



JUDGE'S LEGAL CONSIDERATIONS IN SENTENCING
THE PERPETRATORS OF STOLEN CAR THEFT
(Study of Decision Number 481/Pid.B/2024/PN Tjk)

Article	Abstract
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INTRODUCTION

Indonesia, as one of the developing countries in the world, is actively developing in various sectors. Efforts made by the government include economic development, improvement of the public system, development of science and technology, and improvements in the legal realm. This is part of an effort to adapt legal regulations to the development and needs of the community from time to time.

The principle reflected in the 1945 Constitution is that Indonesia is a country of law where power is based on law and not mere power.¹ The country has a set of regulations and laws to protect the interests of the people. The statement in the Preamble to the 1945 Constitution, which became the constitutional foundation, affirmed that one of the goals of the state was to create the common welfare.²

A law is a collection of rules formulated by the authorities with the aim of regulating people's lives. This rule has the characteristics of orders and prohibitions and is binding, accompanied by consequences in the form of sanctions for anyone who violates it.³

All development efforts made by this state must be aimed at creating prosperity for its people.⁴ the social interaction of the community, there are various types of relationships between fellow members of society that arise from the interests of individuals. in these relationships requires regulations that ensure a balance in these interactions to prevent conflict or chaos.⁵

The legal regulations that have existed in society must be obeyed because they affect the balance in every relationship between members of society.⁶ lack of legal awareness in society causes distrust between members of the community themselves and distrust with law enforcement officials and the government.⁷ with the current difficult economic conditions in our country, has led to the emergence of cases of crime that occur in the society which is motivated by urgent needs of life. The conditions that occur every day and are experienced by the community.

Crimes will not disappear on their own, the contrary, cases of crime are increasingly occurring and the most dominant type of crime against property, those that are included in the criminal acts.⁸ crimes against material possessions will appear to be increasing in developing countries. increase is in line with the development and growth of the economy. country, not except for the most advanced countries, certainly face the problem of crimes that threaten and disturb the peace and welfare of its people.⁹

¹ Hadi, F. (2022). The State of Law and Human Rights in Indonesia. *Wijaya Putra Law Review*, 1(2), 170-188.

² Sorry, Syamsuddin. "Standards And Norms Of Human Rights-Based Land Administration Services." *Journal of Social Science (JoSS)* 4.6 (2025): 297-303.

³ Nasriyan, I. 2019. The Principle of Legal Certainty in the Implementation of Taxation in Indonesia. *Logic: Journal of Research at the University of Kuningan*, 10(02), pp. 87-93.

⁴ Ridwan, I.I.I, H.I, J., Sudrajat, I M.I, A.I, S.I (2020). *Laws of State Administration and Public Service Policy*. Nuansa Scholar.

⁵ Hamid, I A., I S., Nst, I A. I M. I (2024). Local Wisdom Dalihani NaI Tolui as a Pillar of Religious Tolerance in the South Tapanulii Community. *Journal of Social Sciences and Humanities*, 13(1), 132-143.

⁶ Damaitu, E. R., Mulyana, H. Y., Rangotwat, C. A., (2024). Early Exploration in Law. Independent Noble Scholar.

⁷ Isnawan, F.I (2018). Sociological Juridical Perspective I Phenomenon of Street Justice Di I Di I in Community Life. *Journal of Novelty Law*, 9(1), 17-35.

⁸ , C.I (2017). Aspects of Criminal Regulation, Criminal Prosecution and Efforts to Overcome Them I in Indonesia. *Journal of Unsrat Law*, 23(8).

⁹ Yusriana, I Y., & Deliani, I D. I (2023). Efforts to Overcome Criminal Actions Seizure of Motorized Vehicles from the Results of Theft in the Criminal Jurisdiction of the Medan Police. *Juripoll (Journal of Institution I Polytechnic of Ganesha I Medan)*, 6(1), 35-46.

case shows that crime is not only flourishing in poor and developing countries but also in developed countries.

