

The Implementation of Parking Management and Its Regulation

Sylvester Enricho Mahardika

Faculty of Law, Universitas Diponegoro, Semarang, Indonesia
E-mail Coresponden: peter.enricho@gmail.com

Retno Saraswati

Faculty of Law, Universitas Diponegoro, Semarang, Indonesia

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Abstract

This study aims to determine the implementation of Local Regulation No. 16/2016 concerning the Implementation of Parking in the City of Pekalongan and to know the obstacles in the implementation and how to solve the problem. The author uses the method of sociological juridical approach that emphasizes descriptive analytical research related to the implementation of Local Regulation No. 15/2016 whether it is appropriate or not. The study provided results in the form of several obstacles in the implementation of Local Regulation No. 16 of 2016, namely 1) tariff setting; 2) orderly arrangement of tariffs; 3) the number of illegal unlicensed parking lots; and 4) lack of orderliness in retribution.

Abstrak

Penelitian ini bertujuan untuk mengetahui pelaksanaan Perda Nomor 16 Tahun 2016 tentang Penyelenggaraan Parkir di Kota Pekalongan serta mengetahui hambatan-hambatan dalam pelaksanaan dan bagaimana penyelesaian masalahnya. Penulis menggunakan metode pendekatan yuridis sosiologis yang menekankan pada penelitian deskriptif analitis terkait pelaksanaan Perda Nomor 15 tahun 2016 apakah sudah sesuai atau belum. Penelitian memberikan hasil berupa beberapa hambatan dalam pelaksanaan Perda Nomor 16 tahun 2016 yaitu 1) penetapan tarif; 2) penataan tarif yang tidak tertib; 3) banyaknya parkir liar yang tidak mempunyai izin; dan 4) kurang tertib dalam retribusi.

INTRODUCTION

Local regulation (Peraturan Daerah) is needed as a legal law to carry out the enforcement of the government. The Government has released some regulations as the primary law of local government enforcement. One of it is local regulation (Perda) as their juridical instrument. The function of Regional Government will optimally work if there are enough income due to the regulations about Financial Balance between Central Government and Regional Government, where the amount is adjusted and arranged as per the authority between Central Government and

Regional Government. All of the financial resources that related to Regional Government business become the local financial resources.¹

In the implementation of local government and services to the community, the Regional Government has authority to collect taxes or retribution from the region and manage the nature resources as the financial income. Regional Government financial income consist of Locally-generated revenue (Pendapatan Asli Daerah), Local Balance and Loan Funds (Dana Perimbangan dan pinjaman daerah), Deconcentration and Co-Administration (Dekonsentrasi dan tugas pembantuan). Locally-generated revenue (Pendapatan Asli Daerah) is one of the highest local income that obtained only from the internal of a region. This Locally-generated revenue is used as the parameter how independent a city or region is. Based on Adrian Sutedi (2009:4), Regional Government financial income has 3 main component:

1. Locally-generated revenue, included:
 - a. Local tax;
 - b. Local retribution;
 - c. Local-owned enterprises (BUMD);
 - d. Others legal local business.
2. Financial income from State Government, included:
 - a. Subsidy from The State Government;
 - b. Other contributions that are regulated by statutory regulations;
 - c. Other legal local income.

Local retribution is one of Regional Government financial income. It is also has a great factor and highly contributed for The Government. One of local retribution is parking retribution in each region. Even it is not a main retribution, it has a big role for a city or a district development. Parking retribution as one of locally-generated revenue has a big role for the region development. It can be seen from the implementation of regional autonomy, locally-generated revenue is endeavoured to become the main financial fund in every government activity. The locally-generated revenue resources are local tax and local retribution where the government has authority to collect any local taxes and local retributions that related to every aspect of community life. This effort is used to upraise the local income in order to fulfill the region needed.²

The parking activity in Pekalongan city has increased due to the increasing of the use of private vehicle. It is automatically required more land to park. In other side, there are limited parking area. This condition caused some area that should not for parking is misused as a parking lot. Furthermore, there a lot of vehicle parked at the roadside. This circumstance has more effect that caused a traffic jam. Parking lot is required for every vehicle, especially motorcycle, car, or else. When drivers by perforce have to park in the area that is not belong to park provided by irresponsible parking men, they will cost improper parking fee where it is not accordance to the local regulation no. 16 year of 2016 about parking activity. This circumstance often used by

