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SENTENCING DISPARITY FOR REPEAT THEFT OFFENDERS: A STUDY OF JAMBI DISTRICT COURT DECISIONS

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Abstract

Sentencing repeat theft offenders requires courts to reconcile individual responsibility, public protection, proportionality, and the statutory requirements governing recidivism. Differences in imprisonment terms raise concerns about consistency, but they do not independently establish unjustified disparity. This article examines the legal framework for evaluating such differences in relation to Jambi District Court decisions. It employs normative legal research through statutory and conceptual approaches, supported by published case analysis and sentencing scholarship available through 2024. The discussion distinguishes repeated offending as a factual history from recidivism satisfying Article 486 of the Criminal Code applicable during that year. It also separates an increased statutory maximum from the sentence selected in an individual case. A published discussion of a Jambi theft judgment provides a local illustration, without constituting an independently verified comparative dataset. The analysis argues that disparity must be assessed through comparable offences, documented criminal histories, individual participation, victim harm, and reasoned treatment of aggravating and mitigating circumstances. It proposes a structured framework for examining judicial decisions. Consistent sentencing requires transparent justification rather than automatic sentence uniformity, while conclusions about actual local disparity require comparison of complete and verified judgments.

Keywords: Judicial reasoning; Proportionality; Recidivism; Sentencing disparity; Theft.

INTRODUCTION

Sentencing repeat theft offenders presents a difficult question of criminal justice: how should a previous conviction influence punishment for a new offence? Repeated offending may strengthen concerns about public protection and the effectiveness of earlier punishment. However, the existence of a criminal record does not eliminate the need to assess the present offence, the defendant's contribution, and the applicable legal requirements. A court must determine both whether statutory recidivism is established and how the proven history should influence the sentence. These are connected inquiries, but they are not legally identical.

Public discussion frequently treats different prison terms as evidence of unfairness. That conclusion requires closer examination because theft encompasses several offences with different elements and punishment limits. Ordinary theft, aggravated theft, and theft involving violence cannot be compared solely through their shared description as offences against property. Even within the same provision, cases may differ in planning, participation, consequences, recovery of property, and personal circumstances. A defensible analysis of disparity must therefore establish whether the decisions concern sufficiently comparable situations before evaluating the reasons for their different outcomes.

The legal meaning of recidivism also requires precision. Under the Criminal Code applicable in 2024, Article 486 identifies specified offences and conditions under which imprisonment may be aggravated. A person described as a repeat offender in a police report or news publication does not automatically satisfy those conditions. Previous arrests, allegations, and convictions have different legal significance. Courts must examine the relevant prior judgment, the offence involved, the execution history, and the statutory timing requirements before relying on Article 486 as a basis for increasing the applicable punishment limit.

Jambi District Court decisions provide a relevant setting for examining these issues. Jasril et al. (2023) discuss Decision No. 224/Pid.B/2020/PN Jmb and criticise the treatment of a defendant identified in their study as a repeat theft offender. Their publication illustrates an existing local debate about the relationship between criminal history and punishment. It does not, by itself, establish a pattern of sentencing disparity across Jambi judgments. Criticism that one sentence is too lenient must be distinguished from a comparative finding that materially similar defendants received insufficiently explained differences in punishment.

Judicial independence does not remove the obligation to explain sentencing decisions. Law No. 48 of 2009 requires judgments to contain reasons and appropriate legal foundations. That obligation is particularly important where the court must balance criminal history against mitigating circumstances. A judgment should show how each relevant factor contributed to the outcome, enabling defendants, victims, prosecutors, and reviewing courts to understand the decision. Independence protects adjudication from improper interference, while reasoned explanation supports accountability for the exercise of sentencing discretion (Republic of Indonesia, 2009).

This article addresses three questions: how statutory recidivism should be established in theft proceedings; how justified sentencing differentiation can be distinguished from unwarranted disparity; and how judicial reasoning in Jambi District Court decisions should be examined. Its contribution is a framework connecting criminal-history verification, case comparability, and sentencing explanation. The study remains limited by its reliance on published case discussion rather than a verified collection of complete local judgments. Consequently, it develops legal conclusions without claiming to measure the prevalence of disparity in Jambi.

