

# Criminal Aspects in Regulating Street Vendors (PKL) In Kendari City

Rully Muharam

Faculty of Law, University of Southeast Sulawesi, Indonesia

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Representative e-Mail: fatma.sultra@gmail.com

## ABSTRACT

*a research method is used, namely normative legal research (Normative Juridical) which is conducted by examining library materials or primary data, secondary data, and tertiary data. This research was conducted to identify the concepts and principles as well as legal principles used to regulate. The thinking method used is the deductive method, namely a way of thinking in drawing conclusions drawn from something general that has been proven to be true and the conclusion is aimed at something specific. The criminal aspects of street vendor enforcement are complex and require in-depth study. Street vendor enforcement must prioritize a persuasive and educational approach, while considering the street vendors' rights to work and engage in business, and the local government's obligation to provide alternative solutions. By understanding the complexities of the criminal aspects of street vendor enforcement in Kendari City, we hope to be motivated to seek just and sustainable solutions. Solutions that prioritize not only enforcement of regulations but also consider the rights and needs of street vendors to live and work decently. So far, criminal handling of street vendor control has not been in accordance with existing regulations and provisions, as stated in Article 351 paragraph 3 (Criminal Code), which states that those who violate this Article will be subject to a maximum imprisonment of seven years. Currently, the only sanction given is a warning. Due to the ineffectiveness of these sanctions, violent crimes committed by civil service police are still common and frequently encountered in Kendari City.*

**Keywords:** Criminal Aspects, Kendari City, Regulating Street Vendors

## I. INTRODUCTION

Street vendors, or PKL for short, are a term used to describe vendors who operate on roads or sidewalks designated for pedestrians. Today, the term has a broader meaning, including street vendors in general.

There are many explanations available when discussing street vendors (PKL). The existence of street vendors is very interesting to discuss individually, for example, regarding the impact of their presence and how the government handles and provides legal protection for them. At first glance, street vendors are simply ordinary vendors who display their wares on the side of the road.

However, on the other hand, the presence of street vendors significantly disrupts the comfort of public facilities and disrupts urban order. The presence of street vendors is generally considered a significant and frequently occurring issue. Issues related to the presence, management, regulation, and regulation of street vendors have drawn both pros and cons, and this issue occurs in nearly every city in Indonesia.

General Provisions of the Regulation of the Minister of Home Affairs Number 41 of 2012 concerning Guidelines for the Arrangement and Empowerment of Street Vendors, which means street vendors, hereinafter abbreviated as PKL, are business actors who carry out trading activities using movable or immovable business facilities, using city infrastructure, social facilities, public facilities, land and buildings owned by the government and/or private sector which are temporary/non-permanent.

The presence of street vendors, typically located in city centers, has been problematic because they seem to be the root cause of urban chaos, disrupting public order, and causing traffic congestion. This is due to the increasing number and expansion of space used by street vendors to sell their wares. From accusations and their actions to their very existence, they have attracted negative public stigma.

In urban areas, the presence of street vendors (PKL) is a common economic phenomenon, affecting the lower classes, who operate solely to meet their daily needs. Recently, evictions of street vendors have become increasingly common. They are being evicted by government officials, as if they lack economic, social, and cultural rights.

The handling or regulation of street vendors can be heard and witnessed in the news on television and newspapers almost every day, where the community and local city government feel uncomfortable with the presence of street vendors. However, it is very unfortunate in the news that we can also hear and witness that the handling or regulation of street vendors that has been carried out so far is synonymous with violence and forced evictions, and even frequent clashes between government officials and street vendors.

The presence of street vendors should not be viewed solely in a negative light, but rather in the positive impacts they generate. In reality, street vendors have a positive economic, social, and cultural impact, shaping an urban area.

1. From an economic perspective, street vendors can absorb labor which can help workers earn income.
2. From a social perspective, it can be seen that street vendors can enliven and enliven the city atmosphere and become one of the attractions for a region or city.
3. From a cultural perspective, street vendors help regions or cities to create their own culture.

Kendari City boasts significant economic diversity. Amidst this dynamic economic activity, a significant number of street vendors (PKL) operate in various locations throughout the city. These street vendors often serve as the backbone of the local economy, providing a variety of goods and services needed by the local community. However, the presence of street vendors in Kendari City also raises a number of issues, particularly regarding legal protection.

Street vendors often operate without official permits or with incomplete permits, making them vulnerable to enforcement action by authorities. Furthermore, they are often victims of exploitation by unscrupulous individuals, such as landlords who arbitrarily raise rents or acts of violence by irresponsible individuals.

