A Humanistic Model For Public Order Management
In Denpasar City

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<td>Indonesia’s COVID-19 first confirmed case was found in March 2020 and continued to increase until September 2020. As the number of cases increased, the government applied a Large-Scale Social Restrictions Policy (PSBB) to help minimize additional cases. With the implementation of the UN policy by the government, many have lost income from various sectors whose livelihoods depend on their daily income. The disruption of economic activity due to the lockdown policy to contain the spread of the virus has led to the closure and bankruptcy among many companies, resulting in a massive reduction in the number of workers and layoffs, especially in the sectors most affected by the pandemic. Many workers who are laid off make people lose their source of livelihood, forcing them to be more creative in order to struggle. One of them is the improvised street merchants, where the car is used as a selling space, which helps people in terms of economic turnover. However, selling on the roadside without a permit is an offence. The municipal police (Satpol PP) need to discipline the street merchants since they violate the Regional Regulation No. 1/2015 concerning Public Order. This regulation has been violated by many merchants and thus, it needs to be brought back into order.</td>
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I. Introduction

1.1. Research Background

The COVID-19 pandemic has affected not only public health, but also the economy, education and social life of the Indonesian people. The decline in these various activities has affected the socio-economic conditions of the community, especially the vulnerable and poor. On the economic perspective, the impact of the pandemic can be viewed in the decline in the growth rate of the global economy. COVID-19 pandemic does not only bring a negative impact on the decline in economic growth of developing and poor countries, but also hits the economies of developed countries. Some developed countries are even trapped in a deep economic recession. The first impact is the decline in household consumption or people’s purchasing power in general, which is very pronounced and easy to see. The community has experienced a very significant decline in purchasing power to date. The continuation of the Social Restriction (PPKM) with various austerity regulations is a hindrance to the economic activities of the community. The austerity regulations in various sectors from PPKM regulations have a significant effect on the rise and fall of the economic sector. The central government and regional governments are expected to be able to provide breakthroughs for providing solutions, and thus, purchasing power of the community can be well maintained.

Since the 1998 economic crisis, many formal sectors have shifted to the informal sectors. The main factor in the shift of economic activities from the formal sector to the informal sector is the nature of the informal sector, which does not require high level of skills, large business capital and simple facilities, making it easily accessible to all levels of society or those who do not yet have a permanent job. According to Jayadinata, the characteristics of the informal sector involve\(^1\):

a. Unorganized form
b. Most people work on their own (self-employed)
c. Disorganized way of working
d. Costs from self or unofficial sources

This has been especially aggravated after the COVID-19 pandemic, which forced a lot of people to change their professions, one of which was to become a street merchant. According to Tanuwijaya, one of the factors underlying the emergence of street merchants in

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\(^1\) Muhammad Yunus, Auliya Insani, “Tata Kelola Pedagang Kaki Lima di Kota Makasar (Studi Kasus Pedagang Pisang Epe’ Di Pantai Losari)”, Jurnal Analisis dan Kebijakan, Edisi No. 1 Vol.3, Departemen Ilmu Administrasi Universitas Hasanuddin, 2017, h.15
big cities in Indonesia is the lack of employment opportunities, the increasing unemployment rate due to the lack of available jobs forces them to choose to become street merchants. Also, becoming a street merchant does not require much capital or high education, as opposed to working in the formal sector such as government or certain companies.2

Indonesia’s municipal police (Satpol PP) may discipline the street merchants that violate the Regional Regulation No. 1/2015 on Public Order. The regulation has been violated by many merchants and needs to be brought back into order. On the basis of the foregoing, the authors conduct a study entitled “Humanistic Model for Public Order Management in Denpasar City”.

1.2. Research Problems

Based on the research background, the problems are listed as follows:

1. How is the fostering conducted for street merchants in Denpasar City?
2. What can the local government do to bring the street merchants in Denpasar City into order?

1.3. Research Method

This research employs empirical legal study, a method used to examine the application of legal rules by looking at the reality on the ground.

