



## Implementation of the State Law Principles in Trader Education on Banjarmasin City pavement: Article 12 Letter (d) Analysis of Regulation No. 14 of 2015

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### ABSTRACT

The study discusses the implementation of state law principles in the arrangement of pedestrians (PKLs) on the sidewalks of Banjarmasin City under Article 12 letter (d) of Regional Regulation No. 14 of 2015 on Public Order and Community Ordinance. The main focus of this research lies on the application of administrative law enforcement theory, particularly in the use of administrative sanctions instruments, warrants and enforcement actions by local authorities. The phenomenon of using sidewalks as trading areas becomes a complex issue between the economic needs of small communities and compliance with law. The study discusses the implementation of state law principles in the arrangement of pedestrians (PKLs) on the sidewalks of Banjarmasin City under Article 12 letter (d) of Regional Regulation No. 14 of 2015 on Public Order and Community Ordinance. The main focus of this research lies on the application of administrative law enforcement theory, particularly in the use of administrative sanctions instruments, warrants and enforcement actions by local authorities. The results of the analysis affirm that regulation based on the rule of law must balance between legal certainty and social justice, as well as be implemented in a proportionate and humane manner so that the law serves as a means for guiding society, not just an instrument of action.

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## INTRODUCTION

Indonesia expressly establishes itself as a legal state (rechtsstaat) as set out in Article 1 paragraph (3) of the Basic Law of the Republic of Indonesia of 1945. The principle of the rule of law means that all state administration actions must be based on law, not power. The law is a cornerstone of every public policy, both at the national and regional levels. In that context, every government organizer is required to enforce the law fairly, transparently and consistent with human values as well as social justice. The rule of law emphasizes not only legal certainty, but also the importance of legal supremacy and equality before the law. In the practice of local government, the rule of law is embodied through the formulation and implementation of regional regulations (Perda) as a legal instrument for regulating social life. P

Provisions become a real form of regional autonomy, where local governments are given the power to regulate and take care of government affairs as well as the interests of the local community. One of the regional regulations that has become a concern in the context of law enforcement in Banjarmasin City is Regional Regulation No. 14 of 2015 on Public Order and Community Ordinance, specifically Article 12 letter (d) which prohibits any person or body from carrying out sales activities on pavement or road bodies. The presence of these regulations is actually a preventive and repressive

measure by local governments to keep the sidewalks functioning as public spaces for pedestrians, guarantee traffic safety, and enforce general order in urban areas. However, implementation in the field shows a gap between legal norms and social reality. The sidewalks that were supposed to serve as public facilities are now widely used by pedestrians (PKLs) for sale. This phenomenon poses a classic problem in the governance of public spaces in major Indonesian cities, which is a clash between the economic needs of small communities with prohibitive legal provisions.

From a socio-economic point of view, PKL activity on the sidewalk is not only a form of legal infringement but also a reflection of economic and employment opportunities in the formal sector. For some low-income communities, trading on the sidewalk is the only way to survive. On the contrary, for local governments these activities are considered illegal and disturbing public order. This condition creates a legal paradox, where governments are confronted with the dilemma between law enforcement obligations and social responsibility for protecting poor citizens.

The problem of PKL ordering in Banjarmasin City also shows the dynamics between administrative authorities and legal morality. On the one hand, disciplinary action is carried out through administrative legal mechanisms such as warning letters, administrative sanctions, to enforcement. But on the other hand, these actions often generate public resistance and a perception of injustice. Many traders feel that governments are too repressive and do not provide alternative solutions, such as providing decent business locations. This shows that administrative law enforcement does not fully reflect the principles of substantive justice as enshrined in Pancasila's concept of State Law.

The principle of the rule of law in Indonesia not only demands legal certainty, but also emphasizes the importance of social justice, morality and protection for citizens' rights. In this context, law enforcement against PKL should be understood not only as the application of sanctions, but also as part of a process of mentoring society to stay orderly and compliant without losing its right to livelihood. Therefore, the law needs to be understood as a tool of guidance and protection for society, not just an instrument of action.

In addition, the success of regional regulation depends heavily on effective and equitable administrative enforcement. Administrative law enforcement theory provides a framework for analysis of how government authorities exercise their authority through non-judicial instruments such as warrants, administrative sanctions, and coercion. In this theory, administrative law serves to prevent violations, improve order, and direct public behavior in accordance with legal norms. However, in practice in the City of Banjarmasin, administrative law enforcement is often hampered by various factors such as poor interinstitutional coordination, low public legal awareness, and limited human resources and infrastructure.

