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Criminal Law Enforcement against Beggars and Homeless People in Magelang Regency under Regional Regulation No. 1 of 2019

Septiawan Ady Nugroho[1], Hary Abdul Hakim[2], Yulia Kurniaty[3], Johny Krisnan[4*]

[1] Universitas Muhammadiyah Magelang, Magelang, Indonesia
[2] Universitas Muhammadiyah Magelang, Magelang, Indonesia
[3] Universitas Muhammadiyah Magelang, Magelang, Indonesia
[4] Universitas Muhammadiyah Magelang, Magelang, Indonesia
[*]Corresponding author: Johny Krisnan

Abstract

Begging and homelessness in Magelang Regency, a tourist destination, are handled under Regional Regulation No 1 of 2019, whose Article 30 punishes begging, vagrancy and giving money to beggars, while the Criminal Code provisions on begging and vagrancy that were once its companion have been repealed. This article asks how criminal law was enforced against beggars and homeless people in the Regency, what the new national criminal law changes, and whether the criminal approach is compatible with the state's constitutional duty towards the poor. It is normative and empirical legal research: an analysis of the Regulation, the old and new Criminal Codes and the Constitution, supported by one interview with the head of the law enforcement division of the Civil Service Police Unit (Satpol PP). The findings are that the task force required by the Regulation has not been formed, that raids end in recording and return or referral, that prosecution reached trial only once, and that Satpol PP lacks investigators, detention powers and holding facilities. The Regulation's definitions are so wide that they reach buskers, and the criminal sanction has been overtaken by Law No 1 of 2023 and Law No 1 of 2026. The article recommends forming the task force, a referral protocol with safeguards, and revision of Article 30 into a narrow, fine-only provision.

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Keywords

Begging; Homelessness; Criminalisation; Enforcement; Poverty; Regulation

Introduction

Begging and homelessness are a public-order problem and a problem of poverty at once. The 1945 Constitution provides that the poor and neglected children are cared for by the state and that the state develops a social security system and empowers the weak and incapable in accordance with human dignity.[1] Criminal law nevertheless occupies an important place in the way states respond to disorder, and one breach of public order that it has addressed is the presence of beggars and homeless people in public places.

Until 2 January 2026 the Criminal Code of colonial origin punished begging in public by confinement of up to six weeks, and begging by three or more people over sixteen years old by up to three months; it punished living as a vagrant without work by up to three months, and by up to six months for three or more people over sixteen.[2] In Magelang Regency, which draws many tourists, beggars and homeless people are seen at road junctions and tourist sites. Residents are reported to worry about them, they leave rubbish and are sometimes associated with theft and snatching, and the problem is linked to urbanisation. The Regency answered with Regional Regulation No 1 of 2019 on the Handling of Homeless People, Beggars and Street Children (the Regulation), which combines preventive, repressive and rehabilitative measures with a criminal provision in Article 30.[3] Criminal policy offers both penal and non-penal means,[4] and the question is how the two are combined.

The criminal response is contested. Begging and vagrancy are usually linked to poverty, and punishing them raises questions under Article 34 of the Constitution, which makes the care of the poor a duty of the state, under the right to work and to a livelihood worthy of humanity,[5] and under the right to welfare and social security.[6] The Constitution also allows rights to be limited by statute to secure public order,[7] so the issue is not whether public order may be protected but whether punishment is a proportionate and necessary means of protecting it against people whose conduct is often a product of need. Law No 13 of 2011 on the Handling of the Poor frames the state's response in terms of social handling, not punishment.[8]

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[1] Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 [1945 Constitution of the Republic of Indonesia], art 34(1), (2).

[2] Moeljatno, *Kitab Undang-Undang Hukum Pidana*, 30th ed (Jakarta: Bumi Aksara, 2012).

[3] Peraturan Daerah Kabupaten Magelang Nomor 1 Tahun 2019 tentang Penanganan Gelandangan, Pengemis dan Anak Jalanan [Magelang Regency Regulation No 1 of 2019 on the Handling of Homeless People, Beggars and Street Children], art 30.

[4] Barda Nawawi Arief, *Masalah Penegakan Hukum dan Kebijakan Hukum Pidana dalam Penanggulangan Kejahatan* (Jakarta: Kencana, 2010).

[5] 1945 Constitution, *supra* note 1, art 27(2).

[6] *Ibid*, art 28H(1), (3).

[7] *Ibid*, art 28J(2).

[8] Law No 13 of 2011 on the Handling of the Poor (Indonesia).

