

Implementation of Legal Rules for the Crime of Vehicle Theft (Legal Review of Court Decision Number: 74/Pid.B/2013/PN.Bkn)

Edi Yunara
Universitas Sumatera Utara, Indonesia

Received: June 22, 2025
Revised: July 27, 2025
Accepted: August 02, 2025
Published: August 13, 2025

Corresponding Author:
Author Name*: Edi Yunara
Email*:
ediyunarashmhum@gmail.com

Abstrak: Indonesia has rules for law enforcement to the community. There are various kinds of rules/laws with various motives for criminal acts committed. Among other things, the crime of theft. This research aims to find out the judge's considerations in the application of the law and to find out how the criminal sentence is imposed in the decision. This type of research is normative legal research, using conceptual, legislative, and case approach methods. The results of the study found that in imposing the severity of the sentence that will be imposed by the previous judge, the judge first considers the aggravating matters and those that mitigate the defendant when it is related to the facts that have been revealed in the trial, and the judge uses 2 (two) forms of consideration, juridical and non-juridical. In the decision, the judge sentenced the criminal offense to imprisonment for 10 (ten) months each. So that according to the compiler, in applying an article or law, judges pay more attention to the consequences of the actions of the perpetrators of criminal acts, in order to create a verdict that is as fair as possible for both the defendant, the victim and the community

Keywords: Law Implementation, Crime, Theft

INTRODUCTION

The law created by man has the purpose of creating an orderly, safe, and orderly situation, as well as customary law. According to Van Vollenhoven, customary law is a whole set of rules of positive behavior that on the one hand have sanctions and on the other hand are not codified.¹ The legal system in Indonesia, every citizen has an equal position in the eyes of the law. Therefore, there is no difference between one person and another, all are the same and must be judged as fairly as possible, the statement is stated in the 1945 Constitution Article 28D paragraph 1.

Studying the science in Criminology, crime is one of the main and crucial things in this regard. Crime is a detrimental behavior that can have an impact on oneself and others. According to Durkheim (1966), crime is a normal symptom in society and cannot be eliminated. In other words, crime is a common thing if it circulates in society, therefore we can only reduce without possibly eliminating the criminal behavior that exists in society. Crime is a phenomenon that always exists in human social life. In the context of human life, crime is a social phenomenon that will always be faced by society and the state. Based on reality, it has been proven that crime can only be prevented and reduced, but it is difficult to eradicate it comprehensively (Kika, N., Muhadar, M., & Asis, A. (2021).

¹ Iman Sudiyat, 1982, Asas-asas Hukum Adat, edisi ke 3, Liberty Yogyakarta, Hlm 5.



Theft is taking goods that belong in whole or in part to another person, with the intention of unlawful possession, as contained in Article 362 which reads as follows: "Whoever takes something, which belongs in whole or in part to another person, with the intention of unlawful possession, is threatened with theft, with imprisonment with a maximum of five years imprisonment or a fine of up to nine hundred rupiah."²

"Criminal acts are a term that contains a basic meaning in legal science, as a term formed with awareness in giving certain characteristics to criminal law events. Criminal acts have an abstract meaning of concrete events in the field of criminal law, so criminal acts must be given a very scientific meaning and clearly determined to be able to separate from the terms used daily in people's lives".³

The needs of the community have increased, resulting in the Indonesian people experiencing a moral crisis. This can be seen from the increasing crime and unemployment which are greatly influenced by the level of people's welfare. People with low levels of welfare tend not to pay attention to applicable legal norms or rules. To meet needs, there is a tendency to use all means, namely by violating legal norms. One form of crime that often occurs in society is theft. Based on notifications from the mass media and electronic media, it shows that there are frequent theft crimes with various types in the background due to unmet living needs.

According to Article 362 of the Criminal Code, theft is: "whoever takes something, wholly or partially belonging to another person, with the intention of unlawful possession, is threatened with theft, with imprisonment for a maximum of five years or a maximum fine of nine hundred rupiah."

Not only an economic crisis, but also a moral crisis, population growth, social inequality and increasing unemployment. This automatically increases a person's passion for committing crimes. Economic pressure forces many people to save and use all means to get the money they need for their needs (Jamhur, 2018).

There are several factors that can cause theft that multiplies violence, namely:

1. Social Factors. Several social factors, such as social norms that ignore moral values, tolerance for criminal acts, and association with individuals involved in crime, can influence the occurrence of theft. In addition, a lack of social support, family instability, and a lack of parental supervision can also increase the risk of theft.⁴
2. Educational Factors. The education factor is one of the driving factors for a person to commit a crime of theft. Because of their very minimal knowledge of things such as the rules in their way of life. In life, education is very important so that people have the right to get education from elementary school to college. However, with various realities seen, there are some people who do not get that education. One of their reasons is that parents who do not have more costs because of expensive education so that they cannot afford to pay for their children's education and their children do not get education and affect their children's behavior.

