



Application of Regional Regulations on Public Order in Handling Homeless and Beggars

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Abstract: The purpose of this research is to find out how the effectiveness of handling vagrants and beggars in Gorontalo City based on Article 23 of Regional Regulation Number 1 of 2018 concerning Public Order. Then also to find out and explain what are the factors that hinder the handling of vagrants and beggars. This research uses empirical research method with qualitative approach. The results show that the handling of vagrants and beggars in Gorontalo City has not been effective. This is because the efforts made are only limited to repressive efforts by using the Pamong Praja Police Unit as a government apparatus based on the Gorontalo City Regional Regulation Number 1 of 2018 concerning Public Order. Then the factors that hinder the handling of vagrants and beggars are divided into internal factors, including: limited operational costs, lack of facilities and infrastructure, lack of agencies involved, and information leakage to the public. While external factors, namely: the existence of individuals who coordinate vagrants and beggars, and the habit of people who like to give.

Keywords: Homeless; Beggars; Regional Regulations; Public Order.

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1. Introduction

One of the mandates of the Opening of the 1945 Constitution of the Republic of Indonesia as the *modus vivendi* (noble agreement) for the formation of the Indonesian state in the fourth paragraph states that one of the goals of the state is "to protect the entire Indonesian nation", this has provided a bridge to the existence of holistic and comprehensive protection that become the responsibility of the state along with the elements of the state inherent in it. As is well known, that Of course, if you read the nuances of kebatinan from the birth certificates of this country, then substantively this country was formed to be free from all forms of oppression, both physically and psychologically for all the people and society mediating the Unitary State of the Republic of Indonesia, including in this case is the child.¹

Indonesia is the highest agreement of the state's formers, even though it has experienced a constitutional test when the 1945 Constitution was amended into the Constitution of the United Republic of Indonesia in 1949, even so the recognition of the regions under the auspices of the State of Indonesia is still recognized.² An absolute requirement for state sovereignty is the existence of a society that obeys the constitution and its government.³ Because the essence of the constitution is the conception of the state which is the basis and limitation of the constellation of the state administration system.⁴ Therefore, in legal politics, a legal discovery and new law-making that is in accordance with the goals of the State is a value that must be implemented in order to achieve legal supremacy and justice.⁵

In our daily lives, even in society, in order to make ends meet, there are often crimes and violations committed by certain people and people who threaten some members of society, which in law is known as criminal acts.⁶ At present, not only the crime rate or quantity of crime is increasing but also the type of crime or quality has developed rapidly in Indonesia. Criminal sanctions are seen as an effective solution in tackling this problem. Criminal sanctions are a manifestation of the state's responsibility to maintain security and order as well as efforts to protect the law for its citizens. This is a logical consequence

¹ N. M. Alhasni, M. R., Badu, L. W., & Nggilu, "Menakar Peran Kepolisian Dalam Mencegah Tindak Pidana Pencabulan Terhadap Anak Di Bawah Umur," *Jurnal Legalitas* 12, no. 2 (2019): 110-23.

² Novendri M. Nggilu, "Tinjauan Yuridis Pengaturan Sanksi Pidana Dalam Peraturan Daerah Provinsi Gorontalo," *Lambung Mangkurat Law Journal*. 5, No. 2 (2020): 109-121., 110

³ Mellisa Towadi and Nur Mohamad Kasim, "An Indication of China ' s Policy towards Uighurs and Its Implications by International Law Aspects." *Jambura Law Review*. 3, No. 01 (2021): 55-71., 69

⁴ Ahmad dan Novendri M. Nggilu Fakultas, "Denyut Nadi Amandemen Kelima UUD 1945 Melalui Pelibatan Mahkamah Konstitusi Sebagai Prinsip the Guardian of the Constitution of the Constitution Through the the Principle of the Guardian of the Constitution." *Jurnal Konstitusi*. 16, No. 4 (2019): 785-808., 791

