

ANALYSIS OF PAREPARE CITY REGULATION NUMBER 10 OF 2017 REGARDING THE REGULATION OF THE PEOPLE'S MARKET AS REVIEWED FROM THE THEORY OF LEGAL CERTAINTY

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Submitted : 05-10-2025, Accepted : 04-11-2025, Published : 06-12-2025

Abstract

Parepare City Regional Regulation Number 10 of 2017 concerning the Management of Public Markets in achieving the objective of empowering traditional markets, using the lens of Legal Certainty Theory. The research focuses on examining whether the Regional Regulation has formed a legal model that normatively fulfills the principles of legal certainty to be an effective instrument. This research is normative legal research with a conceptual approach to the theory of legal certainty, specifically referring to the principles proposed by Gustav Rabruch, such as clarity, absence of contradiction, feasibility of execution, and stability. The analysis results show that although Regional Regulation No. 10 of 2017 substantively attempts to comprehensively regulate the management and empowerment of public markets, there are several normative weaknesses that hinder legal certainty. These weaknesses include provisions that are still general, potential overlaps with regulations in other sectors, and implementation mechanisms and sanctions that are not yet fully operational. It is concluded that as a legal model, this Regulation is not yet fully effective normatively because it has not met all aspects of the Legal Certainty Theory, which is a fundamental prerequisite for the sustainable empowerment of traditional markets. The research recommends the need for improvement of implementing regulations to provide procedural clarity and harmonization with other regulations to enhance legal certainty and achieve the mandated empowerment goals.

Keywords: Legal Certainty, Regional Regulation, Public Market, Normative Effectiveness, Empowerment

Introduction

Fundamentally, the state has an interest in meeting the needs of citizens and businesses in conducting competitive economic activities. The state's role includes providing appropriate facilities, supervision, and the delivery and dissemination of policies that support the business world in ensuring healthy competition. The state is also responsible for regulating the economy by rejecting monopolistic practices and upholding the principles of fair competition.

In today's era of global competition, every individual has the freedom to establish a business, whether small, medium, or large scale. The presence of modern retail and traditional markets plays a vital role in improving public welfare. It is hoped that these two types of businesses can complement each other and develop in balance. However, with rapid global economic growth, modern retail in Indonesia is growing faster than traditional markets.

The most visible impact is that traditional markets worldwide, including in Indonesia, are facing significant existential challenges. The presence of modern markets and online retail, offering convenience, variety, and competitive prices, has significantly shifted consumer preferences. This phenomenon not only threatens the survival of small and medium-sized businesses but also undermines one of the pillars of the people's economy and a long-rooted culture of social interaction.

South Sulawesi Province, with its rapidly growing cities like Makassar and Parepare, is not immune to these dynamics. The regional economy is supported by the trade sector, where traditional markets play a central role as labor absorbers and economic centers for the lower-middle class. Parepare Traditional Market is one of the largest and most comprehensive in the city. These markets provide a variety of daily necessities, from food and clothing to household goods. There are five traditional markets registered by the government in Parepare: Lakessi Market on Jalan Pertamina, Senggol Market on Jalan Kalimantan, Labukkang Sumpang Minangae Market on Jalan Bau Massepe, Labukkang Market on Jalan Cammani, and Wekke'e Market on Jalan Galung Maloang. Traditional markets are also part of the culture in Parepare City, in the Regional Regulation of Parepare City Number 10 of 2017 concerning the revitalization of traditional markets, there is a narrative in Article 1 point 24 that the development of people's markets, cooperatives, and MSMEs, the article was formed so that there are arrangements and regulatory efforts. Traditional markets as a culture face major challenges amidst the rise of modernization, especially in terms of modern retail, but traditional markets still have irreplaceable cultural values. Preservation efforts, such as revitalization and forms of protection are important steps to maintain traditional markets as a cultural heritage. Parepare City as a city with a population of 161.6 thousand people as of 2024 makes this city a narrow city with a fairly dense population, Parepare City is one of the buffer cities that has strategic potential in the maritime and trade sectors, realizing that the sustainability of traditional markets is part of the city's identity and the welfare of its citizens. However, in practice, the development of modern shopping centers and minimarkets that are mushrooming are often located close to traditional

markets, creating unbalanced competition and potentially killing traditional businesses.

