

Civil Legal Actions Against Criminal Activities Under the Age of Theft

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Abstract

Children as perpetrators of criminal acts must be treated specifically, some provisions protect children, including children who commit crimes. The crime of theft is the type of crime that most often occurs during people's lives that cause unrest. The form of theft committed by children in the Langkat Police jurisdiction is more dominant in the form of theft of oil palm fruit, as Langkat Regency has a large plantation area. 6,272 km², most of which are planted with oil palm trees, so that oil palm fruit becomes a valid object as an object of theft. The purpose of this study was to determine the factors causing the crime of theft of oil palm fruit committed by children, to determine the legal arrangements for the crime of theft of oil palm fruit committed by children, and to determine the law enforcement carried out by the Langkat Police for the crime of theft of coconut fruit palm oil by children. This research uses empirical juridical research and is analyzed qualitatively. The crime of stealing oil palm fruit committed by children is due to the influence of relationships in their environment, lack of parental attention, disharmony family relationships, economic influence, and the effect of the influence of children's education being low. The legal regulation of the criminal act of theft of oil palm fruit is regulated in Article 55 letter d, Jo. Article 107 of Law Number 39 of 2014 concerning Plantations, as every person is legally prohibited from harvesting and/or collecting plantation products, which is punishable by a maximum imprisonment of 4 (four) years or a maximum fine of Rp. 4,000,000,000.00 (four billion rupiah). Specifically regarding criminal threats against children as stipulated in Law Number 11 of 2012 that criminal threats for children are of the criminal threats of adults.

Keywords

law enforcement; crime of theft; oil palm fruit; children



I. Introduction

The development of life that is happening in Indonesia today is very fast. Progress and implementation in all fields including social, political, economic, and cultural have a negative impact in the form of increasing the quality and quantity of various kinds of crimes that harm and disturb the community. The current condition cannot be denied that in meeting the economic needs of many people in Indonesia and other developing countries experiencing difficulties, this is due to the difficulty of getting decent work. As a result, some community groups use shortcuts such as committing the crime of theft to meet their daily needs.

The economic condition of the population is a condition that describes human life that has economic score (Shah et al, 2020). Economic growth is still an important goal in a country's economy, especially for developing countries like Indonesia (Magdalena and Suhatman, 2020).

The crime of theft is the type of crime that most often occurs in people's lives. Theft is a criminal act that greatly disturbs the comfort of the community. The perpetrators of the crime of theft are not half-hearted at this time it has been carried out by children. The rise of theft committed by children is often indicated by unstable psychological conditions coupled with invitations or persuasion and even coercion from adults in their environment.

Seeing deviations in the context of social norms can be concluded and interpreted, meaning deviations committed by children with deviations committed by adults.

Forms of law violations committed by children as well as bad treatment of children who commit crimes should receive special treatment given to them. As should the rights of children as 3 W.A. Gerungan, *Social Psychology A Summary*, Eresco, Bandung, 2009, p. 27. 4 Kartini Kartono, *Social Pathology 2; Juvenile Delinquency*, Raja Grafindo Persada, Jakarta, 2010, p. 16. perpetrators of criminal acts also need to get serious attention from various related parties, because children who commit crimes are also entitled to protection from all forms of discrimination in law, are entitled to guarantees for the prohibition of child torture and inhumane punishments, are entitled to juvenile justice procedural law. , has the right to obtain legal assistance both inside and outside the court, and so on.

Children who become perpetrators of criminal acts must still be given punishment. According to Marjono Rekstodiputro that the criminal justice system is a system in society to deal with crime problems, aims to control crime so that it is within the limits of tolerance, and resolves most reports or complaints from people who are victims of crime by submitting the perpetrators of crimes to court to be found guilty and get punished. Then prevent the occurrence of victims of crime and prevent perpetrators from repeating their crimes

However, criminal acts committed by children are behavior that is detrimental not only to themselves, but also to society, and therefore such behavior needs to be stopped. Children as criminals in principle must be treated specifically, because there are provisions that protect children, including children who commit criminal acts, namely Law Number 11 of 2012 concerning the Juvenile Criminal Justice System and Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection.