To address the issues related to the presence of street vendors specifically in Kendari City, a special regional regulation, Kendari City Regional Regulation Number 13 of 2008 concerning the Arrangement and Empowerment of Street Vendors, was created. The regulation regulates the protection of street vendors in Kendari City. Here are some key points in the regulation:

Purpose of the Regional Regulation:

1. Providing legal certainty, protection, and development of street vendor businesses that are orderly, regular, safe, harmonious, in tune, and balanced with their environment.
2. Improve the performance of street vendors' businesses to become official groups as targets for development.
3. Realizing spatial support for the existence of street vendors.
4. Realizing the existence of street vendors in harmony with other business activities.

It was hoped that the Regional Regulation on Public Order would at least address or regulate the presence of street vendors in Kendari City. However, in reality, this Regional Regulation appears to be insufficiently effective in addressing or regulating street vendor issues in Kendari City.

Apart from referring to the Regional Regulation on Public Order above, one of the bases used by the apparatus and Regional Government in dealing with the PKL problem is that the existence of PKL which has not been well organized so far has changed the function of the traditional market which has been built or prepared by the Regional Government.

So far, street vendor enforcement in Kendari City has been handled and regulated through warnings and guidance, prioritizing a humanitarian approach and coordination. Violence by authorities has been avoided as much as possible, as the violent and coercive measures commonly employed by district/city governments have often failed and even resulted in loss of life.

The lack of clarity or the absence of Regional Regulations that explicitly, broadly and clearly regulate the existence of street vendors in Kendari City seems to be one of the weak points and the lack of effectiveness of the Regional Government in handling or finding solutions to problems related to the existence of street vendors in Kendari City.

According to data from the Kendari City Public Order Agency (Satpol PP), as of November 2023, 10 street vendor enforcement operations had been carried out. A total of 500 street vendors were disciplined during that period. The most common violations by street vendors were operating in prohibited areas and not having a business permit.

The rapid growth in the number of street vendors is inextricably linked to the rapid growth of a region or city. The more crowded places there are, the more potential areas there are for street vendor businesses to thrive.

Quoting President Joko Widodo's statement that we can organize space by providing space for street vendors, providing them with living space, I believe this city will become more orderly, better, and tidier. This means it benefits, if not harms, the government, the community, and the street vendors.

The issue of legal protection for street vendors in Kendari City is crucial to discuss because their presence impacts not only the city's economic life but also social welfare and justice. In this context, it is crucial to review existing regulations and policies and consider concrete steps to improve legal protection for street vendors.

Street vendor enforcement in Kendari City is often tinged with criminal aspects. Criminal sanctions, like a double-edged sword, are a tool used to enforce regulations and maintain order. However, their implementation often sparks controversy and debate. This leads us to delve into the complexities of the criminal aspects of street vendor enforcement in Kendari City.

## II. LITERATURE REVIEW

### 2.1 Criminal and Penalty

#### 2.1.1 Definition of Criminal

Criminal comes from the Dutch word *starf*, which is sometimes referred to as punishment. The term criminal is more appropriate than punishment, because law is commonly a translation of *recht*. According to Adami Chazawi, criminal is more accurately defined as: An act deliberately imposed/given by the state to a person or several people as a legal consequence (sanction) for their actions that have violated the prohibitions of criminal law.

Specifically, this prohibition in criminal law is referred to as a criminal act (*strafbaar feit*). The forms of punishment that can be imposed by the state have been determined and regulated in detail, both regarding the limits and methods of imposing them, as well as where and how they are to be carried out. The forms of these types of punishment are outlined in Article 10 of the Criminal Code.

However, the form and limits of severity in imposing the sentence are contained in the formulation of each prohibition in the relevant criminal law. Therefore, the state is not free to choose its will from the types in Article 10 of the Criminal Code. Punishment in criminal law is a tool, not the goal of criminal law, which when implemented will result in nothing other than suffering or discomfort for the person concerned, which is called convict.

The primary goal of criminal law is to maintain order and protect public interests protected by law. Incorporating criminal penalties into every prohibition in criminal law, in addition to ensuring legal certainty and limiting state power, also serves as a deterrent for those intending to violate criminal law.

