

IMPLICATIONS OF ECONOMIC LAW AND HEALTH LAW ON SANCTIONS FOR PETTY THEFT OFFENDERS IN INDONESIA

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Abstract

This study discusses the implications of economic law and health law on sanctions for petty theft offenders in Indonesia with a literature review approach. The adjustment of the minor theft loss limit through PERMA No. 2 Year 2012 from IDR250 to IDR2.5 million reflects the legal response to economic dynamics, aiming to increase the efficiency of law enforcement and reduce the burden on the state budget through the transfer of sanctions from imprisonment to fines or community service. However, the application of health aspects, particularly the mental and socio-economic conditions of perpetrators, has not been formally integrated in the criminalisation system, so perpetrators from vulnerable groups are still at risk of receiving disproportionate sanctions. This research recommends the revision of regulations and technical guidelines that integrate economic and health considerations in determining sanctions, in order to realise a more efficient, fair and humane criminal justice system.

Keywords: Implications, Economic Law, Health Law, Sanctions, Perpetrators of Petty Theft.

Introduction

Theft is one of the most common criminal offences in Indonesian society, both on a large and small scale. In the context of criminal law, theft can be divided into several categories, one of which is petty theft. Petty theft is specifically regulated in Article 364 of the Criminal Code, which distinguishes it from ordinary theft and aggravated theft based on the value of the loss and the method of execution. However, the implementation and enforcement of the law against petty theft often causes polemics, especially regarding the relevance of the sanctions imposed with the socio-economic development of the community (Prakoso ., 2020)

One of the main problems in enforcing the law on petty theft is that the value of the loss, which is the limitation between petty theft and ordinary theft, has not been adjusted to the current economic conditions. Since 1960, the limitation on the value of loss in Article 364 of the Criminal Code of Rp250 has never been adjusted, even though the value of currency has experienced significant inflation. As a result, many cases of theft with a small loss value are still processed as ordinary criminal offences, even leading to the detention of the perpetrators as happened in the case of Minah's grandmother who stole three cocoa beans (Purnomo & Samuji ., 2023)

The mismatch in value of damages causes many petty theft cases to accumulate in court and overburden the criminal justice system. This also impacts on the

effectiveness and efficiency of law enforcement, where state resources are used to process cases that could have been resolved simply or with alternative sanctions. In the context of economic law, this ineffectiveness leads to inefficiency and waste of state budget (Prodjodikoro ., 2022)

In response to this problem, the Supreme Court issued Supreme Court Regulation (PERMA) Number 02 Year 2012 which adjusted the limit of minor theft loss to a maximum of IDR 2,500,000. This adjustment was made by considering the development of the value of money and commodity prices such as gold and oil. With this PERMA, it is expected that law enforcement against petty theft will be more proportional and in accordance with the current economic conditions of the community (Marlina, 2022) .

However, the implementation of PERMA No. 02/2012 has also created pros and cons among legal practitioners. On the one hand, this adjustment is considered an effort to fulfil the public's sense of justice and reduce the burden of unnecessary detention. On the other hand, the effectiveness of its application in the judicial environment is still questionable, especially due to the absence of clear technical guidelines regarding economic and social considerations of perpetrators in imposing sanctions (Hakim, 2022).

In addition to economic aspects, health factors are also an important consideration in handling petty theft cases. Many petty theft perpetrators come from weak economic groups who experience life pressure, and it is not uncommon to find cases with a background of mental or social health problems. However, until now, health aspects have not been explicitly accommodated in the consideration of criminal sanctions for petty theft offenders (Hikmah, 2023) .

In some cases, law enforcement officials and courts tend to prioritise a retributive approach by imposing imprisonment, even though the perpetrators actually need social or health interventions. This has led to dissatisfaction in the community, because the sanctions imposed are considered not in line with the principles of justice and protection of human rights, especially for vulnerable groups (Dio, 2023) .

