

Proof of Participation in the Crime of Theft

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Abstract

This study examines and reviews participation (deelneming) which includes the form of participation/involvement of a person, both psychologically and physically, by committing an act so that a criminal act occurs. The crime of participation is regulated in Article 55 of the Criminal Code, which means that there are two or more people who commit a criminal act. This study is a type of normative research using secondary legal sources and using qualitative descriptive analysis. The results of this study are that the forms of participation crimes can be divided into two parts, namely: first, the perpetrator consisting of: the perpetrator (pleger), the one who orders it (doenpleger), the one who participates (madepleger) and the advocate (uitlokker); second, the assistant consisting of: the assistant at the time the crime was committed and the assistant before the crime was committed.

Keywords: Proof, participation, theft, plantation.

INTRODUCTION

Indonesia is a country of law, as stated in the Explanation of the 1945 Constitution, which emphasizes 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 basis of the State of Indonesia based on law, law is placed as the only legal rule in the social order, in the nation and state (supremacy of law) (Yahman and Nurtin Tarigan, 2019), law functions to regulate, provide limits on human behavior so that it is in accordance with and does not deviate from norms in society, such as protecting society from crime or criminal acts.

A criminal act is human behavior that is formulated in law, is against the law, which deserves to be punished and is carried out with a mistake, the person who commits the criminal act will be held criminally responsible if he/she has made a mistake, a person has a mistake if at the time of committing the act it is seen from the perspective of society shows a normative view regarding the mistakes committed.¹

There are various laws that apply in Indonesia, one of which is criminal law, criminal law as public law aims to prevent or inhibit acts in society that are not in accordance with applicable legal regulations, "Criminal law is an order and prohibition regulated by the State and which is threatened with misery (criminal) for anyone who does not obey it, all the rules that determine the conditions for the consequences of the law and all the rules for carrying out (imposing) and carrying out the criminal order" Moeljatno, 2008), from the definition above it can be seen that criminal law can produce elements including: (1) Prohibited acts, namely acts that are contrary to criminal law regulations, (2) Perpetrators, namely people

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

who carry out acts that are prohibited according to criminal law regulations, called suspects, defendants, convicts.²

These two elements are interrelated series, so they must always be present in every problem related to criminal law, thus it can be seen that the law regulates society properly and usefully by determining what is required, with such legal regulations it can be known which actions are against the law and it can also be known the reason someone commits an unlawful act. At present, the basis for sentencing is a sense of justice and protecting society, a sense of justice requires that a punishment must be in accordance with the magnitude of the wrongdoing of the act committed, in the Criminal Code the severity of the punishment that must be imposed on perpetrators of crimes such as theft, murder, rape, and others already have their own provisions, but the severity of the punishment has not been fully implemented by the judges.³

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

Law Number Chapter 19, Article 39 of 2014 concerning Plantations, consists of Article 118, these articles contain provisions on criminal acts of theft committed in plantation areas. Law Number 39 of 2014 concerning Plantations states that Indonesia as an agricultural country has abundant natural resources consisting of land, water and natural resources contained therein. This opportunity is a gift and decree of God Almighty and must be used to achieve general welfare and prosperity of the people as regulated in the Pancasila Constitution and the Unitary State of the Republic of Indonesia in 1945. There are no provisions for criminal acts in these legal regulations. Regarding the provisions of criminal law contained in Articles 103 to 113, especially Article 39 of 2014 concerning Plantation Regulations in Chapter 17 of the Law on the spot process.

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

²Agusman Heri, "Legal Analysis of the Criminal Act of Complicity in Murder (Study of Supreme Court Decision Number 2462/Pid.B/2017/PN Medan 2018)," *Jurnal Abdi Ilmu* 11, No. 2 (2019): page 131

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

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

Based on the facts at trial, it was revealed that the defendant had taken oil palm fruit belonging to the plantation without permission in the amount of 2 (two) plastic sacks containing oil palm fruit bunches weighing approximately 50 (fifty) kilograms by riding 1 (one) unit of a Honda Verza 5990 PAN motorbike without permission.