Another factor complicating law enforcement is the presence of social and economic inequality in society. Many SMEs have no choice but to trade in public areas due to limited capital and access to strategic locations. Meanwhile, government efforts to rank are often considered discriminatory, as they only target small groups without touching other offenses committed by parties with greater economic power. This inequality creates a crisis of public trust in law enforcement, so the effectiveness of Perda is declining.

In this context, the application of administrative law enforcement theory becomes essential to analyze how local governments use their administrative powers proportionately and fairly. Concrete actions such as issuing warrants, imposition of administrative sanctions and enforcement shall be conducted on the basis of legality, proportionality, and accountability. Incompliance with these principles can create arbitrariness and damage the authority of law itself. Based on the above background, this study was conducted to analyze the implementation of rule of law principles in ordering trad.

ers on the sidewalks of Banjarmasin City using an administrative enforcement theory approach. The study highlighted the concrete action taken by local governments in enforcing Article 12 (d) of Regulation No. 14 of 2015, and assessed to what extent it reflected the principles of justice, utility and legal certainty. The ultimate goal is to provide a deeper understanding of how the rule of law can be applied in public policy that directly affects small communities, so that laws are not only instruments of social control but also means for realizing social and humanitarian justice.

## LITERATURE REVIEW

### **Administrative Law Enforcement Theory**

Administrative law enforcement theory describes how governments perform the functions of supervision and enforcement through non-judicial mechanisms that are administrative in nature. In this theory, government action aims at maintaining order and compliance of the public with legal norms by using instruments such as administrative sanctions, warrants, permit freezes, to enforcement. Administrative law emphasizes that violations of public legal norms do not always have to be resolved through judicial process, but can be solved directly by state administration officials.

Administrative law enforcement is preventive and corrective; that is, it not only takes action against violations but also directs public behavior to conform to legal norms. Therefore, the effectiveness of administrative law depends heavily on government rigor, clarity of rules and public awareness.

In the context of street vendor orders, this theory is used to analyze the extent to which government agencies, such as PP Satpol, exercise their administrative authority through issuance of warnings, reprimands or regulatory action in accordance with regulated procedures. The use of administrative power shall be conducted on the basis of proportionality, legality and legal certainty so as not to result in abuse of authority.

### **Progressive Legal Theory**

Progressive law is a school of legal thought that places people and substantive justice as the primary purpose of law, not merely normative certainty or textual obedience to rules. This concept rejects the rigid and legalistic view of law, as well as looking at law as a means to achieve welfare and social justice. In a progressive legal perspective, the law is not understood as an end goal but rather as a tool that must be able to adapt itself to the dynamics and needs of society. Progressive legal thinking emphasizes that law enforcement should not stop at the certainty of formal laws (laws in the books), but must take into account social realities, human values, and the tangible impact of implementing laws on society.

Therefore, law enforcement agencies are required to have moral courage and social empathy in interpreting and applying the law, especially when written rules do not fully address evolving societal issues. In the context of public policy and handling social problems, progressive law makes room for more solutive and humanist approaches, such as coaching, empowerment, and social rehabilitation rather than simply repressive measures. This approach views certain violations of the law especially those related to poverty and structural inequality as social symptoms that require comprehensive policy interventions, not just legal sanctions.

This, progressive law is relevant to analyze the effectiveness of local policies in dealing with social phenomena in society. When regulatory implementation has not achieved the goals of justice and social welfare, a progressive legal perspective encourages adaptation of implementing strategies, policy innovation and cross-sector collaboration so that law is truly present as a solution rather than just a symbol of state authority.

### **Principle of The Rule of Law**

The principle of the rule of law contains four main elements: protection of human rights, division of powers, governance by law and free justice. In the Indonesian context, this principle is based not only on *rechtsstaat* concepts but also on Pancasila values, thus emphasising aspects of morality, social justice and humanity.

The principle of the Indonesian legal state is dynamic, because in addition to demanding legal certainty it also emphasizes substantive justice. In local law enforcement, the rule of law requires that all government actions be carried out in accordance with applicable regulations and respect for citizens' rights. Violations of legal provisions, such as the use of sidewalks for trading, must be done. However, in the spirit of Pancasila's rule of law enforcement must be done in a fair manner and take into account the socio-economic conditions of society.

### Theories of Legal Protection and Progressive Law

The legal protection theory emphasizes that the law serves to protect citizens' rights from arbitrary actions by governments. In the context of PKL regulation, this theory demands that authorities not only formally enforce rules but also consider protection against small communities who depend on activities in public spaces.

