



# Criminal Policy as an Effort to Overcome the Criminal Act of Theft of Plantation Products during the Covid-19 Period Through the Criminal Law (Study of PTPN III-(Persero))

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## Abstract

*Criminal acts in Indonesia have increased during the COVID-19 pandemic which caused unrest in the community. One of the most common types of criminal acts during the Covid-19 pandemic is the crime of theft, all of which cause many layoffs. During 2019-2021, the number of thefts of plantation products in PTPN III during the Covid-19 pandemic increased significantly. The type of research used is empirical juridical research, while the source of legal materials used is primary legal materials and secondary source legal materials. The factors that cause the criminal act of theft of plantation products in the territory of PTPN III PERSERO are economic factors, educational factors, environmental factors, global development factors and law enforcement factors. Efforts to combat the theft of plantation products are carried out by penal and non-penal means.*

**Keywords:** *Criminal Law Policy, Prevention, Plantation Crime.*

## A. Introduction

In social life, crime is a phenomenon that often occurs. Evil itself is very universal in nature, meaning that the existence of evil has existed throughout human existence until the end of this world. The perpetrators of the crime themselves can be committed by all people from different educational backgrounds, adults and children. Therefore, every country has regulations to tackle crime. Tackling means controlling crime so that it is within the "limits of tolerance" of society, but does not mean tolerating a crime to occur.<sup>1</sup> Tolerance is the awareness that evil will remain as long as there are humans in society.<sup>2</sup>

Indonesia has considerable natural wealth, the longest coastline in the world, has the second largest forest area after Brazil and various mines which are almost in every archipelago. Abundant wealth is used for the benefit of the greatest prosperity of the people. Starting from this perspective, the government is of the view that Indonesia's natural resources should be taken into account for the country's growth. Various policies have been made by the government to protect the activities of utilizing existing natural resources. The government through State-Owned Enterprises (BUMN) and

<sup>1</sup>Sahat Maruli Tua Situmorang, Fenomena Kejahatan Di Masa Pandemi Covid19 :Perspektif Kriminologie, Majalah Ilmiah Unikom Bidang Hukum, Vol 19 No.1 April 2021, hal 35-43

<sup>2</sup> Ibid

other private companies are given concessions to work as state tools in managing natural wealth.<sup>3</sup>

Plantation is one of the sub-sectors of agricultural activities that play an important and strategic role in financing national development. Based on Law No. 18 of 2004 concerning Plantations, economically, plantations function to increase the prosperity and welfare of the people, as well as strengthen regional and national economic structures, ecologically, they function to increase soil and water conservation, absorb victims, provide oxygen and support protected areas and socio-culture, serves as a glue and unifier of the nation.<sup>4</sup> In the National Development Plan, the government has formulated a development strategy aimed at improving people's welfare, increasing and maintaining economic growth, increasing job opportunities, income distribution, eradicating poverty and conserving natural resources and the environment.

Every individual in living daily life in the community will face a situation in the form of fulfilling the needs of life to be able to survive in life, in addition to the need for desires that must be fulfilled.<sup>5</sup> The Covid-19 pandemic has had a negative impact on the Indonesian economy which has also affected the increase in the unemployment rate. The Central Statistics Agency (BPS) recorded that the Open Unemployment Rate (TPT) in August 2021 reached 6.49 percent (six point forty-nine percent) down 0.58 (zero point fifty eight percent) when compared to August 2020 data which reached 7.07 percent (seven point zero seven percent). There are 21.32 million people (10.32%) of the working age population affected by Covid-19, consisting of unemployed due to Covid-19 (1.82 million people), Non-Working Forces (BAK) due to Covid-19 (700 thousand people), temporarily not working due to Covid-19 (1.39 million people), and working population experiencing reduced working hours due to Covid-19 (17.41 million people).<sup>6</sup>

During the Covid-19 period, the rising unemployment rate was followed by a fairly drastic increase in the crime rate in Indonesia, including the crime of theft of plantation products. Theft is a crime that occurs in the social environment of the community that has a target to steal something that does not belong to them. In developing countries such as Indonesia, the tendency to commit theft is not essentially based on a bad character. However, it could be based on social and economic constraints that encourage them to commit crimes. Kartono wrote that crime or crime is not a hereditary or congenital event, nor is it a biological inheritance. Criminal behavior can be committed by anyone, both women and men, can take place at the age of children, adults or the elderly.<sup>7</sup>

Crimes can be committed consciously, that is, consciously thought, planned and directed at a certain purpose, but can also be done semi-consciously, for example

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<sup>3</sup> Rudy Hendra Pakpahan, Aries Firdaus, *Pertanggungjawaban Pidana Korporasi Perkebunan Atas Pencemaran Limbah Kelapa Sawit*, Jurnal Legislasi Indonesia, Vol 17 Juni 2020, hal 223-233.

<sup>4</sup>Laporan Kinerja Direktorat Jenderal Perkebunan, Oleh Ir.Gamal Nasir, MSc (Kementerian Pertanian, 2013:[http://ditjenbun.pertanian.go.id/files/Laporan Kinerja 2013](http://ditjenbun.pertanian.go.id/files/Laporan%20Kinerja%202013)).

