
JURIDICAL ANALYSIS OF PROVING GUILT IN PARTICIPATING IN THE CRIME OF THEFT ACCORDING TO PROVISIONS OF ARTICLE 55 OF THE CRIMINAL CODE (Study Decision Number: 15/Pid.S/2024/PN.Stb)

Asmita Br. Sitepu¹, Mhd. Azhali Siregar²

^{1,2}Master of Law, Universitas Pembangunan Panca Budi, Medan

Email : mithanew2@gmail.com

Abstract

This study examines and examines participation (*deelneming*) which, among other things, includes the form of participation/involvement of a person both psychologically and physically by doing an act so that a criminal act occurs. The inclusion penalty is regulated in Article 55 of the Criminal Code which means that there are two or more people who commit a criminal act. This research is a type of normative research using secondary legal sources and using qualitative descriptive analysis. The results of this study show that the forms of participation can be divided into two parts, namely: *first*, the maker consisting of: the actor (*pleger*), the *doenpleger*, the participant (*madepleger*) and the advocate (*uitlokker*); *Second*, the helper consists of: the helper at the time the crime is committed and the helper before the crime is committed.

Keywords :

Proof, Participation, Theft, Plantation

A. Introduction

Indonesia is a State of law, stated in the Explanation of the 1945 Constitution affirming that the State of Indonesia adheres to the Principle of Law (Rechtstaat) not a state of power (Machtstaat) which is regulated in Article 1 paragraph (3) of the 1945 Constitution which stipulates that "The State of Indonesia is a State of Law" (1945 Constitution), the provisions of this article are the constitutional foundation of the State of Indonesia based on law, law is placed as the only rule of law in the order of society, in the nation and state (supremacy of law) (Yahman and Nurtin Tarigan, 2019), the law functions to regulate, limit human behavior so that it is appropriate and does not deviate from the norms in society, as well as protecting the community from crime or criminal acts.

Criminal acts are human behavior that is formulated in law, against the law, which should be punished and committed with an offense, a person who commits a criminal act will be held accountable for the act with a criminal offense if he has a fault, a person has a fault if at the time of committing the act is seen from the perspective of society showing a normative view of the offense committed.¹

There are various laws that apply in Indonesia, one of which is criminal law, criminal law as a public law aims to prevent or inhibit acts in society, which are not in accordance with the applicable legal rules, "Criminal law is an order and prohibition regulated by the State and that is threatened with a punishment (criminal) for those who do not obey it, all the rules that determine the conditions for the consequences of the law and all the rules for making (imposing) and executing the criminal order" (Moeljatno, 2008), from the above definition, it can be seen that the criminal law can give birth to elements including: (1) Prohibited acts, namely acts that are contrary to the rules of criminal law,

¹ R. Soesilo, *Criminal Code*, Politeia Publisher, Bogor, pages 62-63.

(2) Perpetrators, namely people who commit acts that are prohibited according to the rules of the criminal law called, suspects, defendants, convicts.²

These two elements are a series of interrelated elements, so that they must always exist in every problem related to criminal law, thus it can be seen that the law regulates society appropriately and beneficially by determining what is required, with such legal arrangements it can be known which acts are against the law and the reasons for a person committing an act that is against the law can also be known. At present, the basis for sentencing is a sense of justice and protecting the community, a sense of justice requires that a sentence must be in accordance with the magnitude of the offense committed, in the Criminal Code the severity of the sentence that must be imposed for perpetrators of criminal acts such as theft, murder, rape, and others already has its own provisions, but the severity of the sentence cannot be fully applied by judges.³

Plantation practices regulated by the Plantation Law Number 18 of 2004 are no longer adjusted to the dynamics of society and legal needs. local, failing to provide optimal results, and adding added value, even can't. Therefore, it must be replaced with Law Number 39 of 2014 concerning Plantations. The crime of oil palm theft is common. Moreover, the perpetrators are usually residents who live around the plantation area. Harvested palm oil can be easily sold, but the price is so high that it is an easy target for thieves. If this continues, companies that grow oil palm fruit will continue to suffer losses, affecting their health and profits. So it is important for action to end the crime of oil palm fruit theft.