This creates a special dilemma for the Parepare city government. Based on the mandate of national law and responding to the developing factual conditions, the Parepare City government feels the need to be present proactively through regional legal instruments, this concrete effort is realized by the issuance of Parepare City Regional Regulation Number 10 of 2017 concerning the Arrangement and Development of Traditional Markets, this regulation was born with the noble aim of protecting, empowering, and regulating the governance of traditional markets so that they continue to exist, be healthy, clean, and able to compete sustainably, this regulation contains various strategic provisions, ranging from limiting the distance of establishing modern markets, coaching for traders, standardization of services, to institutional arrangements, the issuance of this Regional Regulation is not only general, but also driven by very specific and acute problems, namely operational conflicts between traditional markets themselves. In practice, there are often clashes in operating hours between traditional markets that are located close together. One measurable impact is a significant decline in turnover, even reaching 30%, in one market due to unorganized internal competition.

Despite having a clear and comprehensive legal basis, a fundamental question that needs to be asked is whether Regional Regulation Number 10 of 2017 can provide legal certainty and maintain the existence of traditional markets in Parepare City. In this regard, the government, as a legal institution, is striving to protect and develop traditional markets through various regulatory sectors. There are indications that challenges still arise, both in terms of law enforcement regarding the timing and location of traditional markets in Parepare City and optimizing guidance for traders. Examining the Theory of Legal Certainty in Parepare City Regional Regulation Number 10 of 2017 has formed a normatively effective legal model to achieve the goal of empowering traditional markets. Understanding the Theory of Legal Certainty in Regional Regulation No. 10 of 2017 has formed a normatively effective legal model to achieve the goal of empowering traditional markets. In this paper or scientific writing, the research method used is Normative Juridical.

Methods

In this paper or scientific writing, the research method used is Normative Juridical Analysis, in Regional Regulation No. 10 of 2017, normative juridical analysis itself is a legal research method that focuses on studying and analyzing law as a collection of norms, principles, and rules written in various legal sources.

Results and Discussion

CONCEPT OF SOCIAL CONTROL

The concept of Social Control or Social Control is a set of mechanisms, methods, and processes used by society or groups to invite, persuade, force, or even force its members to comply with the prevailing values and norms, so that social order and regularity are created, in this section the law acts as social control, namely "brakes" and "steering" for society to prevent deviant behavior (deviance) and maintain social stability, In his book The Social Construction of Reality, Berger sees social control as a way for society to create "an orderly and meaningful world". The mechanism can be through internalization, namely values and norms are absorbed by individuals from the beginning and external social control which is in the form of rewards and punishments.

THE CONCEPT OF LEGAL CERTAINTY

One of the main pillars of a state based on the rule of law is legal certainty. Legal certainty can fundamentally be defined as the guarantee that the law is predictable, clear, and consistently applicable to all parties. This concept ensures that everyone has a clear understanding of their rights, obligations, and the consequences of their actions under the applicable legal rules. In other words, legal certainty creates a stable and reliable environment, which is crucial for life planning, investment, and social interaction. Without legal certainty, the legal system will lose legitimacy and public trust because citizens feel vulnerable to arbitrary treatment. According to Gustav Radbruch, legal certainty (Rechtssicherheit) is one of the three basic values of law, along with justice (Gerechtigkeit) and utility (Zweckmäßigkeit). Radbruch argues that ideally, these three

values should be in balance. However, when conflicts arise, legal certainty often takes precedence, as society needs stable rules to function, even if those rules are perceived as less than fair.