⁵ Mohamad Hidayat Muhtar, "Model Politik Hukum Pemberantasan Korupsi Di Indonesia Dalam Rangka Harmonisasi Lembaga Penegak Hukum." *Jambura Law Review*. 1, No. 1 (2019): 68-93., 73

⁶ Dian Ekawaty Ismail and Mohamad Taufiq Zulfikar Sarson, "Criminology Analysis of Women's as Perpetrators of Domestic Violence Crimes," *Jambura Law Review* 3, no. 1 (2021): 57-76., 58

of the concept of forming a state which, according to JJ Rosseau, is based on community agreements. Furthermore, the people agreed to enter into a noble agreement (*modus vivendi*) which was set forth in a basic law in the form of the state constitution.⁷ Legal protection is needed because it is an effort to integrate various needs in associations so that there are no conflicts between needs and can enjoy all the rights granted by law⁸ The state is firmly obliged to try to fulfill the rights of every citizen.⁹

One of the most prominent problems of the many problems is about social inequality. Even though social welfare is one of the focuses of all elements of the state to be completed in accordance with the message of Pancasila and the 1945 Constitution, as stated in the 5th precept, namely "Social justice for all Indonesian people", the meaning of socially just means does not only apply to the economic context, but also aims at all aspects. Through this concept, justice can create prosperity in the country. Referring to the meaning of welfare for the state, of course it is interpreted as equal in the legal context so that the state is run in accordance with applicable law.¹⁰

Likewise, the purpose of this nation is stated in paragraph 4 that, "to promote public welfare, educate the nation's life, and participate in carrying out world order". With this provision, of course, the aim is that in guaranteeing legal certainty for the people of the State, the government needs to be in accordance with the rights possessed by citizens, so that the improvement and development of social welfare can be fulfilled, as has been assigned and given full guarantees by the Constitution of the State of Indonesia, namely, the Constitution 1945, article 27 paragraph (2) states: "Every citizen has the right to work and a life worthy of humanity". This shows that the level of dignity and prestige of this nation is quite high because it has the goal of making the nation more advanced. and the realization of welfare for the people that is able to be comprehensive and encompass all elements of the state's society. The meaning of social welfare is defined as the fulfillment of the necessities of life that are considered appropriate by the community, thus they can explore themselves and carry out social functions as they should and can be implemented by policy makers in this case the central, regional government, and also by the community with Forms of social services include community social protection, social empowerment, social guarantees, and social rehabilitation measures. This is the spirit of Law No. 11 of 2009 concerning social welfare. The meaning of social welfare is defined as the fulfillment of the necessities of life that are considered appropriate by the community, thus they can explore themselves and carry out social functions as they

⁷ Ramdan Kasim, "Dehumanisasi Pada Penerapan Hukum Pidana Secara Berlebihan (Overspanning van Het Strafrecht)," *Jambura Law Review*. 2, No. 1 (2020): 1-29., 3

⁸ Jufryanto Puluhulawa, Mellisa Towadi, and Vifi Swarianata, "Perlindungan Hukum Situs Bawah Air Leato / Japanese Cargo Wreck The Legal Protection of The Leato Underwater Site" *Jurnal Reformasi Hukum* 24. No. 2 (2020): 189-208., 197

⁹ Julius Mandjo, "The Right to Obtain Free Assistance and Legal Protection for The Indigent People Through Legal Assistance Organizations." *Jambura Law Review*. 3, No. 02 (2021): 365-77., 375

¹⁰ Abdul Hamid Tome, "Upaya Pelembagaan Nilai Pancasila Dalam Kehidupan Masyarakat Desa. Al-Adl," *Membumikan Pancasila XIII*, no. 1 (2020): 126.

