

Legal Reconstruction of Parking Land Management Regulations in Public Space Based on Justice Value

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Abstract

The purpose of this research is to analyze and find weaknesses in the regulation of parking management in public spaces that are unable to fulfill justice value and how to reconstruct the law. The method used by researchers is a sociological juridical approach, research conducted on the real situation of society or in this case, the Medan City in Indonesia to find facts, and then identify which ultimately leads to problem-solving of the problem regarding Parking Land Management. The results of the study show that based on the weaknesses found by the author, the Reconstruction of Regulations for Parking Management in Public Spaces Based on the Value of Justice can be done by revising the regional spatial layout as requested, reducing access to spatial planning information, Mitigating sanctions for spatial violations, improving planning synchronization, and, lastly, evaluating the planning budget.

Keywords: Legal Reconstruction, Parking Land, Public Space, Justice Value.

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INTRODUCTION

Public space is a means of strengthening the community's social relations whose character can be seen as allowing various population groups or groups to be in it, and respecting social classes, ethnic differences, gender, and age differences (Purwanto, 2014). The function and role of public space are becoming increasingly widespread, especially in the development of cities in various parts of the world today. If previously public spaces were always identified as purely physical open spaces, now public spaces have cultural and political meanings as well as public spaces interpreted as places that allow every citizen without discrimination to interact and meet with equality and more importantly have access to use it.

What is interesting to study is the relationship between the existence of public spaces and their various forms of designation and the users of public spaces themselves. The existence of public space is allegedly a magnetic field for visiting people to take advantage of its designation, according to the needs of users. In the process of reaching this public space, people generally do it on foot or by driving.

The implementation of parking aims to improve services to the community in the field of

parking to create order, security, and smooth traffic. Parking consists of two types, namely parking on the side of a public road and a special parking area (Sarah, 2013). For Example, Article 30 paragraph (6) of Medan City Regional Regulation, Number 2 of 2015 Concerning Detailed Spatial Plans and Zoning Regulations for Medan City for 2015-2035 stipulates that: "*Parking facilities as referred to in paragraph (1) letter d include:*

- a. *Off-street parking area*
- b. *Parking on the street, and*
- c. *Parking lot.*"

Based on the rules mentioned above, when viewed at this time, there are only parking area facilities outside the road body and parking on the road body. Off-street parking facilities are available in various offices, shops, and shopping centers in the city of Medan. Parking facilities on the road (on street) are the most numerous in the city of Medan, spread all over the road. Until now, parking building facilities have only been planned.

Currently, many places in Indonesia are experiencing a parking space crisis. The use of part of the road for vehicle parking has created a new problem, namely long traffic jams as a result of the entry and exit

of vehicles going in and out of the parking area. Of course, this is detrimental to other drivers in terms of time and fuel efficiency. The use of the road as a public space needs to be considered for its environmental impact analysis (Wahyu, 2019). The Author focuses this case on The Regional Government of Medan City, and from there, it can be seen that the problem is that the vehicle owner should not only get parking fees received from parking but also need to think about building special spaces for motorized vehicle parking so that people who have paid fees benefit from the fees they pay.

Various existing regulations related to parking are only centered on parking fees and the use of e-parking to prevent leakage of Regional Original Revenue (PAD) due to systematic non-recording of original income from the parking sector. Even though the city of Medan as a business center in North Sumatra continues to increase the number of vehicles every year, the number of existing roads has not increased at all in the last three decades. As a result, there are long traffic jams during rush hour.

The current use of public space as a parking lot in Medan City actually shows injustice for existing road users, so regulations that allow the use of public space as a parking lot must be rethought. Management of parking lava based on justice is a necessity because every citizen pays taxes in almost every activity so that every citizen has the right to get proper facilities and reach all levels of society, including motorized vehicle users.

The important thing that needs to be reiterated is the weak regulations governing the use of public spaces as parking areas. This weakness is then exacerbated by the poor spatial planning and regional planning in the city of Medan. This can be seen from the non-implementation of certain zones for community activities that already exist in the regional regulations of Medan City. The impact is the emergence of new zones that are far different from the existing spatial and regional layout plans. Many shophouses have been formed to become trade centers, but this was not accompanied by adequate parking facilities, resulting in roads being an alternative for vehicle parking lots.

