



The Category of Unauthorized Donations Via Tiktok is Included as an Act of Begging in Article 504 of the KUHP

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Article	Abstract
Keywords: Begging; Online Begging; Local Government Policy.	<i>The development of the times and technology does have a good impact, but it often also creates new problems. One of them is begging that is conducted online. The rules of begging already exist in the Criminal Law and also in several Regional Regulations. However, these regulations do not specifically mention the definition of begging carried out in networks. Begging that is carried out online, so this research raises legal issues of norm ambiguity. The purpose of this research is to find out whether Surabaya Regional Regulation has regulated begging that is carried out in networks. Then it will be examined whether this begging in the network can be subject to Article 504 of the Criminal Code on begging in public or not. The method used in this research is normative juridical. The results of the discussion show that, being in the network can be equated with begging that is often can be equated with begging that we often encounter in public places. So that Article 504 of the Criminal Code can be used to sanction someone who is begging in the network.</i>

INTRODUCTION

Indonesia is known as a rich country, both rich in natural resources and human resources. However, this natural wealth does not necessarily mean that all Indonesians have decent jobs and their economic needs are met. Quoted from the BPS website, the number of poor people in Indonesia in March 2023 was 25.90 million people (bps.go.id, 2023). Although many efforts have been made to overcome poverty, poverty remains a difficult problem to overcome. Poverty can be interpreted as a multidimensional structural and cultural problem which includes political, social, economic, psychological and other issues (Sukesi, 2015) . Sholeh defines poverty as the inability to meet basic consumption needs and improve conditions as well as the lack of opportunities to do business (Khomsan et al., 2015) .

This poverty problem has given rise to new efforts by communities to address the poverty they face. Many people seek easy ways to make money without considering the risks, even willingly ignoring the law in order to obtain instant cash. One common method is begging. Based on their dire circumstances, beggars hope to gain compassion from others. While this method is relatively easy and seemingly trivial, it is a violation of the law.

Beggars, often found in public places such as traffic lights, restaurants, tourist attractions, shops, and other public spaces, violate Article 504 of Law Number 1 of 1946 concerning Criminal Law Regulations. This article states that a person who begs can be punished with six months' imprisonment. Meanwhile, begging by three or more people, with the age limit over 16, can be punished with three months' imprisonment.

As mentioned above, regulations regarding begging already exist. One of the regions that has regulations regarding the prohibition of begging is the city of Surabaya. The regulation in Surabaya is Surabaya City Regional Regulation Number 2 of 2020 concerning Amendments to Surabaya City Regional Regulation Number 2 of 2014 concerning the Implementation of Public Order and Community Order. Article 1 number 9 of the Regional Regulation states that a beggar is defined as a person who earns income by begging in public, in a manner and for the reason of hoping for mercy from others. Despite the existence of regulations, beggars can still be found in the city of Surabaya.

The number of beggars in Surabaya City can be influenced because Surabaya City is the second largest city in Indonesia after Jakarta, therefore many people from outside Surabaya City come to look for work (Hamamah, 2023). Based on data from the Central Statistics Agency, the population of Surabaya City in 2022 was 2,887,233 people (Bps.go.id, 2022). With a large population living in Surabaya City, it makes it difficult to find employment, then causes people to take easy ways to earn money by begging. One example is a man with the initials AB who was widely reported, because he forced a minimum of Rp5,000 from drivers (Kominfo.jatimprov.go.id, 2023). In addition to on the street, AB also begged in residential areas and train passengers, by force. AB was then secured by the Surabaya Police, and given guidance to the Liponsos Keputih Surabaya City.

The development of technology and the advancement of technology have led to the development of begging. In early 2023, begging was discovered via social media, or what could be called online begging. This begging is carried out in various ways, with the aim of gaining the compassion of viewers. On TikTok, many people are seen live streaming with the aim of receiving gifts from viewers that can be exchanged for money. This method is used in many ways, one of which is content asking for donations without a permit or illegally. This content asks for donations with the aim of receiving gifts from viewers that can then be exchanged for money. Cash can also be sent to a listed account.

