

**ENFORCEMENT OF CRIMINAL LAW AGAINST ACTS
OF DESTRUCTION AND BEGGARS IN THE CITY OF
MEDAN**

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ABSTRACT

The existence of homeless people and beggars has become a part of life in big cities in Indonesia, especially in the city of Medan. Homeless and beggars are often seen on the side of the road to beg in public, it has become an option for them for people who cannot compete in the midst of public life for certain reasons. The nature of the research material used in completing this research is descriptive analysis that leads to normative juridical law research or doctrinal legal research, namely a research conducted or aimed only at written regulations or other legal materials. And the factors behind vagabonds and beggars in public places are; Migrating with desperate capital, lazy to try, physically disabled, lack of job opportunities, and others. The implementation of law enforcement can be carried out if it is indicated to have committed a criminal act, this is in accordance with Article 10 of the Regulation of the Head of the State Police of the Republic of Indonesia Number 14 of 2017 concerning Handling Homeless and Beggars. And if there are no elements of a criminal act, the Social Service will provide guidance

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INTRODUCTION

Poverty that occurs causes the emergence of social phenomena, one of which is the complexity of urban planning due to the increasing number of workers in the informal sector, such as beggars, homeless people and street children. In addition, the emergence of homeless people and beggars as People with Social Welfare Problems (PMKS) operating on protocol streets in major cities, has now expanded to areas that are suspected

as a side effect of the prolonged crisis. Therefore, if the problem of beggars does not immediately get treatment, then the impact will harm themselves, their families, the community and the surrounding environment. To overcome the problem of beggars, the government sent Pamong Praja Satpol PP Police to raid all beggars in all corners of Medan city, to be then netted and accommodated in the Medan City Social Service (social hut environment). It aims to rid the city of beggars, as well as to make an effort to give them awareness. In addition, there are still many who are forced to sleep on mats and floors, because the number of mattresses available is limited. The word vagrant and beggar abbreviated as "gepeng", Indonesian society in general is very familiar with the abbreviation "gepeng" which is not only a common vocabulary in everyday conversations and topics of mass media coverage, but also has become a term in government policy referring to certain groups of people who are commonly found in major cities, especially in Medan city. Another vocabulary that is also often used to mention the existence of homeless people and beggars in Indonesian society is homeless.¹ Then we look and compare it with the phenomenon of homeless and beggars that occur abroad such as the United States, then the popular term that is often used in the United States to refer to homeless and beggars is homeless.²

Gelandangan and beggars are often seen on the side of the road to perform begging actions in public places, as a choice for them for people who cannot compete in the midst of community life for some reason and begging and scaring is the right choice to meet their daily economic needs by expecting mercy. someone else. This condition causes problems in society and existing laws or norms, the act of begging in public places and gossip is considered a disease of society and no longer in accordance with existing legal norms. So the problem in this study is how is the law enforcement policy on handling homeless people and beggars in public places in Medan City?, how are the factors behind the destruction and beggars in public places?, and how is the implementation of law enforcement against homeless and beggars in public places.

METHOD

The nature of the research material used in completing this research is descriptive analysis that leads to normative juridical law research or doctrinal legal research, i.e. a study conducted or aimed only at written regulations or other legal materials. The data

¹ Magfud Ahmad, "Strategi Kelangsungan Hidup Gelandangan Dan Pengemis (Gepeng)," *Jurnal Penelitian STAIN Pekalongan* 7, no. 2 (2010): 2.

² Engkus Kuswarno, *Metode Penelitian Komuniaksi Contoh-Contoh Penelitian Kualitatif Dengan Pendekatan Praktis: "Manajemen Komunikasi Pengemis"* (Bandung: PT. Remaja Rosdakarya, 2008).

sources required in this study are primary data and secondary data. The technique used to collect data in this study is through document studies with literature searches. Secondary data is data obtained through literature, by reviewing, reviewing and processing literature, laws and regulations, articles or writings related to the problem to be studied.

DISCUSSION

Law Enforcement Policy on Handling Homeless and Beggars in Public Places in Medan City

In general, the prohibition on begging or stirring is regulated in Article 504 and Article 505 of the Criminal Code, the 3rd Book on Criminal Offences of Violations, namely as follows: Article 504 of the Criminal Code 1) Anyone who begs in public, is threatened with beggars with a maximum imprisonment of six weeks. 2) Beggars committed by three or more persons, who are over sixteen years of age, are threatened with imprisonment of a maximum of three months. 3) Article 505 of the Criminal Code. 3) Anyone without a search is threatened with imprisonment with a maximum of three months' imprisonment. 4) A raid by three or more persons, over the age of sixteen, is threatened with imprisonment of a maximum of six months. Meanwhile, in the city of Medan there are regulations governing bums, namely Medan City Regional Regulation No. 6 of 2003 Of Medan City Regulation No. 6 of 2003 concerning Prohibition of Homeless and Beggars and Susila Practices in Medan City considering that one of the efforts of medan city government to realize the achievement of Medan City into Bestari City, it is necessary to improve the implementation of bum and beggar countermeasures and the practice of susila tuna integrated in Medan City.