<sup>5</sup> Izza Aliyatul Millah, Penanggulangan Kejahatan Di Masa Pandemi Covid 19 (Dalam Prespektif Kriminologie Dan Viktomologie), Jurnal Komunikasi (JKH) Universitas Pendidikan Ganesha, Vol 2, 2 Agustus 2020, hal.598.

<sup>6</sup> Badan Pusat Statistik ([bps.go.id](https://bps.go.id)) diakses 23 Februari 2022, Pukul.22.51Wib

<sup>7</sup> Kartini Kartono, *Patologie Sosial*, Jilid I, Edisi Baru, Raja Grafindo Persada, Jakarta, 2011, hal 121-122.

driven by strong impulses whacked by very strong compulsions and by obsessions in meeting their needs in the midst of the Covid-19 pandemic. Article 362 of the Criminal Code (KUHP) states that theft is "anyone who takes something, wholly or partly belonging to another person, with the intention of unlawfully possessing it, is threatened with a maximum imprisonment of five years", with elements of among others, the first act of taking; secondly what is taken must be an item, the third item wholly or partly belongs to another person; fourth, the taking must be carried out with the intention of possessing the item against the law (against the right). Referring to Article 1 point 9 of Law 39 of 2014 concerning Plantations it is stated "plantation products are all goods and services from plantation products consisting of main products, derivative products, by-products and other products". During 2019-2021, the number of thefts of plantation products at PTPN III during the Covid-19 pandemic has increased; this can be seen in the data presented today:

No.	Year	Number of cases	Perpetrators caught
1.	2019	314	340 people
2.	2020	469	511 people
3.	2021	421	362 people

PTP III (Persero Sumber)

Seeing the high rate of theft of plantation products in the form of oil palm, if no measures are taken, it is feared that it will reduce the income of PTPN III as one of the SOEs assigned by the government as a source of development funds, especially during the Covid-19 pandemic.

Criminal law policies against theft of plantation products must be implemented as mandated by laws and regulations, although criminal sanctions have been clearly imposed on perpetrators of criminal acts of theft but these crimes continue to increase every year. The implementation of legal policies is carried out within the framework of the rule of law. The policies taken are based on the Legal Policy which aims for the benefit of the community. Thus, the essence of the criminalization policy is part of the criminal policy (criminal policy) by using the means of criminal law (penal) so that it is part of the criminal law policy (penal policy).

The problems that will be discussed are: What is the criminal law policy as a means of preventing the theft of plantation products during the Covid-19 pandemic? (Study at PTPN III).

## B. Research Method

The research method used is an empirical juridical research method. The nature of this research uses a juridical approach (law is seen as a norm or *das sollen*), because in discussing this research problem it uses legal materials (both written law and unwritten law or primary and secondary legal materials).<sup>8</sup> The empirical juridical approach is law as a social, cultural or *das sein* reality because this research uses primary data obtained from the field.<sup>9</sup>

The source of legal materials used in this writing is the primary data source obtained by conducting interviews with related parties at PT Perkebunan Nusantara

<sup>8</sup> Soerjono Soekanto, *Pengantar Penelitian Hukum*, UI Press, Jakarta, 1996, hal.9

<sup>9</sup> Bambang Waluyo, *Metode Penelitian Hukum*, Sinar Grafika, Jakarta, 2013, hal.13.

III (Persero). The nature of the interview is conducted in a directional or structured manner, that is, by first preparing questions, of course with varying. The results of the interview are expected to provide answers to the problems studied while secondary data is obtained through literature. Secondary data collection is carried out by studying and understanding scientific literature to obtain a theoretical basis in the form of opinions and writings of experts and authorities. Secondary data used include the Criminal Code, Law No. 13 of 2014 concerning Plantations. Primary data and secondary data obtained, then processed by sorting out the relevant data or not with the problem being studied and then compiled systematically.

The method of analysis used is qualitative analysis, which is research that utilizes open interviews to study and understand the attitudes, views, feelings, and behaviors of individuals or groups of people. Primary data and secondary data that have been collected are then arranged systematically. The data is then analyzed with existing circumstances and facts based on the theories associated with the problems studied, and studies what the respondents/informants state both orally and in writing.<sup>10</sup>

## **C. Results and Discussion**

### **1. Aspects of Penal and Non-Penal Theft of Plantation Products during the Covid Period at PTP III (PERSERO) Plantation.**

The term policy comes from the word *policy* (English) or *Politiek* (Dutch). Starting from the above understanding, criminal policy can also be referred to as a "criminal law politics" policy, in the literature it is known by various terms "Penal Policy, Criminal Law Policy or *straffrechts politiek*.<sup>11</sup> There are three complex meanings of criminal policy, namely:

- a) The narrow meaning of policy is the overall principles and methods that form the basis of reactions to violations of the law in the form of crimes;
- b) In a broad sense, it is the overall function of the law enforcement apparatus, including the workings of the courts and the police;
- c) In the broadest sense, it is the overall policy carried out through legislation and official bodies aimed at enforcing the central norms of society.<sup>12</sup>

