JIHK is licensed undera Creative Commons Atribusi4.0 Internasional license, which permits unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.

DOI: 10.46924/jihk.v8i2.580

Defining the Boundaries of Criminal Liability: The Role of a "Supervisor" and Sentencing Proportionality in Theft Cases

Salma Setiawati[1]* & Rasji Rasji[2]

[1,2]Universitas Tarumanagara Jakarta, Indonesia

Correspondence

Salma Setiawati, Universitas Tarumanagara Jakarta, Indonesia, Letjen S. Parman St No.1, RT.6/RW.16, Tomang, Grogol petamburan, West Jakarta City, Jakarta 11440, *e*-mail: salma.2025230246@stu.untar.ac.id

How to cite

Setiawati, Salma., & Rasji, Rasji. 2027. Defining the Boundaries of Criminal Liability: The Role of a "Supervisor" and Sentencing Proportionality in Theft Cases. *Jurnal Ilmu Hukum Kyadiren* 8(2), 450-464. https://doi.org/10.46924/jihk.v8i2.580

Original Article

Abstract

Distinguishing between the criminal liability of a co-perpetrator (medepleger) and that of an accomplice (medeplichtige) presents a significant legal challenge when a defendant's involvement is limited to a supervisory role in an attempted aggravated theft. This study examines the appropriate classification of criminal participation and the proportionality of the one-year prison sentence imposed on the defendant in Medan District Court Decision No. 694/Pid.B/2024/PN Mdn. Employing a normative legal research methodology, this study adopts statutory and conceptual approaches to qualitatively analyze primary and secondary legal materials. The findings demonstrate that the existence of a mutual agreement and shared criminal intent does not, in itself, establish co-perpetrator liability (medepleger). Rather, the defendant's actual contribution to the execution of the offense must be carefully assessed. A supervisory role is more appropriately classified as complicity (medeplichtige) when the defendant's involvement is limited to facilitating the commission of the offense without making a substantial contribution to its execution. Furthermore, sentencing must take into account the degree of culpability, the nature and extent of the defendant's contribution, and the individual circumstances surrounding the offense and the offender. Such an assessment is essential to ensuring compliance with the principles of proportionality and individualized sentencing.

Keywords: *Criminal Liability, Complicity, Individualized Sentencing, Aggravated Theft*

Abstrak

Pembedaan kualifikasi pertanggungjawaban pidana antara pelaku yang turut serta melakukan (medepleger) dan pembantu (medeplichtige) menjadi persoalan penting ketika terdakwa hanya berperan sebagai pengawas dalam percobaan pencurian dengan pemberatan. Penelitian ini bertujuan menganalisis kualifikasi pertanggungjawaban pidana dan proporsionalitas penjatuhan pidana penjara selama satu tahun terhadap terdakwa berdasarkan Putusan Pengadilan Negeri Medan Nomor 694/Pid.B/2024/PN Mdn. Penelitian menggunakan metode hukum normatif dengan pendekatan perundang-undangan dan konseptual, melalui analisis kualitatif terhadap bahan hukum primer dan sekunder. Hasil penelitian menunjukkan bahwa kesepakatan dan kesengajaan bersama tidak secara otomatis membuktikan medepleger; kontribusi konkret terdakwa dalam pelaksanaan tindak pidana harus dinilai. Peran pengawasan lebih tepat dikualifikasikan sebagai pembantuan apabila hanya memfasilitasi tindak pidana. Penjatuhan pidana juga harus mempertimbangkan tingkat kesalahan, kontribusi, dan keadaan individual terdakwa agar memenuhi prinsip proporsionalitas dan individualisasi pemidanaan.

Kata kunci: *Pertanggungjawaban Pidana, Penyertaan, Individualisasi, Pencurian dengan Pemberatan*

1. INTRODUCTION

Criminal offenses constitute forms of conduct that violate established legal norms and prevailing social values, potentially undermining public order, security, and the protection of individual legal interests. Theft is one such offense that directly threatens these interests because it infringes upon the legally protected right to property ownership. Beyond causing material losses to victims, theft can generate social insecurity and erode public confidence in the legal system's ability to protect property rights. Although economic hardship, poverty, limited employment opportunities, and adverse social environments may contribute to criminal behavior, these factors do not, in themselves, negate the unlawful nature of the conduct.[1] Accordingly, addressing theft requires the application of criminal law that extends beyond the mere imposition of sanctions and takes into consideration the degree of culpability and the specific role played by each participant in the commission of the offense.[2]

Under Indonesian criminal law, theft is generally defined as the unlawful taking of property belonging wholly or partly to another person, with the intent to appropriate it unlawfully. Before the enactment of Law No. 1 of 2023 concerning the Criminal Code (hereinafter referred to as the National Criminal Code), ordinary theft was regulated under Article 362 of the former Indonesian Criminal Code (Kitab Undang-Undang Hukum Pidana or KUHP), whereas aggravated theft was governed by Article 363. The aggravated classification of theft is determined by specific circumstances surrounding the commission of the offense, including its commission by two or more individuals acting jointly. In addition, Article 53 of the former Criminal Code regulates criminal attempts, establishing criminal liability where an individual has the requisite intent, has commenced the execution of an offense, and fails to complete it due to circumstances beyond their control.