¹Indah Putri Rahmawati, "Kontruksi Pajak Lingkungan di Indonesia", *Jurnal Wacana Hukum*, Volume 25, Nomor 2 (2019)

²Jaelani A.K, Basuki U, "Problematika Pelaksanaan Putusan Mahkamah Konstitusi Nomor 100/PUU-XI/2013 dalam Mendudukkan Pancasila Sebagai Dasar Negara", *Jurnal Wacana Hukum*, Volume 24, Nomor 2 Tahun 2018.

irresponsible people who want to get more profit from it. This condition gives disadvantages to the government because the parking fee did not administered to the government.³

The government of Pekalongan City has been doing their effort so that the traffic goes well. The government has enacted one way system at some highway in order to reduce the traffic jam in Pekalongan City. The traffic jam can be caused of the roadside is used as parking lot or because of the private vehicle use has increased. Some roadside are used as parking lot as it is arranged or not. There also some area that cost parking fee that irrelevant to the fee that determined in the local regulation no. 16 year of 2016 about parking activity. It required action to the fraudulent about parking fee by some irresponsible subjects, because this matter will cause the decreasing of the local revenue. Furthermore, this bring disadvantages and will cause some loss of Pekalongan city income.

RESEARCH METHODS

A research is an activity or systematic process that aimed to find the solution of the problem by scientific method. This research using normative approach that analyze the secondary data. This research will analyze the primary, secondary, and tertiary of law instruments to comprehend the position of law towards the statute is as a rule or positive values that controlling the human life.

DISCUSSION

The Implementation of Local Regulation (Perda) Number 16 Year of 2016 about Parking Activity in Pekalongan City

The institutes of law is the reference in producing every regulation and the implementation of law. It also managing how the rules of law is implemented as the legal law in Indonesia. Parking activity in Pekalongan City is included in this matter. The parking activity in Pekalongan City is written in local regulation (Perda) Pekalongan no. 16 year of 2016 about parking activity. Every matter about parking activity in Pekalongan City has written in local regulation (Perda) no. 16 year of 2016. It contains the meaning of parking, the purpose and benefits of parking, the penalty of breaking the rules, and administrations related to parking activity in Pekalongan City. There some institutes when producing the local regulation (Perda) of Pekalongan City no. 16 year of 2016 about parking activity. There are:

- 1) Article 18 section 6, The 1945 Constitution of The Republic of Indonesia explain that this constituent managed the authority of Pekalongan government to establish the local regulation and other instruments to support the autonomy. Refer to this constitution, Pekalongan government establish the local regulation (Perda) no. 16 year of 2016 about parking activity. This local regulation (Perda) is aimed to manage and fulfil the community needed of Pekalongan City
- 2) The constitution number 38 year of 2004 about road as the reference of local regulation (Perda) number 16 year of 2026 about parking activity. This constitution is controlling the

³Bambang Ali dan Abdul Kadir Jaelani, "Menggagas Constitutional Complaint dalam Konstitusi Indonesia dan Politik Hukum Islam", *Jurnal Wacana Hukum*, Volume 24, Nomor 1 Tahun 2018.

road refers to the utility, security and safety, suitability and balance, equity, transparency and accountability, usability, togetherness and partnership. It can be concluded that the parking activity should follow and refers to the constitution number 38 year of 2004, so will not interfere the operation of road.

- 3) The government regulation number 55 year of 2012 about vehicle (gazette of the Republic of Indonesia number 120 year of 2012, additional gazette of the Republic of Indonesia number 5317), is used as primary reference to determine parking tax and parking retribution towards vehicle.
- 4) Local regulation of Pekalongan City Government number 30 year of 2011 about spatial planning Pekalongan City year of 2009-2029 (regional gazette of Pekalongan City number 31 year of 2011), this local regulation is controlling the spatial planning in Pekalongan City. The purpose of this local regulation is to actualized Pekalongan as advanced, independent, and prosperous service city, industrial and batik trading, also minapolitan. The determination of the parking area or parking lot cannot be carelessly and should concern many aspects based on local regulation (Perda) number 16 year of 2016 about parking activity.

