

Law Enforcement of Street Vendors by the Civil Service Police Unit

Fasa Fariza Tama, Dyah Adriantini Sintha Dewi*, Habib Muhsin Syafingi
Department of Law, Universitas Muhammadiyah Magelang, Magelang, Indonesia
*email: dyahasd@ummgl.ac.id

Date received: January 2019, Revised: February 2019, Accepted: March 2019

ABSTRACT

This study aims to analyze the implementation and identify the obstacles to control of street vendors (PKL) by the Civil Service Police Unit (Satpol PP) in Temanggung Regency. This research was conducted with a qualitative approach through in-depth interviews with Satpol PP Officers. Secondary data was obtained from legal materials consisting of Regulation of the Minister of Home Affairs Number 54 of 2011 concerning Operational Standards for Civil Service Police Procedure and Regional Regulation of Temanggung District Number 12 of 2011 concerning Cleanliness, Beauty, Order, and Environmental Health. The data analysis technique used in this research is descriptive qualitative. The results showed that controlling the street vendors conducted by Satpol PP was carried out through several stages, namely 1) coaching and socialization; 2) issuing warning letters, and; 3) demolition of merchant stalls. This control effort has not been able to reduce the number of street vendors who break the rules. Constraints faced in the efforts to control street vendors, among others: 1) the rules which are used as the basis for control are still general in nature; 2) there is no specific location for the existence of street vendors; 3) sanctions are regulated only in the form of criminal sanctions; 4) human resources/personnel of Satpol PP are still lacking; 5) lack of coordination across Regional Apparatuses, and; 6) public awareness (PKL) is still low. Thus, Temanggung District Regulation Number 12 of 2011 concerning Cleanliness, Beauty, Order, and Environmental Health has not been effective in generating PKL compliance with regulations.

Keywords: Street Vendors, Law Enforcement, Civil Service Police Unit

DOI: <https://doi.org/10.31603/variajusticia.v15i1.2469>

1. INTRODUCTION

Street Vendors (PKL) is a type of business in the informal sector. Street vendors are defined as business actors conducting business using municipal infrastructure, social facilities, public facilities, land, and buildings owned by the government or private. Typically, street vendors' business place consist of tents, shelter, motorbikes, and cars. Street vendors are one of the business activities that are able to expand employment opportunities and provide broad economic services to the community. In fact, street vendors are actually able to provide services to the needs of low-income people (Koconegoro & Pramono, 2010). The existence of street vendors has positive and negative impacts. Street vendors are considered as illegal activities in the use of locations that are not intended to interfere with public interests such as selling on sidewalks, roadways, storefronts, and crowd centers that are not intended to sell. Some use shanties with wood and tarpaulin. Sometimes there are people who use wheelbarrows, trucks, or slings (Permadi, 2007). The existence of these street vendors will also reduce the function of public space. For example, reduced sidewalk function for pedestrians, disrupting traffic flow and

creating a slum environment such as the presence of liquid and solid waste as a negative impact of the existence of street vendors (Puspitasari, 2010).

The existence of street vendors in Temanggung Regency has not been explicitly regulated in certain written regulations. Meanwhile, the prohibition on the existence and activities of street vendors in Temanggung Regency, which sells in certain locations, is still part of Temanggung District Regulation No. 12 of 2011 concerning Cleanliness, Beauty, Order, and Environmental Health (K4 Regional Regulation). The form of the prohibition is in the form of a ban on selling in city parks, sidewalks, and roadways. The prohibition is also accompanied by sanctions, in the form of criminal sanctions with a maximum sentence of 6 (six) months imprisonment or a maximum fine of IDR. 50,000,000 (fifty million rupiah).

