



Criminal Sanctions for Perpetrators of Motor Vehicle Theft Accompanied by Threats of Violence

Moh. Agung S. Moo

Faculty of Law, Universitas Negeri Gorontalo, Indonesia.

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Corresponding Author:

agungmoo99@gmail.com

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Abstract

Theft of motor vehicles accompanied by threats of violence remains frequent in the jurisdiction of the Gorontalo Regional Police, yet the sanctions actually imposed are often far below the statutory maximum. This article examines the criminal sanctions applicable to perpetrators of motor vehicle theft accompanied by threats of violence and analyses their application in Limboto District Court Decision Number 107/Pid.B/2020/PN Lbo. The study uses normative-empirical legal research with statutory and case approaches, and the legal materials are analysed descriptively. The study finds that such conduct may be punished under Article 368 and Article 363 paragraph (1) in conjunction with Article 55 paragraph (1) of the Criminal Code. In the decision examined, the court found the five defendants legally and convincingly guilty of extortion by force or threat of violence and sentenced each of them to eight months' imprisonment, less time already served in arrest and detention. The sentence is considerably lighter than the statutory maximum, which raises the question whether the punishment imposed adequately reflects the suffering of the victim and the deterrent purpose of the offence.

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1. Introduction

Fulfilling the necessities of life, there are often crimes and violations committed by certain people and people who threaten some members of society, these threatening actions are criminal acts. Therefore in these cases, the perpetrators should be sentenced to the maximum by the provisions of the law.¹ Crime is deviant behaviour that is always present in social life, and it therefore requires a means of responding to offences committed by those who act irresponsibly. In the eyes of the community, there are many times when crimes occur or violate laws and regulations and guidelines, and standards that apply to society. Any violators of existing legal guidelines will be subject to sanctions as disciplinary action in response to activities that violate the legal guidelines that have been carried out.² The existence of existing regulations provides equal rights for every citizen.³

Criminal law consists of rules that play an important role in the general legal order. It contains general guidelines on criminal regulation and prohibitions against performing or omitting certain acts, coupled with criminal penalties imposed on those who breach the conditions laid down. One type of wrong action that always occurs in the eyes of society is robbing or stealing. Seeing the current condition of society, inadequate needs are the background for the emergence of acts of theft.⁴

One of the causes of the crime of theft as we know is none other than the existence of increasingly sophisticated technological developments, which can be used for both good and bad things. However, not a few use it in a bad way, for example it is used to commit evil acts. The development of digitalization of information and communication technology in the form of social media exposes the public to a new reality, namely a world visible on the screens of devices but synchronized with real world life.⁵ The advance of technology likewise requires society to develop its own capacity.⁶ Based on the results of observations

¹ Apripari et al, "Restorative Justice in Victimless Crimes under the Criminal Procedure Code: Problematics and Solutions," *Jurnal Hukum Novelty* 17, no. 1 (2026): 144–66, <https://doi.org/10.26555/jhn.v17i1.31003>; Dian Ekawaty Ismail et al, "Collocation of Restorative Justice with Human Rights in Indonesia," *Legality: Jurnal Ilmiah Hukum* 32, no. 2 (2024): 2, <https://doi.org/10.22219/ljih.v32i2.35374>; Dian Ekawaty Ismail et al, "Cyber Harassment of Public Figures: Causes and Importance of Legal Education," *E3S Web of Conferences* 594 (2024): 03005, <https://doi.org/10.1051/e3sconf/202459403005>.

² C.S.T.Kansil, *Pengantar Ilmu Hukum Dan Tata Hukum Indonesia* (Balai Pustaka, 1992).

³ Abdul Hamid Tome, "Dynamics of Village Head Election Arrangements," *Jambura Law Review* 3, no. Spesial Issue (2021): 96–116.

⁴ AdamiChazawi, *Pelajaran Hukum Pidana Bagian 1* (Raja Grafindo Persada, 2002).