Meanwhile, progressive legal theory argues that laws should not be rigid on the text of law alone but must be able to adapt to social reality. Progressive law sees enforcement not as a tool of power, but as a means to achieve the welfare of society. In this framework, enforcement of the Ordinance should be accompanied by a humanist and solutive approach.

## METHOD

This study uses a descriptive-analytical qualitative approach, as the problems studied cannot be measured solely by numbers but must be understood through meaning, interpretation and relationships between legal norms, public policy, and social realities in the field. The study aims to analyze how the rule of law is applied in administrative law enforcement against pedestrians (PKLs) on Banjarmasin City sidewalks, with a focus on the implementation of Article 12 letter (d) of Regional Regulation No. 14 of 2015 on Public Order and Community Order.

This type of descriptive-analytical research allows authors to describe empirical facts in the field while analyzing them with administrative law enforcement theory. This approach is used because the issue of PKL regulation relates not only to compliance with regional regulations, but also to the social structures, economic conditions and policies of local governments that accompany it.

This study uses two types of data, primary and secondary. Primary data are obtained through direct observation of PKL settlement activity at several points in Banjarmasin City, such as the Sudimampir Market area, Veterans Road and areas around the Martapura River. Observations were made to see how the PP Satpol apparatus carried out administrative actions ranging from issuance of warnings to enforcement. In addition to the observation, informal interviews were conducted with traders and PP Satpol officials in order to understand both sides' views on the implementation of the Order.

Secondary data are obtained from primary legal materials in the form of statutory regulations, such as UUD 1945, Law No. 23 of 2014 on Local Government, and Regulation No. 14 of 2015, as well as secondary legal material such as policy documents, PP Satpol activity reports, academic publications, and previous research results relevant to this topic. Data analysis is done by normative-empirical methods, i.e., comparing between legal norms (what should be done) and social reality (what actually happens).

Normative approaches are used to explore the principles of legality, administrative authority, and law enforcement procedures set forth in legislation. An empirical approach is used to assess the effectiveness of law enforcement in the field, as well as identify factors that influence the success or failure of those laws.

The study is evaluative, meaning that it not only describes the facts but also assesses how far administrative law enforcement is in line with the principles of the rule of law demanding justice, utility and certainty. This evaluative aspect is important because in the context of Pancasila's legal state, law should not stop at just formal aspects but serve as a moral and social instrument that protects society fairly. The research process goes through several stages.

The first step is identifying the problem, which is to determine the main issue that will be addressed, namely the imbalance between law enforcement and small-scale socioeconomic conditions. The second stage is the collection of legal and social data, by tracking regulatory activities and reports. The third stage is the interpretative analysis, where researchers interpret data based on administrative law enforcement theory and rule of law. The fourth stage is a synthesis of the findings, to formulate conclusions that illustrate the relationship between law enforcement and social justice values.

Data integrity is reinforced by triangular techniques, which combine a variety of data sources (documents, interviews and observations) to make the results more objective and comprehensive. With this method, the research is expected to not only illustrate legal symptoms on the surface but also be able to reveal substantive meanings of administrative law enforcement at a regional level.

This method is simultaneously used to assess the extent to which administrative actions such as warrants, sanctions and enforcement are carried out in accordance with the principles of proportionality, legality and accountability. These principles are an important part of the general principle of good governance (AUPB) and serve as a key indicator in measuring whether administrative legal action has been consistent with the spirit of Pancasila Law State.

## RESULT AND DISCUSSION

### Results

The results of the study show that administrative law enforcement against pedestrians on Banjarmasin City sidewalks has been carried out through mechanisms laid down in Regional Regulation No. 14 of 2015 on Public Order and Community Order. The Banjarmasin City Government has assigned the State Police Unit (Satpol PP) as chief executive in enforcing the regulations. Administrative action is carried out in stages, starting with the issuance of warnings, imposition of administrative sanctions, to enforcement if violations are not immediately stopped by traders.

Based on field observations, warning letters are the most commonly used initial steps in settlement efforts. The letter is usually given as many as three times in a certain period of time. After the third letter is delivered and violations continue, PP Satpol takes further action such as seizure of merchandise or demolition. Nevertheless, many traders remain at their original location after the order is made. This is due to their economic dependence on these strategic locations and the lack of alternatives provided by local governments.

The implementation of the arrangement in the field shows a variation of approach. In some locations, PP Satpol implemented persuasive arrangements with dialogue and socialization first. However, in other locations the action is taken directly without adequate communication. These conditions have generated a wide range of reactions among traders, from acceptance to rejection accompanied by protest.

