

Judicial Inconsistency in Theft Sentencing: A Critical Analysis of Sentencing Practices under Indonesia's Criminal Justice System

Nandito Seno Aji^{1*}

¹Magister Ilmu Hukum, Universitas Jenderal Soedirman

¹nandito.aji@mhs.unsoed.ac.id

Abstract

This research aims to analyze the forms of judicial inconsistency in sentencing theft cases, particularly those involving juvenile offenders, and to identify the contributing factors within Indonesia's criminal justice framework. Sentencing disparity often raises serious concerns regarding substantive justice and legal certainty, especially when two cases with nearly identical legal elements and factual backgrounds result in significantly different judgments. This study employs a normative juridical method combined with a case study approach, focusing on two court decisions: Number 14/Pid.B/2011/PN.Yk and Number 10/Pid.SUS-Anak/2015/PN.Yk. Data were collected from statutory instruments, court documents, and judicial reasoning, and analyzed through both normative and sociological lenses. The findings reveal that judicial inconsistency stems from differences in the legal basis applied by judges, the social backgrounds of the offenders, and the uneven consideration of social inquiry reports. Moreover, the unregulated scope of judicial discretion due to the absence of standardized sentencing guidelines has significantly contributed to these disparities. When sentencing is not grounded in clear legal, sociological, and philosophical justification, the ruling loses its legitimacy and may erode public trust in the justice system. This study emphasizes the urgent need for a national sentencing guideline to ensure more consistent, transparent, and accountable sentencing practices within Indonesia's legal system, particularly in cases involving vulnerable groups such as juveniles.

Keywords: criminal justice system, judicial discretion, juvenile, sentencing disparity, substantive justice

Abstrak

Penelitian ini bertujuan untuk menganalisis bentuk ketidakkonsistenan (judicial inconsistency) dalam penjatuhan pidana pada perkara tindak pidana pencurian, khususnya yang melibatkan pelaku anak, serta mengidentifikasi faktor-faktor yang memengaruhi disparitas tersebut dalam konteks sistem peradilan pidana di Indonesia. Fenomena disparitas putusan kerap menimbulkan persoalan serius dalam hal keadilan substantif dan kepastian hukum, terutama ketika dua perkara yang memiliki unsur hukum dan fakta serupa berujung pada vonis yang berbeda secara signifikan. Penelitian ini menggunakan metode yuridis normatif dengan pendekatan studi kasus pada dua putusan pengadilan, yakni Putusan Nomor 14/Pid.B/2011/PN.Yk dan Putusan Nomor 10/Pid.SUS-Anak/2015/PN.Yk. Data diperoleh dari analisis dokumen hukum, peraturan perundang-undangan, dan pertimbangan hakim, serta dikaji berdasarkan pendekatan

*Nandito Seno Aji

Email: nandito.aji@mhs.unsoed.ac.id

This work is licensed under a [Creative Commons Attribution-Share Alike 4.0](https://creativecommons.org/licenses/by-sa/4.0/)



normatif dan sosiologis. Hasil penelitian menunjukkan bahwa ketidakkonsistenan dalam penjatuhan pidana disebabkan oleh perbedaan dasar hukum yang dirujuk, latar belakang sosial pelaku, serta penggunaan hasil penelitian kemasyarakatan yang tidak merata. Selain itu, kebebasan diskresi hakim yang tidak dibatasi oleh pedoman pemidanaan teknis yang seragam juga menjadi penyebab utama terjadinya disparitas. Ketika pertimbangan hukum tidak dibangun di atas justifikasi yang jelas secara yuridis, sosiologis, dan filosofis, maka putusan kehilangan nilai legitimasi dan berpotensi merusak kepercayaan publik terhadap lembaga peradilan. Penelitian ini menegaskan pentingnya pembentukan pedoman pemidanaan nasional yang baku guna menciptakan keadilan yang lebih konsisten, transparan, dan akuntabel di masa mendatang.