⁵ Moh. Rusdiyanto U. Puluhalawa dan Riski Husain, "Body Shaming through Social Media as a Digital Crime in the Era of Disruption," *Jambura Law Review* 3, no. 01 (2021): 112–23.

⁶ Ahmad Ahmad, "Analysis of Abuse of Authority by Government Apparatus in the State Administrative Legal System," *International Journal of Constitutional and Administrative Law* 1, no. 1 (2025): 1; Ahmad Ahmad and Kevin Rivera, "Analysis of Legal Protection of Human Rights in the Context of State Administrative Law," *International Journal of Constitutional and Administrative Law*, March 11, 2026, 40–53, <https://doi.org/10.66502/ac6z6f55>; Rifki Ismail et al, "Implikasi Hukum Dari Penanganan Sengketa Hasil Verifikasi Faktual Partai Politik Oleh KPU Yang Diselesaikan Di Pengadilan Tata Usaha Negara," *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 3, no. 6 (2025): 8750–64, <https://doi.org/10.61104/alz.v3i6.2580>; Weny Almoravid Dungga et al, "Ensuring Justice in the Trend of Remote Working: Legal Challenges and Implications for Companies and Workers," *Jurnal IUS Kajian Hukum Dan Keadilan* 14, no. 1 (2026): 201–27, <https://doi.org/10.29303/ius.v14i1.1721>.

made by the author that there are many cases of theft of motorized vehicles in the jurisdiction of the Gorontalo Police. Based on data obtained from 2017 to 2021. The following is the handling data for motor vehicle theft:

Table 1. Data on motor vehicle theft handled by the Gorontalo Regional Police, 2017–2021

[TABLE DATA MISSING – to be supplied by the author]

Source: Gorontalo Regional Police, 2021.

The above data is only an illustration that cases of motor vehicle theft have occurred in the region. This data can be used as a benchmark to find out cases of motor vehicle theft, which from the last 5 years data this case still occurs frequently. The above data also aims to strengthen that the cases at the Gorontalo Police actually happened and have been handed over to the prosecutor's office to be tried at the Limboto District Court. This is what is one of the motivations for the author to conduct research on "Implementation of Sanctions Against the Crime of Motor Vehicle Theft Accompanied by Threats of Violence at the Limboto Court" because based on data from 2017 to 2021 cases of theft of motorized vehicles with different motives still occur frequently.

As an example of the case in Gorontalo which the author saw directly in the field, namely regarding the theft of motorized vehicles which were carried out with the motive of threats of violence where the chronology occurred that the theft of motorized vehicles was masterminded by 5 people who claimed to be people who worked in finance, then they carried out the action to steal the vehicle the motorbike driven by the victim and threatening the victim by telling the victim that the motorbike he was driving was incomplete or in terms of this motorbike being fake, on behalf of finance they also threatened the victim to give the motorbike to them with the transfer that this motorbike would be taken to the finance office. The victim, who refused to give the motorcycle, then someone came and pulled out the key and the victim immediately got off the motorbike and let the motorbike be taken because the victim was already afraid. According to the author's analysis, this certainly violates the article on theft and threats of violence which have been regulated in Article 363 paragraph (1) 4e and Article 368 paragraph 1 of the Criminal Code in conjunction with article 55 of the Criminal Code.

So according to the author that the application of criminal sanctions against the perpetrators is the best way to uphold justice. Crimes that cause suffering to victims, which result not only in causing physical suffering, but also mental and psychological suffering, must be given more attention to law enforcement officials. The efforts and role of law enforcers play an important role in eradicating every crime.⁷ Next crimes that cause great suffering to victims, such as the crime of theft coupled with threats of violence, must receive maximum punishment, and even require additional punishment for the perpetrators. Victims of the crime of theft accompanied by threats of violence must receive justice, both from a legal standpoint and from a mental and psychological recovery

⁷ Aniza Lakoro et al, "PERJUDIAN TOGEL ONLINE ' Weak Polices In Handling Criminal Actions Online Togel Gaming,'" *Jurnal Legalitas* 13, no. 01 (2019): 31–50.

perspective. There needs to be maximum law enforcement balanced with severe legal sanctions, in order to uphold the value of justice.

