



Serial theft from a criminal law perspective: A juridical analysis and a humanistic legal approach (study of decision No. 140/Pid.B/2024/PN.Kbu)

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ABSTRACT

The escalation of aggravated theft as a conventional crime is increasingly disturbing the public, thus demanding stricter law enforcement. The urgency of this research is motivated by the complexity of judicial practices in applying aggravating elements which often trigger legal debate and legal uncertainty. This study examines in depth the Decision of the Kotabumi District Court Number 140/Pid.B/2024/PN.Kbu regarding the crime of aggravated theft as regulated in Article 363 paragraph (1) 4th and 5th of the Criminal Code. Using a juridical-normative method, this research is based on primary data in the form of judge's decisions and secondary data including statutory regulations and related legal literature. The study findings indicate that although the "aggravating" element has been legally fulfilled in this case, there is still a disparity in interpretation among law enforcement, particularly in distinguishing the roles of the main perpetrator and the accomplice. In addition, it was identified that economic pressures, a permissive social environment, and group ties have contributed significantly to the occurrence of this collective crime. Therefore, this study recommends the need for reform of criminal norms and the implementation of community-based prevention strategies as a more integrative solution in tackling crime.

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1. Introduction

Theft remains the most common form of conventional crime and dominates crime statistics in Indonesia (Sugiharti et al., 2022). According to the National Police Criminal Investigation Agency's Annual Report, theft accounts for 22.3% of all reported crimes nationally, with a significant proportion coming from aggravated theft. Of these, the majority are aggravated theft as regulated in Article 363 of the Criminal Code, including theft committed by a group or association. The crime of aggravated theft (*curas*) is a concern because it involves more than one person in its execution (Hutabarat et al., 2024).

Group theft carries a greater potential risk than individual theft (Tarjo et al., 2022). In practice, collective theft often involves role allocation, surveillance, the use of getaway vehicles, and threats of violence. However, the majority of previous literature tends to focus solely on criminological aspects and *modus operandi*, without exploring in depth the tension between formal legality and substantial justice in the imposition of sanctions. There is a scientific gap in the lack of studies examining how the application of the "aggravating" element to cases involving minor material losses can actually undermine the sense of justice if not approached from a humanistic legal perspective. Therefore, group theft is not only viewed as a crime against property but also as a serious disruption to the public's sense of security (Milanovic, 2023). This requires the criminal justice system to provide a proportionate response based on a structural understanding of group behavior in crime (Rahayuningsih et al., 2025).

The core issue raised in this study is the disparity between the rigidity of the application of aggravating articles and the relatively minimal value of the victim's losses, which has sparked debate about the proportionality of punishment. The phenomenon of aggravated theft not only reflects normative criminal law issues, but also the complex social dynamics of society (Utami et al., 2025). Therefore, the study of court decisions that try cases like this has a dual meaning, namely as material for evaluating the justice system and a reflection of the causes of social crimes (*crime causation*) (Perbawa et al., 2024). Decision No. 140/Pid.B/PN. Kbu is an actual case at the Kotabumi District Court which sentenced three defendants for aggravated theft.

This case involves three defendants, namely Cecep Supriyadi Bin Madi (deceased), Masri Bin Sanar, and Rohmat Bin Muhari who were charged with the crime of Theft with Evidence along with one fugitive. This planned theft occurred in the early hours of March 28, 2024, at around 01.00 WIB, at the Chicken Coop owned by Muhammad Nafsir Bin Jamaluddin in Kotabumi, North Lampung. This plan was instigated by Defendant I, Cecep Supriyadi, who was a former worker at the location. After gathering and agreeing, they went to the location using Defendant III's motorbike. As a result of their actions, the victim suffered a total loss of Rp5,100,000.00.