The failure to complete the unlawful taking of property does not automatically exempt an individual from criminal liability, provided that the statutory requirements for criminal attempt have been satisfied. Equally important is the doctrine of participation (deelneming), as regulated under Articles 55 and 56 of the former Criminal Code, which provides the legal basis for distinguishing between co-perpetrators (medeplegers) and accomplices (medeplichtigen). This distinction is fundamental because it determines the applicable basis of criminal liability and informs the assessment of an appropriate and proportionate sentence. These issues are reflected in Medan District Court Decision No. 694/Pid.B/2024/PN Mdn, in which the defendant,

---

1 Rani Ayu Najwa Safitri and Osvaldo Meldi Pratama, "Faktor-Faktor Kriminogen Yang Memengaruhi Terjadinya Tindak Pidana Pembunuhan Dalam Kasus Tiara Dan Alvi Ditinjau Dari Teori Kontrol Sosial," *Jurnal Hukum Dan HAM Wara Sains* 4, no. 3 (2025): 512–20, https://doi.org/10.58812/jhhws.v4i03.2774.

2 Cut Ade Irma Handayani et al., "Pertanggungjawaban Pidana Terhadap Pelaku Pencurian Dengan Pemberatan: Studi Putusan Nomor 776/Pid.B/2025/ PN Medan," *Judge: Jurnal Hukum* 6, no. 9 (2026): 1706–10, https://doi.org/10.54209/judge.v6i09.2251.

Bayu (alias Bagong), was sentenced to one year of imprisonment for attempted aggravated theft under Article 363(2) in conjunction with Article 53(1) of the former Criminal Code.

In this case, the defendant's involvement was limited to monitoring the area outside the victim's residence while his associate entered the house to take the victim's property. The attempted theft was unsuccessful because the victim discovered the intrusion. The central legal issue, therefore, extends beyond determining whether the statutory elements of attempted theft were satisfied. It also concerns the proper classification of the defendant's criminal participation in light of his actual contribution to the commission of the offense. In particular, the imposition of the same one-year prison sentence on the defendant, whose role was limited to acting as a lookout, as on the individual who directly entered the victim's residence raises important questions concerning the proportionality of punishment, the principle of individualized sentencing, and the extent to which the objectives of criminal punishment have been properly considered. This situation highlights the need to distinguish between different forms of criminal participation and to ensure that the severity of punishment corresponds to each defendant's degree of culpability and actual involvement.

Aggravated theft has been extensively examined in previous studies from several perspectives, including the application of criminal law provisions, judicial reasoning, the underlying causes of criminal behavior, and the criminal liability of offenders. For example, Pertiwi and Abunawar investigated aggravated theft in East Lampung Regency, focusing on the application of Article 363 of the Criminal Code and the judicial considerations underlying sentencing decisions. Their findings indicate that the adjudication of aggravated theft requires consistency between the constituent elements of the offense, the legal status of the perpetrator, and the relevant aggravating and mitigating circumstances.[3] However, their analysis primarily addresses the general enforcement of criminal law in aggravated theft cases and does not specifically examine the distinction in criminal liability arising from the different roles performed by individuals participating in the same criminal act.

Furthermore, Silalahi and Novita examine repeated instances of aggravated theft, as addressed in Court Decision No. 1271/Pid.B/2023/PN Lbp. Their findings identify economic conditions, social and environmental influences, educational backgrounds, and psychological factors as contributing to the commission of such offenses. The study also emphasizes the importance of applying Article 363 of the former Criminal Code (Kitab Undang-Undang Hukum Pidana or KUHP) in determining the legal

[3] Ry Bunga Dwi Pertiwi and Hadri Abunawar, "Pemidanaan Dan Pertimbangan Hakim Terhadap Pelaku Tindak Pidana Pencurian Dengan Pemberatan," *Juridisch Denken* 1, no. 1 (2025): 48–62, https://doi.org/10.2417/juden.v1i1.4973.

classification of aggravated theft.[4] Similarly, Mataheru et al. investigate the doctrine of participation in theft cases based on Court Decision No. 398/Pid.B/2022/PN.Amb. Their analysis highlights the importance of distinguishing among individuals who jointly participate in a criminal offense under Article 55 of the Criminal Code, particularly in determining whether their respective roles satisfy the requirements for co-perpetration (medepleger).[5] This study is relevant because it demonstrates that the involvement of multiple individuals in a single criminal act must be assessed in light of the nature of their collaboration and the specific contribution made by each participant.

Regulatory developments have also been examined by Reano and Prasetyo, who compare the provisions governing aggravated theft under the former Criminal Code and the new National Criminal Code. Their findings indicate that Article 477 of the National Criminal Code provides a more systematically structured formulation of aggravating circumstances and their corresponding criminal penalties.[6] Furthermore, analyzing Court Decision No. 1666/Pid.B/2024/PN Sby, Zaputra et al. identify sentencing disparities in the enforcement of laws governing aggravated theft and emphasize the need for greater consistency in judicial reasoning.[7] Along similar lines, Rohmah and Samudro demonstrate that differences in judicial interpretations of aggravating circumstances can affect both the legal classification of an offense and the resulting sentencing outcomes.[8] Meanwhile, Sitepu examines the enforcement of theft-related provisions following the implementation of Supreme Court Regulation No. 2 of 2012 (Peraturan Mahkamah Agung or PERMA), highlighting the relationship between legal certainty and substantive justice in the adjudication of theft cases.[9]

