

# Enforcement of Criminal Law Against Homeless and Beggars in Public Places

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## ABSTRACT

*The rapid development in urban areas has become an allure for people in rural areas to try their luck. This is because the urban area is seen as a large economic center. As a result, massive urbanization occurs from rural areas to urban areas without the support of adequate capacity. The emergence of the phenomenon of beggars in urban areas is one of the implications of this problem. The purpose of this study was to determine the factors that make urban areas an attraction for homeless people and beggars in Kendari City. The results show that based on field studies that vagrant beggars in public places have increased by more than 50%. This is implied by the increase in Poverty caused by the dim economic sector due to COVID 19. Therefore, it is necessary to take legal action against vagrant and beggars and also efforts to control them in accordance with applicable regulations.*

**Keywords:** Poverty, Vagrant, Beggar, Regulation

## I. INTRODUCTION

The 1945 Constitution is the constitutional basis of the Republic of Indonesia. Since the Indonesian nation became independent from colonialism, the founders of the country have put forward this proposal. The 1945 Constitution is the highest basic law that governs the state and its life. The 1945 Constitution has been amended four times in 1999, 2000, 2001, and 2002 which has resulted in the formulation of a constitution that is far more robust in guaranteeing the constitutional rights of citizens. Vagrant and street children, the government, and the 1945 Constitution Article 34 paragraph 1 are interconnected, the 1945 Constitution Article 34 paragraph 1 which reads that the poor and neglected children are cared for by the state. The 1945 Constitution has the meaning that vagrants and beggars and stray kids are maintained or empowered by the state which is carried out by the government. Poor people are people who are helpless because they don't have a job, let alone income, and they also have no relatives on this earth.

The poor are people who already have income but it is not sufficient for their expenses, but they still have families that if they are still able to help those who are poor. So, the poor can be said to be people who must be assisted in their lives and the government should be more sensitive to their existence. The poor can be described through Homeless and Beggars. There are still many seen in urban areas and areas of vagrants and beggars on the streets, crowd centers, red lights, places of worship, schools and campus.

The existence of homeless people and beggars has become a part of life in big cities in Indonesia, especially in the city of Kendari, homeless and beggars are often seen on the roadside, in front of shops and begging in public places.

Begging and being homeless have become options for people who cannot compete in the midst of community life due to the limited number of jobs and lack of education and lack of skills in a particular field. Causing begging and being homeless is the right choice to meet the needs of their daily economic life by expecting the mercy of others. Where doing the act of begging and being homeless is a job that does not require expertise and skills to make money. This condition causes problems in society as well as existing laws or norms, begging in public places and is considered a disease of society and is no longer in accordance with existing legal norms.

The act of wandering around and begging in public places can be categorized as a form of crime, seen from the social aspect in criminology where criminals are people who fail to adjust to societal norms, so that their behavior cannot be justified by the community (Nursariani Simatupang and Faisal. 2017. *Kriminologi*. Suatu Pengantar. Medan: Pustaka Prima, page 96).

In the Indonesian Dictionary the word "beg" comes from the word "emis" and has two meanings, begging with alms and asking humbly and full of hope. While beggars are people who perform acts of begging. While the Kendari City Regulation Number 6 of 2003 explains in article 1 letter F, homeless people are people who live in conditions that are not in accordance with the norms of a decent life in the local community and do not have a permanent place to live and work in certain areas and live wandering. in public places. In article 1 letter G explains, Beggars are people who earn income by begging in public in various ways, either in the form of busking and other reasons to expect mercy from others.

One form of law violation committed by vagrancy and begging is a violation of articles 504 and 505 of the Criminal Code. The act of begging and wandering in public places is regulated in the Criminal Code in article 504 paragraphs 1 and 2, "Whoever begs (begging) in public places is punished for begging, with a maximum imprisonment of six weeks". In paragraph 2, "Begging which is done jointly by 3 (three) or more people, each of whom is more than 16 years old, is sentenced to a maximum imprisonment of 3 (three) months. R. Soesilo argue that this article does not prohibit poor people from asking for help, but prohibits doing such acts in public places, for example in markets, stations, on the side of the road, etc. inappropriate and disgraceful. If you come to someone's house to ask for it, this article is not subject to this article, as long as it is not visible from the public road (R. Soesilo. 1986. *Kitab Undang-Undang Hukum Pidana (KUHP) Serta Komentar-Komentarnya Lengkap Pasal Demi Pasal*. Bogor: Politeia, page 327).

Regarding the act of vagrancy in the Criminal Code Article 505 paragraphs 1 and 2, "Anyone who does not have a wandering search is punished for traveling, with a maximum imprisonment of 3 (three) months. And in verse 2". Traveling carried out jointly by 3 (three) or more persons, each of whom is more than 16 years of age, shall be sentenced to imprisonment for a maximum of 6 (six) months. R. Soesilo also argues, travelers are wandering, midfield or adventurous, meaning to wander here and there, moving from one place to another. Usually this is done by begging here and there (R. Soesilo. 1986. *Kitab Undang-Undang Hukum Pidana (KUHP) Serta Komentar-Komentarnya Lengkap Pasal Demi Pasal*. Bogor: Politeia, page 327).

