

## **Criminal Liability Policy for Perpetrators of the Crime of Handling and Receiving in Future Positive Law**

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**Abstract.** *The purpose of this study is to examine the criminal responsibility of the perpetrators of the crime of extortion in the current positive law and examine the criminal responsibility of the perpetrators of the crime of extortion in the future positive law. This type of research is normative legal research with a normative juridical approach. This research is descriptive analytical. The data source of this research uses secondary data sources. Data collection techniques used literature study. Data analysis uses qualitative data analysis. The results of the research show that the criminal liability of the perpetrators of the crime of shoplifting in positive law is currently regulated in Article 480 of the Criminal Code with the penalty of imprisonment for a maximum of four (4) years or a maximum fine of IDR 900.00, but in Article 3 of the Supreme Court Regulation Number 02 of 2012 concerning Adjustment of the Limitation of Minor Crimes and the Amount of Fines in the Criminal Code where the maximum fine in Article 480-1 of the Criminal Code should read "Rp. 900,000.00.". Criminal liability for the perpetrators of the crime of storing in the future positive law is regulated in Article 591 of Law No. 1 of 2023 concerning the Criminal Code, which is the act of a person who controls, utilizes, or benefits from an object, which is known or reasonably suspected to have originated from a criminal offense. The punishment is imprisonment for a maximum of four (4) years or a maximum fine of category V, namely IDR 500,000,000.*

**Keywords:** *Criminal; Extortion; Law; Liability.*

### **1. Introduction**

Crime is a social phenomenon because it is a social deviation that occurs in society. Crime can occur anywhere and at any time within society. Many factors underlie

criminal acts, including economic, environmental, and family factors.<sup>1</sup> Crime can be interpreted criminologically and legally. Crime, in the criminological sense, is a human action that violates basic societal norms, while from a legal perspective, crime is an evil act or prohibited act as defined by criminal law.<sup>2</sup>

One form of crime against a person's assets that is difficult to investigate is the crime of receiving stolen goods. The crime of receiving stolen goods cannot stand alone, because it usually begins with the crime of theft. The crime of receiving stolen goods cannot stand alone without other types of crimes, such as theft. Receiving stolen goods is a form of crime regulated in Articles 480-482 of the Criminal Code. The principle of legality in criminal law means that no act can be punished unless it has been previously regulated by law.<sup>3</sup>

Imposing a criminal sentence on the perpetrator of the crime of receiving goods is the harshest sanction because in fact all criminal acts have legal consequences for the perpetrators, including the crime of receiving goods. The legal basis for the crime of receiving goods in positive law is regulated in Article 481 of the Criminal Code, which regulates receiving goods as a habit. This means that the act must be carried out at least twice, because if it only occurs once, the action is not regulated by Article 481 of the Criminal Code, but is regulated in Article 480 of the Criminal Code. The threat of criminal penalties is also heavier, namely 7 years in prison. Receiving goods is also regulated in Article 482 of the Criminal Code as light receiving goods, which refers to goods with a loss value of less than Rp 600, - The value of the goods was then changed by Supreme Court Regulation Number 2 of 2012 to around IDR 2,500,000 with a maximum sentence of 3 months in prison.

Criminal law policy encompasses state policy in regulating the public's power to act and behave, as well as the power or authority of law enforcement in carrying out their duties to ensure that the public complies with established regulations. Criminal law reform must be implemented through a policy approach, as criminal justice is fundamentally viewed not only from a crime prevention perspective but also through social problems that are synonymous with crime itself.

This research focuses on the criminal responsibility for receiving bribes from the perspective of positive law and future law. Positive law refers to the existing law applied within a country's legal system at a given time. Positive law consists of written and unwritten regulations enacted by authorized institutions, such as the

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<sup>1</sup> Herdy Abdullah Riauxa Soediro and Hudi Yusuf. 2024. Legal Review of the Criminal Act of Receiving Motor Vehicles Proceeds of Theft. *Comserva: Journal of Research and Community Service*. Vol 3 No 11, p. 4527.