Although previous studies have examined aggravated theft from various perspectives, including the application of offense elements, criminogenic factors, and judicial considerations, the distinction between co-perpetration (medepleger) and complicity (medeplichtige) in cases involving attempted theft remains insufficiently explored. In particular, limited attention has been paid to determining criminal liability

---

4 Lusiani Silalahi and Tri Reni Novita, "Tinjauan Yuridis Tindak Pidana Pencurian Dengan Pemberatan Yang Dilakukan Secara Berlanjut Putusan Nomor 1271/Pid.B/2023/PN Lbp," *Mahkamah: Jurnal Riset Ilmu Hukum* 1, no. 4 (2024): 11–28, https://doi.org/10.62383/mahkamah.v1i4.163.

5 Paul Edward Mataheru et al., "Tindak Pidana Pencurian Dengan Pemberatan: Studi Pada Putusan Nomor 398/Pid.B/2022/PN.Amb," *Pattimura Law Study Review* 1, no. 2 (2023): 380–90, https://doi.org/10.47268/palasrev.v1i2.12045.

6 Arfan Reano and Boedi Prasetyo, "Implementasi Pemidanaan Terhadap Pelaku Tindak Pidana Pencurian Dengan Pemberatan Berdasarkan KUHP Baru," *Indonesian Journal of Law and Economics Review* 20, no. 4 (2025): 1–14, https://doi.org/10.21070/ijler.v20i4.1397.

7 Mochammad Gristyan Zaputra et al., "Penegakan Hukum Terhadap Pelaku Tindak Pidana Pencurian Dengan Pemberatan Di Surabaya Putusan Nomor1666/PID.B/2024/PN SBY," *Jurnal Qosim: Jurnal Pendidikan Sosial & Humaniora,* 4, no. 3 (2026): 3348–56, https://doi.org/10.61104/jq.v4i3.8520.

8 Risa Ainur Rohmah and Tio Samudro, "Analisis Penerapan Unsur Dengan Pemberatan Dalam Perkara Pencurian Pada Praktik Peradilan Di Pengadilan Negeri Lamongan," *Jurnal Media Akademik* 4, no. 10 (2026): 1–21, https://doi.org/10.62281/7p0mzk67.

9 Rida Ista Sitepu, "Tujuan Pemidanaan Dalam Pekara Pencurian Ringan, Penyesuaian Batasan Tindak Pidana Ringan Dan Jumlah Denda Dalam KUHP Menurut PERMA Nomor 2 Tahun 2012," *Jurnal Wawasan Yuridika* 2, no. 2 (2018): 95–115, https://doi.org/10.25072/jwy.v2i2.177.

based on the actual contribution of an individual whose involvement is restricted to acting as a lookout. The novelty of this study lies in integrating the doctrinal analysis of criminal participation with the principles of individualized sentencing and proportionality. Specifically, it examines how the distinction between co-perpetration and complicity should be established and how that classification should influence sentencing, using Medan District Court Decision No. 694/Pid.B/2024/PN Mdn as the principal case study.

This study aims to provide a juridical analysis of the criminal liability of a defendant who acted as a lookout in an attempted aggravated theft, as examined in Medan District Court Decision No. 694/Pid.B/2024/PN Mdn. It investigates the legal boundaries between co-perpetration (medepleger), as regulated under Article 55 of the former Criminal Code, and complicity (medeplichtigheid), as governed by Article 56 of the same Code, by examining the nature of criminal intent, the existence of a prior agreement, and the defendant's actual contribution to the execution of the offense. Furthermore, this study assesses whether the one-year prison sentence imposed on the defendant is consistent with the principles of individualized sentencing and proportionality, as well as the underlying objectives of criminal punishment. Particular attention is given to the disparity in the respective roles and degrees of involvement of the defendant, who acted as a lookout, and the principal offender, who physically entered the victim's residence.

2. RESEARCH METHODOLOGY

This study employs a normative legal research methodology using statutory and conceptual approaches. The statutory approach examines the legal provisions governing criminal attempts, aggravated theft, participation (deelneming), and complicity under Law No. 1 of 1946 concerning Criminal Law Regulations, particularly Articles 53, 55, 56, and 363 of the former Indonesian Criminal Code (Kitab Undang-Undang Hukum Pidana or KUHP). The conceptual approach analyzes the legal doctrines of participation (deelneming), co-perpetration (medeplegen), and complicity (medeplichtigheid), together with the principles of criminal liability, individualized sentencing, and proportionality in the imposition of criminal sanctions. The legal materials consist of primary and secondary sources. Primary legal materials include relevant legislation and judicial decisions, whereas secondary legal materials comprise academic books, peer-reviewed journal articles, and scholarly writings addressing criminal law doctrines. These materials were collected through library research and subsequently analyzed using qualitative legal analysis, supported by systematic and prescriptive legal interpretation. This analytical process was directed toward determining the accuracy of the legal classification of criminal participation and evaluating the proportionality of the sentence imposed in relation to the defendant's

degree of culpability, actual contribution to the offense, and the underlying objectives of criminal punishment.