The actions of homeless people and beggars are not in accordance with existing legal norms and can be categorized as a form of crime from a social aspect. At present, the criminal provisions governing the acts of homeless people and beggars in public places are almost never applied in an effort to enforce the law against acts of homeless people and beggars in public places. It is regulated in Article 7 of Law Number 11 of 2009 concerning Social Welfare and Government Regulation of the Republic of Indonesia Number 39 of 2012 concerning the Implementation of Social Welfare. Efforts made are to carry out rehabilitation through social institutions where this effort is often applied in law enforcement against the actions of homeless people and beggars.

In the law described above, it does not regulate the enforcement of criminal law or does not mention criminal provisions, where there are different rules governing the act of vagrants and beggars in public places as a violation that can be subject to criminal sanctions. Criminal provisions or articles that regulate criminal witnesses such as losing their existence in an effort to enforce the law against acts of homeless people and beggars which are a form of violation. Events that often occur Homeless and beggars have become jobs with lots of income which are an opportunity for certain elements to make homeless people and beggars their main job to make a profit.

## II. LITERATURE REVIEW

### 2.1 Definition of Poverty

Poverty is a very broad and very complex concept so it is very difficult to formulate a comprehensive meaning, in the sense of representing all the meanings contained in the concept of poverty (Siagian Matias. 2012. *Poverty and Solutions*. Medan: Grasindo Monorotama: 24). The formulation of the definition of poverty by various parties is certainly limited by which aspects are emphasized in formulating the definition of poverty. This method will not produce a generalist meaning of poverty, but it will be more factual, because usually the emphasis and selection of aspects of the study carried out is influenced by facts, experience, history, and the background of those who formulate the definition.

The following definitions of poverty include:

1. World Bank (2002) defines poverty as a condition where there is a deficiency in the standard of living of humans, both physically and socially as a result of not achieving a decent life because income does not reach US\$1.00 per/day.
2. If viewed from a standard of decent living needs or the fulfillment of basic needs, poverty is a condition of not meeting basic needs or basic needs caused by a shortage of goods and services needed in an effort to meet a decent standard of living.
3. In terms of income, poverty is a condition of lack of income as capital to meet basic living needs.
4. If viewed from the perspective of opportunity, poverty is the impact of inequality in opportunity to obtain and accumulate social power bases
5. When viewed from the situation experienced, poverty is a condition characterized by hunger, inadequate clothing and housing, low levels of education and having few opportunities to obtain basic health services (Siagian Matias. 2012. *Poverty and Solutions*. Medan: Grasindo Monorotama: 25-26).

## 2.2 Characteristics of Poverty

It is difficult to obtain clear and accurate information regarding what indications can be used as a guide, while these people are said to be not poor. to state accurately, that such people are called poor people. A study shows that there are five characteristics of poverty, namely:

- 1 Those who live under poverty generally do not have their own production factors, such as large enough land, adequate capital, or adequate skills to carry out an economic activity according to their livelihood.
- 2 They generally do not have the possibility or opportunity to obtain production assets with their own strength.
- 3 The level of education is generally low, for example not completing elementary school, or only finishing elementary school.
- 4 In general, they fall into the category of underemployed population.
- 5 Many of those who live in cities are young, but do not have adequate skills or education (Siagian, 2012:20-23).

Identical to the characteristics of poverty as already stated, Emil Salim suggests five characteristics of poverty, namely:

1. The poor generally do not own the factors of production.
2. The poor in general also do not have the possibility to obtain production assets if by their own strength.
3. The poor generally have a low level of education.
4. Many of the poor people do not have facilities so that their lives are not worthy.
5. Among the poor there are groups with a relatively young age and do not have adequate skills or education (Salim in Siagian, 2012: 23-24)

## 2.3 Theory of Poverty

Cheyne O'Brien, and Belgrave suggest that there are two main theories (grand theory) about poverty, namely neo-liberal theory and social democratic theory (Suharto in Papilaya, 7 Tips to Accelerate Poverty Reduction and Poverty of the Nation. Bogor: IPB Press: 2013:17). Neo-liberal theory basically says that an important component of a society is individual freedom. The theory focuses on individual behavior which is a theory of choices, expectations, attitudes, motivations, and human capital (Sherraden in Papilaya, 7 Tips for Accelerating Poverty Reduction and Nation's Poverty. Bogor: IPB Press: 2013: 17). Supporters of neo-liberal theory argue that poverty is an individual problem or the choices of the individual concerned. Poverty will disappear by itself if market power is expanded as much as possible and economic growth is stimulated as high as possible. Poverty reduction strategies are "residual" or temporary and involve only families, non-governmental organizations, or religious institutions.