By taking a look more closely at the weak regulations related to the use of public spaces as parking areas, it is more due to the lack of collaboration between agencies in the government of Medan City. For example, when there is an application for permits for shophouses, educational facilities, offices, and shopping centers; The Licensing Service should coordinate with the Transportation Service, the Education Office, and other agencies to ensure that no spatial and regional plans are violated by taking into account the environmental impact.

It is certain that the construction of shophouses, educational facilities, shopping centers, and offices requires vehicle parking lots for its consumers. The parking lot requires adequate land with good facilities and infrastructure, so that service users get the convenience, safety, and comfort of a parking space. If you can't provide a parking area, then you have to see if the surrounding area has public space as a place for parking. Therefore, Based on this description, the author is interested in conducting research and examining the problem in a scientific paper titled "*Legal Reconstruction Of Parking Land Management Regulations In Public Space Based On Justice Value*" where the main problem discussed in this article is as follows:

1. What Are The Weaknesses In The Regulation On The Management Of Parking Lots In Public Spaces That Are Not Yet Just?
2. How Is The Reconstruction Of Parking Management Regulations In Public Spaces Based On The Value Of Justice?

METHOD OF RESEARCH

This study uses a constructivist legal research paradigm approach. The constructivism paradigm in the social sciences is a critique of the positivist paradigm. According to the constructivist paradigm of social reality that is observed by one person cannot be generalized to everyone, as positivists usually do.

This research uses descriptive-analytical research. Analytical descriptive research is a type of descriptive research that seeks to describe and find answers on a fundamental basis regarding cause and effect by analyzing the factors that cause the occurrence or emergence of a certain phenomenon or event.

The approach method in research uses a method (*socio-legal approach*). The sociological juridical approach (*socio-legal approach*) is intended to study and examine the interrelationships associated in real with other social variables (Toebagus, 2020).

Sources of data used include Primary Data and Secondary Data. Primary data is data obtained from field observations and interviews with informants. While Secondary Data is data consisting of (Faisal, 2010):

1. Primary legal materials are binding legal materials in the form of applicable laws and regulations and have something to do with the issues discussed, among others in the form of Laws and regulations relating to the freedom to express opinions in public.
2. Secondary legal materials are legal materials that explain primary legal materials.
3. Tertiary legal materials are legal materials that provide further information on primary legal materials and secondary legal materials.

Research related to the socio-legal approach, namely research that analyzes problems is carried out by combining legal materials (which are secondary data) with primary data obtained in the field. Supported by secondary legal materials, in the form of writings by experts and legal policies.

RESEARCH RESULT AND DISCUSSION

1. Weaknesses In The Regulation On The Management Of Parking Lots In Public Spaces That Are Not Yet Just

Law is one of the factors that influence people's legal awareness. In the science of law, there is an adage that everyone is considered to know the law when the law is declared effective so that logically the law can be applied after the rule is declared effective. Law is made to be implemented, law is no longer called law when it is not implemented in society (Widodo, 2018).

Discussing the principles of using public space as parking lots, cannot be separated from the legal substance side, namely how to form the contents of laws and regulations because the implementation or provision of parking services is the authority of the regional government in terms of regulation.

The existence of parking lots is an important part of public spaces that are currently appearing in many cities. Especially when the love for open space strengthened and the number of visits to city parks rose sharply. However, the lack of parking space is a minus for residents who want to visit various public spaces. For example, a number of new public spaces are now emerging, in Jakarta for example. For example, city parks, child-friendly integrated public spaces (RPTRA), and wide sidewalks. These open spaces are places for residents to relax and interact.

The emergence of the need for parking was caught by illegal parking attendants. They charge fees to visitors who park in spaces that are actually off-limits. The control has been carried out repeatedly, but illegal parking continues to recur. One example is the control of parking around *Suropati* Park since June 2016. Vehicles parked there often fill part of the road, causing traffic jams. The DKI Jakarta Provincial Government then directed park visitors to park their vehicles in the Sunda Kelapa Mosque area.