LITERATURE REVIEW

Sentencing Variation and Unwarranted Disparity

Nugroho (2012) examines sentencing differences in aggravated theft cases and identifies the importance of considering both the conduct and the offender's circumstances. His analysis supports a distinction between observable variation and differences lacking adequate justification. The former may result from legitimate individualisation, while the latter raises questions about consistency. This distinction prevents sentence comparison from becoming a simple ranking of imprisonment terms. The relevant inquiry concerns whether differences in punishment correspond to legally significant differences between the cases and whether the judgments explain that relationship.

Duha (2023) similarly discusses different sentences in aggravated theft proceedings, highlighting the role of judicial assessment and case circumstances. The study provides a reference for analysing how similar legal classifications can produce different outcomes. Nevertheless, findings from another jurisdiction cannot be transferred directly to Jambi. Their contribution is methodological: they demonstrate why the provision of conviction, the facts established, and the sentencing reasons should be examined together. Shared classification under one article does not establish complete factual equivalence, while factual differences require explanation before they can justify different punishments.

Recidivism as a Legal Classification

Recidivism concerns more than a general description of repeated misconduct. Within the framework applicable in 2024, its statutory consequences depend on the requirements of the relevant provision. Article 486 includes theft offences within a specified group and links aggravation to conditions concerning earlier imprisonment and the relevant time period. This structure requires documentary verification. A broad statement that a defendant has previously committed crimes cannot replace identification of the prior conviction and the conditions connecting it with the present offence. Legal classification must follow the established history rather than precede its examination.

A separate question concerns the relevance of a proven criminal history to sentencing within the applicable range. Courts may consider legally relevant personal circumstances, but they should distinguish that assessment from reliance on a provision increasing the statutory maximum. Failure to separate the two can obscure the legal basis of the sentence. The judgment should indicate whether it is applying statutory recidivism, considering an established prior conviction as a sentencing circumstance, or doing both for expressly explained reasons. Each use must remain consistent with the applicable law and the defendant's opportunity to respond.

Sentencing Purposes and Individualisation

Irmawanti and Arief (2021) discuss the importance of sentencing purposes and guidelines within the criminal sentencing system. Their analysis supports structured reasoning where legislation leaves a range of permissible

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punishment. A statutory maximum establishes a boundary but does not explain the appropriate sentence for every offender. Individualisation requires examination of the present offence, responsibility, consequences, and relevant personal circumstances. These considerations remain necessary even when a defendant has an established criminal record. Recidivism influences the assessment without supplying a complete sentencing formula.

The literature therefore supports an integrated approach. Criminal history must first be established accurately, comparable cases must be selected carefully, and the effect of sentencing factors must be explained. The present article connects these requirements in relation to Jambi District Court decisions. It also addresses a recurring analytical error: treating failure to impose the highest available sentence as proof that recidivism was legally ignored. That conclusion does not follow merely from the distance between an individual sentence and the statutory ceiling.

METHOD

This article employs normative legal research using statutory and conceptual approaches. The legal cutoff is 31 December 2024. Primary materials include the Criminal Code operating during that year, particularly Articles 362, 363, 365, and 486; Law No. 8 of 1981 on Criminal Procedure; and Law No. 48 of 2009 on Judicial Power. Law No. 1 of 2023 is considered only to clarify the temporal boundary. Although enacted in 2023, the new Criminal Code was scheduled to commence on 2 January 2026 and is not treated as the operative sentencing framework for 2024 proceedings.

Secondary materials comprise scholarship on theft sentencing, recidivism, sentencing purposes, and judicial reasoning. The publication by Jasril et al. (2023) supplies a local case discussion. Its account is attributed to those authors and is not presented as an independent examination of the original judgment or execution records. Cases discussed in scholarship from other jurisdictions serve as conceptual references, rather than substitutes for Jambi cases. No interviews, surveys, or unpublished judicial records are used.

