

LAW ENFORCEMENT OF THE CRIMINAL ACTION OF PALM OIL FFB THEFT AT PT. SOCFINDO SERDANG BEDAGAI (Study of Sei Rampah District Court Decision No. 83/Pid.B/2024/PN.Srh)

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ABSTRACT

The crime of Tbs. Palm oil in PT. Socfindo in the Serdang Bedagai area is a serious problem and there must be a preventive solution. The legal regulation of the crime of theft of oil palm fruit in the plantation area of PT. Socfindo Serdang Bedagai is regulated in Article 363 paragraph 1 to 4 of the Criminal Code. Theft of oil palm fruit in the area of PT. Socfindo Serdang Bedagai is included in theft under aggravating circumstances because it is carried out by two or more people together. The problem is how to regulate the crime of theft in Indonesia, how is the responsibility of the perpetrators of the crime of theft of oil palm fruit in the plantation area of PT. SOCFINDO Serdang Bedagai, what are the legal considerations of the Panel of Judges in Decision 83 / Pidana.B / 2024 / PN.Srh. This study uses a descriptive method through a normative approach (legal research), namely an approach to the problem, carried out by examining various legal aspects in terms of applicable regulations.

1. Introduction

Sometimes, in human relationships, there are differences in interests and goals, giving rise to conflicts between individuals and even between groups of individuals. Such situations can undoubtedly disrupt the harmony of living together, namely, a sense of comfort, security, and harmony within a society. Therefore, a set of rules or principles are needed to create and maintain harmonious relationships within society.

As time progresses and advances in all aspects of life, humans are required to develop themselves to keep pace with these developments. As the most perfect of creatures, each human being is endowed by God with reason and conscience, which give them the ability to distinguish between good and evil. This guides and directs their attitudes and behavior throughout life. Each individual is endowed with talents that will later be used for self-actualization. With their reason, conscience, and talents, humans have the freedom to decide for themselves how to behave and act, and how to realize their talents.



In modern times, daily life is rife with the impacts of progress, both positive and negative. The positive impact is evident in the rapid advancement of technology, which significantly assists humans in carrying out all their daily activities. Indirectly, this rapid development also has negative consequences, as evidenced by the numerous deviations that arise in daily life, including crimes and legal violations committed by all groups, especially youth. In recent years, violations of applicable regulations and norms have increased. This is evident in the numerous crime cases reported in various media, both print and electronic. This rampant violation of applicable legal norms is one of the most frequent social events and phenomena in recent times.

Indonesia is a state based on law (*rechtsstaat*), not merely on power (*machtsstaat*). This statement is expressly stated in the General Explanation of the 1945 Constitution. This demonstrates that Indonesia is a state of law. Indonesia accepts law as an ideology to create order, security, justice, and welfare for its citizens. The consequence of all this is that the law binds every action taken by Indonesian citizens. The law works by providing guidance on behavior and therefore the law is a norm. Law in the form of norms is known as legal norms, where the law binds itself to society as the place where the law operates. The law itself is closely related to crime as one aspect contained in the law, especially criminal law.

As a nation based on the rule of law, Indonesia maintains the law as a central pillar in driving the foundations of social, national, and state life. Therefore, one of the main characteristics of a nation based on the rule of law lies in its tendency to assess the actions of its citizens based on legal regulations. This means that a nation with the concept of a state based on the rule of law consistently regulates every action and behavior of its citizens based on applicable laws to create, maintain, and preserve social peace, in accordance with the mandate of Pancasila and the 1945 Constitution, namely that every citizen has the right to feel safe and free from all forms of crime.

The existence of law in society is crucial. Therefore, the public must possess legal awareness, which can only be seen from indicators consisting of general knowledge, understanding of legal principles, attitudes toward legal norms, and legal behavior. If society desires peace, tranquility, justice, and prosperity, the primary requirement is compliance with legal principles, in addition to other supporting attitudes.

2. Research Method





This research is descriptive and analytical in nature, meaning it describes, examines, explains, and analyzes the problems in the crime of theft related to laws and regulations, which are then analyzed. This research is a scientific activity based on specific methods, systematics, and thinking aimed at studying a specific law through analysis.

To obtain objective, verifiable, and accountable results, the data in this study were obtained through library research. This research is conducted by reviewing library materials or secondary data, including primary, secondary, and tertiary legal materials.

This research utilizes materials obtained from library research. From library research, secondary data are collected, including primary, secondary, and tertiary legal materials.

In normative research, the data required is secondary data. This secondary data has a very broad scope, including personal letters, diaries, and official documents issued by the government.

3. Research Results And Discussion

The crime of theft shows an increasing trend in both quantity and quality. This is certainly disturbing to society and is a social ill that must be addressed carefully.

The word "theft" comes from a root word with the prefix "me-" and the suffix "-an." According to WJS. Poerwardarminta: "The thief comes from the root word "curi," which means to hide or stealthily, and a thief is someone who commits the crime of theft. Thus, the definition of theft is someone who takes another person's property secretly or surreptitiously through illegal means."