Along with the development of crime as described above, law occupies an important position to overcome the problem of crime. tools are needed to resolve conflicts or crimes that exist in society. of the only efforts to prevent and control the crime is by using criminal penalties and sanctions, which are criminal.¹⁰

Crimes can be interpreted in a criminological and juridical way. in a criminological sense is a human act that tarnishes the basic norms of society. is intended as an act of an element that violates the rules of life and development in society. A crime in a juridical manner is a criminal act or a criminal act in the sense of criminal law, meaning that the crime is formulated in the criminal regulations.¹¹

Crimes in the form of property are becoming more prevalent in Indonesia in general and in the region that is attacking them in particular at this time, crime causes serious problems that begin when a person takes goods from the original form of theft, etc. against the condition of the goods that I do not know the origin of the origin and completeness, is then transferred to someone who buys and stores the property as a result of a crime, this crime is called a criminal act of evil help or deception.¹²

Efforts to ensure that law enforcement must be carried out in a righteous, fair manner, is no arbitrariness, is no abuse of power, are several principles that must always appear in every law enforcement, is, *impartiality*, impartiality. the principle of honesty in examining and deciding (*fairness*), principle of the right procedure (*procedural process*), principle of applying the law in a correct manner that guarantees and protects the substantive rights of the seeker of justice and social interests (the environment), principle of being free from all pressures and violence in the judicial process.¹³

Every perpetrator who is proven to have committed a criminal act must be held accountable for his actions in front of the law, accordance with the provisions of the law.¹⁴ citizen of a country is obliged to uphold the law, so in the daily reality of a citizen of a country who is negligent/intentionally not carrying out his obligations to the detriment of the community, is said that the citizen of the country violates the law because

¹⁰ Rahardjo,I Satjipto. 2006. *dissect progressive law*. Indonesia: PublisherI BukuI Kompas.

¹¹ MochtarI Kusumaatmadja. 2002. *Law, SocietyI and I National Legal Development*. Binacipta, Jakarta, p. 95.

¹² I Rofiana,I R.I (2023). Review of Criminal Law Against Judge's Consideration in Criminal Actions of Motorcycle Licensing (Study of Decision No. 1033/PID. B/2021/PNI Srg). *LEGALITY: Scientific Journal of Legal Science*, 8(1), 44-58.

¹³ AMRULLAH,I M.I D.I F., Kasmarani,I Y., & Mustika,I D.I (2024). Analysis of the Characteristics of Against Formal Criminal Acts Against Criminal Acts of Corruption Based on Article 2I and Article 3I of Law No. 20I Year I 2001. *Ta'zir: Journal of Criminal Law*, 8(1), 57-68.

¹⁴ Hasan,I Z., & Afrizal,I M.I R.I (2023). Criminological Factors The perpetrator commits a crime by modusI receiving pawned goods. *Journal of Justice: Journal of Legal Science and Humanities*, 6(1), 40-44.

his obligations have been determined based on the law. person who violates the law must be held accountable for his actions in accordance with the rules of the law.¹⁵

In this study, the author takes an example of a case that began when the defendant Kukuh Agung Wibowo bought a gray Honda Jazz car in November 2023 from a person named Oktaviano Setiawan alias Acil for IDR 55,000,000. The car was sold without being equipped with official documents such as STNK and BPKB, only with the information that the car was the result of a leasing run. In April 2024, Oktaviano offered to resell the car with a profit of IDR 5,000,000, and Kukuh agreed. On April 6, 2024, Oktaviano brought a prospective buyer to Kukuh's house to make a transaction. However, when the car was being tried by a prospective buyer, an officer suspected of being a police officer appeared, so Oktaviano fled using the car.

After the incident, Kukuh returned to his home. On the same night, a team from the Lampung Police Directorate of Criminal Investigation arrested Kukuh on suspicion of criminal extortion for his involvement in trying to sell cars without legal documents. The car sold was proven to have no official documents and was suspected to be stolen. In the trial, Kukuh admitted his actions, but stated that he only followed instructions from Oktaviano and did not know the car's origins in depth.)

RESEARCH METHODS

The research method uses normative and empirical juridical approaches. Data was obtained through literature studies and field research, including interviews with related parties such as judges, prosecutors, and the police. The analysis was carried out qualitatively to examine laws and regulations, legal doctrines, and facts revealed in the trial.

RESULTS AND DISCUSSION

A. The basis of the judge's consideration in imposing criminal sanctions on the perpetrators of criminal acts against motorized vehicles (Study of Decision No. 481/Pid.B/2024/PNI Tjk).