There are no specific regulations regarding whether online begging is the same as the beggars we encounter in general. This is because online begging has only recently emerged, due to technological developments. Therefore, it is necessary to examine whether beggars who use social media as a place to beg are included in the criminal acts regulated in Article 504 of Law Number 1 of 1946 concerning Criminal Law Regulations or not. Because if there are no firm actions or clear regulations, it is feared that this begging will spread or give rise to other crimes. Therefore, in this study, the problem formulation is taken (1) How is the regulation in the Surabaya City Regional Regulation regarding "donation content through the TikTok application" and (2) Can "donation content through the TikTok application" be categorized as an act of begging as referred to in Article 504 of Law Number 1 of 1946 concerning Criminal Law Regulations.

In this study, we drew on references from several studies on similar topics. These include:

1. The research by Dimas Fadel Supeno and Cecep Sutrisna, entitled "Enforcement of Article 504 of the Criminal Code in Connection with Government Regulation Number 31 of 1980 concerning the Eradication of Vagrants and Beggars" discusses the factors that contribute to the continued prevalence of begging. The similarity between this study and the previous study is that both discuss the practice of begging in connection with Article 504 of Law Number 1 of 1946 concerning Criminal Law Regulations. The difference is that the previous study only focused on discussing the factors that contribute to the high prevalence of begging.
2. Research by Isfandir Hutasoit, Rahmanidar and Febby De Putri, entitled "Law Enforcement of Article 504 of the Criminal Code against Beggars in Public in Batam City" which discusses Law enforcement against beggars in public based on Article 504 of the Criminal Code in Batam City has not been running well and optimally due to the lack of enforcement efforts carried out by the Barelang Police Department on the provisions of Article 504 of the Criminal Code for the crime of begging in public. The absence of enforcement is due to the legal substance where the same action is also regulated in Batam City Regional Regulation Number 6 of 2002 concerning Social Order in Batam City. The similarity between this study and previous studies is that both discuss the practice of begging carried out in public. While the difference is, in previous studies it was conducted empirically and focused on the enforcement of Article 504 of Law Number 1946 concerning Criminal Law Regulations.
3. Research by Erly Pangestuti, Retno Sari Dewi, entitled Application of Criminal Sanctions to Beggars and Vagrants, discusses the less than optimal handling of beggars and vagrants by police officers due to frequent personnel

changes or making it difficult to obtain data or older cases. In addition, there is an assumption that legal violations committed by beggars and vagrants are not so noticeable because there are no complaints or reports from the public directly. Similarities with previous research are both discussing the practice of begging. While the difference is, in previous research focused on the application of criminal sanctions to vagrants and beggars and also focused on what obstacles in overcoming beggars and vagrants.

METHOD

The type of research used in this study is normative legal research. This research was conducted by reviewing applicable legal regulations or statutes regarding begging (Masnun, Muh. Ali, Prasetyo, Dicky Eko, 2025). Normative legal research is considered when the object of study is purely legal, making it impossible to use typical social research methods (Solikin, 2021).

This research is based on several existing laws, including Law Number 1 of 1946 concerning Criminal Law Regulations. It is also based on Government Regulation Number 31 of 1980 concerning the Eradication of Vagrants and Beggars, and Surabaya City Regional Regulation Number 2 of 2020 concerning amendments to Surabaya City Regional Regulation Number 2 of 2014 concerning the Implementation of Public Order and Public Order.

This research draws on legislative approaches, literature, expert opinions, and research findings closely related to the practice of begging. The research approach can then be conducted using both legislative and conceptual approaches. The legal sources used include primary, secondary, and tertiary legal sources. The primary legal sources used in this study include:

1. Law Number 1 of 1946 concerning Criminal Law Regulations.
2. Government Regulation Number 31 of 1980 concerning the Eradication of Vagrants and Beggars
3. Regulation of the Chief of the Republic of Indonesia National Police Number 14 of 2007 concerning the Eradication of Vagrants and Beggars
4. Surabaya City Regional Regulation Number 2 of 2020 concerning Amendments to Surabaya City Regional Regulation Number 2 of 2014 concerning the Implementation of Public Order and Community Order.

The secondary legal materials used were books on regulations prohibiting begging, journals on the prohibition of begging, articles on begging regulations, and research reports related to begging. Tertiary legal materials used were dictionaries and non-legal documents related to begging.

The legal data collection technique employed by the researcher involved a literature review, systematically examining secondary data to link it to the research findings. The data obtained from the study were systematically compiled and then

analyzed using qualitative analysis, a method in which the data obtained from the study were grouped and selected, then linked to the research problem based on its quality and accuracy, thus addressing the existing issues.

