

## JURIDICAL REVIEW OF THE CRIME OF AGGRAVATED THEFT COMMITTED CONTINUOUSLY (A STUDY OF DECISION NUMBER 1677/PID.B/2025/PN MDN)

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*aggravated theft committed as a continuing act, to examine the application of the provision on continuing acts (voortgezette handeling), and to analyze the judges' considerations in rendering a decision in Case Number 1677/Pid.B/2025/PN Mdn. The results of the study indicate that the application of Article 363 paragraph (1) points 4e and 5e of the Indonesian Criminal Code (KUHP) to the defendant's acts was appropriate, as all elements of the offense of aggravated theft were proven lawfully and convincingly. In addition, the application of Article 64 paragraph (1) of the KUHP concerning continuing acts was also correct, given the existence of unity of intent, similarity of acts, and a relatively short interval between the acts. The judges' considerations in rendering the decision took into account evidentiary aspects, principles of criminal law, and the objectives of sentencing, such that the decision reflects legal certainty, justice, and utility. Accordingly, Decision Number 1677/Pid.B/2025/PN Mdn can be legally justified.*

**Keywords:** *Theft, Aggravating Circumstances, Continuing Offense*

### 1. INTRODUCTION

Aggravated theft or qualified theft (*gequalificeerde diefstal*) is regulated in Article 363 of the Criminal Code (KUHP). This provision provides a heavier criminal penalty compared to ordinary theft due to the existence of certain circumstances accompanying the act of theft. The aggravating circumstances include: (1) theft of livestock; (2) theft committed at the time of a fire, eruption, flood, earthquake, volcanic eruption, shipwreck, train accident, riot, rebellion, or danger of war; (3) theft committed at night in a house or enclosed yard in which there is a house; (4) theft committed by two or more persons in conspiracy; and (5) theft committed, in order to enter the place where the crime is carried out or to reach the goods taken, by damaging, cutting or climbing, or by using a false key, false order, or false official attire. An interesting case to be examined is the case of Decision Number 1677/Pid.B/2025/PN Mdn, in which the defendant Budi Prasetya Mulia alias Budi together with Ade Saputra alias Putra (DPO/not yet arrested) committed the theft of iron window bars from an empty house belonging to the parents of the victim witness Silvana Ginting located at Jalan Perwira I No.131, Pulo Brayan Bengkel Subdistrict, Medan Timur District, Medan City. The theft was

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committed three times continuously, namely: first on Thursday, June 26, 2025 at approximately 13.00 WIB, the defendant together with his accomplice succeeded in taking 5 (five) iron window bars which were sold for Rp.80,000,-; second on Friday, June 27, 2025 at approximately 14.30 WIB, the defendant again took 6 (six) iron window bars which were sold for Rp.235,000,-; and third on Monday, June 30, 2025 at approximately 13.00 WIB, the defendant took 6 (six) iron window bars which were sold for Rp.307,000,-.Based on the description above, the author is interested in examining more deeply the application of substantive criminal law to the crime of theft under aggravating circumstances committed continuously and the judge's considerations in rendering the decision. Therefore, the author raises the research title "Juridical Review of the Crime of Theft Under Aggravating Circumstances Committed Continuously (Study of Decision Number 1677/Pid.B/2025/PN Mdn)".

## 2. METHODOLOGY

The location for data collection in this study is the Medan District Court. The type of research used is normative legal research (normative juridical). Through the case study of Decision Number 1677/Pid.B/2025/PN Mdn, the researcher can analyze how the legal process was carried out, starting from the indictment of the public prosecutor to the final decision. In this study, the data sources used are derived from secondary data consisting of primary legal materials, secondary legal materials, and tertiary legal materials. The data collection technique was carried out through library research. The data analysis technique in this study was conducted descriptively-qualitatively.