According to Solly Lubis, legal politics is a political policy that determines what legal regulations should apply to regulate various matters of social and state life.<sup>13</sup> Mahfud M.D, also defines legal politics as a policy regarding law that will be or has been implemented nationally by the government. It also includes an understanding of how politics influences the law by looking at the configuration of power behind the making and enforcing of the law. In this context, the law cannot only be seen as imperative articles, but must be seen as a subsystem which in reality is not impossible to be

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<sup>10</sup> Lexy J.Moeleong, *Metodologie Penelitian Kualitatif*, Remaja Rosdakarya, Bandung, 1988, hal 52

<sup>11</sup> Syaiful Bakhri, *Kebijakan Kriminal Prespektif Sistem Peradilan Pidana di Indonesia*, Total Media, Jakarta, 2010, hal 3

<sup>12</sup> Barda Nawawi Arief, *Bunga Rampai Kebijakan Kriminal Hukum Pidana (Perkembangan Penyusunan Konsep KUHP Baru*, Kencana, Jakarta, 2011, hal 3

<sup>13</sup> Solly Lubis, *Serba Serbi Politik dan Hukum*, Mandar Maju, Bandung, 1989, hal 49

determined by politics, both in the formulation of the material (articles), as well as in their enforcement.<sup>14</sup>

**a. Non-Penal Policy**

Efforts or policies to prevent and counter crime including the field of criminal policy (criminal policy). This criminal policy is also inseparable from the broader policy, namely social policy (social policy) which consists of policies / efforts for social welfare (social-welfare policy) and policies / efforts for community protection (social defense policy).<sup>15</sup>

Non-criminal or non-penal policy is a crime management policy through non-criminal channels that are more precautionary before the occurrence of crime. These conducive factors, among others, are centered on problems or social conditions that can directly or indirectly cause or cure crime.<sup>16</sup>

Non-criminal or non-penal policy is a crime management policy through non-criminal channels that are more precautionary before the occurrence of crime. Therefore, the main target is about conducive factors for the cause of crime centered on problems or social conditions that can directly or indirectly cause or fertile crime while the policy of criminal countermeasures penal or penal policy criminal law policy or criminal law politics is a policy to determine how far applicable criminal provisions need to be done. changes or updates, what is made to prevent the occurrence of crimes and the way in which investigators, prosecutions, trials and criminal executions should be carried out.<sup>17</sup>

**b. Penal Policy**

Penal Policy is a science as well as an art that ultimately has a practical goal to allow positive legal regulations to be formulated better and to provide guidelines, not only to lawmakers and also to the organizers or executors of court decisions. Between the study of criminological factors on the one hand and the study of the techniques of legislation on the other hand, legislative phenomena and for a rational art in which scholars and criminological practitioners and legal scholars can work together not as opposing or disputing parties, but as related co-workers in the joint task that is a joint task to produce a realistic criminal policy, humanist and forward-thinking, progressive and healthy.<sup>18</sup>

The scope of this criminal law policy actually covers a fairly broad problem, which includes the evaluation of the substance of the current criminal law for the upcoming renewal of criminal law and how to apply this criminal law through the criminal system

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<sup>14</sup> Mohammad Azali Siregar, dkk, Kebijakan Kriminal Dalam Upaya Penanggulangan Tindak Pidana Pencurian Hewan di Kabupaten Padang Lawas, USU Law Journal, Vol 5 No.2 (April 2017).

<sup>15</sup> Syafruddin Kalo, Kebijakan Kriminalisasi Dalam Pendaftaran Hak-Hak Tanah di Indonesia; Suatu Pemikiran: Pidato Pengukuhan Jabatan Guru Besar Tetap Dalam Bidang Ilmu Hukum Agraria Pada Fakultas Hukum USU, USU Press, Medan, 2006, hal.2

<sup>16</sup> Barda Nawawi Arief, Bunga Rampai Kebijakan Hukum Pidana (Perkembangan Penyusunan Konsep KUHP Baru), Op cit, hal.26

<sup>17</sup> Mahmud Mulyadi, Criminal Policy: Pendekatan Integral Penal Policy dan Non Penal Policy Dalam Penanggulangan Kejahatan Kekerasan, Pustaka Bangsa Press, Medan, hal 55-68

<sup>18</sup> Barda Nawawi Arief, Bunga Rampai Kebijakan Hukum Pidana (Perkembangan Penyusunan Konsep KUHP Baru), Op cit, hal .26

component of crime prevention. This prevention effort means that the criminal law must be one of the instruments of prevention of the possibility of crime.<sup>19</sup>

Based on the understanding of legal politics as stated above, it can generally be concluded that the politics of criminal law is an effort to determine in which direction the implementation of Indonesian criminal law in the future with the best conceptualization to apply.<sup>20</sup>

### **c. Relationship of Crime Policy (Criminal Policy) to the Criminal Justice System**

The Criminal Justice System as a system of a community system in the process of determining the concept of the system is a criminal justice apparatus that is bound together in the relationship between the sub-system of the police, courts and institutions (prison). The criminal justice system according to the meaning and scope of the system can be physical in the sense of structural synchronization, it can also be substantial synchronization. In terms of structural synchronization, synchronization and harmony are demanded in the mechanism of criminal justice administration (the administration of justice) within the framework of relations between law enforcement agencies. In substantial synchronization, this simultaneously implies both vertical and horizontal meanings in relation to the applicable positive law, while cultural synchronization contains efforts to always simultaneously live the views, attitudes and philosophies that as a whole underlie the operation of the criminal justice system.<sup>21</sup>

### **d. Definition of Theft of Plantation Produce**

Law cannot be separated from human life because in human interaction it is covered by rules or norms, namely regulations that affect human behavior in society.