On the other hand, Social-Democratic theory views that poverty is not an individual problem, but a structural one. Poverty is caused by injustice and inequality in society due to blocked access of certain groups to various social resources. The Social-Democrats do not view the capitalist economic system as evil. By using a convergent approach to neo-liberal theory and social-democratic theory, it can be understood the causes of poverty holistically, fundamentally, and deeply. These two theories do not deny each other, but enrich each other in a pluralist perspective. (Papilaya, 7 Tips for Accelerating Poverty Reduction and the Poverty of the Nation. Bogor: IPB Press: 2013: 18)

## 2.4 Types of poverty

According to KIKIS (2003) the types of poverty are as follows:

1. Human poverty, namely the lack of essential human capabilities, especially literacy and nutrition.
2. Income poverty, namely lack of income so that it is not enough to meet the needs of cucumber consumption.
3. Absolute poverty is the level of poverty below the minimum need for survival that cannot be met.
4. Relative poverty, which is defined in relation to an absolute poverty line ratio or in developed countries as a proportion of the average income per capita.
5. The human development index (HDI), that is, according to the United Nations Development Programme, HDI is a composite of three factors, namely life expectancy at birth, adult literacy, and income per capita.
6. The human poverty index (IKM) is a measure of the absence of basic human needs.
7. Measures of gender empowerment, namely the assessment of the United Nations Development program on the level of gender inequality in important economic fields, political participation, and decision making (Papilaya, 2013:29).

## 2.5 Definition of vagabond and beggar

The words homeless and beggars are often abbreviated as "sprawl". Indonesian people in general are very familiar with the acronym/abbreviation of "gepeng" (bums and beggars) which are not only common vocabulary in everyday conversation and topics of mass media coverage, but have also become a term in government policy referring to a group of people. which are commonly found in big cities. Another vocabulary that is often used to describe the existence of homeless people and beggars in Indonesian society is homeless (Ahmad Maghfur, 2010: 2). According to the provisions of the Republic of Indonesia Government Regulation No. 31 of 1980 concerning the Handling of Homeless and Beggars, what is meant by the homeless and beggars are as follows: "Homeless people are people who live in conditions that are not in accordance with the norms of a decent life in the local community, and do not have a permanent place to live and work in the community. certain areas and live wandering in public places while beggars are people who earn income by begging in public with various ways and reasons to expect mercy from others".

The Ministry of Social Affairs of the Republic of Indonesia also provides the same formulation as the Government Regulation of the Republic of Indonesia No. 31 of 1980 concerning the Handling of Homeless and Beggars regarding the definition of homeless and beggars as follows: "Homeless are people who live in conditions

that are not in accordance with the norms of a decent life in the local community and do not have a permanent place to live and work in the area. certain people and live wandering in public places while beggars are people who earn income from begging in public with various reasons to expect mercy from people" (Directorate of Social Services and Rehabilitation of the Socially Impaired, 2005: 2).

In the Indonesian Dictionary by W.J.S. Poerwadarminta said as follows: wandering is walking here and there does not necessarily mean. Homeless, means people who are homeless (not sure where to live and work) (Arrasjid, 1980:1). Thus, the homeless can be interpreted as a person who is *lontang lantung* because he does not have a place to live or has an inappropriate place to live and who does not have a livelihood or an improper livelihood. Based on this definition, the homeless can be divided into 4 groups:

- 1 Jobless and homeless Employed and homeless people are completely unemployed and do not have a permanent residence.
- 2 Unemployed and unworthy homeless Employment and unworthy homeless people are not having a job at all, but having an improper permanent residence.
- 3 Employed-unworthy and homeless Employed-unworthy and homeless are those who have inappropriate jobs and do not have a permanent residence.
- 4 Unworthy work and unworthy homeless Work and inappropriate home are those who have inappropriate jobs, and do not have proper permanent residence (Chainur Arrasjid, Homeless in the Definition of Criminal Law. Faculty of Law USU 1980: 3).

In addition to the four groups mentioned above, we must also pay attention to age. That is, homeless people are distinguished on the basis of age, whether they are adults or not (children). This is very important because if viewed from the psychology perspective, the period or phases of age development can determine the way and nature of human life further, as well as other aspects. Based on this, it can also be classified into:

#### **1. Adult tramp;**

- a. Healthy and physically strong.
- b. Sick and physically weak.
- c. Healthy in body, but invalid (for example, even though he has no legs, but his body is healthy).
- d. His soul is sick/disturbed.

#### **2. Homeless children / minors.**

- a. Healthy and physically strong according to his age.
- b. Sick and physically weak.
- c. Healthy, but invalid.
- d. Mental illness/disturbed soul.