The implications of economic law and health law on sanctions for perpetrators of petty theft are increasingly relevant to be studied, given the socio-economic changes that occur in society. The adjustment of the limitation of losses and fines in the Criminal Code through PERMA Number 02 Year 2012 is an important form of criminal law reform, but it needs to be followed by strengthening aspects of social and health protection for the perpetrators (Prasetyawati ., 2022)

This research aims to analyse in depth how the implications of economic law and health law affect the imposition of sanctions for perpetrators of petty theft in Indonesia.

Research Methods

The research method in this study uses a normative juridical approach with literature study analysis techniques, collecting and analysing primary data such as the Criminal Code, PERMA No. 2 of 2012, and court decisions related to petty theft. Secondary data is obtained from relevant law journals, textbooks, and policy analyses with a focus on economic and health implications (Munn et al., 2020) . Analysis techniques include content analysis to identify patterns of sanction adjustment based on economic dynamics and legal hermeneutics to interpret health considerations in court decisions. The data synthesis process aims to formulate policy recommendations that harmonise legal, economic, and public health aspects (Booth et al., 2021) .

Results and Discussion

Economic Law Implications of Adjusting Petty Theft Sanctions

The adjustment of sanctions for the crime of petty theft in Indonesia through Supreme Court Regulation (PERMA) No. 2 Year 2012 is a critical response to the mismatch between criminal law and economic dynamics. Previously, the damage limit for petty theft in Article 364 of the Criminal Code was only Rp250, which was set since the Dutch colonial era, while the value of money has experienced significant inflation. The irrelevance of this value led to small cases, such as the theft of cocoa or flip-flops, being processed as ordinary criminal offences with prison sentences of up to 5 years (Widodo Dwi Putro ., 2020)

PERMA No. 2/2012 raised the limit of loss to IDR 2.5 million, reflecting adjustments to modern currency values and commodity prices such as gold and oil. This change aims to reduce the burden on the judicial system, given that 70% of theft cases before the courts were previously categorised as minor offences but treated as serious crimes. With the new limit, law enforcement officials are expected to focus more on handling serious cases while allocating resources efficiently (Fitri Wahyuni, 2021) .

From the perspective of economic law, this adjustment addresses the inefficiency of the state budget due to the mass incarceration of petty theft offenders. Detention costs per day per prisoner reached Rp50,000-Rp100,000, which burdened the state budget when small cases accumulated. PERMA No. 2/2012 encourages the use of fines as an alternative, with the amount of the fine being multiplied 1,000 times from the old provision. For example, the maximum fine of IDR2.5 million for petty theft is now IDR2.5 billion, creating a deterrent effect while optimising state revenue (Siti Fatimah, 2024) .

However, the implementation of this PERMA faces the challenge of inconsistency in interpretation among law enforcers. Some judges still impose imprisonment for cases below IDR 2.5 million due to a lack of technical guidelines. In fact, the PERMA explicitly prohibits detention for petty theft offenders and recommends settlement through a speedy trial (Article 2 paragraph 3). The case of

Grandma Rasminah who stole 6 plates shows how convoluted the procedure was before PERMA was implemented, even though the value of the loss was only Rp150,000 (Siti Marlina, 2024).

The adjustment of sanctions also has an impact on socio-economic justice. Petty theft offenders generally come from marginalised groups who are forced to steal due to life pressures. By shifting sanctions from imprisonment to fines or community service, PERMA No. 2/2012 reduces stigmatisation and allows offenders to remain economically productive. However, the lack of consideration of the offender's economic capacity in setting fines often creates new inequalities, especially if fines are not adjusted to real income (Marlina, 2022).

On the other hand, the increase in the loss limit triggered concerns over the psychological effects on society. Some believe that the PERMA could weaken the deterrent effect of the law, as potential offenders consider theft under IDR 2.5 million no longer serious. However, data shows a 40% drop in petty theft cases entering court since 2013, indicating the effectiveness of this policy in reducing the burden on judicial institutions (Yusi Amdani., 2016)

Inter-agency coordination is key to the successful implementation of PERMA. A Memorandum of Understanding between the Supreme Court, the Police, and the Attorney General's Office is needed to ensure consistency in handling cases at the investigation and prosecution levels. Without this synergy, the risk of disparity in verdicts and illegal detention remains high, as is the case in some areas where the police still detain perpetrators even though the loss is below IDR 2.5 million (Subekti et al., 2025).

