



RESEARCH ARTICLE

Legal Review of the Evidence System in Handling the Criminal Act of Ordinary Theft

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ABSTRACT

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That theft is stated in Article 362 of the Criminal Code that "Anyone who takes something, which belongs wholly or partly 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 nine hundred rupiah . This research is normative law, namely research that refers to legal norms contained in laws and regulations, literature, legal norms that exist in society and data obtained are then analyzed to answer the problems in this research. The research is straightforward to analyze the application of land laws, the type of research used is qualitative research, namely research that is carried out by examining library materials in the field of law and laws and regulations related to the problem. Legal Review of the Evidence System in Handling Ordinary Theft Crimes . One of the objectives of issuing Perma No. 2 of 2012 is to make the criminal fines more effective. The regulation of the crime of theft both in the Criminal Code and in the 2012 Draft Criminal Code, all regulate the issue of criminal fines which are threatened either cumulatively or alternatively with imprisonment, therefore in this sub-chapter discusses the suitability of criminal punishment (especially criminal fines) with the purpose of punishment in law enforcement against the crime of petty theft. Police obstacles in handling the crime of theft are internal and external constraints, lack of evidence and witnesses, witnesses who are also needed to obtain information related to a criminal act of theft are lacking or even non-existent There is an operational budget in the field which has been very low and carries out special operations against perpetrators of theft and makes arrests of perpetrators who are proven to be caught red-handed committing the crime of theft .

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Introduction

A role is a series of ordered behaviors that arise from a particular position or a recognizable office. A person's personality may also significantly influence how a role is performed. Roles arise from the understanding that they do not work alone. They have an environment with which they

constantly need to interact. These environments are broad and diverse, and each will have a different context.

The Indonesian National Police, often abbreviated as Polri in relation to the government, is one of the functions of state government in the field of maintaining public security and order, law enforcement, protection, shelter, and service to the community. The aim is to realize domestic security which includes maintaining public security and order, order and upholding the law, the implementation of protection, shelter, and service to the community, and the creation of public peace by upholding human rights, this is contained in Article 4 of Law Number 2 of 2002 concerning the Indonesian National Police.

A crime is a basic concept in criminal law (normative juridical) relating to acts that violate criminal law. Several experts have defined criminal acts, as follows. According to Vos, a crime is misconduct punishable by law, meaning it is generally prohibited and punishable by punishment.

The definition of theft is stated in Article 362 of the Criminal Code that "Anyone who takes something, which belongs wholly or partly 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 nine hundred rupiah."

An act or event, the act of taking which is prohibited shows that theft is a formal crime. Taking is a positive behavior/material act, which is carried out with deliberate muscle movements which are generally by using the fingers and hands which are then directed at an object, touching it, holding it, and lifting it then carrying and moving it to another place or into one's control.

In today's society, interaction and socialization have become a necessity across all sectors, including economics, education, and religion, and even in the legal realm, such as providing legal protection from legal counsel. Society itself is formed from a collection of individuals who strive to form a community or environment where they can interact and socialize with one another.

In the process of socialization, people gain knowledge of the distinction between "us" and "them." The interests of a social group and the attitudes that support them are manifested in the individual's distinctions between these groups. Social groups are where individuals identify themselves as members of their ingroup.

But in reality, in social life, clashes often occur that can result in unlawful acts. If a group is only based on external similarities, for example similarities in culture, fate, history, and so on, it is called an objective group, because the similarities are objective, external. However, it must be ensured that the group becomes a subjective group. That is, a group that is aware of these similarities and is also aware of its solidarity. This then gives rise to an attitude that they do not like being grouped together with others.

Humans have always had a strong instinct to live with others. Compared to other living creatures, such as animals, for example, humans cannot live alone. A person without other humans will inevitably die. A person confined alone in a confined space will inevitably experience impaired personal development, leading to their eventual death.

In social interactions with others, clashes within society will inevitably arise, which can lead to conflict. This is inextricably linked to internal pressures, such as economic pressures or individual desires.

As we all know, these unlawful acts are rampant all around us. Furthermore, inappropriate social interactions with others also contribute to these crimes. One of the principles of a state governed by law is *wetmatigheid van bestuur*, or government based on law.

Therefore, it is only natural that every action taken by one individual towards another will have legal consequences. This legal consequence means that every action we take must comply with the rules or norms prevailing in society. We can see these rules and norms all around us, such as the requirement to act according to applicable regulations and not disrupt the safety and comfort of others.

Furthermore, crime is a complex phenomenon that can be understood from many different perspectives. This is why in our daily lives, we encounter varying comments about a crime, each with varying degrees of complexity. In our experience, understanding crime itself is not easy. Crime arises

not only from the intervention of those in power but also from personal and family issues. Individuals who feel they have been victims of another's actions will seek revenge against the perpetrator.

