

General Principles of Good Governance in Relocating Street Vendors

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Abstract: As a result of the narrowing of employment opportunities in the formal sector so that some people turn to the informal sector for their survival, one of them is street vendors. This research method uses empirical juridical with a sociolegal approach which analyzes the law from a social perspective. The results of this study found that there were many problems in several areas, both in the Special Capital Region of Jakarta, Sidoarjo, and Makassar. These problems arise because street vendors insist on maintaining the location where they sell, the government in relocation does not follow the steps that must be passed, and the needs of urban communities who live in urban areas. The general principles of good government in providing certainty and justice for street vendors are fundamental. The implementation of sound general principles needs to be used in the relocation of street vendors by the Government, namely the principle of accuracy, the principle of not abusing authority, and the principle of public interest.

Keywords: Government Administration; Street vendors; General Principles of Good Governance.

JEL Classification: G18; K00; K23;

INTRODUCTION

As a legal state based on the 1945 Constitution, Indonesia requires various laws to carry out its daily government duties. The government's tasks are, in practice, carried out by the executive power; in this case, the Government is under the leadership of the President together with the State Administrators who exist and work throughout the sovereign territory of the Indonesian state (Roziqin, 2020).

State administrators have an essential role in the constellation of state administration in Indonesia. As implied in the Preamble to the 1945 Constitution, which states that the purpose of the establishment of the Government of the State of Indonesia is to protect the entire Indonesian nation and the entire homeland of Indonesia and promote public welfare, educate the nation's life...'. To achieve this goal, state administration must not deviate from the rules outlined in various laws and regulations (Respationo, 2013).

One of the various required laws is the Law on State Administration or Law Number 30 of 2014 concerning Government Administration. The law is needed to provide a legal basis for all actions, behavior, authorities, rights, and obligations of every state administrator in carrying out their daily duties to serve the community. Because so far, these things have not been fully regulated in law made explicitly for that. At the same time, Law no. 5 of 1986 concerning the State Administrative Court, as amended by Law no. 9 of 2004, only regulates procedural law (ceremonial law) in a dispute between a person or civil legal entity and state administration officials (Azhar, 2015).

The inclusion of general principles of good governance is one of the reasons that can be used to challenge the State Administrative Decision (vide article 53 paragraph 2 letter b of Law No. 9 of 2004) (Pranoto, 2019). The State administrative dispute itself is as follows:

What is meant by State administrative disputes are those that arise in the field of State administration between individuals and civil legal entities and State administrative bodies or officials both at the center and in the regions as a result of the issuance of State administrative decisions, including employment disputes based on the applicable laws and regulations? (Hadjon and et al, 2002).

The general principles of good government in providing certainty and justice for street vendors are fundamental. Street vendors are a job due to the narrowing of employment opportunities in the formal sector, so some people turn to the informal sector for their survival. According to McGee and Yeung, street vendors have the same understanding as "hawkers," who are defined as people who peddle goods and services for sale in spaces for a public interest, especially on roadsides and sidewalks (Damayanti, 2014).

Understanding the principles above cannot be separated from the historical and linguistic context. By relying on these two contexts, the general principles of good government can be understood as general principles that serve as the basis and governance of good governance; in this way, the administrators of government become good, polite, fair and, honorable, free from tyranny, violation of regulations, acts of abuse of authority and not arbitrary (Lotulung, 1994).

In several legal products, such as Law no. 9 of 2004 concerning Amendments to Law No. 5 of 1986 concerning the State Administrative Court, it is stated that "the state administra-

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tive decision being sued is contrary to the general principles of good governance, which in its explanation it is stated that the general principles of good governance include the principles of legal certainty, the principle of order state administrators, the principle of openness, the principle of proportionality, the principle of professionalism, and the principle of accountability (Ridwan, 2009).

The street vendors above are considered businesses that operate in the informal sector. The informal sector usually denotes small-scale economic activity and often has difficulty establishing formal relationships. The informal sector referred to here is a small-scale activity to obtain employment opportunities. Elements generally included in this sector are those with less education, fewer skills, and generally migrants (Ridwan, 2009).

The government's handling of relocating street vendors has tended to be unfair. This can be seen in the control of street vendors in Surabaya. The government's treatment is somewhat escalating and even tends to be repressive. In fact, what is evident from this strategy is the discriminatory treatment carried out by state officials against its poor citizens, who do not have access to resources controlled by the state (Handoyo and Setiawan, 2018). It is said to be discriminatory because the problem of the beauty of the city and congestion is not only caused by the presence of street vendors. The government's enforcement, such as what happened in Surabaya, shows that it has not acted reasonably. It is also seen that the enforcement does not consider the general principles of good governance, including the principles of the public interest and good service.

