

LEGAL ANALYSIS OF ENLARGING CRIMINAL SANCTIONS FOR MOTORCYCLE THEFT AT NIGHT (Study of Medan District Court Decision Number 201/Pid.B/2024/PN Mdn)

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ABSTRACT

The crime of theft at night is increasingly rampant with various modes of operation carried out by perpetrators of theft at this time. If this cannot be overcome, of course this act will be very disturbing to the community. The role of the community in overcoming theft is through penal measures, namely by imposing severe penalties on the perpetrators so that they are deterred, while non-penal efforts are by providing counseling and preventing theft at night. Based on the conclusion, it is recommended to build and foster awareness and a sense of belonging for the community, so that not only the police are responsible for maintaining the security and order of the community environment, but also all residents.

1. Introduction

Anyone who commits a crime will certainly be subject to punishment commensurate with their actions. All regulations regarding violations (overtredingen), crimes (misdrijven), and so on, are regulated by Criminal Law (strafrecht) and contained in a code of laws called the Criminal Code (wet boek van strafrecht), abbreviated as KUHP.

Criminal law is the law that regulates violations and crimes against the public interest. These acts are punishable by suffering or torture.

Criminal law is not a law containing new norms, but rather only regulates violations and crimes against legal norms concerning the public interest.

Recently, theft has been on the rise. This is due to the demands of life's necessities. These necessities require everyone to fulfill them, especially economic needs, which must be met daily. This is due to the increasing cost of living and the high unemployment rate. Therefore, to meet their daily needs, people sometimes feel unable or are in dire straits. They are forced to resort to shortcuts, breaking the law, to meet their needs (stealing). In this series of incidents, individuals can resort to anything to meet their needs.



These theft crimes have created unrest and anxiety in society. People feel unsafe because they are constantly faced with the possibility of becoming victims of crime. If they become victims of crime, they will suffer significant material losses. Material losses here refer to the loss of the nominal value of the stolen goods. The immaterial losses experienced by victims include anxiety, worry, trauma, and paranoia due to feelings of fear and insecurity.

Theft cases frequently occur, and even when the police successfully identify and arrest the perpetrators, these crimes continue to occur. This indicates a relatively high theft rate. Several preventative, anticipatory, and enforcement measures have been taken to apprehend perpetrators and recover stolen goods, which takes time.

The crime of theft is increasingly prevalent, with various modus operandi employed by perpetrators. If this problem remains unaddressed, it will undoubtedly be very disturbing to society. The potential for crime within society requires serious attention. If the sense of security of individuals and groups is threatened by rising crime rates, then the growth of crime within the community is based on the power of law, particularly criminal law, and the functioning of elements of criminal justice, security, and public order, which are expected to be more focused.

The crime of theft, as a crime against property, is regulated in Article 362 of the Criminal Code, which states: "Anyone who takes something, wholly or partially belonging to another person, with the intent to appropriate it unlawfully, shall be guilty of theft, and shall be punished by a maximum imprisonment of five years or a maximum fine of nine hundred rupiah."

The crime of theft is divided into several types: ordinary theft, aggravated theft, petty theft, theft with violence, and theft within a family. One of the crimes of aggravated theft is theft committed at night.

Aggravated theft, as defined in Article 363 paragraph 1, point 3 of the Criminal Code, relates to theft at night under positive law. This was found in a case tried by the Medan District Court under Case Number 201/Pid.B/2024/PN Mdn. The judge's decision stated that defendant Hardoni Hasibuan was legally and convincingly proven guilty of the crime of theft with aggravating circumstances as stipulated in the single indictment, and therefore sentenced the defendant to two years and six months in prison.

2. Research Method

This paper employs normative legal research. Normative legal research refers to legal norms, specifically through library or secondary sources.



This research is descriptive and analytical, revealing laws and regulations related to the legal theories that are the object of the research. Descriptive and analytical methods are used to describe a current or ongoing condition or situation. The goal is to provide as accurate data as possible regarding the research object, thus exploring ideal aspects, which are then analyzed based on applicable legal theory or regulations. This paper outlines matters concerning law enforcement for child perpetrators and victims of sexual abuse.

This research utilizes literature research. Secondary data, including primary, secondary, and tertiary legal materials, are collected from the literature.

In normative research, the data required is secondary data. This secondary data covers a very broad scope, encompassing personal letters, diaries, and even official government documents.