The legal framework has also changed. Law No 1 of 2023 on the Criminal Code has been in force since 2 January 2026 and replaces Articles 504 and 505 of the old Code. On a reading of its official text, it contains no offence of begging or vagrancy by an adult; the only related provision is Article 425, which punishes handing a child under twelve to another person knowing that the child will be used for begging, and receiving such a child.[9] A fine-only offence of vagrancy was proposed in drafts of the Code but is not in the enacted text. Law No 1 of 2026 on the Adjustment of Criminal Provisions then limited the sanctions that regional regulations may carry.[10] The conduct studied here, which occurred before 2026, was governed by the old Code and the Regulation; the Regulation is now the only criminal norm directly aimed at adult begging and vagrancy in the Regency, and its Article 30 is the provision whose future is in question.

Earlier studies give a mainly social account. Fatmawati and others study Kendari City, link the rise of vagrants and beggars in public places to urbanisation and poverty worsened by the economic slowdown during COVID-19, and conclude that legal measures and enforcement are needed;[11] Nusanto describes the programmes of the Social Service of Jember Regency, from community education and family empowerment to raids with temporary shelter and cooperation with business, and links rising numbers to weak service delivery and poverty;[12] Anggriana and Dewi identify the problems of residents of a social rehabilitation unit in Madiun, including attitudes of reluctance to work and a preference for quick results.[13] None of them analyses a regional regulation's own criminal provision, its relation to the national Criminal Code, or its compatibility with the constitutional duty towards the poor. This article fills that gap for Magelang Regency and updates the analysis to the Code now in force.

The scope of the subject also needs to be fixed. The Regulation defines a beggar as a person who earns income by asking for money by various means, devices and reasons in order to obtain compassion, 'including buskers',[14] and the interviewee likewise included street musicians, traditional dancers, street artists and people in

[9] Law No 1 of 2023 on the Criminal Code (Indonesia), art 425.

[10] Law No 1 of 2026 on the Adjustment of Criminal Provisions (Penyesuaian Pidana) (Indonesia).

[11] St Fatmawati L, M Yusuf, Muhammad Abdillah & Rifkah Anniza Rahman, "Penegakan Hukum Pidana terhadap Tindakan Gelandangan dan Pengemis di Tempat Umum" (2021) 1:3 *Arus Jurnal Sosial dan Humaniora* 154, DOI: <10.57250/ajsh.v1i3.47>.

[12] Baktiawan Nusanto, "Program Penanganan Gelandangan dan Pengemis di Kabupaten Jember" (2017) 17:2 *Politico*, DOI: <10.32528/politico.v17i2.1002>.

[13] Tyas Martika Anggriana & Noviyanti Kartika Dewi, "Identifikasi Permasalahan Gelandangan dan Pengemis di UPT Rehabilitasi Sosial Gelandangan dan Pengemis" (2016) 7:1 *INQUIRY: Jurnal Ilmiah Psikologi*, DOI: <10.51353/inquiry.v7i1.78>.

[14] Regulation No 1 of 2019, *supra* note 3, art 1(6).

clown costumes who ask for compassion and payment.[15] This is much wider than the Code's notion of begging and raises questions of legality (clarity of the prohibition) and proportionality, which are taken up below. This article asks three questions: how criminal law was enforced against beggars and homeless people in Magelang Regency under the Regulation; what Law No 1 of 2023 and Law No 1 of 2026 change; and whether the criminal approach is compatible with the Constitution. Its purpose is to answer them and to propose how the Regency should reconcile order and care.

Research Method

This is normative and empirical legal research. The normative part, which carries most of the analysis, uses statutory and conceptual approaches to examine the Regulation, Articles 504 and 505 of the old Criminal Code, Law No 1 of 2023, Law No 1 of 2026 and the relevant articles of the Constitution.[16][17] The empirical part treats law as patterned behaviour and rests on a single interview, conducted on 8 May 2023, with the head of the law enforcement division of the Magelang Regency Civil Service Police Unit (Satpol PP), on the handling of raids, the task force and the prosecution of offenders.[18] The interview is the only field datum: the article does not report observation of raids, and it uses no case files, enforcement statistics or budget documents, because none were obtained. The legal materials are the primary texts named above. The analysis is qualitative: the official's account is compared with what the Regulation requires, and the obstacles he describes are grouped under Soekanto's five factors of enforcement, namely the law, the enforcers, facilities, society and legal culture.[19] The limits of the design are stated in the Conclusion. One interview with one enforcement official cannot establish a general finding on enforcement, and the findings below are therefore the enforcement agency's account, not a measurement.

