

# **Criminal Law Enforcement Against Looting Crimes During Disaster Situations From the Perspective of the Criminal Justice System**

**Dedi Hermawan Sinaga, Henry Aspan, T. Riza Zarzani**

## **Abstract**

Looting during disaster situations constitutes a criminal phenomenon that frequently emerges amid social instability caused by weakened social control, disrupted security systems, and increasing economic pressure within affected communities. In practice, criminal law enforcement against looting still encounters numerous obstacles at the stages of investigation, prosecution, and sentencing implementation. This study aims to analyze the criminal law regulations concerning looting during disasters and to examine the implementation of the criminal justice system in handling such crimes in Indonesia. This research employs normative legal research methods using statutory, conceptual, and case approaches. Legal materials consist of primary, secondary, and tertiary legal sources analyzed qualitatively. The findings indicate that regulations concerning looting during disaster situations have generally been accommodated within the Indonesian Criminal Code and Law Number 24 of 2007 concerning Disaster Management. However, their implementation remains ineffective due to weak coordination among law enforcement agencies, limited security facilities during emergencies, and the absence of specific legal formulations regarding crimes committed during disaster situations. Therefore, the criminal justice system needs to strengthen integrated law enforcement patterns through simultaneous repressive and preventive approaches in order to ensure legal protection and legal certainty for disaster-affected communities.

**Keywords:** Criminal Law Enforcement, Looting, Disaster, Criminal Justice System, Emergency Crime

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## Introduction

Natural and non-natural disasters not only result in material losses and casualties, but also generate disruptions to social stability and public security. In numerous disaster events occurring in Indonesia, acts of looting targeting residential properties, commercial stores, logistics centers, and public facilities under emergency conditions have frequently been reported. Such circumstances demonstrate that disaster situations may create opportunities for increasing criminal activities due to weakened social control mechanisms and limited supervision by law enforcement authorities [1].

From a sociological perspective, post-disaster emergency conditions often trigger social disorganization that significantly affects community behavior. The *routine activity theory* explains that criminal acts are likely to increase when motivated offenders, vulnerable targets, and weak social supervision coexist simultaneously [2]. Within disaster contexts, these three elements commonly emerge at the same time. Mass evacuations, abandoned residential areas, and limited security personnel create opportunities for looting and other opportunistic crimes. Furthermore, economic hardship and psychological pressure experienced by disaster victims may also encourage certain individuals to engage in criminal conduct [3].

The phenomenon of looting during disaster situations fundamentally contradicts the principles of public protection and the objectives of criminal law. Through the criminal justice system, the state bears the responsibility to maintain public order and guarantee the protection of citizens' rights, including during emergency situations [4]. Nevertheless, in practice, law enforcement efforts against looting perpetrators frequently encounter substantial obstacles. Law enforcement officers tend to prioritize rescue operations and humanitarian aid distribution, resulting in less optimal criminal law enforcement processes [5].

From a normative standpoint, Indonesia has enacted several legal instruments that may be applied against looting perpetrators, including Law Number 1 of 2023 concerning the Criminal Code, Law Number 8 of 1981 concerning the Criminal Procedure Code, and Law Number 24 of 2007 concerning Disaster Management. However, these regulations have not specifically formulated legal enforcement mechanisms for criminal acts committed during disaster situations. This condition creates a gap between *das sollen* and *das sein*, since the law normatively provides protection, yet its practical implementation continues to face numerous challenges [6].

Previous studies have predominantly focused on the general handling of criminal acts during emergency conditions and broader criminal law policies. Research conducted by Arifin and Lestari emphasized criminal law enforcement during disaster situations in general terms without specifically examining the interrelationship among criminal justice subsystems [7]. Meanwhile, Hidayat and Santoso concentrated more on the institutional mechanisms of the criminal justice system under emergency conditions [8]. Therefore, this study offers novelty by positioning looting during disaster situations as the primary focus within the perspective of an integrated criminal justice system.

Based on the foregoing explanation, the research questions addressed in this study are as follows:

1. How is criminal law regulation concerning looting crimes during disaster situations implemented in Indonesia?
2. How is the criminal justice system implemented in enforcing the law against looting crimes during disaster situations?

