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Authority of the Public Order Enforcers in Organizing Public Order in Badung Regency

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Abstract

This research is based on the background of the problem of the gap between the substance of the Regional Regulation of Badung Regency Number 7 of 2016 concerning Public Order and Peace of the People in the Badung Regency region with the facts that occur in the field. The aims was to find out how the authority and remedies for enforcement of regional government regulations in the context of implementing public order and peace of mind by the Public Order Enforcers in Badung Regency. The research method used is quantitative descriptive with an empirical legal research approach. The data used are primary data, secondary data and tertiary data. The method of determining the sample used is probability sampling. Data is collected through documentation techniques, observation and interviews. The results showed that the authority of Badung District Public Order Enforcers in organizing public order was regulated in the Badung District Regulation Number 7 of 2016 and supported by other Regulations in the Badung Regency area. Legal efforts of the Public Order Enforcers such as the act of controlling, demolition, sealing, closing the business operations and so forth. The remedies are pre-incentive non-judicial and judicial.

Keywords: Authority; legal efforts; public order; public peace

INTRODUCTION

In order to ensure the orderly administration of the government and the implementation of regional development, there is a need for harmonious relations between the central government and regional governments that are placed within the framework of implementing regional autonomy. Each region has the authority and responsibility for the wheels of government and its economy by means of the right to regulate and manage its own household, so the region has the right to make regional regulations. The regional regulation is of course only valid and enforced in the territory of each region which is a special regulation in each region, but remains within the boundaries and supervision of the central government. These regional regulations must meet the limits of authority that have been determined with attachments in their relationship to the central government which are manifested in the form of preventive supervision, control over prevention and general supervision (Misdayanti, 1993).

The existence of the Civil Service Police is currently inseparable from the problems that have arisen since it was proclaimed by the Unitary State of the Republic of Indonesia on 17 August 1945 (Widarjanto, 2008), so that the established government has been running well so that public order and peace are needed in an effort to maintain and maintain the Unitary State of the Republic of Indonesia.

The Regional Head has the obligation to uphold the laws and regulations and maintain public order and peace. Ordering is an atmosphere that leads to regulation in society according to the prevailing norms so as to generate motivation to work in order to

achieve the desired goals (Anonim, 2005). The duty of the Regional Head's duty other than originating from duties arising from his own initiative from regional equipment (Regional Autonomy) can also be ordered by a higher authority or the so-called co-administration task (Soejito, 1984).

In carrying out its authority to enforce Regional Regulations and regional head decisions, as one of the main tasks of the Civil Service Police, it is certainly not as easy as turning the palm of the hand, especially in carrying out this authority the Civil Service Police are limited by repressive authority that is non-judicial in nature. The Civil Service Police Officers often have to face various obstacles when they have to deal with a community that has certain interests in fighting for their lives, which ultimately leads to the emergence of conflict (clash). In dealing with this situation, the Civil Service Police must be able to take the right and wise attitude, in accordance with the new paradigm of the Civil Service Police, which is to be friendly, friendly, and able to create a sense of coolness for the people, but remain firm in acting for the sake of the rule applicable.

Order and tranquility in society are highly coveted, both by State administrators, in this case the government, as well as the society itself and for the creation of order and peace, of course, cannot be separated from the role of the Civil Service Police Unit in collaboration with other law enforcement agencies. Therefore, the order and peace affairs were also handed over to the Civil Service Police Unit to maximize the socialization of legal products, especially Regional Regulations, Regent Regulations, Regent Decrees and other legal product laws in running the wheels of Government in the regions to the public.

The implementation of order and peace especially in Badung Regency in this case has been implemented through the Badung Regency Regional Regulation (Perda) No. 7 of 2016 concerning Public Ordering and Public Peace, but in reality the implementation of order and peace cannot be said to be maximal, because this is indicated by a violation of the Regulation Regional as well as reports, complaints and criticism from the public about the lack of effective performance of the Civil Service Police officers in carrying out their main duties and functions.