## 3. RESULTS / CASE STUDY / EXPERIMENT / DEMONSTRATION / APPLICATION FUNCTIONALITY

The crime of theft is one of the crimes against property regulated in Book II of the Criminal Code. In the case of Decision Number 1677/Pid.B/2025/PN Mdn, the defendant was charged with committing theft under aggravating circumstances. The aggravating circumstances resulted in the application of Article 363 of the Criminal Code as the basis of substantive law. The judge first assessed whether the defendant's act fulfilled the elements of theft. This assessment became the main basis in the application of substantive criminal law.

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The aggravating circumstance referred to in this case is theft committed at a certain time. The judge assessed that the time of the commission of the theft increased the potential loss and the sense of insecurity for the victim. This time circumstance is explicitly regulated as an aggravating element in Article 363 of the Criminal Code. Thus, the defendant's act cannot be qualified as ordinary theft. The judge's assessment is in accordance with the provisions of substantive criminal law.

The application of substantive criminal law also requires conformity between the indictment and the decision. In this case, the indictment of the public prosecutor had formulated Article 363 of the Criminal Code appropriately. The judge then proved the indictment one by one. There was no deviation between the indictment and the operative part of the decision. This shows consistency in the application of substantive criminal law.

A continued act (*voortgezette handeling*) is an important concept in Indonesian criminal law regulated in Article 64 paragraph (1) of the Criminal Code. This concept is used when one person commits several criminal acts that have such a relationship that they are viewed as one continued act. In Decision Number 1677/Pid.B/2025/PN Mdn, the defendant committed theft more than once. The judge then assessed whether the acts met the qualification of a continued act. This assessment became the basis for the application of Article 64 paragraph (1) of the Criminal Code.

The judge also considered that the theft was committed against the same victim or objects of a similar type. The similarity of the object strengthens the continued character of the act. This distinguishes a continued act from ordinary concurrence of criminal acts. In this case, there were no acts that stood independently. Therefore, the application of Article 64 paragraph (1) of the Criminal Code was deemed appropriate.

The judge in this case distinguished between a continued act and concurrence of criminal acts. Concurrence results in punishment being imposed cumulatively or absorptively. However, a continued act is viewed as one series of acts. The judge expressly stated that the defendant's acts constituted a continued act. This affirmation shows the accuracy of the application of substantive criminal law.

## 4. DISCUSSION

The application of substantive criminal law to the crime of theft under aggravating circumstances in Decision Number 1677/Pid.B/2025/PN Mdn was carried out by qualifying

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the defendant's act based on the provisions of Article 362 of the Criminal Code which was then aggravated by Article 363 of the Criminal Code. The judge first proved the elements of theft, namely the act of taking goods, the goods belonging to another person, and the intent to possess unlawfully. After the basic elements were fulfilled, the judge assessed the existence of special aggravating circumstances, such as the time and manner of the commission of the theft, so that the defendant's act was no longer qualified as ordinary theft. This approach shows the application of the principle of systematic criminal law, in which Article 363 of the Criminal Code is understood as *lex specialis* of Article 362 of the Criminal Code.

In rendering the decision, the judge also ensured the fulfillment of the defendant's criminal responsibility and found no justifying or excusing grounds. The application of Article 363 of the Criminal Code was based entirely on facts revealed at trial without an expansion of interpretation that would harm the defendant, so that the principle of legality was maintained. The judge considered the purpose of aggravation of punishment, namely the protection of society, deterrent effect, and justice for the victim, while at the same time safeguarding the rights of the defendant. Thus, the application of substantive criminal law in Decision Number 1677/Pid.B/2025/PN Mdn is considered appropriate, proportional, and in accordance with positive Indonesian criminal law, as well as providing legal certainty and justice.

The application of the provision on continued acts (*voortgezette handeling*) in Decision Number 1677/Pid.B/2025/PN Mdn was based on Article 64 paragraph (1) of the Criminal Code, which regulates that several criminal acts may be viewed as one continued act if they are committed based on the same intent, with similar types of acts, and have a close relationship in terms of time, manner, and purpose. In this case, the judge assessed that the defendant committed theft under aggravating circumstances repeatedly with the same pattern, object, and purpose, and within a time span that was not too long. The unity of the defendant's intent to obtain unlawful benefit became the main basis for assessing the existence of a continued act, so that the series of acts were not viewed as separate criminal offenses.