## Literature Review

### 1. The Concept of Law Enforcement within the Criminal Justice System

Criminal law enforcement constitutes a systematic process aimed at implementing legal norms through the mechanisms of the criminal justice system, which includes the police,

prosecution service, judiciary, and correctional institutions [9]. Within the framework of a modern rule of law state, criminal law enforcement is not merely oriented toward punishing offenders, but also directed toward safeguarding social order, maintaining public security, and ensuring the protection of citizens' rights [10]. Consequently, the effectiveness of criminal law enforcement cannot be separated from the institutional performance and coordination among law enforcement agencies.

The criminal justice system in Indonesia is fundamentally designed as an integrated mechanism in which each institution possesses interconnected functions. The police are responsible for investigation and maintaining public order, prosecutors act as public prosecutors, courts examine and adjudicate criminal cases, while correctional institutions focus on rehabilitation and reintegration of offenders into society [13]. In practice, however, the implementation of these functions often encounters obstacles arising from sectoral ego, overlapping authority, and limited institutional coordination. Such conditions become increasingly complex during emergency situations, including disaster conditions, where legal institutions are required to respond rapidly amid unstable social circumstances.

According to Reiner, the legitimacy of law enforcement institutions significantly determines the effectiveness of criminal justice systems [11]. Public trust toward law enforcement agencies becomes a crucial element because the community tends to comply with legal norms when legal institutions are perceived as fair, accountable, and responsive. During disaster situations, such legitimacy is tested due to the dual role played by law enforcement officers. On one hand, they are required to perform humanitarian duties, such as evacuation and public protection, while on the other hand they must continue enforcing criminal law against offenders exploiting emergency conditions for criminal purposes.

The principle of *due process of law* also remains essential in the implementation of criminal law enforcement during disaster situations. Prasetyo emphasizes that emergency conditions should not eliminate the legal rights guaranteed to individuals involved in criminal proceedings [12]. This principle reflects that law enforcement must remain based on legality, procedural fairness, and human rights protection despite occurring under extraordinary conditions. Therefore, suspects accused of looting during disasters still possess constitutional rights, including the right to legal representation, fair trial guarantees, and protection against arbitrary actions by authorities.

In Indonesian criminal law practice, the exercise of discretion frequently becomes inevitable during emergency conditions. Aspan explains that discretion allows law enforcement authorities to take immediate actions in response to urgent situations that may not be comprehensively regulated within statutory provisions [14]. Nonetheless, discretionary powers must remain limited by legal principles and accountability mechanisms to prevent abuse of authority. Excessive or arbitrary use of discretion during disaster situations may potentially create legal uncertainty and undermine public trust toward the justice system.

From a criminological perspective, the criminal justice system also functions as a social control mechanism. Loader and Sparks argue that criminal justice institutions are not solely instruments of punishment, but also represent mechanisms for maintaining social cohesion and public confidence in state authority [30]. In disaster contexts, the presence of effective law enforcement becomes increasingly important because public panic, social disorganization, and weakened security systems may create opportunities for criminal activities, including looting and organized theft.

Furthermore, the concept of integrated criminal justice systems emphasizes the necessity of coordination among legal institutions in responding to crimes committed during emergency conditions. Hidayat and Santoso state that the handling of criminal acts in disaster situations requires extraordinary coordination mechanisms because ordinary law enforcement patterns often become ineffective under crisis conditions [8]. Delays in investigation, lack of communication among institutions, and damaged infrastructure frequently hinder criminal justice processes in disaster-affected regions.

The relationship between criminal law enforcement and human rights protection also becomes highly relevant in disaster situations. Siregar explains that human rights principles within the Indonesian legal system require the state to maintain a balance between legal certainty, justice, and social benefit [13]. Thus, criminal law enforcement against looting perpetrators should not merely prioritize punitive measures, but also consider proportionality and the humanitarian circumstances experienced by disaster victims.

