

Juridical Analysis of The Crime of Theft Committed Jointly by Members of The TNI

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Abstract. *The criminal act of livestock theft causes material losses and impacts the social and economic lives of farmers. Livestock theft is driven by environmental factors, lack of legal awareness, economic conditions, opportunities, and other social factors. This study aims to analyze the enforcement of the law applicable in handling cases of livestock theft committed by members of the Indonesian National Armed Forces (TNI) and to determine the sanctions imposed on TNI members involved in livestock theft to provide punishment and assess its implications for the image of the TNI. The research method used is a normative legal approach, which involves an in-depth examination of the issue by collecting library data and analyzing it to draw conclusions. The data analysis applied is descriptive analysis to interpret qualitative data, where the researcher uses materials such as legislation, court decisions, journals, and books. The findings of this study reveal that the criminal act of theft committed collectively by TNI members is regulated under Article 363 paragraph (1) 1 in conjunction with Article 55 paragraph (1) of the Indonesian Criminal Code (KUHP) and Article 126 of the Military Penal Code (KUHPM). The Military Court has the authority to try TNI members who commit criminal acts based on Article 9 of Law No. 31 of 1997, taking into account violations of military honor under Article 126 of the Military Penal Code, which relates to its implications for the image of the TNI.*

Keywords: Army; Crime; Enforcement; Livestock; Theft.

1. Introduction

Indonesia is a country of law, so the law must be enforced. Various legal rules are implemented in the lives of society, nation, and state, but in reality, there are still

many violations of legal rules by society, such as violations committed by law enforcement agencies. Basically, the law aims to create security and peace in order to create a harmonious, peaceful and peaceful society (Tarisa N. P., 2024).

A criminal act can simply be said to be an act for which the perpetrator should be punished. Moeljatno used the term criminal act. According to Moeljatno, criminal acts only include actions, as he said that "criminal acts only refer to the nature of the act, namely the nature that is prohibited by a crime if it is violated" (Saputra R. P., 2019). According to Moeljatno's point of view, the elements of the perpetrator of a criminal act and matters related to him, such as the presence of mistakes and being able to take responsibility, cannot be included in the definition of a criminal act. But it is part of another element, namely the element of criminal responsibility, apart from that an action is measured by the existence of a prohibition. If an action is not mentioned, then that action is not a prohibition. Therefore, there are two basic concepts regarding the structure of a criminal act, namely: (1) the concept of unification between an act and criminal responsibility (mistake) which forms a criminal act, (2) the concept of an agreement between a criminal act and criminal liability (mistake) which both constitute conditions so that the perpetrator can be punished (Maramis, 2013). The community faces perpetrators of criminal acts of theft, various efforts are made by law enforcement officials and the community itself, but these efforts cannot be realized if there is no seriousness in handling them, because every crime cannot be handled easily. The development of theft crimes is increasing and has a negative impact that Indonesian society if it is not dealt with (Nurmashinta, 2019).

For example, the number of criminal acts of theft committed by individuals is caused by the worsening economy. There is an increase in the price of goods and increasing inflation, while the distribution of income among society is unequal and the unemployment rate is high due to the difficulty of getting a job. Other things that support someone committing theft are caused by environmental influences, the opportunity to commit theft, lack of awareness of the punishment for the crime, and other social factors.

According to the Big Indonesian Dictionary, the meaning of the word "steal" is to take someone else's property without permission or illegally, usually secretly. Meanwhile, the meaning of "theft" is the process, method, and action. Crimes against property are prohibited acts such as threats or attacks on a person's legal interests over a person's property, the elements of which arise after the prohibited act occurs (Chazawi, 2021) The crime of theft can also occur due to economic factors so that people who are caught in a difficult economy have the opportunity to commit the crime of theft to meet their needs. The crime of theft can also occur due to other factors, making it more likely that someone will take action against the law. This can disturb the people around them, especially the regional

mastermind behind the person who commits the crime of theft. This impact includes social unrest, decreased trust, and potential conflict between residents. Comprehensive prevention and treatment are needed to restore a sense of security in society.

