



## Legal analysis of the guidance of street children, homeless, beggar, and buskers by the government of Kendari city, Indonesia

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### Abstract

This research is to find out how, Control and Guidance of Street Children, Homeless, Beggars, and Singers in Kendari City By using empirical juridical research methods, normatively that the law has provided arrangements to control and foster Street Children, Homeless, Beggars, and Gamers. Poverty is the dominant factor that causes the number of street children, homeless people, beggars and buskers. Poverty can force a person to become homeless because they do not have a proper place to live. Field Study is a field observation with competent parties in order to obtain data information about the subject and object under study. The results of the study indicate that the Kendari City Government together with the community have an important role in enforcing Kendari City Regional Regulation of Kendari City Number 9 Of 2014 Concerning Guidance of Street Children, Vagina, Beggars And Buskers. Regarding the low legal awareness of the community towards the Regional Regulation and the Kendari City Government has not prepared a shelter and the PPNS Investigator still unavailability of enforcement of Regional Regulations Especially related to Street Children, the novelty of this research is more or less it can be seen from the object of research, namely Kendari City Regional Regulation Of Kendari City Number 9 Of 2014 Concerning Guidance Of Street Children, Vagina, Beggars And Buskers, in which the regulation of Street Children, Homeless, Beggars, and Singers is a very new thing in Kendari City, therefore assessing the model and implementation of this regulation on Its location in the community of Kendari City has become a Legal Culture research that has not been analyzed before.

**Keywords:** Implementation, Regional Regulation, Kendari City

### Introduction

With the growth in the number of vagrants, beggars, and child laborers in public facilities, traffic lights and even in offices and residential areas, it seems to be a problem from year to year in Kendari City. A vagrant is a person who lives in a state that is not in accordance with the norms of decent life in the local community and does not have a fixed place of residence and work and wanders in public places. Beggars are people who earn income by begging in public in various ways and reasons to expect the mercy of others. Meanwhile, a vagrant beggar is someone who lives as a vagrant and at the same time begs in public. Kendari City it self has an area of 296.00 km<sup>2</sup> with a population of 359,371 people, so the city is already heading to wards a metropolitan city, therefore the Kendari City Government, through a joint team, the Social Service, the Office of Women's Empowerment and Child Protection, the Youth and Sports Service, Kendari Police, and Civil Servant Police Unit, routinely conducts raids on dozens of street children, vagrants, beggars and buskers.

The routine raids are carried out on every street child and beggar who is at the intersection of four *traffict* lights or on the sidewalk, after being secured, dozens of street children and beggars are taken to the Kendari City Social Service Office, then data collection and *assessment* are carried out by the Social Service, the aim is to find out their identity for further assistance. Assistance, for example, what they need, if it is related to labor, it will be consulted with the Manpower Office. Vice versa, if they need education, then we will coordinate with the Education Office. Related to this, various policies and regulations (rules) of the City Government of Kendari have been carried out in tackling the problem of street children, but the reality shows that the

activities of street children tend to increase, especially during the month of Ramadan or the peak approaching Eid.

One of the efforts of the government of Kendari City, is witha policy in the form of Kendari City Regional Regulation No. 9 of 2014 concerning the Development of Street Children, Vagrants, Beggars, and Buskers in Kendari City. This means that for approximately six years the local regulation onthe guidance of street children has been enacted to tackle the problem of street children in Kendari City. However, so far the policy carried out by the Kendari City government has only prioritized the role of institutions such as social services, and orphanages without paying attention to the main factors causing the increase in the number of street childrenin Kendari City, such as poverty in the family. On the other hand, the existence of street children is directed to obtain income by carrying out various forms of activities, both by parents andpeople who exploit street children in order to obtain a high enough income to carry out activities as beggars and buskers. Under these conditions, it turns out to encourage parents of children who come from the poor to let their children earn a living on the streets, especially the protocol roads in Kendari City.