2. Method

The research used in this paper is normative empirical legal research and takes a statutory and case approach and uses descriptive data analysis techniques.

3. Criminal Sanctions for Perpetrators of Motor Vehicle Theft

3.1. Criminal Sanctions in the Court Process

A criminal sanction is a type of sanction that is grievous in nature which is threatened or imposed on acts or perpetrators of criminal acts or criminal acts that can disrupt or endanger the public interest. Basically criminal law has the nature of ultimum remedium or the last tool which contains the imposition of suffering on the perpetrators of crimes. The nature of this criminal law is considered to be very cruel so that its application must be a last resort, therefore the determination of criminal sanctions must pay attention to various aspects because it involves human dignity and human rights to life.⁸The types of criminal sanctions have been regulated in Article 10 of the Criminal Code (KUHP), namely:

As explained in Article 10 of the Criminal Code, it consists of principal crimes which include death penalty, imprisonment, confinement, fines and additional penalties including revocation of certain rights, confiscation of certain items, and announcement of decisions by judges. Article 10 of the Criminal Code regulates the system of criminal sanctions from the heaviest to the lightest. In imposing criminal sanctions, the perpetrator must be proven guilty by being proven guilty. This is often referred to as criminal liability where criminal liability can be interpreted as the responsibility of a person for a crime he has committed. The basis for the existence of a criminal act is the principle of legality, while the basis for the punishment of the maker is the principle of error.⁹

As explained by Teguh Prasetyo, this means that the perpetrator of a crime will only be punished if he has a fault in committing a crime. Every criminal act must consist of external elements, therefore an act that contains behavior and the resulting consequences is an event in the natural world. In addition to behavior and consequences for a criminal act, it is usually necessary to have certain circumstances or circumstances accompanying the act.¹⁰

Based on this, Sudarto revealed relevant matters, namely: "It is not enough to convict a person if that person has committed an act that is against the law or is against the law. So even though the act fulfills the formulation of an offense in the law and is not justified (an objective breach of a provision panel), it does not yet meet the requirements for a criminal conviction. For punishment there is still a need for conditions, that the person who

⁸ Mahrus Ali, *Dasar-Dasar Hukum Pidana* (Sinar Grafika, 2015).

⁹ Chairul Huda, *Dari Tiada Pidana Tanpa Kesalahan Menuju Kepada Tiada Pertanggungjawaban Pidana Tanpa Kesalahan* (Kencana, 2006).

¹⁰ Teguh Prasetyo, *Kriminalisasi Dalam Hukum Pidana* (Nusa Media, 2010).

committed the act has guilt or guilt (subjective guilt). In other words, that person must be accountable for his actions or when viewed from the point of view of his actions, his actions can only be accounted for to that person.¹¹

Punishment carried out by an orderly society against perpetrators of crimes can take the form of eliminating or immobilizing the perpetrators of criminal acts, so that these perpetrators will no longer disturb them in the future. There are various ways to get rid of or paralyze, namely in the form of capital punishment, exile, sending across the ocean and imprisonment. Gradually there is a tendency for the way of punishment to experience a shift from time to time.¹²

The explanation above provides directions and considerations regarding what should be used as a sanction in a criminal act to enforce the enactment of norms. Sanctions in criminal law can be categorized into criminal sanctions and action sanctions. The basic idea is different from the two, criminal sanctions stem from the basic idea of why punishment is held. Meanwhile, the sanction for action departs from the basic idea: what is the punishment for?