The existence of the Civil Service Police Unit (Satpol PP) has a crucial role in maintaining public order. This is in accordance with the Satpol PP's task in enforcing Regional Regulations (Perda) and Regional Head Regulations (Perkada), organizing public order and peace and organizing community protection. One of the activities carried out by Satpol PP is through non-judicial control, which is carried out by the Civil Service Police in the context of maintaining and / or restoring public order and public peace with respect to violations of Regional Regulations and / or Local Regulations in accordance with the provisions of the regulations legislation and not until the judicial process. However, if it refers to the sanctions stipulated in K4 Regional Regulation in the form of criminal sanctions, the enforcement procedures for street vendors must go through judicial procedures. This means that the policing carried out by Satpol PP is still at the non-judicial stage. The actions taken are in the form of guidance, outreach, and administration in the form of giving notification letters, warning letters/warning letters for violations of regional regulations and local regulations. If criminal sanctions are applied, it takes quite a long time and will not necessarily return to its original state (clean without the presence of street vendors). If criminal sanctions are applied, it takes a long time and will not necessarily return to the initial conditions. Based on the description above, the problem in this study is the implementation and obstacles in controlling street vendors by Satpol PP based on Temanggung District Regulation No. 12 of 2011 concerning Cleanliness, Beauty, Order, and Environmental Health.

2. RESEARCH METHODS

This research was conducted with a qualitative approach through in-depth interviews with Satpol PP Officers. Secondary data was obtained from legal materials consisting of Regulation of the Minister of Home Affairs Number 54 of 2011 concerning Operational Standards for Civil Service Police Procedure and Regional Regulation of Temanggung District Number 12 of 2011 concerning Cleanliness, Beauty, Order, and Environmental Health. The data analysis technique used in this research is descriptive qualitative.

3. RESULTS AND DISCUSSION

3.1. Controlling Street Vendors by Satpol PP in Temanggung Regency

There are several stages carried out by the Temanggung Regency Satpol PP in controlling the street vendors. First, it must be known in advance of violations through information from the public or direct findings by Satpol PP. Second, if there is a violation, Satpol PP provides guidance and outreach directly to street vendors. The coaching effort through direct communication was carried out several times as a form to implement the humanist apparatus, polite, and carried out through a humanitarian approach. Third, if the PKL is still in violation, the Satpol PP will carry out the next stage by giving the First Warning Letter with a grace period of 7 (seven) days, the Second Warning Letter with a grace period of 7 (seven) days, the Third Warning Letter with a grace period of 3 (three) day. Finally, Satpol PP provides the opportunity to dismantle the street vendors themselves. If unable to dismantle their

stalls, Satpol PP will help to demolish and secure some of the goods owned by street vendors. The actions taken by the Satpol PP are in accordance with the authority given, namely non-judicial control measures. Because K4 Regional Regulation only provides sanctions in the form of criminal sanctions, the phase carried out by Satpol PP should only be in the form of administrative actions (both verbal and written warning). Furthermore, if criminal sanctions are to be applied, then the next stage has become the authority of the authorized official, both the Police Investigator and the Civil Servant Investigator (PPNS). So far, criminal sanctions have never been applied against street vendors who break the rules.

Based on the policing stages carried out by Satpol PP, the efforts made have not been effective in being able to create compliance or compliance of street vendors with K4 Regional Regulation. It is seen from the number of street vendors who sell in prohibited locations. Based on the results of data collection conducted by Satpol PP at the end of 2015, that the number of street vendors in Temanggung City was around 500 (five hundred) street vendors located on several roads. Meanwhile, in 2018, there around 570 (five hundred seventy) street vendors. This shows that there has been an increase in the number of street vendors during the last few years.

Basically, street vendors know that their actions are included in acts of violation of the order. However, many of their considerations in maintaining their sales. Some of these reasons are strategic locations for selling, following other friends, and street vendors are the only livelihood. Meanwhile, the location of selling that has been determined by the Regional Government of Temanggung Regency is considered not strategic and has not been able to accommodate all the existing street vendors.

