

## Analysis of Bengkulu City Regional Regulation No. 2 of 2015 on Curbing Livestock in the Perspective of Maslahah Mursalah

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### Abstract

This research examines two aspects: 1) The practice of maintaining and controlling livestock according to Bengkulu City Regional Regulation Number 2 of 2015, and 2) An analysis of the regulation from the perspective of Maslahah Mursalah. The research employs a normative juridical method using a statutory approach. The results show that Regional Regulation No. 2 of 2015 has not been fully effective, as many livestock animals still roam in public places. However, this regulation is designed in accordance with the principle of Maslahah Mursalah, which considers the public interest. Its objectives are to protect the public from the negative impacts of livestock, maintain the quality of livestock as a food source, ensure public order, and provide legal certainty in the control of livestock.

**Keywords:** Livestock, Regional Regulations, Maslahah Mursalah

### INTRODUCTION

The establishment of autonomous regions is the birth of autonomy status based on the aspirations and objective conditions of the people in the region as part of the state territory. These aspirations are realized with the implementation of decentralization which transforms into autonomous regions. Therefore, an autonomous region is defined as a legal community unit that has certain territorial boundaries that are authorized to regulate and manage the interests of the community.<sup>1</sup>

Many things become obstacles to realizing order in community life, among others, because society is pluralistic or heterogeneous society and has a variety of different cultural characters. When viewed in terms of the livelihood of the population, since the colonial era until now the Indonesian people are no stranger to agricultural and livestock livelihood businesses.<sup>2</sup>

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<sup>1</sup>Murtir Jeddawi, *Memacu investasi di era otonomi daerah*, (Yogyakarta; UII Pres, 2005), h. 86

<sup>2</sup>Parakkasi, A. *Ilmu Makanan Ternak Ruminansia* Cetakan pertama, (Jakarta: Penerbit Universitas Indonesia, 2000), h. 89

However, sometimes animal husbandry can cause problems that disturb public order. This is because the animal husbandry system does not follow the rules set by the government. This is an important highlight for the local government to overcome this problem. So it is very necessary to have a good Regional Autonomy system because this can give full authority from the Central Government to the Government in the Regions to take care of their respective regions, hence the emergence of various rules governing various kinds of problems in the regions.<sup>3</sup>

Based on Bengkulu City Regulation No. 2/2015 in article 5, it explains the obligations and prohibitions on the keeping of livestock. However, there are still many animal breeders, especially for cattle, buffalo, goats and so on, who keep animals by releasing them in public gardens. This causes unrest in the community. The animals, if released, will enter other people's houses and damage the crops and gardens of the local community and wander on public roads.

When viewed from Islamic Shari'a universally that mankind that covers the place and time that aims to realize the benefit and reject all damage to humans, so Islam gives very high priority to the intellect to analyze the laws of shara', examine the development while still guided by the existing texts, so that Islamic law is elastic.<sup>4</sup>

According to the original law, every object on earth is lawful. However, if there is a Shar'i prohibition, it is haraam. Likewise, if it brings mudharat (harm), it is also forbidden. Mashlahah mursalah is the ultimate goal of the enactment of shara' law against mukallaf, while other sources of Islamic law are the means used to understand this goal. The conclusion is that the goal must take precedence over the means.<sup>5</sup>

Based on the researcher's observations, in Bengkulu City there are still many livestock roaming the roads and public places, animals that are not regulated by their owners and damage people's crops. Therefore, livestock owners do not comply with regulations on the maintenance and control of livestock.

## **METHOD**

The type of research applied in writing this thesis is normative legal research, which focuses on law as a prescriptive discipline, which only views law from the perspective of its regulatory norms. The approach used in this research is the statute approach, which is relevant to the research topic.

## **RESEARCH RESULTS**

### **Analysis of the Maintenance and Control of Livestock Animals According to Regional Regulation No. 2 of 2015 Bengkulu City**

The word effective comes from the English word effective which means successful or something that is done well. The scientific dictionary defines effectiveness as the accuracy of use, the results of use or supporting the goal.<sup>6</sup> Meanwhile, in estimation, effectiveness in the sense of achieving predetermined goals or objectives is a measurement where a target has been achieved in accordance with what has been planned. According to another opinion, effectiveness is a measure that states how far the target (quantity, quality and time) has been achieved by management, where the target has been determined in advance.