A similar thing recently happened at the *Kalijodo* RPTRA. Regulation of the Minister of Public Works Number 5 of 2008 requires parking lots for visitors in every public facility in the form of parks as needed. The emergence of illegal parking in city parks can actually be reduced with adequate public transportation coverage. Although limited, there have been efforts by the government to provide public transportation to access a number of city parks in Jakarta. Access to *Suropati* Park, for example, is

actually possible with the Transjakarta bus corridor 4 or 6, then continue on foot. Likewise access to RPTRA *Kalijodo*. The government provides five free double-decker buses on the *Kota Tua*-City Hall route and eight feeder buses on the *Cengkareng-Muara Angke* route. The availability of parking spaces for city parks in Jakarta is indeed limited and difficult to add more (Sandra, 2021). Switching to using public transportation to reach the park is a wise choice. That way, there are no more plans to go to a public space that gets canceled just because you lose the fight over a parking space.

The authority in terms of forming the content of implementing regulations regarding parking is contained in regional regulations. These regional regulations comply with laws and regulations related to parking. Starting from laws, government regulations, and regional regulations that regulate parking. In Article 44 of Law Number 22 of 2009 concerning Road Traffic and Transportation, it states that the determination of the location and construction of parking facilities for the public is carried out by the local government by taking into account the general spatial plan, traffic impact analysis; and convenience for service users.

Then in Article 100 paragraphs (3) and (4) Government Regulation Number 79 of 2013 concerning Road Traffic and Transportation networks, states that Parking Facilities must be in a location that is easily accessible, safe, and comfortable, and pays attention to; general spatial planning, traffic impact analysis, convenience for service users, and environmental function sustainability.

Based on the explanation regarding the related laws and regulations regarding the implementation of parking above, the results of the research found a discrepancy with the regulations for organizing parking. This is what the author has encountered in several cities in Indonesia, which in terms of parking management do not pay attention to the provisions contained in the statutory regulations above.

If parking fees are managed by the Regency/City Transportation Service, then the management of parking taxes is fully the responsibility of the Regional Revenue Agency (Bapenda). Parking tax is a tax on the operation of off-road parking lots, both those provided in connection with the main business and those provided as a business, including the provision of motorized vehicle storage. This Parking Tax Business is owned by individuals or privately owned land and business entities (third parties). For individuals or business entities who want to have a parking business, it is necessary to take care of a parking business permit. If the parking lot to be managed is only for its own business, it is necessary to apply for a parking business permit. Such as Indomaret, *Sardo* Supermarket, and long-term bicycle storage (daily stay). However, if the business has merged with

another business, then there is no need to apply for a parking business permit because it is already integrated with the Environmental Impact Analysis (*Amdal*) report of the other building where the joint business is located (Fatkhul, 2014).

The principle of public service must contain clarity to provide certainty, both to service providers and recipients. In addition, the data used must also be accurate, so accuracy is needed in decision-making. Decisions taken by the Regency/City Regional Government will have an impact on the parking policies that will be implemented. In order to implement the Regional Regulation on parking, it is necessary to have a Mayor's Regulation (*Perwal*) or a Regent's Regulation (*Perbup*) as a guideline for implementers (executors) in the field. The *Perwal/Perbup* relates to parking management which contains the technicalities of parking management, such as: determining parking spots (parking points). When the parking point has been set, the Transportation Agency has a handle on determining how much potential the district/city has, so that it will have a significant effect on Regional Income (PAD).

Each parking location has a parking levy target that must be deposited in a different amount according to its potential. So far, what has happened is that the determination of levy targets is based on an agreement between parking officers and the Transportation Agency, which was previously carried out by the Transportation Agency before setting targets at each parking location. After being monitored for the specified time, the Transportation Agency can determine the target that must be deposited by the parking attendant at a parking point location.

A Parking Business Permit is required to grant a permit to a person or entity that will operate a special parking space business or expand a special parking area. This special parking area is also called the Parking Tax, which is managed by Regional Revenue Management Agency (*Bappenda*), but the management of business permits is at the Transportation Agency. Unfortunately, so far the Transportation Agency has never been able to issue it because there is no *Perwal* that regulates it. Thus, in application in the field for places that should be objects of parking tax, they cannot apply to become parking taxpayers, instead, a levy is collected by the Transportation Agency. This is what eventually becomes the management overlap between parking taxes and parking fees.

