

ABSTRAK

FUNGSIONALISASI HUKUM PIDANA DALAM PERATURAN DAERAH KOTA BANDAR LAMPUNG NOMOR 1 TAHUN 2018 TENTANG KETENTERAMAN MASYARAKAT DAN KETERTIBAN UMUM

Oleh

SALMAN ADE CHANDRA

Hukum pidana dalam Peraturan Daerah sebagai sarana penegakan ketertiban umum dan ketenteraman masyarakat menunjukkan kecenderungan yang semakin menguat. Sanksi pidana kerap ditempatkan sebagai mekanisme utama penegakan hukum, tanpa terlebih dahulu mengoptimalkan sanksi administratif dan pendekatan non-penal. Khususnya melalui pengaturan sanksi pidana terhadap pelanggaran ketertiban umum dan ketenteraman masyarakat. Kondisi tersebut menimbulkan persoalan yuridis mengenai kesesuaian kebijakan sanksi pidana dalam Peraturan Daerah dengan prinsip *ultimum remedium*, serta efektivitas penegakan hukumnya oleh aparat penegak hukum Kota Bandar Lampung. Oleh karena itu, permasalahan yang dapat ditarik yaitu bagaimanakah fungsionalisasi hukum pidana dalam Peraturan Daerah Kota Bandar Lampung Nomor 1 Tahun 2018 tentang Ketenteraman Masyarakat dan Ketertiban Umum dan apakah faktor penghambat dalam fungsionalisasi hukum pidana terhadap Peraturan Daerah Kota Bandar Lampung Nomor 1 Tahun 2018 tentang Ketenteraman Masyarakat dan Ketertiban Umum.

Metode penelitian yang digunakan dalam penelitian ini adalah pendekatan yuridis normatif didukung pendekatan yuridis empiris. Data dalam penelitian ini didapat dan diolah menggunakan prosedur pengumpulan data studi pustaka dan studi lapangan. Data dianalisis menggunakan metode analisis kualitatif.

Hasil penelitian dan pembahasan menunjukkan bahwa penerapan sanksi pidana dalam Peraturan Daerah Kota Bandar Lampung Nomor 1 Tahun 2018 belum sepenuhnya mencerminkan prinsip *ultimum remedium*, karena seharusnya sanksi administratif lebih diutamakan sebagai langkah yang bersifat preventif, edukatif, dan proporsional, sedangkan sanksi pidana ditempatkan sebagai upaya terakhir (*subsider*) apabila sanksi administratif tidak efektif. Prinsip ini sejalan dengan Undang-Undang Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana yang menekankan bahwa pemidanaan harus digunakan secara hati-hati, tidak berlebihan, serta bertujuan melindungi masyarakat dan membina pelaku. Namun dalam praktiknya, penegakan sanksi pidana terhadap pelanggaran Peraturan Daerah masih belum optimal karena keterbatasan kewenangan dan sumber daya PPNS, lemahnya koordinasi antar aparat penegak hukum, serta rendahnya kesadaran hukum masyarakat terhadap Peraturan Daerah.

Salman Ade Chandra

Penulis menyarankan agar pembentuk Peraturan Daerah menegaskan penerapan prinsip *ultimum remedium* dengan mengutamakan sanksi administratif dan pendekatan persuasif sebelum menjatuhkan sanksi pidana. Selain itu, perlu dilakukan penguatan kapasitas PPNS serta peningkatan koordinasi antara Satpol PP, Kepolisian, dan lembaga peradilan. Pembentuk Perda juga perlu melakukan evaluasi dan harmonisasi materi muatan untuk mencegah overkriminalisasi serta memastikan rumusan pidana jelas dan proporsional. Pemerintah daerah diharapkan menyediakan mekanisme pembinaan yang lebih solutif bagi pelaku usaha sektor informal seperti PKL agar penegakan Perda tidak hanya bersifat represif, tetapi juga memperhatikan aspek sosial-ekonomi masyarakat, sehingga penegakan hukum menjadi lebih efektif, adil, dan selaras dengan arah pembaruan hukum pidana nasional dalam Undang-Undang Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana.

Keywords: Peraturan Daerah, Ketertiban Umum, Ultimum Remedium

ABSTRACT

THE FUNCTIONALIZATION OF CRIMINAL LAW WITHIN THE BANDAR LAMPUNG CITY REGIONAL REGULATION NUMBER 1 OF 2018 CONCERNING PUBLIC PEACE AND ORDER

By

SALMAN ADE CHANDRA

The inclusion of criminal law within Regional Regulations as a means of enforcing public order and community peace shows an increasingly strengthening trend. Criminal sanctions are frequently positioned as the primary law enforcement mechanism, without first optimizing administrative sanctions and non-penal approaches, particularly through the regulation of criminal sanctions against violations of public order and community peace. This condition raises juridical concerns regarding the compatibility of criminal sanction policies in Regional Regulations with the principle of ultimum remedium, as well as the effectiveness of their enforcement by law enforcement officials in Bandar Lampung City. Therefore, the problems identified are: how is the functionalization of criminal law implemented in the Bandar Lampung City Regional Regulation Number 1 of 2018 concerning Community Peace and Public Order, and what are the inhibiting factors in the functionalization of criminal law against the said regulation?

The research method employed is a normative juridical approach supported by an empirical juridical approach. Data in this study were obtained and processed using literature study and field study data collection procedures. The data were then analyzed using qualitative analysis methods.

The research results and discussion indicate that the application of criminal sanctions in the Bandar Lampung City Regional Regulation Number 1 of 2018 does not yet fully reflect the principle of ultimum remedium. Ideally, administrative sanctions should be prioritized as a preventive, educative, and proportional measure, while criminal sanctions should be positioned as a last resort (subsidiary) if administrative sanctions prove ineffective. This principle is in line with Law Number 1 of 2023 concerning the Criminal Code, which emphasizes that sentencing must be used cautiously, not excessively, and aimed at protecting society and rehabilitating offenders. However, in practice, the enforcement of criminal sanctions against Regional Regulation violations remains suboptimal due to the limited authority and resources of Civil Service Investigators (PPNS), weak coordination among law enforcement agencies, and low public legal awareness regarding Regional Regulations.

Salman Ade Chandra

The author suggests that regional legislators emphasize the implementation of the ultimum remedium principle by prioritizing administrative sanctions and persuasive approaches before imposing criminal sanctions. Furthermore, it is essential to strengthen the capacity of Civil Service Investigators (PPNS) and enhance coordination between the Municipal Police (Satpol PP), the Police, and judicial institutions. Regional legislators also need to evaluate and harmonize the regulatory substance to prevent over-criminalization and ensure that criminal formulations are clear and proportional. Local governments are expected to provide more constructive guidance mechanisms for informal sector actors, such as street vendors (PKL), so that the enforcement of Regional Regulations is not merely repressive but also considers the socio-economic aspects of the community. This approach will ensure that law enforcement becomes more effective, fair, and aligned with the direction of national criminal law reform under Law Number 1 of 2023 concerning the Criminal Code.

Keywords: *Regional Regulation, Public Order, Ultimum Remedium*