Their *modus operandi* was clearly divided with Defendant I, Cecep Supriyadi, who entered the cage by climbing and tearing the tarpaulin cover to take the stolen goods. Defendant III, Rohmat Bin Muhari, was in charge of supervising and receiving the stolen goods from Defendant I. Meanwhile, Defendant II, Masri Bin Sanar, played a role in transporting and hiding the stolen goods in his house. The items they managed to steal included 1 lawn mower, a water machine, an air rifle, and several LPG gas cylinders. This theft is considered aggravated because it was carried out by more than two people in a group and entry was done by climbing or damaging.

The Panel of Judges at the Kotabumi District Court finally declared the three Defendants guilty, each sentenced to 3 (three) years in prison, minus the time already served. This decision is interesting to study because although formally the aggravating element was fulfilled, the imposition of a 3-year prison sentence for losses amounting to Rp. 5,100,000.00. This raises serious questions regarding the effectiveness and purpose of the punishment. This condition raises questions about the proportionality of the punishment, whether the severity of the crime is balanced with the level of violation and the social impact it causes. As evidence, the stolen lawn mower was ordered to be returned to the victim, while the Yamaha Jupiter MX motorcycle used to commit the crime was determined to be confiscated for the State. The Defendants were also required to pay court costs. Based on the cases described, this study will discuss the evaluation of the application of the law in decision No. 140/Pid.B/PN.Kbu.

The purpose of this study is to evaluate the application of material criminal law in decision No. 140/Pid.B/PN.KBU and to examine it based on the theory and provisions of positive criminal law regarding collective behavior in the crime of theft as a basis for formulating future crime prevention policies.

Therefore, the novelty and primary contribution of this research is to offer a critical evaluation of the application of substantive criminal law by integrating proportionality theory and a

humanistic legal approach. Unlike previous research that focused solely on specific articles, this research urges a paradigm shift from merely punishing the perpetrator to restoring balance in cases of small-scale theft. This research is expected to contribute to the development of criminal law theory related to inclusion and serve as a reference in the formulation of crime prevention policies. This research is important not only to address theoretical debates in criminal law but also to develop a responsive approach to crimes involving more than one perpetrator in an increasingly complex society. Although the verdict has sentenced the defendants based on valid evidence, there are interesting issues from the perspective of the principles of justice and humanity. In this case, the victim's loss was only Rp5,100,000.00, while each defendant was sentenced to 4 (four) years and 3 (three) months in prison. This condition raises questions about the proportionality of punishment, namely whether the severity of the crime is commensurate with the level of violation and the resulting social impact.

According to the theory of proportionality, punishment should consider the balance between the act, the error, and the punishment imposed, so as not to create new injustices for the perpetrator and the victim (Setiawan et al., 2024). In this context, a punishment that is much heavier than the value of the harm can give rise to ethical debates about the extent to which humanitarian principles are accommodated in criminal justice practices. Therefore, this study is also important to examine whether the decision has reflected a sense of substantive justice and humanity, in accordance with the basic values of modern criminal law which are not only repressive but also humanistic and proportional (Hamdan & Yarni, 2025).

2. Method

This study is classified as normative legal research. The main method applied is an integrated *juridical-normative* approach. This study uses an integrated juridical-normative approach. The juridical-normative approach is used to analyze how criminal law provisions, especially Article 363 Paragraph (1) 4 and 5 of the Criminal Code, are applied in judicial practice to cases of theft committed jointly (Ilmiah & Indonesia, 2025). This analysis was conducted through a study of the Kotabumi District Court Decision No. 140/Pid.B/PN. KBU is the main legal source in this study. This approach aims to evaluate the consistency between norms written in laws and their implementation in court decisions (Alfons et al., 2024).

Secondary sources include relevant laws and regulations, such as the Criminal Code, as well as scientific literature including legal journals, textbooks, and recent jurisprudential documents. Data collection techniques are conducted through document and literature studies, then analyzed qualitatively by identifying legal elements, the construction of the judge's considerations, and the arguments used in the evidence (Reed & Rudman, 2023). This legal review is also complemented by comparisons with similar decisions from other courts to test the consistency and application of the doctrine (Wicaksono & Rahman, 2022). The data analysis technique applied is descriptive qualitative through the study of jurisprudential documents. The stages of analysis include: (1) Identification of legal issues related to proportionality; (2) Inventory and systematization of legal materials; (3) Systematic legal interpretation of jurisprudence and norms; and (4) Drawing deductive conclusions (deductive reasoning) to test the consistency of the judge's decision with the aim of just sentencing.

