

## THE ROLE OF SOCIAL ECONOMIC LAW IN ENSURING HEALTH RIGHTS FOR PETTY THEFT OFFENDERS: A STUDY AT A CORRECTIONAL INSTITUTION

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### Abstract

This research aims to analyse the role of social economic law in guaranteeing the right to health for petty theft offenders in correctional institutions through a literature review. The right to health is a human right guaranteed by Law No. 12 of 1995 on Corrections and various related regulations, which requires the state to provide proper health services without discrimination against prisoners. However, implementation in the field still faces various obstacles, such as budget constraints, lack of medical personnel, inadequate health facilities, as well as bureaucratic constraints and overcapacity of prison residents. The results of the study show that the role of social economic law is very important in encouraging fair resource allocation and affirmative policies to fulfil the health rights of prisoners, especially vulnerable groups such as petty theft offenders who generally come from weak economic backgrounds. This study recommends the need for budget restructuring, strengthening cross-sectoral coordination, and developing prisoner empowerment programmes so that health rights can be fulfilled optimally and sustainably in the correctional environment.

**Keywords:** Role, Law, Social Economy, Health Rights, Petty Theft Offenders, Study at Correctional Institutions.

### INTRODUCTION

Fulfilment of the right to health is part of human rights that are upheld and protected by the state, including for those who are serving a sentence in correctional institutions. Article 25 paragraph (1) of the Universal Declaration of Human Rights (UDHR) states that everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including the right to food, clothing, housing, and health care and necessary social services. This right also applies to prisoners, who despite serving a sentence, still have basic human rights, one of which is the right to health (Mujahidin, 2020).

In Indonesia, the rights of prisoners are expressly regulated in Article 14 of Law No. 12/1995 on Corrections. One of the important rights guaranteed is the right to health services and proper food. This confirms that the restriction of a person's freedom due to a criminal offence does not necessarily eliminate his/her basic rights, including the right to adequate health services while serving a criminal period (Kinner & Young, 2020).

The promotion and protection of prisoners' human rights to health is not an easy thing that can be done in a short time, but is a long process that requires continuous commitment from the government, social organisations, and all levels of society. The

fulfilment of the health rights of prisoners is in line with the principles of national development which places humans as the main subject of development (Lines, 2008) .

Government Regulation No. 32/1999 on the Terms and Procedures for the Implementation of the Rights of Prisoners affirms that every correctional institution must provide a polyclinic and its facilities, as well as at least one doctor and one health worker. In addition, every prisoner and correctional student is entitled to receive food and drink according to the number of calories that meet health requirements, as well as routine health checks at least once a month (Fazel & Baillargeon, 2011) . However, in practice, the implementation of health rights in correctional institutions still faces various obstacles. Based on observations in several correctional institutions, there is often only one nurse without a permanent doctor, limited polyclinic facilities, and the food provided is not always in accordance with established nutritional standards. This shows a gap between regulation and implementation in the field (Waluyo, 2022) .

The health condition of prisoners greatly affects the coaching process in correctional institutions. Optimal health services can support the physical and mental recovery of prisoners, so that they can follow the coaching programme well and return to the community in good health. Therefore, health services for prisoners must include promotive, preventive, curative, and rehabilitative aspects in an integrated manner (Harsono ., 2023)

In addition, the right to health is also regulated in Law Number 36 Year 2009 on Health and Law Number 39 Year 1999 on Human Rights. Article 9 paragraph (1) of the Health Law states that all Indonesian citizens, including prisoners, have the right to obtain optimal health services. Meanwhile, Article 41 paragraph (2) of the Human Rights Law provides special treatment for vulnerable groups such as the elderly, pregnant women, people with disabilities, and children, including in the context of correctional (Borschmann et al., 2019) .

The Standard Minimum Rules for the Treatment of Prisoners (SMR) issued by the United Nations is also an international guideline for countries, including Indonesia, in providing humane treatment to prisoners. The SMR emphasises the importance of the availability of qualified medical personnel, adequate health facilities, and dental and psychiatric services in every correctional institution (Favril et al., 2020) . However, various reports indicate that the implementation of these standards in Indonesia is still far from expectations. Many correctional institutions do not have the appropriate medical staff, health checks are not routine, and there is limited funding and health facilities. This is exacerbated by overcrowding in many prisons, which increases the risk of the spread of infectious diseases and worsens the health conditions of prisoners (Sim, 2020) .