The local regulation (Perda) number 16 year of 2016 is aimed to provide safe, ordered, free from traffic jam, and integrated to the hub and or the transportation. The further purposes are to actualize the proper parking service based on the constitution, to realize secure and certain law about parking activity, and the last is to make sure the traffic and transportation are going well. Those cannot be actualized without the participation the Pekalongan government to manage the parking activity. The government also should consider about the community necessity. The process of the implementation is divided into two, those are outside street space; and inside street space.⁴

The management of parking can be done by the government, owned enterprise, or individual. The parking management by government absolutely manage by the government. This condition will be different if the parking is managed by owned enterprises or individual. They manage the parking as their business or to support their own activity. There some difference between the legal parking and illegal parking that some society do not know about. The legal parking has a licence, it can be documents, official letter, personal protective equipment for parking officer, it can be vest and hat. The parking officers has their own area that decided by the Transportation Department of Pekalongan City.⁵

Whereas, illegal parking has no license, official letter, the parking officer that dis not equipped by hat or vest as the working equipment, and the area or parking lot did not determined the Transportation Department of Pekalongan City. There some legal area or parking lots that is managed and controlled by The Transportation Department of Pekalongan City. Based on the

⁴Arifin Ma'ruf, "Kedudukan Asas Kebebasan Berkontrak dalam Kebijakan Kemitraan Kehutanan", *Jurnal Wacana Hukum*, Volume 25, Nomor 1 Tahun 2019.

⁵Jaelani A.K, "Pengembangan Destinasi Pariwisata Halal pada Era Otonomi Luas di Provinsi Nusa Tenggara Barat", *Jurnal Pariwisata*, Vol.V, No.1, April 2018.

Transportation Department data, there are 362 legal parking area or parking lots along Pekalongan City. The location is distinguished by certain time, day and night. One of the parking spot is Hayam Wuruk street, that is a crowded shopping area. The spot or parking area will be determined by The Transportation Department of Pekalongan City if there is potential parking along that area. The Transportation Department can register parking officer or the applicant can propose of parking management to The Transportation Department of Pekalongan City.⁶

The Transportation Department of Pekalongan City appeal to those who manage illegal parking to quickly submit the proposal of parking management. This is aimed to control well the parking management by The Transportation Department of Pekalongan City as the administrator of parking. The proposal of illegal parking management will be rejected and banned if the parking area is located in the forbidden area to park. This action is purposed to actualize the discipline and arranged parking activity due to the local regulation (Perda) Number 16 Tahun 2016 about parking activity.

Based on local regulation (Perda) of Pekalongan City number 21 year of 2011 about retribution of parking service at public roadside, are:

- 1) Parking at public roadside
 - a) Two-wheeled vehicle or motorcycle cost Rp. 500,- for one time parking, while for constantly cost Rp. 36.000,- / per year.
 - b) Four-wheeled vehicle cost Rp. 1.000,- for one time parking, while for constantly cost Rp. 72.000,- / per year.
 - c) More than four-wheeled vehicle cost Rp. 3.000,-/ one time parking.
- 2) Insidental parking at public area
 - a) Two-wheeled vehicle or motorcycle cost Rp. 1000,- for one time parking.
 - b) Four-wheeled vehicle cost Rp. 2.000,- for one time parking.
 - c) More than four-wheeled vehicle cost Rp. 5.000,- for one time parking.

For recent parking fee has referred to the newest parking fee according to local regulation (Perda) number 1 year of 2017 about the revision of local regulation number 21 year of 2011 about parking retribution at public roadside. According to it, the recent applicable parking fee are:

- 1) Parking at public roadside
 - a) Two-wheeled vehicle cost Rp. 1.000,- for one time parking.
 - b) Three-wheeled vehicle cost Rp. 1.000,- for one time parking.
 - c) Four-wheeled vehicle cost Rp. 2.000,- for one time parking.
 - d) More than four-wheeled vehicle cost Rp. 15.000,- for one time parking.
- 2) Insidental parking

⁶Karjoko L, Nurjanah Y, "The Legality of Freehold Title and Legal Implications Against of Land Makers Officers (The Study of Freehold Title Issuance Number 1576/Nusukan Village, Banjarsari Sub-District, Surakarta City, Central Java)", *International Journal of Scientific and Technology Research* 8(10), 2019.