In addition, the role of correctional institutions as part of the criminal justice system should not be neglected. Overcrowding within correctional facilities in Indonesia has become a persistent problem affecting the effectiveness of criminal sanctions and rehabilitation programs. Tarigan and Aspan highlight that prison overcapacity significantly impacts the fulfillment of prisoners' rights and the implementation of correctional objectives [31]. Consequently, criminal law enforcement policies during disaster situations should also consider the broader implications of imprisonment policies on the correctional system.

Ultimately, criminal law enforcement within the criminal justice system reflects the state's responsibility to ensure public order and legal protection under all circumstances, including emergencies. Effective law enforcement during disaster situations requires not only legal instruments and institutional authority, but also adaptive policies, inter-agency coordination, and public trust. Without these supporting factors, the criminal justice system may fail to provide adequate legal protection and social stability during times of crisis.

## 2. Looting Crimes from a Criminological Perspective

Looting during disaster situations represents a form of opportunistic crime that emerges amid social instability and weakened community supervision. Criminologically, disasters often create conditions conducive to increased criminal activity because social control systems become disrupted, law enforcement capacities are limited, and economic pressures intensify simultaneously. Such conditions demonstrate that criminal behavior during emergencies cannot merely be understood from a legal perspective, but also requires sociological and criminological analysis.

The *routine activity theory* proposed by Cohen and Felson explains that criminal acts occur when three elements coexist simultaneously, namely motivated offenders, suitable targets, and the absence of capable guardianship [2]. In disaster situations, these conditions frequently arise in a parallel manner. Residential areas abandoned due to mass evacuations become vulnerable targets, while the limited presence of security personnel reduces social supervision. Under such circumstances, opportunities for looting and theft become significantly greater.

From another perspective, Agnew's *general strain theory* explains that social and economic pressures may trigger deviant behavior [15]. Individuals affected by disasters often experience loss of property, employment, access to food, and economic security. These pressures may generate frustration and psychological stress, leading certain individuals to justify criminal actions as survival mechanisms. In this context, looting may emerge not only from criminal intent, but also from structural pressures experienced by vulnerable communities.

Tierney further argues that disasters frequently produce social disorganization, characterized by weakened social norms, disrupted institutional functions, and declining collective solidarity [16]. Communities affected by disasters often experience uncertainty and panic, causing the weakening of informal social controls that ordinarily prevent criminal behavior. This situation may create a temporary "social vacuum" in which criminal opportunities increase significantly.

Miller and Rivera strengthen this argument through empirical findings showing that post-disaster communities tend to experience increased criminality due to damaged social structures and ineffective institutional responses [17]. In several disaster cases worldwide, criminal activities such as looting, theft, and violence increased because emergency responses focused primarily on humanitarian assistance rather than public security. Consequently, the inability of institutions to maintain order during crises may contribute to the emergence of opportunistic crimes.

Within the Indonesian context, looting during disaster situations frequently occurs following earthquakes, tsunamis, floods, and social emergencies. Such crimes are not only directed toward commercial goods, but also involve the theft of humanitarian aid, fuel, and public logistics intended for disaster victims. These actions substantially worsen humanitarian conditions because they hinder aid distribution and increase social insecurity among affected communities.

From the perspective of Indonesian criminal law, looting may be classified as aggravated theft when committed under particular circumstances exploiting public emergencies [18]. The Criminal Code recognizes certain aggravating factors in criminal acts committed during disasters or social unrest. Nevertheless, the absence of specific legal formulations regarding looting in disaster situations often results in inconsistent law enforcement practices.

Criminological studies also indicate that weak institutional legitimacy may contribute to the rise of looting during disasters. According to Loader and Sparks, public distrust toward legal institutions and government responses may encourage communities to prioritize self-interest over collective norms [30]. In emergency situations where state authority appears weak or ineffective, individuals may perceive criminal actions as socially tolerable or unavoidable.

Moreover, public panic and misinformation may further intensify criminal behavior during disasters. Drury and Reicher explain that crowd psychology during emergencies significantly influences collective behavior [17]. Under chaotic conditions, rumors concerning shortages of food, fuel, or essential goods may trigger panic-driven behavior that escalates into collective looting.