should and can be implemented by policy makers in this case the central, regional government, and also by the community with Forms of social services include community social protection, social empowerment, social guarantees, and social rehabilitation measures. This is the spirit of Law No. 11 of 2009 concerning social welfare. The meaning of social welfare is defined as the fulfillment of the necessities of life that are considered appropriate by the community, thus they can explore themselves and carry out social functions as they should and can be implemented by policy makers in this case the central, regional government, and also by the community with Forms of social services include community social protection, social empowerment, social guarantees, and social rehabilitation measures. This is the spirit of Law No. 11 of 2009 concerning social welfare. thus they can explore themselves and carry out social functions as they should and can be implemented by policy makers in this case the central government, regional governments, and also by the community in the form of social services including social protection for the community, empowerment carried out socially, existence guarantee in social, as well as social rehabilitation measures. This is the spirit of Law No. 11 of 2009 concerning social welfare. thus they can explore themselves and carry out social functions as they should and can be implemented by policy makers in this case the central government, regional governments, and also by the community in the form of social services including social protection for the community, empowerment carried out socially, existence guarantee in social, as well as social rehabilitation measures. This is the spirit of Law No. 11 of 2009 concerning social welfare.¹¹

Siahaan argues that homeless and beggars are included in the category of poverty, in his classification poverty can be divided into two models. The first is structural poverty, which is poverty caused by policies implemented by policy makers, so that people who experience poverty cannot make changes to their lives and live in shackles of poverty continuously. The second is cultural poverty, where poverty occurs because of the habitual patterns of people who experience poverty, there is no will to change for the better so that it is passed down to the next generation and does not heed various programs and models for poverty alleviation carried out by related agencies.¹²

This cultural poverty is assessed from the actions of individuals or communities who are unable and willing to strive to create a better self because of a culture that has been rooted in social behavior in a sustainable manner. They consider what is in their current condition to be the best so that changes towards a better standard of living are not made even though there have been many efforts from outside to help alleviate these problems.

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¹¹ Muhammad Luqman Hakim, *Kebijakan Penanggulangan Masalah Kesejahteraan Sosial*. (Malang: Inteligencia Media, 2020).

¹² N.H.T Siahaan, *Hukum Lingkungan Dan Ekologi Pembangunan* (Jakarta: Penerbit Erlangga, 2004).

¹³ N.H.T Siahaan.

As for structural poverty, there is a need for comprehensive action to alleviate it because this poverty has a link to a life model that has been trusted and regulates life in society. In contrast to cultural poverty which is based on lazy and resigned actions to accept the circumstances they have and can be reflected in those who become homeless and beggars on the streets.

The emergence of homeless people and beggars in social life is certainly related to various factors. With these various factors, of course, it can be a support in carrying out scientific studies related to handling cases of homeless people and beggars with the intention of being able to provide solutions related to the best system for dealing with these problems continuously and sustainably.

The problems caused by homeless people and beggars are considered to be acute. Homeless people are defined as those who lead a life that is not in accordance with social norms that are in accordance with the behavior of society in general and in their livelihood do not have a permanent job and permanent residence. They make ends meet by working on the streets and in public places. As for beggars, namely those who make efforts to ask for money in public places through many ways and actions so that people can be compassionate to them.¹⁴

The emergence of homeless people and beggars is based on other problems that can trigger these actions. These things include the high level of community poverty, low education of citizens, minimal work skills by individuals, social and cultural influences, level of health and others. By continuously being left unchecked, of course, these problems trigger an increase in the quantity of homeless people and beggars in people's lives quickly.

With an increase in homeless people and beggars in society, it can have a negative influence, such as the existence of an irregular social system with actualization, namely chaotic social order, social disorder, discomfort in behavior, and of course the disturbed beauty of the city. In fact, aside from that, they are also citizens who have equal rights and obligations with other citizens, so they must be treated equally in a more decent life.¹⁵

In essence, homeless people and beggars are also human beings that we need to look at holistically, but the fact is that they always have a different class in the eyes of the public even though in the 1945 Constitution Article 34 paragraph 1 that "The poor and neglected children are cared for by the state". Homeless and beggars to this day are still problems

¹⁴ Dori Rakasman Joni, "Pelaksanaan Penertiban Gelandangan Dan Pengemis Di Kota Padang Berdasarkan Peraturan Daerah Kota Padang No 11 Tahun 2005 Tentang Ketertiban Umum Dan Ketentraman Masyarakat," *Jurnal Fakultas Hukum Universitas Bung Hatta* 4, no. 1 (2014): 7.