The analysis proceeds through three stages. First, it identifies the legal requirements governing the theft offence and statutory recidivism. Second, it examines the distinction between the available punishment range and the sentence selected. Third, it develops criteria for comparing judicial reasoning across cases. Since two or more complete Jambi judgments have not been independently verified for this study, the article does not calculate local sentence differences or conclude that particular panels produced unwarranted disparity. Its findings concern the requirements for making that assessment reliably.

RESULTS AND DISCUSSION

Identifying the Theft Offence Before Comparing Sentences

The first requirement is accurate offence classification. Article 362 concerns ordinary theft, Article 363 concerns specified aggravating circumstances, and Article 365 concerns theft involving violence or threats of violence under its stated conditions. These provisions differ in their elements and punishment limits. A comparison that combines them without adjustment risks presenting legal differences as judicial inconsistency. The judgment must therefore be read to identify the precise provision and paragraph found proved, rather than relying on the generic description of the case as theft.

Classification within Article 363 also requires care. Article 363(1) establishes a maximum of seven years for the circumstances specified there. Article 363(2) provides a higher maximum for the combination involving paragraph (1), item 3, together with the circumstances identified in items 4 or 5. The presence of several aggravating facts does not justify selecting the higher maximum without examining that combination. Correct classification is essential because any subsequent assessment of recidivism must begin from the legally applicable offence and punishment limit.

The nature of the stolen property likewise requires contextual assessment. Its value, importance to the victim, and associated risks may affect the seriousness of the conduct. However, those considerations should not be used to replace the statutory elements. Theft of a firearm, for example, should not automatically be described as theft involving violence merely because the object is dangerous. The court must identify what the defendant actually did and apply the provision supported by the established facts.

Establishing Statutory Recidivism

Article 486 cannot be applied solely because the defendant is described as having offended before. The relevant history requires identification of an earlier conviction and examination of its relationship with the specified offence group. The provision also contains conditions concerning imprisonment, execution or remission, and the applicable period. A statement that the accused was once arrested or detained does not establish those matters. The

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court needs sufficient information to determine that the statutory conditions exist, rather than treating the label "recidivist" as self-proving.

Chronology is particularly important. Article 486 should not be reduced to a rule that every new offence committed within five years of an earlier judgment automatically qualifies. Its wording refers to specified circumstances concerning service of imprisonment, remission, and the continuing authority to execute the earlier punishment. The relevant dates must therefore be established from appropriate records. A comparison based only on the years printed in case numbers may overlook the legal chronology on which aggravation depends.

The defence must also have a meaningful opportunity to examine the criminal history relied upon. Identity errors, uncertainty about finality, and incomplete execution information can affect the legal assessment. A previous judgment should be connected reliably to the defendant in the present case. Where the statutory conditions are not established, the court should not use an assumed history to extend the punishment limit. Clear findings on these matters provide a necessary foundation for evaluating consistency between sentences.

Table 1. Information required when assessing recidivism in theft cases

Assessment area	Information to establish	Analytical significance
Identity	Reliable connection between the defendant and the prior conviction	Prevents reliance on another person's criminal record
Previous offence	Provision underlying the earlier conviction	Determines its relationship with the statutory offence group
Prior judgment	Conviction and relevant procedural status	Distinguishes conviction from arrest or allegation
Execution history	Relevant imprisonment, remission, or outstanding execution circumstances	Supports application of Article 486
Chronology	Dates relevant to the statutory period	Prevents an incorrect calculation based only on judgment dates
Present offence	Provision and paragraph found proved	Establishes the applicable sentencing framework
Judicial explanation	Express findings concerning the history relied upon	Makes the basis for aggravation reviewable

Source: Author's analysis of Article 486 of the Criminal Code applicable in 2024.

Distinguishing an Increased Maximum from the Sentence Imposed

A central issue is the difference between increasing the statutory ceiling and determining the individual sentence. Article 486 permits a one-third increase in the relevant maximum where its requirements are satisfied. It does not instruct the court to take an otherwise selected sentence and automatically add one-third. Nor does it establish that every qualifying offender must receive the highest available punishment. The court must still determine an appropriate sentence within the legally available limits through assessment of the circumstances.