#### 2.1.2 Types of Criminalization

The Criminal Code, as the parent or primary source of criminal law, details the types of criminal offenses, as outlined in Article 10 of the Criminal Code. These offenses are divided into two groups: principal offenses and additional offenses, as follows:

- a. The main criminal penalties consist of:
  - 1) Death penalty;
  - 2) Imprisonment;
  - 3) Imprisonment;
  - 4) Criminal fines;
  - 5) Cover-up crime (added based on Law No. 20 of 1946).
- b. Additional penalties consist of:
  - 1) Criminal revocation of certain rights;
  - 2) Criminal confiscation of certain goods;
  - 3) Criminal announcement of the judge's decision.

#### 2.1.3 Definition of Criminalization

Criminalization can be defined as the stage of determining sanctions and also the stage of imposing sanctions in criminal law. The word "criminal" is generally interpreted as law, while "penalty" is defined as punishment. Doctrine distinguishes between substantive and formal criminal law. J.M. Van Bemmelen explains the two as follows:

"Material criminal law consists of the criminal act mentioned in order, the general regulations that can be applied to the act, and the punishment threatened for the act. Formal criminal law regulates how criminal proceedings should be carried out and determines the rules that must be observed on that occasion." Tirtamidjaja explains material criminal law and formal criminal law as follows:

- a. Material criminal law is a collection of legal rules that define criminal offenses, establish the conditions for criminal offenders to be punished, indicate who can be punished and can determine the punishment for criminal offenses.
- b. Formal criminal law is a collection of legal rules that regulate how to uphold material criminal law against violations committed by certain people, or in other words, regulates how material criminal law is implemented so as to obtain a judge's decision and regulates how to implement the judge's decision.

The opinion above can be concluded that material criminal law contains prohibitions or orders which, if not fulfilled, are subject to sanctions, while formal criminal law is a legal rule that regulates how to implement and implement material criminal law.

Punishment, as an action against a criminal, can be justified normally, not primarily, because it has positive consequences for the convict, the victim, and others in society. Therefore, this theory is also called consequentialism.

Punishment is not imposed for a crime, but to deter the perpetrator from committing further crimes and to deter others from committing similar crimes. The statement above demonstrates that punishment is not intended as revenge, but rather as a form of rehabilitating the perpetrator and preventing similar crimes from occurring. The imposition of criminal penalties or punishment can truly be realized if several planning stages are observed as follows:

- a. Imposition of criminal penalties by law makers;
- b. Imposition of criminal penalties by authorized bodies;
- c. Imposition of criminal penalties by the authorized implementing agency

#### 2.1.4 Purpose of Criminalization

In Indonesia itself, positive law has never formulated the objectives of criminal punishment. So far, discourse on the objectives of criminal punishment has remained theoretical. However, as a study material, the Draft National Criminal Code has established the objectives of criminal punishment in Book One, General Provisions, Chapter II,

entitled "Criminal Punishment, Criminal Procedure, and Actions." According to Wirjono Prodjodikoro, the objectives of criminal punishment are:  
that is:

- 1) To scare people so they don't commit crimes, either by scaring the public (general preventive) or scaring certain people who have committed crimes so that they don't commit crimes again in the future (special preventive), or
- 2) To educate or reform people who commit crimes so that they become people of good character who are beneficial to society.

The purpose of criminal punishment itself is expected to be a means of community protection, rehabilitation and resocialization, fulfillment of customary law perspectives, and psychological aspects to eliminate the guilt of the person concerned. Although criminal punishment is a misery, it is not intended to cause suffering or degrade human dignity. PAF Lamintang stated: "Basically, there are three main ideas regarding the goals to be achieved by criminal punishment, namely:

- a. To improve the personality of the criminal himself,
- b. To make people deterred from committing crimes, and
- c. To make certain criminals incapable of committing other crimes, namely criminals who by other means can no longer be reformed."

## 2.2 Overview of Local Government

Regional government is part of the administration of government in Indonesia which is based in the region and is carried out by the governor, regent, or mayor. Article 18 paragraph (1) and (2) of the 1945 Constitution of the Republic of Indonesia: "It is stated that the Unitary State of the Republic of Indonesia is divided into provincial regions and provincial regions are divided into districts and cities. Each provincial region, district, and city has a regional government which is regulated by law."

Law Number 23 of 2014 concerning Regional Government: This is the legal regulation governing regional government in Indonesia. It regulates government affairs that fall under the authority of the region, including:

1. Mandatory affairs: Education, health, public works, spatial planning, housing, settlements and slum areas, public order, public safety, and protection of society, social and cultural matters.
2. Selected matters: Environmental conservation, tourism, people's economic empowerment, and food security.

Central and Regional Relations:

1. Decentralization: The transfer of authority from the central government to regional governments.
2. Deconcentration: Assignment from the central government to regional governments to carry out certain tasks and functions.
3. Cooperation: Cooperation between central and regional governments in the context of governance.