Thus the Kendari City Regional Regulation No. 9 of 2014 concerning the Development of Street Children, Vagrants, Beggars, and Buskers to regulate and overcome these problems but in plain sight has not produced massive results, and finally the purpose of this study is to find out how, Control and Development of Street Children, Vagrants, Beggars, and Buskers in Kendari City.

### Research problem

Based on the description, what is raised by the author in this paper is the Effectiveness of the Implementation of Kendari

City Regional Regulation number 9 of 2014 concerning the Development of Street Children, Vagrants, Beggars, and Buskers in Kendari City and what are the obstacles in the Implementation of the Regional Regulation.

### Research methods

This research is a type of empirical juridical research, or called field research, which examines the applicable legal provisions and what happens in reality in society. Testing the effectiveness of Kendari City Regional Regulation Number 9 of 2014 concerning the Development of Street Children, Midgets, Beggars and Buskers in Kendari City. Empirical juridical research is legal research on the enactment or implementation of normative legal provisions in action on each specific legal event that occurs in society.

In conducting the research the author has a research location in Kendari City, namely the Kendari City Social Service and in places crowded with buskers and vagrants as well as other related in Kendari City, especially those that deal with buskers and vagrants.

The type and source of data is the main material needed in this research is data obtained directly in the field or research location through interviews with relevant officials or their own observations, with the object to be studied and also secondary data is data obtained indirectly. In this case obtained from literature, in order to obtain a theoretical basis in the form of opinions, documents, or other legal materials.

As for efforts to be able to obtain the validity of legal materials, so that accurate data will be obtained as study material, the method of data collection in this study is the Observation Technique (Observation), Interview Technique, and Documentation. The legal materials collected are processed systematically, then analyzed qualitatively, namely examining, examining existing legal materials, and presented in the form of qualitative descriptive descriptions to be able to answer the problem formulation.

### Discussion

Indonesia is a country based on law and not based on legal power must be used as a commander in running the wheels of life of the nation and state, in addition to certainty and justice the law also functions for the welfare of human life so that it can be said that law is a field of human struggle in the context of seeking happiness in life. Cipto Raharjo said in his book *Let the Law Flow "both human and community factors are brought to the fore so that the law appears more as a field of struggle and struggle for human law and the operation of law should be seen in the context of the law itself, the law does not exist for itself and its own needs but for humans, especially human happiness"*.

Local regulations are instruments of legislation that are born and produced in the regions as a manifestation of regional autonomy with the intention of better meeting the legal needs of the people in the regions. In general, the definition of local regulations can also be referred to as regulatory instruments given to local governments in the context of organizing local governance in each autonomous region. According to Prof. Dr. Jimmly Asshiddiqie, SH, the definition of regional regulations is as a form of implementing rules for laws as higher laws and regulations. The authority of regional regulations comes from the authority determined by a law.

However, regional regulations can also be formed to regulate matters where the authority to regulate such matters is not explicitly regulated by a law. This can be done in accordance with the provisions of the 1945 Constitution as referred to in Article 18 paragraphs (3) and (4). Kendari City itself in its ideals provides legal needs to its people where currently the development of Kendari City towards a Metropolitan city, of course this will give birth to the consequences of that development, one of which is urban chaos in the sense that the city of Kendari as a metropolitan city will certainly increase also Street Children, Homeless, Beggars, and Buskers, therefore in law enforcement the Kendari City Government has in 2014 issued Kendari City Regional Regulation Number 9 of 2014 concerning Development of Street Children, Homeless, Beggars, and Buskers in Kendari City.

One of the emergence of the problem of Kendari City Regional Regulation Number 9 of 2014 concerning the Development of Street Children, Vagrants, Beggars, and Buskers in Kendari City is caused, among others, by the increase in the number of Street Children, Vagrants, Beggars, and Buskers which is increasingly alarming, the face of the city which will be increasingly shabby, especially in the corners of protocol roads and red lights in Kendari City, However, law enforcement through Kendari City Regional Regulation Number 9 of 2014 concerning the Development of Street Children, Vagrants, Beggars, and Buskers in Kendari City is also expected to continue to fulfill a sense of justice and human rights for those low-income groups of course also by maintaining a sense of justice for the people of Kendari City in general.

