

Legal Protection for Traditional Market Traders in the Face of Competition with Modern Retailers

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ABSTRACT

Traditional markets play an important role in the Indonesian economy, especially in supporting micro, small and medium enterprises (MSMEs). However, in recent decades, the existence of traditional markets has been increasingly threatened by the expansion of modern retailers that offer more competitive prices, shopping convenience, and attractive promotions. This competitive imbalance raises legal issues related to the protection of traditional market traders so that they can continue to compete fairly. Therefore, this study aims to examine existing legal arrangements and challenges in their implementation to protect traditional market traders. This research uses a normative legal research method, which focuses on analyzing relevant laws and regulations, such as Presidential Regulation No. 112/2007, Law No. 5/1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition, and various Regional Regulations (Perda) that regulate zoning and licensing of modern retail. In addition, this study also examines various concrete cases that reflect the weak implementation of legal protection for traditional market traders. The results show that although regulations have regulated the protection of traditional market traders, their implementation still faces various obstacles, such as weak supervision, lack of sanctions against zoning violations, and lack of support in modernizing traditional markets. Therefore, it is necessary to strengthen policies, improve supervision, and provide incentives for traditional market traders in order to survive in the midst of competition with modern retailers. With more effective legal protection, it is expected that traditional markets can still contribute to the national economy and the welfare of the community.

Keywords:

Legal Protection,
Traders, Traditional
Markets, Modern
Retailers

INTRODUCTION

Traditional markets play an important role in the Indonesian economy as the center of people's trade that supports micro, small, and medium enterprises (MSMEs). Its existence is not only a place for buying and selling, but also as part of local economic culture and identity. Traditional markets are a form of people's economy that contributes greatly to the pillars of the economy in Indonesia. The resilience and survival of traditional markets will affect the condition of the national economy. So the government must continue to maintain the existence of traditional markets (Dewi, 2018). Therefore, so that traditional markets do not continue to be marginalized, one of the instruments needed to organize and manage traditional markets is through legal instruments. Here the willingness, commitment and responsibility of the state are needed (Dewi, 2018).

In recent years, the existence of traditional markets has faced serious challenges due to the rapid growth of modern retailers, such as minimarkets, supermarkets and hypermarkets that have mushroomed in various regions. Competition between traditional markets and modern retailers has become a crucial issue that affects the welfare of small traders and the stability of the people's economy. Based on data from the Central Bureau of Statistics in 2024, the number of traditional markets in Indonesia reached 17,443, while shopping centers and convenience stores including modern

retailers totaled 3.61 million (Statistik, 2024). The data shows that traditional markets are increasingly being eroded by the proliferation of modern retailers in Indonesia. In addition, the purchasing power of many people is attracted to modern retail because in terms of price it can compete with products or goods sold in traditional markets.

Although the government has issued various regulations to protect traditional markets, such as Presidential Regulation No. 112/2007 on the Arrangement and Development of Traditional Markets, Shopping Centers, and Modern Stores, as well as Minister of Trade Regulation No. 23/2003 on Guidelines for the Development, Arrangement and Development of Shopping Centers and Supermarkets, which regulates the zoning and distance of modern retail establishments, implementation on the ground is still often problematic. The large number of modern retailers established around traditional markets without strict supervision has led to competitive imbalances. Modern retailers offer more competitive prices, more convenient facilities, and more modern payment systems, thus attracting more consumers and reducing the number of traditional market customers.

One example of a case that reflects unfair competition between traditional markets and modern retailers occurred in Kendal Regency, Central Java Province. In 2018, traders in Cepiring Market complained that their turnover had drastically decreased due to the presence of a number of modern minimarkets, including Toko Aneka Jaya Kendal. Cepiring Market is one of the markets in Kendal Regency. The proliferation of minimarkets around Cepiring Market has created a new polemic for traditional retailers. With a fairly close radius, you can find 4 minimarkets side by side near the Cepiring Market with promos held by these minimarkets, making traders in the Cepiring Market increasingly concerned about losing consumers (Anugrah, 2020).

