



Alternative Legal Solutions for Petty Theft Cases

Wahyudi¹, Gunawan Widjaja¹

¹ Universitas Agustus 1945 Jakarta, Indonesia

 wahyudirbx@gmail.com

Abstract

This kind of approach focuses on rehabilitation and taking responsibility for one's action rather than severe punishment. Pretrial interventions also allow the offender to participate in rehabilitative programs aimed at skills training and preventing future offenses without the stressful effect of the traditional criminal scion. More training and resources for police are crucial in the management of petty theft cases without the loss of public trust in the system of justice. Wanting community education efforts are also important in the elimination of petty theft. The study in this research uses the literature research method. Literature research method, also known as literature study, is an approach in research that relies on secondary data through the collection, analysis, and interpretation of published materials relevant to the research topic. The rationale for alternative legal solutions for petty theft cases demonstrates an advancement of criminal justice systems going beyond punitive measures. With the help of the restorative methods of justice, the two parties- the offender and the victim - become participants in the process of redress, which makes it possible for the offender to accept responsibility for his/her behaviour and for the victim to be reinstated with a sense of justice.

Keywords: Legal Settlement, Petty Theft Case.

ARTICLE INFO

Article history:

Received
October 02,
2024

Revised
November 20,
2024

Accepted
December 13,
2024

Published by

ISSN

Website

This is an open access article under the CC BY SA license

CV. Creative Tugu Pena

2774-7077

<https://attractivejournal.com/index.php/bce/>

<https://creativecommons.org/licenses/by-sa/4.0/>



PENDAHULUAN

One may safely say that petty theft is also a common form of crime in many countries paraded some here with the case of Indonesia. From a legal perspective, it is possible to speak about petty theft as a misdemeanour offense that usually does not involve violence or threats even when committed. Nonetheless, such confrontations appear to have sociological consequences for the victim and the community in general (McFarlane et al., 2021). In practice, poor theft generally invites discussions concerning legal proceedings dealing with such disputes including the efficiency and effectiveness of such processing. The formal judicial process is something that can take too long and cost too much. Moreover, imprisonment of those charged with petty theft usually leads to problems such as congested prisons and no assurance that the perpetrator will reform or change upon the expiry of his or her term (Herring, 2022).

The question then becomes how best to resolve petty theft cases, so as to achieve satisfying results, do-good offenders, and restore the rights of the victims more effectively and urgently. This has made it possible and necessary, so to speak, to try and find some alternative legal measures, - let's say those which do not work within the framework of

the conventional system, – that may be used with respect to cases of petty theft (Loveless et al., 2020). The analysis of petty theft cases must be given immediacy due to its consequences on the public security and order in general. Minors crimes, such as theft do have some implications which are more structural or objstructural in a given order of society. Also, petty theft could be the first step for criminals to get into more serious crimes, if this is allowed (Degefa, 2020). Therefore, simple but effective measures of dealing with quite such problems are essential in order to avoid further aggravation of the situation, both for perpetrators and victims as well as prevention of the respect cycle of crime (Ormerod & Laird, 2020).

This will ensure that even petty crimes are handled in a more reflective and constructive manner, and offenders are kept from experiencing stigma and punishment, which may be largely undeserved. This is critical in relation to the subsequent process of social readjustment of criminals, whereby such people will be accepted back into society and become functional members once more (Anifalaje, 2024). A restorative and mediating approach not only makes it easier and quicker to restore the rights of victims but also smoothens the process of offenders' attitude reform thus demonstrates a diminished recurrence of the said cases. This impatience underlines the requirement of the justice system as well as the society to develop educational and positive attitudes towards petty theft cases. Our complete comprehension of all the issues is supported by catering towards each victim and every such case (Neshchadimova, 2021).