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<sup>3</sup> Sujamto, *Aspek-aspek Pengawasan di Indonesia*. (Jakarta: Ghalia Indonesia, 2001), h. 77

<sup>4</sup> T. M. Hasbi Al-Shiddiqi, *Filsafat Hukum Islam*, (Jakarta: Bulan Bintang, 1975), h. 94

<sup>5</sup> Lalu Supriadi, *Studi Biografi dan Pemikiran Usul Fikih Najm ad-Din At-Thufi*, (Yogyakarta:Suka-Press, 2013), h. 140

<sup>6</sup> Tani Handoko, *Strategi Organisasi*, Amara Books, (Yogyakarta, 2004,) h, 305- 318

One of the preventive measures taken by the Local Government of Bengkulu City to address the free roaming of livestock is the issuance of the Bengkulu Municipality Regional Regulation Number: 02/1-3/Huk/1974 concerning Prohibition of Releasing Animals as last amended by the Bengkulu Municipality Regional Regulation Number 04 of 1990 concerning Third Amendment to the Bengkulu Municipality Regional Regulation Number: 02/1-3/Huk/1974 in conjunction with Regional Regulation Number 05 of 1978 jo. Perda No. 019 of 1980 concerning the Prohibition of Releasing Animals.

However, the existence of these regulations has not been able to overcome the problems associated with the keeping of livestock in Bengkulu City. The existence of these regulations has not been effectively implemented as evidenced by the fact that there are still many farm animals roaming freely in public places that should be free from the presence of these animals. Therefore, the regulation needs to be adjusted to the existing conditions so that the expectations of the local government and the community for a safe and comfortable environment can be realized.

For this reason, Bengkulu City issued Regional Regulation No. 02/2015 on the Control of livestock maintenance, which clearly regulates the obligations and prohibitions for people who own livestock. Among other things, the obligations that must be carried out by breeders are regulated in Chapter III Article 4 concerning Maintenance which reads Every livestock owner must:

1. Every breeder must:
  - a. Keep and maintain their livestock properly;
  - b. Provide cages for livestock and keep them clean;
  - c. Grazing or tethering livestock in grazing areas during the day;
  - d. Stalling their livestock at night;
  - e. Giving special marks to livestock before 6 (six) months of age;
  - f. Report the number, sex, age and markings of livestock to the authorized official where the livestock are kept to obtain a certificate of livestock ownership;
  - g. Periodically check the health of their livestock with the animal health officer.
2. Cages as referred to in paragraph 1) huruf b which are built adjacent to residential areas must obtain the approval of the surrounding community and be known by the Head of Village (Lurah).
3. Exempted from the provisions of paragraph (1) letter e are livestock that for some reason cannot be marked.

In addition, there are prohibitions for livestock owners which are regulated in CHAPTER III Article 5 of Regional Regulation No. 02 of 2015 concerning the Control of the Maintenance of Four-legged Animals in Bengkulu City which reads:

1. Releasing or grazing livestock on agricultural land and/or plantation land belonging to other people.
2. Releasing or grazing livestock on house yards, government office yards, public parks, tourism sites, sports fields and other public facilities;
3. Releasing or allowing livestock to roam freely on the streets

In addition, in Chapter IV Article 10 of Bengkulu City Regional Regulation No. 02/2015 concerning the Control of Livestock Maintenance in Bengkulu City, it is explained that the owner of livestock arrested and detained as referred to in Article 10 is subject to arrest fees and maintenance fees, which reads:

1. Within 7 (days) days of the announcement, the farmer whose livestock is confiscated shall report to the Satpol PP by bringing proof of ownership of the livestock.
2. Within a maximum period of 7 (seven) days from the announcement, farmers must immediately redeem their livestock by first paying the redemption fee.

3. The redemption fee component as referred to in paragraph (2) includes the cost of capture and the cost of maintenance.
4. The amount of the redemption fee as referred to in paragraph (3) is as follows:
  - a. Capture fee for cattle, buffaloes, horses and the like amounting to Rp.250,000.00 (two hundred fifty thousand rupiah) per head.
  - b. Capture fee for goats, sheep, sheep and the like amounting to Rp.100,000.00 (one hundred thousand rupiah) per head.
  - c. Maintenance fee for cattle, buffaloes, horses and the like amounting to Rp.50,000.00 (fifty thousand rupiah) per head per day.
  - d. Maintenance fee for goats, sheep, sheep and the like amounting to Rp. 25,000.00 (twenty five thousand rupiah) per head per day.
5. Within a maximum period of 2 (two) days before the redemption period ends, the officer must notify the breeder in writing of the end of the redemption period.

But in reality, in Bengkulu City there are still many livestock roaming in public places, such as residential areas and roads. Bengkulu Deputy Mayor Dedy Wahyudi admitted that there are still many farm animals roaming in residential areas. The municipal government itself is in a dilemma to overcome this. He promised to deploy Satpol PP to conduct patrols.<sup>7</sup>

The rise of domestic animals such as cows, buffaloes and goats that roam on roads such as RE Martadinata Street, Pagar Dewa Village, Selebar District. This is very dangerous, especially for motorists. According to reports, several times motorists have experienced accidents because they were surprised that a cow or buffalo suddenly crossed the road. Residents also claimed to be restless and asked the government to immediately curb them. One local resident also revealed that livestock on the road startled motorists, causing accidents.

