



Understanding Fencing Offenses in Indonesia: Between Legal Sanctions and Criminological Prevention

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ABSTRACT

Fencing, etymologically, derives from the word "tadah," which means a place to collect something, whereas in criminal law, fencing is defined as the act of receiving or collecting goods obtained from a crime with the intention of gaining profit, whether by purchasing, renting, exchanging, pawning, receiving as a gift, selling, leasing, storing, or concealing such goods, making the person who engages in these actions known as a fence or a receiver, which in the context of criminal law is a deliberate act committed by an individual or a group to gain benefit from items derived from crimes such as theft, fraud, or embezzlement, involving interaction not only with the victim but also with parties who assist or facilitate the crime, thus, this study aims to understand the crime of fencing from a criminological perspective, examine efforts to tackle this criminal act, and analyze the criminal liability imposed on the perpetrator, using a library research method for data collection, where the findings indicate that efforts to counter fencing crimes can be carried out through two means, namely penal and non-penal approaches, with the penal approach being legal actions taken through judicial channels, while the non-penal approach focuses on social strategies to mitigate the causes of crime, meanwhile, the criminal liability of fencing perpetrators is regulated under Article 480 of the Indonesian Criminal Code (KUHP), which imposes a maximum imprisonment of four years or a fine of up to nine hundred rupiahs on anyone who buys, rents, exchanges, pawns, receives as a gift, profits from, sells, leases, stores, or conceals goods that are known or reasonably suspected to have been obtained from a crime, as well as on anyone who benefits from goods known or reasonably suspected to have been acquired through criminal means.

Keywords: Criminology, Criminal Acts, Handling.

1. INTRODUCTION

The crime of fencing (*penadahan*) is one of the most frequently occurring offenses in society and is closely related to crimes such as theft and robbery. Fencing, as regulated in Article 480 of the Indonesian Criminal Code (KUHP), involves receiving, purchasing, storing, or selling goods known or reasonably suspected to have originated from a crime. This offense often facilitates the continuity of criminal networks, as without fences, primary offenders such as thieves and robbers would face difficulties in selling or distributing stolen goods. This phenomenon has become increasingly prevalent, particularly in urban areas and regions with high crime rates. According to data from the Indonesian National Police (Polri, 2022), cases of fencing have been on the rise annually, paralleling the increasing number of stolen motor vehicles and electronic goods, which are the primary objects of this crime.

From a legal perspective, fencing is classified as an independent crime, despite its connection to the predicate offense. In criminal law theory, fencing is considered an accessory crime that occurs after the commission of the primary offense (Van Hamel, 2021). Various legal studies classify fencing as a profit-driven crime, where offenders do not directly engage in the initial crime but financially benefit from its proceeds (Sudarto, 2020). Indonesian law stipulates that anyone who knowingly buys or stores stolen goods is subject to criminal penalties, even if they were not involved in the original theft or robbery (Moeljatno, 2019). In criminological research, fencing is often linked to organized crime theories, where criminal networks systematically process and distribute stolen goods into black markets (Clarke, 2021).

This study aims to analyze the factors that drive individuals to commit fencing crimes and to assess their impact on the Indonesian criminal justice system. By examining relevant criminological theories, this research will identify whether economic factors, social conditions, or weaknesses in law enforcement are the primary drivers of fencing crimes in Indonesia. Additionally, this study seeks to evaluate the effectiveness of the regulations governing fencing crimes, particularly Article 480 of the Criminal Code, and compare them with legal frameworks in other countries to identify more effective approaches to tackling this crime. The findings of this research are expected to contribute to the development of criminal policy in Indonesia, reducing the incidence of fencing crimes and enhancing the effectiveness of law enforcement against offenders.

Based on various studies and available data, the hypothesis proposed in this research is that the widespread occurrence of fencing crimes is not only driven by economic factors but also by weaknesses in law enforcement and low legal awareness among the public. Additionally, the structured nature of organized crime networks, involving multiple parties such as primary offenders, fences, and black market buyers, complicates efforts to combat this offense. Therefore, a more

comprehensive and multidisciplinary approach is necessary to address fencing crimes, focusing not only on the primary offenders but also on the distribution chain of stolen goods. Legal policy reforms and stricter law enforcement against fences are expected to create a deterrent effect and significantly reduce related crimes in Indonesia.

2. RESEARCH METHOD

The research method used in this study is the library research method, which aims to collect and analyze data through legal sources such as books, scientific journals, laws and regulations, and other academic documents relevant to the research topic, so that these library materials are used as a basis for analysis, guidelines, and comparisons in formulating and answering research problems, which are then systematically described in the discussion of this article to ensure that this study has a strong legal basis and is in accordance with the academic approach used in normative legal research (Marzuki, 2017).