Kata kunci: *anak, diskresi hakim, disparitas pidana, keadilan substantif, sistem peradilan pidana*

1. INTRODUCTION

Criminal punishment holds a central role within the criminal justice system. It functions as the state's primary mechanism to uphold justice, maintain public order, and ensure legal certainty. Punishment is not only retributive in nature but also serves preventive and rehabilitative purposes that affect offenders, victims, and society as a whole.¹ As the final stage of judicial proceedings, sentencing becomes the focal point for evaluating the effectiveness, integrity, and legitimacy of the legal system. Judicial sentencing decisions carry significant legal and social consequences that influence public confidence in the judiciary. When a verdict is perceived as lacking substantive fairness, it invites critical scrutiny of the justice system and raises questions about its normative foundations.²

Sentencing disparity is defined as the unjustified variation in punishments for criminal offenses that are legally and factually comparable. This phenomenon represents a structural issue that challenges the consistency of legal reasoning in the application of statutory provisions. In theft cases where the same article of the Criminal Code is applied

¹ Mia Novia, Santi, and Setyaningsih, "Disparitas Hukuman Dalam Perkara Pidana Pencurian Dengan Pemberatan Putusan Nomor. 782/PID.B/2019/PN.Smg Dan Putusan Nomor. 157/PID.B/2019/PN.Smg," *JURNAL RUANG HUKUM* 3, no. 1 (May 20, 2024): 21–30, <https://doi.org/10.58222/juruh.v3i1.772>.

² Arafah - Arafah, "Disparitas Penjatuhan Pidana Dalam Perkara Pencurian Dengan Pemberatan Di Pengadilan Negeri Takengon (Studi Putusan Nomor 79/Pid.B/2022/PN.Tkn, Nomor 33/Pid.B/2022/PN.Tkn Dan Nomor 13/Pid.B/2022/PN.Tkn)," *Suloh: Jurnal Fakultas Hukum Universitas Malikussaleh* 13, no. 1 (May 19, 2025): 276–90, <https://doi.org/10.29103/sjp.v13i1.20849>.

to similar facts, sentencing inconsistencies often emerge without rational explanation. This inconsistency calls into question the objectivity of judicial reasoning and undermines the principle of equality before the law.³ Judicial discretion is protected within the framework of judicial independence, but it must remain guided by normative boundaries established in law. When sentencing disparity occurs without objective justification, it weakens public trust and reduces the legitimacy of the court's decision.⁴

Disproportionate sentencing contributes to psychological resistance among convicted individuals during the correctional process and diminishes the rehabilitative function of punishment. The absence of fairness in sentencing outcomes also undermines public confidence in the impartiality of the justice system and may lead to increased recidivism. When two offenders receive significantly different sentences for similar acts under the same legal provision, public perception of legal neutrality is compromised. Disparity in sentencing fosters legal uncertainty and increases the gap between formal justice and the lived experiences of justice seekers.⁵ The erosion of substantive justice in sentencing disrupts the symbolic and functional role of criminal law in society. Uniformity in the application of punishment is essential to safeguard the normative order of the legal system.⁶

Recent studies confirm that disparity in sentencing remains a persistent issue within the Indonesian criminal justice system, particularly in theft cases. Handoko⁷ demonstrated that judges often apply subjective considerations that are not grounded in objective legal

³ Novia, Santi, and Setyaningsih, "Disparitas Hukuman Dalam Perkara Pidana Pencurian Dengan Pemberatan Putusan Nomor. 782/PID.B/2019/PN.Smg Dan Putusan Nomor. 157/PID.B/2019/PN.Smg."

⁴ Efraim Abigail Bukit, "No Title Disparities in the Crime of Petty Theft and Aggravated Theft: Study of the Supreme Court of the Republic of Indonesia Regulation Number 2 of 2012," *Jurnal Syntax Imperatif: Jurnal Ilmu Sosial Dan Pendidikan* 6, no. 3 (2025): 361–69, <https://doi.org/10.14710/mmh.47.3.2018.215-227>.

⁵ Patrick Gerkin et al., "Implementing Restorative Justice Under the Retributive Paradigm," *Sage Open* 7, no. 1 (January 1, 2017), <https://doi.org/10.1177/2158244017691562>.

⁶ Handar Subhandi Bakhtiar, Amriyanto Amriyanto, and Samsu Alam Maddussila, "Solutions To Differences In Sentences For Parallel Integration Of Restorative Justice In Indonesian Courts," *Jurnal Hukum Dan Peradilan* 12, no. 2 (July 31, 2023): 409, <https://doi.org/10.25216/jhp.12.2.2023.409-440>.