- a) Two-wheeled vehicle cost Rp. 2.000,- for one time parking
- b) Three-wheeled vehicle cost Rp. 2.000,- for one time parking.
- c) Four-wheeled vehicle cost Rp. 3.000,- for one time parking.
- d) More than four-wheeled vehicle cost Rp. 15.000,- for one time parking.

Meanwhile, the fact has founded that there many parking fee irrelevant with the local regulation (Perda). For example, along Sultan Agung Street which is exactly located in front of Borobudur Mall, there found messy and disorderly parking that interfere the traffic. In that location, the parking cost Rp. 2.000,- meanwhile, that location included as parking at public roadside. There is disorderly parking spot along this street that interfere the traffic. Furthermore, there is also a market and shopping activity that can caused a traffic jam. Contrary to the parking activity at Hayam Wuruk street especially in front of Yogyakarta Shoe shop, the parking cost Rp. 1.000,-. This condition certainly relevant with the local regulation.

The Difficulties of the Implementation of Local Regulation Number 16 Year of 2016 about Parking Activity

In the operation of parking activity in Pekalongan City, cannot be denied that there were some breach of parking activity rules founded by The Transportation Department of Pekalongan Government. This condition is required the Transportation Department to take a firm action towards the offender of parking rules in Pekalongan City. All action of breaking the parking rules that done by parking provider or done by the customers, it is consider as difficulties and obstacles in the implementation of parking activity according to local regulation (Perda) of Pekalongan City about parking activity. Local regulation (Perda) of Pekalongan City number 16 year of 2016 about parking activity explained the difficulties and obstacles faced by Pekalongan Government are:⁷

The Ignorance of the Determined Parking Fee

The local regulation of Pekalongan Government number 16 year of 2016 about parking activity mentioned that the determination of parking as mentioned in article 34 of local regulation of Pekalongan Government number 16 year of 2016 about parking activity. This article explained that parking fee is determined by parking spot or zone, kind of the vehicle, and the hours of using the Parking Space Unit (satuan ruang parkir). The further explanation of parking zone, it is inside street space parking that classified based on the parking controlling area. The classification of parking zone divided into two (2), there are A zone of parking control area and B zone of parking control area. A zone parking control area is parking control area with high frequency of parking. This area consist of commercial, shopping, and trade centre, or office complex with high traffic jam possibility. While, B zone

⁷Jaelani A.K, Handayani I.G.A.K.R, Isharyanto, "Regulation of Regional Government on Halal Tourism Destinations in West Nusa Tenggara Province after Constitutional Court Decision Number 137/PUU-XIII/2015", *Proceeding Atlantis Press: Advances in Social Science, Education and Humanities Research*, Volume 358, Tahun 2019

parking control area is parking control area with low parking frequency. This area consist of commercial, shopping, and trade centre, or office complex with low traffic jam possibility. Next, for the kind of vehicle is divided into two-wheeled vehicle, three-wheeled vehicle, four-wheeled vehicle, more than four-wheeled vehicle, an bicycle.

The law rules about parking activity in Pekalongan City has mentioned about parking ticket should have: the number of year, serial number, parking cost, the constituent of levy. As said in the article 24 section 1, 2, and 3 local regulation of Pekalongan Government number 16 year of 2016 about parking activity:

- 1) Parking ticket for parking space unit (SRP) from local government is controlled by government department and porporated by local service in charge, for parking lot that use machine is excluded.
- 2) Parking ticket for parking space unit (SRP) from enterprises is produced by their own.
- 3) Parking ticket should have, at least:
 - a. The number of year that on going;
 - b. Serial number;
 - c. Parking price;
 - d. The constituent of levy;
 - e. Number of the vehicle licence plate; and
 - f. Further information or remarks refer to the parking activity.