3. RESEARCH RESULT AND DISCUSSION

3.1. Determining the Criminal Liability of a Defendant Acting as a Lookout in an Attempted Aggravated Theft

Theft constitutes an infringement of the legally protected interest in property ownership, as defined under Article 362 of the former Indonesian Criminal Code (Kitab Undang-Undang Hukum Pidana or KUHP). Where theft involves aggravating circumstances, the application of Article 363 requires the fulfillment of the constituent elements of theft under Article 362, together with at least one of the alternative aggravating circumstances enumerated in Article 363. In the present case, the involvement of multiple individuals in carrying out the theft is particularly relevant to establishing the aggravating circumstance of theft committed jointly by two or more persons. Furthermore, the failure to complete the unlawful taking of the victim's property does not automatically preclude criminal liability. Article 53(1) of the former Criminal Code recognizes criminal liability for an attempt where the perpetrator's intent has been manifested through the commencement of the execution of the offense and its noncompletion results from circumstances beyond the perpetrator's control.

The factual findings presented in Medan District Court Decision No. 694/Pid.B/2024/PN Mdn indicate that the defendant, Bayu (alias Bagong), together with Muhammad Arif and Dani, had agreed to commit theft. This agreement was subsequently implemented through a division of roles in carrying out the criminal plan. Bayu was assigned to monitor the area surrounding the victim's residence, while Muhammad Arif entered the premises to take the victim's property. Dani assisted by providing a foothold with his shoulders, enabling Muhammad Arif to access the zinc roof of the bathroom. However, the intended theft could not be completed because the homeowner awoke and shouted for help, thereby alerting nearby residents. This sequence of events indicates that the criminal intent had progressed beyond mere preparation and had been manifested through concrete acts of execution, while external circumstances prevented the completion of the offense. Bayu was subsequently found guilty of attempted aggravated theft and sentenced to one year of imprisonment.

The central legal issue concerns the appropriate classification of Bayu's participation (deelneming) in the commission of the offense. The doctrine of participation provides the legal framework for establishing the criminal liability of multiple individuals involved in a single criminal offense, taking into account their

respective relationships to and contributions toward its commission.[10] Article 55 of the former Criminal Code regulates individuals who commit an offense, cause or order another person to commit it, jointly participate in its commission, or intentionally induce another person to commit it. By contrast, Article 56 addresses criminal assistance or complicity (medeplichtigheid), encompassing assistance provided during the commission of an offense, as well as the intentional provision of opportunities, means, or information to facilitate its execution. The fundamental distinction between these provisions lies in the nature and degree of each participant's involvement, particularly the relationship between shared criminal intent and the participant's actual contribution to the execution of the offense.

The classification of an individual as a co-perpetrator (medepleger) requires more than the existence of a mutual agreement or shared criminal intent. Although these elements are essential, they must be accompanied by a sufficiently close and cooperative relationship among the participants and a contribution functionally connected to the execution of the criminal act. An individual cannot be classified as a co-perpetrator solely because that person knew of the criminal plan, consented to its implementation, or was present near the crime scene. Rather, it must be established that the individual's conduct formed part of a coordinated course of execution, undertaken with the conscious intention of realizing the criminal objective. Conversely, complicity under Article 56 does not require the accomplice to personally perform the essential elements of the offense. Instead, it requires intentional assistance that facilitates or supports the commission of the crime without necessarily constituting participation in its joint execution.

Bayu's role as a lookout must therefore be assessed from both subjective and objective perspectives. From the subjective perspective, the available facts provide substantial indications that Bayu knew of the intended theft and shared the intention to facilitate its commission. This is evidenced by his involvement in the initial agreement, his acceptance of the targeted residence, and his willingness to undertake the role of monitoring the surrounding area. The available factual record contains no indication that Bayu rejected the criminal plan or subsequently withdrew from the agreement. Accordingly, his knowledge of the criminal objective and his intention to contribute to its realization appear to be established. The existence of shared intent must be distinguished from the objective nature of his contribution.

From the objective perspective, it is necessary to distinguish between conduct that forms part of the joint execution of the constituent elements of an offense and conduct that merely facilitates its commission. Bayu did not enter the victim's residence, take possession of any property, or perform any physical act directly involving the objects

[10] Jonson Hasibuan et al., "Analisis Yuridis Perubahan Konsep Penyertaan Tindak Pidana Dalam KUHP Nasional," *Wathan: Jurnal Ilmu Sosial Dan Humaniora* 3, no. 2 (2026): 345–63, https://doi.org/10.71153/wathan.v3i2.696.

targeted by the theft. His contribution was limited to monitoring the area outside the residence, with the purpose of providing information about surrounding conditions and anticipating the risk of detection by the homeowner or members of the public. This distinction is legally significant because the classification of criminal participation should not rest exclusively on the existence of a prior agreement or shared intent. Rather, it must also account for the functional relationship between the participant's conduct and the execution of the offense. Consequently, determining whether Bayu's supervisory role constituted joint execution under Article 55 or assistance under Article 56 requires a careful assessment of the actual function, significance, and extent of his contribution to the criminal undertaking.

