

Legal Analysis of the Just Sentencing of Aggravated Theft Perpetrators in the Scope of a House Yard: A Study of Decision Number 42/Pid.B/2024/PN Mgg

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Abstract. *The history of Indonesian criminal law is rooted in colonialism and still relies on the Criminal Code as the basis for regulating social life. However, sentencing often places more emphasis on formal legal certainty than on substantive justice. A study of Decision Number 42/Pid.B/2024/PN Mgg concerning aggravated theft in a yard shows that although the elements of the crime are met, humanitarian aspects such as the defendant's socio-economic condition and the victim's minimal losses are under-appreciated. This raises questions about the relevance of implementing restorative justice in criminal justice practice. This study aims to analyze whether the decision reflects both formal and substantive justice and proposes a more humane, reconciliation-based, and social recovery-oriented sentencing concept.*

Keywords: *Criminal; Defendant's; Law; Reconciliation.*

1. Introduction

The history of the development of Indonesian criminal law is rooted in the colonial legacy codified in the Criminal Code (KUHP), which remains the basis for regulating security, order, and the protection of property rights. As a state based on the rule of law (*rechtstaat*), Indonesia positions law as an instrument for realizing its constitutional goals: protecting the nation, upholding justice, and ensuring prosperity.¹ Criminal law functions to regulate societal behavior in order to create order and justice, but in practice it often still emphasizes purely formalistic aspects.

One example is the application of Article 363 of the Criminal Code concerning aggravated theft. While this crime is considered serious because it concerns security and respect for property rights, the sentencing process often ignores the human dimension, such as the perpetrator's socioeconomic status and

¹Asshiddiqie, J. "The Constitution and Indonesian Constitutionalism."

opportunities for restorative justice.²Decision Number 42/Pid.B/2024/PN Mgg illustrates this problem, where the defendant, who came from a low-income background, was sentenced to prison even though the losses incurred were relatively small.

This phenomenon raises fundamental questions about the extent to which Indonesian criminal law is capable of delivering substantive justice with a humane face. Ideally, law enforcement should not only uphold legal certainty but also consider moral values, humanity, and compassion.³Therefore, this study attempts to analyze the punishment of perpetrators of aggravated theft within the scope of the home yard by highlighting the aspect of substantive justice, particularly through a study of Decision Number 42/Pid.B/2024/PN Mgg.

On the other hand, the existence of fundamental principles of criminal law, such as the principle of legality and the principle of proportionality, demands that every punishment is not only oriented towards fulfilling the elements of the crime, but also towards a balance between legal certainty and social justice.⁴When this principle is ignored, the law has the potential to lose its legitimacy as a means of protecting society.

The modern criminal law approach emphasizes the importance of restorative justice as an alternative to punishment, where case resolution does not only focus on the perpetrator and punishment, but also pays attention to the interests of the victim and the restoration of relationships.⁵This concept is in line with the values of Pancasila, especially the second and fifth principles, which prioritize just and civilized humanity and social justice for all Indonesian people.

Furthermore, economic limitations, which are often the main motive for the crime of theft, must be viewed as a criminogenic factor that requires structural solutions, not just repressive punishment.⁶In this context, judges have a strategic role in providing substantive justice through wise decision-making.

Thus, the study of Decision Number 42/Pid.B/2024/PN Mgg is expected to enrich academic discourse on criminalization in aggravated theft and contribute to the formulation of more humane criminal law policies. This research emphasizes the importance of harmony between legal certainty, justice, and humanitarian values so that criminal law in Indonesia can truly serve as a vibrant instrument of justice in society.⁷

²Muladi, & Arief, BN "Criminal Theories and Policies."

³Rahardjo, S. "Progressive Law: A Synthesis of Indonesian Law."

⁴Marpaung, L. "Principles and Foundations of Criminal Law."

⁵Zehr, H. "The Little Book of Restorative Justice."

⁶Soekanto, S. "Factors Influencing Law Enforcement."

⁷Friedman, L.M. "The Legal System: A Social Science Perspective."