The difference above is to determine a solution, because not all homeless people can be given the same solution in the context of dealing with homeless people (Chainur Arrasjid, Homeless in the Definition of Criminal Law. Faculty of Law USU 1980:4-5).

Especially for beggars, it is commonly used as a designation for people who need money, food, shelter, or other things from people they meet by asking. They use various attributes, such as tattered and tattered clothes, hats, plastic cups or candy wrappers, or small boxes to put the money they get from begging. They make begging as their job for various reasons, such as their poverty and powerlessness due to narrow employment opportunities (Dimas Dwi Irawan, Undercover Beggars Secrets About the Life of Beggars, Titik Media Publisher, Jakarta. 2013:1).

Broadly speaking, beggars can be defined as people who earn income by begging in public in various ways and reasons to expect the mercy of others. The criteria that can be given include:

1. Children to adulthood (boys/girls) aged 18-59 years.
2. Begging in people's homes, shops, crossroads (traffic lights), markets, places of worship, and other public places.
3. Acting to get mercy pretending to be sick, moaning and sometimes praying by reading scriptures, donations to certain organizations.
4. Usually has a certain or permanent place of residence, blending in with the population in general.

The problem of poverty is still a global issue. This means that poverty is not only a major problem in third world countries, but is still a problem in developed industrial countries. In almost all developing countries, only a part of the population can enjoy the results of development, the rest the majority of the population lives in poverty. Poverty is a social reality that cannot be avoided by society. Besides being felt directly by the poor, poverty also has a bad impact on human life. This is because the poverty chain is the emergence of other problems, such as unemployment, hunger, ignorance, and others (Beni Ahmad Saebani, Adon Nasrullah Jamaludin. 2017. Urban Sociology, Understanding City Communities and Its Problems. BANDUNG: CV Pustaka Setia, page 231). Poverty is defined as a condition in which a person is unable to take care of himself in accordance with the standard of living of the group and is also unable to utilize his mental and physical energy in the group. According to history, the situation of rich and poor side by side was not a social problem until the time for trade to develop rapidly and the emergence of new social values. With the development of trade throughout the world and the adoption of a certain standard of living as a social habit, poverty emerged as a social problem (Soerjono Soekanto, Budi Sulistyowati. 2017. Sociology, An Introduction. JAKARTA: PT RajaGrafindo Persada, page 319).

Begging or begging is asking for help, alms, donations, either to individuals or institutions. Begging is synonymous with the appearance of shabby clothes, which are used as a means to express needs as they are. The things that encourage someone to beg-one of the contributing factors-because of the easy and fast results obtained. It



is enough to reach out to community members to provide assistance or donations.

A homeless person is someone who lives in a state that is not in accordance with the norms of a decent life in society, does not have a livelihood and does not have a permanent place to live. Meanwhile, a beggar is a person or group and/or acting on behalf of a social institution that earns income by asking for it on the streets and/or public places for various reasons to expect mercy from others (Kendari City Regional Regulation No. 9 of 2014 concerning the Guidance of Street Children), vagrants, beggars and buskers).

The term "sprawl" is an abbreviation of the words homeless and beggars. The term sprawl, is often shown to beggars, travelers, street workers, and so on. In the General Indonesian Dictionary, beggars are defined as "people begging", which comes from kemis. The word "Beggars" by the Ministry of Social Affairs of the Republic of Indonesia is included in the PMKS (People with Social Welfare Problems). Homeless and beggars are still a problem in big cities. The problems are very accumulative, such as poverty, low education, lack of work skills, environment, socio-culture, health, and so on. The description of the problem can be described as follows.

- a. Poverty problem. Poverty causes a person to be unable to meet minimum basic needs and the range of public services so that they cannot develop their personal or family life properly.
- b. Education problems. In general, the education level of the homeless and beggars is relatively low, so it becomes an obstacle to getting a decent job.
- c. Job skills problems. In general, homeless people and beggars do not have skills that match the demands of the labor market.
- d. Socio-cultural problems. There are several socio-cultural factors that influence a person to become a homeless person and a beggar.
- e. Low self-esteem. Low self-esteem in a group of people results in no shame in begging.
- f. Surrender to fate. They assume that poverty and conditions as vagrants and beggars are fate, so there is no will to make changes.
- g. The freedom and pleasures of life are homeless. There is a pleasure for most of the homeless beggars who live homeless because they feel they are not bound by the rules and norms that sometimes burden them so that begging is one of the livelihoods.
- h. Health problems. In terms of health, homeless people and beggars are categorized as citizens with low levels of physical health due to poor nutrition and limited access to health services.

According to the Indonesian Ministry of Social Affairs, homeless people are people who live in conditions that are not in accordance with the norms of a decent life in the local community and do not have a permanent place to live and work in certain areas and live wandering in public places. As for beggars are people who earn income from begging in public with various reasons to expect mercy from others. So, homeless and beggars are people who live vagrants and beg at the same time.