1.4. Data Collection

(1) The data were obtained from the Government of Denpasar City, Transportation Office of Denpasar City, and Satpol PP of Denpasar City. (2) Observation of strategies was conducted to formulate countermeasure policies to the street merchants in Denpasar City during the CO-19 pandemic. (3) Documentation study was carried out during the interviews. Before the interviews were conducted, an interview guide was prepared and a simple list of questions for an open-ended questionnaire was also provided, which then given with a draft of model for formulating countermeasure policies strategy to the street merchants in Denpasar City during the COVID-19 pandemic through open interviews with stakeholders from both the regional government and related agencies, including with traditional village officials and the community. Technical activities involve exploring, identifying and formulating models and strategies that can be used as a basis for implementing local wisdom-based tourism investments.

2 Handoko Tanuwijaya, Bisnis Pedagang Kaki Lima, PT. Pustaka Pelajar, Yogyakarta, 2011, h.15
II. DISCUSSION

2.1. Model for Fostering Street Merchants in Denpasar City

Many people in Bali, especially in Denpasar City, sought to make a living in the tourism sector due to the COVID-19 pandemic that occurred all over the world. As a result, many have lost their jobs. For this reason, many are forced to look for side jobs, one of which is selling products in a roadside (or known as street merchants) using their vehicle. This is reinforced by other street merchants, most of whom are workers in the tourism sector. However, the number of tourists visiting Bali has dropped dramatically during the pandemic, resulting in the layoff of workers in the tourism sector. Therefore, they made their living on selling products through street merchants using their vehicle. The daily products usually sold in the street merchants involve masks, eggs, clothes, and eyeglasses. Due to the lack of tourist visits in Bali, the daily income has also decreased. Therefore, they are unable to renew the shop leases and then switch to selling with private vehicles. Denpasar City, which relies on tourism for its livelihood, is also facing financial distress as the number of tourists visiting Bali has decreased.

Based on the research data, the informant said that there were 235-247 street merchants as it can be seen that many people who became street merchants with cars were people who got laid off from their workplaces as the impact of COVID-19 pandemic. It was also in line with one of the representatives of Denpasar Satpol PP as the informant during the interview. The pandemic has resulted in a lack of tourists visiting Bali and the significant decline in many jobs. As a result, people have switched their job to meet their daily needs such as street merchants using private car. There were also some merchants who sold clothes in hotels. However, they sold it from their private cars since there were no guests. The government, especially the Denpasar Satpol PP, initially took real action to these street merchants since they disrupt the safety and comfort of public facilities and traffic flow. The government was present to give one solution, focusing on the relocation of the street merchants into several markets in the city.

The fostering conducted by the local government through the Satpol PP found several obstacles to deal with the street merchants during the pandemic. When the Satpol PP curbed the merchants who violated the regulations, there was sometimes a resistance from the merchants against the Satpol PP. If this is left unchecked, it can lead to traffic disorganization, thus affecting the traffic flow. Based on the interview
with I Nyoman Sudarsana, the fostering was conducted by the *Satpol PP* by reprimanding the traders directly. They are given some time to relocate, such as one week. After the next week, once they move or find a new place, the *Satpol PP* is called for the next follow-up. The fostering model is still conventional. The follow-up conducted by the *Satpol PP* is to give Warning Letter 1, then Warning Letter 2, and Warning Letter 3, respectively. The interval among the warning letters is one week. Warning Letter 1 asserts the traders’ willingness to no longer sell on the roadside. The Warning Letter 2 has the same content on the reason the traders do not want to relocate themselves. The Warning Letter 3 is given for the the traders that are not willing to relocate or do not care. At such, the *Satpol PP* will issue the Minutes of Examination as they get it prepared and bring the merchants to the court. The process is performed until the verdict is issued in the form of a fine, then the merchants are given 21 days to tackle the issue.

The fostering follows the issuance of Denpasar City Regional Regulation Number 2/2015 on Street Merchants, which is the legal foundation used to regulate street merchants in Denpasar City in terms of implementing regional autonomy. Other legal bases involve the following laws:

1. 1945 Constitution of the Republic of Indonesia Article 27 Paragraph (2), Article 28 Paragraph (1) and Article 33.
2. Law No. 23/2014 on Regional Government
3. Law No. 20/2008 on Micro, Small and Medium Enterprises.