In relation to the implementation of public order in Badung Regency based on Regional Regulation Number 7 of 2016 concerning Public Ordering and Community Peace there are also problems related to the implementation of the duties and authority of the Civil Service Police Unit.

The definition of authority in the General Dictionary of Indonesian Language means the same as authority, namely the right and power to do something (Tim Penyusun Kamus-Pusat Pembinaan dan Pengembangan Bahasa, 1989). Prajudi Atmosudirdjo argues about the definition of authority in relation to authority as follows (Atmosudirdjo, 1981): "Authority is what is called formal power, power that comes from Legislative Power (given by the Act) or from Executive / Administrative Power. Authority is the power of a certain group of people or power over a certain spherical sector of government (or field of affairs), while authority only concerns certain parts. Within authority there are authority. Authority is the power to do something of a public law act".

In relation to the establishment of legislation, especially Regional Regulations Number 7 Year 2016 concerning Public Order and Peace of Society, the theory of delegation authority and authority will be used. Attribution of power, specifically the attribution of power to form legislation is often interpreted as granting authority to certain state institutions or institutions, which are given by the Basic Law or Law. In this case the creation of new authority for and on behalf of those who are authorized.

Law enforcement according to Badra Nawawi Arief, as quoted by Heni Siswanto, is: (a) a whole series of activities for organizing/maintaining the balance of rights and obligations of citizens according to human dignity as well as their respective responsibilities in a fair and equitable manner, with rules and regulations laws and regulations that are the embodiment of Pancasila and the 1945 Constitution; (b) the overall activities of law enforcement officers in the direction of law enforcement, justice and protection of human dignity, order, peace and legal certainty in accordance with the 1945 Constitution. According to Joseph Goldstein as quoted by Mardjono Reksodiputro (Reksodiputro,

1994), law enforcement itself, must be interpreted in terms of three concepts, namely:

The concept of total law enforcement which requires that all values behind the legal norms be enforced without exception

Full enforcement concept that realizes that the total concept needs to be limited by procedural law and so on for the protection of individual interests.

The concept of actual enforcement concept that emerged after it was believed that there was discretion in law enforcement due to limitations, both related to facilities, the quality of human resources, legislation and lack of community participation.

Indonesia is a legal state (*recht staats*), so every person who commits a crime must be accountable for his actions through law enforcement. Law in this case is a means for law enforcement. Law enforcement implies that a criminal act is an act that is prohibited by the rule of law and is accompanied by a threat (sanction) in the form of a certain crime as its responsibility. Legal culture explains the diversity of ideas about laws that exist in various societies and their positions in social order. These ideas explain legal practices, the attitude of citizens to the law and their willingness and unwillingness to file cases, and relative legal significance, in explaining broader thoughts and behaviors outside of practice and special forms of discourse related to legal institutions.

METHOD

The method of research is a legal research with an empirical aspect or a type of non-doctrinal legal research or a type of socio-legal research with a quantitative descriptive research approach. This Research is take a sample Authority of the Public Order Enforcers in Organizing Public Order in Badung Regency. This research uses secondary data as initial data to proceed primary data or field data. This means that empirical juridical research still rests on a normative premise where the operational definition can be taken from legislation to then look at the reality in the field.

RESULT AND DISCUSSION

Authority of the Public Order Enforcers Unit in Order to Organize Public Order and Peace of the People in Badung Regency

According [Government Regulation \(PP\) Number 16 of 2018](#) concerning the Public Order Enforcers Unit mentioned in Article 1 paragraph (1) the Public Order Enforcers is a regional apparatus set up to enforce Regional Regulations and Regional Head Regulations, to carry out public order and peace and provide protection society.

The Public Order Enforcers unit was formed to enforce Regional Regulations and Regional Head Regulations, to carry out public order and peace, and to carry out community protection.

The Public Order Enforcers unit has the authority:

carry out non-judicial enforcement measures against community members, apparatus, or legal entities that violate Regional Regulations and or Regional Head Regulations;

take action against residents of the community, apparatus, or legal entities that disrupt public order and peace of society;

carry out investigative actions against community members, apparatus, or legal entities suspected of committing violations of Regional Regulations and / or Regional Head Regulations; and

carry out administrative actions against community members, apparatus, or legal entities that violate Regional Regulations and Regional Head Regulations.

