

THE IMPLEMENTATION OF ARTICLE 504 AND ARTICLE 505 OF THE CREDIT CONCERNING BEGGERS AND BUDGETS IS LINKED TO THE ROLE OF THE POLICE, PAMONG PRAJA POLICE UNITS, AND SOCIAL SERVICES IN THE CITY OF BANDUNG

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Abstract

If a civilian commits a criminal act, the resolution process for violations of criminal law involves the involvement of law enforcement officials such as the Police as investigators, Prosecutors as prosecutors, Judges, and Correctional Institution Officers. However, there are distinctions between the infractions outlined in sections 504 and 505 of the Criminal Code pertaining to vagrancy and beggars. These distinctions arise from the fact that the enforcers are not police officers and prosecutors, but rather civil service police units and social services. Enumerate the subsequent issues: (1) How is the implementation of Article 504 and Article 505 of the Criminal Code incorporated into Indonesian legislation? (2) What are the responsibilities of the Police, Civil Service Police Unit, and Social Services in dealing with cases involving violations of articles 504 and 505 of the Criminal Code pertaining to Homelessness and Beggars, particularly in the City of Bandung? This journal article employs qualitative field research, which is a research method that involves collecting data directly from the field. Empowered by the outcomes of interviews and documentation. The technique employed is a combination of juridical and sociological methodologies. The research findings indicate that the application of Articles 504-505 of the Criminal Code has been implemented but is not fully effective, resulting in inadequate measures to address the issue of homeless individuals engaging in economic activities. Furthermore, the Police, the Civil Service Police Unit, and the Social Service in the City of Bandung, as the institutions responsible for law enforcement, have demonstrated consistent efforts in enforcing the implementation of articles 504 and 505 of the Criminal Code. Bandung City was selected as the research site due to the prevalence of begging, which has significantly disrupted the security and well-being of other community members. Nevertheless, the research findings indicate that there are multiple elements impeding the efficacy of the rules outlined in articles 504 and 505 of the Criminal Code. Additionally, both internal and external hurdles have arisen. The establishment of articles 504 and 505 of the Criminal Code is considered "barren" due to two fundamental reasons: juridical and non-juridical. This presents a traditional dispute that directly opposes the primary responsibilities of POLRI, as stipulated in article 13 of Law Number 2 of 2002. These responsibilities include maintaining public order and security, executing the law, and safeguarding and assisting the community.

Keywords: Beggars and Homeless, Police, Social Services.

INTRODUCTION

The Criminal Code currently in force is not originally created by the Indonesian people, this Criminal Code was born and came into force on January 1, 1918 during the Dutch East Indies era. (Kansil,1986).

The mechanism for the resolution process for violations of criminal law that has been implemented and enforced to date, if the person committing the criminal act is a civilian, will be processed through law enforcement officials consisting of the Police as investigators,

Prosecutors as prosecutors, Judges and Correctional Institution Officers. This is different from criminal acts committed by military personnel, the process is different from criminal offenses committed by civilians. Regarding the ban of begging, as stipulated in Article 504 and Article 505 of the Criminal Code, which pertain to beggars and vagrants:

1. Anyone who begs in public is threatened with imprisonment for a maximum of six weeks.
2. Soliciting carried out jointly by three or more people, each of whom is more than 16 years old, is punishable by a maximum imprisonment of three months.

Explanation of the definition of beggars according to R. Soesilo are people who earn income by begging in public places in various ways and reasons to hope for people's mercy, the method in question is by busking or asking for donations accompanied by a poor certificate issued by the Village Head or Subdistrict Head containing a statement that the person concerned is poor or an orphan (Soesilo, 1988).

This restriction may appear to be anti-social, but it does not aim to prevent individuals from seeking assistance. Rather, it outlaws the act of soliciting in public areas, such as marketplaces, stations, and roadsides. The behavior described in this article can cause discomfort and is deemed unacceptable and highly embarrassing, particularly for individuals who are traveling. However, it should be noted that if such behavior occurs within the confines of one's own residence, it is not subject to scrutiny unless it is observable from a public thoroughfare (Putra Jaya, 2008). Furthermore, homeless people who have no income are regulated in Article 505 of the Criminal Code as follows:

1. Anyone who is homeless without having a source of income is threatened with vagrancy with a maximum imprisonment of 3 months.
2. Vagrancy committed by three or more people over the age of sixteen is punishable by a maximum imprisonment of six months.

R. Soesilo defines Homelessness as the same as wandering, vagrancy or adventure can be interpreted as wandering here and there moving from one place to another. This can be punished if he goes on an adventure without a clear livelihood, usually done by asking here and there. A person who intends to travel around the country or the world on foot, even if it seems like an adventure, is not included in this article because they have a clear livelihood (Soesilo, 1988).

Therefore, the act of begging and vagrancy should not be strictly regulated in the criminal law book as an offense that deserves to be punished. Apart from being based on the 5 (five) principles of the state, namely Pancasila, to achieve its goals it must also function and be based on on four principles of legal ideals, namely:

1. Protect all elements of the nation and its integrity.
2. Realizing social justice in the economic and societal fields.
3. Realizing popular sovereignty (democracy) and the rule of law (nomocracy).
4. Creating tolerance on the basis of humanity and justice in religious life.

The influence before the regulation comes into force takes into account the circumstances that give rise to the regulation, as well as at the time it is made, if the regulation is already valid, the influence of society can be known from its attitude towards the regulation.

People can obey, refuse, and can also be apathetic, therefore in this relationship it is very important to know how a rule works in reality.