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

Regarding the crime of theft, it is regulated in Chapter XXII Book II Article 362 of the Criminal Code which states "Anyone who takes something, which belongs in whole or in part to another person, with the intention of possessing it unlawfully, is threatened with theft, with a maximum prison sentence of five years or a maximum fine of sixty rupiah."

The Criminal Code (KUHP) does not define theft. This is evident in Chapter IX, Book I, where the meaning of several terms used in the code is not explained. Article 362 of the Criminal Code defines theft as a punishable offense, specifically the act of "taking" another person's property. However, not every act of taking





another person's property constitutes theft. There are also instances where taking someone else's property and then returning it to the owner. The distinction is that the prohibition is not the act of taking the property per se, but rather the element of intent to possess it unlawfully. The objective element of theft is the act of unlawfully taking property, wholly or partially belonging to another person, while the subjective element is the unlawful possession.

The taking (theft) is considered complete when the property has been moved. If a person has merely held the property and has not moved it, then that person is not considered theft; rather, they have attempted to steal.

This element of taking has many interpretations depending on societal developments. Taking is defined as moving an item from its original location to another location. This means taking the item under actual control or the item is beyond the control of the owner. Taking alone does not constitute theft, as the item must belong wholly or partially to another person, and the taking must be with the intent to possess it in violation of the owner's rights.

The Indonesian definition of taking is more precise than the legal definition or Article 362 of the Criminal Code. Taking, in Indonesian or everyday language, is the act or deed of actively moving an item from one place to another, from one control to another, while the legal definition of taking encompasses a broader meaning, including both the everyday and Indonesian meanings, including taking carried out by means of transfer.

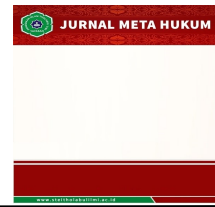
The crime of theft with violence, commonly known in society as robbery or begal (mugging), is actually different from the term "theft with violence" but has the same meaning. For example, the term "theft with violence" or the threat of violence is synonymous with "robbery." Robbery is also a crime. Therefore, although it is not recognized in the Criminal Code, its formulation as a crime is clearly regulated and therefore deserves punishment, similar to theft with violence.

Theft with violence is not a combination of theft with violence or the threat of violence. In this case, violence is a qualifying circumstance, meaning violence is a circumstance that changes the qualifications of ordinary theft to theft with violence. The elements are said to be the same as Article 362 of the Criminal Code, with the addition of the element of violence or the threat of violence.

Theft with violence is categorized as the crime of theft with violence, as regulated in Article 365 of the Criminal Code. This is theft preceded, accompanied, or followed by violence directed at a person with the intention of facilitating the act.

A complaint-based offense is an offense that can only be prosecuted upon a complaint or report from the victim of the crime. Prosecution for this offense is dependent on the consent of the injured party (the victim). In this complaint-





based offense, the victim of the crime can withdraw their complaint to the authorities if a settlement has been reached. If a complaint has been filed, but the victim then wishes to withdraw the complaint (if the victim is within the family circle as referred to in Article 367 of the Criminal Code), the complaint can be withdrawn within 3 (three) months of filing (Article 75 of the Criminal Code).

Based on the above, the perpetrator's parents have the right to file a police report against their child for theft. However, the parents can withdraw the complaint within three months of filing it.

A person's social status in society is influenced by several factors. As long as something is valued within a society, there will always be stratification within it, and these stratifications determine a person's social status. All human actions and deeds have a cause and effect, and so too does crime. Every crime has a motive or reason for committing the crime, and each reason is unique. This difference occurs because each person has different interests.

The occurrence of violent theft is due to the perpetrator's low economic status, despite pressing needs. This pressure or compulsion drives perpetrators to commit theft as a shortcut to meet their needs. This imbalance is a factor that drives people to seek alternative employment to earn more money and meet their living expenses.

With the advancement of technology, societal behavior has become increasingly complex, resulting in a variety of theft crimes, one of which is violent theft. Violent theft can also occur due to a lack of education. Violent theft, caused by a lack of education, can be overcome or minimized by instilling good morals and ethics in students at school and by conducting public outreach regarding the law. Newspaper or magazine coverage of criminal acts and their modus operandi can influence the desire to commit similar crimes because they are already familiar with them. The mass media also provides information on public reactions to crime, particularly theft.

The tendency of the public, especially young people, to prefer foreign films with violent themes, such as nighttime thefts using sophisticated methods and tools, is indeed impressive and awe-inspiring for viewers. However, this can also provide encouragement and new ideas to implement better methods of committing crimes because they already know how they are carried out.

It is clear that media, like the family and social environment, can become factors in crime if the information and exposure to it is saturated with criminal stimuli.

Discussions about criminal responsibility cannot be separated from discussions about criminal acts. A person cannot be held accountable for punishment if they have not committed a crime. The elements of a criminal act and fault (intention) are central to criminal law. The criminal element lies in the objective realm,



followed by the unlawful nature of the act, while the element of criminal responsibility is a subjective element consisting of the capacity to take responsibility and the presence of fault (intention and negligence).