One function of the existence of law is to guide human behavior. An attitude of action or legal behavior is considered effective if the attitude of the action or behavior of another party leads to the desired goal: meaning if the other party complies with the law. The rule of law is said to be effective if it raises human obedience or compliance with the law. According to Soerjono Soekanto, there are certain conditions that must be met so that the rule of law can affect human behavior. The first is that the law must be communicated. Direct communication efforts have been made by Satpol PP through persuasive efforts in the form of socialization and coaching to street vendors. Hopefully, street vendors can know and have the same view of the prohibition of selling in specific locations, so that it causes compliance or compliance with the K4 Regional Regulation. There are several dimensions of legal communication that can affect the effectiveness of the law, which include: communication delivered directly, the scope of certain legal norms, and problems and relevance of legal norms (Soerjono Soekanto, 1985). Besides the law must be communicated, the subject must be able to implement or avoid the things governed by the law. In fact, there are still many street vendors who still sell at prohibited locations. This proves that human behavior is not in accordance with the desired goals. Although basically, most of the street vendors know that the location occupied for trading is a prohibited location. Another factor that influences the effectiveness of a law is the problem of disposition to behave, which means that there is a motivating factor that enables humans to behave in specific ways.

Of the three conditions that must be met in an effort to create human behavior towards obedience to the law, only 1 (one) condition has been achieved, namely communication of the law although direct communication cannot be done to all street vendors, especially street vendors who are active at night. Meanwhile, other conditions have yet to be fulfilled. Then it can be concluded that Temanggung District Regulation Number 12 of 2011 regarding Cleanliness, Beauty, Order, and Environmental Health has not been effective in being able to guide street vendors to comply with the rule of law, which will be prohibited from selling on sidewalks, road bodies or city parks.

When viewed from the perspective of public services, the policing efforts carried out by Satpol PP have not reflected the general principles of good governance. The stages carried out, from coaching to emptying the location of selling (by securing street vendors merchandise to the PP Satpol Office), the type of sanction is only in the form of criminal sanctions. For this reason, if this sanction is to be applied, it must go through a judicial process until there is a criminal judge's decision. Meanwhile, the stages

undertaken by the Temanggung Regency Satpol PP, some were up to the curbing efforts by emptying the place of selling and securing merchandise. The act of emptying the place of selling and securing the merchandise is a form of administrative sanction in the form of government coercion. Meanwhile, when viewed from the types of sanctions that existed in K4 Regional Regulation, no one mentioned administrative sanctions in the form of government coercion. This means that the actions taken are not based on written rules so that the Satpol PP control measures have not fulfilled the principle of legal certainty.

Based on the policing stages carried out by Satpol PP, no legal basis was found to be used in the form of regulations governing the Standard Operating Procedures (SOPs) for Control of Street Vendors. If referring to the Minister of Home Affairs Regulation Number 54 of 2011 (Permendagri No. 54 of 2011) concerning the Standard Operating Procedures of the Civil Service Police Unit, the procedures applied by the Temanggung Regency Satpol PP have not been in accordance with Permendagri No. 54 of 2011. To find out these differences, it can be described in table 1

Table 1 Comparison between street vendors arrangement SOPs

No	Process for controlling street vendors by Satpol PP in Temanggung Regency	Standard Operating Procedures for Enforcement of Regional Regulations	Standard Operating Procedures for Order and Peace of Society
1	Coaching and Socialization	Coaching and Socialization	Coaching and Socialization
2	Granting the First Warning Letter with a grace period of 7 (seven) days	Provide a statement to the violator whose contents are willing and able to obey and comply with and implement the provisions within 15 (fifteen) days from the signing of the statement	Giving the First Letter of Rebuke
3	Granting the Second Warning Letter with a grace period of 7 (seven) days	Granting the First Warning Letter with a grace period of 7 (seven) days	Granting the Second Letter of Rebuke with a grace period of 3 (three) days
4	Granting the Third Warning Letter with a grace period of 3 (three) days.	Granting the Second Warning Letter with a grace period of 7 (seven) days	Granting the Third Letter of Rebuke with a grace period of 3 (three) days
5	Demolition of merchant stalls	Granting the Third Warning Letter with a grace period of 3 (three) days.	Granting the First Warning Letter with a grace period of 7 (seven) days
6		Against a law that has criminal sanctions, it is reported to the Civil Servant Investigator (PPNS).	Granting the Second Warning Letter with a grace period of 3 (three) days
7			Granting the Third Warning Letter with a grace period of 1 (one) days.
8			Enforcement Actions