Roeslan Saleh said that how can we enforce order if the material that must be put in order does not receive or lacks collective attention for the law in common life, the material consists of humans working together with each other, each for himself and for all together. together and strive for happiness and prosperity.

Legal order will be disturbed due to crimes and violations of the law, the development of the law itself will be increasingly lagging behind because of its ability to formulate laws and their implementation due to the living conditions of a pluralistic or increasingly complex society, in turn conflicting interests in society and ultimately resistance to the law will emerge. which can cause social problems.

The problem of beggars and vagrancy is a violation in criminal law, however, Article 34 of the 1945 Constitution states something different, namely:

1. The poor and neglected children are cared for by the State.
2. The state develops a social security system for all people and empowers the weak and underprivileged in accordance with human dignity.
3. The state is responsible for providing adequate public service facilities.
4. Further provisions regarding the implementation of this article are regulated in the Law.

By looking at the provisions above, in terms of the application of law in Indonesia, the view is still that law is law without paying attention to social turmoil, so there is no commitment and morality to build an ideal law that is fair in addition to having professional certainty.

In implementing law in society, it is actually not as simple as when the law is finished, then the law can be applied immediately as something that will have direct contact with society, it is clear that there will be a lot of struggle with the many dimensions and factors that live in society, it is not uncommon for legal products to occur that are not appropriate. with the socio-economic and political conditions of society.

The problem of controlling or overcoming crime using criminal law is not only a social problem, but also a policy issue so that seen from this angle, there are those who question whether this crime can be handled, prevented or controlled using criminal law.

Customary law is a unique spirit that exists and lives in a society in Indonesia which can provide alternatives in resolving disputes, and can be used as a basis for forming a legal system in Indonesia, especially regarding the regulation of homeless people and beggars.

The social welfare problems currently developing show that citizens have not had their basic needs fulfilled because they have not received social services from the state, this is confirmed in Law no. 11 of 2009 concerning Social Welfare. If we look at existing legislation, we will see a direction of government policy in creating a prosperous society.

However, for some time one of the media said that there had been a case in which several beggars and homeless people were sentenced to prison and the case was transferred to the District Court. But there are also those who are only provided with counseling by the Social Service, and/or the Civil Service Police Unit.

With the above problems, the author is interested in conducting research with the title: "Implementation Of Article 504 And Article 505 Of The Criminal Code Concerning Beggars And Vagrants Linked To The Role Of The Police, Pamong Praja Police Units, and Social Services In The City Of Bandung"

Theoretical Background

1. Criminal

a. Understanding Criminal

The term "criminal" originates from the Javanese Hindu language, where it denotes punishment, sorrow, or grief. In Dutch, it is referred to as "straf". To be punished refers to the act of receiving retribution for one's actions, criminality encompasses any behavior that deviates from societal norms, and punishment denotes the imposition of penalties for wrongdoing. Criminal law, also known as strafrecht in Dutch, encompasses a set of regulations that establish directives and prohibitions, backed by the imposition of penalties or threats of punishment, to address violations of these regulations (Hadikusuma, 1992). Meanwhile, according to Prof. Maeljatno, SH. Criminal law is part of the total law in force in a country, which establishes the basics and rules for determining which actions may not be carried out and which are prohibited, accompanied by threats or sanctions in the form of certain penalties for anyone who violates them. the prohibition. Determining when and in what cases those who have violated these prohibitions can be subject to or be sentenced to the criminal penalties that have been threatened. Determining the manner in which criminal handling can be carried out if someone is suspected of having violated these prohibitions (Moeljatno, 2008).

Criminal law in Indonesia itself can generally be divided into two, namely:

- a. Material Criminal Law
- b. Formal Criminal Law (Marpaung, 2008).

b. Objectives and Functions of Criminal Law

1) Objectives of criminal law

The aim of criminal law is to provide a system in which many legal materials and principles are connected to each other so that they can be included in one system. Such an investigation is dogmatic juridical. The review of criminal law materials is primarily carried out from the

perspective of human responsibility regarding punishable acts. (Kansil, 2003).

Essentially, criminal law, as a branch of public law, primarily aims to safeguard the common interests of society against actions that pose a threat or cause harm, whether committed by individuals or groups (such as an organization). The diverse social concerns encompass the promotion of peace, serenity, and organization in communal existence. One of the findings from the 3rd criminology symposium in Semarang in 1976 was that criminal law should be upheld as a mechanism of social defense, specifically for safeguarding society (Prasetyo & Baekatullah, 2005). The purpose of criminal law is not only to protect societal interests, but also (implicitly) to protect individual interests. (Prasetyo & Baekatullah, 2005).

2) Function of Criminal Law

1) General Functions

The primary purpose of criminal law is to establish and enforce rules that control social behavior and maintain order in society. These rules, encompassing all aspects of criminal law, are applicable to all areas, whether explicitly stated in the Criminal Code or not.

2) Special Functions

There are three types of legal interests that must be protected, namely:

- a) Individual legal interests (individuale belangen)
- b) The legal interests of society (sociale of maatschappelijke belangen)
- c) State legal interests (staatsbelangen)

2. Definition and explanation of beggars and homeless people

a. Definition of Beggar

In the large Indonesian dictionary it is stated that the definition of beggar is a person who begs (KBBI, 2012). Dimas Irawan explains that the term "beggar" is frequently used to refer to individuals who seek money, food, shelter, or other necessities by asking people they encounter. They employ several characteristics, such as worn-out and dilapidated garments, headwear, disposable cups or confectionery packaging, or diminutive containers to store the funds they acquire through begging. Individuals engage in begging as a means of employment due to factors such as poverty and a lack of viable work prospects (Irawan, 2013). The definition of beggar according to Perpu no. 30 of 1980 which is quoted in Engkus Kuswarno's book, states: "people who earn income in various ways and for reasons to expect other people's pity in return".

