

## THE SYNERGY OF ECONOMIC LAW AND HEALTH LAW IN HANDLING PETTY THEFT OFFENDERS: A REVIEW OF THE PROTECTION OF BASIC RIGHTS OF OFFENDERS

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### Abstract

This research discusses the importance of synergy between economic law and health law in handling petty theft offenders, especially in the context of protecting the basic rights of offenders. So far, the handling of petty theft cases in Indonesia is still dominated by conventional criminal law approaches that do not consider economic factors and the health conditions of the perpetrators, especially for those from vulnerable groups. Through a normative legal research method with a literature approach, this study examines legislation, policies, and related literature, such as the Criminal Code, PERMA No. 2 of 2012, and Law No. 11 of 2012 concerning SPPA. The results of the study show that restorative justice and diversion policies are progressive steps in providing protection for the basic rights of offenders, but their implementation still faces various challenges, such as lack of coordination across sectors, limited resources, and not optimal integration of economic programmes and health services in the legal process. This study recommends the need to strengthen synergies between legal, economic and health policies, as well as regulatory updates that are more responsive to the needs of offenders, so that the protection of basic rights can be realised optimally and equitably.

**Keywords:** petty theft, economic law, health law, protection of basic rights, restorative justice, diversion.

### Introduction

Petty theft is one of the most common criminal offences in Indonesian society, both in urban and rural areas. These petty theft cases are not only committed by the economically weak, but also by those from the middle class and above. This phenomenon shows that petty theft is not only a moral issue, but is also closely related to economic pressure, poverty, and sometimes the mental health condition of the perpetrator (Fadillah ., 2024)

In the Criminal Code (KUHP), petty theft is regulated in Article 364, which distinguishes petty theft from ordinary theft based on the value of the stolen goods and the place where the theft occurred. However, the value of the loss that is used as the limit in the article, which is Rp250, is no longer relevant to the current economic conditions. This has led to many cases of petty theft that should be processed simply being processed using the ordinary theft article, which carries a much heavier penalty (D. Sari, 2024) .

The mismatch between the value of loss in the Criminal Code and the economic reality of society is one of the reasons why the Supreme Court issued Supreme Court

Regulation (PERMA) Number 2 Year 2012. This PERMA adjusts the limitation of the value of minor offence losses to Rp2,500,000, -, so that it is expected to reduce disparities in law enforcement against perpetrators of petty theft (Wulandari, 2022).

However, the implementation of PERMA No. 2/2012 still draws pros and cons among legal practitioners. On the one hand, this regulation is considered a form of criminal law reform that is more adaptive to the times. However, on the other hand, the effectiveness of its application in the field is still questionable, especially in terms of the consistency of law enforcement officials in classifying and handling petty theft cases (Sudiro et al., 2020).

Cases of petty theft that go viral in society, such as the case of Grandma Minah who stole three cocoa beans or the case of children who stole trivial items, often lead to public debate about substantive justice and the protection of the basic rights of perpetrators. Many parties consider that the criminalisation of petty theft perpetrators due to economic pressure or certain health conditions does not always provide a deterrent effect, but rather worsens the social conditions of the perpetrators and their families (D. Sari, 2024).

In this context, a restorative justice approach has been adopted as an alternative to petty theft. Restorative justice emphasises the restoration of relationships between offenders, victims and the community, and prioritises peace and rehabilitation over punishment. This approach is considered more humane and effective in reducing recidivism and preventing stigmatisation of offenders (Arifin, 2022).

However, the application of restorative justice in petty theft cases also faces various challenges. One of them is the lack of synergy between economic law and health law in the process of handling offenders. Many petty theft offenders actually need economic interventions such as social assistance or job training, as well as mental health services to address the root of the problems they face (Mowiling, 2025). In addition, the existing legal system still tends to emphasise repressive aspects rather than preventive and rehabilitative ones. The protection of perpetrators' basic rights, such as the right to health, education and employment, is often overlooked in the law enforcement process. In fact, the protection of these basic rights is very important to prevent offenders from re-offending in the future (N. Sari, 2020).

The synergy between economic law and health law is very important in an effort to comprehensively handle petty theft offenders. Economic law can provide solutions to the problems of poverty and unemployment, while health law can ensure offenders get adequate rehabilitation services, especially for those with mental disorders or addictions (Rahman, 2022).

This research aims to analyse how the synergy between economic law and health law can be implemented in handling perpetrators of petty theft, as well as reviewing the extent to which the protection of perpetrators' basic rights has been accommodated in law enforcement policies and practices in Indonesia.

## Research Methods

The research method used in this study is a normative legal research method with a library research approach, namely by analysing relevant laws and regulations such as the Criminal Code, PERMA No. 2 of 2012, and Law No. 11 of 2012 concerning SPPA, as well as relevant literature, journals, and court decisions to examine the synergy between economic law and health law in handling petty theft offenders, especially in the context of protecting the basic rights of offenders (Snyder, 2019).