RESULTS AND DISCUSSION

1. Regulations in the Surabaya City Regional Regulation regarding content Beg

Begging is considered a problem by governments at the district, provincial, and even national levels. Therefore, prevention and mitigation efforts have been implemented by the government and non-governmental organizations. However, begging activities are still found in major cities across Indonesia, including Surabaya.

The rapid development of technology has resulted in an increase in the number of methods used to beg. One such method is begging on social media, which is currently rampant and widely encountered. There are many methods used to beg, including pretending to be sick and unable to afford it, describing financial hardship, and others, all in order to induce donations.

Not only in Indonesia, in the United Arab Emirates, cases of begging within this network have also been discovered. The method used is also the same, namely by pretending to have no family and experiencing poor economic conditions. In addition, some also pretend to be affected by natural disasters, so they need donations. Therefore, the United Arab Emirates created regulations regarding the prohibition of begging carried out electronically or within this network. This is regulated in *The Provisions of Article No. 51 of The Rumors and Electronic Crimes Law Stipulates*, which states that anyone who commits the crime of begging, whether by using information technology means, through begging, or in any form, is punished with a maximum imprisonment of three months and a fine of at least Dh10,000, or one of these two crimes (Al Hamadi, 2023).

Indonesian criminal law doesn't specifically regulate it like the United Arab Emirates, but begging is prohibited under Article 504 of the Criminal Code (KUHP). Generally, begging is categorized as a violation of public order.

The city of Surabaya also has regulations regarding the prohibition of begging, including Surabaya City Regional Regulation Number 2 of 2020 concerning Amendments to Surabaya City Regional Regulation Number 2 of 2014 concerning the Implementation of Public Order and Public Peace and the Decree of the Mayor of Surabaya Number: 188.45/315/436.1.2/2011 concerning the Coordination Team for Handling People with Social Welfare Problems in the City of Surabaya.

One of the articles that regulates this is Article 36 of Surabaya City Regional Regulation Number 2 of 2020 concerning Amendments to Surabaya City Regional

Regulation Number 2 of 2014 concerning the Implementation of Public Order and Public Order, which is as follows:

“Everyone is prohibited from:

- a. active as a beggar;
- b. coordinate to become a beggar;
- c. exploiting children and/or babies to become beggars;
- d. give money and/or goods to beggars.”

Regulations regarding the prohibition of committing the crime of begging

This has not deterred beggars from continuing their activities. According to Katadata.co.id, according to the Central Statistics Agency (BPS), as of 2021, homeless locations or gathering points for homeless and beggars were spread across 516 villages/sub-districts across Indonesia. The highest number was found in East Java, spread across 94 villages/sub-districts (Ayu Rizaty, 2022) . The continued prevalence of beggars could be due to the difficulty of finding employment, thus triggering poverty. Therefore, begging has become a way to earn an easy income.

Nowadays, begging isn't just found in public places; it can also be found on social media. One platform used for begging is TikTok. In 2023, live broadcasts aimed at soliciting donations became widespread.

Donations are made by sending *TikTok gifts* to live broadcast organizers . can be interpreted as a TikTok feature that allows users to give virtual gifts to live broadcast organizers during the broadcast (Ranti, 2024) . These virtual gifts can be in the form of certain virtual items such as stickers, animations, or icons that can be purchased using TikTok's virtual currency called "coins." Meanwhile, to obtain "coins," users can purchase them with real currency through the TikTok application. These "coins" can then be used to send gifts of appreciation to live broadcast organizers.

Donation solicitation isn't limited to asking for gifts; some even provide account numbers to donors. One example of an account raising donations on TikTok is the account @kitabisacom. The account raises donations by sharing videos from recipients, with descriptions detailing their situation. One such video depicts the ongoing conflict between Palestine and Israel. The video depicts Palestinians in pain and starvation, a result of the conflict.

Not only is the @kitabisacom account raising donations through TikTok, but the @atapkita.com account is also raising donations. The @atapkita.com account is raising donations in the same way as the @kitabisacom account: by sharing videos showing the recipients.

The fundraising conducted by the @kitabisacom and @atapkitacom accounts is considered a legal donation drive. The @kitabisacom account, owned by the Kitabisa Foundation, has been registered with the Ministry of Law and

Human Rights and has received a PUB (Money and Goods Raising) permit from the Ministry of Social Affairs under Ministerial Decree No. 310/HUK-PS/2018, and was audited by a Public Accounting Firm with unqualified results.

