

THE ROLE OF ECONOMIC LAW AND HEALTH LAW IN DIVERSION AND RESTORATIVE JUSTICE FOR PETTY THEFT OFFENDERS: A LITERATURE REVIEW

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Abstract

This study aims to examine the role of economic law and health law in the implementation of diversion and restorative justice for petty theft offenders through a literature review approach. The results of the study show that the integration of economic law in the diversion process provides a concrete solution in the form of a compensation scheme that considers the economic capacity of the offender as well as an economic empowerment programme to prevent recidivism. Meanwhile, health law plays an important role in supporting the physical and psychosocial rehabilitation of offenders, especially those with mental health problems, so that recovery does not only focus on legal aspects, but also on improving the overall quality of life of offenders. The integration of these two areas of law in diversion and restorative justice mechanisms can create a more humane, fair and sustainable case resolution system, while strengthening the protection of human rights and supporting the social reintegration of offenders into society.

Keywords: economic law, health law, diversion, restorative justice, petty theft.

Introduction

The increase in petty theft in Indonesia is often closely related to economic and health issues of the perpetrators. This phenomenon cannot be viewed solely as a violation of the law, but also as a reflection of complex social problems. Many petty theft perpetrators come from vulnerable groups facing economic pressures, such as unemployment, poverty, or the urgent need to fulfil daily needs. On the other hand, a number of cases also show links to health problems, both physical and mental, which affect the offender's behaviour in making decisions (Hidayat, 2021).

The conventional criminal justice system in Indonesia has tended to focus on punishment as a form of accountability for criminal offences. This approach often creates social stigma and worsens the condition of offenders, especially for those who commit petty theft due to economic pressure or health problems. As a result, the purpose of punishment to create a deterrent effect and rehabilitate offenders is not fully achieved, and has the potential to increase recidivism rates in society (Nugroho, 2023).

In response to the limitations of the conventional criminal system, diversion and restorative justice approaches have emerged, which emphasise case resolution outside formal justice channels. Diversion is an effort to divert the settlement of criminal cases,

especially for children or minor offenders, so that they are not entangled in a long and rigid legal process. Through diversion, perpetrators, victims, and the community can sit together to find the best solution that is oriented towards recovery, not retaliation (Suryani, 2022).

The concept of restorative justice itself promotes dialogue, deliberation, and active participation of all parties involved, including the offender, victim, family, and community. This approach seeks to restore social relationships damaged by criminal offences, as well as providing opportunities for offenders to take direct responsibility for victims and the surrounding environment. Restorative justice also emphasises the importance of avoiding perpetrators, especially children, from the negative stigma and adverse effects of the formal criminal justice process (Wahyuni, 2022).

Law No. 11/2012 on the Juvenile Criminal Justice System (SPPA Law) explicitly accommodates the principles of diversion and restorative justice in handling juvenile criminal cases. In practice, diversion must be pursued at every stage of the legal process, from investigation, prosecution, to examination in the district court (Putri, 2024). This aims to provide maximum legal protection to children or minor offenders, while promoting their best interests. However, the implementation of diversion and restorative justice in Indonesia still faces various challenges, both in terms of understanding of law enforcement officials, community readiness, and the availability of supporting technical regulations. Many petty theft cases are still processed through formal legal channels without considering the economic background and health of the perpetrator, so the main objectives of this approach have not been fully realised (Nugraha., 2022)

In this context, the role of economic law and health law becomes very important to support the success of diversion and restorative justice. Economic law can provide a foundation for efforts to empower and restore the offender's economy, such as job training, access to capital, or relevant social programmes. Meanwhile, health law plays a role in ensuring that offenders with health problems, especially mental health, receive adequate treatment and rehabilitation before returning to the community (Wulandari, 2021).