## Results and Discussion

### The Synergy of Economic and Health Law in Handling Petty Theft Offenders

Petty theft in Indonesia is often triggered by economic and mental health factors, but its handling is still not optimal due to the lack of synergy between economic and health legal aspects. Criminal Code Article 364 which regulates petty theft with a loss limit of Rp250 is no longer relevant, so the Supreme Court issued PERMA No. 2/2012 which adjusted the limit to Rp2,500,000. However, the implementation of this regulation remains inconsistent - some cases are handled through the full legal process, while others are resolved via *restorative justice* or diversion (Kurniawan, 2023).

Economic factors are the main trigger for petty theft, especially among the poor who have difficulty fulfilling basic needs. Poverty, limited income and economic inequality drive individuals to commit theft as a shortcut to survival. Many offenders come from families with low incomes, no access to decent jobs, and limited education, making it difficult for them to fulfil their daily needs such as food, shelter, and other basic necessities. In many cases, offenders admitted that they were forced to steal to buy food or fulfil family needs due to insufficient income, as found in research in Jelutung Subdistrict, Jambi City, and reinforced by empirical data in various other areas (Wulandari, 2022).

Criminal economic studies in Indonesia also show that poverty has a positive and significant influence on petty theft. When income distribution is unequal and unemployment is high, the poor are more vulnerable to committing crimes as a last resort to fulfil basic needs. Therefore, without comprehensive economic solutions, such as increased employment opportunities and access to education, the petty theft rate among the poor will be difficult to reduce significantly (Hikmah, 2020).

The synergy of economic and health law in handling petty theft offenders has begun to appear through the application of the concept of restorative justice in several regions. This practice not only prioritises out-of-court settlements, but also considers the economic and psychosocial conditions of the offender. For example, at Senapelan Police Station in Pekanbaru City, a minor theft case in the form of used zinc was resolved with a restorative justice approach, where the perpetrator and victim reached an amicable agreement without having to go through a formal criminal process. This approach allows perpetrators who come from weak economic backgrounds to get the

opportunity to improve themselves without additional social or economic burdens due to punishment, while opening up space for health interventions if there are indications of psychological problems or dependence (Fitri ., 2023)

In addition, this progressive practice also encourages law enforcement officials to be more sensitive to the background of the offender, including the mental health conditions and economic needs that underlie their actions. Thus, the synergy between economic and health law not only accelerates the case resolution process, but also strengthens the protection of the basic rights of the perpetrator through rehabilitation and economic empowerment efforts (Pratama, 2024) . However, the main challenge arises from systemic discrimination. Perpetrators from weak economic groups tend to be fully prosecuted, while perpetrators from the middle class are more easily diverted. Whereas the SPPA Law Article 5 paragraph (1) mandates equal access to restorative justice regardless of social status. In addition, 60% of law enforcement officers have not been trained in identifying offenders' mental disorders, thus failing to refer cases to health services (N. Sari, 2022) .

To strengthen the protection of perpetrators' basic rights, policy revisions are needed to require: first, economic and health assessments in the investigation process; second, special social assistance quotas for perpetrators verified as poor and third, integration of mental rehabilitation centres with the justice system. This step needs to be strengthened with a legal umbrella through the revision of the SPPA Law and PERMA No. 2/2012 that more explicitly regulates cross-sector collaboration. Thus, the handling of petty theft not only resolves legal conflicts, but also comprehensively addresses the root economic and health problems of offenders.

### **Effectiveness of Policies Related to the Protection of Basic Rights of Actors**

The effectiveness of policies related to the protection of the basic rights of perpetrators of petty theft in Indonesia remains a complex issue and has drawn much criticism. One of the main problems is the imbalance between the severe criminal penalties in Criminal Code Article 362 and the value of the stolen goods, which is often very small. This has led to public dissatisfaction as perpetrators of petty theft are sentenced to up to five years in prison, even though the act is often triggered by economic factors and urgent basic needs (Siregar, 2023) . To respond to this injustice, the Supreme Court issued PERMA No. 2 Year 2012 which adjusted the limit on the value of losses in minor offences to Rp2,500,000. This policy is expected to provide proportionality in law enforcement and reduce the burden on the courts. However, in practice, law enforcement against petty theft offenders is still not optimal and tends to be inconsistent. Some perpetrators are still fully processed through criminal channels, while others get leniency or settlement outside the court (Setiawati, 2021b) .

One approach that is starting to be widely applied is restorative justice, which is a case settlement involving the perpetrator, victim, family, and community leaders to

reach an amicable agreement and restore the original situation. This approach is considered more just and humane, as it does not only focus on retribution, but also on restoring social and economic relations between the perpetrator and victim. Restorative justice is also considered capable of protecting the basic rights of the perpetrator, such as the right to justice, restoration of good name, and social reintegration (Prasetyo ., 2021)

However, the effectiveness of restorative justice in protecting the basic rights of offenders depends on the commitment of law enforcement officials and the readiness of the community to accept this approach. Obstacles that often arise include a lack of understanding of the concept of restorative justice, limited human resources, and low legal awareness of the public who are reluctant to report petty theft cases. In addition, offenders who are recidivists or uncooperative are also a challenge in implementing restorative justice (Lubis & Firmansyah, 2020) .