This is different from the term beggar in the handout which is interpreted by the Social Service as PMKS (Persons with Social Welfare Problems). "Beggars are people who earn income by begging in public places in various ways and reasons to hope for the mercy of others." (Kuswarno, 2009).

From the definition above, it can then be seen from the groups of beggars that differentiate each other among the existing beggars.

a. Beggar Group

According to Sudariato in his online notes, beggars are divided into 3 (three) groups of beggars, including:

- 1) Begging because you are unable to work.
- 2) Begging because you are lazy to work.
- 3) Begging because you want a position (Kaiping,2010).

According to Hanitijo Soemitro in Asmawi's scientific work, beggars are divided into 2 groups, namely: (1) Pure Beggars; (2) Impure Beggars (Asmawi, 2003).

Current social factors are the result of why someone performs an action, but these causes can categorize this.

As research on beggars by Dr. Engkus Kuswarno (researcher on the Symbolic Construction of Beggars in Bandung City) stated that there are five categories of beggars according to their reasons for becoming beggars, namely:

1. Experienced beggar.
2. Closed continuous contemporary beggars.
3. Open continuous contemporary beggar.
4. Contemporary beggars.
5. Beggars plan.

b. Factors of Becoming a Beggar

The phenomenon of begging which is part of the social facts of our lives does not necessarily depend on background factors. In more detail, in practice there are five types of beggars which are caused by limited assets and economic resources, low mental quality such as shame and a lack of independent spirit and the factors that cause begging, including the following:

- 1) Begging because the person concerned is completely helpless.
- 2) Begging has become a lucrative economic activity,
- 3) Seasonal begging
- 4) Begging because of mental poverty
- 5) Coordinated begging in a syndicate (Mangkuprawira, 2010).

The Criminal Code (KUHP) explains that Article 504 states:

- 1) Anyone who begs in public is threatened for begging with a maximum imprisonment of 6 (six) weeks.
- 2) Begging carried out by three or more people over the age of 16 (sixteen) years is punishable by a maximum imprisonment of 3 (three) months.

b. Understanding Homelessness

In the Big Indonesian Dictionary, it is stated that the definition of a homeless person is "a person who does not have a permanent place to live, is uncertain about his job, goes back and forth here and there, wanders around, has no definite destination, goes on an adventure (KBBI, 2012).

As per the Government Regulation of the Republic of Indonesia Number 31 of 1980, homelessness refers to individuals who reside in conditions that deviate from the accepted standards of a respectable life within the local community. These individuals lack a permanent residence or employment within a specific area and lead a nomadic existence in public spaces. Meanwhile, as stipulated in the Law of the Republic of Indonesia Number 11 of 2009.

According to Pasurdi Suparlan, the term "Gelandangan" is derived from the word "midfielder" and is suffixed with "an", indicating constant movement and lack of fixed location. Suparlan defines a homeless community as a group of individuals who share an insecure place of residence and an unstable means of living. These individuals are regarded as lowly and contemptible by others outside the small community, which is part of a larger community. The behaviors exhibited by the individuals and the social standards prevalent in the midway community are deemed unsuitable and lack justification when compared to other societal groupings encompassing the smaller town (Suparlan, 1978).

According to Ali Marpuji et al, they stated that homeless comes from midfielder, which means always wandering, or wandering (lelana). Quoting the opinion of Wirosardjono Ali Marpuji, et al also said that homeless people are the lowest social, economic and cultural layer in the stratification of urban society. With this level, homeless people who do not have a place to live or a house and a permanent or decent job wander around the city, eating, drinking and sleeping anywhere (Marpuji, 1990).

According to Y. Argo Twikromo, homeless people are people who are uncertain about their place of residence, their work and the direction of their activities (Twikromo, 1999). Within the limited scope of being homeless, they struggle to survive in urban areas using various strategies, such as being scavengers, beggars, buskers and hawkers. Their daily life struggles involve quite serious risks, not only because of economic pressure, but also socio-cultural pressure from society, the harshness of street life, and pressure from city law enforcement officers or officers (Twikromo, 1999).

From the definitions above, it can be concluded that a homeless person is someone who lives in a community environment with abnormal social conditions and who wanders to find work and a place to live, even though it is not permanent.

Meanwhile, a beggar is someone who lives his life only by begging in public for his income/making a living.

c. Criteria for Homelessness and Beggars

Specifically, the characteristics of homeless people and beggars can be divided into:

a. Characteristics of Homelessness

- 1) Children to adults (male/female) aged 18-59 years, live anywhere and live wandering or wandering in public places, usually in big cities.
- 2) Have no identification or personal identity, behave freely and wildly, regardless of the norms of life in society in general.
- 3) Not having a permanent job, begging or taking leftover smelly food or used goods.

b. Characteristics of Beggars

- 1) Individuals between the ages of 18 and 59, including both children and adults of all genders.
- 2) Engaging in solicitation within individuals' residences, establishments, street junctions, traffic signals, markets, religious sites, and other communal areas.
- 3) Engaging in manipulative behavior by feigning illness, expressing distress, and occasionally soliciting funds for certain groups.
- 4) Typically possess a fixed or permanent abode and seamlessly assimilate into the broader populace (Harefa, 2010).

Article 505 in the Criminal Code (KUHP) states:

- 1) Anyone who wanders without means of livelihood is threatened with vagrancy with a maximum imprisonment of 3 (three) months.
- 2) Vagrancy committed by 3 (three) or more people aged over 16 (sixteen) years is punishable by a maximum imprisonment of 6 (six) months.