This is where the importance of understanding the definition of parking fees and parking taxes is. Both at the level of field officers (*Dishub* and *Bapenda*), parking attendants, and people who will open parking businesses, as well as users of parking services. Sometimes there are people who take advantage of this ignorance. According to the regional regulation, the

location should be a tax domain, but it is claimed to be a levy. It is not uncommon for businessmen who own shophouses to be summoned by *Bappenda* to be registered with the NPWPD, they say that field officers from the Transportation Agency have come to them to collect retribution every month.

The Transportation Agency is the Regional Apparatus Organization (OPD) which is responsible for carrying out parking location management activities starting from the parking attendant recruitment system, parking locations (points), monitoring all parking activities, to job evaluation. However, the performance of the Transportation Agency has not been optimal, due to the fact that in the field there is still a lot of fraud committed by parking attendants, whether they have a permit or not have a permit. This is due to the lack of supervision and guidance carried out by the Department of Transportation.

If connected with the theory of public service principles, there is the principle of security, the public, in this case, parking consumers, must feel a sense of security and legal certainty. How can consumers who use parking spaces feel safe if the rules and implementation on the ground are out of sync? The principle of convenience, apart from containing security, also requires convenience, where parking attendants serve in a friendly manner, giving parking ticket rights to consumers. Another principle in service management is responsible. Responsible for the service here is the parking attendant whose job is to work in totality and be responsible for all problems that arise at the parking location which is guarded by the parking attendant.

2. Reconstruction of Parking Management Regulations in Public Spaces Based On the Value of Justice

In using the parking facility, there are criteria for its placement, namely that the parking area must be located on a flat surface so that the vehicle does not roll over and if the land used is sloping, grading must be carried out using a cut and fill system. Not only that, the parking lot must be located not far from the place of activity and if one have to travel a long distance, a clear and directed circulation is made to the parking area.

The smoothness and comfort of traffic are the basis for traffic management. Based on this, a new and modern management system is needed in dealing with parking problems so that there is a need for parking generation that occurs in office areas, shopping, school, tourist area, and other activities.

There are several factors that influence parking generation (Albalate, 2020), including:

- a. The size of the built-up area is usually closely related to the level of private vehicle ownership;

- b. The number and density of activities in the area;
- c. The number of public attractions to go in the area;
- d. Number of permanent and non-permanent areas working in the office or activities in the area;
- e. The level of ownership of private vehicles or those owned by companies/services of the metropolitan community or city concerned;
- f. Types of activities in the area, for example, offices, schools, or trade centers;
- g. Parking policies imposed by the local government.

The increasing level of private vehicle ownership causes the volume of vehicles to increase while the road capacity is not too wide, the building of shop houses continues to increase and the use of parking spaces throughout the day also increases, thus affecting the density around the parking area. The on-street parking area, which is almost entirely located in a commercial area, which incidentally is an area that is densely packed with visitors, also causes congestion.

Based on the explanation above, it is also necessary to pay attention to changes in the designated area, because of the rapid development that cannot be stopped. Land ownership, which is the right of the community to use it according to their needs, is also a factor that must be considered by the government. The growth of business centers built by the community will certainly result in the arrival of vehicle owners to these locations. Without an analysis of the environmental impact of regional changes, business centers such as shophouses without providing adequate parking space will certainly add to parking problems in the city of Medan. This condition should be a benchmark in granting the Building Permit (IMB) to the community. Regional regulations related to spatial planning and regional planning must be a guideline because violations of spatial planning and regional planning will result in damage to the zones that have become provisions in a regional regulation.

There are also not many public spaces in the city of Medan. If they are to be used as parking areas, of course, you need to think about the spatial and regional layouts that have been determined. This means that the use of public space as a parking area is proof of the failure of the Medan City government in managing the parking system. The Synergy between government agencies in the city of Medan, for example, the Department of Transportation, the Office of Spatial Planning and Regional Planning, the Office of Licensing, and regional-owned enterprises (BUMD) in developing Medan City is absolutely necessary. Collaboration between these agencies will be able to provide a balanced development in the city of Medan.