The phenomenon of looting also reflects broader socio-economic inequalities within society. Communities experiencing poverty and limited social welfare tend to be more vulnerable to engaging in criminal activities during emergencies. Therefore, criminal law enforcement alone cannot fully resolve the issue of looting without addressing the structural socio-economic factors contributing to criminal vulnerability.

In this regard, the state's response to looting should involve both penal and non-penal approaches. Penal measures remain necessary to maintain legal order and deterrence, especially against organized criminal groups exploiting disasters for profit. However, preventive approaches through economic assistance, social protection, and effective disaster management are equally important in reducing criminogenic pressures within affected communities.

Accordingly, looting during disaster situations should be understood as a multidimensional phenomenon influenced by legal, social, psychological, and economic factors. A comprehensive understanding of these criminological dimensions is essential to formulate effective criminal justice policies capable of balancing law enforcement objectives with humanitarian considerations.

### **3. Criminal Law Policy in Disaster Situations**

Criminal law policy fundamentally represents the state's strategy in addressing criminal behavior through penal and non-penal approaches [19]. Penal policies emphasize the use of criminal sanctions as instruments of deterrence and social control, while non-penal policies focus on preventive measures aimed at reducing the social conditions contributing to criminality. Within disaster situations, both approaches become equally important because criminal activities frequently emerge alongside humanitarian crises and social instability.

Rahardjo and Wibowo explain that criminal law policies during emergency conditions must remain adaptive to social realities and community needs [20]. Disaster situations differ substantially from ordinary social conditions because law enforcement authorities face extraordinary challenges, including damaged infrastructure, disrupted communication systems, limited personnel, and heightened public panic. Consequently, rigid and purely punitive approaches may become ineffective if not supported by broader preventive and humanitarian measures.

In Indonesia, Law Number 24 of 2007 concerning Disaster Management places the state as the primary actor responsible for ensuring public safety and security during emergency

response periods [21]. The law regulates disaster mitigation, emergency response, rehabilitation, and reconstruction efforts. However, the regulation does not specifically formulate criminal law mechanisms for handling crimes committed during disasters, including looting and aid theft. This legal gap creates uncertainty in implementing criminal justice policies during emergencies.

The absence of specific legal provisions regarding disaster-related crimes demonstrates that Indonesian criminal law policy remains predominantly reactive rather than preventive. In practice, law enforcement authorities continue relying on general provisions within the Criminal Code when prosecuting looting cases occurring during disasters. Such reliance may lead to inconsistent legal interpretations and disparities in sentencing practices.

According to Tonry, effective criminal law policy should not only focus on punishment, but also address the broader social causes of crime [10]. In disaster contexts, criminal behavior often emerges from social disorganization, economic deprivation, and weakened institutional control. Therefore, criminal law policies should incorporate social welfare and disaster preparedness measures as integral components of crime prevention strategies.

The role of the police within disaster situations also becomes highly strategic. Yulianto and Kurniawan emphasize that the effectiveness of post-disaster law enforcement largely depends on personnel readiness, logistical support, and institutional coordination [22]. The police are expected to maintain public order, secure disaster areas, prevent criminal activities, and simultaneously support humanitarian operations. Such multidimensional responsibilities require specialized operational frameworks and adequate institutional preparedness.

Furthermore, the exercise of law enforcement discretion becomes increasingly relevant within disaster conditions. Aspan notes that discretion may enable authorities to take urgent actions in situations not fully regulated by statutory law [14]. However, discretionary authority must remain consistent with principles of legality, accountability, and proportionality to prevent arbitrary practices and human rights violations.

The discussion regarding restorative justice also gains significance in disaster-related criminal cases. Hutagalung and Zarzani argue that restorative approaches may provide fairer legal outcomes in certain criminal cases by emphasizing reconciliation and community recovery [24]. In limited situations where looting is committed due to extreme economic necessity and does not involve organized criminal activity, restorative justice mechanisms may be considered as alternatives to purely punitive measures.

Nevertheless, strict criminal law enforcement remains necessary against organized looting and criminal groups exploiting disaster situations for profit. The state must demonstrate legal certainty and institutional authority to prevent the escalation of public insecurity. Weak enforcement responses may create perceptions of impunity and encourage further criminal conduct.