Another case in point is PD Pasar Jaya, which in 2015 managed 153 markets throughout DKI Jakarta Province with a turnover of more than 150 trillion rupiah per year with a total of 117,519 business premises. Based on survey results, traditional markets/retailers managed by PD Pasar Jaya are visited by more than 2 million visitors every day, or approximately 20% of the population of DKI Jakarta. However, since many minimarkets, supermarkets and hypermarkets have been built close to these traditional markets and retailers. For the minimarket type of modern retail, out of 153 traditional retailers, all (100%) are surrounded by a minimarket network of less than 500m radius. The overall average (mean) number of minimarkets in DKI Jakarta that surround traditional retailers within less than 500m radius is 7 minimarkets for each traditional retailer. On the other hand, for supermarket modern retail types, out of 153 traditional retailers, 69% of traditional retailers are surrounded by supermarket chains of less than 2,000m radius. The overall average (mean) number of supermarkets in DKI Jakarta surrounding traditional retailers within less than a 2,000m radius is 1 supermarket for each traditional retailer. As for hypermarket modern retail types, out of 153 traditional retailers, 90% of traditional retailers are surrounded by hypermarket chains within a radius of less than 2,500m. The overall average (mean) number of hypermarkets in DKI Jakarta that surround traditional retailers within a distance of less than 2,500 m radius is 3 hypermarkets for each traditional retailer (Hikmawatia & Nuryakina, 2017).

The capitalist system accommodates the interests of investors. The system gives owner capital the freedom to run profit-oriented economic entities. The negative impact of this system is the exclusion of traditional traders who have small capital that

is difficult to compete with minimarkets. In the long run, traditional traders will lose money and even experience bankruptcy (Dwiyanto, Wagey, & Zuhroh, 2024). Therefore, the study of legal protection for traditional market traders in the face of competition with modern retail is very important. This study aims to analyze the extent to which existing regulations can protect the interests of small traders and identify challenges faced in their implementation. With this study, it is hoped that it can provide recommendations for the government and other stakeholders to create policies that are more fair and favorable to traditional market traders in order to survive and thrive in the midst of increasingly fierce competition.

METHOD

This research uses normative legal research methods, namely research that focuses on the study of applicable legal norms, both in legislation and in developing legal principles. Normative legal research has a tendency to image law as a prescriptive discipline where it only sees the law from the perspective of its norms, which are certainly prescriptive in nature (Sonata, 2014). This research uses a statute approach. The statutory approach is to examine all laws and regulations related to the legal issues raised (Markuat, 2022). This approach is used to analyze the extent to which existing regulations can provide legal protection for traditional market traders in the face of competition with modern retailers. This approach is carried out by examining various regulations related to legal protection for traditional market traders, such as Presidential Regulation No. 112/2007 on the Arrangement and Development of Traditional Markets, Shopping Centers, and Modern Stores, Minister of Trade Regulations related to zoning and modern retail operations, Regional Regulations governing traditional market governance in various regions, and Law No. 5/1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition.

In normative legal research, the main data source is secondary data consisting of primary legal materials, namely laws and regulations that are directly related to the protection of traditional market traders. Secondary legal materials, namely legal literature, academic journals, results of previous research, and opinions of legal experts related to traditional market policies and business competition. Tertiary legal materials, namely legal dictionaries, legal encyclopedias, and other documents that support the understanding of primary and secondary legal materials. The data obtained will be analyzed using the descriptive-analytical method, namely by describing the contents of laws and regulations, comparing them with relevant cases, and providing legal arguments on the effectiveness of regulations in protecting traditional market traders. The analysis is carried out qualitatively. Qualitative data analysis can be in the form of checking the validity of data based on certain criteria, namely on the basis of trustworthiness (reliability), transferability, dependability, and certainty (findings really come from the data, not accentuating the researcher's knowledge in conceptualization) (Rijali, 2018). Thus, this research analysis emphasizes the interpretation of legal norms and their application in social reality.

RESULTS AND DISCUSSION

Legal Arrangements Governing the Protection of Traditional Market Traders in the Face of Competition with Modern Retail in Indonesia

The influence of globalization and trade liberalization has opened up investment opportunities in the field of economic development. Of course, economic investment is an important aspect in a country's economy because it can drive the process of strengthening the economy. However, if investment is not managed and organized properly, it will have a negative impact on other business sectors, including the unstoppable influx of investment in the modern retail industry sector. On the one hand, the growth of the modern retail industry can increase economic growth for the community, but on the other hand, it can kill household industries, such as small traders, micro, small and medium enterprises that operate in traditional markets (Susanti, 2021).

Thus the existence of traditional markets is threatened by the presence of modern markets whose growth is increasing. This is because modern markets have several advantages when compared to traditional markets, including; goods sold have guaranteed quality, a spacious, comfortable and clean place, buyers are free to see and choose their own goods, there are attractive discounts or promos on certain products. But it does not rule out the possibility that there are also shortcomings of modern markets, including; attracting buyers from traditional markets, no bargaining, exploitation of suppliers, economic disparities between modern markets and traditional markets (Susanti, 2021).