Currently, in addition to legal donation accounts, there are also illegal donation accounts. These illegal donations do not adhere to the legal basis for collecting donation-based money, or these donations can refer to Law Number 9 of 1961 concerning the Collection of Money or Goods, Government Regulation Number 29 of 1980 concerning the Implementation of Donation Collection, and Minister of Social Affairs Regulation Number 8 of 2021. The organizers of the collection of money or goods ("PUB") are carried out through legal community organizations such as associations or foundations and must have obtained permission from the minister, governor, or regent/mayor according to their authority.

One account illegally soliciting donations through TikTok *gifts* is the administrator of the Tunas Kasih Olayama Raya Orphanage in Medan. The live broadcast was conducted via TikTok, using the account @zamanueli. The real name of the owner of the TikTok account @zamanueli is Zamanueli Zebua, who works as an orphanage administrator. Zamanueli Zebua sought donations by feeding porridge to a two-month-old baby. Behind Zamanueli Zebua, a donation request was displayed on a large banner.

The Tunas Kasih Olayama Raya Medan Orphanage isn't just for babies. It also houses 26 children, with four still infants or toddlers, and the rest attending elementary and middle school. Some of the children at the orphanage come from outside Medan, and there's a financial agreement between the parents and the perpetrator after the children are handed over.

The action of asking for donations carried out by the Tunas Kasih Olayama Raya Medan Foundation Orphanage cannot be justified. Apart from acts of child exploitation, this orphanage does not have a permit from the Ministry of Social Affairs. Based on the definition of begging and examples of cases of begging in the network above, an analysis is carried out that an action can be considered an offense or criminal act if it meets the elements of a crime, both subjective and objective. The following is an explanation of the subjective and objective elements (SJ Mandagie, 2020):

1. Subjective Elements

Subjective elements are elements that originate from within the perpetrator.

The subjective elements of a crime are:

- a. Intention or unintentional (*dolus* or *culpa*)
- b. The purpose or intention of an attempt or posing as referred to in Article 53 paragraph 1 of the Criminal Code

- c. Various purposes or brands such as those found for example in crimes of theft, fraud, extortion, counterfeiting, etc.
 - d. Planning in advance or *voorbedachte raad* as for example is found in the crime of murder according to Article 340 of the Criminal Code
 - e. Feelings of fear or stress, as included in the formulation of criminal acts according to Article 308 of the Criminal Code
2. Objective Elements
- Objective elements are elements from outside the actor which consist of:
- a. Human actions include:
 - 1) Act, namely active actions or positive actions
 - 2) Omission, namely positive actions or negative actions
 - b. The result of human actions.
 - c. In general, these conditions are differentiated into:
 - 1) The circumstances at the time the act was committed
 - 2) The situation after the action is committed
 - d. Punishable and unlawful nature

Action Begging within this network can be categorized as a criminal act, as it meets the elements mentioned above. These include:

- 1. Subjective Element: The occurrence of intention to commit the crime of begging
- 2. Objective Elements:
 - a. Human actions: requesting the use of babies or minors to broadcast live
 - b. Consequences: making social media users feel sorry and some feel disturbed by the broadcast asking for donations for the orphanage.
 - c. Violating the Article on the prohibition of begging practices.

The elements that must be fulfilled by beggars in the network in order to be considered beggars include:

- 1) One or more people: A beggar network consists of at least two people, each with their own duties. Usually one person records and the other performs the act.
- 2) Intentional and conscious: Online beggars consciously carry out this act of begging.
- 3) Begging in public: the media used is social media, which can be accessed by everyone so it can be said to be a public address.
- 4) Using various methods and reasons: Beggars in this network use various methods such as asking for donations in the name of orphanages, telling stories of sadness and so on.

- 5) Having the aim of hoping for the mercy of others: Beggars in this network do various things to get mercy from others, so that they get gifts that can be exchanged for money.

The fulfillment of the elements of an act can be said to be a crime and the fulfillment of the elements of a person can be said to be a beggar, this results in the regulation regarding the prohibition of begging practices which has been regulated in Article 504 of the Criminal Code and Article 36 of Surabaya City Regional Regulation Number 2 of 2020 concerning Amendments to Surabaya City Regional Regulation Number 2 of 2014 concerning the Implementation of Public Order and Public Order can be applied to cases of asking for donations via social media.