The existence of this threat of criminal sanctions, then criminal law is said to be a law of sanctions which at the same time distinguishes it from other fields of law such as civil law, constitutional law, administrative law. The existence of this sanction is not only to encourage people to comply, it is also a legal consequence for people who have violated the law. The same thing was explained by Barda Nawawi in determining an act to become a crime, it must also be based on a strong moral foundation. Because this is related to the policy approach and value approach to the use of criminal law (means of penal) in the matter of determining:¹³

1. Actions that should be made into criminal acts;
2. Sanctions used or imposed on violators.

According to the author, the analysis of these two central problems cannot be separated from the conception that criminal policy is an integral part of social policy. This means that the solution to these problems must also be directed at achieving certain goals of social policy that have been set. Criminal law policies, including policies in dealing with the two central issues above, must also be carried out with a policy-oriented approach. Choosing and establishing criminal (law) as a means of tackling crime must really have considered all the factors that can support the function and operation of the criminal (law) in reality. So a functional approach is also needed and this is also an inherent approach to every rational policy.¹⁴

¹¹ H. P. I. Sudarto, *Badan Penyediaan Bahan-Bahan Kuliah FH UNDIP*. (1987).

¹² Ramdan Kasim, "Dehumanisasi Pada Penerapan Hukum Pidana Secara Berlebihan (Overspanning van Het Strafrecht)," *Jambura Law Review* 2, no. 1 (2020): 1-29, <https://doi.org/10.33756/jalrev.v2i1.2402>.

¹³ Edi Setiadi, "Penanggulangan Kejahatan Terorisme Dengan Hukum Pidana," *Jurnal Ilmu Hukum* 5, no. 1 (2003).

¹⁴ OG. Peter Hoefnagels, *The Other Side of Criminology (An Inversion of the Concept of Crime)* (Kluwer-Deventer, 1969).

3.2. Stages of the Sentencing Process in Court

The provision of punishment can actually be realized through several stages of the sentencing process in court, as follows:¹⁵

1. The stage of criminal determination by legislators;
2. The stage of imposing a sentence by an authorized body;
3. The stage of criminal execution by the competent implementing agency.

The government creates order and peace in people's lives through the formation of regulations that regulate everything to limit actions taken, one of which is a criminal act.¹⁶ Based on Chazawi Adami's explanation, in the criminal determination stage, the purpose of the policy is to determine a criminal punishment, so the policy objective to determine a criminal sanction cannot be separated from the criminal political objectives in its entirety, namely the protection of society to achieve prosperity. This is related to a theory of sentencing, namely a relative theory or objective theory based on the premise that punishment is a tool to uphold order (law) in society. The purpose of the existence of punishment is to provide a deterrent effect and bring order to society and to enforce the order itself, this punishment is needed.¹⁷ However, in this case punishment is not to satisfy the absolute demands of justice. Retaliation itself has no value, but only as a means to protect the interests of society. The manifestation of protection is that there are acts of violation and crimes against human rights.¹⁸ Human rights and the rule of law cannot be separated. One of the goals of recognizing and strengthening a rule of law is to protect human rights, meaning that individual rights and freedoms are recognized, respected and upheld.¹⁹

In general, a person who is strongly suspected of having committed a crime must also be treated like a human being.²⁰ Legal protection is needed because of efforts to integrate various needs associations that there is no collision between needs and can enjoy all the rights granted by law.²¹ The benefit is that it does not become clashes in the life of society and the state.²² The existence of complete assistance and protection as a form of fulfillment

¹⁵ Barda Nawawi Arief, *Teori-Teori Dan Kebijakan Pidana: Masalah Pemidanaan Sehubungan Dengan Perkembangan Delik-Delik Khusus Dalam Masyarakat Modern*. (Alumni, 1992).

¹⁶ Sri Nanang Meiska Kamba Nuvazria Achir, "The Function Of Sharia-Based Regional Regulations On Education And Social Services In The Regions," *Jambura Law Review* 3, no. Special Issue (2021): 1-17.

¹⁷ Chazawi Adami, *Pelajaran Hukum Pidana Bagian 1 :Sstelsel Pidana, Tindak Pidana, Teori-Teori Pemidanaan & Batas Berlakunya Hukum Pidana* (Raja Grafindo Persada, 2002).