The rise of criminal acts of livestock theft is a serious problem that can harm the safety and comfort of livestock farmers, as well as have an impact on the local economy (Fadhil, 2021). Livestock theft often occurs in areas with low levels of supervision, and this can be caused by various factors. Several contributing factors include difficult economic conditions, where the perpetrators of theft try to make ends meet by illegal means, as well as a lack of supervision of livestock owners and areas prone to crime. The impact of livestock theft is not only felt by livestock farmers directly through financial losses but also damages local economic stability. Farmers who lose their livestock will experience a decrease in income, which can disrupt their lives and even impact the supply of livestock products in the area. In addition, widespread cases of livestock theft can reduce the sense of security in society, disturb the peace of citizens, and reduce trust in the security system and law enforcement.

Livestock theft not only results in material losses but also affects the social and economic lives of farmers. The impact resulting from criminal acts of livestock theft carried out jointly can be detrimental to farmers who are victims of criminal acts of theft immediately (Wardani Siregar, 2022). Livestock theft that is carried out instantly brings huge losses because it is fast and directly harms farmers. Apart from that, the long-term impacts are also significant, ranging from economic disruption to social inequality. Therefore, preventing and handling this criminal act requires integrated efforts, including increasing security, strict law enforcement, and educating the public. Stolen livestock often have considerable economic value, which can be detrimental to farmers, especially if the livestock is the main source of income for a farmer. Losing livestock can shake the economic stability of a farming family. Livestock theft creates a feeling of insecurity among livestock farmers. Fear of the possibility of their livestock being stolen can disrupt their comfortable lives.

In the livestock industry, lost or stolen livestock means production of milk, meat, or other products will stop. This will have an impact on the supply of products on the market and can affect the livestock and local economy. Livestock theft is often associated with other types of crime that cause greater harm, such as robbery and fraud. This can worsen the crime rate in society. With the rise in criminal acts of livestock theft, some factors become the reasons why someone commits a criminal act of theft. So the role of law enforcement is useful in overcoming this by increasing security and patrolling (Andani et al., 2021). The community securing the area where they live is important in dealing with this and apprehending a

perpetrator of the crime of livestock theft. Law enforcement has an important role in tackling criminal acts of livestock theft so that criminal acts of livestock theft can be minimized. The steps that must be taken by law enforcement officers are the National Police together with other security forces, increasing patrols in areas prone to livestock theft, this could involve both highway patrols and special patrols in livestock areas or areas outside the city that are more vulnerable to the criminal act of theft. Livestock theft sometimes involves organized syndicates. Therefore, a thorough investigation to uncover this network is essential. The investigative team must dig up information from various sources, including the local community, to identify the main perpetrators and their modus operandi. Thus, this research discusses how the provisions of general criminal law and military criminal law are applied to TNI members who commit the crime of livestock theft together and how the imposition of sanctions by military courts on TNI members who commit livestock theft provides a deterrent effect and prevents the recurrence of the crime. Similar crimes in the future and their impact on the image of the TNI?.

Increasing strict legal sanctions for perpetrators of livestock theft can also reduce the occurrence and minimize the occurrence of livestock theft again, and can provide a deterrent effect (Rahmad, 2022). For example, providing heavier penalties or including livestock theft in the crime category more serious. To tackle the crime of livestock theft, good cooperation is needed between law enforcement, the government, and the community. Improving supervision, strengthening security systems, as well as introducing appropriate technology and policies are steps that can minimize incidents of livestock theft in the future. A holistic and comprehensive approach, meaning a comprehensive and systematic perspective to understand and resolve these problems can be addressed more effectively, providing a sense of security for breeders and society in general. The crime of theft committed by a member of the TNI can be imposed from two different legal aspects, namely general criminal law and military law (Ilmiyah, 2023). In the context of general criminal law, theft is the act of taking someone else's property to unlawfully possess the item. Because TNI members are part of the state apparatus, this case can also be resolved and regulated in military regulations. In the Indonesian military legal system, TNI members are not only subject to general criminal law but also to the regulations governing military life. Theft by members of the TNI can be categorized as a serious offense that can be punished with the crime of open theft except for several cases, such as cases of morality, military secrets, and state secrets (Ntelok, 2019). Theft by TNI members is considered a serious violation involving two legal dimensions, namely; general criminal law and military discipline. These cases are generally processed openly except when they relate to state secrets, military secrets, or moral matters. A legal process that is transparent but still protects the country's strategic interests shows that military institutions and the justice system work in the interests of the people and the country, not to protect guilty individuals. Thus, this balance becomes the