Regional Government Funding:

1. Regional Original Income (PAD): Regional taxes, regional levies, regional business results, and other regional original income.
2. Revenue Sharing Fund (DBH): Funds obtained by regions from the exploitation of natural resources.
3. General Allocation Fund (DAU): Funds provided to regions to finance the implementation of government affairs that fall under the authority of the region.
4. Special Allocation Fund (DAK): Funds provided to regions to finance certain matters that fall under the authority of the region.

Regional Government Supervision:

1. Internal supervision: Carried out by regional inspectorates.
2. External supervision: Carried out by:
3. Audit Board of Indonesia (BPK): Conducts audits of regional finances.
4. Minister of Home Affairs: Provides guidance and supervision over the administration of regional government.
5. Regional People's Representative Council (DPRD): Supervises the performance of regional governments.

Regional governments are a vital part of governance in Indonesia. With expanded autonomy and diverse regional potential, regional governments are expected to improve community welfare and development in their regions.

As a result of decentralization, autonomous regions emerged. Initially, "autonomous" meant having one's own regulations or the right/power/authority to make one's own regulations. Later, the term "autonomous" evolved to mean self-government.

Self-government encompasses self-regulation or legislation, self-implementation, and, to some extent, also self-policing and courts. Thus, an autonomous region is one that has the right and obligation to regulate and manage its own affairs. Despite this opinion, Indonesian laws and regulations also regulate regional autonomy.

The implementation of the regional autonomy system in Indonesia is regulated or outlined in a statutory regulation, namely Law Number 23 of 2014 concerning Regional Government. This law is the latest law on Regional Government created or issued by the Indonesian Government.

Law Number 23 of 2014 concerning Regional Government Chapter I General Provisions Article 1 point 6 explains; regional autonomy is the right, authority, and obligation of autonomous regions to regulate and manage their own government affairs and the interests of local communities within the system of the Unitary State of the Republic of Indonesia. Then in point 7 it states that; "Autonomous Regions hereinafter referred to as regions are legal community units that have territorial boundaries that are authorized to regulate and manage government affairs and the interests of

local communities according to their own initiatives based on the aspirations of the community within the system of the Unitary State of the Republic of Indonesia."

The role of regional governments in the regional autonomy system is intended to implement decentralization, deconcentration, and assistance tasks as representatives of the Central Government in autonomous regions. Law Number 23 of 2014 concerning Regional Government explains that; Decentralization is the transfer of government affairs by the central government to autonomous regions based on the principle of autonomy.

With decentralization, autonomy for regional governments emerged. Furthermore, in the Law on Regional Government, deconcentration is defined as the delegation of some government affairs that are under the authority of the Central Government to the Governor as the representative of the Central Government, to vertical agencies in certain regions, and/or to the Governor and Regent/Mayor as those responsible for general government affairs.

The task of assistance is to carry out all assignments from the Central Government to regions and/or villages, from the Provincial Government to Regencies/Cities and/or villages, and from Regencies/Cities to villages to carry out certain tasks. The implementation of decentralization will bring effectiveness to governance, because the country's territory generally consists of various regions, each of which has its own special characteristics caused by geographical factors.

Of the various government systems that exist and are used by a country, according to Mairun, the reasons for adopting decentralization are:

1. In order to achieve government effectiveness
2. For the implementation of democracy from below ( *grassroots democracy* ).

In order to carry out the role of decentralization, deconcentration and assistance tasks, the Regional Government carries out concurrent government affairs, in contrast to the Central Government which carries out concurrent government affairs . absolute government . Concurrent government affairs are divided between the Central Government and the Provincial and Regency/City Governments. This division of affairs is based on the principles of accountability, efficiency, and externalities, as well as national strategic interests.

These government affairs are the basis for implementing regional autonomy. Concurrent government affairs consist of mandatory and optional government affairs. Mandatory government affairs are further divided into government affairs related to basic services and government affairs not related to basic services. Mandatory government affairs related to basic services are as follows:

1. Education
2. Health
3. Public works and spatial planning
4. Public housing and residential areas
5. Peace, public order and protection of society
6. Social

Mandatory matters that are not related to basic services are as follows:

1. Labor
2. Women's empowerment and child protection
3. Food
4. Land
5. Environment
6. Population administration and civil registration
7. Community and village empowerment
8. Population control and family planning
9. Transportation
10. Communication and informatics
11. Cooperatives, small and medium enterprises
12. Capital investment
13. Youth and sports
14. Statistics
15. Encryption
16. Culture
17. Library
18. Archives

The optional matters for the Regional Government in carrying out concurrent government affairs in regional autonomy are as follows:

1. Maritime affairs and fisheries
2. Tourist
3. Agriculture
4. Forestry
5. Energy and mineral resources
6. Trading
7. Industry



## 8. Transmigration

In order for the autonomy task to be carried out as well as possible, there are several factors or conditions that influence its implementation, including:

1. The person who carries it out must be good
2. Finances must be sufficient and good
3. The equipment must be sufficient and good
4. The organization and management must be good.