3. RESULT AND ANALYSIS

The Crime of Receiving Money from a Criminological Perspective

From a social sciences perspective, crime is understood as a social phenomenon that arises due to structural injustice or as a reflection of human behavioral diversity in response to socio-economic class conditions of individuals or groups (Soekanto, 2019). The definition of crime has expanded beyond formal legal violations to include behaviors that contravene social norms. Criminology, as a branch of social science, examines crime from various aspects, including the motives of perpetrators, contributing factors, and the impact on society (Hagan, 2020).

In the context of criminal law, receiving stolen goods (*penadahan*) is a criminal offense related to property crimes such as theft, fraud, and embezzlement. *Penadahan* originates from the term "*tadah*," which means to receive or store stolen goods for financial gain. According to Article 480 of the Indonesian Penal Code (KUHP), receiving stolen goods is defined as a deliberate act of obtaining, storing, or concealing items derived from criminal activities. This article stipulates that individuals who knowingly buy, rent, exchange, pawn, accept as gifts, or profit from goods obtained through criminal acts may be subject to a maximum imprisonment of four years or a fine of nine hundred rupiahs (KUHP, 2020).

From a criminological perspective, receiving stolen goods is closely related to primary crimes such as theft or embezzlement. In court practice, one of the key elements proven in receiving stolen goods cases is intent (*mens rea*), meaning the perpetrator is deemed to have reasonably suspected that the items acquired originated from criminal activities (Muladi, 2021). Additionally, the intent to gain

financial advantage is a critical factor in determining the criminal liability of the receiver. It is unnecessary to prove that the perpetrator was fully aware of the crime's origin; rather, it suffices if they reasonably should have suspected that the items resulted from illegal acts (Sudarto, 2020).

In efforts to combat receiving stolen goods, two primary approaches can be adopted: penal and non-penal measures. The penal approach involves legal actions such as investigation, prosecution, and punishment of offenders through the criminal justice system (Mulyadi, 2021). Meanwhile, the non-penal approach focuses on preventive measures, such as raising public legal awareness, regulating second-hand goods trade, and strengthening monitoring of suspicious transactions.

From a criminological and legal perspective, receiving stolen goods represents a conflict between individuals that harms not only victims but also society at large, as it contributes to the escalation of criminal activities (Hagan, 2020). Therefore, a comprehensive strategy is necessary to prevent and address receiving stolen goods, encompassing both strict legal enforcement and public awareness initiatives to deter involvement in illegal transactions that undermine the legal system and social security.

Efforts to Combat Criminal Acts of Handling Money

In the context of social sciences, crime is defined as behavior that deviates from social and legal norms, potentially disrupting societal order (Soekanto, 2019). Receiving stolen goods (penadahan) is closely related to property crimes such as theft, embezzlement, and fraud, as it facilitates the commission of these primary offenses (Muladi, 2021). To reduce this crime, a comprehensive countermeasure policy is required, incorporating both criminal law enforcement (penal) and social intervention (non-penal) (Sudarto, 2020).

Criminal policy in addressing receiving stolen goods is based on penal policy and social policy, aiming to protect the community and promote social welfare (Barda Nawawi Arief, 2021). Penal measures involve strict enforcement of criminal law to deter offenders. Article 480 of the Indonesian Penal Code (KUHP) defines receiving stolen goods as the act of buying, renting, exchanging, pawning, accepting gifts, or selling items known or reasonably suspected to originate from a crime, punishable by up to four years of imprisonment or a fine of nine hundred rupiahs (KUHP, 2020). The key element in this offense is intent (*mens rea*), meaning the perpetrator must reasonably suspect that the acquired goods originated from criminal activities, although this element is often challenging to prove in legal practice (Mulyadi, 2021).

Efforts to combat receiving stolen goods involve three main approaches: preventive, repressive, and rehabilitative measures (Hagan, 2020). Preventive measures include strengthening regulations on second-hand goods trade, increasing surveillance of suspicious transactions, and educating the public about

the risks of engaging in illegal transactions (Soekanto, 2019). Repressive measures focus on enforcing laws against offenders through investigation, prosecution, and sentencing as per the Penal Code (Muladi, 2021). Rehabilitative efforts aim to reintegrate offenders into society by providing resocialization programs and skill training to prevent recidivism (Sudarto, 2020).