²Andi Hamzah, Kitab Undang Undang Hukum Pidana, Rineka Cipta, Jakarta, 2008, hlm.

³Mulyati Pawennei dan Rahmanuddin Tomalili, Hukum Pidana, Cet.1, Ed. 1, PT Mitra Wacana Media, Jakarta, 2015, hlm. 5.

⁴Hassan Zainudin, "Kriminalitas Pencurian Sepeda Motor.." Jurnal Rectum, Vol. 5



3. Opportunity Factor. Theft is more common in areas with poor lighting, fewer people passing on the streets, and other unfavorable conditions. However, modern criminals often lack the concept of solitude or crowd when they commit their crimes. The carelessness and indifference of the community creates a gap for improvement. If theft is committed by members of the community, raising their awareness of the problem is essential. Indirectly, society as a whole will pay the price for these criminal acts.⁵
4. Economic Factors. The economy is often a very dominant factor for everyone who commits crimes so that this is related to crime and poverty in daily life. Poverty is a phenomenon that cannot be denied in every country. Until now, there has been no way out to solve this phenomenon. Plato said that in every country where there are many poor people there are silently there are many criminals, religious offenders and criminals of various stripes.⁶

According to Soedarto in his book, criminalization or often also referred to as the granting of criminal punishment has two meanings in a general sense, namely the granting of criminal punishment (poena) by the lawmaker is a matter of determining criminal law sanctions. This limitation is based on the imitation of the Principle of Legality from the Aufklarung era. which determines that in the imposition of a criminal offense a law is required first. It is the Guidelines of the Law that stipulate the regulations on the crime. Meanwhile, in a special or concrete sense, it concerns various bodies or institutions that support and implement the legal sanction stelsel.⁷

The goal of the crime that has developed from the past until now is to lead to a more rational direction. The oldest is revenge or the purpose of satisfying the party who has a grudge, both the community itself and the aggrieved party or who is a victim of crime. This is primitive but sometimes still has an effect in modern times. The goal that is also seen as ancient is the removal of sins (expiation) or retribution, that is, releasing the transgressions of the law from evil deeds, and the most modern and popular today is not only to improve the conditions of imprisonment but also to find other alternatives that are not criminal in fostering lawlessness.⁸

DISCUSSION

1. Theft

Theft is a very rampant crime in Indonesia. There are various reasons why the perpetrators of theft commit theft, they do it on the basis of meeting needs, seeking profits, and having opportunities. However, whatever the reason, it is not justified before the law. Theft is accompanied by violence through the threat of violence, such as hitting the victim with a tie or pushing them to keep them quiet and not moving. Seeing the current state of society, it is very possible for someone to find shortcuts to commit theft, even more so by using violence like this. From the mass media and electronic media that show that theft through violence often

⁵ Hasan Zainudin “ Kebijakan Hukum Tindak Pidana Pencurian Sepeda Motor Dengan Tindak Kekerasan ”

⁶ Ridwan Hasibuan, Ediwarman. Asas- Asas Kriminologi. Penerbit USU Press, Medan, 1995, hal 25

⁷<http://samardi.wordpress.com/2012/09/17/buku-buku-yang-mengkaji-hukum-pidana-diindonesia/>, diakses pada 05 Januari 2024, pukul 19.05.

⁸ Andi Hamzah, Sistem Pidana Dan Pemidanaan Indonesia, Pradnya Paramita, Jakarta, hlm.15-16



occurs motivated by the economy, so that the community as a whole and law enforcement officials are obliged to tackle the crime of violent theft as far as possible.⁹

The state of Indonesia is a country based on the law. Law has a very important role in regulating the government system and community behavior in order to create order and security in the state. The statement about the State of Indonesia based on the law is expressly stated in the general explanation of the 1945 Constitution. As a state of law, Indonesia accepts the law as an ideology to create order, security, justice and welfare for its citizens.