Based on Operational Standards Procedure of the Public Order Enforcers has the authority to control and dismantle and other actions aimed at realizing security and public order in accordance with the mandate of Regional Regulations and regulations in the Badung regency order while maintaining ethics, aesthetics, harmony of buildings and

environment, religious norms, modesty norms, norms of decency, health, public order and security. The Enforcement of Regional Regulations and Regional Head Regulations carried out in the 2017 period which is the most prominent is the enforcement in contact with Regional Regulations related to Building Construction Permits namely Regional Regulation Number 27 of 2013 and Regional Regulations related to Public Order and Peace of Society regulating namely [Regional Regulation Number 7 of 2016](#), which is one the activity was the closure of localization in 2 places and the closing of 7 café's located in Mengwitani Village, Mengwi District, Badung Regency, Public Order Enforcers also seals Chinese shops which are a threat to Bali tourism in 2018, as well as several other activities. Satpol is sealing modern shops or supermarkets and tourism businesses that do not have permits in accordance with the applicable regulations. PP Badung Regency as a form of legal effort of the Praja Badung Police Unit in enforcing Regional Regulations and Regional Head Regulations in Badung Regency. As for some sealed Chinese shops or stores, namely: Kalimanta Shop (PT. Citra Interbuana Multirasa), Lisa Game Stone, PT. Maharaja Latek Bali which is generally located in central tourism in the Kuta area, Badung. All the activities carried out are derivatives of 8 orderly designed by the Badung Regency Public Order Enforcers which is regulated in [Regional Regulation Number 7 of 2016](#) concerning Public Order and Peace of Society.

Legal Enforcement of Local Government Regulations in Order to Organize Public Order and Peace of the Community by the Public Order Enforcers in Badung Regency

Law enforcement according to Badra Nawawi Arief, as quoted by Heni Siswanto, is: (a) a whole series of licensing or maintenance activities that establish the rights and obligations of citizens according to human dignity and their respective responsibilities in a fair and equitable manner, with the rule of law and legal and statutory regulations which are the embodiment of Pancasila and the 1945 Constitution; (b) the overall activities of law enforcement officers in the direction of law enforcement, justice and protection of human dignity, order, peace and legal certainty in accordance with the 1945 Constitution.

The authority to enforce public order violations refers to the [Regional Regulation Number 7 of 2016](#) concerning Public Order and Peace of the Community, and based on other regulations that support the existence of the Regional Regulation, both in the form of District Head Decree No. 188.45/597/ 404.1.3.2/2018 concerning The Regional Regulations Enforcement Team in Badung Regency, or other regulations, relates to the authority of the Public Order Enforcers, this authority can be considered as owned, obtained either directly or indirectly by each policy implementer.

In [Article 5 Regional Regulation Number 7 of 2016](#) the Sat Pol PP is authorized:

carry out non-judicial enforcement measures against Everyone who violates the Regional Regulation and / or Regents of the Regent;

take action against anyone who interferes with public order and public tranquility;

facilitation and empowerment of the capacity to carry out community protection;

conduct investigative actions against Anyone suspected of committing a violation of the Regional Regulations and / or Regents of the Regent; and

carry out administrative actions against Anyone who violates the Regional Regulation and /or Regents of the Regent.

Based on Article 8 of Regional Regulation Number 7 of 2016 concerning Public Order and Peace of the Community, it is stated that: Implementation of Public Order and Public Order as referred to in Article 6 is carried out through efforts to create orderly conditions and conditions, including:

Road order and Pedestrian Safety;

Orderly Green Lanes, Parks and Public Places;

Orderly rivers, waterways and coastal areas;

Environmental order;

Orderly building;
Orderly Tourism Business;
Social order; and
Orderly Population.