In general, order means the rules that govern a group of people in Kendari City then become then become orderly and organized. The term public order comes from the word "order", according to the Big Indonesian Dictionary, order is the rules that must be obeyed or implemented. Where there is a close relationship with the existence of a sense of security, the community feels calm, then there is a law-ordered society in Kendari City with all applicable regulations and vice versa with the orderly attitude of the people of Kendari City towards something where mutual respect for existing regulations.

In general, the description of Kendari City Regional Regulation Number 9 of 2014 concerning the Development of Street Children, Vagrants, Beggars and Buskers provides an overview as a philosophical basis that street children, vagrants, beggars and buskers are regional problems that require systematic, coordinated and integrated handling measures in their implementation that need to be carried out in synergy between Government and non- Government in order to get a decent life and livelihood, that the existence of street children, vagrants, beggars and buskers in addition to tending endanger themselves and / or other people also causes inconvenience on public roads and allows them to become targets of exploitation and acts of violence, so it is necessary to handle them in a comprehensive, integrated and sustainable manner; that in order to provide direction, foundation and legal certainty for the development of street children, vagrants, beggars and buskers, it is necessary to regulate their development.

Kendari City Regional Regulation Number 9 of 2014 concerning the Development of Street Children, Vagrants, Beggars, and Buskers contains eighteen articles contained in ten chapters including General Provisions, Principles of

Development Objectives, Development Itself, Empowerment and Further guidance, Rights and Obligations, Financing, Prohibition, Investigation Provisions, Criminal Provisions and Closing Provisions, on this matter to assess the effectiveness of Kendari City Regional Regulation Number 9 of 2014 concerning the Development of Street Children, Vagrants, Beggars, and Buskers there are several objects of related agencies that we make as research subjects including the Kendari City Legal Agency, Kendari City Pamong Praja Police Unit and of course the Kendari City Social Service and of course pay attention to points in the city of Kendari which are seen as places where street children, vagrants, beggars and buskers circulate, from several of these subjects there are several things that this study will describe to assess the effectiveness of Regional Regulation Number 9 of 2014 concerning the Development of Street Children, Vagrants, Beggars and Buskers including Development, Development According to Regional Regulation Number 9 of 2014 concerning the Development of Street Children, Vagrants, Beggars and Buskers in Kendari City.

Next is about Empowerment and guidance according to Regional Regulation Number 9 of 2014 concerning the Development of Street Children, Homeless, Beggars and Buskers in Kendari City:

- a. Empowerment of families of street children, families of vagrants and beggars, families of buskers and families of ex-lepers is intended as an effort to carry out social welfare improvement activities.
- b. Family empowerment is a process of strengthening families that is carried out in a planned and directed manner through guidance and skills training activities.
- c. Activities are carried out by the Social, Labor and Transmigration Office, related Regional Work Units and/or involve social institutions that have social welfare business activities.
- d. Family empowerment is carried out by mentoring carried out by professional social workers, community social workers who have attended mentoring guidance and training.

It is also very crucial for the author of this Regional Regulation on Prohibition as stipulated in Regional Regulation Number 9 of 2014 concerning Development of Street Children, Homeless, Beggars and Buskers in Kendari City:

- a. Street children, vagrants, beggars and buskers are prohibited from conducting activities on the streets and other public facilities.
- b. Every person is prohibited from giving money and/or goods to street children, vagrants, beggars and buskers on the streets and other public facilities.
- c. Every person is prohibited from exploiting street children, vagrants, beggars and buskers, including beggars on behalf of social institutions or orphanages as well as buskers who busk on the streets and other public facilities.