3. Police of the Republic of Indonesia

a. Definition of Police

The police is a versatile institution with broad-ranging functions. The police, in both ancient times and the 6th century, were acknowledged as a governmental establishment possessing substantial jurisdiction. They were perceived as the enforcers of an autocratic leader and were linked to the perception of suppression. The perception of the police and law enforcement during the period was so strong that the country in question was commonly referred to as a "police state" and in constitutional history, it was known as a "politeia" state.

During the era of expansionism and imperialism, government authority was extended to the police, who were tasked with enforcing oppressive policies against indigenous populations in order to exploit their labor.

This circumstance led to a transformation in the perception of the police (Utomo, 2005).

The National Police of the Republic of Indonesia, abbreviated as POLRI, is a government institution responsible for maintaining security, enforcing the law, and providing protection and services to the population. Article 4 of Law Number 2 2002 concerning the Police of the Republic of Indonesia outlines the objectives of the police force, which include ensuring security and public order, enforcing the law, offering protection, guidance, and community services, and promoting public peace while upholding human rights (Husin, 2020).

As per the Big Indonesian Dictionary (KBBI), the word "police" refers to an organization responsible for upholding security, peace, and public order by apprehending those who break the law. It also denotes an individual who is a part of a government agency comprising state personnel entrusted with the maintenance of security and order (Purwodarminto, 1986).

The police organization operates within the legal authority of the government as government officials. In essence, the National Police organization is a component of the Government Organization. A police organ is an instrument or entity that carries out police functions. In order to effectively coordinate and accomplish the intended objectives, tasks are assigned and managed inside a structure commonly referred to as an organization. The existence, growth, development, form, and structure of the entity are shaped by the government's vision for carrying out its law enforcement responsibilities. Throughout the world, police organizations are different. Some are under the Ministry of Home Affairs, some are under the Ministry of Justice, some are under the control of the Prime Minister, the Vice President, controlled by the President himself, and some are even independent departments (Kumarto, 2001).

Police officers suddenly have to deal with other service providers, or in some cases are faced with crime prevention issues that may be more risky, for example those involving elderly or elderly people or drunkards, both of which require different sensitivities between potential victims and potential offenders (Friedmann, 1998). The police, based on Law Number 8 of 1981 on the Criminal Procedure Code (KUHAP), are given the authority to carry out their duties as investigators and investigators.

Investigation is an action, not an act or function that stands alone, separate from the investigative function. Investigation is an inseparable part and the function of investigation precedes other actions, namely action in the form of arrest, detention, search, confiscation, examination of letters, summons, inspection actions and submission of files to the public prosecutor. (Sari, 1995).

Based on the authority of Police Officers as investigators and investigators in helping to expedite the investigation process, a police officer also has the authority to make arrests, namely the authority given to investigators, especially those given by Law Number 8 of 1981 concerning the Criminal Procedure Code, is very wide. Based on this authority, investigators have the right to reduce a person's freedom and human rights, as long as they are still based on a valid legal basis. One of the powers is to arrest suspected criminals. Police officers also have the authority to carry out detention, which is a form of deprivation of a person's freedom of movement, so that detention is an investigator's authority which is very contrary to human

rights (Mulyadi, 2018). Detention is closely related to arrest because a suspect who has committed a crime after being arrested and fulfills the requirements as determined by law can only be detained for investigation purposes. So arrest is the first step in depriving a suspect or accused of their freedom (Afiah, 1986).

b. Duties and Obligations of the Police of the Republic of Indonesia

Article 13 outlines the main duty of the police, which is to maintain security and public order, enforce laws, and provide protection, guidance, and aid to the public. The fundamental duties of the police force are delineated in Article 14 of Law Number 2 of 2002, which stipulates:

- a. Carry out regulation, guarding, escorting and patrolling community and government activities as needed.
- b. Carrying out all activities to ensure security, order and smooth traffic on the road.
- c. Fostering the community to increase community participation, awareness of laws and regulations.
- d. Participate in developing National Law.
- e. Maintain order and ensure public security.
- f. Oversee and manage the coordination, supervision, and technical direction of special police, civil servant investigators, and other independent security personnel.
- g. Conduct inquiries and investigations into all criminal activities in compliance with the criminal procedural legislation and other statutory requirements.
- h. Establishing police identification, police medicine, forensic laboratories, and police psychology to support law enforcement activities.
- i. Ensuring the security of individuals' physical and spiritual well-being, communal assets, and the natural surroundings against disruptions in the form of disorder or calamities, while also offering support and relief while preserving the principles of human rights.
- j. Providing temporary assistance to community people prior to being assisted by approved agencies and/or parties.
- k. Our objective is to offer services to the community that align with the interests and responsibilities of the police force.
- l. Carry out other tasks according to statutory regulations (Husin, 2020).

The police power specified in Article 13, paragraph 10 of Law Number 2 of 2002 is described as follows:

- a. Receive reports and/or complaints;
- b. Help resolve disputes between residents and the public that may disturb public order;
- c. Prevent and overcome the growth of community diseases;

- d. Monitoring currents that can cause division and threaten the unity and unity of the State;
- e. Issue police regulations within the scope of police administrative authority;
- f. Take the first action on the scene;
- g. Carry out special inspections as part of police actions in the context of prevention;
- h. Taking fingerprints and other identification and photographing a person;
- i. Search for information and evidence;
- j. Organizing a National Crime Information Center;
- k. Issue permits and/or certificates required for community service;
- l. Providing security assistance in trials and implementation of court decisions, other agency activities, as well as community losses;
- m. Receive and store found items temporarily (Husin, 2020).