Going forward, revision of the Criminal Code is needed to integrate PERMA No. 2/2012 into the national legal system. So far, PERMA is considered a *lex specialis* that contradicts the Judicial Power Law because it changes the material criminal law through formal regulations. Criminal Code reform should include a mechanism for automatic adjustment of the value of damages based on the inflation index, avoiding legal backwardness such as the Rp250 case, which was valid for 72 years (Muhammad Daud Aulia Ramadhan Indrajaya & Lukmanul Hakim, 2025).

The economic implications are also evident from the savings in the detention budget. With an average of 1,000 petty theft cases/year, PERMA saves up to IDR 36 billion/year from detention costs being diverted to productive programmes. These funds can be used for job training or social assistance for offenders, creating a sustainable solution that reduces recidivism (Riska Amalia, 2022).

However, the mental health aspect of the offender is often overlooked in the adjustment of sanctions. Many petty theft offenders suffer from depression or psychological disorders due to poverty, but the PERMA does not provide for health interventions as part of the sentence. Integration of counselling or social rehabilitation

services in court decisions could be a progressive step to resolve the root of the problem (Ujung Surbakti ., 2022)

At the practical level, the socialisation of PERMA is still limited among law enforcers. A survey in 10 district courts showed 30% of judges did not understand the speedy trial procedure, causing delays in case resolution. Regular training and technical guidance from the Supreme Court is needed to ensure uniformity of application (Hakim, 2022) .

From a global perspective, these sanction adjustments are in line with restorative justice principles adopted by many countries. For example, the Netherlands applies progressive fines based on the offender's income (*day-fine system*), while Norway combines fines with social reintegration programmes. Adapting a similar model in Indonesia could strengthen the positive effects of PERMA No. 2/2012 (Murniati ., 2021)

Overall, the adjustment of sanctions through PERMA No. 2/2012 represents a progressive law reform effort that responds to economic realities. This policy not only saves the state budget, but also encourages a more humane approach to law enforcement. However, the optimisation of its impact is contingent on comprehensive regulatory revisions, increased apparatus capacity, and the integration of social-health aspects in the criminal justice system.

The Role of Health Aspects in Determining Criminal Sanctions

Consideration of the mental and physical health of offenders is a crucial factor in the enforcement of Indonesian criminal law, especially to achieve restorative justice. Article 44 of the Criminal Code stipulates that perpetrators with severe mental disorders cannot be held criminally responsible if they are unable to understand the consequences of their actions. This provision confirms the principle of *mens rea* (element of intent) which is the basis of legal responsibility (Fransiskus Putra P. R., 2024)

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In practice, judges are obliged to consider the results of the *Visum et Repertum Psychiatricum* (VeRP) to assess the defendant's mental capacity. For example, in Decision No. 105/Pid.B/2023/PN.GDT, the defendant with paranoid schizophrenia was released from imprisonment and transferred to a mental hospital. This approach is in line with the principle of rehabilitation mandated by Article 44 paragraph (2) of the Criminal Code, although its implementation is still limited to certain cases (Endang Prasetyawati ., 2022)

Alternative sanctions such as medical treatment or community service are starting to be applied to offenders with mild mental disorders. For example, perpetrators of petty theft due to economic pressure often receive fines or community service rather than imprisonment. However, disparities in sentencing still occur - such as the case of Andi Andoyo (paranoid schizophrenia) who was sentenced to 16 years in prison because the judge considered his disorder "not permanent" (Sulastri, 2023) .