Criminal acts are acts committed by a person by committing a crime or criminal offense that harms the interests of others or harms the public interest. According to Vos, a criminal act is a human behavior that is criminally threatened by the laws of the law, so a behavior is generally prohibited with a criminal threat.¹⁰ The judge as one of the law enforcement officials, is a main figure in the judicial process which will later apply the law in the form of the resulting decision and is a figure that is highly coveted and expected by justice seekers to give a decision that is as fair as possible, therefore the judge is the one who has the authority to assess and determine and decide whether a person is really guilty or not based on the conviction of the judge who examines him or her or Sentencing.¹¹

According to KBBI, theft comes from the word stealing and is a process or activity of taking someone's goods (Ebta, n.d.), while Criminal Code Article 362 provides a definition that theft is the act of taking part or all of the goods belonging to another person with the intention of personal gain through unlawful means (Criminal Code, 2021). To realize a just and prosperous society, all parties must seriously address the problem of crime. The crime of theft is a crime against the public interest, namely a crime against goods.

1. Application of the Law Imposing Criminal Sanctions in the Case of Theft with Court Decision Number: 74/Pid.B/2013/PN.Bkn

The Criminal Code, has rules for the perpetrators of criminal acts, the Bangkinang District Court with a decision Number: 74/Pid.B/2013/PN.Bkn, the Bangkinang District Court which adjudicates criminal cases at the first level with ordinary examination proceedings has decided as follows in the case of the Defendant: Name : ARIFIN SIANTURI Als ARIFIN Place of Birth : Pematang Siantar, the judge sentenced the defendant who has been proven guilty, sentenced to prison. This does not violate the norm but does not have a deterrent effect on the perpetrator. That by paying attention to the decision of the Panel of Judges of the Bangkinang District Court as described in the decision, paying attention to the defendant's actions in accordance with the formulation of the problem, declaring that the defendant imposed a criminal sentence on the **defendant ARIFIN SIANTURI Als ARIFIN therefore** with a prison sentence. Then in the decision, it was considered that based on the consideration of the panel, the element fulfilled is an element that is carried out by two or more people together. Considering, that this element has the meaning of two

⁹ Toto Hartono, "Penegakan Hukum Terhadap Tindak Pidana pencurian dengan kekerasan" (Studi Pada Kepolisian Resor Kota Besar Medan) Jurnal Retentum, No. 2, Vol. 1, Febuari 2021, hlm. 35)

¹⁰ Tri Andrisman, 2009 Asas-Asas dan Dasar Aturan Umum Hukum Pidana Indonesia, Universitas Lampung, Hal. 70.

¹¹ Rodliyah, Perlindungan Hukum Bagi Perempuan Pelaku Tindak Pidana, Edisi Revisi, CV.Arta Bumi Intaran, Yogyakarta, 2013, hlm.112



or more people who commit theft in the relationship of "obedience" or "mededaderschap" as referred to in Article 55 of the Criminal Code;

Declaring that the defendant ARIFIN SIANTURI Als ARIFIN, has been legally and convincingly proven to have committed the crime of Theft in Incriminating Circumstances, as stipulated in Article 363 Paragraph (1) 4 and 5 of the Criminal Code, according to the primary indictment. Imposing a sentence on the Defendant ARIFIN SIANTURI Als ARIFIN, with a prison sentence of 1 (ONE) YEAR, the sentence is reduced while the defendant is in temporary custody, with the order that the defendant remain in custody. Stipulate that evidence in the form of 1 (one) BPKB book of Yamaha Jupiter Z motorcycle in black color No. Pol. BM 3435 ZC. returned to the rightful through the witness SAMSER Bin RASAL. Stipulates that the Defendant ARIFIN SIANTURI Als ARIFIN, be burdened to pay the case fee of Rp 1,000.00 (one thousand rupiah).

The rules in the Criminal Code are known as strafbaarfeit. Literature on criminal law often uses the term delicate, while lawmakers in formulating laws use criminal events, or criminal acts or criminal acts.¹²

Motor vehicle theft not only results in financial losses for the community, but also has the potential to threaten the safety of individuals. In order to minimize these irregularities, the head of the Police Unit and the head of the unit must carry out their duties and authorities with full dedication in preventing crimes that occur in society. To reduce the increase in motor vehicle theft, cooperation between law enforcement officials and social entities in society must be an imperative. Striving for this must not only be done at the individual level of the community, but also at the village level and all circles so that security is maintained.

The Central Statistics Agency (BPS) reported that as many as 372,965 crimes occurred in Indonesia throughout 2022. This number jumped 55.74% compared to the previous year which was 239,481 incidents. Looking at the trend, the number of crimes in the country has continued to decline since 2017-2021. However, the number has increased drastically, even setting a record last year. (Pratiwi, 2023).