In addition to Law No. 2 of 2002, which governs the National Police of the Republic of Indonesia, there is also another legal framework that empowers the police to function as investigators in the execution of their duties. This framework is outlined in Law Number 8 of 1981, which specifically addresses the Criminal Procedure Code (KUHAP). The police play a crucial role in upholding the law and preserving public order, and they are granted the necessary authority to fulfill these responsibilities.

4. Civil Service Police Unit

a. History of the Civil Service Police Unit

Image caption Satpol PP was originally only formed to protect the cities of Java-Madura. The Civil Service Police Unit, abbreviated as Satpol PP, is one of the oldest security assistance units in Indonesia. Satpol PP was first formed in Yogyakarta on March 3 1950 with the motto Praja Wibawa, to help overcome uncertain post-independence security issues. Following this was the formation of Satpol PP for areas outside Java and Madura. This separate unit from the police was formed as part of the regional government apparatus in enforcing regional regulations and maintaining public order and public peace.

Furthermore, the legal umbrella for regulating the existence of Satpol PP is Law Number 32 of 2004 concerning Regional Government. However, in 2010, the government initiated the creation of a new Government Regulation to regulate the role and facilities of Satpol PP. In PP No. 6/2010, among other things, it is stated that the authority of the Satpol PP is to "carry out non-judicial disciplinary action against members of the public, apparatus or legal entities who violate regional regulations and/or regional head regulations". But to do so, Satpol PP members are also required to "uphold legal norms, religious norms, human rights and other social norms that live and develop in society." (Berita Indonesia, 2010).

b. Definition of Civil Service Police Unit

The term Pamong Praja comes from two words, namely "pamong" and "praja". Pamong means administrator, caregiver or educator. Meanwhile, Praja means city, country or kingdom. So literally Pamong Praja can be interpreted as City Management.

Government Regulation no. 6 of 2010 concerning Civil Service Police Units provides a definition of Civil Service Police which is not much different from Law no. 32 of 2004 concerning Regional Government, namely the apparatus: Regional Government which carries out the duties of regional heads in maintaining and administering peace and public order, enforcing regional regulations and regional decisions (lifeblogid, 2015).

According to Article 148 paragraph 1 of Law Number 32 of 2004 on Regional Government, the Civil Service Police are recognized as instruments of the regional government. Their primary responsibility is to enforce regional regulations in order to maintain public order and community peace, while also carrying out tasks related to decentralization. Decentralization refers to a form of governance where certain governing and administrative powers of the Central Government are delegated to subordinate powers (Hazairin, 2010).

c. Functions of the Civil Service.

The Civil Service Police Unit is also mentioned in Article 3 of Government Regulation (PP) No. 6 of 2010 concerning the Civil Service Police Unit carrying out functions namely:

- a. Preparation of programs and implementation of peace and public order, enforcement of Regional Regulations and Regional Head Decrees.
- b. Implementation of the policy of enforcing Regional Regulations and Regional Head Decrees.
- c. Implementation of coordination for the maintenance and administration of peace and public order as well as enforcement of Regional Regulations. Decision of the Regional Head with State Police officers, Civil Servant Investigators (PPNS) and/or other officers.
- d. Supervision of the community to comply with and comply with Regional Regulations and Regional Head Decrees.

d. Civil Service Authority

According to Article 3 of Government Regulation no. 6 of 2010 regarding the Civil Service Police Unit, the Civil Service Police Unit is also empowered to:

- a. To regulate and take action against members of the public or legal entities who disturb public peace and order;
- b. Carrying out inspections of community members or legal entities who violate regional regulations and regional head decisions;
- c. Carrying out non-judicial repressive actions against members of the public or legal entities who violate regional regulations and regional head decisions.

5. Bandung City Social Service

a. General description

The Bandung City Social Service was formed based on Bandung City Regional Regulation Number 13 of 2007 concerning the Formation and Organizational Structure of the Bandung City Regional Service, where previously the Social Office was formed as a Regional Technical Institution which had the authority and responsibility for implementing social welfare in the City of Bandung.

The Bandung City Social Service as a regional government organization that is responsible and has the authority to carry out development in the field of social welfare in the City of Bandung in carrying out certain tasks and functions needs to optimize various resources, both human resources and supporting facilities owned by the Bandung City Social Service in achieving performance targets for 5 (five) years.

b. Main Duties and Functions

Based on Bandung City Regional Regulation No. 13 of 2007 concerning the Formation and Organizational Structure of the Bandung City Regional Service, the Bandung City Social Service has the duties and obligations of assisting the Mayor in carrying out social welfare matters in carrying out these duties and obligations. The Bandung City Social Service has the following functions:

- a. Formulation of technical policies in the social sector;
- b. Implementation of government affairs and public services in the social sector;
- c. Development and implementation of tasks in the social sector which includes social and community participation, social rehabilitation, social services and development of the vulnerable;
- d. Implementation of official administration technical services;
- e. Implementation of other duties assigned by the Mayor in accordance with his duties and functions.

RESEARCH METHODS

This research uses qualitative field research, namely a type of research that involves obtaining research data directly from the field. Strengthened by the results of interviews and documentation. The type of approach used is a juridical and sociological approach. There are two sources of data used in the research, namely primary data sources in the form of interviews and secondary data sources in the form of works and research results, in the form of books, scientific works, in the form of journals, papers, reports and journals related to the problem being studied. Data collection methods are observation, interviews and documentation.