Law Number 19, Article 39 of 2014 concerning Plantations, consists of Article 118, these articles contain provisions on the crime of theft committed in plantation areas. Law Number 39 of 2014 concerning Plantations states that Indonesia as an agrarian country has abundant natural resources consisting of soil, water and natural resources contained in it. This opportunity is a gift and decree of God Almighty and must be used to achieve the general welfare and prosperity of the people as stipulated in the Constitution of Pancasila and the Unitary State of the Republic of Indonesia in 1945. There is no provision for crimes in the legal regulations. Regarding the provisions of the criminal law contained in Articles 103 to 113, especially Article 39 of 2014 concerning Plantation Regulation in Chapter 17 of the Law on On-site Procedures.

Regarding the case as decided in the Decision of the Stabat District Court Number: 15/Pid.S/2024. The defendant Bayu Setiawan has been legally and convincingly proven guilty of committing the crime of "Participating in the act, ordering to commit or participating in the act illegally, harvesting and/or collecting plantation products" violating Article 107 letter d of Law of the Republic of Indonesia Number 35 of 2014 concerning Plantations Jo Article 55 paragraph (1) 1 of the Criminal Code.⁴

Based on the facts of the trial, it was revealed that the defendant had taken 2 (two) plastic jute of palm fruit belonging to the plantation without a permit containing a bunch of palm fruit weighing approximately 50 (fifty) kilograms by riding 1 (one) unit of Honda Verza 5990 PAN brand motorcycle without permission.

Specifically regarding the crime of theft, Article 107 states that "illegal":

1. Use, work, occupy, and/or control Plantation Land
2. Cultivating, occupying, utilizing and/or managing community land or indigenous peoples' customary land for agriculture
3. Cutting down trees in planting areas or

² Agusman Heri, "Juridical Analysis of the Crime of Participation in Murder (Study of Supreme Court Decision Number 2462/Pid.B/2017/PN Medan 2018)," *Journal of Abdi Ilmu* 11, No. 2 (2019) : page 131

³ Zamhari Abidin, *Definition and Principles of Criminal Law in Schema (Chart) and Synopsis (Brief Notes)* (Jakarta: Ghalia Indonesia, 1986), page 32.

⁴ Teguh Prasetyo, *Criminal Law* (Jakarta: RajaGrafindo Persada, 2019), page 206.



4. persons who unlawfully work, use, occupy and/or control plantation land, who work, use, occupy and/or control rights to customary land of a community or Aboriginal law community for the benefit of plantation business; Harvesting and/or collecting plantation products as referred to in Article 55 shall be punished with imprisonment for a maximum of 4 years or a maximum of a fine of Rp.4000,000,000.00 (4 billion rupiah)

Because plantation crimes are specifically regulated in Law Number 39 of 2014 concerning Plantations, the mechanism of criminal justice and the imposition of criminal sanctions must be coordinated with the law. In terms of legal rules for oil palm theft based on Law Number 39 of 2014, if the victim is a company with a land area of 25 hectares or more and has obtained a farming license from the government, but if the victim is: An individual who cannot be subject to article d and cannot be subject to article 362 or 363 of the Criminal Code.⁵

The implementation of the Plantation Law in handling the theft of oil palm plantation products in the Jurisdiction of the Langkat Police in terms of legal rules for oil palm theft based on Law Number 39 of 2014 if the victim is a company that has a land area of more than 25 hectares and already has a plantation permit from the Government, but for cases where the victim is an individual, it cannot be subject to Article 107 Letter d of Law Number 39 of 2014 and is subject to Article 362 or Article 363 of the Criminal Code.⁶

Article 362 of the Criminal Code regarding the activity of taking property of another person states that "Whoever takes all or some parts of another with the intention of unlawfully possessing is threatened with theft, imprisonment for a maximum of 5 years or a fine of up to 9 years.." The core part of evil (*delict bestanddelen*) is:

1. Whoever
2. Take, The word grab (*wegnemen*) in a narrow sense is limited to moving hands and fingers, grabbing an object, and turning it over. An act carried out can also be interpreted as an act in which the goods produced are under the control of the person who does it or the goods are beyond the control of their owners. If the goods are controlled by the perpetrator, even if they are later disclosed, then the retrieval has been completed because he has known.
3. Something stuff. Items that have economic or non-economic value, such as used train tickets and keys, are items that allow the perpetrator to enter other people's homes.
4. The product is wholly or partially owned by another person All goods confiscated by the perpetrator do not have to belong to anyone else, and the goods may belong to the victim and the perpetrator or to be jointly owned.
5. For the purpose of illegal ownership, the act of taking another person's property is an act where the perpetrator owns the goods at will without the right or authority of the perpetrator. Thus, the perpetrator must understand that the confiscated goods belong to someone else.

However, in this case, there has been peace between the defendant and the plantation as stated in the Peace Letter Number: PDM-/ L.2.25.3/Eku.2/05/2024 dated May 21, 2024 which basically states that an unconditional peace agreement has been reached, with the existence of the Peace Letter, the Panel of Judges considers it necessary to apply the principle of *Restorative Justice* namely there has been a peace agreement between the Defendant and PT. LNK Kebun Bukit Lawang, then the Defendant needs to be applied a probation penalty as specified in Article 14 letter a of the Criminal Code;

⁵ J Rimmelink, *Introduction to Material Criminal Law 1: Prolegomena and Description of Basic Doctrine Theory*, vol. 1 (Yogyakarta: Maharsa Publishing, 2014), page 393.

⁶ Franco Marcello Moningka, Michael Barama, and Mario A. Gerungan, "The Application of the *Deelneming Doctrine in the Crime of Theft*," *Lex Crimen* VII, No. 5 (2018): page 27.



As is known, restorative justice is an alternative to the settlement of criminal cases in which the criminal justice procedure mechanism focuses on criminalization which is transformed into a dialogue and mediation process involving the perpetrator, the victim, the perpetrator/victim's family, and other related parties to jointly create an agreement on a fair and balanced settlement of criminal cases for the victim and the perpetrator by prioritizing the restoration of the original state and restoring good relations in the community;

Therefore, based on the above considerations, a fair law has been realized in restorative justice that is impartial, considering the equality of compensation rights and balance in every aspect of life, therefore with these considerations and the achievement of restorative justice in this case, it is appropriate for the Defendant to be sentenced to an appropriate sentence in accordance with the deeds and peace that have been successfully carried out by the Defendant and the victim have a long criminal record as contained in the verdict.

B. Problem Formulation

From the description of the background of the problem above, according to the author, the problem can be drawn into two situations, namely:

1. Legal Rules Regarding Palm Oil Theft in Indonesia?
2. What is the system of proof against the Crime of Theft as contained in Decision Number: 15/Pid.S/2024/PN Stb?

C. Research Methods

In this paper, the author uses a normative juridical approach, which is an approach that is carried out based on the main legal material by examining theories, concepts, legal principles and laws and regulations related to this research. This approach is also known as the literature approach, namely by studying books, laws and regulations and other documents related to this research.⁷

1. Type of Research

This type of research is normative juridical law research, i.e. *iyang* research is carried out based on the provisions of legislation (law in books) or laws that are conceptualized as rules or norms that are the benchmark for human behavior that is considered appropriate. The definition of normative law means that in reviewing and analyzing problems, the approach is used by analyzing the law.

2. Legal Materials Collection Techniques

The collection of legal materials for this research is carried out through *library research* is a data collection technique by conducting a study of books, literature, notes, and reports related to the problems at hand.²⁴ For Field Research, the author takes data in the field, namely at the Stabat District Court

3. Data Analysis Techniques

After the author obtained primary, secondary and tertiary data as mentioned above, then to complete an integrated and systematic research, a data analysis system was used, namely analytical descriptive analysis, namely by harmonizing and describing the real situation regarding the crime committed by child traffickers. After the data is collected and discussed, the data is then processed and analyzed qualitatively, namely from data analysis and then followed by conclusions.