Specifically regarding the crime of theft, Article 107 states that it is “illegal”:

1. Using, working on, occupying and/or controlling plantation land
2. Working on, occupying, utilizing and/or managing community land or customary land of indigenous peoples for agriculture
3. Cutting down trees in planting areas or
4. A person who unlawfully works, uses, occupies and/or controls plantation land, who works, uses, occupies and/or controls customary land rights of a community land or Aboriginal legal community for the benefit of a plantation business; Harvesting and/or collecting plantation products as referred to in Article 55 shall be punished with a maximum imprisonment of 4 years or a maximum fine of Rp. 4,000,000,000.00 (4 billion rupiah)

Since plantation crimes are specifically regulated in Law Number 39 of 2014 concerning Plantations, the criminal justice mechanism and the imposition of criminal sanctions must be coordinated with the law. In terms of the legal provisions for palm oil 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 permit from the government, but if the victim is: An individual who cannot be charged with Article d and cannot be charged with Article 362 or 363 of the Criminal Code.⁵

Implementation of the Plantation Law in handling theft of oil palm plantation products in the Langkat Police Jurisdiction in terms of the legal regulations 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 Ha and already has a plantation permit from the Government, but for cases where the victim is an individual, Article 107 Letter d of Law Number 39 of 2014 cannot be imposed and Article 362 or Article 363 of the Criminal Code is imposed.⁶

Article 362 of the Criminal Code regarding the activity of taking someone else's property states that "Anyone who takes all or some parts of another with the intention of possessing it unlawfully is threatened with theft, threatened with a maximum prison sentence of 5 years or a maximum fine of 9 years." The core part of the crime (*delict bestanddelen*) is:

1. Whoever
2. Take, the word take (*wegnemen*) in the narrow sense is limited to moving the hands and fingers, grabbing an object, and turning it over. An action carried out can also be interpreted as an action where the goods produced are under the control of the person who

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

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

carries them out or the goods are outside the control of the owner. If the item is controlled by the perpetrator, even if it is later disclosed, then the taking has been completed because he already knew about it.

3. Something. Something that has economic or non-economic value, such as used train tickets and keys, are things that allow the perpetrator to enter another person's house.
4. The product is owned in whole or in part by another person. All items confiscated by the perpetrator do not have to belong to another person, and the items can belong to the victim and the perpetrator or be jointly owned.
5. For the purpose of illegal possession The act of taking someone else's property is an act where the perpetrator has the property at will without the perpetrator's right or authority. Thus, the perpetrator must understand that the confiscated property belongs to someone else.

However, in this case, there has been a 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 in essence 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 that there has been a peace agreement between the Defendant and PT. LNK Kebun Bukit Lawang, then the Defendant needs to be given a probationary sentence as stipulated in Article 14 letter a of the Criminal Code;

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

Therefore, based on the considerations above, a just law has been realized in restorative justice which is impartial, considering equal rights to compensation and balance in every aspect of life, therefore with these considerations and the achievement of restorative justice in this case, it is only right that the Defendant be sentenced to a suitable sentence in accordance with the actions and reconciliation that the Defendant has successfully carried out with the victim, whose sentence is long as stated in the verdict.

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

1. Legal Rules Regarding Palm Oil Theft in Indonesia?
2. How is the system of proof for the crime of theft as stated in Decision Number 15/Pid.S/2024/PN Stb?

METHOD

In this paper, the author uses a normative legal 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 a literature

approach, namely by studying books, laws and regulations and other documents related to this research.⁷

Types of research

This type of research is normative legal research, namely research conducted based on statutory regulations (law in books) or laws that are conceptualized as rules or norms that are benchmarks for human behavior that are considered appropriate. The definition of normative law means that in reviewing and analyzing the problem, an approach is used by analyzing the Law.