DISCUSSION

1. The Position of Article 504 and Article 505 of the Criminal Code in Indonesian Legislation

Crime is related to actions carried out by someone that can harm other people in the form of crimes or violations. A violation is said to be an unlawful act if the law has determined this. Actions that are categorized as crimes carry a heavier criminal threat than violations because crimes are considered onrecht (injustice).

There are various forms of violations as contained in the Criminal Code in the third book which explains forms of violations such as violations of public security for people or goods and health, violations of public order, violations of morality, violations of friendship and other violations.

In the Criminal Code (KUHP) Book Three also regulates Violations of Public Order, namely those contained in Article 504 and Article 505, including:

Article 504

- (1) Anyone who begs in public is threatened with imprisonment for a maximum of six weeks.
- (2) Soliciting carried out jointly by three or more people, each of whom is more than 16 (sixteen) years old, is punishable by a maximum imprisonment of three months. (KUHP, 23).

Article 505

- (1) Any person who is homeless without having a means of livelihood is threatened with vagrancy with a maximum imprisonment of 3 (three) months.
- (2) Vagrancy committed by three or more people over the age of sixteen is punishable by a maximum imprisonment of 6 (six) months (KUHP, 23)

Based on the regulations contained in the Criminal Code (KUHP), many people, even children, violate the Criminal Code by disturbing the peace and order of the city. Which is identical to the style of clothing they wear every day.

However, in reality, beggars and homeless people in particular do not pay much attention to the provisions of this article. However, the violations listed in this article are that some of them use beggars and homeless people as a means of livelihood.

Humans in their daily lives always want peace, order and regularity. This desire always develops in human life in the society where he lives. In the process of achieving peace, order and regularity, we often find conflicts of interest that can disrupt life.

To overcome this, it is necessary to create a set of rules to regulate human beings in order to achieve and create order. The rules in question are nothing more than benchmarks or guidelines for behaving appropriately, which are actually a view and at the same time a hope.

These standards are often known as norms or rules that regulate human individuals in social life in society (Soekanto, 2013).

The emergence of conflicting interests mentioned above will of course have a big chance of giving rise to certain frictions in people's lives which could result in the emergence of various kinds of legal violations or deviant behavior. The emergence of various kinds of legal violations or deviant behavior. This condition shows that individual and societal behavior has shifted from existing norms or rules. In general, this behavior is only carried out by a minority group of people, but the consequences can have a wide impact on other communities.

An instance of law infringement, particularly in criminal law, occurs within the domain of public order, specifically concerning the issue of homelessness and beggars. The abbreviation "Gepeng" is commonly employed by the general public to denote the presence of those who are homeless and engage in begging. In addition, homelessness and beggars are unequivocally among the adverse consequences of development, particularly in the context of urban expansion. The disparity in development between urban and rural areas leads to an influx of immigration or urbanization from villages to cities. This, in turn, can result in the emergence of homelessness and beggars due to the challenges of securing housing and employment in urban areas (Dirjen Rehabilitasi, 2010).

The presence of homeless people and beggars in Bandung City is highly alarming and unsettling for its residents. This issue not only goes against the principles of Pancasila and the Indonesian national identity, but also poses a threat to public safety and order. It has the potential to escalate crime rates and lead to security disturbances, including extortion, theft, and child trafficking syndicates, despite the regulations stated in Article 34 of the 1945 Constitution of the Republic of Indonesia. (UUDRI 1945) state that "the poor and abandoned children are cared for by the State", this provision cannot be used as a basis or legal reason for carrying out fostering or eliminating firm action by the State in tackling the problem of homelessness and beggars.

The Indonesian state is a legal state as confirmed in the Constitution of the Republic of Indonesia, namely the provisions of Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUDRI 1945), (Subarkah, 2010). In the context of the rule of law, of course the principle of equality before the law must continue to be prioritized in order to realize a fair law enforcement process (the provisions of Article 27 paragraph 1 of the 1945 Constitution). This means that everyone who commits a criminal act should be dealt with firmly without discrimination, including homeless people and beggars, but it is also important to remember that in criminal law there is an adage "ultimum remedium" which can be interpreted as saying that criminal sanctions are some of the last/ultimate weapons (Prodjodikoro, 2003). In accordance with the provisions of positive law in Indonesia, acts of vagrancy and begging committed by homeless people and beggars are clearly a form of criminal act, namely a violation of public order, which rights are regulated in Article 504 and Article 505 of the Criminal Code.

As an illustration of overcoming or handling the problem of homelessness and beggars in Indonesia, one of them can be seen from the results of research conducted by Mardian Wibowo regarding homelessness and beggars in East Jakarta which explains that so far the handling of homelessness in East Jakarta has tended to be reactive, namely focusing on on the criminalization of vagrancy, as well as on the spot actions (in the form of direct operations) to remove vagrants from the East Jakarta area without improving infrastructure in the areas where vagrants originate. The reactive treatment mentioned above has proven to not produce results so changes need to be made in handling homeless people (Wibowo, 2008). Next, Saptono Iqbali, in the results of his research on homeless people and beggars in Kubu District, Ungasem Regency, as the area where sprawl originates, stated that apart from continuing to carry out raids, steps in the form of coaching, counseling, providing social assistance, and fulfilling spiritual needs are very necessary as part of the strategy for dealing with the problem of sprawl in society (Iqbali, 2008).