⁷ Ahmad Handoko, "Pertimbangan Hakim Dalam Penegakan Hukum Tindak Pidana Pencurian Berdasarkan Pasal 363 Ayat (1) Ke-5 Kuhp Yang Menjunjung Tinggi Keadilan," *Muhammadiyah Law Review* 5, no. 1 (February 11, 2021): 30, <https://doi.org/10.24127/lr.v5i1.1499>.

criteria, which results in inconsistent decisions for comparable offenses. Hasan, Z., Pamungkas⁸ identified the absence of minimum sentencing thresholds, inconsistent prosecutorial strategies, and irregular judicial evaluations as key factors contributing to sentencing disparities in theft cases. Surbakti⁹ found that judicial interpretations of theft laws differ significantly across appellate decisions, which further exacerbates inconsistencies between sentences in petty and aggravated theft cases. These findings emphasize the need to establish sentencing guidelines that align judicial discretion with the principles of proportionality and consistency. The increasing number of theft cases in recent years strengthens the urgency of creating a more predictable and transparent penal framework. A comprehensive analysis of sentencing disparity is necessary to support justice and coherence in national penal policy.

This research aims to examine the forms and causes of sentencing disparity in theft cases within Indonesia's criminal justice system. The analysis focuses on both normative and non-normative factors that influence judicial decisions, including legal interpretation, factual similarities, and individual circumstances of offenders. A doctrinal and conceptual approach is applied to determine whether sentencing practices are consistent with the principles of justice and equality before the law. The study explores how judges exercise discretion when interpreting open-ended legal provisions and how these interpretations affect sentencing consistency. The findings are expected to contribute to the development of proportional and standardized sentencing models that preserve judicial independence while ensuring uniformity. Ultimately, this research seeks to strengthen sentencing practices that reflect fairness, rationality, and public trust in the Indonesian legal system.

⁸ Zainudin Hasan et al., "Faktor Penyebab Dan Upaya Penanggulangan Tindak Pidana Pencurian Kendaraan Bermotor," *JALAKOTEK: Journal of Accounting Law Communication and Technology* 1, no. 2 (July 1, 2024): 316–23, <https://doi.org/10.57235/jalakotek.v1i2.2369>.

⁹ Ujung Surbakti, Runtung Sitepu, and Marlina Marlina, "Penyelesaian Tindak Pidana Ringan Pencurian Hasil Kebun Kelapa Sawit Kebun Tambunan A – USU Pada Kepolisian Sektor Salapian," *Locus Journal of Academic Literature Review* 3, no. 2 (February 2, 2024): 184–97, <https://doi.org/10.56128/ljoalr.v3i2.288>.

2. RESEARCH METHODS

This research adopts a normative juridical approach, which focuses on the analysis of written legal norms, legal principles, and doctrines relevant to the issue of sentencing disparity in theft cases.¹⁰ The normative juridical method examines the law as it is written in statutes and regulations, using primary and secondary legal materials as the core data sources. Primary legal materials include national legislation such as the Indonesian Penal Code (KUHP), the Criminal Procedure Code (KUHP), and Law Number 48 of 2009 on Judicial Power. Secondary materials consist of scholarly literature, legal journals, court decisions, academic commentaries, and other relevant legal documents. Data collection is carried out through library research and documentary analysis, allowing for an in-depth exploration of both the normative framework and the conceptual underpinnings of criminal sentencing practices. This approach enables the study to evaluate the legal reasoning employed by judges and its alignment with established legal standards.

The collected data are analyzed using qualitative normative analysis, which involves interpreting the substance of legal norms and assessing the logic of judicial argumentation.¹¹ This method seeks to uncover how both legal and non-legal factors influence judicial discretion in sentencing decisions, particularly in cases involving similar legal provisions and factual contexts. The research also evaluates the extent to which judicial reasoning reflects principles of proportionality, legal certainty, and equality before the law. By focusing on the coherence between normative texts and their practical application, this method aims to identify gaps in consistency and fairness in the criminal justice process. The normative juridical approach is considered appropriate for this study as it provides a conceptual framework to critically examine the application of sentencing norms. Ultimately, this methodological framework supports the development of more consistent and equitable sentencing models in the Indonesian legal system.

¹⁰ Jonaedi Efendi and Prasetijo Rijadi, *Metode Penelitian Hukum Normatif Dan Empiris: Edisi Kedua* (Depok: Prenadamedia Group, 2022), <https://books.google.co.id/books?id=j1W6EAAAQBAJ>.

¹¹ Irwansyah, *Penelitian Hukum, Pilihan Metode & Praktik Penulisan Artikel, Edisi Revisi* (Yogyakarta: Mirra Buana Media, 2022).