3. Analysis and Results

This case is based on Kotabumi District Court Decision No. 140/Pid.B/2024/PN. KBU related to the crime of aggravated theft committed jointly by three defendants, namely Cecep Supriyadi Bin Madi (deceased), Masri Bin Sanar, and Rohmat Bin Muhari, along with one other person who is still a fugitive. This incident occurred on March 28, 2024 at around 01.00 WIB in a chicken coop owned by Muhammad Nafsir Bin Jamaluddin in Kotabumi, North Lampung.

The defendants' actions were premeditated. Cecep, who worked at the location, invited two colleagues to take items such as a lawn mower, two watering machines, a spray tank, an air rifle, and several LPG gas cylinders. In carrying out the robbery, Cecep acted as the main

perpetrator who entered the location by climbing over and damaging the tarpaulin of the cage. Rohmat supervised and received the stolen goods, while Masri was in charge of preparing the vehicle and storage area. As a result of this action, the victim suffered a loss of approximately Rp5,100,000.00.

The panel of judges assessed that the defendants' actions fulfilled the elements of Article 363 paragraph (1) 4 and 5 of the Criminal Code, namely "carried out by two or more people in collusion" and "carried out by climbing or damaging." The element of collusion was proven because there was a division of roles and joint implementation. With these considerations, each defendant was sentenced to three years in prison (Akhtar, 2024).

From a legal perspective, the application of this article demonstrates the accuracy of enforcing substantive criminal law norms, particularly regarding participation (*medeplegen*) (Ariatmoko, 2024). The judge interpreted the element of association through three main indicators: an agreement to commit theft, coordination prior to its execution, and the active role of each perpetrator in the crime (Mahendra, 2025). Thus, all defendants are deemed to have the same level of criminal responsibility for their participation from the planning stage to its execution.

However, when viewed from the theory of proportionality, the issue of balance arises between the severity of the punishment and the level of culpability and the social impact of the act. To test whether this decision is in line with the principle of proportionality of punishment, this analysis focuses on three main parameters that must be met: a. The level of culpability of the perpetrator b. The value and impact of the loss suffered by the victim c. The balance between the punishment imposed and the purpose of punishment (especially the aspects of rehabilitation and substantive justice). This theory emphasizes that the crime must be commensurate with the actions and culpability of the perpetrator so as not to create new injustice (Fadillah, 2024). In this case, the victim's loss was relatively small, only around Rp. 5 million, but the sentence imposed reached three years in prison for each defendant. Normatively, the decision is valid according to Article 363 of the Criminal Code, but from the perspective of substantive justice, questions arise whether the sanction has reflected human values and the balance between actions, intentions, and consequences (Coca-Vila, 2024).

The principle of proportionality is also closely related to the concept of humanist criminal law, namely the view that punishment is not merely retaliatory, but rather aims to improve and restore the perpetrator so that he can return to society (Faizan et al., 2025). Punishment must not only provide a deterrent effect, but also consider the perpetrator's humanitarian dimension (Saragih et al., 2024). The defendants in this case came from a low economic background and worked as daily laborers without a fixed income. From a moral and social perspective, excessively harsh punishment for perpetrators with economic motives has the potential to give rise to new injustices that contradict the principles of humanity.

Within a humanist legal framework, justice is not solely measured by the fulfillment of the elements of the article, but also by the justice system's ability to uphold humanitarian values (Mahfud & Borman, 2025). Modern criminal law should no longer focus on *retributive justice*, but prioritize *restorative justice* and social balance (Sunggara, 2024). Therefore, in cases involving minor losses and economically marginalized perpetrators, judges should consider imposing lighter or alternative sentences, such as social work or community development.