This distinction can be further understood through the doctrinal analysis of the boundaries between co-perpetration (medepleger) and complicity (medeplichtigheid). Conduct involving the provision of assistance without direct participation in the joint execution of the essential elements of an offense is more appropriately associated with complicity (medeplichtigheid).[11] Conversely, a broader, function-oriented interpretation of criminal participation recognizes that conduct that does not directly satisfy the constituent element of "taking" in a theft offense may nevertheless constitute part of its joint execution, provided that the contribution is functionally and sufficiently closely connected to the realization of the criminal objective.[12] These differing doctrinal perspectives demonstrate that the classification of an individual acting as a lookout cannot be determined mechanically by reference to whether that individual physically took the property. Instead, the assessment must consider the nature of the cooperation, the functional significance of the participant's conduct, and the extent of that participant's contribution to the commission of the offense.

Although the available evidence provides a substantial basis for establishing Bayu's criminal intent and participation in the initial agreement, the requirement of joint execution, which is essential to classifying an individual as a co-perpetrator (medepleger), requires further legal substantiation. It is insufficient to characterize the act of keeping watch merely as part of the overall theft strategy without explaining how that conduct functionally contributed to the execution of the offense. If Bayu's role was limited to monitoring the surrounding area and securing the situation to facilitate the entry of the other perpetrators into the premises, without establishing that his conduct formed an integral part of their joint execution of the criminal act, classification as an accomplice under Article 56 of the former Criminal Code is doctrinally more appropriate. If the evidence establishes that his lookout function constituted an integral

---

[11] Fahririn Fahririn, "Penerapan Sanksi Pidana Turut Membantu Dalam Tindak Pidana Menurut Kitab Undang-Undang Hukum Pidana," *Supremasi: Jurnal Hukum* 5, no. 2 (2023): 202–11, https://doi.org/10.36441/supremasi.v5i2.1494.

[12] Samueli Waruwu et al., "Inkonsistensi Penerapan Konsep Penyertaan (Medeplegen) Berdasarkan Peraturan Hukum Di Indonesia," *Journal of Science and Social Research* 9, no. 1 (2026): 913–21, https://doi.org/10.54314/jssr.v9i1.5865.

component of a coordinated division of labor essential to the execution of the theft, his conduct may support classification as co-perpetration under Article 55. Accordingly, the appropriate legal classification must be determined by examining the intensity of the cooperation, the specific function performed by the defendant, and the functional relationship between his contribution and the execution of the criminal offense.

These findings extend the analysis of Mataheru et al., who emphasize the application of Article 55 of the Criminal Code to individuals jointly involved in the commission of theft. Unlike the broader approach adopted in that study, the present case demonstrates that collaboration within a single criminal scheme does not necessarily warrant an identical classification of criminal participation for all individuals involved.[13] This finding also complements previous research by Pertiwi and Abunawar and Silalahi and Novita, which primarily examines the application of aggravated theft provisions and the judicial considerations underlying sentencing decisions, rather than the doctrinal distinction between the specific contributions of individual participants.[14] The present study argues that criminal liability in cases of attempted aggravated theft must be determined through an individualized assessment of each participant's criminal intent, the nature and extent of their collaboration, and their actual contribution to the execution of the offense. From a doctrinal perspective, classifying Bayu as an accomplice (medeplichtige) is more appropriate if his supervisory activities are demonstrated to have merely facilitated the commission of the theft rather than constituted participation in its joint execution. This distinction also provides an essential analytical basis for determining whether the application of Article 55 or Article 56 of the former Indonesian Criminal Code (KUHP) in a judicial decision is supported by adequate and legally substantiated reasoning.

3.2. Sentencing Proportionality for an Accomplice Acting as a Lookout: Individualized Sentencing and the Objectives of Criminal Punishment

Bayu was sentenced to one year of imprisonment after being found guilty of attempted aggravated theft. According to the sequence of events established in the case, Bayu acted as a lookout by monitoring the area surrounding the victim's residence, while Muhammad Arif entered the premises to take the victim's property with assistance from Dani. The attempted theft was unsuccessful because the victim awoke and shouted for help, attracting the attention of nearby residents. In determining the sentence, the court considered the agreement among the participants and the defendant's involvement in the criminal plan. The court also took into account several mitigating circumstances,

---

[13] Mataheru et al., "Tindak Pidana Pencurian Dengan Pemberatan: Studi Pada Putusan Nomor 398/Pid.B/2022/PN.Amb."

[14] Pertiwi and Abunawar, "Pemidanaan Dan Pertimbangan Hakim Terhadap Pelaku Tindak Pidana Pencurian Dengan Pemberatan"; Silalahi and Novita, "Tinjauan Yuridis Tindak Pidana Pencurian Dengan Pemberatan Yang Dilakukan Secara Berlanjut Putusan Nomor 1271/Pid.B/2023/PN Lbp."

including the defendant's polite demeanor during the proceedings, his admission of the offense, and his expression of remorse. Furthermore, the court viewed the sentence as serving a rehabilitative purpose, namely, encouraging the defendant to acknowledge his wrongdoing and refrain from committing further offenses upon his reintegration into society.

The panel of judges established Bayu's involvement in the attempted theft as the basis for his criminal liability, notwithstanding the differences between his role and that of the participant who physically entered the victim's residence. Nevertheless, imposing an identical sentence on individuals who performed substantially different roles raises questions about the extent to which the principle of individualized sentencing was adequately applied. In this regard, a fundamental distinction must be drawn between collective responsibility for the commission of an offense and the individual degree of culpability that should determine the severity of the punishment. Although shared criminal intent may demonstrate the existence of a common criminal objective, it does not automatically establish that all participants contributed equally to the offense or bear the same degree of culpability.