main foundation for creating public trust and maintaining legal integrity and national stability. The issue of theft has become a major concern due to its significant impact on victims. In the context of Indonesian law, theft is regulated under Articles 362 and 363 of the Indonesian Criminal Code (KUHP), which covers various modus operandi, including theft committed collectively. However, theft offenses involving members of the Indonesian National Armed Forces (TNI) require special attention. This not only pertains to violations of criminal law but also breaches of the code of ethics and military honor. Pursuant to Article 126 of the Indonesian Military Criminal Code (KUHPM), such violations carry different legal consequences compared to offenses committed by civilians. The factors driving theft offenses among TNI members may include economic pressures, environmental influences, weak supervision, and a lack of understanding of military discipline values (Montana, 2023). Handling such cases poses a unique challenge for law enforcement, particularly in maintaining the TNI's image as an institution that upholds discipline, honor, and professionalism.

2. Research Methods

The data collection method used in this research is a normative legal approach. The data collection method is a way for researchers to explore and obtain relevant information or data in a study. In this research, the qualitative method uses secondary data analysis with library data collection techniques. It is a source of research data obtained indirectly, which will examine material in the form of statutory regulations and a collection of court decisions along with data material that will provide explanations regarding my research. Consisting of books written by legal experts, legal journals, the internet, opinions of scholars, legal cases, jurisprudence, legal doctrines, and the results of recent symposia related to livestock theft carried out jointly. With these data source materials and data analysis, this research can be completed.

The data sources that I use in this research are constitutions, laws, court cases, supported by draft laws, research results, legal cases, opinions of scholars, jurisprudence, and the work of various circles. Other data sources that I used in this research to support completing this research, such as legal dictionaries, encyclopedias, magazines, mass media, and the Internet. The sources of legal data that I used in this research include primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials are legal materials that have binding force in society. In this research, materials were used in the form of statutory regulations and a collection of court decisions. Secondary legal materials are materials that provide explanations regarding primary legal materials consisting of books written by legal experts, legal journals, opinions of scholars, legal cases, jurisprudence, and the results of related recent symposiums. by joint theft of livestock. By using secondary legal materials, I was able to

complete this research. Tertiary legal materials are sources that assist in finding and understanding other legal materials but do not directly regulate the law. Legal data sources that provide information about primary and secondary law, such as dictionaries, encyclopedias, magazines, mass media, and the internet. This material is usually informative and helps in finding primary legal materials and secondary legal materials. Descriptive data analysis to apply qualitative data, where this research uses data materials in the form of statutory regulations and a collection of court decisions along with materials that provide explanations related to the research (Tan D., 202).

3. Result and Discussion

3.1. Application of the provisions of general criminal law and military criminal law to members of the TNI who commit the crime of livestock theft together

The rules in a country must be inherent and binding on every citizen of the country, to be followed and carried out by every citizen of that country. Indonesia is a country with a structured legal system to regulate its society. Rules and regulations, including laws, are designed to regulate society's actions. The crime of theft often occurs in social life and the surrounding environment. Theft is usually carried out without the victim's knowledge, for varying times and reasons. The perpetrator's motives can be economic needs, opportunities, or other incentives. The Indonesian legal system, through law enforcement and existing regulations, aims to handle and prevent criminal acts like this (Ndruru & July, 2024). Law enforcement in Indonesia often comes under scrutiny because of the perception that justice is not applied equally to all citizens. This is reflected in the slogan "The Law is Sharp Downward, Blunt Upward" (Dewi et al., 2023). which illustrates that the law tends to be harsher against ordinary people but weaker against individuals with position, power, or influence. This phenomenon occurs due to various factors, such as intervention from certain parties, corruption in the legal system, or the authorities' indecisiveness in enforcing regulations against influential groups.

