

REVALUATION HARMONIZATION: DIGGING THE SOLUTION OF TRADITIONAL AND MODERN MARKET CONFLICTS IN SURAKARTA

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Abstract

Purpose of Study: The research aims to determine: 1) the policy implementation of legal protection of traditional markets in Surakarta, and 2) The causes of conflict between traditional markets and modern markets in Surakarta.

Methodology: The research used the sociological juridical approach with traditional markets in Surakarta as the study population. The sampling technique was purposive sampling by classifying the market class with sub-populations based on the homogeneous typology.

Results: The results of this research were: (1) the implementation of legal protection of traditional markets in Surakarta included the preventive, repressive, and functional legal protection, (2) the causes of conflict between the modern and traditional markets in Surakarta examined from juridical normative and sociology. The conflict can be solved by preventive and repressive legal protection.

Implications/Applications: The efforts to prevent conflict in the traditional markets are in the form of regulatory and implementation. Therefore, the enforcement and legal protection model of traditional markets in Surakarta can be implemented properly.

Keywords: *Harmonization, legal protection, traditional market, modern market, surakatra*

INTRODUCTION

A traditional market is a place where all people from any community or society can buy their daily necessities. Additionally, the traditional market is a symbol of populist economics due to its capacity to provide access to economic sectors for all segments of society. This capacity includes the empowerment of people's economy, which makes it highly labor-intensive in compared with the modern market. However, the fact shows the marginalization of traditional markets. They have to encounter various internal and external problems.

Among the internal problems is inadequate market building marked by dirty, shabby, insanitary, stink, and rampant stalls and shops. Suboptimal market facilities are also demonstrated by the damages of the security system, lighting, roads access, sanitation, etc. In addition, it is worsened by the shortage of capital and conventional management system. Moreover, the behavior pattern of both traders and market managers who are less concerned supporting competitiveness also stimulates the marginalization of traditional markets.

Furthermore, the external problem involves the rapid development of modern markets that discourage the existence of traditional markets. However, the recent development of modern markets in Indonesia is significantly high and relatively diverse including supermarket, hypermarket, department store, mini market, and other shopping centers stands. In fact, their presences continually shift the existence of traditional markets.

As a matter of fact, consumers have a propensity to choose shopping center based on rational things such as comfortability, cleanness, safety, quality, cheaper prices, and time efficiency. All these characteristics can be found in any forms of modern markets. Usman Hidayat asserted that consumers' preference becomes a cause for the development of modern markets and contradictory, the downfall of traditional markets. The factor that leads people to modern markets instead of traditional markets is guided by rational choices, namely lower price, a better guarantee of product quality, and more comfortable place. (Hidayat, 2008; Luo et al., 2018)

The marginalization of traditional markets also triggered by the expansion of modern markets. Based on the data from the Ministry of Industry in 2007 and the Ministry of Commerce (Trade) in 2011, the number of traditional markets in Indonesia decreased significantly in 2007 – 2011. In 2007, there were 13.450 traditional markets and the number declined to 9.950

in 2011. In overall, the number of traditional markets decreased by more than 3.000 in 2007 – 2011. In the same time, the Indonesian Retailers Association (APRINDO) released the number of modern retail rouse significantly in 2007 – 2011 reaching approximately eight thousand modern retails.

Gradually, the condition of traditional markets is worsened by the flourish of modern markets as suggested by the IKAPPI General Secretary, Tino Rahardian. (<http://www.neraca.co.id/article/38397/ikappi-uu-perdagangan-lemahkan-pasar-tradisional>.accessed) According to Fauzi Sukri (Joglosemar, 19 November 2015), there were 48 mini markets in Surakarta from 2006 to 2012, based on data obtained from the Board of Investment and Integrated Licensing Surakarta (BPMP). However, from 2012 to 2015, the number increased to 70 mini markets.

Currently, there are 19 minimarkets are queued for an operational permit. (Sukri et al., 2015) The number is higher than total traditional markets of 44 markets including the typical/thematic markets based on the Department of Market Management Surakarta. The typical/thematic market is a market that provides particular products based on its trademark such as the auto parts market, bird market, fish market, cloth market, and so on. (Sugiyono, 2008)

Jimly Asshiddiqie suggested in the concept of the state of welfare law, the state is required to extend its responsibility related to the socio-economic problems faced by the people. For the adherents of the interventionist state in the 20th century, this thought justified any legalization. In various social and economic issues, the presence of the state is needed and even supposed to do an intervention to ensure the realization of common prosperity and society. (Assiddiqie, 1994)

The government has issued regulations regarding with the existence of traditional markets and modern markets. It is expected that the regulations provide protection as well as the solution in association with the problems of traditional markets. Essentially, the creation of the law is as a means or instrument to regulate the rights and obligations of legal subjects. However, in its development, the law has also another function, namely the protection function. The law serves as the protection of human interests. According to Sudikno Mertokusumo, the law must be implemented in order to protect human interests. (Mertokusumo, 1996)

The problems formulated in this study included three main issues of 1) The policy implementation of law protection of traditional markets in Surakarta, 2) The causes of conflict between traditional markets and modern markets in Surakarta.