Bengkulu City Government through Satpol PP revealed that they have coordinated with the urban village and will write to animal owners. Satpol PP also requested that pets be confined, otherwise curbing will be carried out. Provisions of local regulation number 2 of 2015 concerning the control of livestock maintenance.<sup>8</sup>

Bengkulu City Regional Regulation No. 2 of 2015 concerning the control of livestock maintenance has contained in detail starting from the obligations of breeders to maintain their livestock to criminal sanctions for livestock that are still roaming in public places. Regional Regulation No. 2 of 2015 also states that if you find livestock roaming and not following a regulation, it can be confiscated by the implementer of the regulation, the confiscated livestock is handled properly by the implementer of the regulation and can be auctioned if within a certain time the breeder has not redeemed the livestock in accordance with the regulation. Farmers are penalized in the form of fines and maintenance costs while their livestock are confiscated. If the farmers do not fulfill their obligations, the livestock can be auctioned by the Government and subject to criminal sanctions.

However, arrest or control is not intended to auction or collect ransom from livestock owners, but to provide a deterrent effect so that no more animals roam the city of Bengkulu. Based on the description above, it can be seen that Bengkulu City Regional Regulation No. 02/2015 on the Control of Livestock Maintenance is arguably still not effective. Even with the existence of Regional Regulation No. 02 of 2015 which contains procedures for the maintenance and control of livestock and even sanctions are also contained there, there are still many

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<sup>7</sup>X, Pemkot Diminta Tegas, Tangkap Hewan Ternak Berkeliaran, <https://kabarrafflesia.com/2021/03/pemkot-diminta-tegas-tangkap-hewan-ternak-berkelian/>, diakses pada 19 November 2020.

<sup>8</sup> Radi, Hewan Ternak Turun Ke Jalan, Pemkot Tertibkan dan Surati Pemilik, Hewan Ternak Turun ke Jalan, Pemkot Tertibkan dan Surati Pemilik – Media Center (bengkulukota.go.id), diakses pada 19 November 2023.

livestock such as cows, buffaloes and goats that roam in public places such as roads and residential areas in various areas in Bengkulu City.

When viewed in terms of supervision of livestock order, it often experiences obstacles, it can be seen from the lack of routine raids that occur in the field such as regarding the maintenance and control of livestock, and the lack of public awareness in understanding the local regulation number 2 of 2015. Because of this, there are still many violations regarding the maintenance and control of livestock that have been regulated in the local regulation.

## DISCUSSION

### **Maintenance and Control of Livestock Animals According to Bengkulu City Regional Regulation No. 2 of 2015 Viewed from Maslahah Mursalah**

Islam has taught humans to pay more attention to the efforts or activities carried out. Islam has a demanding nature so that humans avoid things that are not justified by Allah SAW. In the demands of sharia, a Muslim is encouraged to seek and strive to achieve several goals. The purpose in question is an effort to meet the needs of life that are personal and group with the acquisition of property through halal means. One of them is the livestock business.

The presence of livestock in locations around the community is certainly very impactful for the continuity of the community's daily activities. Not a few people complain about the presence of this farm, such as the various disturbances caused to these livestock. Although these livestock can provide benefits from an economic or financial perspective, which can support and increase the regional economy. There are several conditions that must be met so that something is considered maslahah.

1. The first requirement is that something that is considered maslahah must be a real maslahah, which is something that will actually bring benefit or reject harm, while the maintenance of livestock can cause problems related to comfort, peace and health.
2. The second condition is that what is considered maslahah must be in the form of public interest and not private interest, while the maintenance of livestock in Bengkulu City tends to provide benefits for several parties and is not in the form of maslahah for the public interest or the public.
3. The third requirement is something that is considered maslahah that does not contradict the provisions that are firm in the Qur'an or Sunnah of the Prophet Muhammad SAW or contrary to ijma'.<sup>9</sup>

In this case al-khawarizmi explained that maslahah must maintain the purpose of shara' (in establishing the law) by avoiding damage from humans.<sup>10</sup> In this case, the benefit is contrary to the hadith and existing fiqh rules, so it can be concluded that the maintenance of livestock in Bengkulu City provides more harm than benefit for the people or society in general. The issuance of Bengkulu City Regional Regulation No. 2 of 2015 concerning the maintenance and control of livestock is in accordance with one of the legal bases of maslahah mursalah, namely Maslahah Hajiyat. Maslahah Hajiyat is a benefit that perfects the main benefit and also eliminates the difficulties faced by humans. This benefit is a legal provision that brings relief to human life.