Law regulates society appropriately and beneficially by defining what is required and what is permitted, and vice versa. Law can qualify an act as lawful or disqualify it as unlawful.

Acts that comply with the law are not a problem and need not be questioned; what is at issue are acts that violate the law. In fact, what the law pays attention to and considers are precisely these latter acts, both those that actually occurred (*onrecht in actu*) and those that may occur (*onrecht in potentie*). This attention to and enforcement of these acts constitutes law enforcement. Sanctions are available for acts that violate the law.

Regarding the issue of criminal law enforcement, Sudarto stated that law enforcement in the criminal law field is supported by relatively more comprehensive tools and regulations than law enforcement in other fields. The apparatus referred to here are the Police, the Prosecutor's Office, the Courts, and criminal execution apparatus. The regulations that are said to be more comprehensive include provisions on criminal procedure law, the Law on Judicial Power, the Law on the Police, the Law on the Prosecutor's Office, and the *Gestichtenreglement*.

In modern society, the complexities of life, as a product of technological progress, mechanization, industrialization, and urbanization give rise to numerous social problems. Therefore, adapting to this highly complex modern society is no easy feat.

Difficulty adapting and adjusting leads to much uncertainty, confusion, and conflict, both open external and hidden and closed internal conflicts. As a result, people develop behavioral patterns that deviate from general norms, acting as they please for their own benefit and personal gain, ultimately disrupting and harming others.

An act constitutes a legal offense (crime) if the act is contrary to the principles of positive law that exist in the legal sense among the community, regardless of whether these principles are included in criminal law. On the other hand, legal offenses (violations) are criminal events whose punishment is lighter than that of a crime and it is not easy to understand or feel that such an act is prohibited.

The prohibited acts here are intended as acts that are prohibited by criminal law and are subject to criminal penalties, thus called criminal acts. Regarding the definition of criminal acts, R. Soesilo expressed his opinion as follows: "Criminal acts are also called offenses or acts that can be punished, or criminal events are acts that violate or contradict the law that are carried out with error by a person who can be held responsible."

The crime of theft, as regulated in Article 363 and Article 365 of the Criminal Code, is called theft with qualifications (*gequalificeerd diefstal*). Wirjono Prodjodikoro translates it as "Special Theft" because the theft is carried out in a specific manner. The term that is considered appropriate is the one used by R. Soesilo (in his book "*Kitab Undang-Undang Hukum Pidana*"), namely "aggravated theft," because from this term it can be seen that due to its nature, the theft carries a heavier penalty.

Taking can be defined as committing an act against an object by taking it into one's actual and absolute control. The element of absolute and real transfer of control over the object is a prerequisite for the completion of the act of taking, which means it is also a prerequisite for the complete completion of a theft.

As previously stated, one of the objectives of Supreme Court Regulation No. 2 of 2012 is to reinstate criminal fines. The provisions for the crime of theft, both in the Criminal Code and in the 2012 Draft Criminal Code, all address the issue of criminal fines, which are imposed either cumulatively or as an alternative to imprisonment.

Based on the data or description above, the author is interested in researching this problem in the form of a journal with the title "Legal Review of the Evidence System in Handling Ordinary Theft Crimes"

Method

A method is a way of working or a technique used to understand the object of a particular science. Research, on the other hand, is a scientific endeavor aimed at revealing the truth systematically, methodologically, and consistently. Legal research is a scientific activity based on

specific methods, systematics, and thinking aimed at studying a particular legal phenomenon through analysis. Therefore, a research method is a scientific effort to understand and solve a problem based on a specific method.

The specification of this research is normative legal research, namely research that refers to legal norms contained in laws and regulations, literature, legal norms that exist in society and the data obtained are then analyzed to answer the problems in this research. The research is straightforward to analyze the application of laws, the type of research used is qualitative research, namely that which is carried out by examining library materials in the field of law and laws and regulations related to the problem of legal review of the evidentiary system in handling ordinary theft crimes.

Results and Discussion

Formulation of the problem

1. What is the scope of the crime of ordinary theft in the Criminal Code (KUHP) and the basis The issuance of Supreme Court Regulation No. 2 of 2012?
2. What Factors Contribute to the Rise in Ordinary Theft Crimes?
3. What are the obstacles faced by the police in handling ordinary theft crimes and how can they be overcome?

Discussion

Scope of the Crime of Ordinary Theft in the Criminal Code (KUHP) and the Basis Issuance of Supreme Court Regulation No. 2 of 2012

The definition of petty theft as regulated in Article 364 of the Criminal Code (KUHP) is a qualification given by law (KUHP) to the crime of theft with a certain loss limit that is considered light. According to Lamintang and Samosir, what is meant by petty theft or what is called "*geprivilegeerde dieftsal*" is an act of theft that has elements of theft in its basic form, which because it is added with other elements, the threat of punishment is reduced.