RESEARCH METHODS

This study uses empirical juridical with a sociolegal approach. This approach conducts a study of the law using legal science and social sciences (Irianto and Shidarta, 2009). Socio-legal studies are an alternative approach that examines the doctrinal study of law. The sociolegal approach is used in order to obtain data in this paper, both from the aspect of legal science and social science (interdisciplinary), so that more in-depth and meaningful analysis can be carried out on the phenomena that the researcher adopts because the approach taken by textual alone is not comprehensive enough so that assistance from scientific disciplines is needed social.

The data source departs from primary and secondary data, where the existing primary data looks at the phenomenon of street vendors that occur in several regions in Indonesia. After that, take an inventory of secondary data related to laws, books, and journals, both legal and social. These two data sources will be used in analyzing this research in order to obtain a complete and comprehensive building (Adiyatma *et al.*, 2020).

RESULTS AND DISCUSSION

Relocation of Street Vendors Conducted by Local Governments Currently

Regulations regarding the relocation of street vendors are regulated in Presidential Regulation of the Republic of Indonesia Number 125 of 2012 concerning Coordination of Ar-

range and Empowerment of Street Vendors. The regulation requires the government and local governments to coordinate the arrangement and empowerment of street vendors (Handoyo and S, 2019). In the general provisions of article 1 paragraph 1, it is explained that street vendors, from now on abbreviated as street vendors, are business actors who carry out trading business using movable or immovable business facilities, using city infrastructure, social facilities, public facilities, land and buildings owned by the public. Coordination of the arrangement of street vendors is carried out through the government and private sector, which is temporary/not permanent (Pramanasari and et al, 2021):

1. Data collection and registration of street vendors;
2. Determination of the location of street vendors;
3. Relocation and deletion of the location of street vendors;
4. Rejuvenation of the location of street vendors; and
5. Planning for the provision of space for the activities of street vendors.

Through the Regulation of the Minister of Home Affairs of the Republic of Indonesia Number 41 of 2012 concerning Guidelines for Structuring and Empowering Street Vendors. The Minister of Home Affairs stipulates Guidelines for Structuring Street Vendors. In the general provisions of Article 1 Paragraph 2, it is explained that in structuring street vendors, efforts are made by local governments through the determination of assisted locations to determine, transfer, control, and eliminate the locations of street vendors by taking into account the public, social, aesthetic, health, economic, and social interests—security, order, environmental cleanliness and by statutory regulations (Schanes and et al, 2018).

The rights of street vendors (Article 30 of the Regulation of the Minister of Home Affairs No. 41 of 2012):

1. Obtaining street vendor business registration services;
2. Conducting business activities at the designated location;
3. Obtain information and socialization or notification related to business activities at the location concerned;
4. Obtain regulation, arrangement, guidance, supervision, and assistance in developing its business; and
5. Get assistance in obtaining capital loans with bank partners.

Meanwhile, the obligations of street vendors (Article 31 of the Regulation of the Minister of Home Affairs No. 41 of 2012):

1. Comply with statutory provisions;
2. Comply with the time of business activity that has been determined by the Regent/Mayor;
3. Maintain the beauty, order, security, cleanliness, and health of the business premises;

4. Placing and arranging merchandise and services as well as trading equipment in an orderly and orderly manner;
5. Does not interfere with traffic and public interest;
6. Submit the place of business or business location without claiming compensation in any form, if the business location is not occupied for 1 (one) month or at any time the location is required by the regency/city government; and
7. Occupy a place or business location that has been determined by the regional government according to the business registration mark owned by street vendors.

According to its designation, relocation is an effort to place a certain activity back on land. In relocating street vendors also consider several things (Dye, 1995):

1. Pay attention to location factors and demand for goods.
2. Have adequate access to the market and at least two roads for entry and exit.
3. Close to the terminal or train station to facilitate the movement of consumers and traders.
4. Adequate supporting infrastructure and facilities. Such as drainage, electricity, gas, clean water, and garbage disposal.

The local government, be it district/city or province, has a different policy for relocating street vendors. With the policy of structuring street vendors, it is hoped that the local area will be by its designation. However, this becomes a problem for street vendors if the arrangement is carried out because it will reduce the livelihoods of street vendors. The following are some of the conditions for relocating street vendors in several areas (Nurany, 2021).

First, the Government of the Special Capital City Region of Jakarta has regulated the problem of street vendors in Governor Regulation Number 10 of 2015, article 2 paragraph 2, which explains that the purpose of this regulation is to create order and comfort as well as the beauty of the city, providing business opportunities as long as the location used is still permitted to provide income and employment opportunities as well as control the development of street vendors in locations that are not by their designation. The regulations or regulations that have been described seem to be the basis for the local government in controlling street vendors at Tanah Abang Market, including the deployment of the Civil Service Police Unit (Zamahsari, 2017).