Based on these comparisons, the procedures carried out by the Temanggung Regency Satpol PP have not been based on the provisions of existing legislation, in this case, based on Permendagri No. 54 of 2011. For example, the actions taken by the Temanggung Regency Satpol PP, after guidance and

socialization, street vendors were immediately given a warning letter. Meanwhile, the Regional Regulation Enforcement SOP based on Permendagri No. 54 of 2011, after coaching and outreach, began first by stating violators whose contents were willing to obey and implement the provisions, then after that, a warning letter was given. Likewise in the case of a grace period for the implementation of the phases, between the procedures carried out by the Temanggung Regency Satpol PP and the SOP based on Permendagri No. 54 of 2011, there are also differences.

The Satpol PP SOP is basically structured to realize uniformity in the implementation of the duties of the Civil Service Police in enforcing regional regulations, regional head regulations and regional head decisions as well as the implementation of public order and public peace. Meanwhile, based on the provisions of article 6 paragraph (1) Permendagri No. 54 of 2011, which mandates that the technical guidelines for district/city Satpol PP SOPs be determined by regents/mayors. It means that to follow up Permendagri No. 54 of 2011, the Regency Satpol PP to compile the SOP Satpol PP technical guidelines established by the Temanggung Regent.

3.2. Obstacles encountered in controlling street vendors

Law Enforcement of Street Vendors in Temanggung Regency has obstacles, including:

1. The scope of Regional Regulation K4 is not specific

The scope of Regional Regulation K4 regulates several things, including environmental cleanliness, environmental beauty, environmental order, and environmental health. In terms of regulating the existence of street vendors, according to the provisions of article 12 letter d, it only relates to the prohibition of selling in city parks, sidewalks, or road bodies. There are no provisions that regulate the existence of street vendors, both in terms of which locations are allowed for street vendors, street vendors business types, or street vendors business fields

2. There is no specific location for the existence of street vendors

As conveyed by Mr. Bambang, as Head of the Structuring and Empowerment Section of Street Vendors of the Department of Industry, Trade, Cooperatives, Small and Medium Enterprises (Dinperindagkop UKM) Temanggung Regency, currently there is only 1 (one) location provided by the Temanggung Regency Government for the existence Street vendors, namely in Taman Pengayoman with the number of Los 50 (fifty) pieces. The number of booths is used by 106 street vendors; in turn, there are groups selling during the day and some selling at night. In this regard, there are still many street vendors who have not been accommodated in the location provided by the Regional Government.

3. Sanctions are regulated only in the form of criminal sanctions

The types of sanctions in this K4 Regional Regulation are only in the form of criminal sanctions with a maximum imprisonment of 6 (six) months or a maximum fine of Rp. 50,000,000.00 (fifty million rupiah). Based on these types of sanctions, the application of sanctions cannot be directly carried out when there is a violation. The enforcement of criminal sanctions must be carried out according to the correct or fair legal process that has been determined in the criminal procedure code, and the imposition of sanctions can only be stated in a criminal judge's decision. Then it will be difficult for Satpol PP to implement administrative sanctions, for example in the form of government coercion by removing or emptying it to restore it to its original state and in accordance with its designation.

4. Lack of Human Resources from Satpol PP

At present, there is 72 civil service police personnel, including structural officials and personnel handling the administration. Of this amount, which can be optimized for field activities around 55 people, consisting of 25 civil servants and 30 non-civil servants. As a

result, the handling of street vendors in Temanggung Regency has not been optimal. In addition, existing personnel are also used for other activities. For the application of criminal sanctions, Satpol PP has not been able to carry out because there are no person acting as Civil Servants (PPNS) who are given special authority to conduct investigations.