#### **Law and Legislation Section of Kendari City Government.**

According to an interview with the Law and Legislation Section of Kendari City Government, Mr. La Ode Sita, S.H.,M.H. (*Kendari March 20, 2021*) in his office said that the establishment of the Kendari City regional regulation

related to street children, vagrants, beggars and buskers is an initiative of the Kendari City Government which considers that street children, vagrants, beggars and buskers are regional problems that require systematic, coordinated and integrated handling measures in their implementation, so it needs to be done in synergy between government and non-government in order to get a decent life and livelihood, and also the existence of street children, vagrants, beggars and buskers in addition to tending to endanger themselves and others also creates inconvenience on public roads in the city of Kendari and allows them to be the target of exploitation and acts of violence, so based on this it is necessary to handle it in a comprehensive, integrated and sustainable manner, as well as to provide direction, foundation and legal certainty for the development of street children, vagrants, beggars and buskers, it is necessary to regulate their development.

Regarding the regulation of streets, vagrants, beggars and buskers, the Law and Legislation Section of Kendari City Government, Mr. La Ode Sita, S.H.,M.H. (*Kendari March 20, 2021*) also said that the implementation of policies for fostering street children, vagrants, beggars, and buskers in Kendari City is based on and upholds the principles of implementation, namely the principle of protection, the principle of humanity, the principle of kinship, the principle of justice, the principle of order, legal certainty, the principle of balance, harmony and harmony, so that the Kendari City Government in issuing its policies on the regulation of Streets, Vagrants, Beggars and Buskers as evidenced by the issuance of Kendari City Regional Regulation Number 9 of 2014 concerning the Development of Street Children, Vagrants, Beggars and Buskers must continue to implement and uphold these principles.

Related to the duties and functions of the Law and Legislation Section of the Kendari City Government after the issuance of the Kendari City Regional Regulation Number 9 of 2014 concerning the Development of Street Children, Vagrants, Beggars and Buskers policy is to make efforts to socialize to the public the Kendari City Regional Regulation Number 9 of 2014 concerning the Development of Street Children, Vagrants, Beggars and Buskers especially article 16 Namely:

1. Every person is prohibited from giving money and/or goods to street children, vagrants, beggars and buskers on the streets and other public facilities.
2. Every person is prohibited from exploiting street children, vagrants, beggars and buskers, including beggars on behalf of social institutions or orphanages as well as buskers who busk on the streets and other public facilities.

The Law and Legislation Section of the Kendari City Government admitted that they have conducted socialization of Kendari City Regional Regulation Number 9 of 2014 concerning the Development of Street Children, Homeless, Beggars and Buskers until now they are still doing it but admittedly also the socialization is still slow so the results are still not good, this is exacerbated by the low legal awareness of the people of Kendari City and the prohibition of giving money and / or goods to street children, homeless people, beggars and buskers on the streets, as Article 16 of Kendari City Regional Regulation Number 9 of 2014 concerning the Development of Street Children, Vagrants, Beggars and Buskers, there is a *Norm Conflict* with the

norms of the community who may believe that giving money and/or goods to street children, vagrants, beggars and buskers is a generous act of good funds so that this is also what causes the lack of effective implementation of the Kendari City Regional Regulation Number 9 of 2014 concerning the Development of Street Children, Vagrants, Beggars and Buskers to date.

Therefore, the Law and Legislation Section of Kendari City Government realizes that socialization or counseling as a process of behavior change is not easy. The focus of counseling as a behavior change process is sustainable counseling. In the process of behavior change, it is demanded that the target changes not only because of the addition of knowledge, but it is also expected that there will be changes in skills as well as steady attitudes that lead to better, productive, and profitable actions or work.

### **Kendari City Government Social Service**

Social services are government agencies that are needed to carry out government tasks in social welfare efforts. According to the Head of the Kendari City Social Service, Indra Muhammad, the Social and Labor has the main task of carrying out regional household affairs and assistance tasks in the fields of social welfare development, social rehabilitation, social welfare development and labor development. The implementation of tasks, the social service is assisted by social workers. Social workers are Special Officers from the Ministry of Social Affairs who have special skills and a spirit of devotion in the field of social welfare business. Social Workers are Civil Servants (PNS) who are given the task of carrying out Social Welfare Business activities in full by the authorized official with in the Department of Social Affairs and Social Welfare Service Units in other Agencies (article 1 of the Decree of the Minister of Social Affairs Number 4 of 1988).

