oriented towards prevention, rehabilitation, and proportional resolution.

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