From a criminological perspective, receiving stolen goods is considered a facilitating crime that sustains primary offenses such as theft and embezzlement (Mulyadi, 2021). The existence of black markets for stolen goods motivates primary offenders to continue committing crimes, as they can easily sell stolen items through fencing networks (Hagan, 2020). Therefore, an effective crime prevention strategy should not only target primary offenders but also disrupt the infrastructure supporting these crimes. It is crucial to enhance collaboration between law enforcement, the government, and society in tackling receiving stolen goods, through strict legal enforcement and increased public awareness to discourage involvement in illegal transactions (Barda Nawawi Arief, 2021).

Criminal Liability in the Crime of Receiving Stolen Goods

In criminal law, criminal liability is a mechanism used to determine the extent to which a person can be held accountable for an unlawful act that has been committed. The basic principle of criminal liability is the existence of an element of guilt that can be linked to a person's actions. Thus, a person can only be punished if it is proven that he has the ability to be responsible for his actions and meets the elements in the applicable laws and regulations (Muladi & Arief, 2020).

From a criminological perspective, the crime of receiving goods is closely related to other crimes, such as theft, fraud, and embezzlement. The existence of a receiver as an intermediary for goods from crime makes it easy for the main perpetrator to make a profit. In practice, many perpetrators of theft do not sell the proceeds of their crimes directly, but through a network of receivers who often operate in markets or trade centers. These receivers, even though they know that the goods they buy come from crime, still carry out transactions without asking for valid ownership documents (Soekanto, 2021). The main factors that cause someone to receive goods include economic incentives, namely large profits from illegal goods transactions, as well as low public legal awareness in distinguishing goods from criminal proceeds from legal goods.

Efforts to combat the crime of receiving goods can be carried out through two main approaches, namely penal and non-penal means. Penal means refer to criminal law enforcement, including investigation, prosecution, and punishment of the perpetrators of receiving goods. In this context, Article 480 of the Criminal Code stipulates that a person who buys, rents, exchanges, accepts pawn, sells, rents, stores, or hides goods obtained from a crime can be subject to imprisonment for up to four years or a maximum fine of nine hundred rupiah (KUHP, 2020). However, the implementation of this article often causes legal problems, especially

for people who unknowingly buy goods from crime and are then charged with receiving goods. Non-penal means, on the other hand, include social strategies such as legal counseling, public education, and strengthening the police surveillance and patrol system to prevent receiving goods early on (Sudarto, 2019).

In addition, the issue of criminal liability in the crime of receiving stolen goods also still leaves various problems in legal practice. In the Indonesian justice system, there is no uniform pattern in determining the elements of guilt and criminal responsibility, especially in cases where there is no element of intent (*mens rea*). This is often a dilemma in judicial practice, where someone who does not know the origin of the goods they obtained can still be sentenced on the basis of the principle of culpa (negligence) (Yesmil & Adang, 2021). Thus, the criminal law approach in overcoming the crime of receiving stolen goods must consider the aspect of substantive justice, where a person can only be punished if it is truly proven to have intent or should suspect that the goods received came from a criminal act.

In terms of criminal policy, the strategy for overcoming the crime of receiving stolen goods must be carried out in an integrative manner, including preventive, repressive, and rehabilitative approaches. The preventive approach involves increasing public legal awareness, including education about the legal consequences of receiving stolen goods and how to recognize goods resulting from crime. The repressive approach is carried out with strict law enforcement, including raids on illegal goods trading networks, as well as imposing strict sanctions on the main perpetrators and receivers. The rehabilitative approach aims to rehabilitate the perpetrators involved in the receiver network so that they do not repeat their actions and provide an understanding of the negative impacts of involvement in illegal activities (Barda Nawawi, 2022). Given the complexity of the crime of receivership, synergy is needed between the government, law enforcement officers, and the community in overcoming this crime. The government must strengthen regulations and increase the effectiveness of law enforcement, while the community must be more careful in carrying out buying and selling transactions so as not to become victims or perpetrators of the crime of receivership. Law enforcement officers, on the other hand, are expected to be more active in disseminating legal regulations related to receivership and increasing accuracy in the investigation and prosecution process, so that no party is punished unfairly due to errors in assessing the elements of error and criminal responsibility.