As an activity related to those carried out by people, the regulation, arrangement, and enforcement of street merchants must have a strong legal basis so that it can create a build of justice for street merchants and the community in terms of its implementation. This is in accordance with the 1945 Constitution of the Republic of Indonesia, Article 27 paragraph (2) asserting that every citizen has the right to work and get a decent living. Article 28 (1) also asserts that every person has the right to recognition, guarantees, protection, and security of a just law and equal treatment before the law. Likewise, the rights of street merchants, as part of small business activities, must have a strong and clear legal basis in terms of the regulation, structuring and enforcement, as well as legal protection in terms of the implementation. Given the enactment of Law No. 20/2008 on Micro, Small and Medium Enterprises, the government has provided a basis to better empower small businesses. In line with this, Law No. 23/2014 on Regional Government will also become a reference for the implementation of regional autonomy to improve the welfare of the community by performing national development, both
central and regional, by the government, the community and the private sector (businesses). In a view of the theory of regional autonomy, the regional budget system is the order concerned with the ways of dividing the authority, duties and responsibilities for regulating and managing government affairs between the center and the regions. One manifestation of this division is that the regions will have a number of government affairs, both on the basis of submission and recognition or left as regional budget affairs. In the literature, three regional budget systems are noted, comprising formal budget system, regional budget system, material budget system, and real budget system. Autonomy in the context of hierarchical relations associated with the vertical division of power is defined as handing over or allowing each lower government to fully regulate and manage certain governmental affairs, both in terms of principles and methods of running them. Three main reasons on why regional autonomy need to be identified. First, political equality, centering on increasing public political participation at the regional level. Second, local accountability, aiming at increasing the ability and responsibility of local governments in actualizing the rights and aspirations of the people in the region. Third, local responsiveness, focusing on increasing the responsiveness of local governments to problems in their regions. The basis of regional autonomy relies not only on a goal but also a means to realize the ideals of justice, democracy and people’s welfare. On the one hand, regional autonomy can minimize central-regional conflicts, and on the other hand, it can guarantee the ideals of justice, democracy, and public welfare. Regional autonomy must be planned as an integral part of the democratic life of the nation. The goal of regional autonomy is to increase the resources needed to actualize regional autonomy. According to H.D. Van Wijk/Willem Konijnenbelt, Indonesia adheres to the principle of decentralization in governance, centering on the delegation of authority from the top level of the organization to the lower level hierarchically. To achieve this goal, a development has been conducted in all areas, with emphasis on the economic sector, especially small businesses.

The reality shows that small and medium-sized enterprises have not been able to optimally actualize their potential and their role in the national economy. This is underlined by the fact that small businesses still face both external and internal obstacles and constraints. According to J. Rachbini in Mulyadi S., there are two external factors as follows:

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4 Eka Sihombing dan Irwansah, 2019, Hukum Tata Negara, Medan : Enam Media, h. 103
5 Tim Lipi, 2006, Membangun Format baru Otonomi Daerah Jakarta: Lipi Press h. 160
6 Abdurrahman, 2001, Beberapa Pemikiran Tentang Otonomi Daerah, Melton Putra, Jakarta, h.59
1. Institutions supporting modern formal economic activities have resulted in the informal sector possessing a lack of bargaining position, and thus, not providing greater opportunities and leading them to less favorable prospects.

2. Deliberate wage levels.

3. In terms of the existence of political-technical problems, the Indonesian political actors do not observe and aware of the rapid development in modernization.

The presence of street merchants has grown rapidly in Denapsar City and other cities in Indonesia. There are several things that underlie the development of street merchants in terms of different aspects:

1. Regarding the law of economics, where there is demand there is supply, meaning that the street merchants’ potential to develop will continue to exist since the demand always exist.

2. Regarding the location, street merchants will always exist as long as there is a place for them to trade.

3. Regarding the employment, there will be street merchants as long as there are no better jobs.

4. Regarding the law, there will always be street merchants as long as there is no law to regulate and enforce the rules.

More specifically, some of the conditions that cause the presence of the informal sector in urban areas to keep expanding are listed as follows:

1. Concentration of investment in urban areas encourages people to urbanize with an imbalance number of people with number of jobs available.