<sup>2</sup>Yusril Ilza Amri, Bambang Tri Bawono, and Ira Alia Maerani. 2021. Criminal Investigation of Motorcycle Stealing Goods. *Law Development Journal*. Vol. 3 No. 1, pp. 169.

<sup>3</sup>Erwin Susilo, Dharma Setiawan Negara & Lufsiana. 2022. The Innovation of Criminal Law Interpretation Model in Indonesia through the Rule of Lenity Approach. *Jurnal Daulat Hukum*. Vol 8 No 3, pp. 390.

legislative, executive, and judicial branches. Positive law is the law currently applied in the real world, and changes to this law occur through a formal legislative process.<sup>4</sup>, while future law refers to legal norms that have not yet been implemented, but are expected or planned to exist in the future.

Law encompasses hopes or predictions regarding legal developments that need to be adapted to the needs and dynamics of the times. Future law encompasses concepts that emerge in response to current social, political, economic, and technological developments. Therefore, future law is more futuristic and may not yet be accommodated by current regulations, but it has the potential to be implemented as society evolves.<sup>5</sup>

The crime of receiving money in positive law is a derivative crime, which means there must be a main crime that proves that the money or goods originate from a criminal act. Debates regarding criminal liability based on existing positive legal provisions (retentionist) and future legal developments are ongoing. The drafting of a new Criminal Code in the future cannot be separated from the idea/policy of developing a national legal system based on Pancasila as the desired values of national life.<sup>6</sup>. Criminal law reform is based on Pancasila which contains a balance of moral paradigms of religion, humanity, nationality, democracy and social justice.<sup>7</sup>. This research aims to examine the criminal responsibility of perpetrators of the crime of receiving stolen goods in current positive law and future positive law.

## **2. Research Methods**

The type of research uses normative legal research with a normative juridical approach with a nature This research uses descriptive analytical methods. The data sources used are secondary data sources obtained from books and laws and regulations. The data collection technique uses literature studies. The data analysis technique uses qualitative data analysis with an interactive model. The collected data will be analyzed through three stages: data reduction, data presentation, and then conclusions will be drawn.

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<sup>4</sup>Syaqira Putri and Elisatris Gultom. 2024. Introduction to Legal Science (PIH). Multidisciplinary Journal of Science Warehouse. Vol 2 No. 12, p. 330.

<sup>5</sup>Lesmana, & Inas Sofia Latif, 2024. Introduction to Legal Science (Inleiding Tot De Rechtswetenschap). Jakarta: Berkah Aksara Cipta Karya, page 32.

<sup>6</sup>Barda Nawawi Arief. 2010. Selected Chapters on Criminal Law. Bandung: PT Citra Aditya Bakti, page 19.

<sup>7</sup>Baren Sipayung, Sardjana Orba Manullang, and Henry Kristian Siburian. 2023. Implementation of the Death Penalty According to Positive Law in Indonesia from a Human Rights Perspective. Citizenship Journal Vol. 7 No. 1, p. 143.

### **3. Results and Discussion**

#### **3.1. Criminal Responsibility for Perpetrators of the Crime of Handling and Receiving Goods in Current Positive Law**

The crime of receiving stolen goods is regulated in Chapter XXX of Book II of the Criminal Code as a crime of facilitation. This crime is a worrying crime for the community, as regulated in Article 480 of the Criminal Code, which explains that buying, renting, or storing goods suspected of being the proceeds of crime constitutes receiving stolen goods. The public is obliged to comply with the regulations governing the crime of receiving stolen goods. One of the factors causing the crime of receiving stolen goods is economic reasons, due to the increasing cost of living and the lack of job opportunities.

The provisions of an individual as a receiver if they fulfill the elements in Article 480 of the Criminal Code, especially the actions described in sub 1 of the article. Sub 1 states that a person is considered a receiver if he carries out his actions, for example, buying, renting, then also accepting exchanges, then the action of accepting pawns, some receive them as gifts, or because they want to make a profit, trade them, exchange them, pawn them, then those who carry, store, or conceal an item that is known to him or that is considered to be obtained due to a crime, so that a person is classified as a receiver if proven to have carried out these actions in accordance with Article 480 of the Criminal Code.