Criminal punishment constitutes a legal consequence of an offender's wrongful and unlawful conduct.[15] Sentencing may be understood as a response to the injustice resulting from a criminal offense and as a mechanism for addressing the legitimate interests of victims and the broader community. Andenæs situates criminal punishment within the broader framework of justice,[16] while Immanuel Kant's retributive perspective maintains that offenders must be held accountable for their wrongful conduct through the imposition of punishment.[17] The severity of a sentence should maintain a rational and proportionate relationship with the offender's individual degree of culpability rather than being determined exclusively by the legal classification of an offense committed jointly by several individuals.

From the perspective of absolute theories of punishment, particularly retributivism, two considerations are relevant to Bayu's case. First, Bayu remains culpable because he knowingly agreed to participate in the theft plan and performed a supervisory function intended to facilitate the commission of the offense. His role as a lookout, therefore, cannot be regarded as neutral conduct; rather, it formed part of a coordinated course of action directed toward the unlawful appropriation of another person's property. Second, the nature and extent of Bayu's contribution differed from those of Muhammad Arif, who physically entered the victim's residence and attempted to take the property. Based on the available facts, Bayu did not enter the residence,

---

15 Syarif Saddam Rivanie et al., "Perkembangan Teori-Teori Tujuan Pemidanaan," *Halu Oleo Law Review* 6, no. 2 (2022): 176–88, https://doi.org/10.33561/holrev.v6i2.4.

16 Johannes Andenæs, *Punishment and Deterrence* (University of Michigan Press, 1974).

17 Jeffrie G. Murphy, "Kant's Theory of Criminal Punishment," in *Retribution, Justice, and Therapy* (Springer Netherlands, 1979), https://doi.org/10.1007/978-94-009-9461-4_6.

climb onto the roof, force entry into the premises, or physically remove any property. This distinction is relevant to determining his individual degree of culpability, although it does not, by itself, eliminate his criminal liability.

The application of retributive theory does not require all participants in the same criminal undertaking to receive identical sentences merely because they shared a common criminal objective. Rather, just retribution requires the punishment imposed on each offender to correspond to that individual's degree of culpability. If a court imposes the same sentence on Bayu as on the participant who directly carried out the physical acts involved in the attempted theft, without providing sufficient justification for treating their respective degrees of culpability as equivalent, the resulting sentence risks undermining the principle of individualized punishment. Differences in sentencing must also be supported by objective and legally relevant considerations, including each participant's criminal intent, the nature and extent of their contribution, and the relationship between their conduct and the execution of the offense.

Unlike absolute theories of punishment, relative or utilitarian theories conceptualize punishment as an instrument for protecting society and maintaining legal order through the prevention of criminal conduct.[18] This preventive objective is generally pursued through two mechanisms: general prevention and special prevention. General prevention seeks to deter members of the public from committing criminal offenses by demonstrating the legal consequences of unlawful conduct. Special prevention, by contrast, focuses on reforming the individual offender's behavior to reduce the likelihood of recidivism. In Bayu's case, the court's reasoning reflects an orientation toward special prevention insofar as it presents imprisonment as a rehabilitative measure intended to encourage the defendant to recognize the wrongful nature of his conduct, develop genuine remorse, and refrain from committing further offenses. This rehabilitative rationale demonstrates that the sentencing decision was not exclusively concerned with retribution but also considered the potential for the defendant's behavioral reform and reintegration into society.

The effectiveness of rehabilitative objectives must be assessed in light of the individual characteristics and circumstances of the defendant. Bayu, a 22-year-old fisherman, demonstrated respectful conduct throughout the judicial proceedings, admitted to his involvement in the offense, and expressed remorse for his actions. These circumstances constitute relevant considerations in assessing his rehabilitative needs and prospects for social reintegration. From the perspective of special deterrence, sentencing should not be determined exclusively by the seriousness of the offense but must also reflect the necessity of addressing the offender's behavior and reducing the likelihood of recidivism. Given the differences in the respective roles and degrees of

[18] Desak Kadek Era Dewi Susanti et al., "Pidana Pengawasan Sebagai Pidana Pokok Dalam Perspektif KUHP Nasional," *Mahkamah: Jurnal Riset Ilmu Hukum* 3, no. 2 (2026): 24–35, https://doi.org/10.62383/mahkamah.v3i2.1583.

involvement of the individuals participating in the attempted theft, the imposition of a one-year prison sentence requires a reasoned explanation of why that particular duration is necessary and proportionate to achieving the rehabilitative objectives applicable to Bayu.

Imposing criminal sanctions on Bayu remains legitimate because his role in monitoring the area surrounding the victim's residence constituted participation that facilitated the commission of the offense. The underlying legal principle is that an individual cannot avoid criminal liability merely by refraining from personally performing the physical act of taking another person's property. General deterrence does not require identical sentences for all participants in a criminal offense. Rather, consistent law enforcement requires that every form of criminal participation be subject to consequences proportionate to the individual's degree of culpability and actual contribution to the offense. A disproportionately severe sentence imposed on a participant whose involvement was limited may undermine the principle of individualized sentencing. An excessively lenient sentence that fails to account for the offender's criminal intent and tangible assistance in facilitating the offense may weaken the deterrent function of criminal law.