Collaboration between economic law and health law in diversion and restorative justice mechanisms can create more comprehensive and sustainable solutions. Thus, the resolution of petty theft cases is not only oriented towards restoring social relations, but also towards improving the quality of life of the perpetrators so that they do not repeat their actions in the future. This approach is also in line with the values of humanity and social justice which form the basis of the philosophy of law in Indonesia (Fadillah, 2021). In addition, the application of diversion and restorative justice that integrates economic and health aspects can strengthen community participation in the case resolution process. The community does not only act as spectators, but also as agents of change who support the reintegration of offenders into their social

environment. This is important to build trust and social solidarity, and prevent discrimination against offenders after undergoing the diversion process (D. Sari, 2023).

Empirical studies show that the implementation of restorative justice involving economic and health approaches can reduce recidivism rates and increase the success of social reintegration of offenders. Economic empowerment and health rehabilitation programmes integrated in the diversion process have proven effective in reducing offenders' motivation to commit similar crimes in the future (Prasetya, 2022). However, the success of this approach is highly dependent on the synergy between law enforcement officials, social institutions, health workers, and the community. Good coordination and joint commitment are needed to implement the principles of economic and health law in every stage of diversion and restorative justice. In addition, there needs to be clear regulations and technical guidelines that can be used as a reference by all parties involved (Yuliana, 2023).

Thus, research on the role of economic law and health law in diversion and restorative justice for petty theft offenders is highly relevant. This research is expected to make a real contribution to the development of a more humane, fair and sustainable criminal justice system.

Research Methods

The research method used in this study is library research, namely by collecting, examining, and analysing various relevant literature in the form of books, scientific journals, articles, legal documents, and previous research results that discuss the role of economic law and health law in diversion and restorative justice for petty theft offenders (Moher et al., 2020). The research process begins with problem identification, followed by searching and filtering appropriate literature, then critically analysing the literature findings to identify patterns, gaps, and contributions of existing theories to the research theme. The results of this literature analysis are then used to build a conceptual framework and provide a comprehensive picture of the integration of economic and health law in the implementation of diversion and restorative justice, so as to enrich theoretical understanding and provide literature-based recommendations (Adlini & et al., 2022).

Results and Discussion

Integration of Economic Law in Diversion

The integration of economic law in the implementation of diversion has an important role in strengthening the effectiveness and sustainability of the settlement of minor criminal cases, especially petty theft. Diversion itself is a transfer of case settlement from formal justice channels to non-litigation mechanisms based on the principle of restorative justice, where perpetrators, victims, and the community play an active role in finding fair and sustainable solutions (Pratiwi, 2024).

In practice, many petty theft offenders come from weak economic groups who commit criminal offences due to basic needs. Therefore, an economic law approach becomes relevant to identify the root of the problem and design solutions that are not only repressive, but also preventive and rehabilitative. One form of economic law integration in diversion is a compensation scheme that considers the economic capacity of the offender. If the offender or his/her family is unable to pay the full amount, an agreement can be made for the payment to be made in stages or replaced with other equivalent contributions, such as social work (D. Sari, 2023).

This approach not only provides a sense of justice for victims, but also allows offenders to be held accountable without adding excessive economic burden. In addition, the integration of economic law in diversion also encourages the economic empowerment of offenders through skills training or access to social programmes that can improve their lives after the diversion process is completed. Thus, the risk of recidivism can be reduced because the offender has a better alternative to fulfil his/her needs (Saputra, 2023).

Legal ecology theory provides a comprehensive framework for understanding the integration of economic law in diversion. Through this theory, the protection of offenders, especially children, is not only seen from the formal legal aspects, but also from the social and economic factors that influence their behaviour. This encourages the involvement of various actors, such as legal institutions, social institutions, and the general public, to jointly create an environment conducive to offender rehabilitation (Handayani., 2023)

In the context of diversion, community involvement is crucial, especially in providing social and economic support to offenders. Communities can act as supervisors, service providers, or facilitators in the implementation of diversion agreements, such as social work programmes or skills training relevant to local needs. Thus, case resolution is not only orientated towards restoring the relationship between the offender and the victim, but also towards increasing the economic capacity of the offender (I. Sari, 2024).