Criminal acts or offenses are actions that are contrary to criminal laws and regulations, both in the form of crimes and violations that are punishable by punishment (punishment) for the perpetrator.<sup>22</sup> Meanwhile, plantations are activities for managing natural resources, human resources, production facilities, tools and machines, cultivation, harvesting, processing and marketing related to plantations.<sup>23</sup>

The crime of theft of plantation products also implicitly regulates the prohibition of theft of plantation products. Article 55 of Law No. 39 of 2014 concerning Plantations states: Everyone is illegally prohibited

- 1) Working on, using, occupying, and/or controlling the Plantation Land.
- 2) Working on, using, occupying, and/or controlling community land or customary law community land rights for the purpose of plantation business.
- 3) Carry out felling of plants in the plantation are.
- 4) Harvesting and/or collecting plantation products.

Meanwhile, the criminal sanctions as stated in Article 55, are punished with imprisonment for a maximum of 4 (four) years or a fine of a maximum of Rp. 4,000,000,000.00 (four billion rupiah) as stipulated in Article 107 of Law No. 39 of

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<sup>19</sup> Mahmud Mulyadi, Op cit, hal 65-88

<sup>20</sup>Wirjono Prodjodikoro, Tindak-Tindakan Pidana Tertentu di Indonesia, Refika Aditama, Bandung, 2010, hal.

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<sup>21</sup> Muladi, Kapita Selekta Sistem Peradilan Pidana, Undip, Semarang, 1995, hal.13-14

<sup>22</sup> Ojak Nainggolan, Pengantar Ilmu Hukum, UHN Press, Medan, 2014, hal.65.

<sup>23</sup> Pasal 1 Angka 1 Undang-Undang Nomor 39 Tahun 2014 Tentang Perkebunan

2014 concerning Plantations. Article 55 letter D of the Plantation Law has a similar meaning to the act of theft as regulated in Article 362 of the Criminal Code.

The application of criminal provisions to other forms of plantation crime can be applied to individuals in the processing of plantation products, officials authorized to issue plantation business permits, plantation business actors and corporations or officials who are legally proven to have committed plantation crimes. Criminal provisions are imposed in the form of imprisonment and fines in accordance with criminal acts that have been legally proven to have been committed.

The crime of plantation products has become a concern for the government considering the losses caused to companies, both state companies and private companies. Therefore, the government seeks to control criminal acts against plantation products by making criminal rules as regulated in Law no. 39 of 2014 concerning Plantations.

The crime of illegally harvesting plantation products is very widespread, and is carried out continuously. The perpetrators of harvesting and collecting plantation products, who are often also referred to as palm oil ninjas, do not only use motorbikes, but also use motorized tricycles, four-wheeled vehicles, and not infrequently use 6/8-wheeled colt diesel vehicles to transport the results of their activities, so you can imagine that the act of harvesting does not only occur on a small scale, but also occurs on a large scale. It is even possible that in a certain area the company no longer has any remaining FFB to be harvested because it has been illegally harvested by the palm oil ninja.

## **2. Factors Causing the Crime of Theft of Plantation Products at PTPN III (Persero)**

### **a. General History of PTP III (Persero)**

The history of the establishment of plantations on a corporate scale in Indonesia began in Java, but due to limited land, only East Java and West Java have relatively large HGU plantation areas. Meanwhile, for plantations that are engaged in the sugar factory business, sugar cane is generally grown using glebagan land, namely by rotating leases on land owned by the community.<sup>24</sup>

Since plantations were first introduced in North Sumatra in 1863, the area cultivated has continued to increase. In its heyday before World War II, large plantations reached more than 700,000 hectares, consisting of 250,000 hectares of tobacco, 255,500 hectares of rubber, 92,000 hectares of oil palm, and other crops, such as fiber, tea and coffee.<sup>25</sup>

The plantation management model on a corporate scale was first set up by pioneers in North Sumatra. Recruitment models, systems, and patterns of employment as well as the formation of plantation culture take into account demographic and anthropological aspects. The preservation of the heterogeneity of the ethnic elements of the workforce is the basic element in the formation of a dynamic melting culture. The values of meritocracy, discipline, and professionalism are the modalities developed by the pioneers of plantations one hundred and fifty years ago.<sup>26</sup>

<sup>24</sup> Mohammad Abdul Ghani, *Jejak Planters di Tanah Deli, Dinamika Perkebunan di Sumatra Timur 1863-1996*, Bogor, IPB Press, 2019, hal.97