Protection of the existence of traditional markets is absolutely necessary by making efforts to synergize the strengths of modern markets with the weaknesses of traditional markets. The existence of modern markets must be able to maintain the existence of traditional markets and not the other way around. One way that the government can do this is by issuing several laws and regulations that substantially regulate the pattern of relationships between traditional markets and modern markets. It is hoped that the expansion and development of modern markets is no longer a threat to the existence of traditional markets. So that the law in the form of legislation is able to realize the protection of traditional markets (Noor, 2013).

Regulations regarding the protection of traditional market traders in the face of competition with modern retailers have been regulated in various laws and regulations in Indonesia. One of the main regulations is Presidential Regulation No. 112/2007 on the Arrangement and Development of Traditional Markets, Shopping Centers, and Modern Stores, which aims to create a balance between traditional markets and modern retail. This regulation regulates zoning, licensing, and guidance for traditional market traders to remain competitive with modern retailers. Article 4 mentions the requirements for the establishment of shopping centers and modern stores. To establish shopping centers and modern stores, they must meet several requirements, including:

1. Must take into account the socio-economic conditions of the community and the existence of traditional markets, small businesses and medium-sized enterprises in the area where the modern market is to be built;
2. The establishment of a modern market must also pay attention to the distance from the existing traditional market;

3. Modern markets must provide a parking area at least as large as the parking needs of 1 (one) unit of four-wheeled vehicles for every 60 m² (sixty meters per square) of sales floor area of modern stores, which can be operated in collaboration with other parties; and
4. Modern markets must provide facilities that ensure a clean, healthy (hygienic), safe, orderly and comfortable public space.

In addition, Regulation of the Minister of Trade No. 56/2014 also provides guidelines on the establishment of modern stores, including the minimum distance of modern retail establishments from traditional markets. Meanwhile, Regulation of the Minister of Trade No. 53/M-DAG/PER/12/2008 concerning Guidelines for the Arrangement and Development of Traditional Markets, Shopping Centers and Modern Stores, in Article 3 paragraph (1) states “The establishment of traditional markets or shopping centers or modern stores other than minimarkets must meet the requirements of statutory provisions and must analyze the socio-economic conditions of the community, the existence of traditional markets and MSMEs in the relevant area”.

In addition to regulations at the national level, various Regional Regulations (Perda) have also been issued to protect traditional markets. For example, some regions have issued zoning policies to limit the establishment of minimarkets or supermarkets within a certain radius of traditional markets. For example, Yogyakarta City Regional Regulation No. 2/2012 stipulates that modern retailers cannot operate within a 500-meter radius of traditional markets to maintain a balance of business competition. On the other hand, DKI Jakarta Provincial Regulation No. 2 of 2002 concerning Private Marketing in the Province of the Special Capital Region of Jakarta, also regulates the radius of traditional markets and modern retail. Based on this regulation, modern retail business location permits must be located away from neighborhood markets, namely retailers with an area of 100-200 m² must be 500 meters away, retailers with an area of 1,000-2,000 m² must be 1,500 meters away, retailers with an area of 2,000-4,000 m² must be 2,000 meters away, and retailers with an area of more than 4,000 m² must be 2,500 meters away (Hikmawatia & Nuryakina, 2017). However, the implementation of these policies still faces many obstacles, especially in the aspects of supervision and law enforcement.

Normatively, protection for traditional market traders is also based on several legal principles, such as the principle of economic justice which, according to Louis Kelso and Mortimer Adler, must fulfill three essential principles that are interdependent, namely participation, distribution and harmony. All three underpin the building blocks of economic justice in society. If one of them is missing, the building of justice will collapse (Nurita & Hidayat, 2020). In addition, the protection of traditional market traders must also pay attention to the principles of fair business competition, as well as the protection of small and medium enterprises (UMKM). Modern retail management based on the principles of business competition involves the following aspects (Anom & Puspita, 2024) :

1. Implementation of partner agreements between modern retailers and Micro, Small and Medium Enterprises (UMKM). Modern retailers must implement partner agreements with MSMEs in a fair and balanced manner in the context of retail industry competition (Feronema & Anggriani, 2016).