Legal Material Collection Techniques

The collection of legal materials for this research was carried out through library research, which is a data collection technique by conducting a review study of books, literature, notes and reports related to the problem being faced.²⁴ For field data (Field Research), the author took data in the field, namely at the Stabat District Court.

Data Analysis Techniques

After the Author obtained primary data, secondary data 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 aligning and describing the real situation regarding the criminal acts committed by child traffickers. After the data was collected and discussed, the data was then processed and analyzed qualitatively, namely from data analysis then continued with drawing conclusions.

Furthermore, in the form of qualitative data analysis, it is an effort made by working with data, organizing data, sorting it into units that can be managed and explained, synthesizing it, searching for and finding patterns, finding what is important and what is learned and deciding what can be told to other people.

Data source

The data that the author took consisted of 3 (three) sources of legal materials, namely primary, secondary and tertiary legal materials. For more details, the author will present the following:

- a. Primary Legal Materials
 1. Criminal Code, (Criminal Code or KUHP)
 2. Law No. 8 of 1981 Concerning: Criminal Procedure Code
 3. Republic of Indonesia Law 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 digests, websites and legal dictionaries.

RESULTS AND DISCUSSION

Legal Rules Regarding Palm Oil Theft In Indonesia

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

In the analysis of Decision Number: 15/Pid.S/2024/PN.Stb. the defendant Bayu Setiawan has been proven legally and convincingly guilty of committing the crime of "Participating in, ordering or participating in the act illegally, harvesting and/or collecting plantation products" in violation of Article 107 letter d of the Republic of Indonesia Law Number 35 of 2014 concerning Plantations in conjunction with 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 palm oil theft. Perpetrators of the crime of theft of palm oil fruit belonging to the plantation can be subject to sanctions as regulated in Article 107 which is a criminal provision of Article 55 of Law Number 39 of 2014 concerning Plantations.

According to Moeljatnodiko, the elements of a criminal act are: Subjective unlawful elements, circumstances accompanying the act, additional circumstances that aggravate the crime, and there are also objective unlawful elements. Based on the Plantation Law, it also implicitly regulates the prohibition of stealing plantation products.⁹

Article 55 of the Plantation Law states that "Any person is prohibited from: a. Working on, using, occupying, and/or controlling Plantation Land b. Working on, using, occupying, and/or controlling Community Land or Customary Land Rights of Customary Law Communities with the intention of Plantation Business c. Cutting down plants in the Plantation area, or d. Harvesting and/or collecting Plantation Produce". As referred to in Article 55, which is explained in Article 107 Letter (d) perpetrators of the crime of theft of oil palm fruit belonging to the plantation, shall be punished with a maximum imprisonment of 4 (four) years or a maximum fine of Rp. 4,000,000,000,- (four billion rupiah)". Thus, if there are perpetrators of the crime of theft of oil palm fruit, they can be subject to criminal sanctions as regulated in Article 107 letter d of Law Number 39 of 2014 concerning Plantations.

The implementation of Article 107 Letter d of Law Number 39 of 2014 concerning Plantations, although it has been implemented, has also experienced obstacles, namely internal and external obstacles. The implementation of Article 107 of Law Number 39 of 2014 concerning Plantations in the Future is Related to Decision Number: 15/Pid.S/2024/PN.Stb, where the Judge in making a decision, must consider many things, both those related to the case being examined, the level of the act and the error 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 imposing criminal penalties can include objective matters regarding matters related to the perpetrator of the crime so that by taking these into account, the

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

⁹Fransiska Novita Eleanora, "Legal Study of the Implementation of Sanctions Against Children Who Commit Criminal Acts According to Law No. 3 of 1997 concerning Juvenile Courts," *ADIL: Jurnal Hukum* 6, No. 2 (2015)

imposition of criminal penalties can be given more proportionally so that it can be understood why the penalty is given as a result of the decision handed down by the judge.¹⁰