This distinction matters when evaluating criticism of a judgment. A sentence below the ordinary maximum does not prove, by itself, that the court failed to consider recidivism. The history may have influenced the selected term without requiring use of the enlarged ceiling. Conversely, the fact that the sentence remains within a permissible range does not answer whether the reasoning was adequate. Legality of the numerical term and sufficiency of the explanation are separate questions that must both be examined.

Judicial reasons should consequently identify the legal effect attributed to the prior conviction. Where statutory aggravation is applied, the judgment should explain its basis. Where the history affects the selection of punishment within the range, that effect should also be made intelligible. This does not require an artificial numerical weight for every circumstance. It requires an account of why the final sentence reflects the established offence and offender rather than an unexplained choice among possible terms.

The Jambi Case Discussion and Its Evidentiary Limits

Jasril et al. (2023) report a sentence of two years and six months in their discussion of Decision No. 224/Pid.B/2020/PN Jmb. They criticise the treatment of the defendant's repeated offending and argue for stronger

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aggravation. That account supplies a local illustration of disagreement over sentencing reasons. However, it remains an attributed scholarly assessment. The present article does not independently determine that the statutory conditions for Article 486 were established in the original proceedings or that the court omitted a consideration appearing elsewhere in the complete record.

The broader legal point is that criticism of leniency must be supported by a correct understanding of the applicable punishment range. A statutory maximum is not a mandatory sentence, and recidivism does not independently create a minimum term selected by the commentator. Assessment should therefore concentrate on whether the offence was classified correctly, whether the prior history satisfied the relevant conditions, and whether the court explained the punishment. Those questions are more precise than concluding that a sentence is unlawful because it is substantially below the ceiling.

A further distinction concerns the meaning of disparity. One judgment may reveal a questionable explanation or a possible error of law, but unwarranted inter-case disparity requires a comparison with other sufficiently similar decisions. The local publication identifies an issue worth investigating; it does not supply a complete comparative dataset for the present study. Establishing a Jambi pattern would require verified judgments and criminal-history information across more than one case.

Comparing Cases Through Relevant Similarities and Differences

Repeat offenders are not necessarily equivalent for sentencing purposes. They may differ in the number and seriousness of prior convictions, the interval since imprisonment, the nature of the present conduct, and their role in a joint offence. Two defendants may both qualify under Article 486 while presenting different levels of responsibility in the case being sentenced. A valid comparison should record those distinctions before interpreting a difference in imprisonment terms as inconsistent treatment.

The harm caused also requires more than a comparison of market values. Theft may deprive a victim of essential work equipment, damage a dwelling, or involve additional insecurity arising from the method used. These consequences should be established and explained rather than presumed from the offence label. At the same time, public concern about theft cannot replace individual assessment. Sentencing must remain connected to the proven conduct and the defendant's responsibility for its consequences.

Comparison should also distinguish completed offences, attempts, and different forms of participation where they affect the applicable legal framework. An organiser, a principal actor, and an assistant may incur different sentencing consequences depending on the findings. The court's reasons must show the contribution attributed to each defendant. Shared involvement in one event does not require identical punishment, but it does require an intelligible explanation for material differences.

Balancing Criminal History and Mitigating Circumstances

A proven criminal history may support a more serious sentencing assessment without eliminating consideration of mitigation. Admissions, remorse, return of property, and other relevant circumstances require examination in their factual context. Their presence should not be treated as an automatic entitlement to a fixed reduction. The judgment should explain why they matter in the particular case and how they interact with the seriousness of the present offence and the established history.

The same requirement applies to aggravating circumstances. A statement that the defendant has previously been convicted is more useful when the judgment identifies the relevant conviction and explains its significance. Repeated reliance on general language about disturbing society may add little if the court does not connect it with the facts. The assessment should also examine whether the same circumstance has been used in overlapping ways without explanation. Transparent reasoning helps prevent either mitigation or aggravation from becoming a formula detached from the record.