International criminological perspectives also emphasize the importance of integrating public security within disaster management frameworks. Alexander argues that disaster risk reduction should include security management because social instability frequently accompanies humanitarian emergencies [16]. Therefore, criminal law policy should not be separated from broader disaster governance strategies.

In conclusion, criminal law policy during disaster situations requires a balanced approach combining legal enforcement, institutional coordination, humanitarian protection, and social prevention measures. Effective policies must address both immediate criminal threats and the structural factors contributing to criminal behavior during emergencies. Without comprehensive and adaptive policies, disaster situations may continue to create opportunities for criminal activities that further endanger vulnerable communities.

### **Research Methodology**

This study employs normative legal research utilizing statutory, conceptual, and case approaches. Normative legal research is intended to examine legal norms, principles, and doctrines governing criminal law enforcement and disaster management within the Indonesian

legal system. The statutory approach was conducted through the examination of laws and regulations related to criminal law enforcement, criminal procedure, and disaster management, including the 1945 Constitution of the Republic of Indonesia, Law Number 8 of 1981 concerning the Criminal Procedure Code, Law Number 24 of 2007 concerning Disaster Management, Law Number 1 of 2023 concerning the Indonesian Criminal Code, and Regulation of the Chief of the Indonesian National Police Number 14 of 2012 concerning Criminal Investigation Management.

The conceptual approach was utilized to analyze legal theories and criminological doctrines concerning criminal justice systems, law enforcement, social disorganization, and disaster-related crimes. Several theoretical frameworks employed in this study include the *routine activity theory* developed by Cohen and Felson [2], the *general strain theory* proposed by Agnew [15], and the concept of integrated criminal justice systems discussed by Ashworth and Redmayne [9]. These theoretical perspectives were used to explain the relationship between disaster situations and the increasing vulnerability to criminal activities, particularly looting.

In addition, the case approach was applied by examining various criminal phenomena and law enforcement practices related to looting occurring during disaster situations in Indonesia. This approach aimed to identify the practical challenges encountered by law enforcement institutions in implementing criminal law under emergency conditions.

The legal materials utilized in this research consist of primary, secondary, and tertiary legal sources. Primary legal materials include legislation and official legal documents. Secondary legal materials comprise books, scientific journals, academic articles, and previous research relevant to criminal law enforcement and disaster governance. Tertiary legal materials include legal dictionaries, encyclopedias, and supporting reference materials used to strengthen conceptual understanding.

The technique for collecting legal materials was conducted through library research by identifying, classifying, and systematically reviewing relevant legal sources. Subsequently, all legal materials were analyzed qualitatively using descriptive-analytical methods. This analysis involved interpreting legal norms, examining doctrinal opinions, and relating theoretical concepts to practical law enforcement conditions during disaster situations. The analytical process was also directed toward identifying normative gaps and evaluating the effectiveness of criminal justice mechanisms in addressing looting crimes during emergencies.

Through these approaches and analytical methods, this study seeks to provide a comprehensive legal analysis regarding criminal law enforcement against looting crimes during disaster situations within the perspective of the Indonesian criminal justice system.

## Results

### 1. Criminal Law Regulation Concerning Looting Crimes during Disaster Situations

Normatively, looting crimes committed during disaster situations may be classified as aggravated theft offenses. The new Indonesian Criminal Code under Law Number 1 of 2023 provides a legal basis for theft committed under particular circumstances exploiting public emergency conditions. This regulation demonstrates that Indonesian criminal law recognizes emergency situations as aggravating factors in criminal liability.

Looting during disaster situations is not merely a violation of property rights, but also constitutes a threat to social stability and public security. In circumstances where communities are experiencing trauma and severe losses, looting may worsen humanitarian conditions and obstruct the distribution of disaster relief assistance [7].

Law Number 24 of 2007 concerning Disaster Management essentially places public protection as a state responsibility. However, the regulation predominantly focuses on mitigation, emergency response, and rehabilitation aspects, without specifically regulating the formulation of looting crimes during disaster situations. Consequently, law enforcement authorities continue to rely on general provisions of the Criminal Code in enforcing the law [20].

