

The paradox of sidewalk regulation: Assessing constitutional justice and the economic livelihood of the people in Cirebon regency

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Abstract

Cirebon Regency, located in the eastern part of West Java, has experienced rapid economic growth, marked by the proliferation of informal trade activities, particularly street vendors (pedagang kaki lima or PKL). The presence of street vendors in public spaces, such as sidewalks, reflects the socio-economic reality of marginalized communities who rely on small-scale trade as their primary source of livelihood. Their existence embodies the spirit of economic democracy yet is often perceived as a disruption to urban aesthetics and public order. In response, the Cirebon Regency Government enacted Regional Regulation Number 3 of 2015 to regulate street vendors. However, this legal framework adopts a predominantly formalistic approach with limited public dialogue, thereby raising concerns of substantive justice. This study analyzes the regulation of street vendors from the perspective of constitutional justice, drawing on Article 27(2) and Article 28D(1) of the 1945 Constitution. Employing a normative legal approach and policy analysis, the paper argues that restrictions on PKL activities must adhere to the principles of non-discrimination, public participation, and proportionality. Furthermore, it proposes a dialogical and empowerment-based regulatory model—similar to approaches successfully applied in other cities—adapted to Cirebon's local characteristics as a religious community and a tourism hub. Ultimately, fair and participatory regulation of street vendors can serve as a concrete manifestation of constitutional rights protection in a democratic rule-of-law state.

Keywords

Street vendors, Constitutional justice, Regulation, Economic rights, Cirebon regency

Introduction

Cirebon Regency plays an important role in supporting economic growth in the eastern part of West Java Province. Geographically, it borders several regions of Central Java, positioning Cirebon as a strategic hub for interregional trade. Consequently, the regency has witnessed the rapid proliferation of small-scale traders and street vendors (PKL), who thrive in various strategic locations such as terminals, markets, religious tourism

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areas, main roads, and government centers. The presence of street vendors along sidewalks represents a complex socio-economic phenomenon [1], [2], [3].

On the one hand, street vendors symbolize the persistence of the lower-income population in facing harsh social realities. On the other hand, their presence is often perceived as disrupting urban aesthetics and undermining the function of sidewalks as public spaces for pedestrians. According to Amos Mario Khosasi, this situation reflects a paradox of social coercion, as the Cirebon Regency Government, through the Civil Service Police Unit (Satpol PP), routinely enforces regulations against street vendors, particularly in crowded areas such as Sumber Market, the Town Square near the Prosecutor's Office, and the roads surrounding the government office complex. These enforcement actions are carried out based on Cirebon Regency Regional Regulation Number 3 of 2015 concerning Public Order and Public Tranquility [4].

However, in practice, the approach often results in non-dialogical measures that economically disadvantage street vendors and provoke social resistance [5]. Therefore, the purpose of this paper is to analyze a fundamental question within the framework of constitutional justice, namely whether the state has fulfilled its obligations fairly in protecting economic rights as an integral part of citizens' constitutional rights.

Implementation of E-court and e-litigation in religious courts in Indonesia

The Indonesian Constitution guarantees that every citizen has the right to decent work and livelihood, as regulated in Article 27 paragraph (2) of the 1945 Constitution, which states: "Every citizen has the right to decent work and livelihood for humanity." Article 27 paragraph (2) reflects the principle of a welfare-oriented state. Within the doctrine of the welfare state, the state cannot remain neutral toward the economic fate of its citizens; rather, it must actively create social and economic conditions that enable every individual to live a dignified life. This doctrine is rooted in John Rawls' perspective, which emphasizes the moral obligation of the state to ensure that all citizens have access to humane (decent) work and livelihood. Such a perspective is embodied in the values of Pancasila, particularly the second principle (Just and Civilized Humanity) and the fifth principle (Social Justice for All Indonesian People), which serve as the moral and ethical foundation for the formation of constitutional norms [6]–[8].

In line with Article 27 paragraph (2), street vendors also hold the right to legal protection and guarantees of justice as affirmed in Article 28D paragraph (1) of the 1945 Constitution, which states: "Every person has the right to recognition, guarantee, protection, and fair legal certainty as well as equal treatment before the law." In this context, street vendors (PKL) in Cirebon Regency are entitled to the same constitutional protections as other citizens. Their activities are not merely a form of business but represent a vital means of livelihood. Unlike formal business actors with sufficient capital to rent commercial spaces, street vendors depend on the use of public spaces

particularly sidewalks—as a place to sustain their economic survival and preserve hope for a better life [9].

However, in practice, the Cirebon Regency Government implements regulatory policies on street vendors who operate on sidewalks, roads, and other public spaces by referring to Regional Regulation Number 3 of 2015. This regulation is grounded in the function of sidewalks as pedestrian rights, and is justified on the basis of maintaining public order, traffic convenience, and urban aesthetics [10]. Although legally supported by a statutory basis, the implementation of this policy often fails to consider aspects of substantive justice. Many street vendors report that the relocation sites offered by the government are not strategically located, lack adequate infrastructure, or are difficult for consumers to access, thereby causing economic losses and threatening the sustainability of their livelihoods [11].

This situation raises a fundamental question concerning constitutional justice, namely whether administrative measures prohibiting street vendors from trading genuinely safeguard their rights to decent work and livelihood. Constitutional justice does not only concern compliance with formal legal provisions, but also emphasizes the protection of economically vulnerable groups through the principles of non-discrimination, public participation in policy processes, and proportionality between the public interest and individual rights [12].

Therefore, a more equitable approach to the regulation of street vendors should guide local government policy. Examples from other cities, such as Surakarta and Mojokerto, demonstrate successful arrangements of street vendors without undermining their right to livelihood. These practices involve intensive dialogue between the government and street vendor communities, flexible zoning policies that allow sidewalk use at certain hours, the application of technology for data collection and site management (e-PKL), and economic empowerment programs through training, cooperatives, and access to capital [13], [14]. In the specific context of Cirebon Regency, PKL management policies should be adapted to the unique local characteristics, such as religious and tourism areas around the Tomb of Sunan Gunung Jati—one of the centers of community activities and economic dynamism—as well as traditional markets that remain the backbone of the local economy. A regulatory approach that prioritizes constitutional justice would demonstrate that the government not only upholds the law formally, but also substantively protects the fundamental rights of citizens within the framework of a democratic and inclusive rule of law.

Conclusion

The regulation of street vendors in Cirebon Regency represents a complex issue that extends beyond matters of law enforcement and public order, as it directly concerns the fulfillment of citizens' constitutional rights to decent work and livelihood. Articles 27(2) and 28D(1) of the 1945 Constitution guarantee these rights; thus, any governmental restrictions on citizens' economic activities, including those of street

vendors, must be examined through the lens of constitutional justice. Although grounded in law through Regional Regulation Number 3 of 2015, the current practice of regulation often neglects substantive aspects such as the readiness of relocation sites, the adequacy of infrastructure, and the assurance of traders' economic sustainability. This gap highlights the inequality between normative legal frameworks and the socio-economic realities of marginalized communities.

Therefore, the regulation of street vendors cannot rely solely on an administrative order logic, but must instead emphasize inclusivity, non-discrimination, and the active participation of street vendors in policy planning, alongside the implementation of proportional and humane solutions. The Cirebon Regency Government should draw lessons from other cities that have successfully adopted models of regulation based on dialogue and empowerment, while also adapting such approaches to its local characteristics, including religious tourism areas that drive community economic activity. In doing so, the role of the state will more genuinely reflect a constitutional character that upholds justice, humanity, and the dignity of its people.

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