Petty theft offenders, as one of the groups of prisoners who generally come from weak economic backgrounds, are often victims of structural injustice, including in terms of access to proper health services. This inequality is an important concern in the

study of social economic law, which emphasises the need for the distribution of justice and the protection of basic rights for all citizens without discrimination (Newbigging & Ridley, 2019).

Social economic law acts as an instrument to ensure that the results of development, including health services, can be distributed fairly to all levels of society, including prisoners. In the correctional context, the role of social economic law is very important to encourage policy improvements and budget allocations that favour the fulfilment of prisoners' health rights, especially for petty theft offenders who are vulnerable to marginalisation (Monarca & Della Rocca, 2020).

Based on the description above, this research will examine in depth the role of social economic law in ensuring the right to health for petty theft offenders in correctional institutions through the literature review method. This research is expected to provide theoretical and practical contributions in efforts to fulfil the health rights of prisoners in Indonesia, as well as being the basis for more equitable and sustainable policy recommendations.

## **Research Methods**

This research uses a library research method with a normative and qualitative approach, namely examining and analysing various primary legal sources such as the 1945 Constitution, Law Number 12 of 1995 concerning Corrections, Law Number 36 of 2009 concerning Health, as well as related implementing regulations, plus secondary sources in the form of scientific journals, books, research reports, and relevant official documents to identify, understand, and examine the role of social economic law in ensuring health rights for petty theft offenders in correctional institutions (Zed, 2008). The data collected is analysed descriptively qualitatively by focusing on the interpretation of the content of documents and literature in order to obtain an in-depth understanding of the implementation and challenges of fulfilling the health rights of prisoners from the perspective of social economic law (Hamzah, 2020).

## **Results and Discussion**

### **The Role of Social Economic Law in Ensuring the Health Rights of Petty Theft Prisoners**

Social economic law acts as an instrument for the distribution of justice in development, including ensuring access to health for petty theft prisoners in correctional institutions (Lapas). Article 28H of the 1945 Constitution and Article 9 of Law No. 36/2009 on Health confirm that health is a constitutional right that must be fulfilled by the state, without exception for prisoners. However, its implementation still faces structural challenges, such as limited budgets, overcapacity, and inequality of resources (Sufrin et al., 2019).

Normatively, Law No. 12 of 1995 on Corrections and Government Regulation No. 32 of 1999 explicitly require each correctional institution to provide polyclinic facilities

along with health equipment, at least one doctor and other health workers, and carry out routine health checks at least once a month which are recorded in Government Regulation No. 32 of 1999. 32 of 1999 explicitly requires each correctional institution to provide polyclinic facilities along with health equipment, at least one doctor and other health personnel, and carry out routine medical examinations at least once a month which are recorded in the prisoner's health card; if an infectious or dangerous disease is found, the prisoner is entitled to special treatment, and if further treatment is required, the prison doctor is obliged to recommend referral to a government public hospital outside the prison, with all treatment costs borne by the state (Bakhri, 2020).

Social economic law aims to address structural injustice through the redistribution of resources. Petty theft prisoners, who generally come from weak economic groups, are vulnerable to becoming systemic victims. The budget allocation for prison health, which is only 0.5% of the total state budget of the Ministry of Law and Human Rights, reflects disproportionate prioritisation. In fact, the fulfilment of health rights is directly correlated with the success of the social reintegration of prisoners (Agusti, 2021).

An ideal health service should cover four main aspects, namely promotive, preventive, curative, and rehabilitative, in order to realise optimal health status for each individual and community group. Promotive aspects focus on health promotion efforts, such as counselling, education about healthy lifestyles, and increasing awareness of the importance of maintaining health, so that people are able to recognise and avoid risk factors for disease early on. Meanwhile, the preventive aspect focuses on disease prevention through measures such as immunisation, health screening, routine examinations, and the application of clean and healthy living behaviour to minimise the potential for disease (Taufiqur Rachmana ., 2021)

Curative aspects are efforts aimed at treating or curing diseases that have been suffered by individuals, including diagnosis, medical care, therapy, to control complications and disability so that the patient's quality of life is maintained. Examples of curative actions include the administration of drugs, surgery, or intensive care in health facilities for patients who need medical treatment (Solihin ., 2020)

Furthermore, the rehabilitative aspect aims to restore the ability and function of the patient's body after experiencing illness or injury, so that they can return to function optimally in their social environment. Rehabilitation can include physical, mental, and social therapies, such as skills training, psychological counselling, and social support, so that former patients are able to adjust and contribute to society according to their capacity. The integration of these four aspects is very important so that health services are not only oriented towards healing, but also on prevention, improving the quality of life, and restoring the patient's social function as a whole (Jumalia ., 2021)

The involvement of BPJS Health is also not optimal. Although prisoners are entitled to become participants, complicated administrative procedures and

dependence on family hinder access to hospital referral services. As a result, many cases of chronic diseases in prisoners are not fully treated (Mahmud Marzuki, 2021) .