Factors Behind The Land and Beggars in Public Places

Homeless and beggars are referred to as one of the social diseases or social diseases (Social Pathology). All forms of behavior and social symptoms that are considered not arbitrary, violating general norms, customs, laws fromal, or cannot be integrated in the pattern of general behavior categorized as social diseases or diseases of society.³

According to Dimas Dwi Irawan, there are several factors that cause people to do the activities of the land and begging, namely:⁴

- a. Traveling with reckless capital

³ Kartini Kartono, *Patologi Sosial II Kenakalan Remaja* (Jakarta: PT. Raja Grafindo Persada, 2003).

⁴ Dimas Dwi Irawan, "Pengemis Undercover Rahasia Seputar Kehidupan Pengemis" (2003): 5-6.

The policy will also give implications for the local government that does not have the legitimacy to implement that rule. Therefore, that can contain sanctions to ensure the Laws and Regulations of the Area. Moreover, contrary to some laws and regulations and in the name of human rights. It will injure the joints of the existing law. The form of limitation of human rights only by act, without any rules on it and which should not be in the form of a local regulation but is contrary to human rights.⁵

From the homeless and beggars who roam the lives of the people, especially in big cities, many of them are villagers who want to succeed in the city without having the ability or strong capital. Arriving in the city, they try and try even if only with the recklessness to survive the rigors of life in the city. Untrained mental or limited abilities, reckless capital, and no guarantee of shelter make them unable to do anything in the city so they choose to be homeless and beggars. The government and the local government must have responsibility for it.

b. Lazy Trying

Behavior and habits of begging to get money without effort, sucks to make some people become lazy and want to feel good without trying first.

c. Physical disability

The existence of limited physical abilities can also encourage a person to choose someone to be a vagrant and beggar in the field of work. The difficulty of employment and the opportunity for people with physical disabilities to get decent jobs make them resigned and survive by becoming homeless and beggars.

d. There is no field of work.

Because it is difficult to find a job, especially those who are not in school or have limited academic ability finally make their steps often wrong, namely making begging as the only job that can be done.

e. Hereditary traditions

Stirring and begging is a tradition that has existed from ancient kingdom times and even lasts for generations to posterity.

f. Begging rather than idle

Due to difficult living conditions and supported by difficult circumstances to get a job makes some people have mental and thoughts rather than unemployed then it is better to beg and grow.

g. Expensive price of basic necessities

⁵ Eka N.A.M. Sihombing and Cynthia Hadita, "Administrative Measures Problems in Medan Mayor Regulation Number 11 of 2020 Concerning Health Quarantine in the Accelerated Handling of Covid-19," *Proceedings of the 1st International Conference on Law and Human Rights 2020 (ICLHR 2020)* 549, no. 11 (2021): 444–452.

For some people, in the face of the high price of basic needs and meet their needs is to actively work without ruling out self-esteem, but there are others who are more decided to beg because they think there is no way to meet the needs of life.

h. Poverty and acute economic problems

Most homeless people and beggars are incapable people who are powerless in the face of ongoing economic problems. The already acute economic problems that have resulted in people living in economic crisis so that they become homeless and beggars are a way for them to survive.

i. Just follow along.

The presence of newcomers to homeless and beggars is very difficult to avoid, especially supported by the news of homeless and beggars who are so easy to get money in the city that finally makes those who see the phenomenon follow along and follow in the footsteps of friends who have become homeless and beggars.

j. Told by parents

Usually this kind of reason is found in beggars who are still their children working because they are ordered by their parents and in such cases child exploitation occurs.

k. Become a victim of fraud

The cause of someone becoming homeless and beggars does not rule out the possibility of being caused by the condition of those who are victims of fraud. This usually happens in large cities that are vulnerable to crime especially for newcomers who have just arrived in the city. These newcomers often experience scams such as those caused by hypnosis and drugs. Such events can be traumatic for those who experience it and due to the absence of other options they finally decide to be a requester to be able to go home and survive in the city.