## 2.6 Definition of Law Enforcement

Law aims to regulate the order of society. In order for the purpose of the law to be realized, the law determines norms that contain commands and prohibitions, which must be obeyed by everyone. Therefore, the implementation of the law can be forced. Such coercion is a characteristic of the law, when compared to other norms. In addition, the law also determines various instructions regarding the relationship between humans with one another in social life. For example, the prohibition of killing, the prohibition of stealing, the order to pay taxes and so on. According to the monoism method, law is a set of rules or *das sollen*, (deductive method) and law is a symptom of society or *das sein* (inductive). The dualism method is a combination of the deductive method with the inductive method, so according to the legal dualism method in the set of rules accepted and adhered to by the community (*das sollen-das sein*) or as a symptom of society that is indeed required or prohibited.

In order for the purpose of the law to be achieved, the law must be obeyed and obeyed by everyone. In turn, to be obeyed voluntarily, the law must be in accordance with the human sense of justice in social life.

Van Apeldoorn (1996: 72), law is a social phenomenon there is no society that does not know the law, then the law becomes an aspect of culture such as religion, decency, customs, and habits.

E. Utrecht, states that law is a set of instructions and prohibitions that govern the order in a society and should be obeyed by all members of the community concerned, therefore violations of these guidelines can lead to action by the government or authorities (Pipin Syarifin, 1999). *PIH Introduction to Legal Science*. Bandung: Pustaka Setia, pages 20-24).

Exactly when the law came into existence is unknown. If the classic expression "ubi societas ibi ius" is followed, it means that law has existed since society existed (Peter Mahmud Marzuki. 2011. *Introduction to Legal Studies*. Revised Edition. Jakarta: Kencana, p. 41).

Law is abstract. This means that the law has an abstract nature even though in its application it can be concrete, as seen in the judicial mechanism and the implementation of the law, in the event of a criminal case or conflict in society. Law is much broader and abstract in nature when compared to the judicial process and written law (Zaeni Asyhadie, Arief Rahman. 2012. *Introduction to Legal Studies*. Mataram: PT Raja Grafindo Persada, page 11). The following are some definitions of law that are grouped according to definitions that primarily see law as a rule or norm, thus these definitions see law as normative law. Included here include.

1. According to John Austin, positive law is a direct or indirect order from a king or sovereign body in a position as politically superior. This definition is usually abbreviated as positive law is the command of the sovereign (positive law is the command of the sovereignty). Why is the term positive law used, not just law, because Austin

emphasizes that the law, he means here is a law made by the sovereign in a country so that it is a law that can actually be applied by the rulers of the country.

- 2 According to Hans Kelsen, law is a system of norms that regulate human behavior. What is meant here is that the law consists of norms from which a system is formed.
- 3 According to Gustav Radbruch, law is a complex of general rules for living with humans whose ideas are ultimately oriented towards justice or benefit.
- 4 According to J. van Kan and J.H. Beekhuis, law is "a set of coercive rules, or in other words, a coercive group of life associations."
- 5 According to Bronwen Morgan & Karen Yeung, laws are authorized regulations supported by coercive power, which are implemented by a legally formed State (Donald Albert Rumokoy, Frans Maramis. 2013. Introduction to Legal Studies. Manado: PT Raja Grafindo Persada, pages 11-13).

In general, law is a regulatory system that is used as a tool to regulate society and to achieve goals and fulfill concrete needs in society. Law is a regulation of human behavior, which is held by authorized official bodies, which is coercive, must be obeyed, and provides strict sanctions for violators of these regulations (the sanctions are certain and can be felt real for the person concerned).

Law is a human work in the form of norms that contain behavioral instructions. Law is also a reflection of human will about how society should be fostered and where it should be directed. Therefore, in the first place the law contains a record of the ideas chosen by the society in which the law was created regarding justice.

The law relates itself to society as a social basis. This means that the law must pay attention to the needs and interests of community members and provide services. The law is not always used to giving its decision immediately, because the law takes time to consider. People not only want to see justice created in society and their interests served, but they also want that in society there are regulations that guarantee certainty in their relationships with one another (Sri Warjiyati. 2018. Understanding the Basics of Legal Science. Basic Concepts of Legal Studies. Jakarta: Kencana, page 29).

Law enforcement that brings law closer as a *sollen gesetze* in everyday life, then that's when the law is tested by and applied to the world of everyday reality, resulting in an interaction process involving four elements, namely:

- a. The will of the law, meaning the goals and promises contained in the legal regulations;
- b. Law enforcement actions;
- c. Law enforcement structures;
- d. The influence or operation of the forces that come from the realities of everyday life.