A comparison with the Lahat District Court Decision No. 203/Pid.B/2021/PN. LLG demonstrates the importance of consistently applying the principles of proportionality and humanity in sentencing. In this case, despite involving more than one perpetrator, the judge only sentenced him to 1 year and 6 months in prison due to the lack of planning and a clear division of roles. The significant difference between these two decisions demonstrates the lack of a uniform standard for assessing the severity of a crime based on the perpetrator's role and level of culpability (Freitas et al., 2024). The Lahat District Court decision is important not as a primary, binding legal basis, but rather as a reminder of the significant disparity between the courts' assessments of small-scale theft and small-scale crime.

In criminal justice practice, it is often difficult to distinguish between the principal perpetrator (*medepleger*) and the secondary perpetrator (*medeplichtige*), so that perpetrators with minor contributions often receive sentences as severe as those of the dominant perpetrator (Bijleveld et al., 2022). This situation obscures the principle of proportionality and has the potential to reduce substantive justice. Therefore, jurisprudential guidelines or policy reformulation are needed that clarify the boundaries between the roles of principal and secondary perpetrators so that judges can impose sanctions more fairly and humanely (Zahlan & Fakrulloh, 2024).

Thus, although Decision No. 140/Pid.B/2024/PN.Kbu is legally correct in the application of positive criminal law, from the perspective of proportionality and humanist law, this decision still leaves criticism. The three-year prison sentence is considered not to fully reflect the balance between legal certainty and substantive justice (Santosa, 2020). A more contextual approach to sentencing is needed, taking into account socioeconomic background, level of culpability, and the resulting impact, so that the law truly functions as a means of protecting humans and realizing human values (Sahyana et al., n.d.). Therefore, the decision of the PN.KBU which is legally considered appropriate actually must be criticized because it does not fully consider human values and the origin of substantive justice, which should be a guideline for judges to impose fairer sanctions.

Overall, the legal analysis of this decision demonstrates that the ideal application of criminal law requires not only legal certainty but also a balance between justice, expediency, and humanity (Efendi & Rahmadan, 2025). The integration of proportionality theory and a humanist approach is an essential foundation for building a correctional system that not only punishes but also restores the dignity of the perpetrator and protects human values in criminal justice practices in Indonesia.

4. Conclusions

Based on an integrated juridical-normative analysis, it was concluded that the Kotabumi District Court Decision No. 140/Pid.B/2024/PN.Kbu was formally correct in applying Article 363 of the Criminal Code regarding the elements of the crime. However, critical findings indicate a striking disparity in sentencing.

In contrast to similar rulings in other courts (which demonstrate less lenient jurisprudence), the three-year prison sentence for damages of Rp5.1 million in the Kbu District Court was deemed disproportionate. This disproportionality occurred because the panel of judges failed to fully integrate the theory of proportionality and the principles of humanist law, thus violating substantive justice and the purpose of sentencing.

This research suggestion is aimed at developing judicial theory and practice, as well as being a new contribution: a) For Judicial Practice (Contribution to Practice): It is recommended that judges consistently and transparently use the tripartite proportionality analysis (Level of Fault, Impact of Harm, and Purpose of Punishment). Judges are required to consider socio-economic mitigating factors in cases of aggravated theft with small-scale losses, to avoid inconsistencies and disparities in Indonesian jurisprudence; b) For Norm Reform (Contribution to Theory): The government and legislators need to review the sentencing norms in the Criminal Code that regulate minimum sanctions (if any) for certain conventional crimes, to provide greater flexibility to judges in implementing restorative justice, especially in cases triggered by humanitarian factors; c) For Further Research (Contribution to Further Research): It is recommended that further research be conducted focusing on the effectiveness of restorative approaches in the context of collective crime. Future research could also compare the impact of imprisonment versus alternative sanctions on offender rehabilitation and social reintegration.

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