The data collection technique used was library research. This involved reviewing various literature, including scientific books, laws and regulations, and other documentation such as magazines, newspapers, and other theoretical sources related to the crime of theft.

3. Results And Discussion

Results

Generally, theft is driven by economic factors. Economic factors cause or fuel the urge to commit theft, as the proceeds from theft can be directly used to meet daily needs. Other factors that lead perpetrators to commit crime include environmental/social factors, family, opportunity, low religious understanding, unemployment, the influence of mass media, the influence of alcohol, and finally, low mental and emotional resilience.

The development of science and technology today has brought about a shift from traditional, static patterns of social behavior to modern, dynamic patterns. This change encompasses crime patterns as an existing social subsystem, shifting from traditional, static patterns of crime to modern, dynamic patterns of crime. Traditional crime patterns are characterized by simple methods, periodic occurrences, low mobility, and simple infrastructure, making them relatively predictable.

There has been a sharp shift towards modern crime patterns, characterized by complex methods, non-periodic patterns, high mobility, and relatively more advanced infrastructure and technology. Consequently, handling them is relatively more difficult than dealing with traditional crime patterns. Crime patterns constantly change over time. The shift from traditional to modern crime patterns, as mentioned above, naturally affects all types of crime.





Perpetrators of theft must be sanctioned. In other words, law enforcement must be carried out against perpetrators of nighttime theft. Conceptually, the essence and meaning of law enforcement lies in harmonizing the relationships between values outlined in established rules and attitudes as a series of final-stage values to create, maintain, and preserve peace in social life.

Law is the foundation of societal hope and trust for regulating social life. Law is the embodiment or manifestation of these values. Therefore, law enforcement is expected to be trustworthy and uphold the authority of the law, which essentially means upholding the values of trust within society.

Law enforcement in this article is limited to those directly involved in the field of law enforcement, encompassing not only law enforcement but also peacekeeping. This includes those working in the judiciary, prosecutors, police, legal services, and correctional services.

The increasing and frequent occurrence of crime in society is a matter of great concern, thus calling on the government (state) as a servant and protector of the community to address the spread and increase of crimes that violate the values and norms that exist and apply within a society, thus making these crimes criminalized by the state.

This crime can be addressed through preventive and repressive means. This form of countermeasure involves the imposition of sanctions on perpetrators of criminal acts. Criminal sanctions are the best available tool or means we have to deal with threats of danger. Criminal sanctions are at one time the main/best guarantor and ethics are the main threat to human freedom.

Criminal liability, also known as "teorekenbaardheid," or "criminal responsibility," refers to the punishment of an offender, with the aim of determining whether a defendant or suspect is held responsible for a criminal act.

From the perspective of the occurrence of a prohibited act, a person will be held responsible for those acts if they are unlawful and there is no justification or justification for the unlawful nature of the crime. Furthermore, from the perspective of capacity to be responsible, only a person capable of being responsible can be held accountable for their actions.

The principle of criminal liability is that a criminal act, without fault, constitutes a criminal offense. Therefore, the punishment for a person who commits a threatened act depends on whether they committed the act at fault.

Capacity to be responsible is an element of fault, and to prove fault, this element must be further demonstrated. Given that this is difficult to prove and requires considerable time, the element of capacity for responsibility is assumed to be inherently present because, in general, every person is mentally normal and





capable of taking responsibility, unless there are signs indicating that the defendant may be mentally abnormal.

In this case, the judge orders a special examination of the defendant's mental state, even if the defendant does not request it. If the results remain questionable, it means that the capacity for responsibility has not ceased, so there is no fault, and a sentence cannot be imposed based on the principle of not being punished in the absence of fault.

An act considered reprehensible by society is blamed on the perpetrator. This means that objective condemnation of the act is then passed on to the defendant. The next question is whether the defendant is also blamed for the act. Why is an objectively reprehensible act subjectively blamed on the perpetrator? This is because the perpetrator is the cause of the act.

4. Discussion

By placing responsibility for a reprehensible act on the perpetrator, it is clear that whether the perpetrator is punished depends not on whether a crime occurred, but rather on whether the defendant is reprehensible for committing the crime. Therefore, it is also said that the basis for a criminal act is the principle of legality, which determines that an act is prohibited and punishable by law by anyone who commits it. The basis for punishing the perpetrator is the principle of not being punished if there is no fault.