In the Indonesian criminal law system, the judge's consideration has an important position in determining the form, type, and duration of criminal sanctions against a defendant. Judges are not only tasked with implementing the law textually, but also considering various aspects that are behind an act, both in terms of legal, moral, and social. The ultimate goal is not only to punish, but also to realize justice and the usefulness of the law in society.

In case Number 481/Pid.B/2024/PN Tanjung Karang, the defendant Kukuh Agung Wibowo was sentenced to 5 (five) months in prison for being proven to have committed the crime of stealing a four-wheeled motor vehicle as stipulated in Article 480 1 of the Criminal Code. The panel of judges does not necessarily impose sanctions only based on the evidence of legal elements, but by considering various other supporting factors revealed in the trial.

¹⁵ Yanti, R.I (2013). *Consideration of the Judge in Deciding the Case of Criminal Acts of Embezzlement ContinueI (Case Study No. 55/pid. b/2010/pn. Palu)* (Doctoral dissertation, TadulakoI University).

Based on an interview with the Judge of the Tanjung Karang District Court who stated that the panel of judges in issuing the verdict must pay attention to the provisions of the applicable laws and regulations, doctrine and jurisprudence, as well as the principles of law that live in society, while still upholding the value of justice, legal certainty, and usefulness so that the verdict handed down is not only legally valid, but also socially acceptable.

In line with that, according to Gerald Mackenzie, there are three main bases in the judge's consideration when imposing criminal sanctions, namely legal considerations, moral considerations, and socio-political considerations. These three bases reflect that judges are not only positive legal interpreters, but also executors of justice who understand the values that live in society.

The legal considerations in this case can be seen from the process of proving that the defendant bought a Honda Jazz car from someone who could not show BPKB, only attached an STNK, and at a price far below the market value. The panel of judges considered that this act met the element of "should be able to think that the goods came from the proceeds of the crime", which is a core element in Article 480 of the Criminal Code.

During the trial, the judge paid attention to evidence in the form of leasing documents, fiduciary certificates, and witness statements from the police and representatives of PT Andalan Finance Indonesia. All of this evidence leads to the conclusion that the vehicle purchased by the defendant is still in credit status and has not been paid off, so legally it is still the legal property of the leasing party. The defendant did not show reasonable caution when receiving or purchasing the vehicle.

Formal considerations were also considered by the judge. The entire trial process was declared valid because it had met the criminal procedure legal procedures. The indictment was read clearly, witnesses were examined openly, and evidence was submitted according to the provisions. Therefore, from a positive legal perspective, there is no reason for the judge to reject the evidence presented by the Public Prosecutor.

In addition, the judge also considered the moral aspect, as conveyed by Mackenzie. The defendant Kukuh Agung Wibowo is not a criminal who has a bad previous record. He was not recidivist, and during the trial showed a polite, cooperative attitude, and admitted his actions. The defendant also expressed deep regret, especially for the impact of his actions on the family left behind during detention.

The moral aspect also arises in the consideration of the defendant's mistake committed not because of planned malicious intent, but because of negligence and blind trust in someone he already knows. In this case, the defendant believed the main perpetrator named Acil, who is now at large. This shows that the defendant's motivation is more situational than deliberate evil will.

The judge also considered that the defendant had a burden of family dependents, as well as worked in the informal sector with an uncertain income. This is part of social considerations, namely understanding the economic conditions and social structure of the defendant that contribute to the decisions he makes. In Mackenzie's perspective, this

is important so that punishment does not become an excessive burden that kills the defendant's opportunity to improve.

Another social consideration is the environment where the defendant lives that is permissive to the practice of buying and selling vehicles without official documents. The community around the defendant is used to similar transactions, so the defendant does not feel that his actions are unlawful. This is where the role of judges is needed to provide legal education through decisions that are educational and reminding.

The judge in his decision also considered the impact of the act on the victim, namely the leasing company as the legal owner of the vehicle. The vehicles were returned to PT Andalan Finance Indonesia as a form of restitution, which is also part of the restorative approach to penalties. Not only punishing the perpetrator, but also restoring the condition of the aggrieved party.

The selection of sanctions in the form of imprisonment for 5 months by the panel of judges reflects the principle of proportionality, namely imposing a penalty that is proportionate to the guilt and circumstances of the perpetrator. The crime is considered sufficient to provide a deterrent effect, as well as not closing the space for the perpetrator to improve himself after the criminal period is over.