The expectation of this alternative legal approach will be able to present a solution which does not only relate to punishment, but also encompasses restoration processes which is aimed at bringing peace back between the offender and the victims, restoring victims' rights, and... bringing the offender back to the society. Hence, the quest for and adoption of these alternative measures is consistent with the ultimate aim of law enforcement, that is, justice for the concerned parties (Trofimov et al., 2021). In light of the situation and the problems faced, this research explores other possible legal solutions that may be appropriate in the cases of shop lifting.

METHODS

The study in this research uses the literature research method. Literature research method, also known as literature study, is an approach in research that relies on secondary data through the collection, analysis, and interpretation of published materials relevant to the research topic. These materials can be books, journal articles, research reports, newspaper articles, online documents, and other text sources (Jelahun, 2022); (JUNAIDI, 2021).

RESULTS AND DISCUSSION

Concept of Petty Theft

Petty theft is the act of taking the property of another without any authority and is itself taking property of small value as set by the relevant laws. Given the relatively minor amount of this offence, it is often considered a lesser offence as the more serious type or greater value thefts are usually deterred by stiffer punishment. This type of offence can involve stealing low value items with the most shocking being the appropriation of perishable goods like foodstuff to relatively low priced goods such as clothing articles (Nasution & Saptomo, 2024).

In the context of crime, petty theft has been weighed less in the scale of justice than crimes where more percentage of property has been stolen. Penalties for petty theft can include fines, community service, or even imprisonment but for a very short duration especially in more aggravated cases (Lee & Lee, 2021). This understanding and application of the model punishment considers the severity in which punishments are enforced, it argues that punishment has to meet the degree of seriousness of the crime committed.

Particularly, this also explains the fact that it can be such minor offences as theft that show certain economic or social tendencies and approaches, therefore, treatment rather than punishment should be used (Okwelum, 2021).

That being said, management of petty crimes such as shoplifting, in particular, poses a problem for the justice system, given its possible implications. Firstly, one line of thought holds that the punishment handed out to the offenders might be too lenient so as to prevent the offenders from or any other person from committing similar acts in future. Secondly, one possibility that results from being overzealous in accommodating lesser crimes is the enhancement of wide-spread societal issues like the overpopulation of jails or imprisonment and the vicious cycles of poverty and crime (Petty, 2021). Most of the countries' legal systems, particularly, societies that criminalize deviance as a behavioral pathology are faced with the dilemma of upholding law and order as well as administering justice to people who erred through unfortunate circumstances.

Principles and Objectives of the Legal Settlement of Petty Theft

When dealing with petty theft crimes, there are some key principles which guide the process of resolution. The first principle is restorative justice, which in this case focuses on the damage rectification for the aggrieved party and the reintegration of the offender to society rather than on punishment only. Restorative justice practices include mediation, making amends by return or reimbursement of the goods taken, rehabilitation of the offenders, and so on. This principle is beneficial in curbing recidivism, mending social fabric that was disrupted, and holding offenders accountable for their actions (Akdemir, 2021).

Another principle is it may be understood as proportionality of a punishment which states that the punishment incurred to the defendant should fit the crime committed. Regarding the present crime of petty theft, this means that there should be a relative non-custodial command or sanction lesser than other serious unpardonable crimes such as grand larceny, or violent crimes. This particular approach seeks to address the problem of the criminal justice dispersing unwarranted or overboard punishments or sanctions that may bear a greater social or economic cost particularly where the individual culpable is of low social status or a first time offender (Romsom, 2022).

Restitution and rehabilitation are the two interrelated aims that resolve petty theft. For victims, provision of recompense or restoration of their losses helps in psychologically recovering from the trauma and providing them with a sense of justice. In a similar vein, offender rehabilitation however is aimed at stopping re-offenses through education, work training, and counseling programs which impart offenders with skills and knowledge of living without committing crimes again (Paulson-Smith, 2024).

Ultimately, same as in cases of legal resolution of petty theft, education or raising awareness with certain social groups about social risk of such criminal behaviour and its legal liability is also prioritised. One way to do this is through the court system and rehabilitation programs where people will understand that petty crime is bad and that other people's property must be respected (Tumanov, 2021). It is believed this will help foster a richer legal environment in the society, whereby people are less likely to resort to theft or violence to settle disputes but use lawful means of doing so instead.