Article 480 of the Criminal Code as a positive law ensnares thieves who are the main perpetrators but the scope of sanctions can be expanded to include parties involved, including those who receive the stolen goods.<sup>8</sup> The buyer of the goods received can be subject to criminal liability, so the elements must be met: the goods are the result of a crime, proven to be the result of the crime of theft; there must be awareness or reasonable suspicion that the goods are the result of a crime; and the act of possessing the goods through legal action that causes the goods to be transferred to the buyer.

Criminal liability under positive law is not only based on the consequences caused, but also on the form of the perpetrator's fault, which includes two main types, namely intent (*Dolus*) and negligence (*Culpa*). The positive legal basis for the crime of receiving stolen goods is also found in Article 481 of the Criminal Code, which regulates receiving stolen goods as a habit. This means that the act must be carried out at least twice, because if it only occurs once, the act is not regulated by Article 481 of the Criminal Code, but is regulated by Article 480 of the Criminal Code. The threat of criminal penalties is also heavier, namely 7 years in prison. Furthermore,

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<sup>8</sup>Irfan Muiz Ali, Maemunah and Muslih. 2025. Analysis of the Criminal Act of Receiving Stolen Motorcycles According to the Perspectives of General Criminal Law and Islamic Criminal Law: Case Study of Decision Number 235/Pid.B/2021/PN Cbn. *EduLaw: Journal of Islamic Law and Jurisprudence*. Vol 7 No 2, p. 111.

receiving stolen goods is also regulated in Article 482 of the Criminal Code as light receiving, which refers to goods with a loss value of less than IDR 600,-. The value of the goods was later changed by Supreme Court Regulation Number 2 of 2012 to around IDR 2,500,000,- with a maximum sentence of 3 months in prison.

The crime of fencing can exacerbate economic inequality in society. Those involved in fencing exploit the economic hardship of others, willing to buy stolen goods at low prices and resell them at much higher prices. Fencing also harms the victims of theft and endangers the safety and security of the community as a whole. Therefore, strict law enforcement against fencing is crucial to mitigate its negative impacts and maintain public safety and well-being.

Based on this, the crime of receiving goods according to positive law is currently contained in Article 480 of the Criminal Code, which is an act of a person who obtains, uses, stores, hides, or takes advantage of an item, even though he knows or should suspect that the item comes from a criminal act. This act can be in the form of buying, renting, exchanging, accepting a pawn, receiving a gift, selling, pawning, carrying, storing, hiding, or taking advantage of the results of the goods. Even though the perpetrator did not participate in the initial crime, he can still be punished because he is considered to have helped maintain the proceeds of crime, or even enjoyed the proceeds of crime, either directly or indirectly. The threat of punishment is 4 (four) years imprisonment and a fine of Rp. 900.

### **3.2. Criminal Responsibility for Perpetrators of the Crime of Receiving Goods in Future Positive Law**

Receiving stolen goods is regulated by positive law, specifically Article 480 of the (old) Criminal Code and Article 591 of the new Criminal Code, which threatens the perpetrator with a maximum prison sentence of 4 years or a maximum fine of Rp 900,000 based on the old Criminal Code. The new Criminal Code provides a maximum fine equivalent to category V or the equivalent of Rp 500 million. Sanctions apply to people who buy, rent, accept gifts, or profit from goods known or reasonably suspected to originate from crime, but Many people still don't know or understand the crime of receiving stolen goods. In fact, they only know that receiving stolen goods involves people who buy stolen goods. They don't understand that the scope of the crime of receiving stolen goods is very broad, including showing where stolen goods are sold, showing people who will buy stolen goods, and receiving money from the sale of stolen goods.

The crime of receiving bribes in the new Criminal Code is regulated in Article 591 of Law No. 1 of 2023 of the New Criminal Code as follows: Anyone who: shall be punished for receiving bribes with a maximum imprisonment of 4 (four) years or a maximum fine of category V, namely IDR 500 million.