4. CONCLUSION

The crime of receiving stolen goods, from a criminological perspective, is closely related to crimes such as theft, fraud, and embezzlement, where the existence of a receiver as an intermediary makes it easier for the main perpetrator to gain profit

without having to sell the proceeds of their crime directly to consumers. The perpetrators of theft often distribute stolen goods through a network of receivers who pretend to be traders in the market, even though they already know that the goods they are selling come from criminal theft. In practice, the sale and purchase transactions of goods resulting from crime are often not accompanied by valid official documents. The main factors that cause someone to receive stolen goods include the promise of large profits for thieves who sell goods resulting from crime to receivers, as well as economic incentives for individuals who are tempted by the price of goods that are much cheaper than market prices. Efforts to overcome the crime of receiving stolen goods can be carried out through two main approaches, namely penal and non-penal means. Penal means are legal efforts that take firm action against perpetrators through the process of investigation, prosecution, and punishment in accordance with the Criminal Code, while non-penal means include social strategies such as social assistance and education, increasing public awareness through moral and religious education, and strengthening public mental health to prevent individuals from being involved in the crime of receiving stolen goods. In addition, patrol and surveillance activities carried out periodically by the police and other security forces also play an important role in reducing this crime rate.

In terms of criminal liability, Article 480 of the Criminal Code stipulates that anyone who buys, rents, exchanges, accepts a pawn, sells, hides, or makes a profit from an object that is known or should be suspected of originating from a crime, can be subject to a maximum imprisonment of four years or a maximum fine of nine hundred rupiah. Therefore, public legal awareness must be increased so that they are not directly or indirectly involved in the crime of receiving stolen goods. As a preventive measure, the public is advised to be more diligent in reading articles and books that discuss criminology and understand the provisions of the Criminal Code related to the crime of receiving stolen goods, so that they can increase their vigilance and avoid involvement in transactions of goods resulting from crime. In addition, the public must be more careful and thorough when obtaining goods by ensuring the legality of the goods before making a transaction. The police and other security forces are expected to optimize efforts to combat crime through penal and non-penal means, and be more active in socializing legal regulations regarding the crime of receiving and its criminal sanctions so that the public has better legal awareness and is able to take preventive measures independently.

References

Arief, B. N. (2021). *Kebijakan Kriminal: Pendekatan Penegakan Hukum dalam Konteks Indonesia*. Jakarta: Pustaka Grafika.

- Barda Nawawi, A. (2022). Kebijakan Hukum Pidana dalam Penanggulangan Kejahatan. Jakarta: Kencana.
- Clarke, R. V. (2021). Situational Crime Prevention: Successful Case Studies. Routledge.
- Hagan, F. E. (2020). Introduction to Criminology: Theories, Methods, and Criminal Behavior. SAGE Publications.
- KUHP. (2020). Kitab Undang-Undang Hukum Pidana (KUHP) dan Peraturan Pelaksanaannya. Jakarta: Sinar Grafika.
- KUHP (Kitab Undang-Undang Hukum Pidana). (2020). Undang-Undang Hukum Pidana Republik Indonesia. Jakarta: Penerbit Hukum Nasional.
- Marzuki, P. M. (2017). Penelitian Hukum. Jakarta: Kencana Prenada Media Group.
- Muladi & Arief, B. (2020). Teori dan Kebijakan Hukum Pidana. Bandung: Alumni.
- Mulyadi, L. (2021). Sistem Peradilan Pidana: Pendekatan Penal dan Non-Penal. Jakarta: Kencana.
- Muladi, M. (2021). Kriminologi dan Hukum Pidana dalam Perspektif Indonesia. Jakarta: Rajawali Press.
- Moeljatno. (2019). Asas-Asas Hukum Pidana. Rineka Cipta.
- Polri. (2022). Laporan Tahunan Statistik Kriminal di Indonesia. Kepolisian Republik Indonesia.
- Soekanto, S. (2021). Faktor-Faktor yang Mempengaruhi Penegakan Hukum. Jakarta: Raja Grafindo Persada.
- Soekanto, S. (2019). Sosiologi Hukum dan Kriminologi. Jakarta: Rajawali Press.
- Soekanto, S., & Mamudji, S. (2019). Penelitian Hukum Normatif: Suatu Tinjauan Singkat. Jakarta: Rajawali Press.
- Sudarto. (2019). Hukum Pidana dan Perkembangannya. Jakarta: Rajawali Press.
- Sudarto, S. (2020). Hukum Pidana dan Kriminologi: Suatu Pendekatan Teoritis dan Praktis. Yogyakarta: Gadjah Mada University Press.
- Sudarto. (2020). Hukum Pidana dan Perkembangannya di Indonesia. PT Alumni.
- Van Hamel. (2021). The Theory of Criminal Law and its Practice. Cambridge University Press.
- Yesmil, A., & Adang, S. (2021). Kriminologi: Pendekatan, Teori, dan Aplikasi dalam Sistem Peradilan Pidana. Bandung: PT Refika Aditama.