In imposing a sentence, the judge also pays attention to the principle of justice that is balanced between the protection of the community and the rights of the defendant. Sanctions that are too severe can create new injustices, while sanctions that are too light can reduce the authority of the law. Therefore, 5 months in prison is considered the most appropriate in the context of existing legal and social facts.

The judge's consideration also showed that the crime in this case was directed as an instrument of coaching, not solely as a form of retribution. This is in line with Mackenzie's view that the punishment must be corrective and pay attention to the human values inherent in the defendant.

From a social justice perspective, the judge did not impose additional criminal fines, social work, or other obligations because he was aware of the defendant's economic limitations. This verdict places the judge as a party who understands the burden of the defendant's life, and strives to keep the crime fair without creating multiple layers of suffering.

Through this approach, judges have succeeded in reconciling legal certainty and substantive justice. This is important in the context of a justice system that relies on the values of a balance between legal protection for the community and the protection of the human rights of perpetrators.

The consideration given also sends a message to the public that all forms of confiscation are still criminal acts. However, this ruling also shows that the state is present not only to punish, but also to educate and foster.

The approach used by judges reflects that the imposition of a criminal sentence is not single, but multi-layered. It consists of formal legal aspects, the social conditions of

the defendant, and awareness of moral values living in society. This is a tangible form of holistic and humanistic judgeial consideration.

This decision is also a reflection of a shift in the orientation of punishment which is not only retributive, but has begun to lead to a rehabilitative and preventive orientation. By not imposing the maximum penalty, the judge provides an opportunity for the defendant to improve himself in the future.

Based on the above description, it can be analyzed in accordance with the judge's theory of consideration by McKenzie that the Panel of Judges in case Number 481/Pid.B/2024/PN Tanjung Karang considered the legal fact that the defendant legally and convincingly committed the arrest as stipulated in Article 480 1 of the Criminal Code, but also took into account various mitigating factors, such as simple economic conditions, cooperative attitude during the trial, regret for his actions, as well as his non-recidivist status. These considerations show that criminalization is not only directed to provide a deterrent effect, but also prioritizes human values, rehabilitation opportunities, and preventive social messages for the community. Thus, the judge's decision in this case is in line with Judge McKenzie's Theory of Consideration, which emphasizes the balance between legal certainty, justice, and social utility in the criminal justice process.

B. Factors That Cause the Perpetrator to Commit Criminal Acts Faced by Motorized Vehicles with Empathy Wheels (Study of Decision No. 481/Pid.B/2024/PNI Tjk)

Based on an interview with an assistant investigator of the Bandar Lampung Police, Hari Wibowo Saputro, stated that Kukuh Agung Wibowo was not an individual with a criminal background, but an ordinary citizen who was not known as a lawbreaker. However, the factor of a close personal relationship with Oktaviano aka Acil from school to adulthood formed a strong sense of trust in Kukuh, so he tended to accept his friend's invitation without suspicion, even though it was related to vehicle transactions that were not equipped with official documents. This phenomenon is in line with the concept of intimate association in Edwin H. Sutherland's theory of Association Differentiation, where deviant behavior is easier to learn through close and trusting personal relationships.

In Associative Differentiation Theory, Edwin H. Sutherland states that crime is not the result of hereditary factors, biological instincts, or mental conditions alone, but rather something socially learned. A person is not born a criminal, but becomes a perpetrator because he learns the deviant behavior from his social environment. This learning process involves the technique of committing a crime, the values that support it, and the moral justification that reinforces the action. Crime is a consequence of interaction with people who approve of lawlessness more than obedience to legal norms. In the context of the kidnapping case carried out by Kukuh Agung Wibowo, this theory can be used to explain how social interaction, especially with the main perpetrator named Oktaviano alias Acil, is the main foundation for the formation of a permissive mindset towards unlawful acts.

Based on an interview with an assistant investigator at the Bandar Lampung Police, Hari Wibowo Saputro stated that Kukuh Agung Wibowo was not a criminal who had a

criminal history, but an ordinary citizen who in his daily life was not known as a lawbreaker. However, in his statement, Kuku admitted that he had known Acil since his school days and maintained a friendship until adulthood. The friendship that has been established for many years makes the defendant have a high level of trust in his colleague. This familiarity makes it easier to accept Acil's offer without suspicion, even when the offer is related to the purchase of a vehicle without the completeness of official documents. This is what Sutherland calls intimate associations, where the learning of deviant behavior is easier to occur because it involves close, trusting personal relationships.