From a human rights perspective, the state has a three-tiered obligation (*respect, protect, fulfil*). The study at Sleman Correctional Facility revealed that prisoners with HIV/TBC are often stigmatised, which is contrary to the principle of non-discrimination in the ESCR. In fact, the protection of this vulnerable group should be an indicator of the progress of social economic law (Sularmi ., 2023)

Budget restructuring is needed so that the allocation of health funds in correctional institutions truly reflects the real needs of prisoners, considering that budget constraints have been one of the main causes of the low quality of health services in prisons, especially in the midst of overcapacity conditions and lack of infrastructure. With restructuring, budget planning and distribution can be adjusted based on the number of inmates, the level of health risks, as well as the need for facilities and medical personnel, so that it is not only routine administrative, but also responsive to the dynamics in the field. This effort is important to ensure that every prisoner, including petty theft offenders, obtain health rights fairly and proportionally, and prevent human rights violations due to inadequate health services (Hutabarat ., 2022)

A restorative approach through basic health skills training for prisoners has proven effective in improving the quality of health services in correctional institutions, especially in the midst of limited medical personnel and facilities. These training programmes, such as the formation of health cadres from among prisoners, allow prisoners to gain basic knowledge and skills in daily health management, hygiene behaviour counselling, and reporting on the health conditions of fellow prisoners, thus creating a more responsive and efficient support system in the prison environment (Rasji, 2023) . In addition to strengthening access to and quality of health services, the training also encourages the empowerment of prisoners, increases their sense of responsibility, and builds their confidence to contribute positively both during their sentence and after returning to society. The success of this programme in several prisons shows that a community-based approach and collaboration between officers, prisoners, and external parties can be a sustainable health service model worth replicating in other correctional units (Wildeman & Wang, 2017) .

Regulations need to be strengthened to ensure accountability. Violations of health rights such as malpractice or delays in hospital referrals should be regulated by strict sanctions in the Minister of Law and Human Rights Regulation. An independent grievance mechanism should also be established to monitor prison compliance. Lessons learnt from the COVID-19 pandemic emphasise the importance of a resilient prison health system. Adaptations such as telemedicine and digital health data banks need to be integrated to anticipate future crises (Nowotny et al., 2021) .

Philosophically, the fulfilment of prisoners' health rights is not just a legal obligation, but an investment in social justice. Physically and mentally healthy petty theft prisoners have a greater chance of turning into productive citizens after release (Plugge & van Hout, 2021).

As such, social economic law should be the foundation of inclusive policies that bridge the gap between norms and reality, ensuring the principle of "health for all" is achieved without discrimination.

### **Factors inhibiting the fulfilment of health rights in prisons**

Factors hindering the fulfilment of health rights in correctional institutions (Lapas) are complex and interrelated, with a direct impact on the quality of health services received by prisoners. One of the main obstacles is the lack of medical personnel. Many prisons only have a nurse without a permanent doctor, so health services cannot run optimally and routine health checks are difficult to carry out as required (Jumalia ., 2021)

In addition, health facilities in prisons are generally inadequate. Many prisons do not have proper polyclinics, specialised treatment rooms, or ambulance vehicles to refer seriously ill prisoners to outside hospitals. This lack of facilities causes the handling of emergency medical cases to be slow and risks more serious health complications (Sarkawi ., 2021)

Overcrowding is a chronic problem in almost all prisons in Indonesia. The number of inmates far exceeds capacity resulting in insufficient inpatient space, increasing the risk of transmission of infectious diseases, and worsening environmental health conditions within prisons. This condition also makes it difficult to implement preventive health programs, such as immunisation and health education (Dolan et al., 2016).

Budget limitations are a significant constraining factor. The available operational funds are often not enough to fulfil the needs of medicines, medical devices, and referral fees to outside hospitals. This is further exacerbated if prisoners do not have health insurance such as BPJS or other health insurance (Wang et al., 2020).