Criminal responsibility requires the perpetrator to be capable of taking responsibility. It is impossible to hold someone accountable if they are unable to take responsibility. The perpetrator's criminal liability requires that the crime they committed fulfill the elements specified in the law. From the perspective of the occurrence of prohibited acts, a person will be held accountable for those actions if the act is unlawful and there is no justification or excuse for the unlawful nature of the crime.

From the perspective of the capacity to take responsibility, only someone capable of taking responsibility can be held accountable for their actions. A criminal act without fault is the principle of criminal responsibility, therefore in the case of a person being punished for committing an act as threatened, this depends on whether he was at fault in committing this act.

Violent theft, when viewed from the perspective of Indonesian positive criminal law, can be categorized as a crime. Indonesian positive criminal law regulates not only the interests of individuals but also the state, as an institution tasked with protecting every citizen, in this case, a victim of a crime. Essentially, to determine whether someone has committed a crime, the elements of a crime must be met.

Perpetrators of violent theft must be sanctioned for their actions; in other words, law enforcement must be carried out against perpetrators of violence. Conceptually, the essence and meaning of law enforcement lies in harmonizing the values outlined in established rules and attitudes, as a series of final steps in implementing these values to create, maintain, and sustain peaceful social interactions.

Law is the foundation of societal hope and trust for regulating social interactions. 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.

The policies to be implemented will primarily encompass law enforcement activities aimed at improving order and legal certainty in society. To this end, the coordination system and the harmonization of the duties of law enforcement agencies will be strengthened. This will be achieved, among other things, by streamlining the functions, duties, powers, and authorities of law enforcement agencies according to their respective professional areas and based on a sound cooperative system.

Crime prevention can be carried out through preventive and repressive means. This form of prevention involves the imposition of sanctions on perpetrators of



criminal acts. Criminal sanctions are the best available tool we have to deal with threats of harm. Criminal sanctions are sometimes the primary guarantor, and ethics are the primary threat to human freedom.

Criminal accountability, also known as theorem of criminal responsibility, refers to the punishment of an offender with the aim of determining whether an accused or suspect is held responsible for a criminal act.

The perpetrator's punishment is required to fulfill the elements stipulated in the law. Viewed from the perspective of the occurrence of prohibited acts, a person will be held responsible for these actions, if the action is against the law and there is no justification or elimination of the unlawful nature of the crime committed. And seen from the perspective of the ability to be responsible, only a person who is capable of being responsible can be held responsible for his actions. A criminal act without fault is the principle of criminal responsibility, therefore in the case of a person being punished who commits an act as threatened, this depends on the question of whether in committing this act he has fault.

4. Conclusion

The legal provisions for the crime of theft of oil palm fruit bunches (FFB) from the plantation area of PT. Socfindo Kebun Bangun Bandar, Kerapuh Village, Dolok Masihul District, Serdang Bedagai Regency are regulated in Article 363 paragraph (1) 4 of the Criminal Code. The theft of oil palm fruit bunches from the plantation area of PT. Socfindo Kebun Bangun Bandar, Kerapuh Village, Dolok Masihul District, Serdang Bedagai Regency is considered aggravated theft because it was committed by two or more people together.

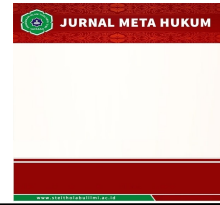
The perpetrators of the crime of theft of oil palm fruit bunches from the plantation area of PT. Socfindo Kebun Bangun Bandar, Kerapuh Village, Dolok Masihul District, Serdang Bedagai Regency, is the defendant's actions are in accordance with the indictment of the Public Prosecutor and proven legally and convincingly guilty of committing the crime of aggravated theft as charged in the First Alternative indictment, namely fulfilling the elements of Article 363 paragraph (1) 4 of the Criminal Code, so that the defendant must be held responsible for his actions, by serving a prison sentence of 7 (seven) months.

The judge's legal considerations in the Sei Rampah District Court decision Number 83/Pid.B/2024/PN.Srh are that the Panel of Judges has considerations starting from the Public Prosecutor's demands, the fulfillment of elements according to the articles charged and there is no justification or excuse, so that it is declared guilty, as well as aggravating and mitigating factors. The considerations of the Panel of Judges who have decided this case are mitigating factors, namely

the defendant admitted and regretted his actions and behaved politely during the trial, while the aggravating factor is that it caused losses to PT. Socfindo Kebun Bangun Bandar and the defendant have previously been convicted. Regulations for the crime of theft of oil palm fruit bunches may require special provisions, intensive cooperation with the police, and public awareness campaigns regarding the plantation's firm stance in the event of theft of oil palm fruit bunches. By applying the Plantation Law to perpetrators who take oil palm fruit bunches, if the loss is small, under Rp2,500,000.00, they must still be processed under ordinary criminal law and not as a misdemeanor.

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<https://doi.org/10.47652/jmh.v2i2.431>