2. Attractiveness of cities, especially for rural people who do not work in agricultural sector due to low income.

3. Famines, floods, and decline of the agricultural sector, resulting in the decision taken by rural people to go to the urban areas to seek a decent job.

4. Lack of natural and material resources that can be explored by the villagers.

Many young people of productive age come to the big cities armed only with physical strength or a high school diploma, or even lower education background, and try to find work in the industrial sector\(^7\). In general, the provisions commonly used by migrants to start their job in urban areas involve:

\(^7\) Hakim, 1998
1. Physical strength
2. Formal education (school) and course diploma
3. Amount of money for working capital
4. Skills

Many who make ends meet by becoming street merchants are those who drop out of school so that there are no opportunities to work in government, state and private sectors. Less availability of employment does not only exist among people who drop out of school, but also many educated people who choose to become street merchants since it is difficult to get a decent job based on their education background.

The presence of informal sectors is crucial in urban life, particularly in showing a potential source of income for people living in the urban areas. In addition to providing jobs, informal sectors also keep its existence to survive in urban areas without the aid from the government, even with their obstacles from the government due to the need for a variety of products and services produced by this sector. The greater number of people who depend on the informal sector causes attention to the sector either as a research subject or as a target group for development. The informal sector is formed without taking an arranged process and is an independent work that is less organized, grows and develops by itself. The rapid economic growth of cities in Indonesia has caused a social problem related to the attractiveness of cities to residents living in rural areas. One of them is to get a better income and a more decent life than before, but not all of these job seekers have the opportunity to get the job they want (formal sector). This is associated with a low level of education, as well as a lack of skills. Social problem is the high level of urbanization, which causes problematic job seeking competition. The informal sector is often seen as an alternative economic activity and lack of positive attention from various parties including job seekers. However, reality does not only provide answers to job opportunities, but also contributes to reducing unemployment and provides hope for business development for small communities in urban areas due to its advantages and convenience.

Just like any other city in Indonesia, Denpasar is the capital of Bali which is experiencing growth and development of occupation, and the pace of development in all fields continues to increase and exert a huge influence on the city. Population growth averages 4.05% per year with the growth rate of development in various sectors, and thus, bringing great impact on the Denpasar City, which ultimately causes various urban problems that must be addressed and resolved by the regional government in meeting the needs and demands of the increasing
urban communities. The Denpasar City was established on February 27, 1992 through the Law No. 1/1992 with the status of a city area. It initially had an area of 12,398 Ha, with a population of 335,196 people spread over three sub-districts. Fifteen years later, Denpasar City has grown into a big city with a rapid population growth, economic growth, and urban space patterns. The population grew into 608,595 inhabitants in 2007. On the other hand, the amount of Denpasar city space is fixed but for the additional reclamation space on Serangan Island, and thus, making it increase to 12,778 Ha since 1999.

The vast area of Denpasar City requires people to move to the urban area with the aim of making a decent living. Nevertheless, they sometimes come to Denpasar city without high education background, and thus, making them difficult to find a job. As a result, they need to find a way out by selling on the roadside. According to Ananta, Street merchants refer to people who have a lower economy status, which sell goods of daily necessities, food, and services whose capital is relatively cheaper. They are also traders consisting of people who sell goods or services from the general public, especially on roadside and sidewalk. The merchants who have their stall on roadside are then called Pedagang Kaki Lima.

The existence of street merchants in several cities does not only serve as a “buffer” for excessive employment that does not get accepted in the formal sector. Also, street merchants have a big role and can improve the economic activities of the community. Apart from the lack of community economy, the absorption in informal sector is not only proven to be an open buffer zone. It also has to do with the distribution of goods and services at the lower level and even into potential marketing. In addition to having benefits, the presence of street merchants in urban areas also bring several problems that disrupt order, cleanliness, and comfort of the city. Therefore, it is only natural that the problems posed by street merchants are handled together with how to regulate without “disrupt” the informal sector itself. In line with the development of modern society, the informal sector activities must also continue to develop, and the most prominent activity is street merchants. A lot of street merchants have resulted in the domination for the fulfillment of the needs of urban society, especially those among the lower-middle class society.