Any system of government a country uses is meaningless if it's not appropriate, doesn't function well, or isn't effective. Considering geography and other factors, the regional autonomy system seems to be the most suitable system for the Unitary State of the Republic of Indonesia.

### 2.3 Overview of Street Vendors (PKL)

Street Vendors Five or what is usually abbreviated as PKL is a term used to refer to a trader who carries out commercial activities above property area road or the sidewalk that should be intended for pedestrian. There is opinion which use term street vendors For mention vendor trade using a cart. The term is interpreted this way because the number of The trader has five legs. The five legs are the trader's two legs plus three legs of the cart.

However, the opinion that connects the number of legs and wheels is opinion that make it up and no in accordance with the History. In fact, the term "kaki lima" originates from the Dutch colonial era. Regulation government on time the set that every road highway which was built should provide means For pedestrian foot. Wide section For pedestrian is five feet or about one and a half meters.

For decades after That, moment Indonesia has independent, section For pedestrian foot Lots utilized by for trader For selling. Formerly his name is street vendor and now a street vendor. And currently The term PKL has a broader meaning, so the term street vendor is also used For mentioning traders in the streets on generally.

General Provisions of the Regulation of the Minister of Home Affairs Number 41 of 2012 regarding the Guidelines for the Arrangement and Empowerment of Street Vendors in question with street vendors, hereinafter abbreviated as PKL, are business actors who conducts trading business using mobile business facilities and No move, use infrastructure city, facility social, facility general, land And building owned by government and/or private Which nature temporary/not settled.

Problems street vendors This arise from consequence various factor Wrong the only one is the lack of job opportunities for the common people who do not have ability in produce. Plus Again consequence lack of awareness the community and street vendors will be aware of the regulations that have been established by the government, both which directly relates to street vendors, the environment, cleanliness, order general, and so forth.

In essence, street vendors are a feature of cities throughout the world. from formerly. As completeness, street vendors No Possible in eliminate or avoided. Which must done is through arrangement, coaching And supervision. Existence street vendors No should only seen from aspect negative only, but it is necessary to consider the positive impacts that result from the existence of PKL. In reality, PKL has a positive impact in terms of economy and social aspects. And cultural aspects Which form a urban areas.

1. From aspect economy, street vendors can absorb power Work Which can helpworker in earning income
2. From aspect social can seen that street vendors can turn on And enlivenatmosphere city and become Wrong One Power pull for something area or city
3. From aspect culture, street vendors help area or city For createits own culture.

The Regional Regulation on Public Order is expected to address or regulate the presence of street vendors in Kendari City. However, in reality, this Regional Regulation appears to be insufficiently effective in addressing or regulating the problem of street vendors in Kendari City. In addition to referring to the Regional Regulation on Public Order, one of the grounds used by officials and the Regional Government in addressing the street vendor problem is that the poorly managed presence of street vendors has altered the function of traditional markets that have been built or prepared by the Regional Government.

So far, street vendor enforcement in Kendari City has been handled and regulated through warnings and guidance, prioritizing a humanitarian approach and coordination. Violence by authorities has been avoided as much as possible, as the violent and coercive measures commonly employed by district/city governments have often failed and even resulted in loss of life.

The lack of clarity or the absence of Regional Regulations that explicitly, broadly and clearly regulate the existence of street vendors in Kendari City seems to be one of the weak points and the lack of effectiveness of the Regional Government in handling or finding solutions to problems related to the existence of street vendors in Kendari City.

According to data from the Kendari City Public Order Agency (Satpol PP), as of November 2023, 10 street vendor enforcement operations had been carried out. A total of 500 street vendors were disciplined during that period. The most common violations by street vendors were operating in prohibited areas and not having a business permit.

Besides referring to on Regulation Area Kendari City about Public Order is one of the foundations used by the authorities and the Government Area in handle problem or put things in order street vendors is that The existence of street vendors which have not been well organized has changed the function market traditional Which has built or prepared by Government Area.