From the perspective of criminal law policy, this condition indicates the existence of a normative gap concerning the handling of crimes committed during disaster situations. In fact, criminal acts occurring under emergency conditions possess complexities different from conventional crimes. Law enforcement authorities frequently face dilemmas between prioritizing victim rescue efforts and prosecuting criminal offenders [8].

Within the framework of modern criminal law systems, the handling of looting should not merely emphasize punishment, but must also consider social prevention strategies. Modern criminological theories identify socio-economic factors as one of the causes of increasing criminality in post-disaster situations [15]. Therefore, the state must establish effective security systems and logistical distribution mechanisms to reduce the potential for opportunistic crimes.

Furthermore, the exercise of discretion by law enforcement authorities during emergency situations must be conducted proportionally. Aspan emphasizes that discretion should not be exercised arbitrarily because it must remain consistent with the principles of legal certainty and human rights protection [14]. Accordingly, law enforcement against looting must remain within the framework of *due process of law*.

## **2. Implementation of the Criminal Justice System in Enforcing the Law against Looting Crimes during Disaster Situations**

The implementation of the criminal justice system in handling looting crimes during disaster situations involves coordination among the police, prosecution service, judiciary, and correctional institutions. In practice, the police become the most dominant institution because they possess authority to maintain public security and undertake repressive actions against criminal offenders [22].

Nevertheless, the effectiveness of law enforcement continues to encounter numerous obstacles. First, limited security personnel in disaster-affected areas results in inadequate supervision. Second, law enforcement officers prioritize evacuation processes and victim rescue operations, causing criminal law enforcement to receive less attention. Third, law enforcement facilities and infrastructure are often damaged by disasters themselves [5].

From the perspective of the integrated criminal justice system, weak inter-institutional coordination also constitutes a major obstacle. Hidayat and Santoso argue that handling criminal acts under emergency conditions requires specific coordination mechanisms because disaster situations differ substantially from normal circumstances [8]. The absence of preparedness within emergency law enforcement mechanisms causes investigation and prosecution processes to proceed slowly.

On the other hand, excessively dominant repressive approaches without considering the social conditions of disaster victims may potentially create substantive injustice. Several cases demonstrate that looting perpetrators originate from disaster-affected communities experiencing extreme economic hardship. Under such conditions, restorative approaches may be considered on a limited basis for certain criminal acts that do not cause substantial losses [23].

However, organized looting activities causing public unrest must still be addressed through firm criminal law enforcement. The state must not tolerate criminal actions that exploit the suffering of communities during disaster situations. Strict law enforcement remains essential to preserve social stability and generate deterrent effects [24].

Efforts to optimize the criminal justice system in handling looting crimes during disaster situations may be undertaken through several measures. First, the establishment of specific regulations concerning criminal acts committed during disaster emergencies. Second, strengthening coordination among law enforcement agencies and disaster management institutions. Third, reinforcing security patrols and supervision over logistical distribution during emergency response periods. Fourth, enhancing preventive approaches through public legal education and community empowerment programs for disaster-affected populations.

Accordingly, law enforcement against looting should not merely be interpreted as a punitive mechanism, but also as an instrument for maintaining social order and protecting society during crisis situations.

## Conclusion

The regulation of criminal law concerning looting crimes during disaster situations in Indonesia has fundamentally been accommodated through the provisions of the Criminal Code, the Criminal Procedure Code, and Law Number 24 of 2007 concerning Disaster Management. Nevertheless, there remains no comprehensive and specific formulation governing law enforcement mechanisms for crimes committed during disaster emergencies. Therefore, reforms in criminal law policy that are more adaptive to the characteristics of crimes occurring during crisis situations are necessary in order to ensure legal certainty and optimal public protection.

The implementation of the criminal justice system in handling looting crimes during disaster situations still faces various obstacles, including weak coordination among law enforcement authorities, limited security facilities, and the absence of optimal mechanisms for handling emergency crimes. Strengthening the integrated criminal justice system through balanced repressive and preventive approaches is therefore necessary to ensure that law enforcement is not solely punishment-oriented, but also capable of maintaining social stability and humanitarian values during disaster situations.

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