1) Mbuying, offering, renting, exchanging, accepting guarantees or pledges, accepting gifts or for profit, selling, renting, exchanging, pawning, transporting,

storing or hiding an object which is known or reasonably suspected to have been obtained from a criminal act; or

2) Taking advantage of the proceeds of an object, which is known or reasonably suspected to have been obtained from a criminal act.

Explanation of Article 591 of Law No. 1 of 2023 of the New Criminal Code, objects in this provision are objects originating from criminal acts, for example originating from theft, embezzlement, or fraud. Criminal acts regulated in this provision are called criminal acts *.proparte dolus proparte culpa*.

Article 592 of Law No. 1 of 2023 of the New Criminal Code states:

(1) Any person who makes it a habit to buy, exchange, accept guarantees or pawns, store or hide objects obtained from criminal acts, shall be punished with a maximum prison sentence of 6 (six) years or a maximum fine of category V.

(2) If the perpetrator of a crime as referred to in paragraph (1) carries out the act as a livelihood, he may be subject to additional punishment in the form of revocation of rights as referred to in Article 86 letters a, b, c, and/or g.

A person who intentionally repeatedly commits a crime according to Article 591 does not need to prove that the perpetrator of the crime did it to seek profit and is categorized as "making it a habit" because the act is carried out repeatedly even though the time period is quite long, this means that if this crime of receiving goods becomes a habit, the perpetrator faces a maximum prison sentence of 6 years or a maximum fine of Category V (Rp 500 million). However, if the perpetrator makes this crime of receiving goods a livelihood, the perpetrator can be subject to additional penalties in the form of revocation of rights (Article 592 of Law 1/2023).

Article 593 of the New Criminal Code "If the crime as referred to in Article 591 where the value of the goods is not more than IDR 500,000.00 (five hundred thousand rupiah), the punishment for receiving minor goods shall be a fine of up to category II."

Article 591 of Law Number 1 of 2023 concerning the Criminal Code can basically be applied and recognizes that objects originating from illegal sources or being reasonably suspected of being the result of a criminal act, indicate that the subjective and objective elements as formulated in the article have been fulfilled. Article 591 of the new Criminal Code contained in Law Number 1 of 2023 has modernized this formulation by expanding the types of actions, clarifying the categories of fines, and providing space for a more systematic interpretation of the objects of the proceeds of crime in question, including the origin of the objects from other crimes such as theft, embezzlement, or fraud.

Article 480 of the Criminal Code and Article 591 of the New Criminal Code are basically no different in substance because in the aspects of editorial arrangement, systematics and strengthening of the codification structure, meaning that the basic values of criminal law related to receiving goods are maintained in the new Criminal Code, as a form of continuity between the old codification and the modernization of national law, so that even though there is a shift in the legal basis from the old Criminal Code to the new Criminal Code, the essence of criminal responsibility for the perpetrators of receiving goods can still be firmly enforced.

#### 4. Conclusion

Criminal liability for the crime of receiving stolen goods can still be carried out effectively by referring to both the old and new Criminal Codes, as long as it can be proven that all elements of the crime are fulfilled legally and convincingly. The substance regulated in Article 480 of the Criminal Code is also reflected in Article 591 of Law No. 1 of 2023 concerning the Criminal Code, which is the latest positive legal basis in the criminal law system in Indonesia. Thus, the elements contained in Article 480 of the Criminal Code and Article 591 of Law No. 1 of 2023 concerning the Criminal Code are basically similar normatively. This shows that despite the updates in the criminal law codification system, the basic principles regarding the crime of receiving stolen goods are maintained within a more modern and systematic legal framework. This means that there is no substantial difference between the two in terms of regulations regarding the crime of receiving stolen goods, except in the aspect of the amount of fines, where the new Criminal Code stipulates a maximum fine of category V, replacing the previous provision that stipulated a nominal amount of IDR. 900.00.

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