¹⁵ Kementerian Sosial Republik Indonesia, "PSBK Pangudi Luhur," *Kemsos.go.id*, 2022, <https://kemsos.go.id/page/psbk-pangudi-luhur>.

that require more focus by the government in solving them. This phenomenon has become a social problem in urban areas, one of which is the City of Gorontalo.

The phenomenon of homeless people and beggars in Gorontalo City is one of the most complex homework that must be completed by the government, no different from other cities. The existence of beggars and homeless people in Gorontalo City has a significant impact on social problems. The fundamental problem for beggars and homeless people is related to the existence of social order and security in urban areas. The increasing number of beggars and homeless people in urban areas can cause disharmony in security and social order which in the end will disrupt development stability, especially in the City of Gorontalo even though this has been regulated in the Regional Regulation of the City of Gorontalo in article 23 No. 1 of 2018 concerning public order which reads:

Everyone is prohibited:

- a. Earning income by begging, busking, and/or the like on the street, in public transportation, residential homes, offices and public places; or
- b. Collecting beggars, buskers, or street children to be used by begging or busking to withdraw their income.

The following below is initial data before the Gorontalo City Regional Regulation policy No. 1 of 2018 concerning public order which accommodates several problems caused by homeless people and beggars obtained from the Gorontalo City Regional Development Information System for Social Affairs¹⁶, are as follows:

Table 1: Data on Homeless and Beggars 2014-2017

Data Type	Year									
	2014	2015	2016	2017	2018	2019	2020	2021	2022	
Homeless and beggars	45	35	8	14	17	7	-	-	-	-

Source: City Gorontalo E-data (number of PMKS in Gorontalo City)

Note: Not yet recorded

Based on the table above, it can be seen that in 2014 the number of Homeless and Beggars was 45 people, in 2015 there were 35 people, in 2016 it decreased to 8 people, and in 2017 it increased slightly to 14 people, while from 2018 to 2022 there was no recorded presence homeless and beggars in Gorontalo City by the Gorontalo City Social and Community Empowerment Service because they have not updated data on homeless people and beggars from 2018 - 2022.

¹⁶ Berita Gorontalo Kota, "Sistem Informasi Pembangunan Daerah Kota Gorontalo Bidang Urusan Sosial," Berita.gorontaloikota.go.id, 2020, <http://berita.gorontaloikota.go.id/profil/print/7/5>.

Thus, the researcher is interested in conducting research related to **The Effectiveness of Handling Homeless and Beggars in View of the Regional Regulations of Gorontalo City in Article 23 of Regional Regulation No. 1 of 2018 concerning Public Order.**

2. method

This type of research is empirical research, the research method is a way of doing something by using the mind carefully to achieve a goal by searching, writing, formulating and analyzing a report.¹⁷ This research uses techniques Data analysis is a research activity in the form of a study or research on the results of data processing using previously obtained theories.

3. Analysis And Discussion

Inhibiting Factors for Overcoming Homeless and Beggars in Gorontalo City

Gorontalo City as the only administrative area with City status in Gorontalo Province is certainly one of the triggers for the large number of homeless people and beggars, based on the results of interviews conducted by researchers at the Office of Social Affairs and Community Empowerment in Gorontalo City that 50% - 70% of the number of homeless people and Beggars who were managed to be disciplined by the government, in this case the Civil Service Police Unit and the Gorontalo City Social Service, are people who do not come from Gorontalo City or domiciled in Gorontalo City.