The handling of street vendors at Tanah Abang Market, which is considered the cause of congestion, cleanliness, and destroying the city's beauty, has yet to be resolved; the solution tends to be more complicated. Various ways have been done, ranging from persuasive to repressive measures. However, the problem of street vendors has not been resolved. The form of control carried out by the Civil Service Police Unit is the actualization of the attitude of failure in the dialogue process carried out. This control directed to using violence often leads to conflict or clashes.

Who enter the informal economy. This is motivated by the absence of economic equality in each region. This is because there are fewer jobs with adequate income in rural areas. In other words, the high number of street vendors in Jakarta, especially at Tanah Abang Market, is a logical impact of development and industrialization policies that prioritize the formal sector, which when unable to absorb labor, especially from the working class with low formal education, causes the workforce to swell.

Second, the local government of Sidoarjo Regency, through Regional Regulation Number 23 of 2014 concerning the arrangement and empowerment of street vendors, regulates the relocation of street vendors. So that the arrangement of street vendors has several stages and processes that are carried out before the street vendors are placed in a location that is intended for street vendors (Prasetya & Fauziah 2016). aims to provide business opportunities for street vendors by determining the location according to its designation; grow and develop the business capabilities of street vendors to become strong and independent micro-economic enterprises; create a clean, beautiful, orderly and safe city with adequate and environmentally friendly urban facilities and infrastructure.

However, in reality, one of the places where the street vendors will relocate, namely the flyover area, Buduran District, Sidoarjo Regency, did not go through the relocation process stage to the regulations set by the Government. Because the relocation is a program from the Sanitation and Parks Office of Sidoarjo Regency to organize street vendors who are still selling on the road shoulders and sidewalks in the park, this step was indeed well appreciated by the coordination team for the arrangement and empowerment of street vendors in Sidoarjo Regency because this step was considered the first step to overcome the problem of street vendors in the flyover area, Buduran District, Sidoarjo Regency. However, the facilities for selling street vendors are still not good enough for buyers who want to stop by. In Heriyanto's findings, it was also revealed that the obstacles faced by street vendors were in terms of infrastructure and facilities. After being relocated, the government as the manager was expected to be able to repair damaged pedestrian areas and expand parking spaces.

Third, through Regional Regulation Number 10 of 1990, the local government of Makassar City concerning the Guidance of Street Vendors in the Level II Regional Municipality of Ujung Pandang. Efforts made by the street vendor government in Rappocici District, Makassar City, involve various agencies, including the Industry, Trade and Investment Office, the Parks and Hygiene Service, the Spatial Planning and Building Service, and the Civil Service Police (Puspita, 2018).

In its development, the Makassar City Government also issued Makassar City regulations that regulate the existence of places or roads that are not allowed by street vendors to trade. This is confirmed in the Mayor's Decree No. 20 of 2004 concerning the Permanent Procedures for Controlling Buildings and Guiding Traders in the Informal Sector in the Makassar City Region. The policy regarding the regulation of business premises for street vendors has basically been stated in the Mayor's Decree No. 20 of 2004 concerning the Guidance of Street Vendors in Makassar City regarding each

area belonging to the road in Makassar City that is not allowed to be occupied by street vendors because its designation is only for road users.

People who come to cities from the countryside to look for work are generally poor urbanites. However, they feel that the opportunity to live, get a job and a better salary, is more likely than if they had stayed in the village. One of the reasons is the need for regulations because the number of immigrants from outside Makassar City is increasing from year to year to try their luck and continue their education in Makassar City.

Implementation of General Principles of Good Governance in Seeing the Relocation of Street Vendors

The development of Political and Administrative Law in Indonesia is increasingly visible because, in Law no. 23 of 2014 concerning Regional Government, the General Principles of Good Governance are used as the Principles in the Implementation of Regional Government as a guideline for the Implementation of Regional Government, as stated in Article 58 which reads: on legal certainty; orderly state administration; public interest; openness; proportionality; professionalism; accountability; efficiency; effectiveness; and justice (Gandaria, 2015).

The general principles of good governance are principles that uphold the norms of decency, propriety, and legal norms to create state administrators that are clean and free from corruption, collusion, and nepotism. These general principles of good governance function as a means of preventive legal protection, including the right to be heard and access information (Hadjon, 1987).

The general principles of good governance are born from the practice of administering the state and government so that they are not a formal product of a state institution such as a law. General principles of good governance can be understood as general principles that serve as the basis and procedures for proper governance; in this way, government administration will be good, polite, fair, and honorable, free from injustice, violation of regulations—acts of abuse of authority and arbitrary actions (Widjiastuti, 2017).

The administration in assessing the actions of the state administration (in the form of determination or *beschikking*) and as the basis for filing a lawsuit for the plaintiff. Jazim Hamidi said (Hamidi, 1999), first, the general principles of proper governance are ethical values that live and develop in the environment of State Administrative Law and serve as a guide for state administration officials in carrying out their functions as a test tool for judges. Second, most of the general principles of good governance are still unwritten, abstract, and can be explored in the practice of life in society, and some of the other principles have become written legal rules and are scattered in various favorable legal regulations.