Those rules about parking tax that is explained in local regulation of Pekalongan City number 16 year of 2016 about parking activity are often still broke by parking provider. They sometimes collecting parking fee do not follow the rules that already made. This condition can give some disadvantages to the drivers because they have to pay the parking fee more expensive than they should be. Discuss about the regulation that already made and where it should be done by parking management in Pekalongan City, it is mentioned in the description of article 32 letter i “parking cost should be make and put in the clear location and easy to see and read by the consumer”. Based on that description, all parking management should put up the parking cost in the parking area as per the applicable regulations in Pekalongan City.⁸

Meanwhile, the fact found that very rare any parking lot put up their parking cost at their parking lot, but at parking lot where located in front of Diana’s sewing machine shop, exactly at Dr. Wahidin street number 85a Pekalongan City. The parking management there already put up their parking cost. The costumers is experienced where every parking lot collect

⁸Jaelani A.K, Handayani I.G.A.K.R, Karjoko L, “Executability of the Constitutional Court Decision Regarding Grace Period In The Formulation Of Legislation”, *International Journal of Advanced Science and Technology* Vol. 28, No. 15, (2019). Page. 816-823

different amount of cash for parking. Related to it, there also parking officer that did not give the change money to the customers. This is very disadvantages for the customers.⁹

Unorganized parking management

Parking organization in the parking lot or parking area is an important aspect in parking activity management. There will arise many problems if the parking is unorganized well as per applicable local regulation (Perda), there are:

a. Interfere the other road users

Careless and irresponsible parking organization will interfere other road users because usually the irresponsible parking officer will organized the vehicle on the pedestrian side. It will interrupt the pedestrian when they walk at pedestrian side. Besides, unorganized parking will also interrupt the other road users because of the motorcycles, cars, or bicycle were parked in area that not belong to parking lot.

b. Arise a traffic jam

Careless and irresponsible parking organization at roadside will cause traffic jam. Other road users will slow down their speed and often they had to stop to wait the person who will parking or get out from the parking lot that use the roadside as the parking lot. This is because the careless and irresponsible parking officer while organized the parking.

Article 1 number (11-12) local regulation (Perda) Pekalongan City number 16 year of 2016 about parking organization clearly explained that “inside street parking space is used roadside as parking facility for vehicle, and outside street parking space include parking lot and parking building for vehicle”. There are rules about Parking Space Unit (SRP) in Local Regulation of Pekalongan Government number 16 year of 2016 about parking activity, exactly in article 1 number 14. It mentioned that “Parking Space Unit (satuan ruang parkir for further is called SRP), it is the measurement of effective space to organized the vehicle, include the free space, and the opened gate space. It means SRP or Parking Space Unit is the boundary to organize the vehicle in the parking activity. Article 4 of local regulation of Pekalongan City number 16 year of 2016 about parking activity explained further about parking activity inside street parking space and outside street parking space.

Many Illegal Parking that Did not Have Licence

Parking is managed by local government, enterprises, or individual that have licence to provide parking service to the community. Related to the licence of parking management in

⁹Jaelani A.K, Handayani I.G.A.K.R, Karjoko L, “Development of Tourism Based on Geographic Indication Towards To Welfare State”, *International Journal of Advanced Science and Technology* Vol. 29, No. 3s, (2020). Page. 1227-1234.

Pekalongan City, the rules is in article 14 section (1), (2), and (3) local regulation number 16 year of 2016 about parking activity, said that:

- (1) For every individual that need to use the street space as parking area for particular incidental activity, must have the licence from the Mayor.
- (2) The department chief could be delegated to give the licence as per mentioned in section (1).
- (3) The use of street space for parking area for particular activity as per mentioned in section (1), the parking management should provide parking officer as per the requirements.

For the next regulation in section 18 section (1), (2), (3), (4), (5), (6), and (7) local regulation of Pekalongan City number 16 year of 2016, said that:

- (1) Every enterprises or individuals who will manage parking outside street space must get the licence from the Mayor.
- (2) The department chief could be delegated to give the licence as per mentioned in section (1).
- (3) Parking that manage by enterprises of individual according to section (1).
- (4) The representative of the enterprise or individual should attach the administration and technical requirements to get the parking management licence according to section (1).
- (5) For those who manage the particular parking business must attach the traffic impact analysis according to applicable regulation.
- (6) The parking licence according to section (1) is valid for 2 (two) years and possible to extend.
- (7) The parking licence according to section (1) cannot be handed over to other party.