RESEARCH METHOD

This research was focused in Surakarta. The primary data was obtained directly from the field study and from the Government of Surakarta particularly the Department of Market Management and Traditional Market Traders of Surakarta. The method was an in-depth interview to the actors in traditional markets by using purposive sampling technique. The population was the traders at traditional markets in Surakarta. The respondents as the sample were selected from the sub-populations based on homogeneous typology. Traditional markets in Surakarta are divided into several classes based on their homogeneity of: the markets location, area, building, number of traders (stalls, shops, and the court), income, earnings (money supply), the number of stalls, the number of shops, the number of the court, time effectiveness, and market facilities. The classes of traditional markets in Surakarta are classified from the highest to the lowest class namely: IA, IB, IIA, IIB, IIIA, and IIIB. In this study, 17 from 44 traditional markets were selected in which most of them supply the commodities of various daily necessities.

RESULTS AND DISCUSSIONS

This study consisted of two major discussions. First was related to the policy implementation of law protection of traditional markets in Surakarta, and Second, The causes of conflict between the traditional markets and modern markets in Surakarta.

A. THE PROTECTION LAW

Based on the results of the assessment on law protection on the traditional markets, the protection included:

1. PROTECTION OF PREVENTIVE LAW: To implement law protection, the Government of Surakarta established programs as follows:

1) Revitalization and Rehabilitation of Traditional Markets

The Government of Surakarta had a serious commitment to carry out the revitalization program for traditional markets that was evidenced by the inclusion of this program as the priority of Medium Term Development Plan (RPJMD) of Surakarta of 2011-2015. One of the program priorities as related to the development of community economy, namely the construction

and development of traditional markets, in terms of physical and non-physical buildings, such as the strengthening of market vendors in order to increase its competitive advantage.

2) Coaching and Training

One of the obligations of local government is to organize training for the market traders. The coaching includes: trading management, goods arrangement, and behavior and attitude to serve buyers. Based on this study, only a few traders who attended the coaching and training. Despite of the annual budget is provided for the Department of Market Management to organize training and coaching, but due to the limited budget, it could not reach the entire market traders in which the number is thousands.

3) Legalization of Business and Business Location

In accordance with the provisions of stalls, traders who occupy stalls are required to have Letter of Placement Rights (SHP). The issuance of SHP and KTTP is the beschikking of the Government of Surakarta in association with the provisions that include the rights and obligations of the respective traders. The rights can also prevent any disputes among traders in relation to the location occupation or place utilization in the market area.

Nomenclature of SHP and KTTP is only available in Surakarta, which refers to the Minister Regulation No. 20 of 2012 on the Management and Empowerment of Traditional Market in which the traders who take advantage of a business must have a location permit (SITU). Thus, it is important for the government to issue local regulations regarding with placement permit for traditional market traders that can be adjusted to the higher level of laws and a national scale. Synchronization is very important in order to avoid overlap in the rule of law and legal conflicts that may arise. (Martínez et al., 2018; Soekanto and Mamudji, 2003)

4) Policy for Modern Market Establishment

Policy issued by the Government of Surakarta related to the permit for the modern market is Regulation No. 1 of 2011, which regulates the establishment of the modern market based on the distance, zoning, and the type of goods. In 2014, the Government of Surakarta also issued a policy of the moratorium on the establishment of minimarket. It is stated in the Circular (SE) No. 510/ 1519.1 on the restriction of Enterprises Modern Stores Minimarket where one important point in the circular was started on Monday, 12 May 2014 for the postponement of the establishment permit of Enterprises Modern Stores (IUTM) Minimarket until the issuance of further policy by the Government of Surakarta.

PROTECTION OF REPRESSIVE LAW

The research showed regarding with the Placement Rights Letters (SHP) as set out in Regulation No. 1 of 2010, there was no effort for the traders to defend themselves in the form of objections or other efforts to respond any treatments from the Market Management Department. Nevertheless, the sanctions for the violations of the Regulation is the administrative sanction in the form of verbal warning and a written warning that is given three times in prior to the revocation of SHP and/or KPTP and vacating the stall. The issuance of SHP is for unlimited period until the letter is revoked, hence, the traders have no rights to reconcile any problems in the form of objections or others related to the treatment from the department as the manager of the market. However, it is not in accordance with the General Principles of Good Governance contained in Act No. 30 of 2014. Thus, it is necessary to revise the local regulation as the legal protection of traditional markets in order to accommodate the repressive legal protection. (Arikunto, 2006)

FUNCTIONAL PROTECTION

Market Management Department as the agency assigned the task or mandate of the Government of Surakarta is expected to play a proactive role in providing functional protection. Furthermore, several improvements can be performed including Market Cleanliness, Security, Market Order, Delivery of Water Supply, and Lighting.