Based on the results of interviews with researchers at the Satpol PP in Gorontalo City, the average beggar's income is 200,000/day. This is of course very tempting because these beggars are able to get income with minimal capital and effort but can get promising results.

In order to implement the mandate of the regional regulation on public order, a Mayor Regulation (hereinafter referred to as Perwako) Number 24 of 2018 concerning Implementation of Regional Regulation Number 1 of 2018 concerning Public Order was issued. The Perwako also serves as a guideline for Satpol PP in carrying out efforts to maintain public order. Referring to the Perwako, the enforcement operation is divided into 2, namely non-judicial and judicial. Non-judicial operations are actions carried out by Satpol PP in the form of direction and guidance, up to prosecution. While the judicial operation is a series of legal actions carried out by investigators of regional regulations concerning the enforcement of regional regulations.¹⁸

The requirements for carrying out policing operations are thoroughly discussed in the Perwako, starting from general requirements, basic knowledge, to the equipment that

¹⁷ Cholid Narbuko dan Abu Achmadi, *Metodologi Penelitian* (Jakarta : PT. Bumi Aksara, 2003).

¹⁸ Pasal 7 Peraturan Walikota Nomor 24 Tahun 2018 Tentang Pelaksanaan Perda Ketertiban Umum.

Satpol PP must use when carrying out policing operations. In addition, there are also Standard Operating Procedures regarding the implementation of enforcement operations. So that the basis for Satpol PP in carrying out enforcement operations are 3 regulations, namely the regional regulation on public order, the Perwako regarding implementation, and the SOP concerned.

As far as the researcher's memory is concerned, it is quite rare to see Satpol PP conducting policing operations against homeless people and beggars. As the information that researchers got through the Satpol PP that the operation is carried out once a month. Researchers hear more often about and find the operation of controlling boarding houses and entertainment venues. This is reasonable, because the operations carried out are generally about public order itself. As the answers that researchers got when conducting interviews with Satpol PP, that:¹⁹

“Actually, we are carrying out policing operations for public order. When we find homeless people and beggars, we will take care of them. But if we don't meet homeless people and beggars, then we won't look for them either. Even if we find them and they run and are hard to chase, then we won't give chase. Because expelling them from public places and facilities already indicates that the control operation has been carried out.”

This statement is quite difficult to refute because what is said is also true. The duties and responsibilities of Satpol PP are public order. In particular regarding homeless people and beggars, it is not discussed in sufficient detail in the regulations on public order. Satpol PP also stated that:²⁰

“Controlling operations can easily spread to all homeless people and beggars because they share information with one another. Therefore, sometimes when we arrive at locations where there are usually homeless people and beggars, they are no longer there.”

It is recommended that the Satpol PP coordinate with relevant agencies as discussed in Article 26 Paragraph (1) of the Regional Regulation on Public Order, concerning homeless people and beggars, to coordinate with the Social Service. The Satpol PP said that if they found homeless people and beggars they would be directed to the Social Service for further responsibility. However, according to the Satpol PP, they also found quite a lot of homeless people and beggars who were not residents of the city of Gorontalo but came from other districts in the province of Gorontalo. In this regard, what the Satpol PP has done is to return the homeless and beggars to their areas of origin.²¹ However, homeless

¹⁹ Hasil Wawancara Bersama Pihak Satuan Polisi Pamong Praja, Bapak Sucipto Ayahu, S.Kom selaku pejabat penyidik pegawai negeri sipil.

²⁰ *Ibid.*

²¹ *Ibid.*

and beggars who are returned often come back after a month to two months with a different mode, before begging to come again as buskers or selling snacks.

The effectiveness of the implementation of a policy in a statutory regulation is influenced by several things, including the legal factor itself because the formulation of norms will become the main pillar and milestone in the implementation of a policy; then the factor of law enforcement because law enforcement is the main actor in implementing the law itself; factors of facilities and facilities that support the implementation of regulations; community factors as objects of a statutory regulation; and the last is the cultural factor which also determines how the law can be implemented in society.