In Article 10 of Law no. 30 of 2014 concerning Government Administration explains that there are several principles in it, including:

1. The principle of legal certainty: This principle requires respect for the rights that have been obtained by a person based on a government decision, even though the decision is wrong. So for the sake of le-

gal certainty, every decision issued by the government is not to be revoked (Rumokoy, 2010).

2. The principle of benefit: Benefits that must be considered in a balanced manner between (1) the interests of one individual with the interests of other individuals; (2) individual interests with society; the interests of citizens and foreign communities; (4) the interests of one community group and the interests of other community groups; (5) the interests of the government with the citizens of the community; (6) the interests of the present generation and the interests of future generations; (7) the interests of humans and their ecosystems; (8) the interests of men and women.
3. The principle of impartiality: The principle that requires Government Agencies and Officials in determining and carrying out Decisions and Actions, taking into account the interests of the parties as a whole and not discriminatory.
4. The principle of accuracy: The principle of due diligence requires that the government agency, before making a decision, examines all relevant facts and satisfies all relevant interests in their considerations. If essential facts are not accurate, it means you are not careful. The principle of prudence carries that government agencies should not easily deviate from the advice given, especially if the advisory committee sits experts in specific fields.
5. The principle of not abusing authority: The principle requires each Government Agency and Official not to use its authority for personal or other interests and not to grant the authority, not exceed, not abuse, and not mix authority.
6. The principle of openness: The principle of serving the community to gain access to and obtain correct, honest and non-discriminatory information in government administration while still paying attention to the protection of personal rights, groups, and state secrets.
7. The principle of public interest: the principle that prioritizes the welfare and public benefit in an aspirational, accommodative, selective, and non-discriminatory manner.
8. And the principle of good service: providing timely services, transparent procedures, and costs by service standards and the provisions of laws and regulations.

Starting from the 8 (eight) general principles of good governance contained in the Government Administration Act, it will try to be applied in the relocation of street vendors. Based on the current condition of the relocation of street vendors, it is very concerning. In Jakarta, the local government constantly clashes with street vendors, and the methods used are repressive. Meanwhile, in Sidoarjo, the government in relocating did not comply with the procedures and stages that must be passed.

Meanwhile, the Presidential Regulation of the Republic of Indonesia Number 125 of 2012 concerning Coordination of

Arrangement and Empowerment of Street Vendors explicitly states that the empowerment of street vendors is carried out through data collection and registration of street vendors; determining the location of street vendors; relocation and deletion of the location of street vendors; rejuvenation of the location of street vendors; and planning for the provision of space for the activities of street vendors.

Empowerment above also needs to consider the factors of location, crowds, the possibility of consumers shopping high, and comfort and safety. Suppose the stages and considerations for the empowerment of street vendors have been carried out. In that case, the street vendors will carry out their obligations in Article 31 of the Regulation of the Minister of Home Affairs of the Republic of Indonesia Number 41 of 2012 concerning Guidelines for Structuring and Empowering Street Vendors (Sariffuddin and et al, 2017).

In order to avoid incidents such as in the Province of the Special Capital Region of Jakarta, Sidoarjo Regency, and the city of Makassar, the government must review the relocation of street vendors that have been carried out so far by looking at the general principles of good governance. There are 3 (three) general principles of good governance that need to be considered for the relocation of street vendors. First, the principle of accuracy, regarding the relocation of street vendors, the government, in making decisions, must examine all relevant facts and satisfy all relevant interests in their considerations. Second, regarding the principle of not abusing authority, the government must comply with all procedures and stages contained in the regulations about the relocation of street vendors. The government may not exceed its authority if the authority is not required. Moreover, third, the principle of public interest, regarding the relocation of street vendors, every step that will be decided must consider street vendors' welfare and public benefit.

CONCLUSION

The relocation of street vendors by the local government is currently very concerning. This can be seen from the many problems in several areas, both in the Special Capital Region of Jakarta, Sidoarjo, and Makassar. The above problems arise because of the street vendors who insist on maintaining the location where they sell, the government in relocation does not follow the steps that must be passed, and the needs of urban communities who live in urban areas. The problems in the Special Capital Region of Jakarta, Jakarta, and Sidoarjo showed that the consideration of relocation was not through a study of the general principles of good governance and existing legal rules. The general principles of good governance that need to be used in the relocation of street vendors by the Government are the principle of accuracy, the principle of not abusing authority, and the principle of public interest. The application of general principles of good governance in the relocation of street vendors has not yet been used by the provincial or district/city governments.

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Received: Nov 20, 2022

Revised: Nov 25, 2022

Accepted: Dec 22, 2022

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