¹⁸ Lisnawaty Badu, "Pengaturan Dan Perlindungan Ham Dalam Uud 1945," *Jurnal Legalitas* 3, no. 2 (1945): 26-39.

¹⁹ Badu Lisnawaty, "EUTHANASIA DAN HAK ASASI MANUSIA," *Jurnal Legalitas* 5, no. 1 (2012): 1-11.

²⁰ Dian Ekawaty Ismail dan Yowan Tamu, "Upaya Perlindungan Hak-Hak Tersangka/Terdakwa Melalui Mekanisme Praperadilan Di Kota Gorontalo," *Jurnal Mimbar Hukum* 21, no. 1 (2009): 81-92.

²¹ Jufryanto Puluhulawa et al, "Perlindungan Hukum Situs Bawah Air Leato / Japanese Cargo Wreck The Legal Protection of The Leato Underwater Site / Japanese Cargo Wreck Abstract Laut Mempunyai Makna Besar Bagi Indonesia, Sebagaimana Dijelaskan Shanti Dwi Kartika Bahwasannya : " Laut Se," *Jurnal Reformasi Hukum* 24, no. 2 (2020): 189-208.

²² Lusiana Tijow, "PERLINDUNGAN HAK ASASI MANUSIA TERHADAP HAK HIDUP ANAK DALAM KANDUNGAN DI LUAR PBRKAWINAN YANG SAH," *Jurnal Legalitas* 3, no. 2 (2003): 79-90.

of constitutional rights for every citizen in accordance with the purpose of legal assistance.²³

The stage of determining criminal punishment as one part of the planning chain for crime prevention to achieve community welfare must be a careful planning stage regarding what action policies should be taken in terms of sentencing in the event of a violation of the law. In other words, this stage must be a strategic planning stage in the field of punishment which is expected to provide direction for the following stages, namely a stage of criminal implementation and the stage of criminal implementation.

3.3. Analysis of the Judge's Decision

Judgment considerations are needed by the judge in making a decision that will be handed down to the defendant. The judge's consideration in making a decision after the process and trial is over, the judge must make the appropriate decision. This is very necessary to make decisions that are proportional and close to a sense of justice, both in terms of perpetrators of criminal acts, victims of criminal acts, and society. For this reason, before imposing a sentence, the judge takes action to first examine the truth of the incident proposed by looking at the existing evidence (trial facts) and accompanied by his conviction after that he considers and gives an assessment of the events that occurred and relates them to the applicable law. Furthermore, the panel of judges concluded by establishing a criminal sanction for the actions of the defendant. Judges in examining a case must be based on:²⁴

1. The prosecutor's indictment, is a letter indictments based on examination in criminal case law in court, as well as limiting the scope of examination of a case compiled or made by the Public Prosecutor. In the case of theft of a motor vehicle accompanied by threats of violence, the prosecutor issued charges based on Articles 368 and 363 paragraph (1) in conjunction with Article 55 paragraph (1). imprisonment for 8 (eight) months each minus the period of arrest and detention that has been served.
2. The defense of the accused person, in positive criminal law the defense of the accused is carried out by fulfilling the rights of the accused regulated in the Criminal Procedure Code, including the right to have their case examined immediately, as according to Article 50 paragraph (3) of the Criminal Procedure Code, that "the accused has the right to be tried by a court ." The right to prepare a defense, as according to article 51 letter b of the Criminal Procedure Code, that "To prepare a defense: The accused has the right to be clearly notified in a language he understands about what he is accused of. The right to receive legal assistance, as according to Article 54 of the Criminal Procedure Code, that "for the purposes of defense, the accused has the right to receive legal assistance from an advocate or more legal advisers during the time and at each level of examination,

²³ Julius Mandjo, "The Right to Obtain Free Assistance and Legal Protection for The Indigent People Through Legal Assistance Organizations," *Jambura Law Review* 3, no. 02 (2021): 365-77.