The crime of theft has been regulated in Article 362 of the Criminal Code, but the Police must also pay attention to the Regulation of the Supreme Court Number 2 of 2012 concerning Adjustment of Limits for Minor Crimes and the Number of Fines in the Criminal Code, as cases of theft with relatively small value items that are criminally processed are assessed very unfair if threatened with a sentence of up to 5 (five) years,

Based on these data, the most frequent cases of theft that occur every year are carried out by boys, as boys have higher courage in doing things that are very challenging for them. The form of theft committed by the child in the jurisdiction of the Langkat Police is more dominant in the form of theft of oil palm fruit, as Langkat Regency is known to have an area of 6,272 km², most of which are planted with oil palm trees, so it does not feel foreign to the public when it comes to palm fruit. become a crucial object as an object of theft.

One of the most prominent thefts of oil palm fruit by children is the theft of oil palm fruit belonging to PTPN 2 Kebun Sawit Hulu, Bukit Sari Village, Padang Tualang District, on October 26, 2017, at around 19:00 WIB. As the Head of Public Relations of the Langkat Police, AKP Arnold Hasibuan explained that the theft was carried out by 14 suspects involving two women and a child.⁷

These actions, which are clearly against the law, are felt to be very disturbing to people's lives. As a result, people's lives become restless, feelings of insecurity have even become a threat to plantation businesses. Based on this, it is necessary to pay attention to

efforts to overcome and enforce it, especially in the field of criminal law and its procedural law. This is closely related to the special treatment of perpetrators of crimes who are still young because it is the right of every child to be treated humanely, even though he is involved in a crime.

II. Review of Literature

2.1 Definition of Law Enforcement

Law enforcement comes from two words, namely enforcement and law. Enforcement is defined as the process, method, act of enforcing. Upholding itself can be interpreted as establishing, making upright, maintaining, and defending.

Law enforcement plays an important and much-needed role in society, especially in the current era of reform when the role and function of law enforcement are to create justice, and how the law is applied properly.

Law enforcement is the process of making efforts to enforce or function legal norms as guidelines for behavior in social or state life. In this regard, law enforcement is a process of linkage between values, rules, and real behavior patterns with the provisions of existing legal rules, which aim to achieve peace and justice with the main task of law enforcement being to realize justice and how the law is enforced. best applied.

2.2 Definition of the Crime of Theft

The word theft based on the Legal Dictionary has the meaning of "taking someone else's property without permission or in an illegal way to be owned unlawfully". others quietly." The crime of theft is taking goods that are wholly or partly owned by another person, to be owned against the law, as contained in Article 362 of the Criminal Code which reads "Whoever takes something, which wholly or partly belongs to another person, intending to be owned by someone else. unlawfully, threatened with theft, with a maximum imprisonment of five years or a maximum fine of nine hundred rupiahs.

Moeljanto believes that the problem of theft contained in Article 362 of the Criminal Code is formulated as a criminal act of theft, taking other people's goods. However, to possess goods in a way that is against the law, but if it is seen from the nature of being against the law in Article 362 of the Criminal Code, the act is not seen from the things that are born, but depends on the intention of the person taking the goods.

2.3 Understanding Children

Referring to the General Indonesian Dictionary regarding the understanding of children etymologically it is defined as "humans who are still small or humans who are not yet mature". underage), people who are underage or underage conditions (minderjaringheid or inferiority) or often also referred to as children under the supervision of a guardian (minderjarige onvervoodij). can vary depending on the place, time and for what purposes, this will also affect the limits used to determine the age of the child.¹⁹ Based on Article 1 paragraph (3) of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System states that: Children in conflict with the law are children who are 12 (twelve) years old, but not yet 18 (d) eighteen years who are suspected of committing a crime". Meanwhile, based on Article 1 point 1 of Law Number 352014 concerning Child Protection that: "A child is someone who is not yet 18 years old, including children who are still in the womb".

Sugiri as quoted in the book by Maidi Gultom, namely:

As long as the body is still undergoing the process of growth and development, the child is still a child and will only become an adult when the process of development and growth is complete, so the age limit for children is the same as the beginning of becoming an adult, which is 18 (eighteen) years for women and girls. 21 (twenty) years for male.