The street merchants lead to the act that should be taken by the regional government to

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put things in order without disrupting the street merchants. Based on the interviews with the informants, the authors formulate the following model:

**Figure 1.**

**STRATEGY MODEL FOR STRUCTURING STREET MERCHANTS**

Local Government of Denpasar City

Zoning

Licensing

Street Merchants

Relocation

On-site Direct Guidance

Yes

Warning Letter 1 Reprimand

No

Warning Letter 2 Reprimand

21 days

Warning Letter 3 Examination Minutes of Minor Offenses (Infractions)

Several Markets in Denpasar City

Trial of Infractions
Based on the model, the first thing performed by the *Satpol PP* when they are in patrol is to conduct direct fostering to the street merchants in terms of the set order for street merchants. The regulation governs a forbidden for merchants to sell on the roadside since it will disrupt the traffic flow. If the street merchants are willing to have another place, they will be relocated and then directed to the markets in Denpasar City. If they are not willing to be relocated, they will be given warning letter I (SP 1) which requires them to no longer sell on the roadside. In more adverse case, if they insist not to move, they will then be given warning letter I (SP 2) with the same content, particularly the warning responding the reason they are not willing to relocate themselves. The last warning letter (SP 3) in terms of minor offenses (infractions) will be given if they totally do not want to move. Total period of SP1, SP2, SP3 is 21 days, which then requires the *Satpol PP* to relocate the street merchants to markets in the Denpasar City, such as Ex Tiara Wholesale Market, Kreneng market, etc. The Ex Tiara Wholesale Market has provided 385 stands. This is what the regional government does to discipline or bring the street merchants into order.

2.2. Government’s Ways for Structuring Street Merchants through Law Enforcement

Conceptually, the sense and notion of law enforcement lies in synchronizing relationship of values outlined in the set rules and action as a series of elaboration of the values of the final stage to create, keep, and maintain the peace of social life.\(^1\) Human beings have certain views on what is good and what is bad in their life. These views are often manifested in certain “couples” that need to be harmonized in terms of law enforcement, such as the need for harmony between the value of order and the value of peace. Furthermore, it is best to outlined that interference with law enforcement may occur, if there is a discrepancy between values, rules and patterns of behavior. Therefore, law enforcement does not merely mean the implementation of legislation or law enforcement as the implementation of legislation, and decisions of judges will sometimes have weaknesses if it is considered to be even disrupting the social peace. As for several factors that affect law enforcement, among others:

a. Legal or legislation.

b. Law enforcement, such as the parties that formulate or apply the law.

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\(^{10}\) Soekanto, S., 2007, *Faktor-Faktor Yang Mempengaruhi Penegakan Hukum*, PT. Raja Grafindo, Persada Jakarta, h. 44
c. Facilities supporting law enforcement.
d. Society
e. Culture

Two law enforcement efforts designated to bring the street merchants into order are listed as follows:

1. Preventive way to put the fostering function by the *Satpol PP* to street merchants to be aware of the law or existing regulations and understand the importance of provisions and public order, considering that there is a potential for conflict between the two parties while emphasizing the law enforcement. The fostering conducted by *Satpol PP* include:
   a. Providing advice or solutions to find vacant land owned by residents who have not been occupied so that street merchants do not need to go around to sell.
   b. Counseling conducted by the *Satpol PP* to deliver some information on government programs, legislation, local regulations, governor regulations, and other legal products that apply to the entire community and street merchants in the hope of increasing knowledge, insight and community rock in general and street merchants in specific.

2. Repressive ways to suppress or eliminate violations, or law enforcement conducted by *Satpol PP*, such as:
   a. Non-judicial repression as the act of stopping violations of local regulations in addition to waiting for the mayor’s decision.
   b. Repressive *Pro Justitia* to educate the violators of local regulations as performed by civil servant investigators (PPNS) who have the authority to bring the violators by making examination minutes of infractions.

II. CONCLUSION

The economic impact during the COVID-19 pandemic has affected the Indonesian people. The regional and central governments need to be aware of the real conditions in the community. The government should take an action to help resolve the problems that have brought some impacts on the economic
sector due to the pandemic in a sense that it has increasingly affected the lives of the community at large scale. The existing regulation can be used for solving the problems as well as opening bigger opportunities needed by the community.

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