Furthermore, in the form of qualitative data analysis, it is in an effort that is carried out by working with data, organizing data, sorting it into things that can be managed and explained, setting it up, searching and finding patterns, finding what is important and what is learned and deciding

⁷ Hartanto, *Legal Research Methodology* (Bekasi: Cakrawala Cendekia, 2018), page 118

what can be told to others

4. Data Source

The data taken by the author consists of 3 (three) sources of legal materials, namely primary, secondary and tertiary legal materials. For more details, the author will submit the following:

a. Primary Legal Materials

1. Wetboek van Stafrecht, (Criminal Code or Criminal Code)
2. Law No. 8 of 1981 Concerning the Criminal Procedure Code
3. Law of the Republic of Indonesia No. 35 of 2014 concerning Plantations

b. Secondary Legal Materials The author uses articles, dissertations and journals in this paper.

c. Tertiary Legal Materials The author uses essences, websites and legal dictionaries.

D. Discussion Analysis

1. Legal Rules on Palm Oil Theft in Indonesia

In the analysis of Decision Number: 15/Pid.S/2024/PN.Stb., the defendant Bayu Setiawan has been legally and convincingly proven guilty of committing the criminal act of "participating in the act, ordering to do or participating in the act illegally, harvesting and/or collecting plantation products" violating Article 107 letter d of Law of the Republic of Indonesia Number 35 of 2014 concerning Plantations Jo Article 55 paragraph (1) 1 of the Criminal Code.⁸

In carrying out its business operations, plantations often face disruptions. One of the obstacles faced is the crime of oil palm theft. Perpetrators of the crime of stealing oil palm fruit belonging to plantations can be subject to sanctions as stipulated in Article 107 which is a criminal provision of Article 55 of Law Number 39 of 2014 concerning Plantations.

In Moeljatnodiko's opinion, the elements of criminal acts are: Subjective unlawful elements, circumstances accompanying the act, additional circumstances that aggravate the criminal act, and there are also objective unlawful elements. Based on the Plantation Law, it also implicitly regulates the prohibition of theft of plantation products.⁹

Article 55 of the Plantation Law, states that "Any person is unlawfully prohibited: a. Cultivating, using, occupying, and/or controlling Plantation Land b. Cultivating, using, occupying, and/or controlling community land or Customary Rights Land of Customary Law Communities with the intention of Plantation Businessc. Logging crops in the Plantation area, ord. Harvesting and/or collecting Plantation Products". As referred to in Article 55, which is explained in Article 107 Letter (d), the perpetrator of the crime of stealing oil palm fruit belonging to plantations, shall be sentenced to a maximum of 4 (four) years in prison or a maximum fine of Rp. 4,000,000,000,- (four billion rupiah)". Thus, if there is a perpetrator of the crime of stealing oil palm fruit, then, he can be subject to criminal sanctions as stipulated in Article 107 letter d of Law Number 39 of 2014 concerning Plantations.

The application of Article 107 Letter d of Law Number 39 of 2014 concerning Plantations, although it has been implemented, also experiences obstacles, namely in the form of internal and external obstacles. The application of Article 107 of Law Number 39 of 2014 concerning plantations in the future is associated with Decision Number: 15/Pid.S/2024/PN.Stb, where the Judge in issuing a decision, must consider many things, be it related to the case being investigated, the level of deeds

⁸ Fahrurrozi and Samsul Bahri M. Gare, "Criminal System in the Participation of Criminal Acts According to the Criminal Code," *Media Keadilan: Journal of Legal Sciences* 10, No. 1 (2019): page 52.

⁹ Fransiska Novita Eleanora, "Juridical Study of the Application of Sanctions for Actions Against Children Who Commit Criminal Acts According to Law No. 3 of 1997 concerning Children's Courts," *ADIL: Jurnal Hukum* 6, No. 2 (2015)



and mistakes committed by the perpetrator, to the interests of the victim and his family and also consider the sense of justice of the community.