Therefore, to understand the crime of petty theft, it is necessary to first examine the crime of theft in its basic form. Theft in its basic form is regulated in Article 362 of the Criminal Code as amended by Perppu No. 18 of 1960, which states "Anyone who takes an item, which is wholly or partly owned by 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 nine hundred rupiah."

From the sound of these provisions, it can be seen that the act called theft according to Article 362 of the Criminal Code is a criminal act that fulfills the following elements:

1. The act of "taking"
2. What is taken is an "item"
3. The item must be "wholly or partly owned by another person"
4. The taking must be done "with the intention of unlawfully possessing the goods".

The formulation of Article 364 of the Criminal Code as amended by Perppu No. 16 of 1960 and Perppu No. 18 of 1960 itself reads as follows "The acts as described in Article 362 and Article 363 number 4, as well as the acts described in Article 363 number 5 (Criminal Code), if not committed in a house or enclosed yard where there is a house if the value of the stolen goods is not more than Rp. 250.00 (two hundred and fifty rupiah), is threatened as light theft with a maximum prison sentence of three months or a maximum fine of Rp. 900.00) nine hundred rupiah."

From this formulation it can be seen that minor theft not only contains special provisions for theft in its principal form (Article 362 of the Criminal Code), but also contains special provisions for theft in aggravating circumstances (Article 363 Paragraph (1) 4 and Article 363 Paragraph (1) 5 of the Criminal Code), so that what is meant by minor theft is Article 364 of the Criminal Code (as amended by Perppu No. 16 of 1960).

That the basis for issuing Perma No. 2 of 2012 is a philosophical basis, at least six year final since year 2009, judicial institutions Lots get attention big from society in particular

press in matter handling matters theft which in a way economics relatively small mark the loss.

Base juridical, value juridical related with giving legitimacy law. He appeared For answer authority law what/where Which become the basis For emit something legislation certain.

As has mentioned in background behind problems, provisions And explanation Chapter 79 Constitution Court Agung determines that Court Great own authority arrange in m matter "organization justice" or "the way "trial" if "there is things Which Not yet Enough arranged in Constitution" or "there is lack or emptiness law in a m matter".

Normative arrangements action criminal theft light as per the Author describe on Not yet can follow development society, in matter This specifically about values/limits action criminal theft light and the amount of the fine stated therein .

Since its validity Government Regulation in Lieu of Law No. 16 Year 1960 And Government Regulation in Lieu of Law No. 18 In 1960, until year 2012, Government and DPR No issue regulations Again For adapt development limitation action criminal or amount fine in Criminal Code, whereas mark Money And goods continue to experience change Which very significant. Absence arrangement about pen y esua ian more carry on the And reaction public wide towards the implementation enforcement the law, push Court Agung issued Perma No. 2 of 2012.

For can understand What Which underlying publication The regulation, must be We Look base philosophical, juridical, And sociologically. Dal a m Perma That Alone and doctor supporters y a, No in a way Enough clearly stated runway philosophical, juridical, and sociological issuance of Perma That, therefore following This Writer study about What In fact, these are the grounds which later became the justification for issuing the Perma.

These matters a number of among them is case theft three grains cocoa with Defendant Grandma Minah in Banyu m as Which on date 19 November m ber 2009 sentenced criminal during 1 month 15 day prison with time test 3 month, And case theft two kilogram kapok fruit (kapok) with Defendant Sweet, 2 person his son, and one his nephew.

Furthermore is case Aguswandi, owner at a time apartment residents ITC Rox y Sir Which reported by manager apartment (PT Jakarta Ray Intertrade) Because striking electricity from corridor 7th floor to the unit in number 8 on date 8 September 2009. Even though later by Court Great stated free with consideration electricity the is owned by together apartment residents. Then There is also case in Court Country Palu, Sulawesi Middle. A students Vocational School initials A A become a prisoner in chair defendant Because steal pair slippers.

Exposure press to matters the Also fishing for opinions public and observer Which criticize him as enforcement law Which contradictory with flavor social justice, as example is opinion EA The Ultimate who said, "No can avoided, theft is theft, how much even small mark Which stolen. Problem Which appear then is problem law from time to time only walk in place, as if sword goddess justice only directed on the poor .

Condition the in on give stigma to judicial institutions, that enforcement law in Indonesia No consistently implement principle *equality before the law* , Which arranged in Chapter 4 Verses (1) Constitution No. 48 Year 2009, that "The court judges according to the law without discriminating between people.

Justice is base philosophical Which main from every legislation. There is various draft about justice in in doctrine law, Wrong One draft about justice Which relevant with discussion This is Theory Justice John Rawls. In main idea theory justice according to Rawls, principles justice for structure public is objective from agreement.