The problem of street children begging in Kendari City is becoming more apparent. In fact, according to the Kendari City Social Service, the number is increasing during the pandemic. According to an interview with the Head of the Kendari City Social Service, Indra Muhammad, revealed that:

*"Most street children come from outside the city". The street children, Indra said, are also suspected of being coordinated by certain individuals to beg. After begging, they deposit to the person. The motives vary, ranging from orders by certain individuals. There are also the demands of life due to the covid 19 pandemic".*

Based on the author's observations, several points in the city of Kendari have now been filled with street children, vagrants, beggars, and buskers, including at several red light points which are usually the place for street children, a number of red light points in the city of Kendari are colored by the activities of street children, vagrants, beggars, and buskers, Based on the results of the author's observations that became a place of activity including the red light of Pasar Baru, MTQ red light, Kendari Kejari red light, Great Mosque red light, and Dragon Inn Hotel red light, Especially street children are on average under the age of 13 years and are still in school, around 14 street children were seen at several points around the red light in Kendari City.

One of the street children named Dimas, 12 years old, stated that he was his parents to sell at the red light based on an interview with Dimas stated that:

*"My brother and I follow my mother to sell at the red light to help buy food. I am still in Grade 5 school, usually my father delivers me at the red light before he goes scavenging".*

Social Service and other related parties in eradicating the syndicate of beggars and vagrants in Kendari city area. The Kendari City Government Pamong Praja Police Unit also acts as an enforcer of local regulations, and the police are assigned to also *back-up* the activities of Pamong Praja Police Unit in handling beggars and vagrants in order to prevent criminal acts that will occur during the implementation of raids. In addition, the preventive role is carried out by means of appeals, counseling by prioritizing the Bimnas function to emphasize or minimize the perpetrators in Kendari City and the repressive role is carried out by means of raids if there is a request from the Kendari City Social Service to *back up the* control of beggars and vagrants carried out with the Civil Service Police Unit to prevent criminal acts that will occur during the implementation of raids.

So that indeed the Implementation of the Kendari City Government Policy to Conduct Development of Street Children, Homeless, Beggars, and Buskers through Kendari City Regional Regulation Number 9 of 2014 concerning Development of Street Children, Homeless, Beggars, and Buskers is recognized to still get challenges even the Kendari City Government Policy will be tested in the future ahead of the days of Ramadan and Eid al-Fitr where at those times the number of Street Children, Homeless, Beggars, and Buskers soared.

### **Civil Servants of Kendari City Government**

At the Kendari City Civil Service Unit according to an interview with Kendari City Civil Service Unit Staff Ariezal Masaputra, S.H. (dated March 12, 2021) that the Enforcement of Regional Regulation Number 9 of 2014 concerning the Development of Street Children, Vagrants, Beggars, and Buskers is carried out in a way that is in accordance with the procedure and the desired target in accordance with what has been agreed upon previously. In the implementation of the regulation, actions have been taken in the form of patrols every 4-3 times a month and as many raids as needed in catching beggars and vagrants in Kendari City, as in the raid conducted by the Kendari City Civil Service Unit together with the Kendari City Social Service, on February 1, 2021, in the raid 86 street children, vagrants, beggars, and buskers were secured, of which the number was dominated by street children.