Guidelines for the provision of punishment can contain objective matters regarding matters related to the perpetrator of the crime so that by paying attention to this, the penalty can be given in a more proportionate manner so that it can be understood why the sentence is given as the result of the verdict handed down by the judge.¹⁰

The Stabat District Court Decision Number: 15/Pid.S/2024/PN.Stb, states that the defendant Bayu Setiawan has been legally and convincingly proven guilty of committing the crime of "illegally collecting plantation products" as stated in the Second Indictment of the Public Prosecutor. Imposing a criminal sentence on the defendant Bayu Setiawan therefore with a prison sentence of 8 (eight) months. Simalungun District Court Decision Number: 324/Pid.B/2020/PN. Sim, stated that the defendant Irfan Wahyudi Sinaga alias Gerger had been legally and convincingly proven guilty of committing the crime of "Without the right to harvest the fruits of the plantation business" as violating the provisions of Article 107 letter d of Law of the Republic of Indonesia No. 39 of 2014 concerning Plantations in the Second Alternative Indictment of the Public Prosecutor. Imposing a criminal sentence on the Defendant, therefore, with a prison sentence of 4 (four) months minus the period of arrest and detention that has been undergone.¹¹

Based on the judge's decision as described above, the Judge in his decision always imposes criminal penalties on the perpetrators of the crime of theft of oil palm fruit belonging to plantations in accordance with Article 107 Letter d of Law Number 39 of 2014 concerning Plantations. The application of Article 107 Letter d of Law Number 39 of 2014 concerning Plantations applied by the judge has a great deterrent effect for the perpetrators of the crime of theft of plantation palm fruits.¹²

By paying attention to Perma Number 1 of 2024 concerning Guidelines for Prosecuting Criminal Cases Based on Restorative Justice and Article 107 letter d of Law of the Republic of Indonesia Number 39 of 2014 concerning Plantations in conjunction with Article 55 paragraph (1) 1 of the Criminal Code, as well as Law Number 8 of 1981 concerning the Criminal Procedure Law and other relevant laws and regulations, the defendant has made peace with the plantation, so that the settlement of the case must be guided by the content of the Perma as intended.

As is known, Restorative Justice is an approach in solving problems involving victims, perpetrators, and elements of society in order to create justice. In relation to the enforcement of Criminal Law, restorative justice is an alternative to the settlement of criminal cases whose mechanism originally focused on criminalization, becoming a process of dialogue and mediation involving the perpetrator, the victim, the perpetrator/victim's family, and other related parties, to jointly create an agreement on a fair and balanced settlement of criminal cases for the victim and the perpetrator by prioritizing restoration to the original state. and restore the pattern of good relations in society.

The basic principle of restorative justice is the restoration of victims who suffer as a result of crime by providing compensation to the victims, peace, perpetrators of social work and other agreements. Fair law in the framework of restorative justice is certainly not biased, impartial, not arbitrary, and only on the side of the truth in accordance with the applicable laws and regulations and considers the equality of comparative rights and balance in every aspect of life. Perpetrators have the

¹⁰ Martiman Prodjohamidjojo, *Understanding the Basics of Indonesian Criminal Law* (Jakarta: Pradnya Paramita, 1998), page 55.

¹¹ Saleh Roeslan, *Participatory Delik* (Pekanbaru: Faculty of Islamic Law Riau, 1989), page 98.

¹² Andi Zainal Abidin Farid and Andi Hamzah, *Special Forms of Delik Embodiment (Experimentation, Participation, and Combination of Delik Acts) and Penitentiary Law* (Jakarta: Raja Grafindo Persada, 2006), page 211.

opportunity to be involved in the restoration of the situation, the community plays a role in preserving peace, and the court plays a role in maintaining public order.¹³

The doctrine of participation stated in Article 55 of the Indonesian Criminal Code is first between assistance and other participants in criminal participation, namely: First, the perpetrator and the promoter (persuad) are always carried out before the offense is carried out or realized, and this must be distinguished from the assistance of a delik which is also carried out before the delik is realized. Second, the inducer (perpetrator) and the promoter of a crime have the capacity as an intellectual actor (puppeteer or *mannus domino*) who has the initiative to cause a crime, while such a capacity is not possessed by the helper of the crime. Third, apart from that, assistance is only limited to crimes that can be punished, then intentional assistance for crimes covers 3 (three) types of actions, namely providing opportunities, providing information and providing facilities. The difference with the inducer (perpetrator) or advocate (persuad) is always deliberately only intended for the implementation of a delik.