Acil offered a Honda Jazz car at a bargain price and explained that the vehicle was "on the run from leasing," not the result of theft or robbery. Kuku accepts this information without further questioning the legality of the goods offered. In this situation, it is not only the information that the defendant receives, but also the values that accompany it, namely that such transactions are normal and safe to do. This reflects an important aspect of Sutherland's theory, which is that the perpetrator not only learns the act of crime, but also absorbs the justifications and justifications that come with it. This kind of belief does not arise suddenly, but rather through repeated social processes in an environment that forms tolerance for transgression.

The environment where the defendant lives is also an important factor in the formation of deviant behavior. In his confession, Kuku explained that the practice of buying and selling vehicles without BPKB was common around him. The community in their environment does not question the legality of vehicle documents strictly as long as the vehicle looks normal and the vehicle registration is available. This shows that the defendant learned from his community that not all vehicle transactions must be in accordance with the law, and as long as they do not directly harm other parties, then the transactions are considered legitimate. It is these values that develop in these communities that Sutherland calls alternative social norms that can be at odds with formal law.

The economic pressure faced by Kuku also played a role in strengthening the influence of the deviant values he learned. He does not have a permanent job, has family dependents, and tries to find a vehicle that can be used to support his daily activities or resell at a profit. A cheap car offer from someone who is trusted to be a quick solution to urgent economic needs. In this context, the process of deviant learning becomes more acceptable because it is supported by urgent life situations. A social environment that offers shortcuts without paying attention to legal legality becomes a fertile ground for the spread of deviant values.

Sutherland also emphasized that the learning process of criminal behavior does not always occur consciously and frontally, but can occur subtly and gradually. In Kuku's case, this process did not happen through explicit invitations to break the law, but through casual conversations, social assumptions, and concrete examples shown by those around him. When the defendant saw that others could buy or sell vehicles without BPKB without experiencing legal problems, he began to normalize similar actions. This process made the boundary between legitimate and illegitimate blurred in his view.

Kuku himself said that he did not consider the action dangerous or high risk legally. He just thinks that as long as the car is not the result of theft, then the transaction

remains safe. This view shows that the defendant has absorbed an alternative form of logic that supports the violation of the law indirectly. He learns to ignore formal legal aspects and replace them with practical justifications, that is, as long as they are not known to be crimes, then the act is not wrong. It is a form of social learning that reflects the rationalization of crime, as Sutherland explains.

Furthermore, the defendant did not try to check the validity of the vehicle to authorities such as Samsat or the police. He also did not ask for proof of legal ownership from Acil. This passive attitude shows that the defendant is not trained by his environment to be critical of the legality of a transaction. He learned from the examples he saw that such actions had become the norm, so there was no need to be legally verified. In the theory of Association Differentiation, this is part of the indirect learning process, which occurs through the observation of social behavior patterns.

When arrested and questioned in court, Kukuh showed remorse and guilt, especially towards his family who were also affected by the detention. This shows that morally personally, the defendant still has an ethical compass that distinguishes right and wrong. However, the compass has been shifted by the social learning process that he experienced before. The formal legal values that should have been the basis for action have been defeated by local values and social justifications that he learned from his immediate environment.

The fact that the defendant had no criminal history, was cooperative during the trial, and had never been involved in a criminal network shows that he was not a professional criminal. This further reinforces the assumption that the actions he takes are the result of an unintentional, long-term social learning process. He is not included in the category of perpetrators with innate malicious intentions, but is included in the group of incidental perpetrators who slip due to environmental influences and deviant social relations.

From Sutherland's theoretical perspective, Kukuh's crimes are the product of an imbalance between associations with legal values and deviant values. In his case, the dominant interaction was with the group that approved of deviant behavior, so that the learning results were also inclined to justify the criminal act. When conflicting values arise, such as when dealing with the law in court, then there is a conflict of values and awareness of error.

The process that Kukuh went through is a reflection of how crime can grow in a situation that is socially considered normal. Many incidental perpetrators like Kukuh do not understand that what they do is a criminal act, because so far they have learned from communities that do not see it as a violation. In this context, a legal approach that only emphasizes sanctions will not be effective enough without efforts to break the learning chain of these deviant values.