2. The role of the Police, Civil Service Police Units and Social Services in handling criminal cases under Article 504 and Article 505 of the Criminal Code regarding Homelessness and Beggars, especially in Bandung City

a. The Role of the Police

As regulated in Perkap Number 14 of 2007 concerning Handling of Homeless People and Beggars, this is carried out in two ways, which are regulated in Article 3, part one, paragraph 2, which says: "Handling as intended in paragraph (1) is carried out using preventive measures. and Law Enforcement that is adapted to the level of interests and problems developing in the field"

1) Preventive Action

As explained in Perkap Number 14 of 2007 concerning Handling Homelessness and Beggars in Part Two Article 4, Preventive Actions are implemented to prevent or reduce the emergence of the problem of homelessness, beggars and beggars in the community. As well as an explanation of how the police prevent and deal with homeless people and beggars are regulated in the next article. Article 5, namely: paragraph (1) preventive action activities as intended in article 4 are carried out by means of, among others: a. Extension; b. Social Guidance; and c. Social Coaching. In this action, the police did not apply or refer to Criminal Code Articles 504 and 505 which regulate and/or state that vagrancy and beggars fall into the category of offenses because as intended in Article 5 paragraph (2) in Perkap Number 14 of 2007 concerning Handling of Homelessness and Beggars that activities as in paragraph (1) can be coordinated with relevant agencies at their respective levels and local social organization figures in accordance with statutory regulations.

2) Law Enforcement Actions

In this Law Enforcement Action, the police refer to articles 504 and 505 so that there is a deterrent effect, the police will apply Law Enforcement methods. However, in law enforcement actions, the police cannot directly enforce the provisions of Articles 504 and 505 of the

Criminal Code against homeless people and beggars. This is stated in Article 8 paragraph (1) in Perkap Number 14 of 2007 concerning Handling of Homeless People and Beggars. The method of law enforcement for homeless people and beggars is intended to prevent the perpetrators from returning to their activities as homeless people and beggars. The method of law enforcement is regulated in Article 7 paragraph (2) of Perkap Number 14 of 2007 concerning Handling of Homeless People and Beggars.

- a) Raid or control homeless people, beggars and squatters;
- b) Temporary accommodation for homeless people, beggars and squatters to be classified;
- c) Investigation;
- d) Transfer of cases to court in accordance with statutory regulations (Pusdikmin, 2008).

b. The Role of Civil Service Police Units

The Bandung City Civil Service Police Unit plays a crucial role in addressing the issue of homelessness and beggars in Bandung City. They do so by enforcing Bandung City Regional Regulation Number 24 of 2012, which focuses on the implementation of social welfare. The Government Regulation of the Republic of Indonesia Number 32 of 2004 provides detailed guidelines for Civil Service Police Units. Specifically, the second and third parts of the regulation elaborate on the following:

1) Part Two Position, Duties and Functions

Section 2

The Civil Service Police Unit is led by a Chief and is located below and is responsible to the Regional Head through the Regional Secretary.

Article 3

The Civil Service Police Unit has the task of maintaining and administering peace and public order, enforcing Regional Regulations and Regional Head Decrees.

Article 4

In carrying out the duties as intended in Article 3, the Civil Service Police Unit carries out the following functions:

- a. Preparing programs and implementing public peace and order, enforcing Regional Regulations and Regional Head Decrees;
- b. Implementation of policies for maintaining and administering peace and public order in the Region;
- c. Implementation of policies for enforcing Regional Regulations and Regional Head Decrees;
- d. Coordinating the maintenance and implementation of peace and public order as well as enforcing Regional Regulations, Regional Head Decrees with State Police officers, Civil Servant Investigators (PPNS) and/or other apparatus;

e. Supervision of the community to comply with and comply with Regional Regulations and Regional Head Decrees.

2) Part Three Authority, Rights and Obligations

Article 5

Civil Service Police have the authority to:

- a. To regulate and take action against members of the public or legal entities who disturb public peace and order;
- b. Carry out inspections of members of the public or legal entities who violate Regional Regulations and Regional Head Decrees;
- c. Carry out non-judicial repressive actions against members of the public or legal entities who violate Regional Regulations and Regional Head Decrees.

Article 6

Civil Service Police have employment rights as Civil Servants and receive other facilities in accordance with their duties and functions based on statutory regulations.

Article 7

In carrying out their duties, the Civil Service Police are obliged to:

- a. Upholding legal norms, religious norms, human rights and other social norms that live and develop in society;
- b. Assist in resolving community disputes that may disturb public peace and order;
- c. Reporting to the State Police any discovery or suspicion of a criminal act;
- d. Submit to PPNS any discovery or reasonable suspicion of violations of Regional Regulations and Regional Head Decrees.

Article 8

Some members of the Civil Service Police are designated as Civil Servant Investigators in accordance with statutory regulations.

c. Bandung City Social Service

Handling homeless people and beggars has actually been summarized in the Constitution of the Republic of Indonesia and there is already a strong legal product, namely Government Regulation Number 31 of 1980 concerning Handling Homeless People and Beggars which aims to prevent the emergence of homeless people and beggars so that they can achieve a standard of living, a decent life and livelihood as an Indonesian citizen who lives by existing norms.

The repressive efforts of Articles 504 and 505 of the Criminal Code are actually sufficient to tackle the rise of homelessness, especially in the city of Bandung, so that the initial goal of the Bandung City Social Service to be free from sprawl should be achieved by the police who take action against it because the hierarchy of the criminal code is higher than in Regional Regulations.

The regulations on vagrancy and beggars are in line with Law Number 11 of 2009 concerning Social Welfare, which aims to change the standard of living by improving the welfare of vulnerable Indonesian citizens who are in the condition of being Persons with Social Welfare Problems (PMKS) in a systematic way. In Government Regulation Number 31 of 1980 concerning the Management of Homelessness and Beggars, it is explained how the mechanism for dealing with homelessness and beggars is through repression and preventive efforts, social rehabilitation efforts. (Peraturan Pemerintah Nomor 31 Tahun 1980)

The increasing number of People with Social Welfare Problems (PMKS) is an undeniable fact in line with the strengthening role of the City of Bandung as a center for regional social and economic growth, where access to economic control is increasingly competitive.