The issuance of an IMB for commerce is required to provide adequate parking space accompanied by other supporting facilities. If this is not fulfilled, then the license must be revoked. Likewise, for office zones, the permit must be accompanied by the ability to provide parking space in accordance with the estimated number of existing employees; if unable to meet these requirements, the agency must provide an employee shuttle bus.

Public spaces such as parks, sports fields, and recreation rooms, should continue to function and be useful according to their original purpose. The designation of public space as a parking area has actually betrayed the original purpose of its development, as well as demonstrating the government's inability to predict the increase in the number of vehicles every year, while the roads do not increase significantly.

Based on these conditions, a good design is needed by prioritizing the process of solving problems that occur in a room and certain conditions. Problems that usually occur, for example, due to narrow and limited space, space used for various activities, insufficient parking capacity when compared to the number of existing vehicles, and so on (Toebagus, 2022).

Parking design is absolutely necessary for big cities like Medan, due to population growth, vehicle growth, the construction of shopping centers in various corners of the city, and the massive construction of educational buildings, making the volume of vehicles increasingly dense, but not accompanied by additions and availability of facilities. adequate parking. Modern city design, especially for transportation, is actually based on mass transportation, for example, trains, buses, and other means of mass transport, not the other way around. The design of the city which is more towards the use of mass transportation has an impact on reducing parking lots that must be provided by the government. Reduced parking space, because the majority of people use mass transportation, the existing land can be used for public facilities such as city parks, urban forests, recreation rooms, green open parks, libraries, and sports fields, so that interaction between city dwellers can be built.

It must be admitted that the government of Medan City is not ready for the rapid changes in the dynamics of society so the existing spatial and regional layout plans are messy and cannot be realized because of the many violations that have been committed. Certain areas that have been stipulated in regional regulations, only remain as a concept on paper, will not be easily realized, and may even be forgotten. The Medan City Government is only focused on overcoming floods by spending hundreds of billions a year to build drainage, as the problem of parking lots still seems

difficult to realize. Parking problems only focus on the use of e-parking which is oriented towards adding PAD alone. Even though the number of vehicles increasing every year, so it is certain that more and more taxes are received, of course, there is no reason not to pay attention to existing parking problems.

If the Medan City government is unable to build parking buildings, it is necessary to make rules limiting the age of vehicles that are roadworthy, make odd-even rules, have a 3-in-1 rule, improve mass transit-based transportation systems, increase use of the buses, trains and other mass transport in every corner of the city of Medan.

Based on the above arguments, the side of justice which forms the basis of the existence of the rule of law obliges the government to carry out spatial planning and regional planning which have been stipulated in laws and regulations. If the Medan city government is unable to provide a sense of justice in the community regarding parking lots, then there should be other policies that can provide a sense of justice for users of parking services. This means that the Medan City government doesn't just focus on digitizing the parking system, but ignores the security, safety, and comfort of vehicle parking service users.

The existence of regional autonomy granted by the central government should be utilized by the regional government to provide benefits to its citizens who have paid the existing taxes. Public facilities that are paid for, should be used by the government to provide returns in the form of constructing parking buildings or parking areas that are safe, comfortable, and protected by law, to users of these services. Regional autonomy is given to regional governments, with the aim that regions are able to take advantage of the potential that exists in their territory for the welfare of their citizens.

CONCLUSION

Based on the results of the research, the following conclusions can be drawn:

1. There are several weaknesses in the Management of Parking Areas in Public Spaces Not Based on the Value of Justice, first, Laws related to the implementation of parking, the research results found incompatibilities with parking regulations. This is what the author has encountered in several cities in Indonesia where parking management does not pay attention to the provisions contained in the statutory regulations above. Second, the determination of levy targets is based on an agreement between parking officers and the Transportation Agency, which was previously carried out by the Transportation Agency

before setting targets at each parking location. After being monitored for the specified time, the Transportation Agency can determine the target that must be deposited by the parking attendant at a parking point location.

2. The Reconstruction of Regulations for Parking Management in Public Spaces Based on the Value of Justice can be done by revising the regional spatial layout as requested, reducing access to spatial planning information, Mitigating sanctions for spatial violations, improving planning synchronization, and, lastly, evaluating the planning budget.

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