Things It is principle Which will accepted people Which free And rational for chase interest they in position original when defining framework base association them . How view of principle justice This called justice as *fairness* . In justice as *fairness* , position equality original related with natural conditions in traditional social contract theory.

In position original public Indonesia, Kirana Y A all parties agree look at No *fair* , If something actions on trial in court on base something regulation legislation Which already left behind from development, Where with existence change value for money, somebody the caught threat Which more tall even though his actions should be considered a minor crime.

To matter the Subekti have an opinion that Supreme Court own a bit power legislative Which can regarded as something delegation power from maker law, namely power make regulation program Alone when it is considered need For complete law the event Which already available.

In preamble Permanent No. 2 Year 2012 mentioned five laws and regulations that form the legal basis, namely:

1. Chapter 24 Constitution 1945 as has changed And added with the Fourth Amendment of 2002
2. Law No. 1 of 1946 concerning Criminal Law (KUHP)
3. Government Regulation in Lieu of Law No. 16 of 1960
4. Government Regulation in Lieu of Law No. 18 of 1960; and
5. Supreme Court Law

Permanent this was born Wrong the only one dik a renakan provision Criminal Code jo. Government Regulation in Lieu of Law No. 16 years 1960 jo . Government Regulation in Lieu of Law No. 18 Year 1980 Already No in accordance again - as explained in Explanation General Per ma No. 2 In 2012 Because Already almost No There is goods Which the value is below Rp. 250.00 (two hundred and fifty rupiah).

Besides basics juridical Which mentioned in Perma considerations No. 2 Year 2012 the in on, post its validity Constitution about Formation Regulation Legislation in 2012, the authority Supreme Court emit Permanent emphasized Again with the inclusion of Permanent as regulation legislation even though only in group "regulation other legislation". Base juridical This required For ensure fulfillment of certainty law, For reach ideals country law as stated in Article 1 Paragraph (3) of the 1945 Constitution.

According to Sudikno Mertokusumo as quoted by Fernando Manulang, legal certainty is: "Protection justifiable to action arbitrary, which means that someone will can me get something expected under certain circumstances."

Certainty law That must become mark for every party in every joints life, in outside role country That Alone in the application law legislation and judiciary. Every person or party not permitted For behave action *se mena- mena*. Legal certainty poured in regulation legislation which should protect justifiable from action arbitrary. However when regulation legislation the No Again in accordance with the development public , so the tendency of *ya* instead it arises arbitrariness to justifiable in form of neglect by former Constitution, in here it is an antinomy of values arises between justice and legal certainty.

Mark sociological relate with relevance social a regulation legislation, like existence need social which encourages issuance something regulation. In inside will contains various interest, like economy, public, And cultural. In legislation He found in form constatation fact the one who preceded or underlying manufacturing something regulation, or the fact become background behind formulation relevance social the regulations.

About fact Which get ahead or m basic The creation of Perma No. 2 of 2012 has been discussed in the basic discussion philosophical in on, For explain about adan y a opinions about "injustice" in enforcement law against the perpetrator action criminal theft.

A number of consideration Which become the basis issuance Permanent This is Because since year 1960 whole value Money Which there is in Criminal Code Not yet Once readjusted, so the implication is that the article on ordinary theft is used (Article 362 Criminal Code) on action criminal theft light (Chapter 364 of the Criminal Code), and if the value of the money is adjusted to present condition, so handling case action criminal light can handled in a manner proportional remember threat criminal Which can dropped is just three month prison, suspect/defendant No can subject to detention, checked according to program inspection fast, And No a cassation appeal can be filed.

Background behind Court Great publish Permanent also mentioned mentioned "For make it effective return criminal fine and reduce burden Prison Which moment This Lots Which has exceeding its capacity, thus giving rise to new problems.

In discussion base sociological This Writer focus on the study on principles usefulness. As has mentioned in a m background behind per problem , And can seen also on basic discussion philosophical And base juridical in on, enforcement law against the act criminal theft light face something antino m i mark, between justice with certainty law, And as the solution needs to be studied from corner principles its benefits, as it is said by Radbruch, that all three must placed in a way proportional to achieve harmony .

According to theory utilitarian Bentham, criminalization should consider 'proportionality' between criminalization And his criminal act', with rule: criminalization must Enough more heavy from the profits Which Possible obtained by perpetrator actions criminal, the greater the criminal act, the greater the punishment.

In example case theft three cocoa beans, two kilograms of fruit cottonwood, or theft pair slippers Which mentioned in above, submitted to trial with indictment Chapter 362 Criminal Code, the threat the penalty most long five year prison, so that the consequences Also fulfil reason objective For can detained to suspect or defendant.

Matters that is so part sentenced criminal test or If the defendant during process inspection detained, sentenced criminal prison the length of time fitted with future detention Which has lived so soon after decision dropped convict can quick go out from prison, but sometimes There is also Which still sentenced criminal the prison that more heavy from That, Because of course threat the penalty is possible defendant sentenced criminal prison until most five years old.