Some traders find government action unfair because it is not accompanied by a new economic solution or business location arrangement. The results of the data collection also show that interinstitutional coordination in law enforcement is still less effective. After the PP Satellites make arrangements, further surveillance of areas that have been evacuated is rarely done. As a result, the rearranged sidewalks were filled by traders in no time. In addition, not all districts have enough PP Satpol personnel to conduct regular inspections. Human resource and budget constraints are a serious obstacle to the sustainability of settlement results.

On the public side, it was found that legal awareness levels were still low. Many traders claim not to know the full contents of Decree No. 14 of 2015 or do not understand that trading on sidewalks is an offence. They estimate that the settlement action is done suddenly without sufficient socialization. This shows the weakness of legal communication between local governments and society as a subject.

In general, the results of the study illustrate that administrative law enforcement in Banjarmasin City has indeed run according to formal procedures, but its effectiveness remains low. The violation of the rules remains repeated, while administrative action taken has not been able to produce acne effects.

The main problem lies in the imbalance between strong law enforcement and availability of socio-economic solutions for affected communities.

## Discussion

The above research findings show that administrative law enforcement in Banjarmasin City is legally-formal, but not fully consistent with the principles of a fair state. In normative terms, the actions taken by local governments through PP Satpol have been in accordance with provisions of Regulation No. 14 of 2015, which provides a legal basis for enforcement of public order. But substantially, enforcement in the field still faces a dilemma between legal certainty and social justice. In the perspective of administrative law enforcement theory, actions taken by governments are a form of legitimate administration. Warnings and administrative sanctions serve as a guiding tool for the public to abide by law.

However, this theory also affirms that administrative action should be carried out on the basis of proportionality and legality. In the case of Banjarmasin, the principle of proportionality is not fully met because settlement actions often do not take into account the socio-economic conditions of traders who hang their lives on the sidewalk.

The ideal enforcement of administrative law should be not only repressive, but also include preventive and educational aspects. Warnings, for example, should be used as a means of legal communication between governments and the public, not just notice of violations. Governments need to leverage these administrative stages to provide legal education, explanation of regulations and alternative solutions for traders. In this way, administrative action can serve as a tool for social guidance, not just punishment.

As seen from Pancasila's rule of law, enforcement must always uphold human values, morality and social justice. The law must not be enforced rigidly without regard to the social context of society. In the practice of PKL settlement in Banjarmasin, the imposition of sanctions without compensation for economic empowerment actually gives the impression that law faces formal order rather than substantive justice. In fact, the essence of Pancasila law is that it protects all people, including weak economic groups.

Another apparent weakness is the lack of optimal inter-agency coordination. In administrative law enforcement theory, the effectiveness of laws largely depends on synergies between policy makers and policymakers. When coordination doesn't work well, law enforcement becomes fragmented and lost direction. In the case of Banjarmasin, a lack of coordination between PP Satpol and other services led to an arrangement that was only temporary with no long-term solution.

From a progressive legal perspective, the implementation of PKL regulation in Banjarmasin shows that law is still positioned as an instrument of power, not social guidance. Progressive law emphasizes that enforcement must be in favor of humanity and social justice. Consequently, government officials should view societal abuses not only as a form of disobedience but as reflections of social conditions that need to be addressed with prudent policy.

Effective administrative law enforcement requires a balance between rigor and wisdom. Strength is needed to maintain the rule of law, whereas wisdom is required to preserve public trust in government. When one of these elements is ignored, the law loses its constructive power and becomes a source of social conflict.

Thus, administrative law enforcement in Banjarmasin City does not fully reflect the principle of a just state. The law is enforced, but not able to answer the social issues behind it. A more humanistic, participatory and societal-oriented approach is needed for the law to truly be a means of achieving social justice as guaranteed by Pancasila values.

## CONCLUSION

The implementation of the rule of law in ordering traders on the sidewalks of Banjarmasin City under Article 12 letter (d) of Regulation No. 14 of 2015 has been formally, but not substantially optimal. Local governments have taken administrative action in the form of warnings, sanctions and enforcement. However, the implementation often creates social problems because it is not balanced by a humanistic approach and economic solutions for affected communities.

Administrative law enforcement should be a means of instruction, not just action. The principle of the rule of law demands that all government action be based on principles of justice, utility and legal certainty. Law enforcement on the sidewalk, therefore, needs to be directed at a more participatory and socially just model. Governments must put forward dialogue, legal socialization and the provision of alternative business space for law to truly be an instrument of justice and humanity, in line with Pancasila's values.

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