Diversion, as an out-of-court settlement mechanism regulated in Law No. 11/2012 on the Juvenile Criminal Justice System (SPPA), is also an important instrument in protecting the basic rights of offenders, especially children. Through diversion, children in conflict with the law can be avoided from the formal justice process and prison sentences that have the potential to cause stigma and long-term psychological impacts. However, the implementation of diversion still faces discrimination obstacles, especially against victims whose losses are below the provincial minimum wage, because they are not included in the diversion process (Setiawati, 2021a) .

In addition, PERMA No. 2/2012 has also drawn criticism because it is considered to be misused by irresponsible individuals to avoid the law by regulating the nominal value of stolen goods. It is feared that this could lead to an increase in petty theft cases, as perpetrators feel safe from the threat of serious punishment as long as the value of the stolen goods is below the set limit. Therefore, strict supervision and periodic evaluation of the implementation of this policy are needed (Effendi & Lubis, 2024) .

In terms of protecting the basic rights of perpetrators, existing policies still do not fully accommodate the needs of perpetrators who come from vulnerable groups, such as the poor or those with mental health problems. Many perpetrators who should receive social intervention or health rehabilitation are instead criminally prosecuted without considering the factors behind their actions. This shows the need for synergy between legal, economic and health policies in handling petty theft cases (Lukman, 2024) .

Practices in the field show that collaboration between law enforcement officials, social services and health services can increase the effectiveness of protecting offenders' basic rights. For example, in some areas, minor theft offenders who are successfully resolved through restorative justice also get access to job training or psychological rehabilitation, so that they do not re-offend. This approach has been

shown to be more effective in reducing recidivism rates than conventional sentencing (Jumadi, 2023).

However, the success of this policy is greatly influenced by factors such as the commitment and morale of law enforcement officers, the quality of their education and training, and the support of adequate facilities and infrastructure. Public legal awareness also plays an important role in creating an environment that supports the effective implementation of restorative justice and diversion. Without support from all parties, policies to protect the basic rights of offenders will be difficult to run optimally (Fadillah, 2024). In addition, the protection of the basic rights of offenders must also be balanced with the protection of victims' rights. In some cases, victims of petty theft who come from underprivileged backgrounds feel disadvantaged because they do not receive appropriate justice. Therefore, restorative justice and diversion policies must be designed in such a way as to not only protect the perpetrators, but also provide space for participation and protection for victims (N. Sari, 2022).

Evaluation of policy effectiveness also needs to be carried out periodically to adjust to social dynamics and the development of crime modus operandi. The adjustment of the value of losses in PERMA No. 2/2012, for example, must be continuously evaluated so that it remains relevant to the economic conditions of society. In addition, there needs to be a more in-depth discussion involving legal experts and practitioners to find the right solution in handling petty theft cases (Wulandari, 2022).

In the context of law enforcement, transparency and accountability of law enforcement officials are essential to prevent abuse of power and ensure that every perpetrator receives fair treatment in accordance with human rights principles. Complicated and convoluted legal processes also need to be simplified so as not to become an additional burden for perpetrators who come from vulnerable groups (Sudiro et al., 2020).

Overall, the effectiveness of policies to protect the basic rights of petty theft offenders is strongly influenced by the synergy between legal, economic and health policies, as well as the commitment of all parties in applying the principles of restorative justice. Continuous efforts are needed to improve regulations, increase the capacity of law enforcement officials, and strengthen cross-sector coordination so that the protection of the basic rights of offenders can be realised in a real and equitable manner.

## **Conclusion**

The synergy between economic law and health law in handling petty theft offenders is very important to realise the protection of the basic rights of offenders in a proportional and humane manner. So far, the handling of petty theft cases in Indonesia has often been inconsistent, with some offenders being prosecuted fully using the Criminal Code, while others receive out-of-court settlements through mechanisms such

as restorative justice or diversion. An approach that only focuses on the criminal law aspect without considering the economic and health background of the offender tends to ignore the principle of substantive justice, especially if the offender comes from a poor community or has mental health problems.

Policies such as PERMA No. 2/2012 and the implementation of diversion in Law No. 11/2012 on SPPA are progressive steps to provide fairer protection for petty theft offenders, especially children and vulnerable groups. However, the effectiveness of this policy still faces challenges, such as a lack of coordination between institutions, limited human resources, and not optimal integration of economic programmes and health services in the case handling process. Real synergy can be realised through rapid examination, providing access to psychosocial rehabilitation, and economic empowerment for offenders, so that they can return to productive functioning in society and not repeat their actions.

Thus, the protection of the basic rights of petty theft offenders will be optimised if law enforcement is supported by economic policies that are responsive to poverty and inclusive access to health services. This effort must be accompanied by increasing the capacity of law enforcement officials, strengthening cross-sector coordination, and updating regulations that adjust to social dynamics and community needs. The synergy of economic and health law not only provides justice for perpetrators, but also contributes to the creation of a more humane and effective legal system in preventing similar crimes in the future.

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