According to Chapter 1 Number 2 Law No. 12 Year 2011, legislation is regulation written Which load no r ma huku m Which tie in a way general And formed or set by the institution country or officials Which authorized through procedure set in regulation legislation. Furthermore In Article 7 Paragraphs (1) and (2) it is determined that the types of statutory regulations consist of:

1. The 1945 Constitution of the Republic of Indonesia
2. Provisions Assembly Deliberation People
3. Law/Government Regulation in Lieu of Law
4. Government regulations
5. Presidential decree
6. Provincial Regional Regulations and
7. Regulation Regency/City Area, that with strength law regulation legislation in accordance

with the hierarchy.

Regulation Court Great (Permanent) in Law No. 12 2011 the categorized as type regulation legislation other, as mentioned in provision Chapter 8 Verse (1) that type regulation legislation besides as mentioned in Chapter 7 paragraph (1) covers regulation Which determined by Assembly Permusaan Rakyat, Board Representative Rakyat, Dewan Representative Area, Court Great, Court Constitution, Body Examiner Finance, Commission Judicial, Bank Indonesia, Minister, body, institution, or commission Which same level Which formed with Constitution, or Government on order law, Council Representative People Area Province, Governor, House of Representatives People Area Regency/City, Regent/Mayor, Village Head or equivalent.

Furthermore, in the provisions of Article 8 Paragraph (2) it is stated that regulation legislation as referred to in paragraph (1) is recognized and has legal force tie throughout ordered by regulation higher legislation or established based on authority.

Factors Causing the Rise in Ordinary Theft Crimes.

The evidentiary system in handling corruption crimes in Indonesia can assess the evidentiary strength of the existing evidence. Several evidentiary systems or theories are known. The evidentiary system aims to determine how to apply the results of the evidence to the case being examined. The evidentiary system is a regulation of the various types of evidence that may be used, the analysis of the evidence and the ways in which the evidence is used, and how the judge must form his or her conviction before the court.

Educational factors are seen as significantly influencing an individual's mental state, behavior, and especially intelligence. Crime is often attributed to low levels of education, and school failure is also linked to poor family upbringing. Crime and delinquency can also result from a lack of family education.

The failures of educational institutions are similar to those caused by family conditions. These conditions play a significant role in shaping a child's psyche. In this regard, RS Cavan, in his book "Criminology," adapted by GW Bawengan, argues that family conditions are one of the causes of crime because:

1. The family environment is the first social environment that a person is exposed to, therefore this environment plays a very important role as an experience for facing a wider society.
2. Because the family environment is the first environment a child encounters, he or she receives emotional influences from it. Satisfaction, disappointment, love, and hate will influence our character as we grow up in that environment and will determine our future.

The family is the beginning of human life, where humans are formed and educated. The family is the smallest unit within a society. Children's behavior is largely determined by the circumstances within the family. Harmonious relationships between parents and children are essential.

alibi used by perpetrators for committing crimes is economic necessity. While this is a cliché, the fact is that almost all perpetrators claim to be forced to commit crimes due to the demands of life. The cause of crime, triggered by the perpetrator's intent, coupled with opportunity, easily leads to repeated crimes. This factor is familiar to society and is commonly referred to as a social ill.

Opportunity Theory *Richard A. Cloward* and *Lloyd E. Ohlin* in their book *Delinquency and Opportunity* argue that the emergence of crime and its forms of behavior depend on opportunities, both the opportunity to comply with norms and the opportunity to deviate from norms. According to opportunity theory, there is a strong relationship between the living environment, economic structure and the behavioral choices they make next.

Social Learning Theory *The social learning* approach holds the assumption that a person's behavior is influenced by social experiences along with their values and expectations in social life. Crime can occur through *observational learning*.

This theory argues that no evil behavior is inherited from parents, but is learned by close association. Crime is no longer a gene or product, but a process or learning. Robert J. Havighurst said that life is learning, and so is crime.

Crime is a process of learning from others. According to this theory, criminals are open-minded individuals, who are willing to accept new information and different ideas.

Barda Nawawi Arief stated that the purpose of criminal punishment in Indonesia is to serve as a formulaic stage in law enforcement, closely related to the implementation of punishment, particularly imprisonment, and the development of prisoners as the execution stage of law enforcement. One way to understand the purpose of our criminal punishment is to examine existing laws and regulations, in this case the Criminal Code.

Determining the purpose of punishment presents a dilemma, particularly in determining whether punishment is intended to retaliate for a crime or whether it is a proper goal of the criminal process to prevent antisocial behavior. Finding a balance between these two perspectives, if unsuccessful, requires a new formulation of the system or purpose of punishment in criminal law. Punishment has several purposes that can be classified based on theories of punishment.