Stabat District Court Decision Decision Number: 15/Pid.S/2024/PN.Stb, stated that the defendant Bayu Setiawan has been proven legally and convincingly guilty of committing the crime of "illegally collecting plantation products" as stated in the Second Public Prosecutor's Indictment. Sentencing the defendant Bayu Setiawan therefore to imprisonment for 8 (eight) months The Decision of the Simalungun District Court Number: 324 / Pid.B / 2020 / PN.Sim, stated that the Defendant Irfan Wahyudi Sinaga alias Gerger has been proven legally and convincingly guilty of committing the crime of "Without the right to harvest plantation business results" 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. Sentencing the Defendant therefore to imprisonment for 4 (four) months minus the period of arrest and detention that has been served.¹¹

Based on the judge's decision as explained above, the judge in his decision always imposes a criminal penalty on the perpetrators of the crime of theft of oil palm fruit belonging to the plantation 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 very deterrent effect on perpetrators of the crime of theft of oil palm fruit from the Plantation.¹²

With regard to Regulation of the Supreme Court Number 1 of 2024 concerning Guidelines for Trying 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) point 1 of the Criminal Code, as well as Law Number 8 of 1981 concerning Criminal Procedure Law and other relevant laws and regulations, then the defendant has made peace with the plantation party, so that the resolution of the case must be guided by the contents of the Regulation as referred to.

As is known, Restorative Justice is an approach to 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 resolution of criminal cases whose mechanism was originally focused on punishment, to a process of dialogue and mediation involving perpetrators, victims, families of perpetrators/victims, and other related parties, to jointly create an agreement on the resolution of criminal cases that are fair and balanced for both victims and perpetrators by prioritizing restoration to the original state, and restoring good relations in society.

The basic principle of restorative justice is the restoration of victims who suffer from crimes by providing compensation to victims, peace, perpetrators doing social work or other agreements. Fair law in the framework of restorative justice is certainly not biased, impartial,

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

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

¹²Andi Zainal Abidin Farid and Andi Hamzah, *Special Forms of Manifestation of Crimes (Attempted, Participatory, and Combined Crimes) and Penitentiary Law* (Jakarta: Raja Grafindo Persada, 2006), page 211.

not arbitrary, and only sides with the truth according to applicable laws and regulations and considers equal rights of compensation and balance in every aspect of life. Perpetrators have the opportunity to be involved in restoring the situation, society plays a role in preserving peace, and the court plays a role in maintaining public order.¹³

The teaching of participation as stated in Article 55 of the Indonesian Criminal Code, first between assistance and other participants in criminal participation, namely: First, the orderer (the perpetrator) and the advocate (the persuader) are always carried out before the crime is committed or realized, and this must be distinguished from assistance to a crime which is also carried out before the crime is realized. Second, the orderer (the perpetrator) and the advocate of a crime have the capacity as intellectual actors (masterminds or *mannus domino*) who have the initiative for the emergence of a crime, while such capacity is not possessed by the criminal assistant. Third, apart from that, assistance is only limited to crimes that can be punished, then the intention of assistance to a crime encompasses 3 (three) types of actions, namely providing opportunity, providing information and providing means. The difference with the orderer (the perpetrator) or advocate (the persuader) is always intentional only aimed at the implementation of a crime.

In this case, the defendant has the elements of "who did it, ordered it to be done and who participated in it", that based on the facts in the trial it has been proven true that the Defendant's actions in collecting the plantation results illegally were carried out by the Defendant together with Rido by working together according to their respective roles, based on these considerations the Panel of Judges is of the opinion that the second element of "participating" in the sense of the word "together" has been fulfilled.

Evidence of the Criminal Act of Theft as contained in Decision Number: 15/Pid.S/2024/PN.Stb.