In order to realize a prosperous, just, prosperous, and equitable Indonesian society materially and spiritually based on Pancasila and the 1945 Constitution, law enforcement must be carried out firmly and consistently. The law is the sum total of all the rules on human conduct that are binding and that are set or recognized by the government.¹³

Based on this writing, it is known that there are efforts to enforce the law on the crime of motor vehicle theft in the Bangkinang City Police area with efforts, namely through preventive efforts by appealing to the public to be more careful. Advise not to park vehicles carelessly, make repressive efforts by making arrests and bringing perpetrators into the criminal justice process and conducting further examinations to uncover other perpetrators of motor vehicle theft and providing advice when parking is locked with handlebars or given double keys.

CONCLUSIONS

¹² Bambang Poernomo, 1994, Asas-asas Hukum Pidana, Ghalia Indonesia, Jakarta, hlm 90.

¹³ Theadora Rahmawati, dan Umi Supraptiningsih, Pengantar Ilmu Hukum dan Pengantar Hukum Indonesia, Duta Media Publishing, Pamekasan, 2020, hlm. 5



Article 362 of the Criminal Code, it is explained that anyone who takes goods in the possession of another person with the aim of taking over unilateral ownership is considered an act of theft, and is required to be sentenced to a maximum of 5 years in prison or a fine with a maximum of Rp. 900.

That sitting a case is an act of jointly or participating in committing the crime of theft by sitting a case Court Decision Number: 74/Pid.B/2013/PN.Bkn. The element of taking an object that is wholly or partially belonging to another person with the intention of unlawful possession; Imposing a penalty on the Defendant therefore with a prison sentence of 10 (ten) months each; Stipulating that the period of detention that the Defendant has served is deducted entirely from the sentence imposed; Stipulate that the Defendant remains in custody; Determining evidence, and charging a fee to Burden the Defendant to pay the case fee of Rp 3,000 (three thousand rupiah);

The law follows every action taken by every Indonesian citizen. Law is a norm or rule that contains rules and provisions that guarantee the rights and obligations of individuals, communities, and legal entities. The author hopes that this theft case will not be repeated, so that the court through a panel of judges imposes severe punishment and the application of the right law so that the public who knows will not commit the same act in question will not commit the perpetrator will not commit his act again. Bangkinang City Police Chief Iptu Fitri Yeni, S.Psi urged traditional leaders and the community to immediately report to the police if there are potentials that will disturb order in the city of Bangkinang. The Bangkinang City Police will always be present in the midst of the community to provide a sense of comfort to the community

REFERENCES

Andi Hamzah, Sistem Pidana dan Pemidanaan Indonesia, Pradnya Paramita, Jakarta, 1993.

Ebta, S.(n.d.). Arti kata curi—Kamus Besar Bahasa Indonesia (KBBI) Online. Retrieved May 21, 2024, from <https://kbbi.web.id/curi>

Hasan Zainudin, “Kriminalitas Pencurian Sepeda Motor.” Jurnal Rectum, Vol. 5 H

Hasan Zainudin, “Penanggulangan Kejahatan Begal di Tulang Bwang Barat (Dalam Perspektif Kriminologi)

Jamhur, J. (2018). Faktor Kriminogenik Penjambretan Di Jalan Cut Nyak Dien, Kecamatan Sukajadi, Pekanbaru Tahun 2017. [Other, Universitas Islam Riau]. https://doi.org/10/daftar_pustaka.pdf

Kika, N., Muhadar, M., & Asis, A. (2021). Penegakan hukum penanggulangan tindak pidana pencurian kendaraan bermotor. Hermeneutika: Jurnal Ilmu Hukum, 5(2).

Kitab Undang-Undang Hukum Pidana (2021). <https://jdih.mahkamahagung.go.id/legal-product/kitab-undang-undang-hukum-pidana/detail>

Pratiwi, F.S. (2023, Desember). Data Jumlah Kejahatan di Indonesia pada 2022—DataIndonesia.id. <https://dataindonesia.id/varia/detail/data-jumlah-kejahatan-di-indonesia-pada-2022>



Ridwan Hasibuan, Ediwarman. Asas-asas kriminologi. Penerbit USU Press, Medan

Sukajadi, Pekanbaru Tahun 2017. [Other, Universitas Islam Riau]. https://doi.org/10/daftar_pustaka.pdf

Toto Hartono, “Penengakan Hukum Terhadap Tindak Pidana Pencurian dengan Kekerasan” (Studi pada Kepolisian Kota Besar Medan) Jurnal rententum No.2, Vol,1, Febuari 2021, hlm. 35.

Peraturan Perundang-undangan :

Indonesia, Undang-undang Dasar 1945.

Indonesia, Kitab Undang-Undang Hukum Pidana (KUHP).