Results and Discussion

The Regulation and Its Handling Measures

[15] Interview of the Head of the Regional Law Enforcement Division, Civil Service Police Unit (Satpol PP), Magelang Regency (8 May 2023).
[16] Soerjono Soekanto & Sri Mamudji, *Penelitian Hukum Normatif* (Jakarta: Rajawali Pers, 2001).
[17] Bambang Sunggono, *Metodologi Penelitian Hukum* (Jakarta: RajaGrafindo Persada, 2003).
[18] Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta: UI Press, 2010).
[19] Soerjono Soekanto, *Faktor-Faktor yang Mempengaruhi Penegakan Hukum* (Jakarta: Rajawali Pers, 2013).

Article 5 of the Regulation states that handling consists of four forms: preventive, repressive, social rehabilitation and social reintegration, coordinated by the regional agency for social affairs.[20] Preventive measures include social counselling, public information, mental and social guidance, social assistance, wider job opportunities and better health.[21] Repressive measures consist of control (penertiban), outreach, guidance in a halfway house (rumah singgah) and referral, and are meant 'to control, to give a deterrent effect' and to restrain the growth of the problem.[22] Rehabilitation is aimed at restoring social functioning and is to be carried out in a halfway house or by a social welfare institution,[23] and reintegration returns people to their families.[24] The Regulation therefore reconciles deterrence and rehabilitation by sequence: control comes first, a person from the Regency who is caught may be released on conditions, placed in a halfway house, returned to the family or referred to a social home,[25] and referral is reserved for those caught in raids more than three times or suspected of breaking the law, by decision of a case conference that includes the police and other professionals.[26] The case conference is the only safeguard against arbitrary placement that the Regulation provides; it does not say which authority orders a placement in a social home or on what judicial control, a gap that matters because placement restricts liberty.

The Regulation also requires the Regency to form a task force of the agencies for social affairs, public order, education, health and labour, the district police, the religious affairs office and social welfare institutions, established by a decision of the Regent.[27] The head of the law enforcement division said that this task force has not been formed to date because of budget limits, that handling is a complex problem that no one agency can solve, and that cooperation between offices has so far been limited to prevention and control.[28] Raids are carried out regularly in coordination with the Social Affairs Office, the Education Office, the police, the health office and the National Narcotics Board. After a raid, those caught are recorded, and the Social Affairs Office sends some to a rehabilitation home in Solo; Satpol PP has also discussed an empowerment idea, for example for angklung

[20] Regulation No 1 of 2019, *supra* note 3, art 5.
[21] *Ibid*, art 6(1).
[22] *Ibid*, art 7.
[23] *Ibid*, art 13.
[24] *Ibid*, art 18.
[25] *Ibid*, art 8(4).
[26] *Ibid*, art 11.
[27] *Ibid*, art 23.
[28] Interview with the Head of the Law Enforcement Division, *supra* note 15.

buskers to perform in food courts and restaurants in coordination with the trade department.[29]

On this account the preventive and rehabilitative limbs of the Regulation exist mostly on paper. Those caught are recorded and sent away, and the halfway house and job training that the Regulation foresees are not described as operating; the interviewee's own suggestion, that those caught be placed in a halfway house for guidance and job training, restates what the Regulation already provides.[30] The study cannot say how ineffective the programme is, because it holds no figures on raids per year, people caught, repeat cases, referrals to Solo, or the cost and budget. The judgement that handling has not worked therefore rests on the official's account that those caught are only recorded and sent away, which is plausible but unmeasured.

Criminal Provisions and Their Enforcement

Two sets of criminal provisions must be distinguished. Articles 504 and 505 of the old Criminal Code punished begging and vagrancy as such, with short confinement. The Regulation instead prohibits any person from begging, living as a vagrant or being a street child, individually or in a group, by any means 'to benefit himself'; from inviting, persuading, helping, ordering, forcing or organising others to do so; and from giving money or goods to a vagrant, beggar or street child in a public place.[31] Article 30 punishes the first with confinement of up to three months or a fine of up to IDR 20,000,000, the second with confinement of up to three months or a fine of up to IDR 50,000,000, and the third with confinement of up to ten days or a fine of up to IDR 1,000,000; the offences are violations (pelanggaran).[32] The only mental element is the purpose of benefiting oneself in Article 27(a); the text contains no rule on repeat offending and no defence of necessity.

Table 1 sets the norms side by side.