<sup>25</sup> Ibid

<sup>26</sup> Ibid

One of the largest plantation companies in North Sumatra, PT Perkebunan Nusantara III (Persero) has started its business decades ago. The company is a pioneer in the development of plantations on a corporate scale throughout Indonesia with long experience in the plantation sector. During the heyday of the plantation industry in North Sumatra, it also had many research institutes for oil palm, palm oil, rubber, tobacco, tea and cocoa. North Sumatra is also the location chosen by several large plantations as the company's home based office. Thus the position of North Sumatra is very important as one of the mecca of plantations in Indonesia.<sup>27</sup>

Reflecting on the Indonesian Constitution which stipulates that "Earth and water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people", this provision is stated in Article 33 paragraphs (2) and (3) of the Constitution Republic of Indonesia in 1945 (UUD 1945). Based on the constitutional mandate, State-Owned Enterprises (BUMN) were formed as state companies in the form of business units to manage natural resources with the aim of realizing prosperity for the people.<sup>28</sup>

State-Owned Enterprises (BUMN) exist at the will of the state constitution in order to control and manage natural resources that are used for the welfare of all Indonesian people. Plantation is one of the business sectors that is managed within the framework of BUMN, as a company whose formation is funded by the state, BUMN Plantation in carrying out its corporate actions is still based on the mechanism outlined in the rules of the game that apply within the state company.<sup>29</sup>

PT Perkebunan Nusantara III which is a State Plantation Company wholly owned by the state so that it is included in the category of State-Owned Enterprises (BUMN). The Company is a state-owned enterprise which is engaged in the business of Agro-Business, Agro-Industrial Palm Oil and Rubber. The State Plantation Company (PPN) is the result of the takeover (nationalization) of Dutch-owned plantation companies by the Government of the Republic of Indonesia in 1958. The Company was established on March 11, 1996 with the legal basis of Government Regulation of the Republic of Indonesia number 8 of 1996 dated February 14, 1996. PT Perkebunan Nusantara III is the result of the merger of PT Perkebunan III, IV, and V. The merger of the three PT Perkebunan is the result of a VAT restructuring.<sup>30</sup>

As a plantation business actor, State plantations in carrying out their business activities must synergize with the mechanisms that apply to every State company. As a company with a public dimension, plantations are managed directly by the state. As has been mandated by the state constitution, that the State has the right to control Indonesia's natural wealth to be used for the greatest prosperity of the people. For this reason, management on behalf of the state is carried out in the context of business

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<sup>27</sup> Ibid

<sup>28</sup>Perangin-Angin, Christian Orchard, Jalan Lurus Perkebunan Negara, Opini Konstruktif Holdingisasi BUMN Perkebunan Opini Konstruktif Holdingisasi BUMN Perkebunan, BIP Kelompok Gramedia, Jakarta, 2021, hal 12.

<sup>29</sup> Perangin-Angin, Christian Orchard, Nasionalisme di Perusahaan Nasionalisasi : Menuju Profesionalisme Perusahaan BUMN Perkebunan , BIP Kelompok Gramedia, Jakarta, 2017, hal 155.

<sup>30</sup>. Laporan Berkelanjutan, Sustainability Report 2020, PT Perkebunan Nusantara III, 2020, hal

entities known as SOEs, state enterprises within the framework of SOEs are expected to be the locomotive of Indonesia's economic development.<sup>31</sup>

The launch of BUMN Perkebunan was carried out in Surabaya on October 2, 2014, signed by the Minister of SOEs, Dahlan Iskan as deputy shareholder and President Director of PT Perkebunan Nusantara III (Persero), Bagas Angkasa. The launch began with the signing of a 90% (ninety percent) share submission document from PTPN I to PTPN XIV to PTPN III. The mechanism for transferring state shares in addition to the handover of state capital was chosen because it had relatively no direct effect on the operational activities of their respective companies in a position as a subsidiary.<sup>32</sup>

In 2014, the government issued Government Regulation No. 72 of 2014 dated September 17, 2014 concerning the Addition of The Republic of Indonesia's State Capital Participation into the Share Capital of PT Perkebunan Nusantara III (Persero) (PP 72/2014). PP 72/2014 makes the Company as a holding company.<sup>33</sup>

As a separate company PTPN III (Persero) has 36 (thirty six) oil palm and rubber plantations which are divided into 7 (seven) districts,<sup>34</sup> which can be described as follows:<sup>35</sup>

- 1) Labuhan Batu District I (DLAB I), in charge of:
  - a) Sei Meranti Garden
  - b) Sei Leaf Garden
  - c) Torgamba Kebun Garden
  - d) Seven Hills Garden
- 2) Labuhan Batu II District (DLAB II), in charge of:
  - a) Sei Baruhur Garden
  - b) Aek Torop Garden
  - c) Sei Kebara Garden
  - d) Aek Raso PIR Garden
- 3) Labuhan Batu III District (DLAB III), in charge of:
  - a) Sisumut Garden
  - b) North Aek Nabara GardenSouth Aek Nabara Garden
  - c) Prapat Coastal Garden
  - d) Young Growing Garden
  - e) Labuhan Haji Gardens
  - f) South Merbau Garden
- 4) Asahan District, in charge of:
  - a) Sei Dadap Kebun Garden
  - b) Mandi Island Garden

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<sup>31</sup> Ibid

<sup>32</sup> Perangin-Angin, Christian Orchard, Quo Vadis Perkebunan Di Indonesia, Kumpulan Esai Manajemen Resiko Dan Hukum BUMN Perkebunan Di Indonesia”, BIP Kelompok Gramedia, Jakarta, 2016, hal 10.