2. Research Methods

This research uses a combination of normative and empirical juridical approaches to obtain a comprehensive understanding of the legal issues studied. The normative juridical approach is carried out through an analysis of relevant laws and regulations, legal doctrine, and court decisions, particularly the Criminal Code (KUHP) and Magelang District Court Decision Number 42/Pid.B/2024. This approach aims to examine applicable legal norms, interpret their meaning and purpose, and identify the correspondence between legal theory and practice.⁸ Meanwhile, an empirical legal approach is used to explore the reality of legal implementation in the field through observations of judicial practices and interviews with relevant parties, when necessary. This approach is crucial for understanding how law enforcement officers apply the norms of Article 363 of the Criminal Code, including the judge's considerations in issuing verdicts and the influence of socio-economic factors on the sentencing process.⁹ Thus, the analysis does not only stop at the legal text, but also touches on the contextual aspects of its application in society. The data sources in this study consist of primary legal materials in the form of the Criminal Code and court decisions, secondary legal materials in the form of legal literature, scientific journals, and academic articles, and tertiary legal materials such as legal dictionaries and encyclopedias. Data collection techniques were conducted through document studies and interviews, while data analysis used qualitative methods with deductive and comparative approaches. This combination of normative and empirical methods allows the research to produce a more comprehensive analysis, namely by comparing ideal legal norms with their practical application in the field. In this way, the research is expected to uncover both consistencies and gaps between legal texts and the reality of justice, while also providing an overview of opportunities for implementing substantive justice in criminal justice.

3. Results and Discussion

Analysis of Decision Number 42/Pid.B/2024/PN Mgg shows that the application of Article 363 paragraph (1) 3 of the Criminal Code is appropriate because all elements of aggravated theft are proven, namely that it was carried out at night in the victim's yard with stolen goods in the form of a canary, a helmet, and an LPG gas cylinder worth IDR 700,000. The judge sentenced 2 years in prison which was considered proportional, because it took into account the aggravating factors (night mode, closed yard location, and planning) and mitigating factors (the defendant's remorse, admission of guilt, small losses, and return of stolen goods). This decision reflects the balance between retributive, restorative justice, and proportionality, while emphasizing the protection of the victim's rights and the deterrent effect for the perpetrator, so that it is in line with the principles of legal

⁸Soekanto, S. "Introduction to Legal Research."

⁹Ali, Z. "Legal Research Methods."

justice.

3.1. Legal Analysis of the Implementation of Criminal Penalties in Cases of Aggravated Theft in the Scope of Home Yards Based on Decision Number 42/Pid.B/2024/PN Mgg

Criminal Code Decision Number 42/Pid.B/2024/PN Mgg confirmed that the defendant FDS was legally proven to have committed aggravated theft in accordance with Article 363 paragraph (1) 3 of the Criminal Code.¹⁰ The elements of the crime were met: taking another person's property with the intent to possess it unlawfully, taking it at night, and in the victim's enclosed yard. The panel of judges determined that the stolen items, although relatively small in value, still had economic and practical value to the victim, thus strengthening the criminal sentencing considerations.¹¹

From a procedural perspective, the defendant's detention was carried out in stages in accordance with the provisions of the Criminal Procedure Code, so that the defendant's rights remain protected. The judge's considerations also took into account the defendant's intention (*mens rea*) as well as the aggravating factors of the time of night and the location of the incident. This decision demonstrates the consistent application of the principle of legality, proof beyond reasonable doubt, and the function of criminal law as a preventive and repressive effort to provide a deterrent effect and protect the public's sense of security. Thus, the application of Article 363 paragraph (1) 3 of the Criminal Code in this case is considered proportional, balancing the interests of the victim and the defendant, while also providing an educational message to the public regarding the legal consequences of aggravated theft.

Furthermore, in its deliberations, the panel of judges emphasized the importance of protecting the public's sense of security in residential areas. Theft committed in enclosed yards not only violates the victim's property rights but also violates privacy and causes social unrest. Therefore, sentencing plays a strategic role in strengthening public trust in law enforcement.

This verdict can also be interpreted as an application of modern criminal justice theory, which emphasizes not only retributive punishment but also deterrence and social defense. Therefore, sentencing defendant FDS is not merely a sanction but also a means to reduce the number of similar crimes and educate the public about the importance of respecting the property rights of others.¹²

3.2. The sentencing in this case has reflected the principles of justice.

¹⁰Criminal Code [KUHP]

¹¹Andi Hamzah, "Certain Offenses in the Criminal Code"

¹²Sudarto, "Selected Chapters on Criminal Law."