2.4 Background of the Crime of Theft of Palm Fruits Perpetrated by Children

Crime is a form of deviant behavior that always exists and is inherent in every society, and no society is free from crime. Crime is a world problem, meaning that crime will always exist in every society and its quality and quantity always increase from time to time and crime is a product of society because society contributes to crime.

Deviations in behavior carried out by children cannot be separated from basic social changes in people's lives, as a result of rapid development, globalization in the field of communication and information, advances in science and technology as well as changes in the style and way of life of adults. To tackle criminal acts committed by children, it is necessary to take comprehensive and comprehensive actions, and the important thing is to look for more substantial root causes to find the causes of crimes and only one factor can't explain the causes of the crime. crimes committed by children.

Factors that need special attention in the case of the crime of theft committed by child perpetrators are family factors. according to W.A Bonger who quoted Voltaire's opinion in his book "Prix de la justice et de l'humanite", namely: Noting that theft and other crimes are crimes of the poor. Rousseau stated that misery is the mother of great evil. Beccaria stated that theft is usually a crime that arises from the misery that arises from despair.

2.5 Legal Consequences of the Crime of Theft of Oil Palm Fruits Perpetrated by Children

The community's loss due to crime is enormous, but the biggest tendency is due to the process of pressure from social life. According to Bonger, these losses can be viewed from two angles, namely from an economic point of view and from a psychological/moral point of view. We can see economic losses from economic-motivated crimes, such as robbery, theft, fraud. While psychological losses in addition to crime can cause economic losses can also have a bad influence on society. If it is added to the losses and hardships suffered by the victims, as well as threats to society, all of these constitute an incalculable number.

III. Research Method

3.1 Nature of Research

The nature of the research carried out in the preparation of this thesis is descriptive. The analysis in this study is intended to describe law enforcement against perpetrators of criminal acts of theft of oil palm fruit committed by children.

3.2 Research Type

This study uses a type of empirical juridical research, which in this research is carried out by going directly to the field to collect primary data and using descriptive methods because this research aims to describe (describe), interpret phenomena that occur by the reality that lives in society.

3.3 Data Collection Method

The author uses data collection methods as follows:

- a. Library Research. In this study, the authors obtained data by reading literature related to the discussion material in the form of documents, books, and information from the internet related to writing.
- b. Field Research. Collecting data in the field by conducting interviews with the Head of Public Relations of the Langkat Police, namely AKP Arnold Hasibuan, S.H., who handled the crime of theft of oil palm fruit committed by children or related to the object of this research.

3.4 Data Type

The types of data in this study are primary data and secondary data, namely:

a. Secondary Data

Secondary data is data obtained from a literature study by reading, quoting, and reviewing the issues to be discussed.²² The secondary data, namely:

1. Primary legal materials, namely the Criminal Code, Law Number 2 of 2002 concerning the Police, Law Number 35 of 2014 concerning Child Protection, Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, Law Number 39 of 2014 concerning Plantation.
2. Secondary Legal Materials, namely materials that provide explanations such as scientific articles, newspapers, and so on.
3. Tertiary Legal Materials, namely legal materials consisting of Indonesian Language Dictionary, Legal Dictionary, Website, and others.

b. Primary Data

Primary data is data obtained directly from research in the field. In the context of field research, especially regarding the subject of this research.²³ In this case the data was obtained by conducting interviews with the Head of Public Relations of the Langkat Police, namely AKP Arnold Hasibuan, S.H., who handled the crime of theft of oil palm fruit.

3.5 Data Analysis

All data collected, both primary data and secondary data, will be analyzed qualitatively, namely a description according to the quality that applies to reality as a symptom of primary data that is connected to theories in secondary data. The data is presented descriptively which explains by collecting problems related to writing in this study.

3.6 Laws and Regulations for the Criminal Act of Theft of Palm Fruits Perpetrated by Children

Conducting studies on children is very interesting, considering children as human beings who are always among us, because as long as humans exist on the surface of this earth (in der welt sein). The position of children in the legal environment as legal subjects is determined from the form and legal system of children as a group of people who are in legal status and are classified as incapacitated or underage. Children as one of the legal subjects in the State of Indonesia must also be subject to and comply with applicable laws, but of course, there is a difference in treatment between adults and children in terms of conflicting with the law. This is intended as an effort to protect children as part of the younger generation. Protection is proposed against various kinds of actions that endanger balance, welfare, security, and social order.