Based on data obtained from the Strategic Plan of the Badung District Public Order Enforcers 2016 - 2021 it was stated that the Program for Maintaining Public Order and Peace of the Community and Prevention of Criminal Actions consisted of the following activities:

Enforcement of Regional Regulations and Regional Head Regulations
Operation of Public Order and Peace of Society
Light Crime Implementation (Tipiring)
Public Security and Order Patrol

The authority of the Public Order Enforcers in the Implementation of Public Order and Peace of the People in Badung Regency is to provide guidance, efforts to enforce Regional Regulations and Regional Head Regulations in the form of enforcement, demolition, sealing, closure of business operations, and other actions aimed at realizing security and order general according to the mandate of Regional Regulations and Regional Head Regulations specifically Regional Regulation Number 7 of 2016 concerning Public Order and Peace of the Community, and other Regulations in the Badung regency region while paying attention to ethics, aesthetics, harmony of buildings and environment, religious norms, politeness norms, obscenity.

Legal Enforcement of Local Government Regulations in the context of the Implementation of Public Order and Peace of the Community by the Public Order Enforcers in Badung Regency is in the form of the process of enforcing Regional Regulations by the Public Order Enforcers Badung Regency is based on the Badung Regent Regulation Number 19 of 2011 concerning the Operating Procedure for the Badung District Civil Service Police Unit. Technically, the operational process of enforcing Regional Regulations and Regents of Regents starting from the investigation process continued with the investigation process carried out by Satpol Civil Servant Investigators (PPNS). PP Badung Regency, in terms of proven violations of Regional Regulations and Regulations of the Regent, Public Order Enforcers Kabupaten Badung goes on to provide a written text, namely warning I, II, with a period of 7 X 24 hours to violators of the Regional Regulations. The warning is a step of coaching (educational persuasion) against the community violating the Regional Regulation, the purpose of this development is so that the community is aware of their mistakes and can correct and not repeat their actions and those concerned want to fulfill the instructions given. In the event that coaching is not successful, the Public Order Enforcers determines the steps in the prosecution process by holding a Yustisi Team meeting to obtain input and steps in following up on the problem of violating the said Regional Regulation.

CONCLUSION

In accordance with its authority in the context of the Implementation of Public Order and Peace in Badung Regency in accordance with the mandate of Regional Regulation Number 7 of 2016 concerning public order and public tranquility, the Badung District police unit is expected to further optimize its performance through a series of more intensive program activities innovations. in maintaining public order and public tranquility in Badung Regency. Considering the results of the study which showed that violations of public order and public tranquility were dominated by parking violations and street vendors, the Public Order Enforcers was deemed necessary to make the street vendor control program and public order violations into the development priorities of the Badung Regency government. The Civil Service Police Unit, in accordance with its authority, can propose a regulation that specifically functions to regulate the presence of street vendors and violations of public order, whose contents are not only a form of control, but also the regulation of a number of rights and obligations for street vendors and public order violations. The Public Order

Enforcers can implement a single command system, whereby one of the agencies or agencies is appointed to coordinate a special program for handling street vendors and public order violations, with the aim of facilitating the distribution of control of street vendors and violations of public order. In the resource element there needs to be additional enforcement staff at the sub-district level. In addition, the use of the regulating budget for street vendors who violate public order can refer to cooperation between relevant agencies.

In terms of legal efforts to uphold regional regulations in the context of implementing public order and peace of the people, the Badung District Public Order Enforcers is expected to intensify the legal efforts implemented. The Public Order Enforcers is expected to not only provide guidance or rehabilitation and fines for violations of public order and public security but also can impose criminal sanctions in the form of imprisonment, in accordance with the mandate of sanctions on each of the violated regulations. Through legal remedies in the form of imprisonment, it is expected to be able to provide deterrent effects to violators so that the violations of public order are afraid and reluctant not to repeat their actions.