²⁴ *Putusan No. 107/Pid.B/2020/PN Lbo*, n.d.

3. witness statement, Article 1 number 27 of the Criminal Procedure Code defines witness testimony as one of the means of evidence in a criminal case in the form of testimony from a witness regarding a criminal event that he himself heard, saw, and experienced himself by stating the reasons for his knowledge. In the fact that the trial, the witness-victim gave testimony as a witness in connection with the problem of depriving the motorbike he was driving and those who seized the motorcycle totaled 5 people who at that time were using an Avanza DM 1352 AL car.
4. valid evidence, legal means of evidence according to the Criminal Justice System in Indonesia are as specified in Article 184 Paragraph (1) of the Criminal Procedure Code, namely witness statements, expert statements, letters, instructions and statements of the Defendant. In this case, it was determined that the evidence in the form of 1 unit of HONDA REVO ABSOLUT motorcycle with the black Police Number DM 2470 AO along with the key was returned to the witness-victim.

Based on the provisions stipulated in Article 184 of the Criminal Procedure Code, valid evidence that can be used in criminal proceedings is: witness statements, expert statements, letters, instructions and statements of the accused. Witness evidence is information given by a person regarding a criminal event that he himself heard, saw and experienced by himself by mentioning the reasons for his knowledge.²⁵

1. Applicable legal regulations. Namely the legal regulations that apply in accordance with the crime.
2. Applicable legal sources. source of law is a place to see the embodiment of law that has binding power. So it is necessary to pay attention to the factors that can affect the law, such as where the law is found, and based on what norms the law is.

Based on the results of an interview with Judge Esther Siregar as the chief judge in the case of the crime of vehicle theft with threats of violence in the limboto court, in his interview, he stated that

“The judge is free to determine the emergence of confidence in himself based on the evidence presented before the trial. Outside of that framework, there shouldn't be any things that could influence him in making a decision. The objective of administering judicial power is to foster the independence of the administrators of judicial power in the framework of creating a quality judiciary. The independence of the organizers is carried out in increasing integrity, knowledge and abilities.

Can provide an understanding that one of the principles or principles regulated in judicial power is the principle of independence. The principle or principle of independence is a principle that is universal in nature, and can be found anywhere and anytime. This principle means that in carrying out justice, judges are basically free in examining and adjudicating. Meanwhile, a quality judiciary is a product of the performance of the judiciary administrators. The judge's decision is the result of the authority to adjudicate

²⁵ Nur Fitriani, “TINJAUAN YURIDIS KEKUATAN PEMBUKTIAN KETERANGAN SAKSI ANAK DALAM PERSIDANGAN PERKARA PIDANA,” *Jurnal Legalitas* 12, no. 1 (2010): 14-24.

every case that is signed and based on the indictment and the facts revealed at trial and connected with the application of imprisonment, this is in accordance with the principle of criminal law, namely the principle of legality regulated in Article 1 paragraph (1) of the Criminal Code, namely that criminal law must originate from a law, meaning that punishment must be based on a law. Of course, the application of the severity of the sentence imposed for a judge is adjusted to what is the motivation and result of the perpetrator's actions.

According to the author's analysis, as a consequence the perpetrators of the crime of Article 368 paragraph (1) in conjunction with Article 55 paragraph (1) regarding motor vehicle theft accompanied by threats of violence are subject to criminal sanctions, especially in the application of criminal sanctions such as Limboto District Court Decision Number 107/Pid.B/ 2020/PN Lbo which stated that Defendant I together with Defendant II, Defendant III, Defendant IV, and Defendant V were legally and convincingly proven guilty of committing the crime of extortion with violence or threats of violence. However, if we look at this, the perpetrators should have been charged with multiple articles, namely Article 363 paragraph (1) to 4e, Article 368 paragraph (1) in conjunction with Article 55 of the Criminal Code because the perpetrators numbered more than one person or in other words were partners. Article elements Article 363 paragraph (1) of the Criminal Code: "Punished with a maximum imprisonment of seven years: The 4th theft committed by two or more persons in association." The description of the elements is as follows:²⁶