In the context of theft involving members of the Indonesian National Army (TNI), handling it falls under the authority of the Military Court. The Military Court has a special function to try legal violations committed by members of the TNI, including criminal acts of theft committed jointly. This is regulated in Law No. 31 of 1997 concerning Military Justice, which provides the legal basis for the military justice process. Criticism of the military justice system often arises because it is seen as lacking independence in trying its members, especially if the perpetrator has a high rank or position. Therefore, strict supervision and strong accountability mechanisms are needed to ensure that the military justice process truly enforces the law objectively, without discrimination. Fair and equitable law enforcement is

an important element in creating public trust in the Indonesian legal system, including in cases involving military institutions. Under Law No. 31 of 1997, The Military Court has the authority to try acts of resistance committed by members of the TNI.

In the case of Decision Number 116-K/PM I-02/AD/XI/2022, the crime of theft was committed jointly by members of the TNI and civilians. In situations like this, judicial mechanisms are divided according to authority: District Courts try civilians, while Military Courts try TNI members (Pratama Sandi, 2016). This reflects honesty based on the perpetrator's status by applicable law. Another example is a case where there was a victim of cattle theft, which was allegedly carried out by TNI members from Bone Regency (Batara pos, 2025). Even though the judicial processes are carried out separately, relevant evidence and evidence can be used in both courts to prove the involvement of the perpetrators. Thus, even though there are differences, the same legal facts can be the basis for the evidentiary process in each court. This process aims to ensure fairness and harmony in handling cases involving perpetrators from two different categories.

The Court's authority is based on Article 9 of Law No. 31 of 1997, TNI members who commit acts against the law are tried by a Military Court (Chandra & Rindaldi 2020) If the crime involves civilians or has a strong general criminal element, coordination can be carried out with the Prosecutor's Office to determine whether the case will be tried in a general court or remain in a military court. However, TNI members are usually still subject to military justice. The perpetrator's status as a TNI member is subject to military criminal law by Article 9 of Law No. 31 of 1997 concerning Military Justice. Acts involving theft of livestock violate Article 126 of the Criminal Code (damaging military interests or degrading military honor). You can also be charged under Article 103 of the Criminal Code if there is a violation of superior orders or military discipline.

In article 3 paragraph (4) TAP MPR Number: VII/MPR/2000 it is stated that TNI soldiers are subject to the authority of military justice in cases of violations. To resolve criminal acts within the TNI, it is necessary to have regulations that create a unified way of acting between officials who are given the authority to resolve criminal acts within the TNI. Therefore, the KASAD Decree was issued Number: SKEP/239/VII/1996 concerning Guidelines for Settlement of Criminal Cases within the TNI AD, as an elaboration of SKEP Pangab Number: Skep/71 I/X/1989 concerning the settlement of criminal cases within the TNI AD . Military violations include violations that occur within the military environment, as well as criminal acts committed by military members outside of their official duties. The Military Police will carry out investigations by the procedures regulated by the Military Court (Ratnasari et al., 2022). Based on Article 9 paragraph (1) letter a of Law No. 31 of 1997, TNI members who commit criminal acts will be tried in a military court.

This livestock theft will be handled by the Military Prosecutor (Military Public Prosecutor). If state losses occur and there is a significant impact on military institutions, this will complicate the legal process in military justice. The Military Police are obliged to carry out investigative actions by the procedures and procedures regulated in the Criminal Procedure Code and Law No. 31 of 1997 (Putra Tommy, 2013). Article 69 of Law No. 31 of 1997 concerning the Rights of Investigators is an offense against their subordinates, the military police and military prosecutor (Sulistiriyanto, 2011).