If there is a process of interaction between the four elements, according to Satjipto Rahardjo, it will lead to a tendency for various things to be grouped into events that hinder the creation of a good law enforcement. Events that may hinder law enforcement are as follows:

- 1) Misinterpretation of the law;
- 2) Lack of ability to maintain legal integrity;
- 3) The desire for power;
- 4) Bribery;
- 5) Employment of work for personal purposes (Donald Albert Rumokoy, Frans Maramis. 2013. Introduction to Legal Studies. Manado: PT Raja Grafindo Persada, page 182).

Enforcement of the rule of law is coercive. Rules of law are not made to be broken but to be obeyed. To enforce the law, it is also regulated regarding the apparatus authorized to supervise and enforce it, even with repressive measures. There are also legal norms that are facultative or complete. The law has sanctions and every violation or act against the law will be subject to strict sanctions. The sanctions are regulated in legal regulations. Aristotle's opinion in his *Rhetorica* says that the purpose of law is to uphold justice. Opinion of Drs. E. Utrecht, S.H., who said that the purpose of law is to achieve legal certainty (Ridwan Halim. 2005. Introduction to Legal Studies in Questions and Answers. Second Edition. Bogor: Ghalia Indonesia, page 72).

Law enforcement and justice are a series of processes that are quite long and may involve several authorities of other law enforcement agencies/apparatus (in the field of criminal law enforcement involving investigators/police officers, public prosecutors/prosecutors, court officials, and criminal implementing officers) (Barda Nawawi Arief 2010. Problems of Law Enforcement and Criminal Law Policy in Crime Prevention Semarang: Kencana, page 4).

With the conclusion of the law-making as described above, the legal process has only completed one stage of a long journey to regulate society. The law-making stage still has to be followed by its concrete implementation in people's daily lives. This is what law enforcement means.

In Indonesian, several terms are known outside of law enforcement, such as "the application of the law". However, it seems that the term law enforcement is the most frequently used and thus in the future the term will be more established or is a coined term. In foreign languages we are also familiar with various terms, such as: *rechtstoepassing*, *rechtshandhaving* (Dutch); law enforcement, application (America).

In a modern state structure, the task of law enforcement is carried out by the executive component and carried out by the bureaucracy of the executive, so it is often called the law enforcement bureaucracy. Since the State has intervened in many fields of activity and services in society, legal interference has also intensified, such as in the fields of health, housing, production, and education. This type of state is known as the welfare state. The executive and its bureaucracy are part of the chain to realize the plans contained in the legal (regulations) dealing with these

areas (Satjipto Rahardjo. 2006. Legal Studies. Sixth Printing. Semarang: PT Citra Aditya Bakti, p. 181).

## 2.7 Definition of Criminal Law

Criminal comes from the word Straf (Dutch), often referred to as punishment. The term criminal is more appropriate than the term punishment because the law is usually a translation of recht. It can be said that the term criminal in a narrow sense is related to criminal law. Criminal is defined as suffering that is intentionally imposed/given by the State on a person or persons as a result of law (sanctions) for him for his actions that have violated the prohibition of criminal law.

According to the provisions of Article 10 of the Criminal Code, there are several types of punishments that can be imposed on a person who has committed a criminal act, where the punishment to be imposed can be in the form of:

### a. Principal crime:

1. Death penalty;
2. Imprisonment;
3. Confinement;
4. Fines.

### b. Additional penalties:

1. Revocation of certain rights
2. The confiscation of certain items
3. Announcement of the judge's decision (Teguh Prasetyo. 2010. Criminal Law. Revised Edition. Yogyakarta: PT Raja Grafindo Persada, page 117).

If we view the law as a rule, then we must not, we must recognize sanctions as one of its essential elements. Almost all jurists with a dogmatic view view the law as a sanctioned rule that is supported by the highest authority in society.

## 2.8 Definition of Crime

According to Wirjono Prodjodikoro (Wirjono Prodjodikoro 2009. Principles of Criminal Law in Indonesia Third Edition cet. 3rd. Bandung. Refika Aditama. P. 59):

"Criminal acts or in Dutch strafbaarfeit, which is actually an official term in Wetboek van Strafrecht or the Criminal Code (hereinafter abbreviated as the Criminal Code), which is now applicable in Indonesia, there is a term in a foreign language, namely delict which means an act which the perpetrator can be subject to criminal law and this perpetrator can be said to be the subject of a criminal act.

In Indonesian laws and regulations, there is no definition of a criminal act. The definition of a crime that has been understood so far is a theoretical creation of legal experts. Criminal law experts generally still include mistakes as part of the definition of criminal acts. Similarly, what is defined by Simons and Van Hamel. These two Dutch criminal law experts have colored the opinions of Dutch and Indonesian criminal law experts to date.

Simons (Chairul Huda, 2008: 27), argues that strafbaarfeit is "behavior that is threatened with crime, is against the law, and is related to mistakes made by people who are capable of being responsible."

Meanwhile, Van Hamel (Chairul Huda, 2008: 27), argues that strafbaarfeit is "the behavior of people who are formulated in the law, is against the law, deserves to be punished and makes mistakes."