The purpose of punishment as stated by Andi Hamzah is as follows: "To frighten people so that they do not commit crimes, both to frighten many people (general prevention) and to frighten certain people who have committed crimes so that in the future those people do not commit crimes again."

According to Sudarto, the purpose of criminal punishment is essentially a general state objective. In this regard, legal policy means efforts to create criminal laws that are appropriate to the circumstances and situations at a given time and for the future. Sudarto further states that the purpose of criminal punishment is:

1. To scare people so that they don't commit crimes against the general public (general prevention) or to scare certain people who have committed crimes so that they don't commit crimes again in the future (special prevention).
2. To educate or correct people who have indicated that they like to commit crimes so that they become people of good character, so that they are beneficial to society.
3. To prevent the commission of criminal acts for the protection of the state, society and residents, namely to guide convicts to repent and become good and useful members of society and to remove the stains caused by criminal acts.

Economic factors, as a means of meeting daily needs, are closely linked to crime and cannot be separated. For example, in the current era, where the prices of basic necessities are soaring, and the prices of other necessities are increasingly alarming, people are willing to resort to anything to meet their needs, some even resorting to criminal acts.

However, this factor does not rule out the possibility of having an influence as a factor in unemployment, unfair distribution of income and wealth in society. Bonger admits this, he believes that it is true that economic conditions have an influence on crime. However, it must be noted that economic conditions are only part of other factors that also provide incentives and encourage crime.

Economic factors are likely to have a more direct impact on property crimes. Economic hardship, particularly in poor economic conditions, can lead to a sudden price increase, weakening economic reach, and the addition of a large family, which in turn weakens living standards. This, in turn, can lead to crime as a means of escape.

The problem of population growth not being matched by job opportunities. Many residents are unemployed. The fear of family breakdown is common in low-income communities because the husband, as head of the family, fails to meet his family's basic needs or perhaps because he remarries. Environmental factors contribute to the proximity of plantations to residential areas, which are separated only by high ditches. This makes it easier for thieves to operate.

Criminal acts are actions that violate the law and do not conform to the rules and norms (deviance) agreed upon in a society. New criminologists believe that deviant behavior, defined as crime, must be explained by examining the structural conditions within society, including the unequal

distribution of power, authority, and prosperity, as well as its relationship to various economic and political changes within the society.

Police Obstacles in Handling Ordinary Theft Crimes and How to Overcome Them

That the internal obstacles of the Police are inadequate facilities and infrastructure, inadequate facilities and infrastructure can make it difficult for investigators to carry out investigations, for example, fingerprint scanners are still conventional, so that it is difficult to find the identity of the perpetrator.

The police frequently experience network disruptions. The reason for this disruption is that thieves are more aware of when to act and are more advanced in their criminal activities. In this case, the stolen goods have been sold, which poses a challenge for police officers, and there is a lack of evidence to arrest the suspects.

The inadequate number of police officers in terms of quantity, the number of investigators is not proportional to the number of reports received by the police, this is of course not ideal, resulting in the police not being able to carry out their duties optimally.

Meanwhile, external obstacles within the police force include a lack of evidence and witnesses, often lacking or even non-existent, as witnesses are needed to obtain information related to theft. Evidence and witness testimony are crucial for the smooth running of theft investigations.

The public was apathetic in assisting the police. When questioned by investigators, witnesses were less than clear in their statements, preventing investigators from obtaining information about the true chronology of events. Furthermore, the police also need the public's participation in solving the case by acting as a network for information on theft.

Supporting facilities at the crime scene were inadequate. These facilities are specifically designed to determine the chronology of an incident, in this case, theft. This included the lack of CCTV cameras. As a result, investigators were unable to obtain detailed information about the perpetrators and had difficulty identifying all the necessary information.

As previously stated, one of the objectives of issuing Perma No. 2 of 2012 is to make the criminal fines more effective. The regulation of the crime of theft, both in the Criminal Code and in the Draft Criminal Code of 2012, all regulate the issue of criminal fines which are threatened either cumulatively or alternatively with imprisonment, therefore in this sub-chapter, the suitability of criminal punishment (especially criminal fines) with the purpose of criminal punishment in law enforcement against the crime of petty theft is discussed.

The obstacle to establishing and implementing limits on petty theft and the amount of fines is the disparity in economic conditions between regions in Indonesia. Certain items considered highly valuable in one area may be considered worthless in another.

For the amount of the criminal fine adjusted to Perma No. 2 of 2012, this is not a problem, because the judge can impose a fine from the general minimum limit to a specific maximum that has been adjusted, depending on the judge's discretion to consider the Defendant's ability and the economic conditions of the local community.