The enforcement of Local Regulation Number 9 of 2014 on the Development of Street Children, Vagrants, Beggars, and Buskers is enforced by the Kendari City Civil Service Unit with the *back up of* the Police with orders given by the Kendari City Social Service. Although from the data obtained that beggars and vagrants in the last 2 years have continued to increase, it does not mean that the implementation of the Enforcement of Regional Regulation Number 9 of 2014 concerning the Development of Street Children, Vagrants, Beggars, and Buskers is ineffective, because from interviews conducted by the author with Kendari City Civil Service Unit Staff Ariezal Masaputra, S.H. (March 12, 2021) that:

*"Street children, vagrants, beggars, and buskers who we data and are given guidance sometimes do not utilize the guidance properly because they tend to want to get money*

*in a fast way (instant), the return of beggars and vagrants to their original place to do begging and vagrancy is due to the ineffective implementation of the local regulation specifically on the prohibition of giving money to beggars, vagrants, and street children." In sense, when no one gives, there will be no one who receives".*

From the explanation above, it confirms that the enforcement of Regional Regulation Number 9 of 2014 concerning the Development of Street Children, Vagrants, Beggars, and Buskers, regarding the prohibition of begging and vagrancy in Kendari City has been effective, seen from the enforcement carried out by several parties concerned such as the Kendari City Pamong Peraja Unit but if you look at the number of Street Children, Vagrants, Beggars, However, if we look at the number of street children, vagrants, beggars, and buskers in Kendari city which continues to increase, it is certainly a problem in itself because no matter how often the Civil Service Police Unit conducts raids, the number of street children, vagrants, beggars, and buskers cannot be reduced if the community still gives money to these street children, vagrants, beggars, and buskers, especially when approaching or on holidays the number usually jumps up.

### Conclusion

In conclusion, law enforcement is not only intellectual intelligence but also spiritual intelligence, in other words, law enforcement that is carried out with full termination empathy dedication and commitment to the suffering of the community with the courage to look for other ways than what can be done.

Kendari City Regional Regulation Number 9 of 2014 concerning the Development of Street Children, Homeless, Beggars, and Buskers in Kendari City in the Model and Implementation of law enforcement is carried out by the Law and Legislation Agency, the Social Service and the Kendari City Civil Service Police Unit which have an important role in enforcing Kendari City Regional Regulation Number 9 of 2014 concerning the Development of Street Children, Homeless, Beggars, and Buskers. The effectiveness of the enforcement of these local regulations can also be seen from the Number 9 of 2014 concerning the Development of Street Children, Vagrants, Beggars, and Buskers, and also raids carried out by the Kendari City Social Service and the Kendari City Pamong Praja Police Unit and after the raid, data collection is carried out which will then be given guidance carried out by the Kendari City Social Service in the form of self-development according to their respective talents and desires so that beggars and vagrants in Kendari city can develop their talents to find income without begging.

However, these actions do not solve the problem of street children, vagrants, beggars, and buskers in Kendari City, the problem is not completely resolved because of the obstacles experienced in enforcing the law in general, namely the obstacles to the enforcement of Kendari City Regional Regulation Number 9 of 2014 concerning the Development of Street Children, Vagrants, Beggars, and Buskers, which in essence is a matter of legal awareness of the Kendari city community. If someone only knows the law, it can be said that the level of legal awareness is still low, but if someone in a society has behaved in accordance with the law, then his legal awareness is high. The obstacles of the Kendari City Government in the Implementation of Kendari City

Regional Regulation Number 9 of 2014 concerning the Development of Street Children, Vagrants, Beggars, and Buskers until now the Kendari City government has not prepared a Halfway House and the last obstacle of the Kendari City Government in the Implementation of Kendari City Regional Regulation Number 9 of 2014 concerning the Development of Street Children, Vagrants, Beggars, and Buskers is still the unavailability of PPNS Investigators to enforce Regional Regulations specifically related to Street Children, Vagrants, Beggars, and Buskers.

By looking at the many obstacles in fostering beggars and vagrants in the city of Kendari which are increasing every year, the government should as early as possible streamline the implementation of Kendari City Regional Regulation Number 9 of 2014 concerning the Development of Street Children, Vagrants, Beggars, and Buskers article 16 paragraph 2 concerning the prohibition of giving money or goods to beggars, and street children as an effort to reduce the population of beggars and vagrants in Makassar City and to further streamline the implementation of Kendari City Regional Regulation Number 9 of 2014 concerning the Development of Street Children, Vagrants, Beggars, and Buskers article 16 concerning the prohibition of begging and vagrancy.

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