Implementation of Law Enforcement Against Homeless and Beggars in Public Places

Pancasila as the philosophy of life of the nation which is also the source of all legal sources has high-dimensional values and is in accordance with the values that live in society, because Pancasila is also a national character that can distinguish Indonesian people from other nations so that Pancasila also becomes a reference against various

rules which are then followed by the constitution and various other organic regulations.⁶

Although there have been efforts by the Medan City Government to make policies to deal with beggars, it is still not able to reach beggars as a whole. And even there are still many beggars who have done coaching, but still take to the streets again. Apart from the coaching given to beggars so that they are skilled and independent in the future maturity, the most important thing that must also be considered by the Social Service is the training of the beggar. If because the economic condition of the family is less supportive to be a factor of children taking to the streets to work to help their parents, then the development of the family that must be done by the Social Service is with the economic empowerment of the family that creates independence, so that finally with various coaching programs provided, both to the child and to his family it is expected that they will not return to the streets. Acts of destruction and beggars carried out in public places so far rarely use criminal provisions in overcoming these actions. In fact, for the criminal provisions against *gepengnya* has previously been regulated in Article 504 and Article 505 of the Criminal Code which contains the threat of criminal sanctions of imprisonment of a maximum of 6 months. While in Article 5 paragraph (1) of The Medan City Regulation No. 6 of 2003 concerning the Prohibition of Homeless and Beggars and *Susila* Practices in the City of Medan also regulates about criminal provisions that state that anyone who violates the provisions of Article 2 of this regional regulation is threatened with imprisonment for a maximum of 6 (six) months and or a maximum fine of Rp.5,000,000, - (Five million rupiah).

Criminal acts only refer to the nature of acts prohibited by law and criminal liability or misconduct points to the person who violates by being able to be criminally punished as threatened. So that the criminal provisions in the Medan City Regulation No. 6 of 2003 concerning the Prohibition of Homeless and Beggars and *Susila* Practices in Medan City do not conflict with Article 34 paragraph (1) of the Indonesian State Law of 1945 because the convicted is a sedation, and the responsible for the criminal act is to point to the violator. Because basically modern laws and regulations no longer consider the element of error as the main condition, such as the *delik-delik* about public order.

After discussing the examination theories in criminal procedural law, the question arises that what is the current system used in Indonesia? Article 183 of

⁶ Cynthia Hadita, Regional Autonomy Political Politics Of Regional Liability Reports To Regional Representatives In The Implementation Of Local Government, *Nomoi Law Review*, Volume 1, Issue 1, May 2020, p. 91.

Indonesia Criminal Procedure Code is determined: "A judge may not convict a person unless if at least two legal instruments prove he believes that a crime has actually taken place and that the defendant is guilty of committing it". Based on Article 183 of Indonesia Criminal Procedure Code, the criminal procedure law in Indonesia uses a proof system according to negative laws. Therefore, the system of proof adopted is a system of proof "*negatief wettelijk stelsel*".⁷ The implementation of law enforcement can be done if indicated to commit this criminal act in accordance with Article 10 of the Regulation of the Head of State Police of the Republic of Indonesia Number 14 of 2017 concerning the Handling of Homeless and Beggars. And if there is no element of criminal acts, construction will be carried out by the Social Service. This is in accordance with the selection process which refers to Article 12 in Government Regulation of the Republic of Indonesia Number 31 of 1980 concerning the Countermeasures of Homeless and Beggars which states as follows: "Selection as referred to in Article 11 is intended to establish the quality of homeless people and beggars and as a basis for establishing further actions consisting of:

- a. Released on condition;
- b. Put in a social home;
- c. Returned to parents/guardians/family/hometown;
- d. Submitted to the Court;
- e. Provided health services

CONCLUSION

Some law enforcement policies on handling homeless people and beggars in public places in the city of Medan in general, the prohibition to beg or stirp are regulated in Article 504 and Article 505 of the Criminal Code, Book 3 on Criminal Acts of Violations and Regional Regulation of Medan City Number 6 of 2003. Factors Behind The Land and Beggars In Public Places are; Traveling with reckless capital, lazy to try, physical disability, Absence of employment field, Hereditary traditions, Begging rather than unemployed, Price of expensive basic necessities, Poverty and acute economic problems, Just follow along, Told parents, Become victims of fraud.

⁷ Ferdy Saputra. The Crime Of Money Laundering With The Origin Criminal Action Of Drug Trafficking In Supreme Court Decision No. 1303 K / Pid. Sus / 2013 Juncto High Court Decision No. 700 / Pid / 2012 / PT.MDN Juncto Medan District Court Decision No.1234 / Pid.B / 2012 PN. Mdn. *Nomoi Law Review*. Vol. 1. No. 1. (May, 2020).

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