1. Whoever
2. Take
3. goods in part or in whole
4. with the intention to be illegally owned

Additional elements of Article 363 paragraphs (1) to 4 are carried out with 2 or more people in the alliance. The elements of that article put forward above is then related to the concrete incident as argued in the indictment, what needs to be interpreted is (1) the act of taking (2) goods in part or in whole (3) with the intention of having (4) an alliance. Then, when it is related to the position of the case being discussed, it has been clearly proven that this case was committed by 5 perpetrators which of course refers to the elements of Article 363 paragraphs (1) to 4e in the sentence "two or more people".

Judge Esther Siregar in the interview stated that the elements of article 368 paragraph (1) namely:²⁷

1. There is a legal subject/person who does it;
2. Committing acts against the law with the intent to benefit oneself or others or to make debts or write off debts;

²⁶ Pasal 363 Ayat (1) KUHP, n.d.

²⁷ Wawancara Bersama Esther Siregar Selaku Hakim Di Pengadilan Negeri Limboto. 3 Agustus 2022, n.d.

3. The act is committed by forcing someone by force or threat of violence to give something, either partially or wholly belonging to another person

In the opinion of Judge Esther Siregar in imposing a sentencing decision, the judge certainly has considerations that are used as the basis for making the decision, so that the decision handed down will reflect a sense of justice. Thus the Judge imposes a sentence on the defendants, namely if from the results of the examination at the trial court, the guilt of the defendant for the actions charged against him is legally and convincingly proven, which has been determined by Article 183 of the Criminal Procedure Code, namely:

"A judge may not impose a sentence on a person unless, with at least two valid pieces of evidence, he obtains confidence that a crime has actually occurred and that the defendant is the one who is guilty of committing it."²⁸

According to Fence M. W that Judges must have professional ability as well as high morale and integrity in order to be able to reflect a sense of justice, provide benefits and legal certainty. In addition, judges must have the ability to communicate and carry out their roles and status that can be accepted by society. So that from this it can give a sense of trust in the community for the decision given, because it is based on the judge's conviction.²⁹As in the theory of sentencing, namely the relative theory (objectives), basically punishment is a tool to uphold order (law) in society. This theory is different from the absolute theory, the premise that a crime can be punished means that criminal punishment has a specific purpose, for example improving mental attitude or making the perpetrator harmless.³⁰So according to the researchers, the concept of punishment is not only as retaliation for the mistakes of the perpetrators but as a means of achieving useful goals to protect society towards social welfare (justice).

In the process of imposing sentences and sanctions for the accused, basically the judge in this case must pay attention and analyze what will lighten the defendant and burden the defendant. As stated by the judge that:³¹

"The judge made his decision by considering the aggravating and mitigating factors for the defendant. The aggravating matters, for example, included the fact that the defendant had been convicted, during the trial the defendant did not admit guilt, gave convoluted statements, which made the examination difficult. While those who relieve the defendant include, among other things, the defendant is young, has never been convicted, admits openly for his actions, or the defendant has family dependents."

The legal certainty set forth in the judge's decision is a result based on juridically relevant trial facts and considerations with conscience. Ideally, judges are always required to always be able to interpret the meaning of laws and other regulations that are used as the basis for implementation. Don't let this happen, in the implementation or enforcement of

²⁸ Ibid.

²⁹ Fence M. Wantu, "Kendala Hakim Dalam Menciptakan Kepastian Hukum, Keadilan, Dan Kemanfaatan Di Peradilan Perdata *," *Jurnal Mimbar Hukum* 25, no. 2 (2011): 205-18.

³⁰ Zainal Abidin Farid, *Hukum Pidana 1* (Sinar Grafika, 2007).