As far as the analysis and tracking of data and facts is carried out by researchers, regarding obstacles in overcoming homeless and beggars in Gorontalo City, it is influenced by internal factors and external factors as follows

Internal factors

Limitations of Operational Costs. As the results of interviews with the Satpol PP researchers, the policing operation is carried out once a month. This is because the budgeted operational costs are indeed only enough to carry out a control operation once a month anyway. Even if the control operation can be carried out more than once a month, it is possible that it will succeed in making homeless people and beggars give up on staying in places they frequently use.

Facilities and infrastructure are supporting facilities in efforts to deal with homeless people and beggars. Facilities and infrastructure in Gorontalo City are still lacking. The operational vehicle unit for Satpol is one of them. If this can be improved, then one time the Satpol PP can directly raid two to three locations. In addition, if the Office of Social Affairs is involved in the prevention efforts, then the shelter for homeless people and beggars in rehabilitative efforts in Gorontalo City is still lacking.

Lack of Involved Agencies The researcher has previously mentioned that there are no other agencies that are clearly and clearly stated in the regional regulation on public order in the city of Gorontalo apart from Satpol PP. Therefore, the effort applied is a repressive effort. This causes countermeasures to be not optimal. Because as the researcher has also said in the previous discussion that the Social Service is needed and has the main responsibility in overcoming homeless people and beggars.

Leakage of Information to the Public. Plans for policing operations are often leaked to the public before the operation is carried out. This is what gives the homeless and beggars in Gorontalo City the opportunity to immediately hide from the places that are the target of operations. This has also been conveyed by researchers in the previous discussion based on the results of interviews that researchers conducted with Satpol PP. Leakage of information also affects the repressive effort that is not maximal in tackling homeless people and beggars.

External Factors

The existence of Persons Who Coordinate Homeless and Beggars Homelessness and begging do not just happen because of the economic problems that are experienced and faced by those concerned. Some people may be the case, and only be a cause. Furthermore, it is common knowledge that the beggars we often meet on street corners have a boss or someone who coordinates them. This causes the phenomenon of homeless people and beggars to be difficult to overcome.

Community Culture in Gorontalo City One of the issues discussed in PP No. 31 of 1980 concerning Handling Homeless and Beggars is the role of the community. The PP explains that community organizations can be involved in rehabilitative efforts to tackle the phenomenon of vagrancy and begging. Then in the regional regulation on public order in the city of Gorontalo, the role of the community is explained in a simple way by reporting to officers when they see and find homeless people and beggars. However, this slightly intersects with the Gorontalo people's mutual cooperation culture. Concern for others that is strong enough to make the community contribute to increasing the phenomenon of homelessness and begging. Participating what researchers mean is the hobby of giving, because the people of Gorontalo are included as people with a gentle and caring heart. The more often and the more people give, the more the percentage of homeless people and beggars in Gorontalo City increases.

If all the factors, both internal and external, described above, if simplified, there is one main factor that has the most influence on efforts to deal with homeless people and beggars, namely the absence of special regulations at the regional level. Problems that become obstacles to handling can be accommodated in regulations that specifically concern homeless people and beggars. Therefore, if the control of homeless people and beggars is one of the focuses of the Gorontalo city government, it is hoped that in the future a special regional regulation will be formed for this. In these local regulations all the obstacles described above can be discussed concretely and comprehensively.

4. Conclusion

Based on the results of the analysis and discussion described above, it can be concluded that the factors that impede the prevention of homeless people and beggars are divided into internal factors, including: limited operational costs, lack of facilities and infrastructure, lack of agencies involved, and leakage of information to the public. The external factors are: the existence of persons who coordinate the homeless and beggars, and the habit of the people who like to give.

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