2. Legal protection for traditional businesses: In the context of modern retail expansion, it is necessary to pay attention to the legal protection of traditional retailers from unbalanced competition (Hartati, Rubiyanto, Ceprudin, & Mariyam, 2023).
3. Application of the principle of balance of interests. It is important to apply the principle of balance of interests between modern retailers and traditional markets within the framework of competition law.
4. Preventing monopoly and unfair business competition: Modern retailers should endeavor to avoid monopolistic practices and unfair business competition, both in modern retail markets and traditional retail markets (Basir & Rahmalia, 2021).
5. Development of partnerships with manufacturers and suppliers. Modern retailers need to cooperate with producers and suppliers to create efficient and safe product delivery channels, and maintain the quality of products sold.

Law No. 5/1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition stipulates that any form of business competition must take place in a healthy manner and must not harm small businesses. This is relevant to the condition of traditional markets, which often experience competitive imbalances compared to modern retailers that have stronger capital and distribution networks. In addition, Law No. 20/2008 on Micro, Small, and Medium Enterprises (MSMEs) also emphasizes the need for protection of small businesses, including traditional market traders. The government is required to provide guidance, easy access to capital, and other facilities so that small businesses can develop and survive market competition. However, in practice, many traditional market traders still find it difficult to obtain adequate legal protection due to weak policy implementation at the regional level.

Although regulations related to the protection of traditional market traders are available, their implementation in the field still faces various obstacles. One of the main problems is the lack of supervision in the application of zoning regulations and licensing of modern retail establishments. There are many cases where minimarkets or supermarkets continue to be established in close proximity to traditional markets, despite zoning regulations. For example, in several major cities such as Jakarta, Bandung, and Surabaya, cases were found where modern retail stores were granted operating licenses even though their locations contradicted existing zoning policies. In addition, there is the issue of unequal access to business resources and facilities. Modern retailers generally have strong financial backing, access to technology, and wider distribution networks, while traditional market traders still rely on simpler trading systems. This leads to unbalanced competition, with modern retailers able to offer lower prices and more convenient services compared to traditional markets. As a result, the attractiveness of traditional markets has declined, and many small traders have experienced a decline in turnover and have been forced to close their businesses.

Overcoming this problem requires strengthening the implementation of existing regulations and increasing support for traditional market traders. One of the steps that can be taken is to tighten supervision of modern retail establishment licenses to prevent violations of zoning regulations. Local governments also need to increase the provision of incentives and facilities for traditional market traders, such as easy access to capital, business digitalization training, and modernization of traditional market facilities and infrastructure to make them more attractive to consumers. In addition, it

is important to raise legal awareness for traditional market traders, so that they understand their rights in business competition. The government can work with academics, community organizations, and legal institutions to provide education and legal assistance for traders who experience injustice in competition with modern retailers. With these efforts, it is hoped that the existence of traditional markets can survive and thrive amidst the onslaught of modern retail.

Challenges in Regulating Legal Protection for Traditional Market Traders in the Face of Competition with Modern Retail in Indonesia

1. Regulatory Challenges in Protecting Traditional Market Traders.

Legal protection arrangements for traditional market traders have been regulated in various laws and regulations, such as Presidential Regulation No. 112 of 2007 concerning the Arrangement and Development of Traditional Markets, Shopping Centers and Modern Stores, Minister of Trade Regulation No. 56/M-DAG/PER/9/2014 of 2014 concerning Amendments to the Minister of Trade Regulation No. 70/M-DAG/PER/12/2013 concerning Guidelines for the Arrangement and Development of Traditional Markets, Shopping Centers and Modern Stores, Minister of Trade Regulation No. 53/M-DAG/PER/12/2008 concerning Guidelines for the Arrangement and Development of Traditional Markets, Shopping Centers and Modern Stores, as well as various Regional Regulations (Perda) that regulate zoning and the existence of modern retail, such as the Yogyakarta City Regional Regulation. 53/M-DAG/PER/12/2008 on Guidelines for the Arrangement and Development of Traditional Markets, Shopping Centers and Modern Stores, as well as various Regional Regulations (Perda) that regulate zoning and the existence of modern retail, such as Yogyakarta City Regional Regulation No. 2 of 2012, and DKI Jakarta Province Regional Regulation No. 2 of 2002 on Private Marketing in the Special Capital Region of Jakarta Province. However, in practice, these regulations still face many challenges, both in terms of policy formulation and implementation. One of the main obstacles is the inconsistency of regulations between the national and regional levels, where some regions have different rules regarding zoning and licensing of modern retail. This difference is often exploited by modern retailers to obtain business licenses despite being located in areas that should be reserved for traditional markets.