³¹ Wawancara Bersama Esther Siregar Selaku Hakim Di Pengadilan Negeri Limboto. 3 Agustus 2022.

this law there will be unrest in society.³² An alarming phenomenon in the field of law enforcement and justice in court is legal justice which is no longer in line with social justice.³³ Quoting as said by Suwitno Yutye Imran that justice serves as a guideline to distinguish between just and unfair actions, elements of the aspect of justice can be contained in substance.³⁴ The application and enforcement of the law are elements of the legal system which must be continuously addressed in order to create a legal position in a legal state that is beneficial to the interests of society, nation and state.³⁵ Before imposing a sentence on the defendant, the judge needs to consider aggravating and mitigating factors, namely:³⁶

1. Aggravating circumstances:
 - a. The actions of the defendants harmed the victim-witness;
 - b. The actions of the defendants are vigilante actions that have the potential to disrupt the peaceful life of society.
2. The mitigating circumstances for the defendant included the defendants being polite in court and the defendants had never been prosecuted. This means that the defendants did not make a fuss, followed the directions and SOPs that were in effect during the trial. Associated with the case In his decision, the Judge stated that the defendants had been legally and convincingly proven guilty of committing a crime which was committed jointly and sentenced the defendants to imprisonment for 8 (eight) months each minus the period of arrest and detention that had been served by the defendants.

Based on the explanation above, the judge's decision actually, when viewed from the two articles that have been imposed or assigned to the defendants, is not correct because the defendants were charged with two multiple articles, where the two articles have severe punishment which results in layered punishment with a prison sentence of more than eight months from what was charged against the defendants and not even based on the facts that happened on the ground. This resulted in less effective application of sanctions against the defendants. Seeing the facts on the ground regarding cases of theft with threats of violence, there were 5 perpetrators who were proven to have committed the crime of theft with threats of violence, so the judge should also consider the factor of threats of violence and also the perpetrators who participated in committing the crime simultaneously. As regulated in 363 paragraph (1) to 4e and article 368 paragraph 1 of the Criminal Code in conjunction with article 55 of the Criminal Code.

³² Sutrisno et al, "Penerapan Asas Keadilan, Kepastian Hukum Dan Kemanfaatan Dalam Putusan Hakim Tindak Pidana Korupsi," *Gorontalo Law Review* 3, no. 2 (2020): 168-87.

³³ Wantu, "Kendala Hakim Dalam Menciptakan Kepastian Hukum, Keadilan, Dan Kemanfaatan Di Peradilan Perdata *."

³⁴ Suwitno Yutye Imran, "The Urgency of Regulation of the Ultra Qui Judicat Principle in Criminal Judgments," *Jambura Law Review* 3, no. 2 (2021): 395-410, <https://doi.org/10.33756/jlr.v3i2.11154>.

³⁵ Soerjono Soekanto, *Pengantar Penelitian Hukum* (UI- Press, 2010).

³⁶ Adami Chazawi, *Kejahata Terhadap Tubuh & Nyawa* (PT.Raja Grafindo, n.d.).

4. Conclusion

Consequences of perpetrators of the crime of motor vehicle theft accompanied by threats of violence can be subject to sanctions based on Articles 368 and 363 paragraph (1) in conjunction with Article 55 paragraph (1). Application of criminal sanctions in the Decision of the Limboto District Court Number 107/Pid.B/2020/PN Lbo which stated that Defendant I together with Defendant II, Defendant III, Defendant IV, and Defendant V were legally and convincingly proven guilty of committing the crime of extortion by force or threat of violence. In his decision, the judge stated that the defendants were sentenced to 8 (eight) months in prison each minus the periods of arrest and detention that had been served.

Judges as law and justice enforcement officers, in making decisions against perpetrators of the crime of theft with threats of violence, should give consideration to the sense of justice and the facts found in the trial, so that the resulting decision will truly reflect a sense of justice for society and for defendant.

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