Health Law No. 36/2009 strengthens the integration of health aspects in law enforcement, particularly for medical malpractice. Article 84 imposes 3-5 years of imprisonment for health workers who negligently cause injury or death to patients. On the other hand, Law No. 17/2023 protects doctors from criminal charges as long as they act according to professional standards in emergency conditions (Siti Marlina, 2024) .

Public health policy violations (such as PSBB) are regulated in the Health Quarantine Law No. 6/2018. Article 93 subjects perpetrators to a fine of up to IDR 500 million if they hinder outbreak prevention. This sanction emphasises the importance of collective health compliance, although it is often criticised for not considering the socio-economic conditions of the perpetrators (Adami Chazawi ., 2005)

Restorative justice principles encourage the use of community service for offenders with mental health backgrounds. For example, drug offenders from vulnerable groups are directed to rehabilitation rather than prison. This approach reduces stigmatisation and breaks the cycle of recidivism. The main challenge lies in the inconsistent application of Article 44 of the Criminal Code. Some judges still impose imprisonment even though the defendant is diagnosed with schizophrenia, as in Decision No. 288/Pid.B/2020/PN PMS. Law enforcement officers' lack of understanding of forensic psychiatry exacerbates this problem (Moeljatno ., 2005)

Intensive training for judges and prosecutors is needed to increase sensitivity to mental health issues. The creation of technical guidelines detailing medical evaluation procedures and alternative sanctions could minimise disparities in decisions. Synergy between judicial institutions and health professionals is also vital to ensure VeRP recommendations are accurate (Siti Marlina, 2024) .

Globally, Indonesia can adopt the *day-fine system* model from the Netherlands, where fines are adjusted to the offender's income. Norway also exemplifies the integration of counselling services in court decisions for mentally ill offenders. Adapting this model can strengthen the rehabilitative effect of criminal sanctions. In the context of public health, criminal sanctions must be balanced with educational efforts. Violators of the COVID-19 health protocol in several regions are actually required to attend socialisation rather than pay fines. This step is more effective in raising public awareness without sacrificing procedural justice (Tongat ., 2006)

Health aspects also influence the consideration of mitigating circumstances in sentencing. Chronic conditions such as HIV/AIDS or physical disabilities are often the basis for sentence reductions, as long as they are not directly related to the motive for the crime. However, judges must be careful that this consideration is not misused to evade accountability (Fitri Wahyuni, 2021) .

In the future, the revision of the Criminal Code needs to integrate a mechanism for adjusting sanctions based on the development of psychiatry. For example, ensuring that perpetrators of severe mental disorders do not go to prison but receive compulsory

treatment. This reform will strengthen the protection of human rights in the criminal justice system (Rika Sari, 2024).

By prioritising health aspects, Indonesian criminal law can shift from a retributive to a rehabilitative approach. The balance between justice for victims and recovery for offenders is the key to creating a humane and sustainable legal system.

Conclusion

The adjustment of the minor theft loss threshold through PERMA No. 2/2012 (from Rp250 to Rp2.5 million) reflects the law's response to the dynamics of the modern economy. This change reduces the burden on the state budget by avoiding mass incarceration of minor offenders, shifting sanctions to fines or community service, and improving the efficiency of court handling. However, inconsistency in implementation by law enforcement officials and the absence of an automatic adjustment mechanism based on inflation are key challenges.

Although many petty theft offenders come from vulnerable groups with economic stress or mental disorders, health considerations have not been formally integrated in the Criminal Code. Court decisions are still dominated by retributive approaches (imprisonment), while health interventions such as counselling or social rehabilitation are rarely adopted. This suggests a gap between the needs of offenders and the legal system, although restorative justice principles are being recognised in some cases.

The government needs to revise the Criminal Code to integrate an inflation index-based loss adjustment mechanism and technical guidelines that integrate health-economic considerations in sentencing. Intensive socialisation of PERMA No. 2/2012 to law enforcement officials, as well as mental health sensitivity training for judges, is needed to reduce disparity in decisions. In addition, the development of alternative sanctions such as progressive fines (according to the offender's income) or social reintegration programmes can be a sustainable solution.

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