3. RESULTS AND DISCUSSION

3.1. Forms of Judicial Inconsistency in Theft Sentencing

Judicial inconsistency in sentencing remains a critical concern in Indonesia's criminal justice system, especially in cases involving juvenile offenders. This issue becomes particularly visible when courts deliver different sentences in cases with nearly identical legal elements and factual circumstances. In such instances, inconsistency reflects not only a lack of standardization in judicial reasoning but also a failure to uphold the principles of equality before the law and proportionality in sentencing.¹² The problem becomes even more significant when it involves children, who should be afforded special protection under Law Number 11 of 2012 on the Juvenile Criminal Justice System. While judges are granted discretionary powers in deciding cases, unregulated and subjective discretion often results in disparities that undermine public trust and the legitimacy of court decisions. To demonstrate how inconsistency materializes in practice, this study compares two court decisions that adjudicated juvenile theft cases with similar characteristics but led to strikingly different outcomes.¹³

The first case, Decision Number 14/Pid.B/2011/PN.Yk, involved a 16-year-old street busker who committed theft with peers and received a custodial sentence of two months and fifteen days. The second, Decision Number 10/Pid.SUS-Anak/2015/PN.Yk, involved three school-age minors who committed a similar offense but were sentenced to four months of probation and social guidance. Although both cases involved the same article of the Indonesian Penal Code Article 363 paragraph (1) points 3 and 4, the legal basis applied, social considerations, and sentencing outcomes varied considerably. These inconsistencies reflect not only differing judicial interpretations but also unequal application of legal protections afforded to juveniles. The comparison below highlights these distinctions in a structured format:

¹² Iskandarsyah Siregar and Aziz Rahimy, "A Normative Analysis of Juvenile Sentencing Laws in Indonesia: Reconciling Justice, Rehabilitation, and Victim Redress," *Polit Journal Scientific Journal of Politics* 3, no. 3 (September 2, 2023): 160–69, <https://doi.org/10.33258/polit.v3i3.969>.

¹³ William Maxey et al., "Discrepancy between Policy and Practice: A Case Study on Hegemony within an Indonesian Juvenile Correctional Center (LPKA)," *Children and Youth Services Review* 177 (October 2025): 108469, <https://doi.org/10.1016/j.chilyouth.2025.108469>.

Table 1. Comparison of Judicial Decisions in Juvenile Theft Cases

Component	Case No. 14/Pid.B/2011/PN.Yk	Case No. 10/Pid.SUS-Anak/2015/PN.Yk
Age of Offender(s)	16 years 8 months	16 years 8 months, 15 years 7 months, 15 years
Social Background	Street musician, no formal education	All offenders were enrolled in formal education
Criminal Act	Theft of two gas cylinders (3 kg and 12 kg)	Theft of two smartphones from a private residence
Value of Loss	Approximately IDR 340,000	Approximately IDR 6,500,000
Applicable Legal Provisions	Article 363(1) points 3 and 4 of the Indonesian Penal Code	Article 363(1) points 3 and 4 of the Indonesian Penal Code
Juvenile Law Consideration	Not applied (the offense occurred before the enactment of the Juvenile Justice Law)	Applied Law No. 11/2012 on Juvenile Criminal Justice
Probation Report Considered	Yes, suggested imprisonment; child not attending school	Yes, recommended probation; child enrolled in school
Type of Sentence	2 months and 15 days in prison	4 months of probation with supervision by public prosecutor and social officer

Source: Compiled from court decisions No. 14/Pid.B/2011/PN.Yk and No. 10/Pid.SUS-Anak/2015/PN.Yk as cited in Sambada (2016) and Alexsander & Widowaty (2020).

These two cases demonstrate the extent of inconsistency in juvenile sentencing when there is no unified application of legal principles or technical guidelines. Although the Juvenile Justice Law seeks to promote restorative justice and non-custodial measures, its application appears selective and highly dependent on the presiding judge's interpretation and discretion. Social background, particularly whether the offender is in school, plays a disproportionate role in influencing sentencing decisions.¹⁴ Judges tend to be more lenient toward juveniles from structured educational environments, while those from informal or marginalized backgrounds receive harsher penalties. This discrepancy reflects a systemic bias that contradicts the principle of equal treatment under the law.¹⁵

The inconsistent use of social inquiry reports also contributes to disparity. While both cases included assessments from the Probation Office, the recommendations were treated differently by each court. In the 2011 case, the judge followed the report

¹⁴ Emmilia Rusdiana et al., "The Adverse Effects of Incentives on Parties Engaged in Theft within the Context of Indonesian Local Wisdom," *Cogent Social Sciences* 10, no. 1 (December 31, 2024), <https://doi.org/10.1080/23311886.2024.2400608>.