REFERENCES

- Anonim. (2005). *Pedoman Prosedur Tetap Operasional Satuan Polisi Pamong Praja*. Jakarta: Kementrian Dalam Negeri Direktorat Jenderal Politik dan Pemerintahan Umum.
- Atmosudirdjo, P. (1981). *Hukum Administrasi Negara*. Jakarta: Ghalia Indonesia.
- Keputusan Bupati Badung Nomor: 7481/03/HK/2017 tentang Pembentukan Tim Yustisi Pemerintah Kabupaten Badung.
- Keputusan Bupati Badung Nomor: 7483/03/HK/2017 Bupati tentang Pembentukan Tim Operasi Penegakan Peraturan Daerah Kabupaten Badung.
- Misdayanti, K. (1993). *Fungsi Pemerintahan Daerah Dalam Pembuatan Peraturan Daerah*. Jakarta: Bumi Aksara.
- Peraturan Pemerintah Republik Indonesia Nomor 16 tahun 2018 tentang Satuan Polisi Pamong Praja.
- Peraturan Pemerintah Nomor 6 Tahun 2010 tentang Kesatuan Polisi Pamong Praja.
- Peraturan Pemerintah Nomor 58 Tahun 2010 tentang Perubahan Atas Peraturan Pemerintah Nomor 27 Tahun 1983 Tentang Pelaksanaan Kitab Undang-Undang Hukum Acara Pidana Pejabat Penyidik Pegawai Negeri Sipil.
- Peraturan Menteri Dalam Negeri Nomor 66 Tahun 2011 Tentang Kode dan Data Wilayah Administrasi Pemerintahan.
- Peraturan Menteri Dalam Negeri Nomor 11 Tahun 2009 Tentang Kode Etik Penyidik Pegawai Negeri Sipil Daerah.
- Peraturan Pemerintah Nomor 99 Tahun 2000 jo Peraturan Pemerintah Nomor 12 Tahun 2002 tentang Kenaikan Pangkat Pegawai Negeri Sipil.
- Peraturan Kepala Kepolisian Negara Republik Indonesia Nomor 6 Tahun 2010 Tentang Manajemen Penyidikan Oleh Penyidik Pegawai Negeri Sipil Penyidik Pegawai Negeri Sipil.
- Peraturan Pemerintah Nomor 16 Tahun 2018 Tentang Satuan Polisi Pamong Praja.
- Peraturan Daerah Kabupaten Badung Nomor 7 Tahun 2008 Tentang Pembentukan Organisasi dan Tata Kerja Perangkat Daerah Kabupaten Badung.
- Peraturan Bupati Badung Nomor 73 Tahun 2015 tentang Standar Operasional Prosedur Satuan Polisi Pamong Praja Kabupaten Badung.
- Peraturan Daerah Nomor 10 Tahun 2017 Tentang Kawasan Tanpa Rokok (KTR).
- Peraturan Bupati Badung Nomor 80 Tahun 2014 tentang Penyelenggaraan Reklame di Kabupaten Badung.
- Peraturan Daerah Nomor 3 Tahun 1992 Tentang Larangan Mendirikan Bangunan pada Daerah Jalur Hijau.
- Peraturan Daerah Nomor 27 Tahun 2013 Tentang Ijin Mendirikan Bangunan (IMB).
- Reksodiputro, M. (1994). *Sistem Peradilan Pidana Indonesia, Melihat Kejahatan dan Penegakan Hukum dalam Batas-Batas Toleransi*. Jakarta: Pusat Keadilan dan Pengabdian Hukum.
- Soejito, I. (1984). *Sejarah Daerah Indonesia*. Jakarta: Pradnya Paramitha.
- Surat Menteri Dalam Negeri Nomor 182.1/857/SJ tahun 2011 tentang Pembentukan Sekretariat PPNS Pada Kantor Satpol PP.
- Tim Penyusun Kamus-Pusat Pembinaan dan Pengembangan Bahasa. (1989). *Kamus Besar Bahasa*

Indonesia. Jakarta: Balai Pustaka.

Widarjanto. (2008). *Polisi Pamong Praja pada hari ulang tahun yang ke-58*. Pekalongan: Satuan Polisi Pamong Praja.

Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.

Undang-Undang Republik Indonesia Nomor 32 Tahun 2004 Tentang Pemerintahan Daerah.

Undang-Undang 32 Tahun 2004 tentang Pemerintahan Daerah.