A person cannot be held responsible and punished if they have not committed a crime. However, even if they commit a crime, they are not always punishable. A person who commits a crime will be punished if they are guilty. A person is guilty if, at the time of committing a crime, they are considered societally blamed for it, as they are considered to have acted differently if they had not intended to do so.

From a societal perspective, this demonstrates a normative view of guilt. As is known, people used to have a psychological perspective regarding guilt. This is the view of the founders of the WvS, for example. However, this view was later abandoned, and people adopted a normative perspective. The presence or absence of guilt is not determined by the defendant's mental state, but rather depends on the legal assessment of that mental state, whether or not there is guilt. Pompe abbreviated this guilt as the blameworthy (*verwijtbaarheid*) and avoidable (*vermijdbaarheid*) actions committed.

Criminal sanctions or punishment can be imposed on perpetrators of crimes. Specifically regarding punishment, as a fundamental issue in criminal law, a





crucial issue is the concept of the purpose of punishment, which seeks to justify punishment as an effort to make it more functional.

Any effort to achieve effective long-term social order must be based on a theory of legitimate human behavior. Without it, it is difficult to achieve this social order through crime prevention, the development of lawbreakers, and the prosecution of offenders. Therefore, before formulating how to prevent theft, in addition to the nature of the crime mentioned above, the factors that cause it must also be examined. It is only from these factors that we can determine what actions should be taken to address the crime of theft committed by an individual.

Preventing or addressing nighttime theft, as well as other crimes, is not solely the responsibility of the police, but also the community, as these crimes involve more than one party: the community as victims, the police as security forces, and other parties.

By integrating these formal and informal actors, it is hoped that legal awareness will increase, recognizing that nighttime theft is strictly prohibited and punishable by the state (Criminal Code), religion, and customary law.

Prevention, in general, involves identifying and understanding the characteristics of criminals and providing them with the tools they need for self-development, thus protecting them from detrimental influences.

Prevention involves providing education, not only through the development of knowledge and skills, but also through mental education through religious education, morality, and proper lifestyle practices. This direct guidance to the community, without neglecting environmental education, helps prevent the emergence of crimes that damage society itself.

Efforts to eradicate theft and those who assist in the commission of these crimes require a thorough knowledge of investigative science, as well as good faith, fortitude, and genuine perseverance from authorized officials involved in these matters.

Judges, in their role as law enforcers, should choose a decision that emphasizes the interests of the accused, rather than solely the legal aspects. In this regard, judges must carefully consider the psychological and legal aspects of their decisions, in the best interests of the accused, society, and the state. In efforts to combat nighttime theft, government agencies, specifically the police and their staff, consistently implement several preventive and repressive measures. Repressive measures taken by the police, as an investigative agency, constitute an effort to take action and enforce the law against the actual threat of theft by unauthorized and irresponsible individuals.





These enforcement efforts by investigators adhere to the procedures stipulated in Law Number 8 of 1981 concerning Criminal Procedure (KUHAP) and the provisions contained in the Criminal Code governing nighttime theft.

While some of these objectives have been achieved, their success has not been satisfactory. It is acknowledged that numerous theft cases have been resolved by the judiciary through the operation of the criminal justice system, resulting in numerous verdicts. However, many of these verdicts have not satisfied the public with the belief that justice has been served.

5. Conclusion

The criminal law provisions for the crime of nighttime theft in Decision Number 201/Pid.B/2024/PN Mdn are regulated in Article 363 Paragraph (4) of the Criminal Code. The perpetrator of the crime of nighttime theft is considered aggravated theft because all the elements in accordance with the article charged by the defendant are met. With these elements met and no justification or excuse for the defendant's actions, the defendant must be held accountable for his actions in accordance with the verdict handed down by the Panel of Judges, which will involve serving a prison sentence of 2 (two) years and 6 (six) months. Efforts to prevent nighttime theft include penal measures, namely imposing severe penalties on perpetrators to deter them, while non-penal measures include providing counseling and preventing nighttime theft. The judge's considerations in handing down the verdict in the nighttime theft case in decision 201/Pid.B/2024/PN Mdn were the lack of justification and excuse, thus declaring him guilty, as well as aggravating and mitigating factors. The mitigating factors were the defendant's frankness and politeness during the trial, and his showing remorse for his actions. The aggravating factors were the defendant's actions having disturbed the community and the defendant's previous criminal record.

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