¹⁵ Muhammad Maftuhin and Deni Kusumawardani, "Land Use and Crimes in Indonesian Rural and Urban Areas," *Development Studies Research* 11, no. 1 (December 31, 2024), <https://doi.org/10.1080/21665095.2024.2357100>.

suggesting detention due to the child's non-school status. In contrast, the 2015 case emphasized rehabilitation through social integration based on the offenders' school participation.¹⁶ This shows that reports meant to guide sentencing can be interpreted subjectively, further widening the gap between decisions. Such inconsistency raises concerns about judicial accountability and the absence of normative benchmarks in juvenile sentencing.¹⁷

The findings underscore that judicial inconsistency does not merely result from legal gaps but from unequal application of discretionary power. Without standardized sentencing frameworks, judges will continue to interpret similar legal facts differently, especially in the absence of detailed sentencing guidelines for juveniles. This situation risks undermining the objectives of child protection law, particularly the principles of proportionality, non-discrimination, and the best interests of the child. The comparison reinforces the importance of establishing coherent national policies to guide judicial discretion. Addressing this inconsistency is critical to restoring public confidence and ensuring a fairer and more transparent justice system for juveniles.

3.2. Legal Basis and Contributing Factors to Inconsistency in Sentencing

Judicial discretion in sentencing is a fundamental principle in Indonesia's legal system. This authority is explicitly regulated under Law Number 48 of 2009 on Judicial Power. Judges are granted the autonomy to assess legal facts and apply relevant norms based on their conviction.¹⁸ The resulting legal reasoning forms the core of a judicial decision. Legal reasoning includes considerations of both mitigating and aggravating circumstances related to the offender. Every judge is required to present these considerations in the written judgment.¹⁹

¹⁶ Salma Zahra et al., "Reforming Indonesian Criminal Justice: Integrating Recidivism Risk Assessment for Fair and Effective Sentencing," *Jurnal Hukum Dan Peradilan* 13, no. 2 (July 31, 2024): 275, <https://doi.org/10.25216/jhp.13.2.2024.275-310>.

¹⁷ Maftuhin and Kusumawardani, "Land Use and Crimes in Indonesian Rural and Urban Areas."

¹⁸ Lilik Sugiharti et al., "Criminality and Income Inequality in Indonesia," *Social Sciences* 11, no. 3 (March 21, 2022): 142, <https://doi.org/10.3390/socsci11030142>.

¹⁹ Selvy Selvy and Syafri Hariansah, "Analysis of Disparity in Judges' Decisions in Narcotics Crimes Cases: Case Study of the Decision of the Sungailiat District Court Number 175/PID. SUS/2017/PN SGL JO Supreme Court Decision Number 629 PK/PID. SUS/2024," *Journal of Law, Politic and Humanities* 5, no. 4 (April 29, 2025): 2991–95, <https://doi.org/10.38035/jlph.v5i4.1512>.

Judicial decisions serve as the final stage of the criminal justice process. Their impact is not limited to the individual offender but extends to society and the institutional credibility of the courts. The quality of a sentence significantly shapes public perception of legal fairness. When the facts are consistent but sentencing outcomes vary, perceptions of injustice often arise. Inconsistent judgments undermine the legal system's legitimacy. Disparity in sentencing reflects the absence of uniform enforcement of legal standards.²⁰ A comparison of two theft cases involving juveniles reveals clear differences in judicial approach. Case Number 14/Pid.B/2011/PN.Yk applied Article 363 of the Penal Code without reference to juvenile-specific legislation. This case was adjudicated before the enactment of Law Number 11 of 2012 on the Juvenile Criminal Justice System. Judges were not yet legally obligated to apply this special law. The offender in that case received a custodial sentence. This differs from Case Number 10/Pid.SUS-Anak/2015/PN.Yk, where the judge applied the Juvenile Law comprehensively.