Obstacles to the Legal Resolution of Petty Theft Cases

There are constraints that are pertinent in the settlement of petty theft cases and that frequently hinder the attainment of effective law enforcement and administration of justice. One of the main barriers is lack of resources, both human and capital. Most times, the criminal justice system is chocked with serious cases, hence petty crime is ranked least in order of priority. This can lead to excessive waits in investigation and disposal of cases

which affects the different people involved in the case negatively (Borovskikh & Shatokhin, 2023).

The second obstacle has to do with the collection of evidence and the right witnesses. With regards to petty crimes, even if there are many witnesses who come forward with evidence of theft, for instance, it may turn out that as it often happens, not everybody actually sees what happened, or there may be a lack of enough boardroom evidence to reasonably prosecute a case. This may lead to low resolution rates of some cases, and offenders may be encouraged to evade being punished and may engage in such activities again (Akbar, 2024).

Thirdly, there is also the aspect of the legal system itself where in certain instances there is vagueness in the wording of such a term as petty theft. Convicts can use this in their favor so as to get away with a crime or this may cause disparity in how the law is applied in two comparable circumstances resulting in two very inconsistent legal approaches towards them. Moreover, societal norms that treat petty theft as a 'non-issue' crime can limit the effectiveness of punishment and deterrence (PAVLIK, 2023).

Finally, establishing the reasons for the frustration in legal resolution of petty theft cases may be attributed to a lack of social reintegration centers for offenders. Lacking such institutions after serving a sentence, offenders may reoffend due to economic problems, social problems, or lack of other certain factors. Such factors indicate that there is need for the various types of approaches when addressing the issues related to petty theft (Shkuta, 2024).

Alternative Legal Resolution for Petty Theft

In addressing the difficulties associated with the legal resolution of petty theft, alternative measures that are both creative and effective must always be applied. One alternative is the use of restorative justice which focuses on reconciliation between the offender and the victim, as well as reintegration of the offender into the community. This method is based on mediation and agreement between the parties involved in unlawful acts and is often much more efficient towards solving the real problem than mere punishment (Mamanazarov, 2023).

Another option is the adoption of a diversion system. Diversion is a fundamental strategy in which specific cases, in this instance petty shoplifting, are redirected to various programs rather than the conventional justice mechanism focusing on crime and punishment to change the perpetrators' behaviour. These can be therapies, vocational courses, or schooling, which are meant to deter the likelihood of engaging in any crime and thus lighten pressure from the criminal justice system (Gilbert & Gong, 2024).

Increased resources and training for law enforcement officers are also significant. This may include the acquisition of the most up to date investigative and evidentiary tools, and even the professional skills necessary for the investigation of petty larceny cases such as interviewing or gathering evidence. Enhancing these abilities may improve chances of detectives solving issues, thereby decreasing time and resources spent on filing cases to courts (Kesari, 2022).

Education of the people should also not be neglected. People who are made aware of the consequences of petty thefts and how to prevent them may play a major role in curbing the occurrences. Such activities can be focused in schools, in social media and also in community organisations and include securing of valuables and making a report of a theft when it occurs. Preventing and educating made sure that people do not take part in petty thefts but also made it easier for a person to go through law.