The verdict against Fedo Dira Saputra (FDS) in the case of aggravated theft based on Article 363 paragraph (1) 3 of the Criminal Code can be considered to reflect the principles of justice from three main dimensions: retributive, restorative, and proportionality. From the perspective of retributive justice, the judge sentenced him to 2 years in prison out of a maximum sentence of 7 years. This verdict shows that even though the defendant's actions were considered serious because they fulfilled the elements of aggravation, the panel of judges still considered objective conditions, including the relatively small value of the loss and the defendant's cooperative attitude during the trial.

From a restorative justice perspective, restitution has been made to the victim's losses by returning all stolen items. However, the social and psychological aspects have not been fully restored due to the lack of a penal mediation process between the perpetrator and the victim. This results in restitution being solely material, without addressing the social dimensions of community relations.¹³

Meanwhile, in terms of proportionality, a two-year sentence is considered reasonable, considering the perpetrator's *modus operandi*, which occurred at night in the victim's enclosed yard, and the evidence of careful planning. While some consider the sentence too harsh for a loss of Rp 700,000, proportionality remains, as the crime was committed in a manner that meets the aggravating factors that could potentially threaten public safety.

Thus, this sentencing can be considered quite balanced. The judge not only emphasized retribution but also considered aspects of community protection and the deterrent effect on the defendant. However, there is still room to strengthen the restorative justice dimension through penal mediation or dialogue mechanisms that can improve social relations between the perpetrator and victim, so that sentencing is not merely repressive but also educational.

3.3. Factors that Judges Consider in Making Decisions, and the Extent to Which These Factors Conform to the Principles of Legal Justice.

The judge's considerations in handing down the verdict against the defendant FDS in the case of aggravated theft were not only limited to fulfilling the elements of the crime as regulated in Article 363 paragraph (1) 3 of the Criminal Code, but also included aggravating and mitigating factors, as well as aspects of substantive justice. The judge considered the defendant's subjective condition, the impact of the act on society, and the extent to which the act caused public unrest. This approach is in line with the principle of proportionality and the principle of restorative justice which demands a fair verdict not only for the victim but also for the wider community and the defendant himself.

The judge's aggravating factors included the theft occurring at night, in an

¹³Muladi, "Selected Chapters on the Criminal Justice System"

enclosed yard near the house, increasing the risk to the public's sense of security. The defendant's actions were also repeated, using strategies to avoid being caught, demonstrating a conscious and premeditated unlawful intent. From a legal perspective, these factors are indeed appropriate for aggravating the sentence, as theft in a residential area has the potential to disturb residents and disrupt public order.¹⁴

This aggravating consideration also reflects the function of criminal law as an instrument of public protection. By emphasizing the nighttime, short-term planning, and violation of the victim's property rights, the judge emphasized the importance of a general deterrent effect. This means that in addition to providing justice to the victim, the verdict also conveys a social message to prevent similar acts from recurring. In this case, the principle of legal justice is upheld through protecting the public's sense of security.¹⁵

However, the judge did not ignore the defendant's mitigating factors. FDS was deemed to have expressed regret for his actions, was cooperative, and promised not to repeat similar actions. The losses incurred were relatively small, at Rp 700,000, and the defendant had no prior criminal record. These considerations demonstrate that the judge provided room for the defendant's rehabilitation, in line with the principles of restorative justice and proportionality in criminal law.¹⁶

By accommodating mitigating factors, judges demonstrate the view that sentencing is not solely retributive but also serves a corrective function. Sentencing that is too harsh has the potential to disregard humanitarian values, while sentencing that is too lenient can undermine the public's sense of justice. Therefore, a balance between aggravation and leniency is essential to maintaining legal legitimacy and ensuring that sentencing remains rational and just.¹⁷

Ultimately, the two-year prison sentence imposed on the defendant was deemed proportional, taking into account all relevant factors. This decision balanced the aspects of retribution, community protection, and the defendant's development. Thus, the panel of judges' decision reflects not only legal certainty through the application of the articles, but also substantive justice by adhering to the principles of proportionality and restorative justice, the foundations of modern criminal law.

4. Conclusion

Based on the legal analysis of Decision Number 42/Pid.B/2024/PN Mgg, it can be concluded that the defendant FDS was legally proven to have committed the crime of aggravated theft as regulated in Article 363 paragraph (1) 3 of the Criminal

¹⁴Moeljatno. "Principles of Criminal Law."