2. Donation content on TikTok is categorized as an act of begging as referred to in Article 504 of the Criminal Code.

For some, beggars are seen simply as disruptive elements, and quite a few even consider them a social ill that must be eradicated. However, from a legal perspective, begging and vagrancy can be prosecuted under various articles in the Criminal Code and government regulations. In the Criminal Code, begging and vagrancy are regulated under Articles 504 and 505

Regarding begging, it is regulated in article 504 which reads: "Anyone who begs (begs) in a public place is punished for begging, with imprisonment for a maximum of six weeks." Then verse 2 reads, "Begging carried out together by three or more people, each of whom is more than 16 years old, is punished by imprisonment for a maximum of three months." Meanwhile, vagrancy is further regulated in Article 505 of the Criminal Code, "Anyone who, without a means of livelihood, wanders anywhere, is punished for travelling, with imprisonment for a maximum of three months."

The government also issued a Government Regulation concerning beggars and vagrants. This is regulated in the provisions of Article 1 paragraph 1 of PP No. 31 of 1980 which states, "Vagrants are people who live in conditions that do not comply with the norms of decent living in the local community, and do not have a permanent residence and job in a certain area and live wandering in public places." Meanwhile, beggars are mentioned in paragraph 2, namely: "Beggars are people who earn income by begging in public places in various ways and reasons to hope for the mercy of others."

The development of information technology can transform social order and behavior. This development also alters cultural, political, economic, and legal realities. As technology advances, it can be exploited to commit unlawful acts that violate the legal interests of individuals, society, and the state through various methods. The method of crime can be defined as the method used by perpetrators

to commit the crime. By knowing the *modus operandi* of the crime, a clear picture will be obtained of the form of crime committed by the perpetrator (Dimas Arrozi, 2023).

Basically, there is no difference in purpose between direct begging and online begging; both are carried out with the aim of earning income or profit. However, online begging is conducted through social media. Online begging is classified as a social ill. Begging in public places is regulated in Book III of the Criminal Code, which categorizes it as: as a crime of violating public order under Article 504 of the Criminal Code. Anyone who engages in online begging activities can be subject to criminal sanctions because it is a violation.

Online begging is a form of online content creator broadcasting live, depicting distressing situations, thereby eliciting compassion or pity from viewers. One example is a live broadcast conducted by the management of the Olayama Raya Orphanage in Medan, which does not have a permit, showing children sleeping inside. The orphanage's management aims to obtain gifts or coins, as well as donations in the form of money that can be sent to the orphanage's account. The live broadcasts by the orphanage's management are usually conducted at night, via TikTok

According to R. Soesilo, public places can be interpreted as acts of begging verbally, in writing, or using gestures that can disrupt public order. In the case of online beggars, the form of begging is verbally and in writing.

- a. The orally was carried out by begging on the TikTok application live broadcast using underage children who were sleeping in an orphanage.
- b. Written donations are made by asking for donations written on a banner in the orphanage, containing the account number of the orphanage manager.

So the actions of beggars in a network can actually be punished, in this case there are regulations related to begging which are stated in Article 504 of the Criminal Code Paragraph (1) which states that "Anyone who begs in public is threatened with a maximum sentence of six weeks for begging and Article 504 of the Criminal Code Paragraph (2) which states that begging carried out by three or more people aged over 16 years is threatened with a maximum prison sentence of 3 months."

CONCLUSION

In the research conducted by this researcher, conclusions and suggestions were obtained from the problems as described below:

1. Online begging is a form of content creator activity that involves soliciting donations without government permission, exploiting minors or the elderly. This type of online begging is not perpetrated by a single individual, but by a

number of individuals taking turns. Online begging is subject to sanctions stipulated in Surabaya City Regulation Number 2 of 2020 concerning Amendments to Surabaya City Regulation Number 2 of 2014 concerning the Implementation of Public Order and Public Order.

2. Online begging, which involves illegally soliciting donations, can be categorized as begging, as defined in Article 504 of the Criminal Code. This is because online and offline begging share similarities: both are conducted with the goal of earning income or profit. However, online begging is conducted through social media. Both offline and online begging share a common element: exploiting the compassion of others for financial gain.

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