CONCLUSION

The rationale for alternative legal solutions for petty theft cases demonstrates an advancement of criminal justice systems going beyond punitive measures. With the help of the restorative methods of justice, the two parties- the offender

and the victim – become participants in the process of redress, which makes it possible for the offender to accept responsibility for his/her behaviour and for the victim to be reinstated with a sense of justice. This, in turn, benefits the community by helping to reduce recidivism rates by the offender. Diversion allows petty theft offenders to complete programs that provide rehabilitation and education which helps offenders acquire skills and knowledge that would prevent them from engaging in criminal acts. Adopting this approach not only helps achieve a reduction in the rate of re-offenders but also lightens the load on the incapacitated systems of the criminal justice and allows resources to be diverted to other, more serious matters. Further enhancement of trainings and provision of the resources to the law enforcement agents is also a key element which supports the acceptance of alternative legal remedies to petty offenses. When provided with enough training and resources, the officers are persuaded to perform better regarding petty theft cases as they are able to attend to cases in a short period and with accurate responses thereby enhancing public trust in the system of justice. Community education contributes greatly in eliminating petty theft by way of prevention. An active community can be effective in enhancing safety as well as making incidence of thefts less likely to occur. This, in conjunction with the use of corrective measures, diversion and greater law enforcement, he points out the need for a multi-faceted approach in the management of the problem of petty theft so that it not leave the problem solved only but also to ensure that the problem does not arise again.

REFERENCES

- Akbar, R. (2024). Criminal Policy in Resolving Cases of Theft by Children. *International Journal of Business, Law, and Education*, 5(1), 887–896. <https://doi.org/10.56442/ijble.v5i1.514>
- Akdemir, N. (2021). Coping with Identity Theft and Fear of Identity Theft in the Digital Age. *Legal Challenges in the New Digital Age*, Query date: 2024-10-05 15:54:43, 176–197. https://doi.org/10.1163/9789004447417_011
- Anifalaje, K. (2024). A legal approach to the protection of customers of banks and other financial institutions from identity theft in Nigeria. *Northern Ireland Legal Quarterly*, 75(2), 187–214. <https://doi.org/10.53386/nilq.v75i2.1163>
- Borovskikh, R. N., & Shatokhin, M. Yu. (2023). Criminal Liability for Petty Theft: Declared Purposes and Actual Meanings. *Juridical Science and Practice*, 19(1), 52–60. <https://doi.org/10.25205/2542-0410-2023-19-1-52-60>
- Degefa, A. (2020). 14. When parallel justice systems lack mutual recognition. *Legal Pluralism in Ethiopia*, Query date: 2024-10-05 15:54:43, 311–338. <https://doi.org/10.1515/9783839450215-015>
- Gilbert, A., & Gong, Z. (2024). Digital Identity Theft Using Deepfakes. *Information Technology Security and Risk Management*, Query date: 2024-10-05 15:54:43, 307–314. <https://doi.org/10.1201/9781003264415-47>
- Herring, J. (2022). 8. Theft, Handling, and Robbery. *Criminal Law*, Query date: 2024-10-05 15:54:43, 511–562. <https://doi.org/10.1093/he/9780192855923.003.0008>
- Jelahut, F. E. (2022). Aneka Teori Dan Jenis Penelitian Kualitatif. Query date: 2024-05-25 20:59:55. <https://doi.org/10.31219/osf.io/ymzqp>
- JUNAIDI, J. (2021). ANOTASI METODELOGI PENELITIAN KUALITATIF JOHN W. CRESWELL. Query date: 2024-05-25 20:59:55. <https://doi.org/10.31237/osf.io/6kt5q>
- Kesari, A. (2022). Do data breach notification laws reduce medical identity theft? Evidence from consumer complaints data. *Journal of Empirical Legal Studies*, 19(4), 1222–1252. <https://doi.org/10.1111/jels.12331>
- Lee, S. H. (Jenna), & Lee, J. (2021). Cases of Employee Theft in the Hospitality