A child can fall into prohibited acts because the child's soul is still unstable and very easily influenced, so that if the child is trapped in the wrong environment and association, it is vulnerable for the child to commit evil acts, even to a criminal act. Many children began to commit the crime of theft, especially those with a very low family economic background, being neglected, having bad social influences, or dropping out of school.

The involvement of children as perpetrators of theft certainly cannot be considered as something that is not important to study, especially if the child is sentenced to prison even though it is only the theft whose object has a relatively low value, such as the theft of oil palm fruit. The legal rules for the criminal act of theft of oil palm fruit are regulated in Article 55 letter d of Law Number 39 of 2014 concerning Plantations which reads: "Everyone is illegally prohibited from harvesting and/or collecting Plantation Products. Furthermore, Article 107 of Law Number 39 of 2014 punishes perpetrators of theft of plantation products with a maximum imprisonment of 4 (four) years or a maximum fine of Rp. 4,000,000,000.00 (four billion rupiah). If this applies to children, it can be bad for their future.

IV. Results and Discussion

Actions by the Langkat Police in Handling the Crime of Theft of Palm Fruits Perpetrated by Children

The occurrence of the crime of theft committed by child perpetrators is not much different from the crime of theft committed by the same adult that has caused a lot of material and immaterial losses as well as misery to the child perpetrators themselves and the victims. Thus, it is necessary to take action by taking preventive and repressive actions through law enforcement.

4.1 Preventive Action

The preventive action taken by the Langkat Resort Police is an effort taken before the occurrence of a crime to create security and comfort in social life, namely in the form of legal counseling to the community. The counseling was carried out to provide information to the community and oil palm plantation entrepreneurs about the modus operandi of the criminal act of theft of oil palm in the Langkat Police Resort area so that the community or plantation companies can be more careful so as not to become victims of the theft of oil palm fruit.

The results of interviews with the police conducted, that the Police have guided in the form of legal counseling in a year 2-3 times to tackle the crime of palm oil theft. In addition, the Police also conduct educational programs for the community, especially children, to instill in them the importance of security, comfort, and peace in social life.

Based on this, in addition to the above actions, the Langkat Resort Police specifically also took preventive actions together with government agencies in Langkat Regency against children as perpetrators of theft, namely:

a. Improve family welfare

Improvement of the living environment, such as slum settlements. With the increase in family welfare, the needs of life can be fulfilled properly.

b. Provide free school places for underprivileged children or street children.

This can be realized by establishing reformative institutions to become a means of developing the talents of children who have dropped out of school.

- c. Establish a training ground to channel the creativity of teenagers and children.
It can be in the form of youth organizations or youth organizations with good job training programs to make child and adolescent actors prepare themselves for the job market and live in the community.
- d. Establish an organization that distributes foster parents.
So that children who do not have parents can be replaced with foster parents who are willing to educate and teach children according to their rights and obligations as children.

4.2 Repressive Measures

This repressive action is carried out when a crime/crime has occurred. Based on this, the repressive actions taken by the Langkat Resort Police are:

a. Doing Investigation

Article 1 paragraph (5) of the Criminal Procedure Code states that "An investigation is a series of investigative actions to seek and find an event that is suspected of being a criminal act to determine whether or not an investigation can be carried out according to the method regulated in this law."