<sup>33</sup> Laporan Berkelanjutan *Sustainability Report 2020*, *Opcit* hal 30

<sup>34</sup> Dalam menjalankan kegiatan usahanya perusahaan telah membentuk beberapa Strategic Business Unit (Distrik Manajer). Distrik Manajer adalah unit usaha yang menjalankan strategi perusahaan yang berkaitan dengan targeting, positioning, dan segmenting. Masing – masing Distrik Manajer membawahi beberapa kebun, pabrik pengolahan dan fasilitas penunjang lainnya. Pimpinan Distrik Manajer yang disebut Manajer. Distrik diangkat oleh Direksi berdasarkan hasil assessment yang dilaksanakan oleh lembaga independen. Lihat Code Of Corporate Governance PT Perkebunan Nusantara III (Persero), Edisi IV, 2016, hal. 89

<sup>35</sup> Ibid

- c) Ambalutu Garden
- d) Sei Glare Garden
- e) Happy City Garden
- f) Huta Padang Garden
- 5) Deli Serdang I District, in charge of:
  - a) Pamela Mountain Garden
  - b) Monaco Mountain Garden
  - c) World Glare Garden
  - d) Mount Para Garden
  - e) Hulu Hamlet Garden
  - f) Wake Garden
  - g) Betsy City Garden
- 6) Deli Serdang II District, in charge of:
  - a) White Sei Garden
  - b) Giting's Nest Garden
  - c) King's Land Garden
  - d) Rambutan Garden
  - e) Hapesong Garden
  - f) Toru Trunk Garden
- 7) East Aceh District, in charge of:
  - a) Inong Coral Garden
  - b) South Rayeuk Julok Garden
  - c) Peumakmu Gempong People's Garden
- b. Factors Causing the Crime of Theft of Plantation Products in the Territory of PT Perkebunan Nusantara III (Persero)**

Based on the results of the research, the factors causing the crime of plantation theft in the PT Perkebunan Nusantara III (Persero) area include:

#### **1) Economic Factor**

According to WA Bonger that prosperity and equitable civilization is a good effort to fight evil, prosperity is not because of luxury. There is no greater weakness in the development of today's society than the greater and more widespread desire for possessions, while this is due to very strong social impulses.<sup>36</sup> WA Bonger's opinion is in line with Sutherland's that crime is a phenomenon where theories about criminal behavior have traditionally been stereotyped, which states that criminals are people who come from low socio economic classes.<sup>37</sup> These crimes include robbery, theft, and violent crimes. Based on the results of research conducted on 42 (forty two) cases that were successfully handled by law enforcement officers, as many as 19 (nineteen) cases of perpetrators of criminal acts of plantation theft in the PTP III (Persero) Region, on average the perpetrators of theft of plantation products were by profession as farmers and work, this has become one of the main factors for the crime of theft. On the other hand, the needs of life are increasingly urgent but the perpetrators cannot fulfill them. Moreover, the perpetrator has a family who has dependents while the income is not sufficient, this has become a factor in the theft of plantation products.<sup>38</sup>

<sup>36</sup> WA Bonger, Pengantar Teori Kriminologie, Pembagunan, Jakarta, 1995, hal 168.

<sup>37</sup> Muladi dan Barda Nawawi Arief, Bunga Rampai Hukum Pidana, Alumni, Bandung, 1992, hal 2

<sup>38</sup> Pengambilan data dilakukan yang dilaksanakan pada Kantor Besar PTP III (Persero) tgl 15 Maret 2022

## 2) Educational Factor

Education is very important for everyone, because education is a very strong provision for everyone to get a decent life and everyone avoid various social problems that occur in society. A person's level of education can influence a person's actions, someone who has a high level of education in acting, speaking, acting, tends to think using a good and systematic frame of mind so that all his actions tend to be accounted for. It will be very different from people who have a low level of education in taking actions that are sometimes narrow-minded.

Based on the results of the study that as many as 5 (five) people out of 42 (forty two) cases were elementary school educated. The relationship between the perpetrators of theft of plantation products with educational factors is due to the lack of education in the community, especially religious education and legal education, causing people not to know what they are doing, causing harm to others due to the theft. Therefore, it is necessary to improve education in all aspects of life.

## 3) Environmental Factors

Environmental factors are one of the factors that have an influence on the occurrence of the crime of theft. A person who lives/lives in an environment that supports theft, then at one time he will also commit the crime of theft. Many things make the environment a factor in the occurrence of a crime, especially theft. A total of 9 people out of 42 (forty two) cases stated that they were involved in the theft of plantation products because of the environment.