DISCUSSION OF THE PROBLEM

Parepare City Regional Regulation No. 10 of 2017 regulates the arrangement and development of traditional markets, shopping centers, and supermarkets, with the aim of improving market governance and supporting the local economy. This regulation regulates aspects such as the minimum distance between minimarkets, kiosk management, and market location planning to prevent overlapping businesses and maximize the function of traditional markets as community economic centers. Socialization of this regulation was also conducted to increase public and business awareness regarding the applicable regulations, which is expected to create a healthy and sustainable business climate in Parepare City. However, the reality on the ground differs significantly from the aspirations of the regulation.

The problems related to regulations governing traditional markets are not resolved solely through the regulation; the content of the regulation is deemed ineffective. This stems from the decline in one of the nighttime markets, Pasar Senggol. The decline was caused by another market selling similar goods also operating during the same time as Pasar Senggol. Following the COVID-19 pandemic, many small businesses have inevitably ceased operations. Due to common factors and the need to start anew, Pasar Senggol is no exception. News of the decline in Pasar Senggol's sales due to competition with other traditional markets demonstrates that without regulation, traditional markets will compete head-to-head, resulting in decreased income for some vendors.

Based on the decline in Pasar Senggol's sales, one vendor stated that the lack of regulations governing market operating hours leads to clashes during nighttime operations. Regional Regulation No. 10 of 2017 does not specify operating hours; it only regulates zoning. Although zoning is fundamentally necessary, the growing population of Parepare City will undoubtedly create significant inequality if night market operating hours are not regulated. This lack of

regulation creates fragmented social control, particularly among vendors.

Subsequently, a controversy arose regarding a new hypothesis regarding Regional Regulations. In essence, the aspect of social justice is a key pillar that ensures the validity and fairness of a regulation. In the context of Parepare City Regional Regulation (Perda) Number 10 of 2017 concerning the Regulation of People's Markets, the large number of retailers in the city has raised concerns among the community. Rather than providing clarity in its norms and articles, such as trader obligations, levy amounts, and licensing criteria, several hypotheses have emerged regarding articles that are open to interpretation. For example, granting sanctions based on subjective terms like "violating public order" without operational definitions. This erodes transparency and opens up room for uncertainty and abuse of authority. This, of course, will benefit the city government and could even create a conflict of interest, given that Parepare is a city known as a trading city. This is supported by rumors that one of the markets will operate 24 hours a day at night. Based on information obtained by Hamriah, a trader, she stated:

"Lack of regulation of operating hours creates chaos, triggers horizontal conflict between market managers and traders, and creates the impression of unfairness if one market is allowed to operate 24 hours a day while others are pressured to close early."

Based on these interviews, further research can be conducted to determine whether the operating hours of night markets would return to their original levels, or whether the turnover of one of the markets, following the news of a decline in sales, would stagnate. Hypothetically, adjusting operating hours to avoid overlapping market hours, such as moving night markets back or designating specific days for each market, could reduce direct competition during peak shopping times. However, this measure is not a definitive solution.

Hypothetically, adjusting operating hours to avoid overlapping market hours, such as moving night markets back or designating specific days for each market, could reduce direct competition during peak shopping times. However, this measure is not a definitive solution. The success of such a policy depends heavily on consumer habits and preferences. While some

markets visit a particular night market for convenience, product variety, or more competitive prices, simply changing operating hours may not be enough to restore traditional market vendors' turnover to its original levels. The next point is that this could indicate the vested interests of certain individuals who will use the bylaw on traditional market regulation as a political commodity. This stems from numerous reports regarding a lack of customers and lack of operating hours, leading to the gradual demise of traditional markets in the city. Furthermore, what remains a politically motivated indicator is the sudden influx of new retailers and food and beverage businesses into the city when the new mayor took office. The crucial but rarely highlighted gaps in the bylaw create legal loopholes and extortion due to unclear regulations. Essentially, the bylaw was enacted with a positive spirit: to regulate, regulate, and protect traditional markets as socio-cultural and economic assets of the city of Parepare. It was designed to create "healthy business competition" by providing a clear legal framework for all businesses, both traditional and modern (including night markets). The decline in turnover due to the same operating hours indicates a "regulatory loophole" or "unintended consequence." The bylaw may have succeeded in creating administrative order, but it failed to address the dynamics of real competition at the vendor level. Policies that should protect them actually place traditional markets in a vulnerable position because they have to compete directly, at the same time, with market models that are often more attractive to certain segments of society (especially the younger generation and families looking for entertainment at night).