Non-legal factors also influence judicial inconsistency. The social background of the offender, such as educational status, plays a significant role. Juveniles enrolled in school are often viewed as more suitable for conditional sentencing. Juveniles outside formal education tend to receive harsher penalties.²¹ Judicial perceptions of rehabilitation potential are often shaped by these social conditions. The lack of standardized evaluation methods allows personal interpretations to dominate sentencing outcomes. Reports from the Social Probation Office are not utilized uniformly across cases. Some judges treat these reports as central to their decision-making. Others disregard them and focus solely on legal facts. This inconsistency results in a lack of procedural standards in using social data. Such disparities widen the scope for unequal sentencing outcomes. The uncertainty in this process creates fertile ground for judicial inconsistency.²²

²⁰ Iwa Maulana et al., "Terrorism Convictions in Indonesia: An Analysis of Sentencing Disparity and Contributing Legal Factors," *International Criminal Justice Review*, July 15, 2025, <https://doi.org/10.1177/10575677251356977>.

²¹ Henny Saida Flora, Harmono Harmono, and Livia Alves, "Effectiveness of the Implementation of Restorative Justice in the Juvenile Criminal Justice System," *Rechtsnormen: Journal of Law* 3, no. 1 (April 22, 2025): 33–44, <https://doi.org/10.70177/rjl.v3i1.2068>.

²² Christina Maya Indah Susilowati, "Sentencing of Minor Offences in Indonesia: Policy, Practice and Reform," *International Journal of Criminology and Sociology* 10 (April 8, 2021): 778–83, <https://doi.org/10.6000/1929-4409.2021.10.92>.

Judges have a moral obligation to uncover and uphold the values of justice that live within society. Article 5 Paragraph (1) of the Judicial Power Law mandates judges to follow and understand community-based legal values. Judges are also authorized to conduct legal discovery, or *rechtvinding*, in the absence of clear legal norms. This process requires caution and methodological consistency. The legal approach must reflect comprehensive justice principles. Consistent adherence to a particular sentencing philosophy is essential in preventing erratic decisions.²³ Sentencing disparities do not always have negative implications when grounded in clear and rational justification. Such justification must be based on legal, sociological, and philosophical assessments that can be tested through normative analysis. When no reasonable justification is provided, sentencing disparities become a form of structural injustice. The impact extends to both the offender's psychological well-being and the public's trust in legal institutions. Offenders may lose respect for the law and resist rehabilitation efforts. Communities may view the justice system as unfair and untrustworthy.²⁴

The inconsistency evident in these juvenile theft cases illustrates the urgent need for structural reform. The juvenile criminal justice system requires technical sentencing guidelines to govern judicial discretion objectively. Standardization in the use of legal and social considerations is urgently needed. When sentencing practices rely too heavily on subjectivity, legal certainty is at risk. This study demonstrates that judicial inconsistency is a latent issue undermining Indonesia's legal system. Such a critical analysis reflects the primary focus of this study: *Judicial Inconsistency in Theft Sentencing: A Critical Analysis of Sentencing Practices under Indonesia's Criminal Justice System*.

²³ Nurini Aprilianda et al., "Strengthening the Position of Child Victims as Witnesses Through Video Recordings in Sexual Violence Crimes (A Comparison Between Indonesia and Malaysia)," *Brawijaya Law Journal* 11, no. 2 (October 24, 2024): 196–214, <https://doi.org/10.21776/ub.blj.2024.011.02.02>.

²⁴ Zainuddin Zainuddin and Azwad Rachmat Hambali, "Implementation of Diversion for Children in Conflict with the Law by the National Police of Indonesia," *European Journal of Law and Political Science* 2, no. 6 (November 20, 2023): 15–21, <https://doi.org/10.24018/ejpolitics.2023.2.6.112>.

CONCLUSION AND SUGGESTION

This study reveals that judicial inconsistency in theft sentencing, particularly involving juvenile offenders, arises from divergent normative approaches, variations in the offender's social background, and inconsistent application of legal and social assessment instruments by judges. The analysis of two verdicts despite sharing identical legal structures and criminal elements demonstrates a clear disparity, where one juvenile received imprisonment and others were sentenced to conditional supervision. This inconsistency stems from the absence of standardized sentencing guidelines, unregulated judicial discretion, and irregular use of social inquiry reports and probation officer recommendations. While judicial independence is a cornerstone of the judicial system, its exercise without clear justification leads to legal uncertainty, undermines substantive justice, and erodes public confidence in the criminal justice system. When sentencing disparities are not grounded in defensible legal, sociological, or philosophical reasoning, they no longer reflect the uniqueness of each case but rather expose systemic inequality that demands critical scrutiny and structural reform.