The two criminal law experts still include an element of error in the definition of a crime. For him, an act is a criminal act if it is also formulated about an error. Meanwhile, Schaffmeister (Chairul Huda, 2008: 27), states that a criminal act is "a human act that is included in the scope of the formulation of the offense, is against the law, and can be reproached."

In this case, even though the term error is not used, the term reprehensible has generally been understood as the meaning of error. So influential was the view of the Dutch legal expert, that it was generally followed by Indonesian criminal law experts, including the current generation. Komariah E. Sapardjaja (Chairul Huda, 2008: 27) argues that a crime is "a human act that fulfills the formulation of the offense, is against the law and the guilty maker commits the act."

The same thing was stated by Indriyanto Seno Adji (Chairul Huda, 2008: 28) that:

*"Criminal acts are the actions of a person who is threatened with a crime, his actions are against the law, there is an error and the perpetrator can be held accountable for his actions."*

"For the term "criminal act" is indeed commonly used in our laws and regulations, although the provisions are still debatable. The word "action" refers to human behavior in a purely positive sense, and does not include passive or negative human behavior. Moeljatno (Adami Chazawi, 2002: 71) uses The term criminal act is an act that is prohibited by a prohibition law which is accompanied by threats (sanctions) in the form of certain crimes, for anyone who violates the prohibition.

The opinion explains that it is said to be a criminal act if it contains elements of against the law, in which the act will be subject to sanctions (punishments) and apply to anyone who violates the prohibition.

While J.E. Jonkers (Adami Chazawi, 2002: 75) who chose the term criminal event as an unlawful act (wederrechtelijk) related to intentional or wrongdoing by an accountable person.

Furthermore, according to Pompe (E. Utrecht, 1986: 252) that criminal events can be viewed from two points of view, namely:

1. From a theoretical point of view, a criminal event is a violation of a rule or a violation of the legal system which was carried out due to the fault of the violator and must be punished in order to maintain the legal order and save the general welfare.

2. The positive aspect is that a criminal event is an event that causes a sentence to be imposed.

R. Tresna (Adami Chazawi, 2002: 73) states that although it is very difficult to formulate or give a precise definition of a criminal event, he also draws a definition which states:

*"A criminal event is an act or series of human actions, which are contrary to the law or other statutory regulations, for which actions are being punished".*

In addition to the term's criminal acts and criminal events, there is also another term that is widely used by legal experts, namely the term offense. The term offense itself comes from the Latin word *delicta* or *delictum*. Andi Zainal Abidin Farid (2007: 231) stated the reason that he prefers to use the term offense, because:

1. It is universal and known everywhere;
2. Shorter, more efficient and neutral;
3. Can include special offenses whose subject is a legal entity.

Meanwhile, Ruslan Saleh (Adami Chazawi, 2002: 78), argues that an offense is "an act that is contrary to the law or order that is desired by the public." From this description it can be concluded that a criminal act is an act of a legal subject or a human and a legal entity that violates the applicable provisions or laws accompanied by the threat of sanctions (criminal) for the perpetrators of the crime.

### III. RESEARCH METHOD

The approach used in this study is qualitative with the aim of producing a comprehensive and in-depth description of the existence of homeless beggars as the impact of increasing urban poverty in Kendari. This method makes it easier for researchers to see. The research methods used include: Interview methods are carried out to explore and obtain information from primary sources, for example from sources who are directly involved. To obtain information related to how the factors accompanying homeless beggars in Kendari, the researchers conducted interviews with several sources to explore more in-depth information to be analyzed. Information from interviews obtained from primary sources is then categorized and analyzed in order to bring up findings in accordance with the research objectives

### IV. DISCUSSION

#### 4.1 Data on Homeless and Beggars in Kendari City 2016-2020

**Data on Homeless and Beggars in Kendari City**

No	Year	Data on Homeless and Beggars in Kendari City	Forms of Law Enforcement	informantion.
1	2016	22 people	Raids and Arrests by Satpol PP	
2	2017	19 people	Raids and Arrests by Satpol PP	
3	2018	35 people	Raids and Arrests by Satpol PP	
4	2019	21 people	Raids and Arrests by Satpol PP	
5	2020	56 people	Raids and Arrests by Satpol PP	
Sum		153 people		

#### 4.2 Source of Social Service and Joint OPD

That based on the results of research conducted by the author on Homeless and Beggars in Kendari City, there were 153 people with the following details in 2016 as many as 22 people, in 2017 as many as 19 people, in 2018 as 35 people, in 2019 as 21 people and in 2020 as 56 people. . That from the data above the homeless and beggars have various activities ranging from begging, busking, selling crackers, and so on.

If you look at the table as above, every year there is an increase in the number of homeless people and beggars who go up and down. So that in 2017 the number of homeless and beggars in Kendari City can be said to be the fewest cases while the most cases are in 2020 amounting to 56 homeless and beggars in Kendari City.