After receiving reports or complaints from the community or plantation entrepreneurs regarding the existence of a criminal act of palm oil theft committed by children, the Police immediately investigate by conducting observations, interviewing witnesses, tracking the perpetrators and the evidence. After the Langkat Resort Police has carried out these stages, then the police will conduct a case whether an event is a criminal event or not. After conducting an investigation and having received a bright spot for the crime, then the police will continue the case to the investigation stage.

b. Conducting Investigation

Article 1 number 2 of the Criminal Procedure Code states that "An investigation is a series of actions by an investigator in terms of and according to the method regulated in this law to seek and collect evidence which with that evidence makes clear about the crime that occurred and to find the suspect." Passing the investigation stage and arriving at the conclusion that an event is a criminal event, the Police will raise the case to the Investigation stage. Then the investigators summoned witnesses and victims for questioning regarding the crime of palm oil theft committed by children. From 2016 to 2018, the Langkat Resort Police has investigated the theft of palm oil by children with a total of 20 cases and 28 suspects. The results of the interviews were conducted, as after obtaining two valid pieces of evidence, the Police investigators picked up the suspect of palm oil theft to his place of residence and if the suspect was out of town, the Police would cooperate with related parties.

c. Arrest

Article 1 paragraph (20) of the Criminal Procedure Code explains that "Arrest is an investigator's act in the form of temporary restraints on the freedom of a suspect or defendant if there is sufficient evidence for investigation or prosecution and trial in matters and according to the method regulated by law. - this law.

In the case of oil palm theft committed by children in the Langkat Police Resort area, the police have arrested 28 suspects in the period 2016 to 2018. Of the 28 suspects who were arrested, 7 of them were caught red-handed for theft of palm oil. . Of the 28 children who were arrested by the Langkat Resort Police, this was carried out based on the

consideration that the suspect did not run away and did not intend to eliminate evidence, to facilitate investigators in conducting investigations.

d. Detention

Detention is a form of deprivation of one's freedom of movement. So here there is a conflict between two principles, namely the right to move a person which is a human right that must be respected on the one hand, and the interests of public order on the other hand which must be defended for the people or society from the suspect's evil deeds.

In the case of oil palm theft committed by children in the Langkat Police Resort area, the police also detained children as suspects in the crime of palm oil theft, of 28 suspects oil palm theft, 21 were arrested and detained, and 7 of them were perpetrators who were caught. hand.

e. Foreclosure

The implementation of confiscation carried out for criminal proceedings can be carried out in ways determined by law, namely the existence of restrictions on confiscation, including the need for permission from the chairman of the local District Court. However, in a very necessary and urgent situation, when an investigator must act immediately and it is not possible to obtain a permit beforehand, the investigator may confiscate only movable objects, and for this reason, he is obliged to immediately report to the chairman of the local District Court for his approval.

Based on interviews conducted, the Langkat Resort Police so far, out of 28 cases from 2016 to 2018, in conducting investigations the police always confiscate evidence, especially those found at the scene of the incident or evidence found far from the location of the incident which is one unit of a criminal act of palm oil theft that occurred. The forms of goods seized were in the form of vehicles used by the perpetrators, remaining palm fruit, and tools used to do palm oil.

f. Submission of Item Bundle

The final stage of all investigative examination processes is to prepare the results of the investigation as a file of matters that will be handed over to the public prosecutor who is authorized to make charges and prosecute the perpetrators. Submission of case files to the public prosecutor there are 28 child defendants in the period 2016 to 2018, all suspects have received their files and have been handed over to the court and the public prosecutor sued the suspects with five years imprisonment by Article 362 of the Criminal Code on theft. But some cases stop at the investigation stage because the parties agree to resolve them through the law in the area.

V. Conclusion

1. The crime of stealing oil palm fruit committed by children is caused by the influence of social relations in their environment, lack of attention from parents who are busy working, due to disharmony family relationships, economic influence, and the effect of the influence of children's education being still low.
2. The legal regulation of the theft of oil palm fruit committed by children is regulated in Article 55 letter d, Jo. Article 107 of Law Number 39 of 2014 concerning Plantations, as every person is legally prohibited from harvesting and/or collecting plantation products, which is punishable by a maximum imprisonment of 4 (four) years or a maximum fine of Rp. 4,000,000,000.00 (four billion rupiah). Specifically regarding

criminal threats against children as stipulated in Law Number 11 of 2012 that criminal threats for children are of the criminal threats of adults.

3. Law enforcement carried out by the Langkat Police for the crime of theft of oil palm fruit by children, namely by conducting legal counseling and early education to children regarding the act of taking other people's property which is classified as a criminal act, as well as the Langkat Police. take action when the crime of palm oil theft has occurred.

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