5. Lack of Coordination among Local Governments

Handling street vendors is not the task of just one regional apparatus. Satpol PP plays an essential role as a control effort, but the SMEs Disperindagkop is no less important in the effort to organize and empower street vendors. Coordination between Satpol PP and UKM Disperindakop UKM still runs separately. In the context of handling street vendors, there needs to be comprehensive coordination between local governments to integrate actions that must be taken as an effort to create an orderly street vendor. In addition, equal perception is needed in terms of handling street vendors who in their implementation are adjusted to the task functions of each regional apparatus.

6. Public awareness

One crucial factor in supporting the effectiveness of the rule of law is a factor of public awareness, especially awareness of street vendors. In accordance with K4 Regional Regulation, there are provisions prohibiting selling on sidewalks, roadways, or city parks. Efforts from Satpol PP through guidance and outreach to foster compliance and compliance with local regulations have been implemented. From the efforts of coaching and outreach both in the field and when called to the office, most street vendors know about the prohibition of selling in certain places. However, there is no awareness to carry out.

3.3. An Ideal legal arrangement in handling street vendors

In the framework of structuring street vendors, there are several stages that can be implemented which include: data collection and registration of street vendors, determining the location of street vendors, moving the location of street vendors, rejuvenating the location of street vendors, and planning the provision of space for street activities. After the stages of the street vendor structuring process are carried out, the street vendors are given a location or area according to their purpose as the location of the street vendors' business activities while taking into account public, social, cultural, aesthetic, economic, security, order, health, environmental hygiene and compliance with the Regional Regulation on Plans Spatial Planning for Temanggung Regency. The type of location provided for street vendors can be either a permanent location or a temporary location. The Temanggung Government also provides business legality in the form of a Business Registration Certificate (TDU). After structuring, street vendors need to be empowered through counseling, training and / or social guidance, enhancing business ability, fostering and technical guidance, facilitating access to capital, providing facilities and infrastructure assistance, strengthening institutions through cooperatives and joint business groups, facilitating increased production, processing, network development and promotion, facilitation of cooperation between regions, and developing partnerships with the business world.

In order to have legal certainty, it needs to be made in a Regional Regulation. The formation of regional regulations is basically used as a basis for the region in carrying out regional autonomy in accordance with the conditions and aspirations of the community and the unique characteristics of the region. Furthermore, regional regulations can also regulate all government affairs which are under regional authority, namely in the fields of cooperatives, small, and medium businesses.

The aspect of law enforcement becomes an important factor in the success of the law. An imposing sanction is an essential part of every statutory regulation, even JBJM ten Berge said that sanctions are at the core of the enforcement of State Administrative Law (Ridwan, 2013). In general,

there are several types of sanctions known in state administrative law, namely: coercion of government (bestuurdwang), withdrawal of favorable decisions (permits, subsidies, payments), the imposition of forced money by the government (dwangsom), and the imposition of administrative fines (administratieve boete). Besides the four sanctions that are generally known, it is also possible to impose sanctions in the form of criminal sanctions and cumulative sanctions. A description of the types of sanctions against street vendors can be described as follows:

1. Government Coercion (bestuurdwang)

Government coercion (bestuurdwang) is a real action taken by a government organ or on behalf of the government to move, empty, obstruct if there is anything against the laws and regulations. If street vendors have been directed, there are several possible violations that will occur. For example, street vendors who have obtained a permit (in the form of a TDU) do not carry out their obligations as they should by not selling at designated locations. New street vendors who did not have a TDU appeared and were selling in prohibited locations. Other parties use TDU. To that end, government officials who have the authority can immediately apply if there are violations in the form of the demolition of business places and street vendors.

2. Withdrawing TDU

One type of administrative sanctions is revocation or withdrawal of TDU. This revocation is carried out by issuing a new decision whose contents retract and declare the previous decision no longer valid. In this case, TDU owned by street vendors can be revoked or withdrawn if there is a violation by street vendors of the rules or conditions attached to the written regulations that have been given, there can also be violations of the law relating to permits held by street vendors.