### III. RESEARCH METHOD

#### 3.1 Type of Research

To answer the problems formulated in this paper, a research method is used, namely normative legal research (Normative Juridical) which is conducted by examining library materials or primary data, secondary data, and tertiary data. This research was conducted to identify the concepts and principles as well as legal principles used to regulate. The thinking method used is the deductive method, namely a way of thinking in drawing conclusions drawn from something general that has been proven to be true and the conclusion is aimed at something specific.

#### 3.2 Types and Sources of Data

The data sources required for this research are secondary data, primarily obtained from literature studies. To simplify the comparison, the following data is needed for the analysis:

1. Primary legal materials are binding legal materials and serve as the primary basis for research. In this case, these are laws and regional regulations related to the protection of street vendors.
2. Materials that provide explanations regarding primary legal materials such as research results, scientific works from legal circles and other relevant research to support the data analysis process.
3. Tertiary legal materials Which used writer as material Which support and provide explanations for primary legal materials and secondary legal materials law secondary like books And articles Which loaded in Internet.

#### 3.3 Data collection technique

Data collection techniques The legal materials in this study were first obtained by conducting a literature study which included collecting legal materials from the laws and regulations in force in Indonesia and collecting legal materials from various media that discuss and review this problem, such as books related to or connected with the problem.

Based on the approach used, in this study, the author employed a statutory approach by conducting research into legislation concerning or related to the problem. Furthermore, a conceptual approach was used, namely by searching law books.

Many legal concepts are contained within these law books. Legal Material Analysis After the desired legal material has been collected, the legal material is managed by separating it and putting it into chapters, adjusting the material for each chapter and strengthening it with existing legal materials. This method is carried out to obtain clarity on all issues.

The legal materials obtained will be analyzed descriptively and qualitatively. Qualitative descriptive analysis is a data analysis method that groups and selects data obtained from research according to its quality and accuracy, then connects it with theories, principles, and legal rules obtained from literature studies to obtain answers to the formulated problems.

#### 3.4 Data Analysis Techniques

The data analysis method used uses secondary data through data processing as a descriptive research procedure.

#### 3.5 Research Time

This research was conducted by the author in collecting the data needed to support the discussion for 3 months, namely: January to March 2024, conducting research and analyzing data.

### IV. RESULT AND DISCUSSION

#### 4.1 Criminal Aspects in the Regulation of Street Vendors (PKL) in Kendari City

The regulation of street vendors in Indonesia often sparks controversy, including regarding its criminal aspects. Here are some key points to understand:

1. Governing Regulations:
  - a) 1945 Constitution: Article 27 paragraph (2) and Article 33 regulate the people's right to work and business as well as the state's right to control natural resources.
  - b) Law Number 23 of 2014 concerning Regional Government: Gives authority to regions to regulate street vendors through Regional Regulations (Perda).
  - c) Regional Regulations (Perda): Each region has a Perda that regulates street vendors, including locations that may and may not be used for selling, administrative sanctions, and criminal sanctions.
2. Potentially Criminal Violations:
  - a) Violating the provisions of the Regional Regulation: Street vendors who sell in prohibited locations, such as sidewalks, parks, or areas where selling is prohibited, can be subject to criminal sanctions.
  - b) Refusing to be regulated: Street vendors who refuse to be regulated by the Satpol PP in an anarchic manner or commit violence can be subject to criminal charges regarding resistance to officers.
  - c) Damaging public facilities: Street vendors who damage public facilities, such as sidewalks, parks, or flower pots, can be subject to criminal charges regarding damage to property.
3. Criminal Sanctions:
  - a) Fines: The amount of fines is regulated in the Regional Regulation.
  - b) Imprisonment: Prison sentences are usually only applied for serious offenses, such as violence against officers or damaging public property.
4. Handling Approach:

Street vendor control should prioritize a persuasive and educational approach. Criminal sanctions should only be used as a last resort after non-criminal efforts to improve and regulate the area have failed.

#### 5. The Importance of Balance:

Street vendor regulation must be carried out by balancing law enforcement with the fulfillment of street vendors' rights to work and do business. Local governments need to provide alternative solutions for street vendors, such as providing suitable sales spaces and skills training to increase their competitiveness.

The criminal aspects of street vendor enforcement are complex and require in-depth study. Street vendor enforcement must prioritize a persuasive and educational approach, taking into account the street vendors' rights to work and pursue business, and the local government's obligation to provide alternative solutions.