Rehabilitation remains a relevant consideration in discussions of repeated offending. A new conviction may indicate that earlier punishment did not prevent the present offence, but it does not prove that a longer prison term will necessarily achieve that objective. The court should avoid unsupported predictions about inevitable future criminality. Public protection and individual accountability can be addressed through a reasoned sentence without treating the defendant's prior record as a permanent substitute for assessment of the present case.

Separating Sentencing Disparity from Other Differences

A gap between the prosecutor's demand and the sentence imposed is not itself proof of disparity between judgments. The prosecutor proposes a punishment, while the court independently determines the case according to

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law. A lower sentence may require explanation, but the prosecution's request is not a statutory minimum. Comparison of demand and judgment answers a different question from comparison of judicial outcomes across sufficiently similar cases.

The procedural level must also remain consistent. A first-instance sentence and a sentence modified on appeal should not be treated as equivalent observations without recording their relationship. The researcher must identify whether the study concerns initial judicial decisions or final outcomes. Otherwise, the same case may be counted more than once or an appellate correction may be misrepresented as an independent example of disparity.

Adult and juvenile proceedings also require separate treatment. A defendant described as a repeat offender may be subject to a different statutory framework because of age. Combining juvenile and adult sentences without accounting for that distinction can produce misleading results. For the framework developed here, comparisons concern adult offenders unless another category is expressly identified and analysed under its governing legislation.

A Framework for Reviewing Jambi District Court Decisions

A structured review should begin with the full judgment and record the precise offence, findings concerning criminal history, applicable punishment limits, individual participation, victim harm, and sentencing circumstances. The researcher should then identify how those findings influenced the outcome. A missing explanation must be distinguished from information absent only from a short public summary. This distinction protects against attributing deficiencies to the court when the researcher has not examined the complete reasons.

Table 2. Framework for analysing possible unwarranted sentencing disparity

Dimension	Question for comparison	Basis for justified differentiation
Offence classification	Were the defendants convicted under equivalent provisions?	Different elements or applicable punishment limits
Statutory recidivism	Were Article 486 requirements established consistently?	Different qualifying histories or chronology
Individual role	What did each defendant contribute?	Different responsibility, planning, or control
Victim harm	What consequences were proved?	Material differences in loss, damage, or other effects
Mitigation	Which circumstances were established and explained?	Different recovery, conduct, or relevant personal circumstances
Procedural position	Are judgments compared at the same level?	Differences arising from appeal or other procedural distinctions
Judicial reasons	Does the explanation support the selected term?	Identifiable legal and factual reasons for the difference

Source: Author's proposed framework for comparative judgment analysis.

The final assessment should distinguish three outcomes. A difference may be adequately justified, insufficiently explained, or impossible to evaluate because material records are unavailable. The third category is important: incomplete evidence should not automatically be classified as judicial inconsistency. A responsible study records uncertainty and identifies what further material would resolve it. Applied to Jambi decisions, this method would support stronger conclusions than a table containing only offence labels and prison terms.

Articles 50 and 53 of Law No. 48 of 2009 provide a legal foundation for this emphasis on reasons. Judicial independence allows assessment of individual circumstances, while the duty to explain makes that assessment reviewable. The objective is consistent reasoning rather than automatic uniformity. A comparative study can identify unexplained differences without prescribing that every repeat theft offender receive the same sentence, and it can recognise justified differentiation without treating discretion as unlimited.

CONCLUSION

Sentencing disparity among repeat theft offenders must be assessed through legally and factually comparable cases. Under the framework applicable in 2024, Article 486 requires verification of the qualifying criminal history and relevant statutory conditions. Its one-third aggravation concerns the available punishment ceiling and does not establish an automatic increase to every sentence or a requirement to impose the maximum. Judicial reasoning must explain how the present offence, individual participation, victim harm, prior convictions, and mitigating circumstances support the punishment selected. Published discussion of a Jambi judgment provides a local issue for

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examination but does not independently establish a pattern of unwarranted disparity. The proposed framework supports consistent assessment by separating offence classification, statutory recidivism, and individual sentencing discretion. A conclusive study of Jambi District Court decisions requires comparison of complete judgments and verified criminal-history records, with procedural differences and evidentiary limitations expressly accounted for.

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