TNI members who commit the crime of livestock theft together will be tried based on general criminal law and military criminal law. General criminal law applies to everyone, including members of the TNI. Military criminal law applies specifically to military members and equivalents. Military criminal law is a special criminal law because it regulates matters of a special nature and only applies in certain circumstances. The application of criminal law to TNI members who commit the crime of livestock theft simultaneously involves two legal aspects, namely general criminal law (KUHP) and military criminal law (UU Number 31 of 1997 concerning Military Justice). Based on applicable legal provisions, the General Criminal Law (KUHP) for the crime of theft is regulated in Articles 363 and 365 of the Criminal Code (R. P. Saputra, 2019). If done together, this is aggravated theft. Elements that must be proven are the taking of other people's property which is done unlawfully and carried out jointly. Meanwhile, in the Military Criminal Law, the actions of TNI members can be subject to sanctions by Article 126 of the KUHPM (Military Criminal Code) if their actions harm military interests or dishonor the honor of the TNI. Apart from that, the Military Justice Law regulates that TNI members who violate the law can still be processed through a military court, this is aggravated theft. The elements that must be proven are taking goods from another person, carried out against the law, and carried out jointly. Meanwhile, in military criminal law, the actions of TNI members can be subject to sanctions by Article 126 of the KUHPM (Military Criminal Code) if their actions harm military interests or dishonor the honor of the TNI. Apart from that, the Military Justice Law stipulates that TNI members who violate the law can still be processed through military courts and civilians who participate in committing criminal acts will be processed in general courts.

3.2. The imposition of sanctions by a military court on members of the TNI who commit livestock theft provides a deterrent effect and prevents the occurrence of similar crimes in the future, as well as the implications for the image of the TNI

The crime of theft disturbs the community and causes losses, such as loss of property. Perpetrators of theft can be subject to aggravated criminal penalties if they frequently repeat their actions. Aggravated theft is regulated in Article 363

paragraph (1) of the Criminal Code, which includes theft committed with additional aggravating elements, such as theft by several people or livestock. The basic theft as described in Article 362 of the Criminal Code is the basis, but with the addition of aggravating elements, the perpetrator can be sentenced to a heavier sentence. Strict criminal sanctions are needed to provide a deterrent effect. TNI members who are proven to have committed livestock theft will be processed through the Military Court, by applicable regulations. This crime of theft is regulated in Article 363 of the Criminal Code, which includes aggravated theft, and carries a maximum penalty of 7 years in prison (Maulina, 2024). Apart from that, this action also violates Article 126 of the KUHPM, which regulates violations of military honor and interests. The sanction that can be given is imprisonment imposed to uphold justice by general criminal provisions. The military's additional sanction is dishonorable dismissal if the violation is deemed to seriously tarnish the institution (W. K. Rama, 2022). Demotion is a form of enforcing internal discipline, and other disciplinary punishments, such as forced labor or light detention, to provide a deterrent effect. The imposition of sanctions aims to provide a deterrent effect to prevent perpetrators from repeating their actions and to provide a warning to other members of the TNI. Therefore, it is necessary to restore the honor of the institution to show the public that the TNI is serious about maintaining discipline and integrity while maintaining public trust in the TNI. Thus, the strict application of the law not only upholds justice but also ensures that the values of honor, discipline, and order remain the main priority in military life.

The deterrent effect provided by law enforcement on TNI members who commit violations is by providing witnesses. Common deterrence is by imposing sanctions on perpetrators, sending a clear message to the public that the TNI does not tolerate violations of the law. This not only maintains the TNI's positive image but also prevents the potential for similar violations in the future by strengthening legal awareness within the military and wider society. The deterrent effect on individuals is that the severe punishment imposed on the perpetrator provides direct lessons so that they do not repeat their actions. These penalties remind individuals of the serious consequences of unlawful actions, both in criminal and military contexts. The deterrent effect within the TNI is also implemented by strictly enforcing the law, providing a clear example for other TNI members. This step encourages obedience to law, discipline, and military regulations, which are the main foundations for maintaining the professionalism of soldiers. The deterrent effect of law enforcement against violations by TNI members is comprehensive, including punishment for individual perpetrators, fostering discipline within institutions, as well as general prevention to maintain public trust in the integrity of the TNI.