In this case, the defendant has the element of "who does, orders to do and who participates in doing", that based on the facts at the trial it has been proven true that the defendant's act in illegally collecting plantation products was carried out by the defendant together with Rido by cooperating according to their respective roles, based on these considerations the Panel of Judges is of the opinion that the second element "*participate*" in the meaning of the word "*together*" has been fulfilled.

2. Proof of the Crime of Theft as contained in Decision Number: 15/Pid.S/2024/PN.Stb.

In this case, in the category of meeting the elements of each person, according to Article 1 number 15 of the Republic of Indonesia Law Number 39 of 2014 concerning Plantations, each person is an individual or corporation, both legal and unincorporated. Bayu Setiawan who was charged as the perpetrator of the crime in the Public Prosecutor's indictment, and at the beginning of the trial was correct as the defendant, the defendant admitted and justified his identity so that there was no error in person.

Article 1 point 3 of Law Number 39 of 2014 concerning Plantations, it is stated that "*plantation business is a business that produces plantation goods and/or services*", further regulated in Article 1 point 11 of Law Number 39 of 2014 concerning Plantations, states that "*plantation products are all plantation crop products and their processing consisting of main products, processed products to extend shelf life, by-products and by-products*", if connected with the legal facts at trial, it has been proven true that PT. LNK Bukit Lawang Bukit Lawang Plantation Village is a company engaged in oil palm plantations that produce oil palm fruit as a product of its plantation crops which from the legal facts in the trial, it has been proven that there are plantation products in question in the form of: 2 (two) plastic burlap containing oil palm fruit weighing 50 Kg.

In the trial, the defendant has been proven to be a person who fulfills the Elements of the Did, ordered to do and who participated in the doing. Because the Defendant's act in illegally collecting plantation products was carried out by the Defendant together with Rido by cooperating according to their respective roles. So that all elements of Article 107 letter d of Law Number 39 of 2014 concerning Plantations in conjunction with Article 55 paragraph (1) 1 of the Criminal Code have been fulfilled.

Furthermore, in the trial process, it turned out that the defendant and the plantation had made peace, so that the judge in imposing his verdict applied a restorative justice-based justice system. The principle of *Restorative Justice* was carried out because there was a peace agreement between the

¹³ Sipayung, Ronald F C, Alvi Syahrin, Suhaidi, and Mahmud Mulyadi. "Juridical Analysis of the Role of the National Police in Countering the Crime of Theft.." *USU Law Journal* 4, No. 3 (2016) : 159–173.



Defendant and PT. LNK Kebun Bukit Lawang, then it is necessary to apply the probation penalty to the Defendant as specified in Article 14 letter a of the Criminal Code. Restorative justice is an alternative to resolving criminal cases in which the criminal justice procedure mechanism focuses on criminalization which is transformed into a dialogue and mediation process involving the perpetrator, the victim, the perpetrator/victim's family, and other related parties to jointly create an agreement on the settlement of criminal cases that are fair and balanced for the victim and the perpetrator by prioritizing the restoration of the original state and restoring good relations in the community.

Evidence in the criminal system is very urgent. Because the power of proof will determine whether the law enforcement apparatus is successful or not to ensnare the perpetrator to account for his actions. The criminal law system in Indonesia basically only adheres to a system of accountability based on mistakes and is individual, which means that criminal liability can only be imposed on a person who actually commits a criminal act. However, due to the development in criminal law that has determined corporations as legal subjects that can be legally accounted for, there is an urgent need for a change in the system in criminal law itself, because previously criminal law in Indonesia only defined natural humans as legal subjects.¹⁴

The perpetrator as a promoter of a criminal act is the second form of inclusion contained in Article 55 of the Criminal Code. In the article, it is not explained what is meant by the detractor, but in the *memorie van toelichting* (explanatory memory) of the Dutch Criminal Code it is explained as follows: "The *doen plegen* is also a person who commits a criminal act but not personally, but through the intermediary of another person, as a tool in his hand, if the other person acts unintentionally, forgetfulness or responsibility due to circumstances that know, mislead or submit to violence."¹⁵

This study examines and examines participation (*deelneming*) which, among other things, includes the form of participation/involvement of a person both psychologically and physically by doing an act so that a criminal act occurs. The inclusion penalty is regulated in Article 55 of the Criminal Code which means that there are two or more people who commit a criminal act. This research is a type of normative research using secondary legal sources and using qualitative descriptive analysis. The results of this study show that the forms of participation can be divided into two parts, namely: *first*, the maker consisting of: the actor (*pleger*), the *doenpleger*, the participant (*madepleger*) and the advocate (*uitlokker*); *Second*, the helper consists of: the helper at the time the crime is committed and the helper before the crime is committed.