The issue at hand is determining the limits of minor crimes. This issue of determining the limits of minor crimes also relates to the issue of justice from the victim's perspective. In a region with a low economic level, the value of money and goods naturally becomes so high that what might be relatively insignificant in a region with a relatively high economy can become incredibly valuable to a victim with a low economic level, perhaps even their only valuable possession.

This can be addressed by broadening the criminal penalties while still classifying the crime as petty theft. Regarding the Rp. 2,500,000.00 limit stipulated in Supreme Court Regulation No. 2 of

2012, the Supreme Court's consideration of using gold price comparisons is acceptable, as it is a more certain and rational method for comparing price differences over time.

Regarding the criminal threat, the Author agrees with the criminal threat for minor theft as stipulated in the Draft Criminal Code, that minor theft is threatened with a maximum prison sentence of 6 (six) months or a maximum fine of Category II, with the note that as long as provisions are also made in the amendment to the Criminal Procedure Code that specifically for minor theft, even though it is threatened with a maximum prison sentence of 6 (six) months or a maximum fine of Category II, the theft is still included in the case examined with the examination procedure for minor crimes.

The rationale is that in reality, changes/increases in the value of money vary from region to region, depending on their level of economic growth. Therefore, by expanding the criminal penalties, judges adjudicating theft cases in low-income areas can still consider the extent of the victim's subjective loss or the extent of the perpetrator's actions on the victim and the environment where the law was violated.

That the purpose of punishment is a benchmark in punishment, to assess whether a punishment is in accordance with the purpose of punishment itself. In the *utilitarian view*, what is seen is the situation or condition that is intended to be produced by imposing punishment, and the imposition of punishment must be seen from the perspective of its purpose, benefits, or usefulness for improvement and prevention.

On the one hand, punishment is intended to improve the convict's attitude or behavior so that they will not repeat the same act. On the other hand, punishment is intended to deter others from committing similar acts. According to Bentham's concept of "*pleasure*" and "*pain*," the good or bad of a law must be measured by the good or bad consequences resulting from its application.

A new legal provision can be considered good if the consequences resulting from its application are goodness, maximum happiness, and reduced suffering. Conversely, a legal provision is considered bad if its application produces unjust consequences, harm, and only increases suffering.

Considering the minor nature of this petty theft crime, of the four subordinate objectives of punishment according to Bentham, there are two subordinate objectives of punishment that are the purpose of punishment for this petty theft, namely the first subordinate, to prevent all kinds of crimes as much as possible, and the fourth subordinate, to act with the least cost. Whatever the crime, prevention is carried out with the least possible cost.

The existing regulation and imposition of fines do not yet have a proper and adequate place within the framework of criminal penalties, particularly for crimes punishable by short-term imprisonment and crimes motivated by or related to property or wealth. To make fines effective, two factors must be considered:

1. In the view of several scholars and in the regulations and implementation in several countries, fines can replace corporal punishment, especially short-term corporal punishment (short-term imprisonment), because short-term corporal punishment has weaknesses and shortcomings in its implementation.
2. A fine will reduce the stigmatization of the perpetrator because the perpetrator is not uprooted from his family environment or social life, while maintaining general prevention against the purpose of punishment and paying attention to the goal of balancing between individual and social *damages*.

In addition to what Suhariyono said, Jan Rimmelink argued that another advantage of fines is that convicts generally won't lose their jobs, and the fines can be easily enforced (if necessary, in installments). Fines also provide a general deterrent effect, and the state doesn't suffer any losses from the imposition of fines.

In line with this opinion, Niniek Suparni stated that the criminal fine itself is still felt to not fulfill the objectives of criminal punishment due to several factors, one of which is because the value of the threat of criminal fine is felt to be too low, so that it does not correspond to the harmony between the objectives of criminal punishment and the sense of justice in society.

With the adjustment of the amount of fines in the Criminal Code (maximum threat of criminal fines in the Criminal Code x 10,000) based on Perma No. 2 of 2012, the problem of the value of the

threat of criminal fines that is felt to be too low can be overcome, and the criminal fines threatened will be more in line with the development of society.

In accordance with Suhariyono's opinion above, that a fine will reduce the stigmatization of the perpetrator because the perpetrator is not uprooted from his family environment or social life, Niniek Suparni also argues that one of the weaknesses of the punishment of deprivation of liberty - especially short-term imprisonment - will hinder efforts to develop the convict, besides that it will only provide the opportunity for the convict while in the State Detention Center or Correctional Institution to learn from professional criminals, so that after serving his sentence he will become even more evil, not to mention the costs that must be borne by the State if the perpetrator of petty theft must be sentenced to imprisonment, which *in fact* must be borne by the community itself.

Based on this, imposing a fine on perpetrators of minor theft will be more beneficial, both for the perpetrator, society, and the state itself. Meanwhile, the victim will still receive justice, because the fine imposed on the perpetrator (should) be proportionally higher than the loss suffered by the victim, in accordance with the *utilitarian principle* of proportionality between punishment and criminal acts, that "*The punishment must be great enough to outweigh the profit that the offender might get from the offense*".