¹⁵udarto. "Law and Criminal Law."

¹⁶Arief, BN "Anthology of Criminal Law Policy."

¹⁷Rahardjo, S. "Progressive Law: A Synthesis of Indonesian Law."

Code. The elements of the crime were proven to be fulfilled, starting from the unlawful taking of another person's property, carried out at night, to taking place in a closed yard without the owner's knowledge. The judge considered that this act caused unrest, both for the victim and the surrounding community. The two-year prison sentence, with a reduction in the detention period, reflects a balance between legal certainty and the principle of justice. From a retributive perspective, this decision provides a deterrent effect and demonstrates the court's seriousness regarding aggravated theft, even though the loss is relatively small. From a restorative perspective, restitution of the victim's material losses has been achieved, although the social mediation aspect has not been fully addressed. The judge's considerations also took into account aggravating factors, such as nighttime theft, violation of private space, and awareness of breaking the law. Meanwhile, mitigating factors were also considered, including the defendant's admission of guilt, remorse, promise not to repeat the offense, limited damages, and the absence of a prior criminal record. This demonstrates the application of the principle of proportionality in sentencing. Thus, this decision demonstrates a balance between retributive justice, restorative justice, and proportional punishment. The judge successfully upheld substantive justice through a moderate sentence while still providing opportunities for the defendant to develop a deterrent to reoffending. This decision can be considered fair from both a positive legal perspective and societal values of justice. Suggestions include strengthening restorative aspects through mediation mechanisms between the perpetrator and victim to better achieve psychological and social recovery. Judges are also expected to emphasize aggravating factors more firmly, particularly when the crime occurred at night in residential areas. Furthermore, it is important to maintain a balanced sentence proportionate to the perpetrator's condition and the impact of their actions, particularly if the loss is relatively minor and the perpetrator demonstrates remorse. Furthermore, increased legal education for the public is needed to strengthen legal awareness regarding property rights and the consequences of theft. Law enforcement officials are also advised to provide comprehensive evidence in each case so that judges can more objectively assess aggravating and mitigating factors. These steps are expected to make the criminal justice system more effective in enforcing the law and reflecting justice for all parties.

5. References

Books:

- Arief, Barda Nawawi. *Bunga Rampai Kebijakan Hukum Pidana Perkembangan Penyusunan Konsep KUHP Baru*. Jakarta: Kencana, 2017.
- Ali, Z. *Metode Penelitian Hukum*. Bandung: Citra Aditya Bakti, 2004
- Andi Hamzah. *Delik-Delik Tertentu di dalam KUHP*. Jakarta: Rineka Cipta, 2005

Asshiddiqie, J. *Konstitusi dan Konstitusionalisme Indonesia*. Jakarta: Rajawali Pers, 2005

Friedman, L. M. *The Legal System: A Social Science Perspective*. New York: Russell Sage Foundation. 2001

Hamzah, A. *Delik-Delik Tertentu di dalam KUHP*. Jakarta: Rineka Cipta. 2019

Marpaung, L. *Asas-Asas dan Dasar-Dasar Hukum Pidana*. Jakarta: Sinar Grafika. 2002

Moeljatno. *Asas-Asas Hukum Pidana*. Jakarta: Rineka Cipta. 2021

Muladi. *Kapita Selekta Sistem Peradilan Pidana*. Jakarta: Citra Aditya Bakti. 2019

Muladi, & Arief, B. N. *Teori-Teori dan Kebijakan Pidana*. Jakarta: Sinar Grafika. 2004

Rahardjo, S. *Hukum Progresif: Sebuah Sintesa Hukum Indonesia*. Bandung: Citra Aditya Bakti. 2009

Soekanto, S. *Faktor-Faktor yang Mempengaruhi Penegakan Hukum*. Jakarta: Rajawali Pers. 1982

Soekanto, S. *Pengantar Penelitian Hukum*. Jakarta: UI Press. 2007

Sudarto. *Kapita Selekta Hukum Pidana*. Bandung: Alumni. 2019

Zehr, H. *The Little Book of Restorative Justice*. Pennsylvania: Good Books. 2020

Regulation:

Criminal Code [KUHP]. (n.d.). Jakarta: Pemerintah Indonesia.