In this case, in the category of fulfilling the elements of every person, according to Article 1 number 15 of Law of the Republic of Indonesia Number 39 of 2014 concerning Plantations, what is meant by every person is an individual or corporation, whether a legal entity or not. Bayu Setiawan who was charged as the perpetrator of a criminal act in the Public Prosecutor's indictment, and at the beginning of the trial was true as the defendant, the defendant admitted and confirmed his identity, thus there was no mistake in person.

Article 1 point 3 of Law Number 39 of 2014 concerning Plantations, states 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 associated products, if connected with the legal facts in the trial it has been proven that PT. LNK Bukit Lawang Bukit Lawang Plantation Village is a company engaged in oil palm plantations that produce oil palm fruit as its plantation crop product which from the legal facts in the trial has also

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

proven the existence of the plantation products in question in the form of: 2 (two) plastic sacks containing 50 Kg of oil palm fruit bunches.

In the trial, the defendant has been proven to be a person who fulfills the elements of committing, ordering and participating in committing. Because the Defendant's actions in collecting plantation products illegally were carried out by the Defendant together with Rido by working together 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) point 1 of the Criminal Code have been fulfilled.

Furthermore, in the trial process, it turned out that the defendant and the plantation party had made peace, so that the judge in handing down his verdict applied a restorative justice-based justice system. The principle of Restorative Justice was carried out because there was already a peace agreement between the Defendant and PT. LNK Kebun Bukit Lawang, so the Defendant needed to be given a suspended sentence as stipulated in Article 14 letter a of the Criminal Code. Restorative justice is an alternative resolution of criminal cases which in the mechanism of criminal justice procedures focuses on punishment which is changed into a process of dialogue and mediation involving the perpetrator, 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 both the victim and the perpetrator by prioritizing restoration to the original state and restoring good relations in the community.

Proof in the criminal system is very urgent. Because the strength of the evidence will determine the success or failure of law enforcement officers to ensnare the perpetrator to be held accountable for his actions. The criminal law system in Indonesia basically only adheres to a system of responsibility based on fault and is individual, which means that criminal responsibility can only be imposed on someone who actually commits a crime. However, due to developments in criminal law that have determined corporations as legal subjects that can be held legally accountable, an urgent need has arisen for changes to the system in criminal law itself, because previously criminal law in Indonesia only determined natural humans as legal subjects.¹⁴

The perpetrator as the initiator of the criminal act is the second form of participation contained in Article 55 of the Criminal Code. In this article it is not explained what is meant by an instructor, but in the *memorie van toelichting* (explanatory memory) of the Dutch Criminal Code it is explained as follows: "The instructor of a criminal act (*doen plegen*) is also he who commits a criminal act but not personally, but with the intermediary of another person, as a tool in his hands, if the other person acts without intention, negligence or responsibility due to knowing circumstances, being misled or subject to violence."¹⁵

This study examines and reviews participation (*deelneming*) which includes the form of participation/involvement of a person, both psychologically and physically, by committing an act so that a criminal act occurs. The crime of participation is regulated in Article 55 of the Criminal Code, which means that there are two or more people who commit

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

¹⁵SR Sianturi, *Principles of Criminal Law in Indonesia and their Application*, AHM-PTHM Alumni Publisher, Jakarta, 1986, page 211.

a criminal act. This study is a type of normative research using secondary legal sources and using qualitative descriptive analysis. The results of this study are that the forms of participation crimes can be divided into two parts, namely: first, the perpetrator consisting of: the perpetrator (pleger), the one who orders it (doenpleger), the one who participates (madepleger) and the advocate (uitlokker); second, the assistant consisting of: the assistant at the time the crime was committed and the assistant before the crime was committed.