Regional Regulation No. 10 of 2017 of Parepare City shows that although this regulation was born with a positive spirit, it has significant regulatory gaps and fails to effectively maintain the existence of traditional market traders. This regulation aims to create healthy business competition and support the local economy, but its implementation in the field has actually given rise to conflict and injustice because several of its articles are open to multiple interpretations, such as Chapter IV Article 8 which states "The establishment of shopping centers regulated as in Article (1) is mandatory" and in part a "Taking into account the analysis of socio-economic conditions, the community, the existence of traditional markets, small businesses, and medium

enterprises." The narrative of this article does not explain the concreteness of the intended analysis as experienced by traders at Senggol Market. The main problem lies in the lack of specificity of the Regional Regulation in regulating market operating hours. Although the Regional Regulation has regulated zoning for location planning, the absence of strict rules regarding night market opening hours allows markets selling similar products, such as Senggol Market and Sumpang Market, to operate at the same time. This creates uncontrolled head-to-head competition and contradicts the regulation's stated goal of preventing overlapping businesses.

The consequences of this regulatory loophole are acutely felt at the vendor level, with Senggol Market vendors experiencing a drastic decline in turnover due to having to compete with Sumpang Market at the same time. While this regulation appears to be administratively effective in terms of zoning, it fails to address the real dynamics of competition on the ground. Night markets often appeal more to certain consumer segments, particularly the younger generation seeking entertainment and convenience, placing Senggol Market vendors at a disadvantage. This demonstrates that the regulation's positive spirit is not matched by its effectiveness in protecting vendors from the detrimental impacts of competition. Specifically, Regional Regulation No. 10 of 2017 has not effectively safeguarded the existence of traditional market vendors due to the lack of clear operating hours, a crucial regulatory loophole. This regulation, in fact, fuels injustice and conflict, ultimately threatening the very survival of the traditional markets it purports to protect. To achieve the regulation's initial objective, a revision is needed that includes specific regulations regarding operating hours to create balance and fairness for all business actors. Beyond the normative aspect, legal certainty also has a fundamental meaning. According to Utrecht, legal certainty has two complementary meanings: first, the existence of general rules allows each individual to know what actions are permitted or prohibited. This creates predictability and allows society to adjust its behavior to applicable standards. Second, legal certainty provides legal guarantees or security for individuals against arbitrary government actions. With clear and general rules, individuals can understand the limitations that the state

may impose or enforce on them. Therefore, legal certainty serves not only as a guideline but also as a shield protecting individual rights from abuse of power.

Normatively, Parepare City Regional Regulation No. 10 of 2017 concerning the Arrangement and Development of Traditional Markets, Shopping Centers, and Supermarkets is designed to create a balance between the growth of modern retail and the protection of traditional markets. Its implementing regulation, Mayoral Regulation No. 41 of 2019, serves as a technical guideline expected to achieve these goals. The draft amendment to Mayoral Regulation No. 41 of 2019 indicates that the purpose of this regulation is to accommodate regional developments, particularly considering population density, potential partnerships with Micro, Small, and Medium Enterprises (MSMEs), and employment. The legal model for this regulation focuses on three key instruments: Zoning and Arrangement. These instruments refer to the spatial planning and location of modern retail establishments, as well as the internal arrangement of traditional markets. Normatively, the zoning and distance regulations aim to protect traditional markets from unfair competition and create spatial order in trading activities. The internal restructuring of traditional markets, as reported at Senggol Market, aims to create a more orderly and comfortable environment for traders and visitors. Furthermore, partnerships are explicitly mentioned in regulatory documents as a key consideration. Normatively, this instrument is expected to encourage collaboration between modern retailers and MSMEs (Micro, Small, and Medium Enterprises), for example through the absorption of local products, knowledge transfer, or training programs. The goal is to ensure that the presence of modern retailers does not destroy, but rather strengthens, the local economic ecosystem.

From the author's perspective, the establishment of Regional Regulation No. 10 of 2017 and its implementing regulations should create a legal model that promises certainty. Clear and structured regulations should provide guidance for business actors, both traditional market traders and modern retail managers, regarding the rules they must comply with. Changes to regulations regarding zoning and partnerships, if consistently implemented, will reduce uncertainty in business operations and investments. It is hoped that with these regulations,

business actors can plan their activities with confidence that the existing legal framework will protect their rights and enforce their obligations. Therefore, normatively, this legal model fails to meet the elements of legal certainty explained in Chapter I, namely the existence of clear, accessible regulations aimed at creating predictable order.

This demonstrates a serious legal dissonance. Regional Regulation No. 10 of 2017 and Mayoral Regulation No. 41 of 2019 initially served as protective instruments for traditional markets. However, the issuance of a more recent implementing regulation (Mayoral Regulation No. 7 of 2024), which contradicts this protective spirit, has created significant regulatory instability. This is not simply a regulatory adjustment, but rather an abrogation of the substance of existing protections. This change directly erodes predictability and legal consistency, two vital elements of legal certainty.

This sudden regulatory change creates uncertainty not only for traditional markets, which feel threatened, but also for investors, who view policy instability as a risk. This is a clear example of the failure of the rule of law at the local level, where regulatory consistency is sacrificed, which in this case was criticized by the Regional People's Representative Council (DPRD) as an attempt to maximize potential Regional Original Revenue (PAD), which is deemed insignificant because modern retail taxes flow to the central government. This incident demonstrates that implementing regulations can be used to effectively nullify the strategic objectives of the regulations above them.

Conclusion

Based on an analysis of the implementation of Regional Regulation No. 10 of 2017 in Parepare City, it can be concluded that, despite being born with a positive normative spirit to create order and protection for traditional markets, this regulation has in reality failed to achieve its objectives. Overall, this regulation shows a significant gap between the regulatory ideals and the dynamics of actual competition on the ground. Specifically, this failure stems from the lack of specificity of the regulations, particularly the lack of regulation of market operating hours, which has led to direct and unhealthy competition between traditional markets themselves, as

experienced by Pasar Senggol. This regulatory gap not only causes a decline in vendor turnover but also triggers horizontal conflict and injustice. Furthermore, legal uncertainty is exacerbated by policy inconsistencies, as demonstrated by the issuance of Mayoral Regulation No. 7 of 2024, which actually removes vital protection instruments such as minimarket distance regulations. Ultimately, the legal model that initially promised certainty has instead created regulatory dissonance, eroding protection for traditional markets, and threatening the very existence of the local economy it was intended to protect. Simply put, Regional Regulation No. Parepare City's Law No. 10 of 2017 failed on two levels: the substance of the regulations and the consistency of the policies. Substantively, legal certainty requires clear, comprehensive, and predictable regulations. However, this regulation has a fundamental flaw in not regulating the operating hours of traditional markets. This ambiguity creates uncertainty for traders because they lack clear guidelines for operating and competing, triggering horizontal conflicts such as the one between Senggol Market and Sumpang Market. At this level, the state (in this case, the local government) is incapable of providing clear behavioral guidelines to its citizens, which is the essence of legal certainty. Worse still, this uncertainty is exacerbated by policy inconsistencies at the implementation level. Essentially, legal certainty is something definite, not vague and uncertain, so regulations must be clear and not create a legal vacuum.

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