A binding and standardized sentencing guideline is needed for all judges to prevent unjustified disparities, especially in juvenile cases. Judicial discretion should be guided by clear and measurable legal, sociological, and philosophical parameters. The role of Social Probation Officers must be strengthened and made a mandatory consideration in juvenile court proceedings. Continuous training for judges on child justice principles and sentencing consistency should be enhanced systematically. Periodic evaluation of court decisions is essential as an internal oversight mechanism. Sentencing reform must prioritize substantive justice, protection for vulnerable groups, and legal certainty within the criminal justice system.

REFERENCE

Apriandi, Nurini, Nadhilah A. Kadir, Ladito Risang Bagaskoro, and Anggi Ari Yuliani. "Strengthening the Position of Child Victims as Witnesses Through Video Recordings in Sexual Violence Crimes (A Comparison Between Indonesia and Malaysia)." *Brawijaya Law Journal* 11, no. 2 (October 24, 2024): 196–214. <https://doi.org/10.21776/ub.blj.2024.011.02.02>.

- Arafah, Arafah -. “Disparitas Penjatuhan Pidana Dalam Perkara Pencurian Dengan Pemberatan Di Pengadilan Negeri Takengon (Studi Putusan Nomor 79/Pid.B/2022/PN.Tkn, Nomor 33/Pid.B/2022/PN.Tkn Dan Nomor 13/Pid.B/2022/PN.Tkn).” *Suloh: Jurnal Fakultas Hukum Universitas Malikussaleh* 13, no. 1 (May 19, 2025): 276–90. <https://doi.org/10.29103/sjp.v13i1.20849>.
- Bakhtiar, Handar Subhandi, Amriyanto Amriyanto, and Samsu Alam Maddussila. “Solutions To Differences In Sentences For Parallel Integration Of Restorative Justice In Indonesian Courts.” *Jurnal Hukum Dan Peradilan* 12, no. 2 (July 31, 2023): 409. <https://doi.org/10.25216/jhp.12.2.2023.409-440>.
- Efendi, Jonaedi, and Prasetyo Rijadi. *Metode Penelitian Hukum Normatif Dan Empiris: Edisi Kedua*. Depok: Prenadamedia Group, 2022. <https://books.google.co.id/books?id=j1W6EAAAQBAJ>.
- Efrain Abigail Bukit. “No Title Disparities in the Crime of Petty Theft and Aggravated Theft: Study of the Supreme Court of the Republic of Indonesia Regulation Number 2 of 2012.” *Jurnal Syntax Imperatif: Jurnal Ilmu Sosial Dan Pendidikan* 6, no. 3 (2025): 361–69. <https://doi.org/10.14710/mmh.47.3.2018.215-227>.
- Flora, Henny Saida, Harmono Harmono, and Livia Alves. “Effectiveness of the Implementation of Restorative Justice in the Juvenile Criminal Justice System.” *Rechtsnormen: Journal of Law* 3, no. 1 (April 22, 2025): 33–44. <https://doi.org/10.70177/rjl.v3i1.2068>.
- Gerkin, Patrick, John Walsh, Joseph Kuilema, and Ian Borton. “Implementing Restorative Justice Under the Retributive Paradigm.” *Sage Open* 7, no. 1 (January 1, 2017). <https://doi.org/10.1177/2158244017691562>.
- Handoko, Ahmad. “Pertimbangan Hakim Dalam Penegakan Hukum Tindak Pidana Pencurian Berdasarkan Pasal 363 Ayat (1) Ke-5 KuHP Yang Menjunjung Tinggi Keadilan.” *Muhammadiyah Law Review* 5, no. 1 (February 11, 2021): 30. <https://doi.org/10.24127/lr.v5i1.1499>.
- Hasan, Zainudin, Bambang Pamungkas, M. Mahdi Mahdavikia, and Pande Nyoman H. Jaya. “Faktor Penyebab Dan Upaya Penanggulangan Tindak Pidana Pencurian Kendaraan Bermotor.” *JALAKOTEK: Journal of Accounting Law Communication and Technology* 1, no. 2 (July 1, 2024): 316–23. <https://doi.org/10.57235/jalakotek.v1i2.2369>.
- Irwansyah. *Penelitian Hukum, Pilihan Metode & Praktik Penulisan Artikel, Edisi Revisi*. Yogyakarta: Mirra Buana Media, 2022.
- Iskandarsyah Siregar, and Aziz Rahimy. “A Normative Analysis of Juvenile Sentencing Laws in Indonesia: Reconciling Justice, Rehabilitation, and Victim Redress.” *Polit Journal Scientific Journal of Politics* 3, no. 3 (September 2, 2023): 160–69. <https://doi.org/10.33258/polit.v3i3.969>.
- Maftuhin, Muhammad, and Deni Kusumawardani. “Land Use and Crimes in Indonesian Rural and Urban Areas.” *Development Studies Research* 11, no. 1 (December 31, 2024). <https://doi.org/10.1080/21665095.2024.2357100>.