In Kendari City, the issue of regulating street vendors (PKL) is often tinged with criminal aspects. Criminal sanctions, like a double-edged sword, are a tool used to enforce regulations and maintain order. However, their implementation often sparks debate and controversy.

In order to delve into the regulations, regarding the legal basis for regulating street vendors, there are two main regional regulations in Kendari City which serve as the legal basis for regulating street vendors with criminal aspects:

1. Kendari City Regional Regulation (Perda) Number 10 of 2012 concerning the Arrangement and Empowerment of Street Vendors:
2. Mayor's Regulation (Perwal) of Kendari City Number 13 of 2008 concerning Technical Instructions for the Implementation of Kendari City Regional Regulation Number 10 of 2012 concerning the Arrangement and Empowerment of Street Vendors:

Several cases of street vendor control in Kendari City have sparked controversy and debate regarding criminal aspects:

1. Mandonga Market Rejection Case: In 2016, a protest against the regulation of street vendors at Mandonga Market resulted in a clash with the Public Order Agency (Satpol PP). Several street vendors were arrested and prosecuted on charges of resisting officers.
2. Public Facility Damage Case: In 2019, a street vendor in the Kendari Football Field area was arrested for damaging public facilities during a public order operation. The vendor faces criminal penalties under Article 437 of the Criminal Code concerning property damage.

The application of criminal law to street vendor enforcement in Kendari City has often drawn criticism and debate. Some points highlighted include:

1. Effectiveness of Law Enforcement: It is questionable how effective criminal sanctions are in regulating street vendors and permanently resolving street vendor problems.
2. Street Vendors' Rights to Work and Run a Business: It is feared that criminal enforcement could violate the rights of street vendors to work and run a business, especially for street vendors whose livelihood depends on their business.
3. Persuasive and Humanist Approach: Many parties encourage the implementation of a persuasive and humanist approach in regulating street vendors, with a focus on coaching and empowerment.

However, the regulation of street vendors with criminal aspects in Kendari City is faced with various challenges:

1. Limited Employment Opportunities: The lack of formal employment opportunities is one of the factors driving the rise of street vendors.
2. Lack of Alternative Solutions: The lack of alternative solutions for street vendors who are being disciplined, such as providing a suitable place to sell, makes it difficult for them to earn a living.
3. Coordination between Agencies: Strong coordination is needed between related agencies, such as the Public Order Agency (Satpol PP), the Trade Service, and the Social Service, in controlling street vendors.

Several solutions that can be considered to address the problem of regulating street vendors with criminal aspects:

1. Selective Law Enforcement: Criminal law enforcement should be carried out selectively and in a measured manner, taking into account the underlying factors.
2. Development and Empowerment of Street Vendors: Increasing development and empowerment of street vendors, such as training and business mentoring, can help them improve the quality of their businesses and their welfare.
3. Provision of Suitable Selling Places: Local governments need to

#### 4.2 Implementation of Criminal Sanctions in the Control of Street Vendors (PKL)

Sanctions are threats of punishment, a means of forcing compliance with rules, laws, or legal norms, as a consequence of actions or reactions from others or all actions. Sanctions are a person's personal assessment of attitudes and behaviors that are not recognized or are deemed ineffective if followed.

The influence of law and the concept of its purpose can be interpreted as meaning that the concept of influence will be meaningful if attitudes, actions or behavior can be linked to a legal rule in reality, have a positive influence or its effectiveness depends on the purpose or intent of a legal rule.

The Civil Service Police Unit, as part of the government apparatus, carries out its activities by implementing the principles of good governance to the best of its ability. Good governance has two meanings: If a criminal offense is committed by the civil service police during the street vendor enforcement process, the Kendari City Government must implement sanctions. However, the current criminal enforcement of street vendor enforcement has not complied with existing regulations and provisions, as stipulated in Article 351 paragraph 3 (of the Criminal Code), which stipulates that those who violate this article will be subject to a maximum imprisonment of seven years.



Meanwhile, currently, the only sanctions imposed are warnings. This is certainly not yet effective, and these sanctions have not yet been implemented. Because of this ineffectiveness, violent acts by civil service police are still common and frequently encountered in Kendari City.

The police's investigative process, based on National Police Chief Regulation No. 14 of 2012, involves conducting a case review during the investigation/examination stage. To determine a suspect or to apply the article, investigators should apply sanctions or the article contained in Article 351 of the Criminal Code concerning assault. However, in reality, what the author found in the field was that investigators did not provide or apply these sanctions to perpetrators who committed a crime, especially the one the author researched, namely civil service police who committed a crime against street vendors.