Bengkulu City Regional Regulation No. 2 of 2015 concerning the maintenance and control of livestock is issued with the aim of not eliminating the difficulties faced by humans. Previously in this case, a person was encouraged to provide benefits to Allah SWT's creatures and avoid harm while in the world, as in the Hadith of the Prophet Muhammad SAW.

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<sup>9</sup> Satria Effendi, *Ushul Fiqih*, (Jakarta: Prenadamedia Group, 2005 ), h. 152

<sup>10</sup> Amir Syarifuddin, *Ushul Fiqih*, (Jakarta: Prenadamedia Group, 2008), h. 346

عَنْ أَبِي سَعِيدٍ سَعْدِ بْنِ مَالِكِ بْنِ سِنَانَِ الْخُدْرِيِّ رَضِيَ اللَّهُ عَنْهُ أَنَّ رَسُولَ اللَّهِ ﷺ قَالَ لَا ضَرَرَ وَلَا ضِرَارَ رَوَاهُ ابْنُ مَاجَةَ، وَالِدَّارَقُطْنِيُّ، وَعَبْدُ اللَّهِ بْنُ مَسْنَدًا، وَرَوَاهُ مَالِكٌ فِي الْمَوْطَأِ مُرْسَلًا، عَنْ عَمْرِو بْنِ يَحْيَى عَنْ أَبِيهِ وَلَهُ طَرُقٌ يَقْوَى بَعْضُهَا بَعْضًا

Meaning: “From Abu Sa’id Sa’d ibn Malik ibn Sinan al-Khudri (may Allah be pleased with him), the Messenger of Allah (peace be upon him) said: ‘There should be neither harm nor reciprocal harm. This hadith was narrated by Ibn Mājah, al-Dāraquthnī, and others through musnad chains, and it was also narrated by Imam Mālik in *al-Muwatta’* in a mursal form from ‘Amr ibn Yahyā from his father. The hadith has multiple chains of transmission that strengthen one another.”

From the above hadith, it can be seen that the Prophet Muhammad ordered fellow humans not to harm each other and harm each other in any case. According to the original law, every object on earth is lawful. However, if there is a Shar’i prohibition, it is haraam. Similarly, if it causes mudharat (harm), it is also forbidden. The harms associated with raising livestock in Bengkulu City include livestock that roam the roads, causing accidents for motorists, and livestock that wander into residential areas. Based on this, the Bengkulu City Government issued Bengkulu City Regional Regulation No. 2/2015 on the control and maintenance of livestock to overcome the losses caused by livestock.

The Bengkulu City Government issued Regional Regulation No. 2/2015 on the control of livestock maintenance in accordance with the principles of Maslahah Mursalah, namely with Maslahah Hajiyat. Maslahah Hajiyat is a benefit that perfects the main benefit and also eliminates the difficulties faced by humans. This benefit is a legal provision that brings relief to human life. The Regional Regulation was issued with the public interest in mind and to eliminate the difficulties faced by humans. With the existence of Regional Regulation No. 2 of 2015, it can reject the harm caused by livestock. In accordance with the objectives of Regional Regulation No. 2 of 2015, namely: 1) to protect the public from negative impacts caused by free-roaming farm animals; 2) to maintain the quality and quantity of farm animals as one of the community’s food sources; 3) to maintain public peace and order; and 4) to provide legal certainty in the implementation of livestock control.

## CONCLUSION

Bengkulu City Regional Regulation No. 02/2015 on the Control of Livestock Maintenance is arguably still ineffective. Despite the existence of Regional Regulation No. 02/2015 which contains procedures for the maintenance and control of livestock and even sanctions are also contained there, there are still many livestock such as cows, buffaloes and goats that roam in public places such as roads and residential areas in various areas in Bengkulu City.

The Bengkulu City Government issued Regional Regulation No. 2 of 2015 concerning the control of livestock maintenance in accordance with the principle of Maslahah Mursalah, namely, the Regional Regulation was issued with the public interest in mind and it is hoped that the existence of Regional Regulation No. 2 of 2015 can reject the harm caused by livestock. In accordance with the objectives of the Regional Regulation No. 2 of 2015, namely:

1) to protect the public from negative impacts caused by free-roaming livestock; 2) to maintain the quality and quantity of livestock as one of the community’s food sources; 3) to maintain public peace and order; and 4) to provide legal certainty in the implementation of livestock control in terms of maslahah objectives, then the regional regulation can preserve the soul and property (Hifdzun Nafs and Hifdzun Al-mal).

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