The implementation of diversion based on economic legal integration must also pay attention to legal norms, local culture, and community empowerment. Each region has different social and economic characteristics, so the implementation of diversion needs to be adjusted to local conditions so that it can be accepted and implemented effectively. For example, in areas with strong customary influence, diversion agreements can involve traditional leaders or community institutions as mediators (Rahmawati, 2022). In addition, the integration of economic law in diversion can also encourage the creation of policies that are more innovative and responsive to real needs in society. This policy does not only focus on legal aspects, but also takes into account environmental, social, and economic indicators as the basis for preparing

strategies for the protection and rehabilitation of offenders. Thus, the legal system becomes more inclusive and adaptive to the growing social dynamics (Mulyani ., 2021)

From a regulatory perspective, Law No. 11/2012 on the Juvenile Justice System stipulates that the diversion process must consider the welfare of the child, the interests of the victim, and the support of the family and community. This shows the recognition of the importance of economic aspects in the implementation of diversion, especially in preventing stigmatisation and retaliation that can worsen the condition of the perpetrator (Prasetya, 2022) . In practice, law enforcement officials have the discretion to assess the economic capacity of the offender in determining the form of compensation or other contributions that can be made. A deliberative process involving the perpetrator, victim, family, and community is key in determining a fair and proportional agreement. Thus, diversion becomes a means to build shared responsibility and strengthen social solidarity at the local level (Maulana, 2022) .

The positive impacts of the integration of economic law in diversion include the creation of a sense of remorse and responsibility in perpetrators, as well as the real recovery of victims' losses. In addition, perpetrators are also spared the stigma of being "criminals" because they do not serve prison sentences, so their opportunities to return to contributing to society remain open. However, the challenges in implementing the integration of economic law on diversion are still considerable (Setiawan, 2022) . Some of them are limited resources, lack of understanding of law enforcement officials, and lack of community participation in the diversion process. Therefore, efforts are needed to strengthen the capacity of all parties involved through training, socialisation, and the establishment of cross-sector cooperation networks. In addition, regular monitoring and evaluation needs to be carried out to ensure that diversion agreements are actually implemented and provide real benefits for perpetrators, victims, and the community. The results of this evaluation can be used as a basis for improving diversion policies and practices in the future (Santosa, 2021) .

In the future, the integration of economic law in diversion is expected to become a model for resolving minor criminal cases that is more humane, fair and sustainable. By prioritising the principles of restorative justice and economic empowerment, the legal system can contribute to creating a more inclusive and socially just society (Ramadhani, 2020) .

Overall, the integration of economic law in diversion is not only a short-term solution to resolve minor criminal cases, but also a long-term investment in human resource development and strengthening social order in Indonesia. This approach places humans as the main subject of law, so that every policy and legal action is always oriented towards recovery and empowerment.

Integration of Health Law in Restorative Justice

The integration of health law in the application of restorative justice is an important step to create a more humane, fair, and recovery-oriented case settlement system, especially in the context of disputes or criminal offences in the health sector. Restorative justice in the health sector emphasises conflict resolution through dialogue, deliberation and mediation between perpetrators (medical personnel), victims (patients) and related parties, with the main objective of restoring relationships and returning things to their original state, rather than simply providing punishment or retaliation (Dewi, 2024).

The application of restorative justice in the health sector has been explicitly regulated in Law Number 17 Year 2023 on Health. Article 310 and Article 322 paragraph (4) of this Law affirms that the settlement of medical disputes due to alleged negligence or professional misconduct must first be carried out through alternative out-of-court mechanisms, such as mediation or deliberation, before it can be submitted to the litigation process. This provides legal certainty and protection for medical personnel and patients, and prevents disproportionate criminalisation of health workers (Lestari, 2021).

Restorative justice in health law also facilitates constructive dialogue between medical personnel and patients. Through this process, both parties can understand each other's perspectives and needs, resulting in a more satisfactory and sustainable solution. This dialogue process is important to reduce tension, avoid conflict escalation, and prevent the negative psychological impact that can arise from lengthy and confrontational legal proceedings (Suryani, 2022).