A mixed or integrative theory of punishment provides a more comprehensive analytical framework by combining retributive, deterrent, and rehabilitative objectives. Under this approach, criminal punishment serves not only to impose consequences for unlawful conduct but also to protect public order, prevent future offenses, and facilitate the offender's behavioral reform. In Bayu's case, his participation in the agreement to commit theft and his subsequent role in monitoring the surrounding area provide a legitimate basis for imposing criminal sanctions. The exercise of the state's punitive authority must remain subject to the principle of proportionality, requiring the severity of the sentence to correspond to the defendant's individual degree of culpability and actual contribution to the offense. The imposition of a one-year prison sentence cannot be considered proportionate merely because Bayu participated in an attempted aggravated theft. The court must provide a reasoned explanation establishing the relationship between his supervisory role, criminal intent, contribution to the execution of the offense, personal circumstances, and the duration of the sentence imposed.

This assessment must also take into account Article 53(2) of the former Criminal Code, which provides that the maximum principal penalty for an attempted offense is reduced by one-third compared with the penalty prescribed for the completed offense. Furthermore, if Bayu's conduct is legally classified as complicity rather than co-perpetration, Article 57 of the former Criminal Code becomes relevant because it regulates the reduction of the maximum applicable penalty for accomplices. Consequently, the proper classification of the defendant's participation constitutes a

preliminary legal determination that directly affects the applicable sentencing framework and the subsequent assessment of proportionality.

These findings are consistent with the research conducted by Zaputra et al., which identifies sentencing disparities in aggravated theft cases and emphasizes the importance of consistency in judicial reasoning.[19] Similarly, Rohmah and Samudro demonstrate that differing judicial interpretations of aggravating circumstances can influence the legal classification of an offense and produce variations in sentencing outcomes.[20] However, the present study advances this discussion by focusing on differences in the nature and extent of individual contributions as a basis for evaluating the application of individualized sentencing. Furthermore, unlike Mataheru et al., whose analysis primarily examines the application of criminal participation provisions in theft cases, this study connects the legal classification of participation with its direct implications for the determination of appropriate and proportionate punishment.[21]

A one-year prison sentence imposed on Bayu cannot automatically be characterized as disproportionate; however, neither can it be adequately justified solely by establishing his involvement in the criminal plan. Its proportionality must be evaluated through an individualized assessment of his degree of culpability, actual contribution to the offense, relevant aggravating and mitigating circumstances, and the objectives of criminal punishment. The principal finding of this study is that justice in sentencing does not require identical punishments for all individuals participating in the same criminal offense. Rather, it requires a proportionate relationship between individual criminal responsibility and the severity of the punishment imposed. Accordingly, if Bayu's conduct is more appropriately classified as complicity under the applicable criminal law provisions, that distinction in the legal basis of his liability should be reflected in the determination of his sentence. Such an approach enables the objectives of retribution, deterrence, and rehabilitation to be pursued while preserving the fundamental principles of individualized sentencing and proportionality.

4. CONCLUSION

An agreement and shared criminal intent constitute essential foundations of criminal liability; however, they do not automatically establish that all participants qualify as medeplegers (co-perpetrators). Such a determination must consider each participant's specific contribution and degree of involvement in the execution of the criminal offense. Based on the facts examined in this case, Bayu's role as a lookout is more

[19] Zaputra et al., "Penegakan Hukum Terhadap Pelaku Tindak Pidana Pencurian Dengan Pemberatan Di Surabaya Putusan Nomor1666/PID.B/2024/PN SBY."

[20] Rohmah and Samudro, "Analisis Penerapan Unsur Dengan Pemberatan Dalam Perkara Pencurian Pada Praktik Peradilan Di Pengadilan Negeri Lamongan."

[21] Mataheru et al., "Tindak Pidana Pencurian Dengan Pemberatan: Studi Pada Putusan Nomor 398/Pid.B/2022/PN.Amb."

appropriately characterized as medeplichtigheid (complicity) if his conduct merely facilitated the commission of the theft without constituting a direct and functionally integral contribution to its execution.

Furthermore, the proportionality of the one-year prison sentence cannot be adequately assessed without an individualized examination of the defendant's degree of culpability, the extent of his contribution to the offense, and his personal circumstances. This study contributes to the development of the doctrine of criminal participation (deelneming) and the principle of individualized sentencing. Its limitations lie in its reliance on normative legal materials and its examination of a single court decision. Accordingly, judges should provide clear and reasoned distinctions among the various forms of criminal participation and explain the basis for determining sentences in accordance with the principle of proportionality. Future research should employ a comparative analysis of multiple court decisions to develop more consistent standards for assessing the criminal liability of participants who serve as lookouts, as well as to promote greater consistency in sentencing for aggravated theft cases.

REFERENCES

Journals

Andenæs, Johannes. *Punishment and Deterrence*. University of Michigan Press, 1974.

Fahririn, Fahririn. "Penerapan Sanksi Pidana Turut Membantu Dalam Tindak Pidana Menurut Kitab Undang-Undang Hukum Pidana." *Supremasi: Jurnal Hukum* 5, no. 2 (2023): 202–11. https://doi.org/10.36441/supremasi.v5i2.1494.