In addition to triggering weak law enforcement by law enforcement officers themselves and several influencing factors, there were several acts of abuse carried out by the Civil Service Police Unit in the form of beatings, kicking, and vandalism which resulted in injuries and even death. This action is of course unjustifiable because based on the 1945 Constitution, Article 28 G, the first paragraph mandates that "every person has the right to protection of themselves, their family, their honor, their dignity and their property under their control, and has the right to a sense of security and protection from the threat of fear to do or not do something that is their basic right."

The act of abuse carried out by the Civil Service Police is an act prohibited by criminal law, the provisions of which are contained in Article 351 paragraph (1) of the Criminal Code (KUHP), namely "Assault is punishable by a maximum prison sentence of two years and eight months and a maximum fine of three hundred rupiah."

Based on these provisions, acts of assault are subject to sanctions in accordance with statutory provisions. However, these provisions have not yet been implemented. The sanctions that should be imposed on civil service police officers who commit violent crimes are those stipulated in Article 351 of the Criminal Code concerning assault and disciplinary sanctions imposed by the Civil Service Police Unit. Where the sanctions given are imprisonment in accordance with the act where the act has violated the law or a criminal act and disciplinary sanctions in the form of dismissal, because the person concerned has violated Government Regulation Number 6 of 2010 concerning the Civil Service Police Unit. However, in the research that the author obtained for now, the sanctions given to civil service police who commit the crime are only given sanctions in the form of a warning.

This clearly indicates that sanctions imposed on perpetrators of these crimes are not in accordance with existing government regulations or are ineffective. Based on the author's interview with a member of the Kendari City Civil Service Police, he explained that most of the perpetrators were aware of their mistakes or violations. The criminal act itself is to improve criminals to become good people and useful for society, revenge against offenders for having committed crimes, and to deter or prevent so that both the accused as an individual and other people who have the potential to become criminals will be afraid to commit crimes, seeing the punishment imposed on the accused.

The purpose of imposing criminal sanctions will not be achieved if the offender is unwilling to change and improve themselves. Recognizing their mistakes requires self-awareness. The author then uses Van Bemmelen's theory, which aims to secure society. Actions are intended to secure and maintain these goals. Therefore, both punishment and action aim to prepare the convict for their return to society.

Grotius developed a combined theory that emphasized absolute justice embodied in retribution, yet beneficial to society. The basis of every punishment is severe suffering commensurate with the gravity of the act committed by the convict. However, the extent to which the severity of the punishment and the gravity of the act committed by the convict can be measured is determined by what is beneficial to society. Grotius' theory was further developed by Rossi and then Zenverbegen, who argued that every punishment is retaliation, but the purpose of every punishment is to protect the legal order. Punishment restores respect for the law, and the second combined theory emphasizes the defense of social order. This theory should not be more severe than it entails, and its benefits should not be greater than they are intended to be.

## V. CONCLUSION AND SUGGESTION

### 5.1 Conclusion

1. The criminal aspects of street vendor enforcement are complex and require in-depth study. Street vendor enforcement must prioritize a persuasive and educational approach, while considering the street vendors' rights to work and engage in business, and the local government's obligation to provide alternative solutions. By understanding the complexities of the criminal aspects of street vendor enforcement in Kendari City, we hope to be motivated to seek just and sustainable solutions. Solutions that prioritize not only enforcement of regulations but also consider the rights and needs of street vendors to live and work decently.
2. So far, criminal handling of street vendor control has not been in accordance with existing regulations and provisions, as stated in Article 351 paragraph 3 (Criminal Code), which states that those who violate this Article will be subject to a maximum imprisonment of seven years. Currently, the only sanction given is a warning. Due to the ineffectiveness of these sanctions, violent crimes committed by civil service police are still common and frequently encountered in Kendari City.

### 5.2 Suggestions

Suggestions to reduce the occurrence of criminal acts in controlling street vendors:

1. A Persuasive and Humanistic Approach: Prioritizing dialogue and persuasive approaches in regulating street vendors, involving street vendors in the decision-making process. Providing intensive outreach regarding street vendor regulations and policies to street vendors and the community. Conducting regular data collection and coaching for street vendors to understand their problems and needs.
2. A real and sustainable alternative solution is to provide decent and affordable selling spaces for street vendors, such as traditional markets, culinary centers, or MSME kiosks. Facilitate access to capital and business mentoring for street vendors to improve the quality of their businesses. Build partnerships with the private sector to provide selling spaces for street vendors.

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