In connection with this, H. Hari Saherodji stated: One of the causes of crime is a bad environment, namely an environment that is not good or sometimes it can be said to be chaotic where children do not get enough education and knowledge about values. values that are usually upheld by society, such as the value of other people's property rights, the value of education as a tool for progress and so on.<sup>39</sup>

## 4) Global Development Factors

Global developments have a positive impact on the progress of a country, while for individuals; global developments are a means to show that they are someone who is able to fulfill their needs in this period of global development. In addition, someone who has something (wealth) is seen as a successful person, this of course makes everyone in society compete with each other to show that he is the most superior. It is undeniable that people who were previously less capable will also compete even if they use the wrong methods.

Most of them prefer a practical way rather than having to work harder without thinking about what risks they will receive in the future for the actions they have done. This can be seen from the theft cases caused by one of the reasons the price of palm oil has increased in line with the increase in global demand. A total of 6 (six) people from 42 (forty two) cases stated that they committed a crime of theft of plantation products because the price of palm oil was quite tempting.

## 5) Law Enforcement Factor

Disruption to law enforcement occurs when there is a mismatch between values, rules and behavior patterns. In this case, there is a discrepancy between paired values, in conflicting rules, and undirected behavior patterns will be able to disrupt the peace

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<sup>39</sup> H. Hari Saherodji, Pokok-pokok Kriminologi. Aksara Baru, Jakarta, 1980, hal 33

of social life, so law enforcement cannot be realized. This means that law enforcement will not work as it should or will be disrupted in its journey and law enforcement. The main problem of law enforcement lies in the factors that influence it. These factors are first, legal factors, law enforcement factors, facilities or facilities factors, community factors and cultural factors.<sup>40</sup>

As many as 3 (three) people out of 42 (forty-two) cases, the ineffectiveness of the sentences handed down to the perpetrators did not deter the perpetrators of the theft, so that the perpetrators who had been released from their sentence were not afraid / did not hesitate to repeat the theft again. There are 3 (three) perpetrators who are recidivists who have been convicted.

**c. Criminal Policy (Penal and Non-Penal) Criminal Acts of Plantation Theft Performed by PTPN III Persero**

Crime prevention efforts are broad in nature, not only covering the justice system such as: Police, Preventive, Repressive, Investigation, Prosecution, Courts and Executions as well as treatment of lawbreakers. But also all measures to prevent side effects in the form of crime in the implementation of development.

The Fourth United Nations Congress on the prevention of crime and the treatment of lawbreakers, which took place in Kyoto, Japan in 1970, asked all governments to make effective efforts to coordinate crime prevention efforts in economic and social development faced by each country. . In the decision of the congress it was stated as follows: social defense planning should be an integral part of the national plan. There should not be a state plan which excludes the social defense part of its overall social and economic planning.

Soerjono Soekanto stated: Law enforcement as one of the strategies in crime prevention efforts, namely: legislation, the mentality of law enforcement, supporting facilities for law enforcement, awareness and compliance with the law of the community and the culture that is related in society.<sup>41</sup>

Furthermore, Walter C. Reckless put forward several conditions that need to be considered by the government so that crime prevention can be successful. These conditions are: a. Good police system and organization; b. Effective implementation of justice; c. Coordinated crime prevention and control; d. Authoritative law; e. Co<sup>42</sup>

**1) Efforts to overcome criminal acts with criminal law (penal facilities) carried out by PT Perkebunan Nusantara III (Persero) focus on the repressive nature or eradication after the theft crime occurred.**

The means of penalization carried out by PT Perkebunan Nusantara III (Persero) is carried out by submitting the case of the crime of theft to law enforcement. In this case the local Police and the Prosecutor's Office in carrying out applicable legal procedures to carry out legal processes against the perpetrators of theft. For example the case of Decision No. 58/ Pid.B/2021/ PN Kisaran That the Defendant did not have permission from PTPN III Ambalutu to extract 40 (forty) Kg of stove resin. and sentenced to 4 (four) months and 10 (ten days)

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<sup>40</sup> Soerjono Soekanto, Faktor-Faktor Yang Mempengaruhi Penegakan Hukum, Rajawali Press, Jakarta, 2020, hal 45

<sup>41</sup> Ibid

<sup>42</sup> Ibid

It is hoped that the sentencing of the perpetrators can provide a deterrent effect to the perpetrators in accordance with the purpose of sentencing.

## **2) Preventive Countermeasures by PT Perkebunan Nusantara III (Persero)**

This effort is a rational effort in controlling or tackling the crime of theft. That using non-criminal law or non-penal means has a preventive effect on crime. Preventive efforts in question are efforts made before the occurrence of the crime of theft by dealing with things that are the driving factors for the occurrence of the crime which can be carried out in several ways, namely:

### **a) Social and Environmental Performance**

Business continuity with the community and the environment can be carried out through the Partnership and Community Development Program (PKBL) and Corporate Social Responsibility (CSR). PKBL and CSR of the Company in the field of social, community and environmental care development have been carried out based on the Regulation of the Minister of State-Owned Enterprises of the Republic of Indonesia No. PER-02/MBU/04/2020 concerning the Third Amendment to the Regulation of the Minister of State-Owned Enterprises No. PER- 09/MBU/07/2015 concerning the Partnership Program and the Community Development Program for State-Owned Enterprises. The implementation of the Company's social responsibility is divided into PKBL and CSR. The Company's CSR focuses on environmental aspects, labor practices, health, work safety, social development, community, and responsibility to consumers. PKBL and CSR policies are applied to all elements of PTPN III (Persero) Nusantara Plantation Holding. The company realizes the importance of implementing PKBL and CSR. PKBL and CSR are one of the Company's long-term business strategies to deal with business dynamics. PKBL and CSR are able to show that the Company contributes and is beneficial to stakeholders and the environment so that the Company obtains a social license in running its business. Sustainable PKBL and CSR will minimize conflicts with various stakeholders, both regulators and the community, so that the Company has the opportunity to expand the market and obtain the required resources. Thus, PKBL and CSR have the ability to minimize conflicts faced by the Company so that the Company can focus on improving business performance.

The commitment and consistency of Holding Perkebunan Nusantara PTPN III (Persero) in carrying out CSR is shown in the Top CSR Award 2020. The Company received two Top CSR Awards 2020. First, the Top Leader on CSR Commitment 2020 category, which was awarded for the Company's commitment to the implementation of CSR. Second, Top CSR Awards 2020 Level 4 Star, which is given for the contribution of the Company's CSR. The implementation of CSR by the Company is in synergy with the Vision and Mission of the President for 2019-2024, namely that the Company's CSR directly supports the Ministry's Social Programs and Sustainable Development Goals (SDGs).

The contribution and form of responsibility of PTPN III (Persero) Nusantara Plantation Holding on social (people) is shown by the Sustainability Policy. Holding Perkebunan Nusantara PTPN III (Persero) is committed and determined to respect the rights of indigenous people and local communities by giving free prior and informed consent (FPIC) prior to the development and establishment of new plantations. And resolve any complaints, complaints, conflicts openly with the consultation process.

**b) Community empowerment**

Holding Perkebunan Nusantara PTPN III (Persero) as a BUMN carries out its role as the executor of one of the 5 priorities of the Ministry of BUMN, namely economic and social value for Indonesia. The Company contributes to increasing economic value added and social impact for the Indonesian people and economy. Community empowerment is an effort made by the Company in order to develop the potential of the community and overcome various problems that exist in the community. These efforts are carried out by the Company with partnership funds and environmental development funds.

The Company's partnership fund is a social contribution by increasing the added value of the community's economy and the Indonesian economy. The partnership fund is a program to improve the ability of small businesses to become strong and independent. Small businesses are people's economic activities that are small in scale and meet the criteria for net worth or annual sales and ownership. The Partnership Program has available funds of Rp. 85.92 billion, and the realization of disbursement of Rp. 68.46 billion with a fund effectiveness of 79.68%.

**c) Adding Security Personnel from External Workers by PT Perkebunan Nusantara III (Persero)**

According to Baharuddin Lopa, one of the preventive measures in an effort to tackle crime is to add police personnel and other law enforcement personnel to further enhance repressive and preventive actions.<sup>43</sup> Based on data for September 2021, there was external assistance from the Indonesian National Army (TNI), Resort Police (Polres) or Sector Police (Polsek) and the Mobile Brigade Corps (Brimob) in securing the plantations of PT Perkebunan Nusantara III (Persero.)

**d) Counseling and Approaches to the Community Conducted by the PT Perkebunan Nusantara III (Persero) Security Unit**

From the results of the meeting related to security at PT Perkebunan Nusantara III (Persero) during the period of 2021 which was attended by the author on Thursday, December 30, 2021, Lieutenant Colonel. Inf Juang Eko Pihanto as Head of Security (Kapam) at the Company Level stated to each Head of Security for each plantation in his presentation session as an embodiment of securing assets and production to the maximum, so the following things can be considered:

*First*, build Team Works (teamwork), that the closeness of personnel to one another in securing production results must be increased again, especially to establish approaches and counseling to village heads, community leaders to jointly build a safer and more controlled environment in the surrounding area. *Second*, the method of security systems in areas prone to theft or the intensity of production loss is quite high, prioritizing monitoring. And study the characteristics, culture (culture) in the area. *Third*, study the success of plantations that are able to reduce production theft, such as the Silau Dunia Garden, Simalungun Regency.

**e) Closing**

The sudden pandemic has caused tremendous disruption to human life around the world. The Covid-19 pandemic has affected all aspects of life, including people faced with health insecurity conditions but also affected conditions of social insecurity

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<sup>43</sup>Baharuddin Lopa, Upaya Dalam Menanggulangi Kejahatan, Adhitya Andrebina Agung, Jakarta, hal 16-17

and especially economic insecurity. One type of crime that is quite high is the criminal act of theft of plantation products. The high rate of theft of plantation products is due to many factors, among others, economic factors, educational factors, global factors, etc. From these factors, it turns out that economic factors are the most dominant factors occurring during the Covid-19 pandemic.

Criminal policy is as a rational effort of the community in tackling crime, including the crime of theft of plantation products. Efforts to counter criminal acts resulting from theft of plantation products are carried out with penal and non-penal efforts.

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