- Maulana, Iwa, Dewi Indriana, Daniella T. Putri, and Maria Ulfah. "Terrorism Convictions in Indonesia: An Analysis of Sentencing Disparity and Contributing Legal Factors." *International Criminal Justice Review*, July 15, 2025. <https://doi.org/10.1177/10575677251356977>.
- Maxey, William, Zainal Arifin, Hari Harjanto Setiawan, Sri Setiawati, and Rudi Febriamansyah. "Discrepancy between Policy and Practice: A Case Study on Hegemony within an Indonesian Juvenile Correctional Center (LPKA)." *Children and Youth Services Review* 177 (October 2025): 108469. <https://doi.org/10.1016/j.chilyouth.2025.108469>.
- Novia, Mia, Santi, and Setyaningsih. "Disparitas Hukuman Dalam Perkara Pidana Pencurian Dengan Pemberatan Putusan Nomor. 782/PID.B/2019/PN.Smg Dan Putusan Nomor. 157/PID.B/2019/PN.Smg." *JURNAL RUANG HUKUM* 3, no. 1 (May 20, 2024): 21–30. <https://doi.org/10.58222/juruh.v3i1.772>.
- Rusdiana, Emmilia, Qristin Violinda, Aji Mulyana, Bhanu Prakash Nunna, Rahmah Purwahida, Fakhrurrazi, Fransina Yoteni, and Cipta Pramana. "The Adverse Effects of Incentives on Parties Engaged in Theft within the Context of Indonesian Local Wisdom." *Cogent Social Sciences* 10, no. 1 (December 31, 2024). <https://doi.org/10.1080/23311886.2024.2400608>.
- Selvy, Selvy, and Syafri Hariansah. "Analysis of Disparity in Judges' Decisions in Narcotics Crimes Cases: Case Study of the Decision of the Sungailiat District Court Number 175/PID. SUS/2017/PN SGL JO Supreme Court Decision Number 629 PK/PID. SUS/2024." *Journal of Law, Politic and Humanities* 5, no. 4 (April 29, 2025): 2991–95. <https://doi.org/10.38035/jlph.v5i4.1512>.
- Sugiharti, Lilik, Miguel Angel Esquivias, Mohd Shahidan Shaari, Lussi Agustin, and Hilda Rohmawati. "Criminality and Income Inequality in Indonesia." *Social Sciences* 11, no. 3 (March 21, 2022): 142. <https://doi.org/10.3390/socsci11030142>.
- Surbakti, Ujung, Runtung Sitepu, and Marlina Marlina. "Penyelesaian Tindak Pidana Ringan Pencurian Hasil Kebun Kelapa Sawit Kebun Tambunan A – USU Pada Kepolisian Sektor Salapian." *Locus Journal of Academic Literature Review* 3, no. 2 (February 2, 2024): 184–97. <https://doi.org/10.56128/ljoalr.v3i2.288>.
- Susilowati, Christina Maya Indah. "Sentencing of Minor Offences in Indonesia: Policy, Practice and Reform." *International Journal of Criminology and Sociology* 10 (April 8, 2021): 778–83. <https://doi.org/10.6000/1929-4409.2021.10.92>.
- Zahra, Salma, Akmal Azizan, Sally Sophia, and Nurajam Perai. "Reforming Indonesian Criminal Justice: Integrating Recidivism Risk Assessment for Fair and Effective Sentencing." *Jurnal Hukum Dan Peradilan* 13, no. 2 (July 31, 2024): 275. <https://doi.org/10.25216/jhp.13.2.2024.275-310>.
- Zainuddin, Zainuddin, and Azwad Rachmat Hambali. "Implementation of Diversion for Children in Conflict with the Law by the National Police of Indonesia." *European Journal of Law and Political Science* 2, no. 6 (November 20, 2023): 15–21. <https://doi.org/10.24018/ejpolitics.2023.2.6.112>.