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

In proving whether the defendant is guilty or not in a criminal case, according to Lilik Mulyadi, the Indonesian Criminal Procedure Code adopts a negative system of proof according to law. In the negative system of proof according to law (negative wettelijke bewijs theorie) there is a dominant element in the form of at least two pieces of evidence, while the element of the judge's belief is only a complementary element. So in determining whether someone is guilty or not for those charged, their guilt must be proven with at least two pieces of evidence as stated in Article 183 of the Criminal Procedure Code "a judge may not impose a sentence on a person unless with at least two valid pieces of evidence he obtains the conviction that a crime actually occurred and the defendant is guilty of committing it.

According to Yahya Harahap, only evidence that reaches the minimum limit has the value of evidentiary power to prove the defendant's guilt. 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 "Beyond a reasonable doubt Standard" (the benchmark for applying the standard proven legally and convincingly), and the punishment imposed can be considered a form of arbitrariness. Then seen from the perspective of the criminal justice system, the matter of evidence is a 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.

In this case of proof, the victim's statement is very important, where the victim is someone who suffers physically and mentally as a result of the actions of others who seek to fulfill their own interests or those of others that conflict with their interests and human rights. So with the explanation above, there are 2 (two) things that are requirements to prove guilt.

- 1) *Wetlands*; The existence of valid evidence that has been determined by law.
- 2) *Negative*; There is a belief from the judge, namely that based on the evidence the judge believes the defendant is guilty.
- 3) There is a conviction (Conscience) from the judge, namely based on the evidence shown, the judge believes the defendant is guilty. The evidentiary system adopted by the Criminal Code is regulated in Article 183 which states "A judge may not impose a sentence on a person unless with at least, and valid evidence he obtains the conviction that a crime really occurred that the defendant is guilty of committing it. So it can be

concluded that the Criminal Code adopts a negative evidentiary system, except in fast cases where 1 piece of evidence and the judge's conviction are sufficient (in Articles 205-216 of the Criminal Code).

CONCLUSION

1. In this case based on the decision Number: 15/Pid.S/2024/PN.Stb). Regarding the Legal Regulations on Palm Oil Theft in Indonesia, it has been regulated as of Article 107 letter d of Law of the Republic of Indonesia Number 35 of 2014 concerning Plantations in conjunction with Article 55 paragraph (1) 1 of the Criminal Code. Specifically regarding the crime of theft, Article 107 states that "illegal": this is due to Using, working on, occupying, and/or controlling Plantation Land. Working on, occupying, Utilizing and/or managing community land or customary land of indigenous peoples for agriculture. Cutting down trees in the planting area or people who unlawfully work on, use, occupy and/or control plantation land, who work on, use, occupy and/or control the rights to customary land of a community land or Aboriginal legal community for the benefit of the plantation business; Harvesting and/or collecting plantation products as referred to in Article 55 shall be punishable by a maximum imprisonment of 4 years or a maximum fine of Rp. 4,000,000,000.00 (4 billion rupiah).
2. Meanwhile, the Evidence of the Criminal Act of Theft as stated in Decision Number: 15/Pid.S/2024/PN.Stb. In the trial, the defendant has been proven as a person who fulfills the Elements of Who did, ordered to do and who participated in doing. Because the Defendant's actions in collecting the plantation's produce illegally were carried out by the Defendant together with Rido by working together according to their respective roles. In this case, the evidence has been proven in the form of: 2 (two) plastic sacks containing 50 Kg of oil palm fruit bunches. In the trial process, it turned out that the defendant and the plantation had made peace, so that the judge in handing down his decision applied a restorative justice-based justice system. The principle of Restorative Justice is carried out because there has been a peace agreement between the Defendant and PT. LNK Kebun Bukit Lawang, Restorative justice is an alternative resolution of criminal cases in which the mechanism of criminal justice procedures focuses on punishment which is changed into a dialogue and mediation process involving the perpetrator, victim, the perpetrator/victim's family, and other related parties to jointly create an agreement on a fair and balanced resolution of criminal cases for both the victim and the perpetrator by prioritizing restoration to the original state and restoring good relations in society.

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