3. Criminal Sanctions

Basically, there is no advantage in enforcing the rule of law if the rules cannot be imposed through sanctions and enforcing those rules procedurally (procedural law). One of the law enforcement is through the imposition of criminal sanctions against violators. Criminal sanctions bring legal consequences related to personal independence (including in the form of imprisonment, confinement and the imposition of fines) of violators (Philipus M. Hadjon, 2008). The application of criminal sanctions is different from the application of coercive government sanctions that can be done directly when there is a violation. Enforcement of criminal sanctions is carried out according to the right or fair legal process that has been determined in the criminal procedure code, and the imposition of sanctions can only be stated in a criminal judge's decision. Another difference is that administrative sanctions are directed at the act of violation; criminal sanctions are directed at the offender by giving a sentence in the form of misery. The application of criminal sanctions should be made after efforts to apply administrative sanctions have been carried out and are the last resort of the law enforcement process.

4. CONCLUSION

Temanggung Regency Satpol PP has a strategic role in supporting the effectiveness of K4 Regional Regulation. towards street vendors. However, the lack of HR Satpol PP, the scope of the K4 Regional Regulation is still too broad, the lack of public awareness is an obstacle in the enforcement of the K4 Regional Regulation. Thus, law enforcement against street vendors must be preceded by changes to the rule of law through the preparation of a Local Regulation on Empowerment and Structuring of Street Vendors.

5. REFERENCES

- Koconegoro, P., & Pramono, N. (2010). *Implementasi Peraturan Daerah Nomor 26 Tahun 2002 tentang Penataan Pedagang Kaki Lima di Kota Yogyakarta*. Universitas Gadjah Mada. Universitas Gadjah Mada. Retrieved from http://etd.repository.ugm.ac.id/index.php?mod=penelitian_detail&sub=PenelitianDetail&act=view&typ=html&buku_id=48832
- Permadi, G. (2007). *Pedagang Kaki Lima, Riwayatmu Dulu, Nasibmu Kini*. Jakarta: Yudistira.
- Philipus M. Hadjon. (2008). *Pengantar Hukum Administrasi Indonesia*. Yogyakarta: Gadjah Mada University Press.
- Puspitasari, D. E. (2010). Penataan Pedagang Kaki Lima Kuliner untuk Mewujudkan Fungsi Tata Ruang Kota di Kota Yogyakarta dan Kabupaten Sleman. *Mimbar Hukum*, 22(3), 588–606. <https://doi.org/10.22146/jmh.16244>
- Ridwan. (2013). *Hukum Administrasi Negara Edisi Revisi*. Jakarta: Rajawali Pers.
- Soerjono Soekanto. (1985). *Efektivikasi Hukum dan Peranan Sanksi*. Bandung: CV Remadja Karya.

Regulations

- Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-Undangan* (Law Number 12 of 2011 concerning Formation of Regulations)
- Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah* (Law Number 23 of 2014 concerning Regional Government)
- Peraturan Pemerintah Nomor 16 Tahun 2018 tentang Satuan Polisi Pamong Praja* (Government Regulation Number 16 Year 2018 concerning Civil Service Police Unit)
- Peraturan Presiden Nomor 125 Tahun 2012 tentang Koordinasi Penataan dan Pemberdayaan Pedagang Kaki Lima* (Presidential Regulation Number 125 of 2012 concerning Coordination of Structuring and Empowering Street Vendors)
- Peraturan Daerah Kabupaten Temanggung Nomor 12 Tahun 2011 tentang Kebersihan, Keindahan, Ketertiban, dan Kesehatan Lingkungan* (Temanggung Regency Regulation Number 12 of 2011 concerning Cleanliness, Beauty, Order and Environmental Health)
- Peraturan Menteri Dalam Negeri Nomor 54 Tahun 2011 tentang Standar Operasional Prosedur Satuan Polisi Pamong Praja* (Minister of Home Affairs Regulation Number 54 of 2011 concerning Standard Operating Procedures for Civil Service Police Unit)
- Peraturan Menteri Dalam Negeri Nomor 41 Tahun 2012 tentang Pedoman Penataan dan Pemberdayaan Pedagang Kaki Lima* (Regulation of the Minister of Home Affairs Number 41 of 2012 concerning Guidelines for Structuring and Empowering Street Vendors)