Table 1. Criminal norms on begging and vagrancy compared

Norm	Conduct	Sanction	Status
Criminal Code, arts 504–505	Begging in public; living as a vagrant without work	Confinement of up to six weeks to six months, depending on the article and the number of people	Replaced on 2 January 2026
Law No 1 of 2023, art 425	Handing over, or receiving, a child under 12 to be used for begging	Imprisonment of up to 4 years or a fine of up to Category IV	In force; does not reach adult begging
Regulation, art 30(1)	Begging, vagrancy or being a street child for one's own benefit	Confinement of up to 3 months or a fine of up to IDR 20,000,000	In force; confinement no longer permitted

[29] *Ibid*.
[30] Regulation No 1 of 2019, *supra* note 3, arts 7(1), 10, 19.
[31] *Ibid*, arts 27, 28.
[32] *Ibid*, arts 30, 31.

			after Law No 1 of 2026
Regulation, art 30(2)	Inviting, helping or organising others to beg or live as vagrants	Confinement of up to 3 months or a fine of up to IDR 50,000,000	As above
Regulation, art 30(3)	Giving money or goods to vagrants, beggars or street children in public	Confinement of up to 10 days or a fine of up to IDR 1,000,000	As above

Source: compiled from the Criminal Code as cited by Moeljatno, Law No 1 of 2023 and Regional Regulation No 1 of 2019.

According to the head of the law enforcement division, raids to deter are a routine priority and Article 30 has been applied once through to trial, where the judge imposed a one-month suspended sentence, with a two-month sentence and a fine of IDR 2,000,000 to follow on a repeat offence.[33] The study did not obtain the decision, and the court, case number and date are not reported; they must be traced in the court's records before the case can be analysed. The sentence described is within the maximum of three months or IDR 20,000,000 in Article 30(1), but the Regulation contains no rule that increases the penalty on repetition. The two months and IDR 2,000,000 are more plausibly conditions attached to the suspended sentence under the Code's provisions on conditional sentences than a penalty provided by the Regulation, and the authors' account cannot settle the point without the decision.

The interviewee identified four obstacles: the time from the investigation report by Satpol PP's civil-servant investigators to trial, which takes three days, without any power to detain those arrested before trial, so that they are sent home and often do not appear; the impossibility of bringing them forcibly to court, since the data they give are sometimes invalid; the small number of civil-servant investigators (three); and the lack of any facility for holding or guidance.[34] He said that criminal enforcement is still treated as a last resort (ultimum remedium) to deter repetition. Soekanto's factors give these a structure.[35] As to the law, Article 30 has no repeat-offender rule and rests on wide definitions; as to the enforcers, three investigators serve a whole Regency; as to facilities, there is no holding place or halfway house in operation; as to society, the study's own conclusion is that handling needs the cooperation of religious leaders, schools, parents and the community, which the Regulation's task force was meant to organise; and as to legal culture, an offender who is sent home and often fails to appear has little reason to expect a sanction.

[33] Interview with the Head of the Law Enforcement Division, *supra* note 15.
[34] *Ibid*.
[35] Soekanto, Faktor-Faktor, *supra* note 19.

Two of these obstacles are not defects but limits that the law sets. Civil-servant investigators may investigate violations of the Regulation, but the Regulation lists no power of arrest or detention among their powers and requires them to report the start and result of an investigation to the public prosecutor through the police investigator.[36] Detention is a power of the police under the criminal procedure law, and for a violation punishable by confinement of up to three months, or in the future by a fine alone, depriving a person of liberty before trial would be hard to justify. The absence of a holding facility is thus not a gap to be filled by a Satpol PP cell, and the practical answer lies in summons, release on conditions and social referral rather than in more coercive power.

Constitutionality and the Effect of the New Criminal Law

Three questions arise about Article 30. The first is whether a regional regulation may punish conduct that the national Code does not. Regional governments may attach criminal sanctions to regulations to enforce them, within limits set by statute;[37] but those limits now bind more tightly. Law No 1 of 2026 provides that regional regulations may no longer threaten confinement and may carry a fine of no more than Category III, that is IDR 50,000,000.[3839] On this reading, the confinement in Article 30 can no longer be imposed and the sanction is a fine, within the ceiling; the exact conversion of each paragraph should be confirmed against the text of Law No 1 of 2026. Under Article 3 of Law No 1 of 2023, where the law changes after an act the new provision applies unless the old one is more favourable to the offender, and proceedings must stop if the act is no longer an offence.[40] Prosecutions that were pending under Articles 504 and 505 of the old Code must therefore end, and any under Article 30 must apply the lighter sanction.