In general, PMKS can be grouped into neglected toddlers, abandoned children, delinquent children, street children, socio-economically vulnerable women, victims of violence, neglected elderly, disabled people, prostitutes, beggars, homeless people, former residents of social institutions. (BWBLK), victims of drug abuse, poor families, families living in uninhabitable homes, families with psychological problems, remote traditional communications, victims of natural disasters, victims of social disasters (Refugees), migrant workers with social problems, people with HIV or AIDS (PLWHA) and vulnerable families (www.bandung.go.id).

In this regard, the Bandung City Government, through the Social Service, is carrying out outreach regarding PERDA (Regional Regulation) Number 24 of 2012 concerning the Implementation and Handling of People with Social Welfare Problems. And the Bandung City government has also made various methods and efforts to deal with the conditions of rampant homeless people and beggars, one of which is:

a. Red vest squad

The red vest troops or also called GARDA PPKS were formed based on the Notification Letter on the Establishment of GARDA PPKS, Number. 062/3.389.1/Dinsos, dated 8 September 2016, Decree of the Head of Dinsosnangkis Number. 800/19/Dinsosnangkis/2017, January 6 2017 concerning the Determination of the GARDA PPKS Recruitment Verification Team, and Bandung Mayor's Decree Number 800/Kep.410.Dinsosnangkis.2017, concerning the 2017 Period Social Welfare Program Guard Team, set the date March 23, 2017 (Pedoman Garda PPKS, 2010).

Furthermore, as an effort to improve the implementation of social welfare, especially the handling of PMKS, the Bandung City Government initiated GARDA PPKS, which is an initiative in implementing regional development strategies, the process of which is carried out directly by the community through community initiative in initiating the implementation of

social welfare, especially in handling PMKS in the region on a regional basis. active community participation, so that the community and the Bandung City Government can realize "PMKS Free Bandung".

Initiatives to increase community participation in implementing social welfare, especially handling PMKS in the region through GARDA PPKS as well as accelerating development in the city of Bandung, are significant in creating community empowerment to overcome real problems that appear in their respective regions.

In particular, GARDA PPKS equipment is required to be able to play a role in implementing social welfare, especially PMKS prevention, to encourage the transformation process. The principles of transformation and participation mean that all GARDA PPKS activities/processes, including planning, decision making, implementation and conservation, are carried out transparently and involve community participation.

a. Definition of GARDA PPKS

A person recruited and appointed by the Bandung City Social and Poverty Alleviation Service to carry out duties, functions and authority, in carrying out and/or assisting in overcoming social welfare problems in accordance with the assigned area within a certain period of time. PPKS Guards are the eyes and ears in their area for the Bandung City Social and Poverty Alleviation Service (Pedoman Garda PPKS, 2010).

b. GARDA position

- 1) RW PPKS GARDA is located in another RW environment in 1 (one) sub-district;
- 2) The Village PPKS GARDA Coordinator is based in the Village;
- 3) The District GARDA PPKS Coordinator is located in the District as TKSK. (Marpuji, 1990).

c. GARDA Duties

- 1) Carry out social mapping based on regional intersections in the form of PMKS data collection including information on resources and other potential needed for the implementation of social welfare;
- 2) Carrying out and/or assisting in the implementation of Social Welfare assigned by the Bandung City Government, through TKSK as the District PPKS GARDA Coordinator and Subdistrict GARDA PPKS Coordinator;
- 3) Coordinate and consolidate with PSKS, other social welfare human resources and interested parties in the implementation of Social Welfare;
- 4) Carrying out synergy, integration and synchronization with Regional Instruments, Social Welfare Organizations;
- 5) Carrying out Social Organization Activities either on their own initiative or on assignments from various parties;

- 6) Provide face-to-face, continuous understanding to communities with regional interests;
- 7) Carrying out embedded assistance to help overcome social problems faced by PMKS in collaboration with regional communities and coordinating with interested parties.
- 8) Create and compile reports on activities that have been carried out per day and report them per month to the local sub-district coordinator, sub-district coordinator and sub-district head. (Marpuji, 1990).

The Bandung City Social Service (Dinsos) has mapped at least 15 spots prone to the presence of PMKS, especially homeless people and beggars (gepeng). So, the red vest troops were focused on guarding these locations.

CONCLUSION

The enforcement of Articles 504-505 of the Criminal Code has been put into effect, but it is not operating at its full potential, resulting in suboptimal outcomes. Consequently, those experiencing homelessness continue to engage in economic activities. The Bandung City Social Service is once again implementing rehabilitation or guiding measures to address homelessness, as certain regional policies are deemed unsuitable for the area. In order to bolster this achievement, the Bandung City Provincial Social Service is engaging in a collaboration with Satpol PP and the Police. The onset of homelessness is influenced by factors such as poverty, educational challenges, lack of labor skills, and socio-cultural issues. Poverty is the primary catalyst for individuals becoming homeless, resulting in hindered access to education, limited employment prospects due to lack of labor skills, and the influence of societal culture on homelessness. The research suggests that the West Java Provincial Social Service Government should gather data on individuals without permanent housing, construct rehabilitation facilities, and facilitate the development of vocational skills. The Bandung City DPRD Government should enhance the penalties imposed on those without a permanent residence in compliance with Article 504-505 of the Criminal Code and Regional Regulation Number 9 of 2019 regarding Public Order, Peace, and Community Protection.

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