The shift in criminal penalties, which has replaced the role of fines with the role of freedom, is oriented towards increasing the welfare and financial capacity of all segments of society. Generally, theft is committed to meet the necessities of life, which means that the level of welfare in Indonesian society is still less than adequate.

The problem is how a thief who takes money or goods because he doesn't have any money, is then punished by having to pay a fine. The same is the opinion of the Judges in the District Court that perpetrators of petty theft are generally people who are unable and commit the crime because of the motive of fulfilling economic needs, so that a fine is not appropriate to be applied to perpetrators of petty theft.

In the Draft Criminal Code, although there is no provision that in imposing a fine on the perpetrator, it must also consider the perpetrator's ability, and of course the punishment imposed must not exceed the minimum required to make it effective, which is said in utilitarian terms as "*The amount of punishment should never be greater than the minimum required to make it effective*", which in the Draft Criminal Code of 2012 this is clearly regulated in Article 81.

This aligns with Rummelink's opinion, which states that when considering the fine imposed, the judge must consider the defendant's financial capacity. However, financial capacity should not be understood in a narrow technical or financial context. The purpose of this principle is to serve as a benchmark for maintaining material balance in imposing the severity of criminal sanctions.

The first requirement for a punishment to be effective is that the punishment can be implemented. To be able to implement a fine, there needs to be regulations that provide convenience, such as the possibility of paying the fine in installments and paying the fine by taking it from the convict's assets or income, which has been accommodated in the provisions of Article 82 of the 2012 Draft Criminal Code. If this is also not possible, then the last resort is to implement a substitute punishment which is always imposed as a subsidiary in lieu of a fine.

Regarding the implementation of this fine, Mardjono Reksodiputro is of the opinion that there is a tendency for convicts to prefer to serve a substitute sentence rather than pay a fine, so that they can still enjoy the results of their crime, therefore Mardjono suggests that for convicts who are able to pay a fine, the fine must be carried out first, it cannot be immediately replaced with corporal punishment, in fact the judge can impose a fine sentence without being accompanied by provisions for a substitute sentence.

Regarding the problem of repeating criminal acts (*recidiving*), in the Criminal Code this is an aggravation of the sentence. The provisions of *recidivism* concerning the crime of theft are regulated in Article 486 of the Criminal Code which stipulates that, "The prison sentence formulated

in Article ..., 362, 363, 365 Paragraphs One, Two, and Three, ... may be increased by one third, if the person guilty when committing the crime has not yet passed five years since serving all or part of the prison sentence imposed on him.

From the wording of the provisions, it can be seen that minor theft (Article 364 of the Criminal Code) is not included in the criminal acts listed in the provisions on *recidivism*. This is different from the provisions in the 2012 Criminal Code Bill which regulates *recidivism* in general provisions, which determine that factors that aggravate the crime include repeating the crime, with the provision that the aggravation of the crime is an addition of 1/3 (one third) of the maximum criminal threat.

The issuance of Supreme Court Regulation No. 2 of 2012 is an effort to achieve the objectives of criminal punishment, which in this case prioritizes the effectiveness of fines for minor crimes, particularly petty theft. These fines can be effective in achieving the objectives of criminal punishment.

Conclusions and Recommendations

The scope of the crime of ordinary theft in the Criminal Code (KUHP) and the basis The issuance of Perma No. 2 of 2012 is a philosophical basis, at least six year final since year 2009, judicial institutions Lots get attention big from society in particular press in matter handling matters theft which in a way economics relatively small mark the loss. Base juridical, value juridical related with giving legitimacy law. He appeared For answer authority law what/where Which become the basis For emit something legislation certain .

Factors that cause the rise in ordinary theft crimes are education factors which are seen as having a significant influence on the individual, both in terms of mental state, behavior and especially on the level of intelligence. Crime is often symbolized by low education and failure in school, also developed into poor family education. Crime and delinquency can also be the result of a lack of education from the family.

The police's obstacles in handling ordinary theft crimes and how to overcome them , that the internal obstacles of the police are inadequate facilities and infrastructure, inadequate facilities and infrastructure can make it difficult for investigators to conduct investigations, for example, fingerprint scanners are still conventional, so that finding the identity of the perpetrator is difficult. That in the Police for the network often disconnected information, the cause of this disconnection of the information network is because the perpetrators of theft are more aware of the time to act and are more developed in carrying out their crimes. The stolen goods in this case have been sold so that it becomes an obstacle for the Police, and there is no evidence by the Police to arrest the suspect. And the inadequate number of Police members in terms of quantity, the number of existing investigators is not comparable to the number of reports received by the Police, this is of course not ideal so that it causes them to not be optimal in carrying out their duties.

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