The second question is whether the Regulation is compatible with the Constitution. The duty in Article 34 is to care for the poor, and a person who begs from need does not choose the conduct in the sense that criminal liability assumes. The Regulation's own criteria show the difficulty: a vagrant is a person without an identity card, a fixed home or regular income, and a beggar may be identified by a 'shabby and ragged' appearance or by being in a crowded place.[41] Criteria of this kind describe poverty rather than a wrong, and an offence that turns on appearance invites

[36] Regulation No 1 of 2019, *supra* note 3, art 29.
[37] Law No 23 of 2014 on Regional Government (Indonesia), art 238.
[38] Law No 1 of 2026, *supra* note 10.
[39] Law No 1 of 2023, *supra* note 9, art 79(1).
[40] *Ibid*, art 3(1), (2).
[41] Regulation No 1 of 2019, *supra* note 3, arts 2, 3.

arbitrary enforcement. The inclusion of buskers in the definition of beggar widens the offence to street performance, which is a form of work and so touches the right to a livelihood. The ban on giving money or goods to beggars, backed by a criminal sanction, adds a penalty for charity without a clear link to a harm. Under the principle of legality, a prohibition must be clear enough for its subject to know what is forbidden, and under proportionality the least restrictive effective means must be used; on both counts Articles 27 and 28 are open to challenge, and the Regulation's own social measures show that a less restrictive means exists.[42]

The third question concerns the use of criminal law as the last resort. The official's statement that prosecution is an ultimum remedium is consistent with the use of non-penal measures first,[43] and a single prosecution in the period reported bears it out. But the same fact weakens the case for keeping Article 30 as a deterrent. A sanction that has been applied once, that the enforcer cannot enforce against people who give invalid data, and that the national legislature has not placed in the new Code, contributes little to order and costs the Regency the credibility of its social programme.

Comparison with Earlier Research

The findings agree with Fatmawati and others that enforcement alone cannot answer a problem rooted in poverty and urbanisation, and that legal measures need the support of social ones;[44] their study of Kendari supports a call for enforcement, whereas the Magelang evidence shows enforcement stalling for want of the supporting instruments. They match Nusanto's account of Jember, where weak service delivery limited the effect of raids,[45] and they differ in that Magelang has a regulation with a full programme on paper but has not formed the task force to carry it out. Anggriana and Dewi explain the problem partly by the attitudes of those affected;[46] the Magelang material suggests that the more important variables are institutional: funding, coordination and facilities. What this article adds is the analysis of Article 30 as a criminal norm, against the repeal of Articles 504 and 505 and the new limits on regional sanctions.

Conclusion

[42] 1945 Constitution, *supra* note 1, arts 27(2), 28D(1), 34(1).
[43] Arief, *supra* note 4.
[44] Fatmawati et al, *supra* note 11.
[45] Nusanto, *supra* note 12.
[46] Anggriana & Dewi, *supra* note 13.

On the first question, handling of beggars and homeless people in Magelang Regency has not run as the Regulation intends. The task force under Articles 23 and 24 has not been formed for lack of funds, raids end in recording and return or referral to a home in Solo, Article 30 was applied once to trial, and Satpol PP has three investigators and no holding facility. On the second question, Law No 1 of 2023 contains no offence of adult begging or vagrancy, and Law No 1 of 2026 removes confinement from regional regulations and caps their fines at Category III, so Article 30 survives only as a fine. On the third, the Regulation's wide definitions, its reliance on appearance and its ban on giving are difficult to reconcile with the duty to care for the poor and with proportionality.

Four recommendations follow. The Regent and the Regional House of Representatives should fund and form the task force by a decision of the Regent, as Article 23 requires. The Social Affairs Office should lead a halfway house and a referral protocol that states who orders a placement, for how long and with what judicial or administrative review, so that placement is not arbitrary confinement. Satpol PP should confine itself to control, outreach and the investigation of organised exploitation, and record the number of raids, people caught, repeat cases and referrals so that effectiveness can be assessed. The Regency should revise Article 30 in line with Law No 1 of 2026 and the Constitution: delete the ban on giving and the reference to buskers, replace criteria of appearance with conduct, and reserve a fine for coercive or organised exploitation of others, leaving the individual poor to social handling.

The study has limits. It rests on one interview with one enforcement official, uses no case file or enforcement statistics, and includes no view of the Social Affairs Office, the police, the prosecutor, the court or those who were caught. Its readings of Law No 1 of 2023 and Law No 1 of 2026 are of the text, not of practice, which has barely begun. Later research should interview those actors and the people affected and should obtain and analyse the decision in the one reported prosecution.

Ethics and Data Availability

This research was mainly normative. Its one empirical element was an interview with a public official about the performance of his duties; he is identified by position only. No personal data of the people caught in raids were collected and no other human participants were involved, so ethical approval was not required. The legal materials are publicly available and the interview record is held by the authors.

Use of Generative AI

Generative AI was used only to improve the language of this article (grammar, clarity and style). The authors reviewed the output and are responsible for the content of the article.

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