B. CONFLICT BETWEEN TRADITIONAL MARKETS AND MODERN MARKETS

1. CONFLICT OF MODERN MARKET ESTABLISHMENT

The rapid development of business and industry in Indonesia triggered a lot of conflicts. Business conflict occurs because of the desire of each entrepreneur to dominate the market as widely as possible. It also occurs among the traders in the traditional markets (squat market/pasarjongkok), in the village (stalls), supermarkets as well as franchise outlets. The presence of supermarkets and franchise outlets is not the rival of traditional traders. Traditional markets cannot challenge

modern markets in terms of capital, price of goods, and services technology. In some areas, the traditional traders protested against the presence of supermarkets and department stores and franchise in adjacent to their stalls. (dan Wirawan, 2010)

Based on this study, the conflicts that arouse relating to the establishment of modern markets were due to several violations committed by the modern markets where the establishments of modern market:

- a. Do not pay attention to environmental factors particularly the existence of traditional markets and street vendors as well as the welfare of the local community.
- b. Did not pay attention to the distance from traditional markets hence it disturbed the trade access of community.
- c. Did not pay attention to the licensing process in accordance with the prevailing regulations.

2. FACTORS OF CONFLICT

Based on the analysis of the causes of the conflicts, they can be identified from two perspectives

a. Normative Juridical Perspective

The assessment on the conflicts indicated that the main cause of the conflict was the violation of the Local Regulation No. 5/2011 on Management and Development of Shopping Centers and Modern Stores. Violation of the provisions of the establishment, zoning, spacing, and timing of the operational of modern markets was the trigger for conflict between modern markets and traditional traders as well as the local community.

b. Sociological Perspective

The conflict between traditional and modern markets is a current phenomenon in which the rapid development of modern markets marginalized the existence of traditional markets. (Echols and Shadily, 2003)

The majority of traditional market traders obtained less turnover and earnings due to the widespread of the modern market establishment. Such condition led to inequality and social resentment not only between the traditional markets and modern markets, but it extended to horizontal conflict within the society. As a consequence, there was a gap between the superior and the inferior that would continually enlarge without any resolution. For this reason, the role of government to reduce the gap or the degree between the superiority of modern markets and the inferiority of traditional markets is necessary. The government is expected to issue program and regulations that significantly support the continuity of traditional markets. (Moleong, 2009)

C. THE SETTLEMENT OF CONFLICTS BETWEEN TRADITIONAL MARKET AND MODERN MARKET

1. Settlement of Conflict

To resolve the conflicts between traditional markets and modern markets, there are two categories of the settlement, which are preventive and repressive. Preventive is the social control to prevent events before they happen. From the assessment of the prevailing conflicts, some settlement models were formulated including: the establishment of a modern market must not violate the regulations; the form of the store should be a common grocery store instead of modern store, in which it should have traditional service system and sell the goods that are equal to the type of goods sold in traditional markets; partnerships with traditional market traders and small traders in the vicinity; and the restrictions of operational hours. Furthermore, repressive is the social control that is carried out after the occurrence of a violation. The repressive measure can be in the form of the closure of a place of business when it has not complied with in the establishment of a modern market. (Fathi and Dastoori, 2014; Soehartono, 2011)

2. Prevention

The conflict between traditional markets and modern markets can be reduced by optimizing the role of the government.

a. The effort of Regulation Aspect

To minimize the conflict between traditional markets and modern markets, the development by promoting the empowerment of traders both physical and non-physical in a form of "siding" policy. Transparent and decisive regulation related to the establishment of the modern market is required. It should aim to avoid the frontal competition and to protect the existence of traditional markets.

b. The effort of Implementation Aspects

Regarding with the implementation of the regulations, the government should be consistent in enforcing the rules. Law

enforcement is a process of the effort for the establishment or the enforcement of legal norms in the protection of traditional market in terms of the empowerment of traditional markets both the physical and non-physical. In addition, it involves the modern market regulation related to the establishments, zoning, distance, and operational hours.

CONCLUSION

The legal protection for the traditional markets in Surakarta are granted by the Government of Surakarta, which includes preventive legal protection, repressive legal protection, and legal functional legal protection.

The cause of the conflicts between traditional markets and modern markets in Surakarta can be identified from the two perspectives: the normative juridical and sociological perspective. The violation of the provisions regarding with the establishment of modern market triggers the conflict between modern markets and traditional markets as well as with the local community. Sociologically, there are the superior and the inferior element. The conditions build a gap between modern markets and traditional markets, which leads to conflict. To minimize the gap, the role of the government to support traditional markets in a concrete way is significant in order to maintain their existences. To resolve the conflicts between traditional markets and modern markets, there are two models, namely the preventive and repressive. (Fathi and Dastoori, 2014; Mollaei et al., 2014; Osman et al., 2018; Sanderson, 2000; Soekanto, 1986)

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