The judge in deciding a case is based on the evidence that has been determined by the law and the judge's own conviction (conscience). In principle, the system of proof according to the law negatively determines that the judge may only impose a criminal sentence on the defendant if the evidence is limitatively determined by the law and is also supported by the judge's confidence in the existence of these evidence.

In proving whether the defendant is guilty or not in a criminal case, according to Lilik Mulyadi, the Criminal Code in Indonesia adheres to the system of proof according to the law negatively. In the system of proof according to the law negatively (*negatief wettelijke bewijs theorie*) there is a dominant element in the form of at least two pieces of evidence, while the element of judge's conviction is only a complementary element. Therefore, in determining whether or not the accused is guilty, his guilt must be proven by at least two pieces of evidence as stated in Article 183 of the Criminal Procedure Code "The judge may not impose a criminal sentence on a person unless with at least two valid pieces of evidence he obtains confidence that a criminal act really occurred and the defendant is guilty of committing it.

¹⁴ Lamintang, Basics of Indonesian Criminal Law, Sumur batu, Bandung, 1983, page 70.

¹⁵ S. R. Sianturi, Principles of Criminal Law in Indonesia and Its Application, AHM-PTHM Alumni Publisher, Jakarta, 1986, page 211.



According to Yahya Harahap, only evidence that reaches the minimum limit has the value of evidentiary strength to prove the guilt of the defendant. If the evidence does not reach at least two valid pieces of evidence in the Criminal Procedure Code, then the violation automatically sets aside the "*Standard Beyond a reasonable doubt*" (the benchmark for the application of the standard is legally and convincingly proven), and the penalty imposed can be considered as a form of arbitrariness. Then seen from the perspective of the criminal justice system, the matter of proof is very determinant for every party directly involved in the criminal case examination process, especially in terms of assessing whether or not the guilt charged to the defendant is proven or unproven.

In this case of proof, the victim's testimony is very important, where the victim is those who suffer physically and spiritually as a result of the actions of others who seek to fulfill their own interests or others who are contrary to their interests and human rights. So with the explanation mentioned above, there are 2 (two) things that are requirements to prove error.

- 1) *Wettelijk*; The existence of valid evidence that has been determined by the law.
- 2) *Negative*; There is confidence from the judge, namely based on these evidences, the judge believes that the defendant is guilty.
- 3) There is a belief (conscience) from the judge, that is, based on the evidence shown, the judge believes that the defendant is at fault. The system of proof adopted by the Criminal Code is regulated in article 183 which states that "A judge shall not impose a criminal sentence on a person unless with at least, and valid evidence, he obtains confidence that a criminal act actually occurred that the guilty defendant committed. Therefore, it can be concluded that the Criminal Code adheres to a negative system of proof, except in expedited cases it is enough 1 piece of evidence and the judge's conviction (in Articles 205–216 of the Criminal Code).