The process of internalizing deviant values in Kukuh occurred because of the strong social relationships and the weak influence of formal legal values in his daily life. He was never educated directly about the legality limits of vehicle transactions, and never saw firsthand examples of the legal consequences of purchasing an undocumented vehicle. As a result, legal values become mere texts on paper, while local social values become tangible guidelines in everyday actions.

This explanation suggests that one of the roots of deviant behavior lies not in the character of the individual, but in the social environment in which the individual belongs. If an individual grows and interacts in an environment that is permissive to violations, then the chances of him becoming a criminal will also increase. Therefore, prevention efforts are not enough to be carried out with an individual approach, but must be through interventions in the social environment.

A healthy and law-conscious social environment will transmit values that are in line with the law to its members. On the other hand, an environment that considers violations of the law as a natural thing will actually increase the potential for new perpetrators. In this context, equitable legal education and collective awareness are essential to form a law-abiding society. This is the essence of a social-based prevention strategy.

In this case, Kukuh's actions cannot be seen as a pure crime committed with full awareness of the law. He is trapped in the social logic that he learns from his personal relationships and the environment in which he lives. Therefore, the legal approach to perpetrators like Kukuh should not only be repressive, but also contain aspects of systematic legal coaching and education.

The success of the legal system is not only measured by how harshly the punishment is imposed, but also by how capable the law is to be present as a means of transforming behavior. In this case, the criminalization of incidental perpetrators must be accompanied by efforts to break the chain of deviant social learning. This can be done through the involvement of community leaders, formal education, and supervision of social practices that are prone to deviation.

If left unchecked, the practice of buying and selling vehicles without legal documents can become a deep-rooted culture and difficult to change. Therefore, it is important for law enforcement, local governments, and communities to jointly create a legally healthy social environment. The legal action against Kukuh should be read as a reminder that every individual is responsible not only for his actions, but also for the values he learns and passes on to his environment.

Based on this description, it can be analyzed according to Edwin H Sutherland's theory that the factors that cause the perpetrators to commit criminal acts based on Decision Number 481/Pid.B/2024/PN Tanjung Karang, namely permissive social environmental factors against the practice of buying and selling vehicles without official documents form a pattern of habits that are considered reasonable. In addition, his closeness to the main perpetrator, Oktaviano alias Acil, also influenced the defendant's decision to buy the vehicle. Economic pressures due to their background as informal workers with uncertain income are also a driver, so the offer of low prices is considered a practical solution. On the other hand, the lack of legal understanding and negligence in verifying the legality of goods further strengthen the occurrence of criminal acts. These factors show that the defendant's actions were not purely malicious, but the result of deviant social interactions, in line with the Edwin H. Sutherland Association Differentiation Theory.

CONCLUSION

The basis of the Judge's consideration in case Number 481/Pid.B/2024/PN Tanjung Karang is that the Judge considers the legal fact that the defendant legally and convincingly committed the offence as stipulated in Article 480 1 of the Criminal Code, but also takes into account various mitigating factors, such as simple economic conditions, cooperative attitude during the trial, remorse for his actions, and his non-recidivist status. These considerations show that criminalization is not only directed to provide a deterrent effect, but also prioritizes human values, rehabilitation opportunities, and preventive social messages for the community. Thus, the judge's decision in this case is in line with Judge McKenzie's Theory of Consideration, which emphasizes the balance between legal certainty, justice, and social utility in the criminal justice process.

The factor that causes the perpetrator to commit a criminal act based on Decision Number 481/Pid.B/2024/PN Tanjung Karang is a permissive social environmental factor against the practice of buying and selling vehicles without official documents forming a pattern of habits that are considered reasonable. His closeness to the main perpetrator, Oktaviano alias Acil, also influenced the defendant's decision to buy the vehicle. Economic pressures due to their background as informal workers with uncertain income are also a driver, so the offer of low prices is considered a practical solution. On the other hand, the lack of legal understanding and negligence in verifying the legality of goods further strengthen the occurrence of criminal acts. These factors show that the defendant's actions were not purely malicious, but the result of deviant social interactions, in line with the Edwin H. Sutherland Association Differentiation Theory.

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