In addition to providing space for the restoration of relationships, restorative justice also contributes to improving the quality of health services. When medical disputes can be resolved in a fair and balanced manner, public trust in the health system will increase. Patients feel more comfortable and secure in seeking justice, while medical personnel can carry out their profession with more confidence without fear of the risk of criminalisation (Lestari, 2023).

The application of restorative justice is also in line with the basic principles of health law that emphasise the balance between the rights and obligations of medical personnel and patients. In this context, dispute resolution is no longer seen as an arena for retaliation, but rather as a joint effort to repair relationships and prevent the recurrence of similar events in the future (Pramudita ., 2020)

In certain cases, restorative justice can also be integrated with rehabilitation programmes, especially for offenders in the health sector who have mental health problems or addictions, such as drug abuse cases. Rehabilitation is an alternative punishment that aims to restore the physical, mental, and social conditions of the offender, while providing protection for the community (Putra, 2021).

The restorative justice process in the health sector involves various parties, including medical teams, psychologists, social workers, and law enforcement officials. This cross-sector collaboration is important to ensure that each dispute resolution truly considers medical, psychological, and social aspects, so that the results are more comprehensive and just (Kurniawan, 2023).

Restorative justice policies in health law also have good prospects to be widely adopted in Indonesia. The values of deliberation, consensus, and recovery contained in restorative justice are in line with the philosophy of the Indonesian nation, namely Pancasila and the 1945 Constitution. This facilitates the acceptance and implementation of the policy in the community (Hidayat, 2021).

From a regulatory perspective, the application of restorative justice in health law requires criminal law policy reform. This reform is needed so that non-litigation mechanisms, such as mediation and deliberation, can be recognised as part of a legitimate and legally binding dispute resolution system. In addition, the integration of health law in restorative justice also emphasises the importance of human rights protection for all parties involved. Medical personnel have the right to perform their professional duties without fear of criminalisation, while patients have the right to justice and redress for their losses (Nugroho, 2023).

The application of restorative justice in the health sector can also reduce the burden on the criminal justice system, as many disputes can be resolved quickly, efficiently, and at low cost without the need to go through lengthy and expensive court processes. This also supports the principle of simple, fast, and low-cost justice (Suryani, 2022).

Overall, the integration of health law in restorative justice is an important innovation in the Indonesian legal system. This approach not only provides a more just and humane solution for both perpetrators and victims in the health sector, but also contributes to increased public confidence in law enforcement and health services in Indonesia.

Conclusion

The role of economic law and health law in diversion and restorative justice for petty theft offenders is critical to creating a fairer, more humane and recovery-orientated case resolution system. Economic law plays a role in ensuring that the diversion process does not simply move the case settlement from formal to non-formal channels, but also provides concrete solutions through compensation schemes that consider the economic capabilities of the perpetrators and economic empowerment programmes. Thus, petty theft offenders who generally come from weak economic groups can undergo a proportional responsibility process, without increasing the economic burden that can encourage recidivism.

Meanwhile, health law contributes through medical and psychosocial rehabilitation which is part of the diversion and restorative justice mechanisms. This approach is particularly relevant for offenders who have physical or mental health problems, so that the recovery process does not only focus on the legal aspects, but also on the overall recovery of the individual's condition. Diversion integrated with health services can provide more comprehensive legal protection and support the social reintegration of offenders into society, while minimising stigma and potential violations of children's rights in the correctional system.

Overall, the integration of economic law and health law in diversion and restorative justice provides a strong foundation for building a criminal justice system that is more progressive, rehabilitative, and responsive to the needs of petty theft offenders. This approach not only emphasises the recovery of victims' losses and the responsibility of offenders, but also pays attention to aspects of education, empowerment, and the protection of human rights. Thus, the goals of restorative justice to create recovery, social justice, and benefits for all parties can be achieved optimally.

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