By qualifying the defendant's act as a continued act, the judge applied Article 64 paragraph (1) of the Criminal Code by imposing a single punishment based on the heaviest criminal threat, without imposing punishment cumulatively. This approach reflects the application of the principles of proportionality and justice, because it prevents excessive

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punishment for acts originating from one continuous intent. The judge still proved each theft and applied the aggravation of Article 363 of the Criminal Code appropriately, so that the application of the continued act did not reduce the thoroughness of proof nor legal protection for the victim and the defendant. Thus, the application of Article 64 paragraph (1) of the Criminal Code in this case can be considered appropriate, lawful, and juridically accountable.

The judge's considerations in Decision Number 1677/Pid.B/2025/PN Mdn were structured as a rational and juridical basis to ensure that the defendant's act was proven legally and convincingly and that the defendant could be held criminally responsible. The judge first assessed the proof of the elements of theft and the aggravating circumstances as referred to in Article 362 in conjunction with Article 363 of the Criminal Code, and linked them with the trial facts and lawful evidence. The assessment of evidence was carried out in accordance with Article 183 of the Criminal Procedure Code (KUHAP) by evaluating the conformity of witness testimony, the defendant's statement, documentary evidence, and physical evidence, so that the judge's conviction was formed logically. After that, the judge applied Article 64 paragraph (1) of the Criminal Code regarding continued acts by observing the continuity of the acts committed by the defendant, without ignoring the proof of each theft incident in the series.

In addition to juridical aspects, the judge also considered non-juridical aspects and the objectives of punishment so that the decision reflects legal certainty, justice, and expediency. Aggravating factors such as the repeated commission of the act, causing loss to the victim, and disturbing the community were considered to emphasize the need for deterrent effect and social protection. Conversely, mitigating factors such as polite behavior at trial, confession and remorse of the defendant, and a history of never having been convicted were used as a basis for individualization of punishment so that the sentencing would not be excessive. By balancing the interests of the victim, the defendant, and society and applying the principles of legality, fault, proportionality, and prudence in discretion, the judge's considerations in this case are considered comprehensive and the decision can be juridically accountable.

## 5. CONCLUSION

Based on the results of the discussion, it can be concluded that the application of substantive criminal law to the crime of theft under aggravating circumstances in Decision Number 1677/Pid.B/2025/PN Mdn has been carried out appropriately. All elements of the

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crime of theft as regulated in Article 363 of the Criminal Code, namely the elements of “whoever”, “taking goods”, “goods belonging to another person”, and “with the intent to possess unlawfully”, have been proven legally and convincingly based on trial facts. The aggravating circumstances have also been carefully assessed by the judge so that the defendant’s act was not qualified as ordinary theft.

The application of the provision on continued acts as regulated in Article 64 paragraph (1) of the Criminal Code in Decision Number 1677/Pid.B/2025/PN Mdn has been carried out correctly and proportionally. The judge has assessed the existence of unity of intent, close relationship between acts, and continuity of time and modus in the theft committed by the defendant. Therefore, the defendant’s act was viewed as one series of continued acts and punished as one unity. The application of Article 64 paragraph (1) of the Criminal Code prevents the occurrence of multiple punishments in a disproportionate manner.

The judge’s considerations in rendering the decision against the defendant in Decision Number 1677/Pid.B/2025/PN Mdn have been carried out comprehensively and systematically. The judge based the decision on lawful evidence in accordance with the provisions of the Criminal Procedure Code and applied principles of criminal law, such as the principle of legality, the principle of fault, the principle of justice, the principle of expediency, and the principle of individualization of punishment. Aggravating and mitigating factors for the defendant were considered in balance in determining the sentence. In addition, the judge also paid attention to the objectives of punishment which include prevention, guidance, and protection of society. Thus, the decision rendered can be juridically accountable and reflects substantive justice.

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article. The author realizes that this research still has limitations; therefore, constructive criticism and suggestions are highly expected for the improvement of future research.

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