Handayani, Cut Ade Irma, Redyanto Sidi, and Andry Syafrizal Tanjung. "Pertanggungjawaban Pidana Terhadap Pelaku Pencurian Dengan Pemberatan: Studi Putusan Nomor 776/Pid.B/2025/ PN Medan." *Judge: Jurnal Hukum* 6, no. 9 (2026): 1706–10. https://doi.org/10.54209/judge.v6i09.2251.

Hasibuan, Jonson, Ispandir Hutasoit, and Rian Rusmana Putra. "Analisis Yuridis Perubahan Konsep Penyertaan Tindak Pidana Dalam KUHP Nasional." *Wathan: Jurnal Ilmu Sosial Dan Humaniora* 3, no. 2 (2026): 345–63. https://doi.org/10.71153/wathan.v3i2.696.

Mataheru, Paul Edward, Yanti Amelia Lewerissa, and Steven Makaruku. "Tindak Pidana Pencurian Dengan Pemberatan: Studi Pada Putusan Nomor 398/Pid.B/2022/PN.Amb." *Pattimura Law Study Review* 1, no. 2 (2023): 380–90. https://doi.org/10.47268/palasrev.v1i2.12045.

Pertiwi, Ry Bunga Dwi, and Hadri Abunawar. "Pemidanaan Dan Pertimbangan Hakim Terhadap Pelaku Tindak Pidana Pencurian Dengan Pemberatan." *Juridisch Denken* 1, no. 1 (2025): 48–62. https://doi.org/10.2417/juden.v1i1.4973.

Reano, Arfan, and Boedi Prasetyo. "Implementasi Pemidanaan Terhadap Pelaku Tindak Pidana Pencurian Dengan Pemberatan Berdasarkan KUHP Baru."

Indonesian Journal of Law and Economics Review 20, no. 4 (2025): 1–14. https://doi.org/10.21070/ijler.v20i4.1397.

Rivanie, Syarif Saddam, Syamsuddin Muchtar, Audyna Mayasari Muin, A. M. Djaelani Prasetya, and Ali Rizky. "Perkembangan Teori-Teori Tujuan Pemidanaan." *Halu Oleo Law Review* 6, no. 2 (2022): 176–88. https://doi.org/10.33561/holrev.v6i2.4.

Rohmah, Risa Ainur, and Tio Samudro. "Analisis Penerapan Unsur Dengan Pemberatan Dalam Perkara Pencurian Pada Praktik Peradilan Di Pengadilan Negeri Lamongan." *Jurnal Media Akademik* 4, no. 10 (2026): 1–21. https://doi.org/10.62281/7p0mzk67.

Safitri, Rani Ayu Najwa, and Osvaldo Meldi Pratama. "Faktor-Faktor Kriminogen Yang Memengaruhi Terjadinya Tindak Pidana Pembunuhan Dalam Kasus Tiara Dan Alvi Ditinjau Dari Teori Kontrol Sosial." *Jurnal Hukum Dan HAM Wara Sains* 4, no. 3 (2025): 512–20. https://doi.org/10.58812/jhhws.v4i03.2774.

Silalahi, Lusiani, and Tri Reni Novita. "Tinjauan Yuridis Tindak Pidana Pencurian Dengan Pemberatan Yang Dilakukan Secara Berlanjut Putusan Nomor 1271/Pid.B/2023/PN Lbp." *Mahkamah: Jurnal Riset Ilmu Hukum* 1, no. 4 (2024): 11–28. https://doi.org/10.62383/mahkamah.v1i4.163.

Sitepu, Rida Ista. "Tujuan Pemidanaan Dalam Pekara Pencurian Ringan, Penyesuaian Batasan Tindak Pidana Ringan Dan Jumlah Denda Dalam KUHP Menurut PERMA Nomor 2 Tahun 2012." *Jurnal Wawasan Yuridika* 2, no. 2 (2018): 95–115. https://doi.org/10.25072/jwy.v2i2.177.

Susanti, Desak Kadek Era Dewi, Ni Putu Rai Yuliartini, and Dewa Gede Sudika Mangku. "Pidana Pengawasan Sebagai Pidana Pokok Dalam Perspektif KUHP Nasional." *Mahkamah: Jurnal Riset Ilmu Hukum* 3, no. 2 (2026): 24–35. https://doi.org/10.62383/mahkamah.v3i2.1583.

Waruwu, Samueli, Edi Yunara, and Fajar Khaify Rizky. "Inkonsistensi Penerapan Konsep Penyertaan (Medeplegen) Berdasarkan Peraturan Hukum Di Indonesia." *Journal of Science and Social Research* 9, no. 1 (2026): 913–21. https://doi.org/10.54314/jssr.v9i1.5865.

Zaputra, Mochammad Gristyan, Yoyo Ucuk Suyono, Subekti Subekti, and Ernu Widodo. "Penegakan Hukum Terhadap Pelaku Tindak Pidana Pencurian Dengan Pemberatan Di Surabaya Putusan Nomor1666/PID.B/2024/PN SBY." *Jurnal Qosim: Jurnal Pendidikan Sosial & Humaniora,* 4, no. 3 (2026): 3348–56. https://doi.org/10.61104/jq.v4i3.8520.

Books

Murphy, Jeffrie G. "Kant's Theory of Criminal Punishment." In *Retribution, Justice, and Therapy*. Springer Netherlands, 1979. https://doi.org/10.1007/978-94-009-9461-4_6.