In addition, the existing regulations do not clearly regulate the sanction mechanism for violations of zoning regulations. Many minimarkets and supermarkets continue to operate near traditional markets without strict action from the local government. This shows that although regulations have been made, weaknesses in law enforcement are still a major obstacle in protecting traditional market traders. Law enforcers in carrying out supervision of the regulations that have been made are still very minimal and the regulations that have been set are not fully implemented (Setiawan, Asyhadi, & Abas, 2024). Thus, the legal products that have been made and then officially stipulated and enforced, of course, should be carried out by law enforcers consistently and fairly.

2. Unbalanced Competition between Traditional Markets and Modern Retailers.

One of the main challenges in legal protection for traditional market traders is the competitive gap between traditional markets and modern retailers. Modern retailers have the advantage of capital, distribution networks, more competitive prices, and more convenient facilities for consumers. Meanwhile, traditional

markets still face various limitations, such as inadequate infrastructure, difficult access to capital, and lack of modernization in management and marketing systems.

For example, many modern minimarkets have promotional programs such as big discounts, digital payment services, and customer membership systems, which make them more attractive to consumers than traditional markets. This is further exacerbated by the lack of support from the government in modernizing and revitalizing traditional markets, so traditional markets are often perceived as less attractive and less competitive than modern retailers.

3. Weak Supervision and Law Enforcement.

Although regulations are in place, another major challenge is the lack of supervision and weak law enforcement against violations committed by modern retailers. In many cases, modern retailers continue to obtain business licenses despite violating zoning regulations. This is due to several factors, such as weak coordination between central and local governments, and possibly non-transparent licensing practices.

The case at PD Pasar Jaya, for example, shows that despite the zoning regulations that prohibit the establishment of minimarkets within a certain radius of traditional markets, several modern retailers are still found operating near these markets. This indicates a laxity in the enforcement of rules and minimal sanctions for businesses that violate regulations. If the government does not tighten oversight and enforcement of the rules, this unbalanced competition will continue and harm traditional market traders.

4. Challenges in the Adaptation of Traditional Market Traders to Digital Economic Changes

Besides regulatory factors and oversight, another challenge faced by traditional market traders is the difficulty in adapting to changes in the digital economy. Modern retail has adopted various technologies, such as e-commerce platforms, digital payments, and more efficient stock management systems, while many traditional market traders still use conventional transaction systems.

The lack of access to technology and modern business education has caused traditional market traders to fall behind. Some government programs, such as the digitization of traditional markets through e-commerce and cashless payment systems, have not been well socialized, leaving only a small portion of traders able to take advantage of them. Without policies that encourage broader digital adaptation, traditional markets will find it increasingly difficult to compete with the ever-evolving modern retail sector.

To address various challenges in legal protection for traditional market traders, several strategic steps are necessary. **First**, strengthening regulations and stricter law enforcement against zoning violations by modern retail. Local governments need to be more active in monitoring the establishment of modern stores and ensuring that existing rules are truly enforced. **Second**, the government needs to encourage the modernization of traditional markets through market revitalization programs, digital business training, and providing broader access to capital for small traders. In addition, partnerships between traditional markets and digital platforms also need to be enhanced, allowing traders to reach more consumers through more modern marketing systems. **Third**, increasing the role of traders' associations and legal advocacy for

traditional market traders so that they can fight for their rights in the face of competition with modern retail. With better legal awareness, traditional market traders can be more active in monitoring and reporting unfair business practices.

CONCLUSION

Legal arrangements regarding the protection of traditional market traders are fairly complete, but they still face challenges in implementation on the ground. Various national and regional regulations have established protections for traditional markets, including rules concerning zoning and healthy business competition. However, there are still many violations of existing regulations, weak oversight, and a lack of support for traditional market traders in facing competition with modern retail. Therefore, it is necessary to strengthen policies, improve oversight, and provide incentives for traditional market traders so that they can survive and thrive in an increasingly competitive business ecosystem. The main challenges in legal protection arrangements for traditional market traders are regulatory inconsistencies, weak oversight, imbalances in competitiveness, and traders' difficulties in adapting to changes in the digital economy. Although regulations are available, implementation on the ground still faces many obstacles, resulting in traditional market traders not fully receiving effective protection. Therefore, there is a need to strengthen policies, enhance oversight, modernize markets, and provide legal advocacy for traditional market traders so that they can survive and develop amid competition with modern retail.

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