Slow licensing and bureaucratic processes are also an obstacle to the fulfilment of prisoners' health rights, especially for those who need medical treatment outside prison. Convolutated administrative procedures often cause delays in handling cases of serious illness, thus worsening the patient's condition. Prisoners' lack of awareness of the importance of maintaining health and environmental hygiene is also an obstacle. Many prisoners do not adhere to clean and healthy living behaviours, thus increasing the risk of disease outbreaks within prisons (Hutabarat ., 2022)

Another factor is the lack of availability of medicines and medical equipment. The limited and incomplete stock of medicines often results in prisoners not receiving treatment that suits their medical needs. The lack of specialised space for vulnerable groups such as women, infants and the elderly is also a problem. Prisons often do not

have special treatment rooms for female prisoners who are pregnant, breastfeeding, or have just given birth, as well as elderly prisoners who require intensive care (Moran & Turner, 2019).

Discrimination and stigmatisation against prisoners with certain diseases, such as HIV/AIDS or tuberculosis, also hinders their access to proper health services. This stigma often makes prisoners reluctant to report or seek medical attention, leaving their illnesses untreated. The lack of training and capacity building for health workers in prisons means that the quality of health services does not improve. Health workers often do not receive up-to-date training on the management of infectious diseases or medical emergencies in correctional settings (Mujahidin, 2020).

Lack of coordination between the Ministry of Justice and Human Rights, the Ministry of Health, and local governments is also an inhibiting factor. Suboptimal cross-sectoral cooperation means that many health programmes in prisons are not sustainable or are only incidental. Limited access to external health facilities, such as referral hospitals, is also an obstacle, especially for prisons located in remote areas. Long distances and lack of transport facilities make the referral process difficult and time consuming (Kinner & Young, 2020).

Finally, the absence of a detailed and firm regulation on health service standards in prisons means that the implementation of prisoners' health rights is highly dependent on the policies of each prison and the availability of resources at the local level. This has led to disparities in the quality of health services between prisons in Indonesia (Lines, 2008).

Thus, the fulfilment of the right to health for prisoners, especially petty theft offenders in correctional institutions, still faces various obstacles. The main obstacles include limited medical personnel, lack of health facilities, lack of budget, as well as prison overcrowding which worsens environmental conditions and increases the risk of disease transmission. In addition, slow bureaucratic processes, inadequate stocks of drugs and medical equipment, and the lack of special spaces for vulnerable groups such as pregnant women and the elderly are also inhibiting factors that have not yet been overcome optimally. Prisoners' lack of awareness of clean and healthy living behaviours, as well as discrimination against people with certain diseases, further complicate efforts to fulfil the right to health in prisons.

Efforts to optimise the fulfilment of health rights require budget restructuring, increasing the number and quality of medical personnel, and strengthening health facilities and infrastructure in each prison. Cross-sectoral cooperation between the Ministry of Law and Human Rights, the Ministry of Health, local governments, and civil society support is also needed to ensure fair and quality access to health services for all prisoners. Thus, the fulfilment of prisoners' health rights is not only a legal obligation, but also part of efforts to realise social justice and protect human rights in the correctional environment.

## Conclusion

The role of social economic law in guaranteeing the right to health for petty theft offenders in correctional institutions is realised through normative arrangements that require the state to provide proper health services without discrimination. Law No. 12/1995 on Corrections and Government Regulation No. 32/1999 confirm that every prisoner is entitled to health services, including the provision of polyclinics, medical personnel, routine health checks, and access to follow-up care if needed. The principle of social justice in economic law demands that the state not only formally regulate, but also ensure the effective implementation of the right to health in all prisons.

However, in practice, the fulfilment of the health rights of prisoners, especially petty theft offenders who generally come from weak economic groups, still faces various obstacles. Budget constraints, lack of medical personnel, inadequate health facilities, and complicated referral service bureaucracy often hinder prisoners' access to optimal health services. In addition, the involvement of families in financing treatment outside prison shows that there is still a burden that should not be borne by prisoners and their families, so that the objectives of distributive justice have not been fully achieved.

Therefore, the role of social economic law must continue to be strengthened through affirmative policies, budget restructuring, and increased coordination across sectors so that the health rights of prisoners are truly guaranteed substantively, not just normatively. This effort is not only important to fulfil the state's obligation to protect human rights, but also as part of the process of coaching and social reintegration of prisoners so that they can return to society in a healthy and productive condition.

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