The implications for the image of the TNI from criminal acts of theft by TNI members, with criminal acts of theft committed by TNI members can affect the image of the TNI in society, both positively and negatively, with two different sides. On the positive side, with fair and transparent law enforcement, the handling of criminal cases by TNI members through a fair legal process shows the TNI's commitment to upholding legal and disciplinary principles. A transparent process can be carried out by the Military Court to show that the TNI does not tolerate violations of the law, and is ready to uphold justice without discrimination. By strengthening public trust by firmly enforcing the law, the public will have more confidence that the TNI is committed to maintaining the integrity and professionalism of its soldiers. Firm, fair, and transparent law enforcement regarding violations committed by TNI members is an important step to strengthen the image of the institution as an institution with high discipline and integrity. By consistently enforcing the law, the TNI shows its commitment to maintaining internal discipline and complying with applicable legal principles. This reflects the TNI's ability to self-correct if violations occur, thus strengthening public trust in the professionalism of the institution. However, the negative side of cases of violations, such as theft committed by TNI members, is the potential for tarnishing the TNI's image in the eyes of the public. Such cases can create a negative perception, especially if they are seen as an indication of weaknesses in personnel training or a lack of internal oversight. This negative perception can erode public trust in the TNI institution, which should be a symbol of discipline, responsibility, and guardian of state security. To overcome this negative impact, the TNI needs to take proactive steps, such as implementing strict sanctions against perpetrators of violations, improving the internal training system, and ensuring that the legal actions taken are transparent. In addition, good communication with the community, including providing explanations about the corrective steps taken, is very important to restore the image and show that violations are a transmission, not a general representation of the institution. By implementing a measured approach between law enforcement and personnel training, the TNI can strengthen its image as a firm, disciplined, and responsible institution, while maintaining public trust in opposing the pillars of national defense.

The public may perceive that the TNI has failed to control internal discipline, and this could reduce respect for the military institution, which is supposed to be an example of order and honesty (Ali, 2023). The spread of negative news about violations committed by members of the TNI can create a bad perception of the institution, especially if the news is misunderstood or spread without clear context. This could harm the TNI's reputation even though the legal process has been carried out fairly. The strict application of the law against TNI members who commit violations, including criminal acts of theft, is an important step to maintaining the integrity of the institution. This action shows that the TNI is

committed to discipline, the supremacy of law, and the principle of equality before the law and consistent law enforcement will be proof that there is no impunity for TNI members so that it can maintain public trust and confirm that the institution carries out its duties with professionalism and responsibility. If cases of violations are not handled well, this will not only tarnish the TNI's image in the eyes of the public but can also create a perception of weak training and supervision of personnel. Therefore, steps are needed that strike a balance between transparent law enforcement and efforts to improve the internal training system. Restoring the TNI's image following violations requires strict sanctions against the perpetrators, accompanied by comprehensive internal training measures. This step not only functions as punishment but also as a preventive measure so that similar cases do not happen again. This action reflects the TNI's seriousness in maintaining the integrity, discipline, and honor of the institution. Transparency in the legal process, good communication with the public, and updating internal policies also play an important role in strengthening public trust in the professionalism of the TNI. With a consistent approach, the TNI can maintain its positive image as an institution that is firm, disciplined, and responsible in maintaining the honor and security of the country.

4. Conclusion

The conclusion must be linked to the title and answer the research formulation or objectives. Do not make statements that are not adequately supported by your findings. Write down improvements made to industrial engineering or science in general. Don't create further discussion, repeat abstracts, or simply list research findings. Don't use bullet points, use paragraph sentences instead. TNI members who steal livestock together will be subject to Article 363 of the Criminal Code for the crime of aggravated theft, with a maximum threat of 7 years in prison. The legal process is carried out through the Military Court by Article 9 of Law No. 31 of 1997, which also considers Article 126 of the Criminal Code regarding violations of military honor. Penalties include imprisonment under the Criminal Code as well as additional military sanctions, such as dismissal, demotion, or disciplinary action. General and military criminal law is applied synergistically to ensure justice without conflict of authority. The application of general and military criminal law is carried out in a complementary manner, ensuring that there is no conflict of authority between the two. The imposition of sanctions by a military court on TNI members who commit livestock theft has a deterrent effect, both on the perpetrators and the TNI environment, and prevents the recurrence of similar criminal acts. Therefore, it is important to maintain a balance between transparent law enforcement and efforts to improve internal development so that the image of the TNI remains positive. Military recruits and military agencies must use steps that reflect the seriousness of the TNI to resolve actions carried out by TNI members, in maintaining integrity, discipline, and honor, while strengthening

public trust in the professionalism and credibility of the TNI. The implications for the TNI's image depend on how the legal process is carried out, with a firm commitment to law enforcement, discipline, and order which are the basis of the TNI's honor.

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