E. Conclusion

1. In this case, based on the decision Number: 15/Pid.S/2024/PN.Stb). Regarding the Legal Rules Regarding Palm Oil Theft in Indonesia, it has been regulated under Article 107 letter d of Law of the Republic of Indonesia No. 35 of 2014 concerning Plantations Jo Article 55 paragraph (1) 1 of the Criminal Code. Specifically regarding the crime of theft, Article 107 states that it is "illegal": this is due to using, cultivating, occupying, and/or controlling plantation land. Cultivating, occupying, utilizing and/or managing community land or indigenous peoples' customary land for agriculture. Cutting down trees in planting areas or persons who unlawfully cultivate, use, occupy and/or control plantation land, who cultivate, use, occupy and/or control the rights to customary land of a community or Aboriginal law community for the benefit of plantation business; Harvesting and/or collecting plantation products as referred to in Article 55 is punishable by imprisonment for a maximum of 4 years or a maximum of a fine of Rp.4000,000,000.00 (4 billion rupiah).
2. Meanwhile, the Evidence for the Crime of Theft as contained in Decision Number: 15/Pid.S/2024/PN.Stb. In the trial, the defendant has been proven to be a person who meets the Elements of the Perpetrator, ordered to do and who participates in the Execution. Because the Defendant's act in illegally collecting plantation products was carried out by the Defendant together with Rido by cooperating according to their respective roles. In this case, what is proven is that it has been proven in the form of: 2 (two) plastic burlap containing a bunch of palm fruit weighing 50 Kg. In the trial process, it turned out that the defendant and the plantation had made peace, so that the judge in imposing his verdict applied a restorative justice-based justice system. The principle of *Restorative Justice* was carried out because there was a peace agreement between



the Defendant and PT. LNK Kebun Bukit Lawang, Restorative justice is an alternative to resolving criminal cases which in the mechanism of criminal justice procedures focuses on criminalization which is transformed into a dialogue and mediation process involving the perpetrator, the victim, the perpetrator/victim's family, and other related parties to jointly create an agreement on a fair and balanced settlement of criminal cases for the victim and the perpetrator by prioritizing recovery in the the original state and restore good relations in the community.

Bibliography

- Agusman Heri, "Juridical Analysis of the Crime of Inclusion in Murder (Study of the Supreme Court Decision Number: 2462/Pid.B/2017/PN Medan 2018)," *Journal of Abdi Ilmu* 11, No. 2 (2019)
- Andi Zainal Abidin Farid and Andi Hamzah, *Special Forms of Manifestation of Delik (Experimentation, Participation, and Combination of Delicacy) and Penitentiary Law* (Jakarta: RajaGrafindo Persada, 2006), page 211.
- Fahrurrozi and Samsul Bahri M. Gare, "The Penal System in the Participation of Criminal Acts According to the Criminal Code," *Media Keadilan: Journal of Legal Sciences* 10, no. 1 (2019): page 52,
- Franco Marcello Moningka, Michael Barama, and Mario A. Gerungan, "The Application of the Deelneming Doctrine in the Crime of Theft," *Lex Crimen* VII, no. 5 (2018)
- Fransiska Novita Eleanora, "Juridical Study of the Application of Sanctions for Actions Against Children Who Commit Criminal Acts According to Law No. 3 of 1997 concerning Children's Courts," *ADIL: Jurnal Hukum* 6, No. 2 (2015)
- Hartanto, *Legal Research Methodology* (Bekasi: Cakrawala Cendekia, 2018)
- J Rimmelink, *Introduction to Material Criminal Law 1: Prolegomena and Description of Basic Doctrine Theory*, vol. 1 (Yogyakarta: Maharsa Publishing, 2014)
- Lamintang, *Basics of Indonesian Criminal Law*, Sumur batu, Bandung, 1983
- Martiman Prodjohamidjojo, *Understanding the Basics of Indonesian Criminal Law* (Jakarta: Pradnya Paramita, 1998)
- R. Soesilo, *Criminal Code*, Politeia Publisher, Bogor
- S. R. Sianturi, *Principles of Criminal Law in Indonesia and Its Application*, AHM-PTHM Alumni Publisher, Jakarta, 1986
- Saleh Roeslan, *Delik Participatory* (Pekanbaru: Faculty of Islamic Law Riau, 1989)
- Sipayung, Ronald F C, Alvi Syahrin, Suhaidi, and Mahmud Mulyadi. "Juridical Analysis of the Role of the National Police in Countering the Crime of Theft.." *USU Law Journal* 4, No. 3 (2016)
- Teguh Prasetyo, *Criminal Law* (Jakarta: RajaGrafindo Persada, 2019)
- Zamhari Abidin, *Definition and Principles of Criminal Law in Schema (Chart) and Synopsis (Brief Note)* (Jakarta: Ghalia Indonesia, 1986)