#### 4.3 Factors That Cause Homeless and Beggars in Kendari City

Regarding the factors causing the acts of homeless people and beggars in Kendari City, basically they are divided into 2 factors, namely internal factors and external factors. What is interpreted by internal factors, namely factors that come from the personality of the perpetrator that causes homeless and beggars in Kendari City, in this case his personality likes to do various types of begging activities and others. This happens because of the desire from within and can also occur because of orders from other people to carry out homeless and beggar activities in Kendari City. While external factors are factors that arise from outside themselves so they want to carry out homeless and beggar activities in Kendari City.

Based on the results of interviews conducted by the author with Muh. Sabri, ST. The official of KASI for Social Rehabilitation, Social Impairment and Victims of Trafficking in Persons, Kendari City Social Service said that the form of law enforcement carried out to deal with homeless and beggar cases in Kendari City was in the form of raids conducted in various public places in Kendari City. In addition, law enforcement is also carried out such as the arrest of homeless people and beggars. Then based on the results of an interview with Rusfianah, S.Sos, an official of the Head of General Affairs and Satpol PP Office, she said that together with the government they arrested homeless people and beggars in the city of Kendari and then brought them to the Satpol PP office to make a statement so that they do not repeat the act of vagrancy and begging in Kendari City. If they violate, they will be given a sanction in the form of detention for several days.

Then regarding the internal factors that cause them to carry out vagrancy and begging activities, it is a factor of



laziness in themselves so that they always expect or depend on life on the road by begging. Lack of motivation to live a better life. In addition, the lack of religious understanding is also an internal factor. Do not have a good and broad understanding of religion in this case religion teaches not to beg or depend on other people for life and this is not known to the homeless and beggars.

The external factor that causes them to carry out homeless and begging activities is the economic factor. According to the author, economic factors include factors that are often used as an excuse to make begging and homelessness a profession. Prolonged economic limitations make them have to beg in public places in Kendari City. In addition to economic factors, there are also parental factors that cause someone to beg and be homeless. Based on the results of an interview on April 8, 2021 with one of the beggars named Tie, he said that he was told to beg at a red light, to help find sustenance.

#### 4.4 Efforts to Enforce the Criminal Law of Homeless and Beggars in Kendari City

After paying attention to the cases of homeless people and beggars in Kendari City as shown in the table above, quite a lot of these activities occur, especially in Kendari City so that in order to tackle the actions of homeless people and beggars, it is necessary to get special attention from all circles, especially the Kendari City government considering the impact caused by the existence of these activities, namely generally they do not have a permanent residence, and live in areas that are actually prohibited from being used as residences, such as: parks, shops, and bus stops. Therefore, they are very disturbing public order, community tranquility and the cleanliness and beauty of the city.

Based on the results of interviews conducted by researchers with Rusfianah, S.Sos said that the efforts that can be made to overcome the activities of homeless people are as follows:

##### 1. Preventive efforts

The preventive efforts meant were the efforts made before the vagrants and beggars (squandered) activities took place, among others, by conducting socialization of regional regulations related to gepeng, providing counseling to community groups that were categorized as low-income with the intention of providing knowledge or information, as well as providing training and self-development so that they are avoided from flattened activities

##### 2. Repressive efforts

What is meant by repressive efforts are efforts made against Gepeng after or repeating the act of being homeless by holding them for several days until they finally feel deterred. In terms of criminal law enforcement against homeless people and beggars, it has not been implemented because there are no rules from the Kendari City government.

## V. CONCLUSIONS

That based on the results of research on Homeless and Beggars in Kendari City in 2016 – 2020 can be seen:

#### 1. Factors That Cause Homeless and Beggars in Kendari City

First, internal factors, namely laziness in oneself so that they always expect or depend on life on the street by begging, lack of religious understanding. Both external factors are low economic influence and parents can also cause begging and homeless activities.

#### 2. Efforts to Enforce the Criminal Law of Homeless and Beggars in Kendari City

##### a. Preventive efforts

Preventive efforts made by the Kendari City Social Service apparatus are conducting socialization, conducting counseling, and providing training and self-development.

##### b. repressive efforts

The repressive efforts made by the Satpol PP, namely holding them for several days to provide a deterrent effect against homeless people and beggars have not yet been implemented because there are no regulations from the Kendari City government.

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### Appendix to Legislation

1945 Constitution

Regional Regulation No. 6 of 2003 concerning the Homeless

Criminal Code Articles 504 and 505

Regional Regulation No. 9 of 2014 concerning the Guidance of Street Children, Homeless People, Beggars and Singers.

Law No.11 of 2009 concerning Social Welfare Article 7

Government Regulation of the Republic of Indonesia Number 39 of 2012 concerning the Implementation of Social Welfare