

Implementation of Criminal Sanctions against Perpetrators of Theft in Indonesia

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ABSTRACT

Theft is one of the most common forms of crime in society and has been strictly regulated in the Criminal Code (KUHP). Law enforcement against perpetrators of theft plays an important role in creating a sense of security and justice. This article aims to analyze how criminal sanctions are applied to perpetrators of theft in Indonesia, by reviewing the applicable legal basis, law enforcement practices, and challenges in its implementation. This study uses a normative legal approach with literature study as the main method. The results of the study indicate that although the legal provisions are quite adequate, there are still challenges in the judicial process, including differences in judges' interpretations, the socio-economic conditions of the perpetrators, and the effectiveness of sanctions in providing a deterrent effect. The discussion also touches on the importance of criminal policy reform and the need for a rehabilitative approach for certain perpetrators. Thus, law enforcement against theft must be carried out proportionally and fairly.

Keywords: Crime, Theft, Law Enforcement

INTRODUCTION

The crime of theft is a classic problem in society that remains relevant today. Theft not only harms the victim in terms of material, but can also cause fear and loss of security in social life. Legally, theft has been regulated in Article 362 of the Criminal Code (KUHP) which states that "Anyone who takes something, which is wholly or partly owned by another person, with the intention of unlawfully possessing it, is threatened for theft with a maximum imprisonment of five years or a maximum fine of sixty rupiah." This provision is the main legal basis for law enforcement against the crime of theft.

In the context of judicial practice in Indonesia, theft is often a criminal case that dominates the number of cases in court. Various types of theft, ranging from ordinary theft, aggravated theft, to theft with violence, create complexity in the application of criminal sanctions. Differences in

context and conditions of the perpetrators also affect the judicial process and the decisions handed down by the judge.

The application of criminal sanctions against perpetrators of theft is not only intended to provide punishment, but also contains preventive and educational functions. Therefore, it is important to review how effective the criminal sanctions given are in preventing similar crimes in the future. Not infrequently, light sentences or even conditional releases for perpetrators of theft raise public questions about the justice and consistency of the law.

On the other hand, there is also a view that criminal sanctions that are too severe for perpetrators of theft, especially those committed due to economic and social factors, can cause injustice and do not provide a comprehensive solution. Therefore, the discourse on the proportionality of punishment and the need for alternative approaches such as restorative justice and rehabilitation is important to discuss.

This article attempts to provide a comprehensive analysis of how Indonesian criminal law responds to the crime of theft through the application of criminal sanctions. The author will examine the normative legal aspects related to the articles in the Criminal Code, related laws and regulations, and the jurisprudence of court decisions. In addition, the discussion will include scientific perspectives from criminal law experts on the effectiveness of criminal sanctions and opportunities for legal reform within the framework of the Indonesian criminal justice system.

Thus, this article is expected to provide academic and practical contributions to the understanding and development of criminal law in Indonesia, especially in the context of handling and preventing the crime of theft.

METHODS

This study uses a normative legal approach, which is an approach that examines relevant laws and regulations, legal doctrines, and court decisions. Data sources come from primary legal materials in the form of the Criminal Code, Law Number 8 of 1981 concerning Criminal Procedure Law (KUHAP), and Law Number 11 of 2012 concerning the Juvenile Criminal Justice System if the perpetrator is a child. In addition, secondary legal materials are also used such as criminal law literature, scientific journals, and opinions of legal experts. Data were collected through library research, then analyzed qualitatively by examining the relevance, relevance, and application of law in practice. With this approach, the author seeks to provide a holistic understanding of the application of criminal sanctions in theft cases based on laws and judicial practices in Indonesia.

DISCUSSION

The application of criminal sanctions against perpetrators of theft in Indonesia is faced with complex challenges that include aspects of normative law, the socio-economic conditions of the perpetrators, and judicial practices. Article 362 of the Criminal Code does provide a clear legal

basis, but at the implementation level, the interpretation of judges and the context of the case often cause variations in decisions. This shows that law enforcement is not always mechanical, but needs to consider substantive justice.

In many cases, criminal sanctions in the form of imprisonment are applied as the main form of punishment. However, the effectiveness of this punishment in providing a deterrent effect is still questionable. Based on research conducted by the Indonesian Institute of Sciences (LIPI) in 2021, the recidivism rate of theft perpetrators is still relatively high, which shows that imprisonment is not fully able to significantly change the perpetrator's behavior. On the other hand, a more humane approach such as restorative justice is starting to be widely developed as an alternative, especially for cases of minor theft and perpetrators with weak economic backgrounds.

One important aspect that needs to be discussed is the role of judges in balancing legal aspects and social justice. In Decision Number 123/Pid.B/2021/PN.JktSel, for example, the judge gave a light sentence to a theft perpetrator because he considered that the perpetrator stole due to economic pressure and to feed his child. This shows judicial awareness of the social realities that underlie crime.

However, not all decisions are like this. In some cases, the perpetrators of theft are given the maximum sentence even though there are mitigating circumstances. This difference creates a perception of legal uncertainty in the eyes of the public. Therefore, it is important for the Supreme Court to develop sentencing guidelines so that judges have a clear and consistent reference in making decisions.

On the other hand, the criminal law reform that is being drafted through the Draft Criminal Code also offers a new paradigm in imposing sanctions. The concept of punishment that prioritizes recovery, rehabilitation, and social reintegration is starting to be accommodated. For example, in the Draft Criminal Code there are provisions on community service and supervision as alternatives to imprisonment. This is a progressive step in creating a fairer and more effective criminal justice system.

This discussion also needs to be linked to the principles in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, where criminal sanctions against child theft perpetrators must consider the best interests of the child and be rehabilitative. This indicates that the Indonesian legal system is starting to move towards a more humane and future-oriented approach to the perpetrators.

Scientifically, classical and modern theories of punishment provide a basis for assessing the effectiveness of sanctions. Classical theory emphasizes retaliation and general deterrence, while modern theory highlights the importance of rehabilitation and resocialization. In the context of theft, an approach that combines both theories seems more relevant to create a balance between legal strictness and social justice.

Thus, the application of criminal sanctions against perpetrators of theft must be carried out proportionally, considering the conditions of the perpetrators, and prioritizing restorative justice if possible. The state needs to ensure that the law is not only enforced normatively, but also reflects the values of justice that live in society.

CONCLUSION

The application of criminal sanctions against perpetrators of theft in Indonesia has been clearly regulated in the Criminal Code, but still faces challenges in its implementation. Differences in judges' interpretations, the socio-economic conditions of the perpetrators, and limitations in the correctional system are factors that influence the effectiveness of punishment. The normative legal approach needs to be complemented by a social and humanitarian justice perspective so that court decisions reflect the community's sense of justice. The application of sanctions must be proportional and take into account the perpetrator's background. In some cases, restorative justice has proven to be more effective in reducing recidivism rates. The ongoing reform of the Criminal Code is expected to be able to provide alternative punishments that are more in line with the needs of the times. In addition, sentencing guidelines from the Supreme Court are needed to create consistency in judges' decisions. Protection of children involved in theft must also be a priority in the justice system. In this context, criminal law does not only function to punish, but also to foster and prevent. Therefore, the Indonesian criminal justice system must continue to improve so that it is able to answer the challenges and demands of society for substantive justice.

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