Next, the description of article 18 section (4) local regulation of Pekalongan City number 16 year of 2016, said that. The administration requirements, at the very least should have:

- a. Photocopy of identification card (Kartu Tanda Penduduk simply called KTP) of the person in charge;
- b. The photocopy of tax ID number (Nomor Pokok Wajib Pajak simply called NPWP);
- c. The photocopy of building permit licence (Izin Mandiri Bangunan simply called IMB);
- d. Business licence;
- e. The photocopy of the payment transcript of land and building tax (Pajak Bumi dan Bangunan simply called PBB);
- f. The photocopy of building or land certificate; and
- g. The map of parking location, technical administration at very least is have a building or land according to provided Parking Space Unit (SRP).

The agreement of cooperation and licence that published before the local regulation is legally announced, it is considered still applicable until the end of the parking licence period.

This condition correspond to the content that explained in Chapter XV about transitional provision of local regulation of Pekalongan Government number 16 year of 2016 about parking management, especially article 43 section (1), (2), and (3) said that:

- (1) The cooperation agreement and parking management licence that published before the local regulation of Pekalongan City legally announced, it is considered still applicable until the parking management agreement period has ended.
- (2) The cooperation agreement and parking management licence as mentioned in the section (1) must follow the recent applicable local regulation at the time of extension.
- (3) Parking management and vehicle car without licence must propose for licence application maximal until two (2) years after this local regulation is constituted.
- (4) Parking management without parking management licence or not licenced yet is an infringement towards local regulation of Pekalongan City number 16 year of 2016 about parking management.

Indiscipline of Retribution

The further problem related to parking management in Pekalongan City is indiscipline of levy payment by parking administrator. Pekalongan Government faced problem to collect the levy payment from parking administrator to The Local Government of Pekalongan City. The retribution of parking service in public roadside, then called parking retribution is a payment of provision parking service along public roadside. Furthermore, within article 35 section (1), and (2) local regulation of Pekalongan City number 16 year of 2016 about parking management is said:¹⁰

- (1) Parking fee for inside street space is based on parking zone.
- (2) Parking fee is settled according to local regulation.

Article 36 section (2) local regulation of Pekalongan City number 16 year of 2016 about parking management is explained about parking fee. "The amount of parking fee outside street space managed by Local Government is settled according to Local Regulation. Moreover, in the parking management in Pekalongan City according to article 5 section (5) is mentioned about potential estimation. Still in the article 5 section (5) local regulation of Pekalongan City number 16 year of 2016 about parking management, potential estimation is an analysis to estimate the income that can be obtained by collecting parking retribution in Pekalongan City. By identify the of parking area, observation, and calculation toward the total parking vehicle, parking fee, the size of parking space, the number of capacity of the Parking Space Unit (SRP), and the daily parking earned. Parking retribution is one of the locally-generated revenue (PAD) of Pekalongan City. Indiscipline of parking management and the retribution payment towards The Local Government of Pekalongan City absolutely will

¹⁰Harimurti F, Jaelani A.K. "Implications of Halal Tourism Sector to Optimize Regional Own Source Revenue of Tax And Tourism Charges in East Lombok Regency", *International Journal of Advanced Science and Technology* Vol. 28, No. 15, (2019). Page. 830-838

caused the decrease of locally-generated revenue from parking retribution sector of Pekalongan City.¹¹

CONCLUSION

Firstly, parking management in Pekalongan City is not yet totally arranged as per local regulation number 16 year of 2016 about parking management. From this research that has been done, the writer can get the conclusion that parking tax and parking retribution are the support of locally-generated revenue income that is used to develop Pekalongan city. There 362 spot of parking area that include to legal parking area in Pekalongan City, the difficulties and obstacles that is faced while implemented the local regulation number 16 year of 2016 about parking management are: The determination of parking fee, Carelessness of parking organization, A lot of illegal parking without parking management licence and Indiscipline of retribution levy.

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¹¹Indrastuti L, Jaelani A.K., Nurhidayatullah, Iswantoro, "Decentralization of Health in the Era Of Extensive Autonomy in North Konawe District", *International Journal of Advanced Science and Technology* Vol. 28, No. 15, (2019). Page. 845-853