- Industry. Query date: 2024-10-05 15:54:43.
<https://doi.org/10.4135/9781529798623>
- Loveless, J., Allen, M., & Derry, C. (2020). 12. Property offences 1: Theft, robbery and handling. *Complete Criminal Law*, Query date: 2024-10-05 15:54:43, 556–624.
<https://doi.org/10.1093/he/9780198848462.003.0012>
- Mamanazarov, S. (2023). DATA OWNERSHIP RIGHTS: FEASIBLE? LEGAL AND TECHNICAL SOLUTIONS. *Tsul Legal Report*, 4(4), 20–29.
<https://doi.org/10.51788/tsul.lr.4.4./gvtj6320>
- McFarlane, B., Hopkins, N., & Nield, S. (2021). 5. Legal Estates and Legal Interests. *Land Law*, Query date: 2024-10-05 15:54:43, 150–171.
<https://doi.org/10.1093/he/9780198868521.003.0005>
- Nasution, A. A., & Saptomo, A. (2024). Application Of The Acehese Customary Legal System And National Legal System In Combating Theft By Child Offenders. *JURNAL HUKUM, POLITIK DAN ILMU SOSIAL*, 3(1), 332–340.
<https://doi.org/10.55606/jhpis.v3i1.3384>
- Neshchadimova, K. S. (2021). ABOUT SOME QUESTIONS OF QUALIFICATION OF PETTY THEFT COMMITTED BY A PERSON SUBJECTED TO ADMINISTRATIVE PUNISHMENT. *Juridical Analytical Journal*, 15(1), 41–46.
<https://doi.org/10.18287/1810-4088-2020-15-1-41-46>
- Okwelum, C. O. (2021). COLLATERAL DAMAGE OF OIL THEFT: THE LEGAL WAY OUT. *Scholarly Journal of Advanced Legal Research*, Query date: 2024-10-05 15:54:43, 12–33. <https://doi.org/10.46654/sjalr.1412>
- Ormerod, D., & Laird, K. (2020). 12. Theft. Smith, Hogan, & Ormerod's Text, Cases, & Materials on Criminal Law, Query date: 2024-10-05 15:54:43, 356–406.
<https://doi.org/10.1093/he/9780198831945.003.0012>
- Paulson-Smith, K. (2024). Creating power from failure: Policing stock theft in colonial East Africa. *Legal Pluralism and Critical Social Analysis*, Query date: 2024-10-05 15:54:43, 1–21. <https://doi.org/10.1080/27706869.2024.2357447>
- PAVLIK, E. M. (2023). CRIMINOLOGICAL ANALYSIS OF THEFT AND THEFT OF VEHICLE. *LENINGRAD LEGAL JOURNAL*, 1(1), 204–217.
https://doi.org/10.35231/18136230_2023_1_204
- Petty, R. D. (2021). Consumers and Complaints: Marketing Evolution Leads to Legal Innovation from Contract Clauses to General Fairness. *Mapping Legal Innovation*, Query date: 2024-10-05 15:54:43, 311–330. https://doi.org/10.1007/978-3-030-47447-8_13
- Romsom, E. (2022). Countering global oil theft: Responses and solutions. *WIDER Working Paper*, Query date: 2024-10-05 15:54:43. <https://doi.org/10.35188/unu-wider/2022/166-2>
- Shkuta, O. O. (2024). Current issues of theft prevention. *Legal Novels*, 22, 235–241.
<https://doi.org/10.32782/ln.2024.22.32>
- Trofimov, E. V., Metsker, O. G., & Paskoshev, D. D. (2021). The indicator of humanization of legal regulation: Methodological study using big data of judicial practice on the cases of petty theft (the Article 7.27 of the Code of the Russian Federation on Administrative Offenses and the Article 158.1 of the Criminal Code of the Russian Federation). *Юридические Исследования*, 10, 9–36.
<https://doi.org/10.25136/2409-7136.2021.10.36745>
- Tumanov, A. S. (2021). Criminal Legal Means against Trunk Cross-border Pipelines Theft. *Proceedings of the VII International Scientific-Practical Conference "Criminal Law and Operative Search Activities: Problems of Legislation, Science and Practice"*, Query date: 2024-10-05 15:54:43, 389–393.
<https://doi.org/10.5220/0010644700003152>

Copyright Holder:

© Wahyudi, Gunawan Widjaja (2024)

First Publication Right :

© Bulletin of Community Engagement

This article is under:

