

Proportionality by Design: Digital Governance of Street Vending in Indonesian Cities

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Abstract

Across the Global South, cities are digitalising urban governance while millions of people continue to earn their living by vending in public space. This creates a recurring legal tension between the right to work and the public interest in orderly streets, which local governments often resolve through episodic clearance. This article asks whether digital governance instruments can make the regulation of street vending more lawful and proportionate. Using normative legal research with statutory, conceptual, and comparative approaches, it examines the Indonesian framework through a case study of Pekanbaru City Regional Regulation Number 13 of 2021 on Public Order and Public Tranquility and compares it with India's Street Vendors Act of 2014 and with Hungary's public space regime under European Union digital law. The analysis finds that the Indonesian regime is formally valid but prohibition-centred: the designation of lawful vending space is discretionary, national empowerment obligations are not operationalised, and the securing of vendors' goods rests only on a general power to secure evidence, without procedure, receipt, or time limits for return. These gaps make it difficult to verify the necessity and strict proportionality of enforcement. The article contributes the concept of *proportionality by design*, in which electronic registration, open geospatial zoning, electronically documented sanctions, digital objection channels, and digital empowerment translate the proportionality test into verifiable administrative practice, subject to personal data protection, anti-surveillance, and digital inclusion safeguards.



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INTRODUCTION

Informality remains the dominant mode of work in much of the world. The International Labour Organization estimates that around two billion people, more than 61 per cent of the world's employed population, work informally, with the share reaching 68.2 per cent in Asia and the Pacific.¹ Street vending is one of the most visible forms of this economy. It supplies affordable goods, absorbs labour that formal markets cannot employ, and sustains low-income

¹ International Labour Office, *Women and Men in the Informal Economy: A Statistical Picture*, 3rd ed. (Geneva: International Labour Office, 2018), <https://www.ilo.org/publications/women-and-men-informal-economy-statistical-picture-third-edition>.

households, yet it competes with pedestrians, traffic, and infrastructure for scarce urban space.² Bromley's global review shows that this ambivalence has produced recurring cycles of tolerance, eviction, and re-occupation in cities across the world,³ while recent studies demonstrate that street vending is internally diverse and cannot be governed by uniform prohibitions.⁴

A new dimension has been added to this old problem. Cities are increasingly governed through data, sensors, and digital platforms, a development often described as smart urbanism.⁵ The smart city agenda promises efficiency and transparency, but critical scholarship warns that it can also overlook informality and displace informal vendors,⁶ and that digital surveillance technologies may intensify the control of already marginalised groups.⁷ Whether digitalisation will deepen the exclusion of street vendors or make their regulation fairer is therefore an open legal question. It is also a question at the core of law in a digital civilisation: how public authority over shared urban space should be exercised, documented, and reviewed when the tools of administration become digital.

Indonesia illustrates this question well. Article 27(2) and Article 28D(2) of the 1945 Constitution guarantee the right to work and to a livelihood worthy of human dignity, while Article 28H(1) guarantees a good and healthy living environment and Article 28J(2) permits the limitation of rights by law for the sake of, among others, public order.⁸ National regulations require local governments to both arrange and empower street vendors (*pedagang kaki lima*/PKL),⁹ but in practice vendors are regulated mainly through local public order regulations enforced by the Civil Service Police Unit (*Satuan Polisi Pamong Praja*/Satpol PP).¹⁰ At the same time, Indonesian cities are adopting electronic government and smart city policies.¹¹ This

² Ray Bromley, "Street Vending and Public Policy: A Global Review," *International Journal of Sociology and Social Policy* 20, no. 1/2 (2000): 1–28, <https://doi.org/10.1108/01443330010789052>; Sally Roever and Caroline Skinner, "Street Vendors and Cities," *Environment and Urbanization* 28, no. 2 (2016): 359–74, <https://doi.org/10.1177/0956247816653898>.

³ Bromley, "Street Vending and Public Policy."

⁴ Lina Martínez and John Rennie Short, "The Informal City: Exploring the Variety of the Street Vending Economy," *Sustainability* 14, no. 12 (2022): 7213, <https://doi.org/10.3390/su14127213>.

⁵ Rob Kitchin, "The Real-Time City? Big Data and Smart Urbanism," *GeoJournal* 79 (2014): 1–14, <https://doi.org/10.1007/s10708-013-9516-8>.

⁶ Deepti Prasad, Tooran Alizadeh, and Robyn Dowling, "Smart City Planning and the Challenges of Informality in India," *Dialogues in Human Geography* 14, no. 3 (2024): 385–402, <https://doi.org/10.1177/20438206231156655>.

⁷ Pat O'Malley and Gavin J. D. Smith, "'Smart' Crime Prevention? Digitization and Racialized Crime Control in a Smart City," *Theoretical Criminology* 26, no. 1 (2022): 40–56, <https://doi.org/10.1177/1362480620972703>.

⁸ *Undang-Undang Dasar Negara Republik Indonesia Tahun 1945* [1945 Constitution of the Republic of Indonesia], arts. 27(2), 28D(2), 28H(1), and 28J(2).

⁹ Peraturan Presiden Nomor 125 Tahun 2012 tentang Koordinasi Penataan dan Pemberdayaan Pedagang Kaki Lima; Peraturan Menteri Dalam Negeri Nomor 41 Tahun 2012 tentang Pedoman Penataan dan Pemberdayaan Pedagang Kaki Lima.

¹⁰ Allan Fatchan Gani Wardhana, Retno Widiastuti, and Yuniar Riza Hakiki, "The Complexity of Fulfilling the Constitutional Rights of Street Vendors by Local Governments in Indonesia," *As-Siyasi: Journal of Constitutional Law* 5, no. 2 (2025): 431–46, <https://doi.org/10.24042/as-siyasi.v5i2.27891>; Getta Ario et al., "Akuntabilitas Hukum dan Batas Legalitas Tindakan Satpol PP dalam Penegakan Peraturan Daerah," *Jurnal Ilmu Hukum, Humaniora dan Politik* 6, no. 3 (2026): 2320–34, <https://doi.org/10.38035/jihhp.v6i3.7939>.

¹¹ Peraturan Presiden Nomor 95 Tahun 2018 tentang Sistem Pemerintahan Berbasis Elektronik; Hananta Aldhanny Wibisono, Reza Octavia Kusumaningtyas, and Helmi Ayuradi Miharja, "E-Government and Artificial Intelligence in Electronic Administration: A Normative Legal Analysis of Modern Government Digitalization," *Journal of Law and Digital Civilization* 1, no. 1 (2026): 1–17, <https://doi.org/10.66277/jldc.v1i1.20>.

article uses Pekanbaru, the capital of Riau Province, as a representative case. Pekanbaru combines a large informal sector,¹² a recently enacted public order regulation, Regional Regulation Number 13 of 2021 on Public Order and Public Tranquility (hereinafter Perda 13/2021),¹³ and a formal smart city masterplan,¹⁴ making it a suitable setting in which to examine how digital governance can interact with the regulation of street vending.

Existing scholarship can be grouped into three strands. The first consists of implementation studies, which find that the enforcement of Perda 13/2021 remains suboptimal because of limited personnel and low vendor awareness,¹⁵ and which document an enforcement routine of verbal notices, warning letters, and the securing of vendors' goods;¹⁶ comparable findings have been reported for Temanggung and Bengkayang.¹⁷ The second strand is constitutional and administrative-law scholarship, which highlights the multisectoral complexity of fulfilling vendors' constitutional rights,¹⁸ the limits of administrative discretion,¹⁹ and the absence of a structured proportionality test in Indonesian constitutional adjudication.²⁰ The third strand is international and examines inclusive governance, relocation, and digitalisation, showing that evictions and confiscations erode vendors' income and assets,²¹ that relocation without participation tends to fail,²² that vendors generate their own rules for

¹² Marliati, "Factors Influencing on Entrepreneurial Behavior of Street Vendors (A Case in Pekanbaru City, Riau Province)," *AGRARI: Journal of Agribusiness and Rural Development Research* 6, no. 2 (2020): 136–53, <https://doi.org/10.18196/agr.6296>; Henni Indrayani and Harkaneri, "Pengembangan dan Pemberdayaan Sektor Informal di Kota Pekanbaru," *Jurnal Al-Iqtishad* 12, no. 2 (2016): 88–99, <https://doi.org/10.24014/jiq.v12i2.4447>.

¹³ Peraturan Daerah Kota Pekanbaru Nomor 13 Tahun 2021 tentang Ketertiban Umum dan Ketentraman Masyarakat (Lembaran Daerah Kota Pekanbaru Tahun 2021 Nomor 13, Tambahan Lembaran Daerah Kota Pekanbaru Nomor 13).

¹⁴ Peraturan Wali Kota Pekanbaru Nomor 56 Tahun 2019 tentang Masterplan Pekanbaru Smart City.

¹⁵ Saniati Sukria and Nur Laila Meilani, "Implementasi Peraturan Daerah Kota Pekanbaru Nomor 13 Tahun 2021 tentang Ketertiban Umum dan Ketentraman Masyarakat (Studi Kasus Pedagang Kaki Lima di Kawasan Depan Universitas Riau)," *Nusantara: Jurnal Ilmu Pengetahuan Sosial* 13, no. 7 (2026): 1927–37, <https://doi.org/10.31604/jips.v13i7.2026.1927-1937>.

¹⁶ Faza Arimi, Rudiadi, and Hellen Last Fitriani, "Peran Satuan Polisi Pamong Praja Kota Pekanbaru dalam Menertibkan Penggunaan Fasilitas Umum oleh Pedagang Kaki Lima Berdasarkan Peraturan Daerah Kota Pekanbaru Nomor 13 Tahun 2021 tentang Ketertiban Umum dan Ketentraman Masyarakat," *Journal of Sharia and Law* 4, no. 4 (2025): 1–18, <https://jom.uin-suska.ac.id/index.php/jurnalfsh/article/view/4913>.

¹⁷ Fasa Fariza Tama, Dyah Adriantini Sintha Dewi, and Habib Muhsin Syafingi, "Law Enforcement of Street Vendors by the Civil Service Police Unit," *Varia Justicia* 15, no. 1 (2019): 18–25, <https://doi.org/10.31603/variajusticia.v15i1.2469>; Sabinus Beni, "Penertiban Pedagang Kaki Lima di Pasar Bengkayang," *Jurnal Ilmiah Wahana Bhakti Praja* 12, no. 1 (2022): 44–53, <https://doi.org/10.33701/jiwbp.v12i1.2333>.

¹⁸ Wardhana, Widiastuti, and Hakiki, "The Complexity of Fulfilling the Constitutional Rights."

¹⁹ Muklis Al'anam, Lolita Fitriyana, and Luthfillah Arrizqi Zainsyah, "Unlawful Acts of Governance: Characteristics and Limits of Discretion," *Indonesian Journal of Administrative Law and Local Government* 2, no. 2 (2025): 78–90, <https://doi.org/10.26740/ijalgov.v2i2.45781>.

²⁰ Eko Riyadi et al., "Ungerminated Seed: Proportionality Test in the Indonesian Constitutional Court," *Padjadjaran Jurnal Ilmu Hukum* 12, no. 2 (2025), <https://doi.org/10.22304/2442-9325.1339>; M. D. Taqwa, "Tracing the Proportionality in Article 28J(2) UUD NRI Tahun 1945," *Jurnal Konstitusi* 22, no. 3 (2025): 483–507, <https://doi.org/10.31078/jk2234>.

²¹ Roevert and Skinner, "Street Vendors and Cities."

²² L. Kardanardi and M. Syahdani, "Challenging the Philosophical Axis Enactment in the Sustainability of Malioboro Street Vendors' Relocation," *IKAT: The Indonesian Journal of Southeast Asian Studies* 6, no. 2 (2023): 133–49, <https://doi.org/10.22146/ikat.v6i2.86714>; Kurniadi and Syaifei Ibrahim, "Street Vendor Governance in the Dimensions of Democracy, Collaboration, and Trust," *SAGE Open* 13, no. 4 (2023), <https://doi.org/10.1177/21582440231216178>.

allocating public space,²³ and that digital payment adoption among vendors brings opportunities but also new inequalities.²⁴

Two gaps emerge. First, the Indonesian literature has not systematically tested local street vendor regulation against a structured proportionality test or against the empowerment obligations imposed by national law. Second, the international literature on smart cities and informality has not examined how digital instruments could be designed, as a matter of law, to discipline enforcement rather than merely intensify it. This article addresses both gaps and contributes the concept of *proportionality by design*: the idea that digital administrative instruments can be legally designed so that each limb of the proportionality test, particularly necessity and strict proportionality, becomes documented, verifiable, and reviewable in everyday enforcement.

Accordingly, the article addresses three questions: (1) how does the Indonesian legal framework, as exemplified by Perda 13/2021, regulate street vending, and is it consistent with higher-level legislation? (2) to what extent is its enforcement consistent with the principle of proportionality and human rights standards? and (3) what digital governance model can make the regulation of street vending lawful and proportionate for Indonesian local governments, drawing on Pekanbaru as a case and India and Hungary as comparators? The findings are relevant beyond Pekanbaru, since many Indonesian and Global South cities combine prohibition-centred public order regulation with emerging smart city programmes.

RESEARCH METHODS

This study employs normative legal research using statutory, conceptual, and comparative approaches.²⁵ The statutory approach examines Perda 13/2021 against the 1945 Constitution, Law Number 12 of 2011, Law Number 23 of 2014, Law Number 30 of 2014, Presidential Regulation Number 125 of 2012, Minister of Home Affairs Regulation Number 41 of 2012, and the legal framework of electronic government and personal data protection. The conceptual approach draws on proportionality doctrine, the general principles of good governance (*asas-asas umum pemerintahan yang baik/AUPB*), and Soekanto's theory of the factors affecting law enforcement.

The comparative approach uses India's Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act of 2014 as a comparator. India was chosen because it is a large Global South democracy with a comparable informal economy and because its statute is one of the few national laws that expressly recognises street vending as a livelihood and

²³ A. M. Vargas Falla and S. Valencia, "Beyond State Regulation of Informality: Understanding Access to Public Space by Street Vendors in Bogotá," *International Development Planning Review* 41, no. 1 (2019): 85–105, <https://doi.org/10.3828/idpr.2019.3>.

²⁴ Ikhlaz Ul Rehman Mir and M. Ibrahim Wani, "Street Vendors Using Smartphones for Digital Payments: A Qualitative Study of Digital Opportunities and Inequalities from Kashmir Region in India," *Journal of Asian and African Studies* 60, no. 4 (2025): 2490–2504, <https://doi.org/10.1177/00219096231218437>; S. Ramesh, A. Haldar, and M. Kamat, "Bridging the Digital Divide at the Bottom of the Pyramid: UTAUT Insights into Payment Technology Adoption by Street Vendors," *Qualitative Research in Financial Markets* (2025), <https://doi.org/10.1108/QRFM-10-2024-0288>.

²⁵ Peter Mahmud Marzuki, *Penelitian Hukum*, rev. ed. (Jakarta: Kencana, 2017).

regulates registration, zoning, eviction, seizure of goods, and grievance redress.²⁶ Hungary was chosen as a second comparator because, as a European Union member state, it combines a codified necessity-proportionality test and binding EU rules on data protection and artificial intelligence with a contested record of excluding vulnerable groups from public space, which makes it a demanding test of whether proportionality works in practice.²⁷ The comparison is functional: it asks how each system addresses the same regulatory problems rather than whether either model can be transplanted wholesale.

Primary legal materials consist of legislation, regulations, and international instruments; the text of Perda 13/2021 is cited from the official promulgated copy (Lembaran Daerah Kota Pekanbaru Tahun 2021 Nomor 13). Secondary materials consist of books and peer-reviewed journal articles. Because the study does not collect field data, statements on enforcement practice in Pekanbaru are drawn from published empirical studies,²⁸ which serve as the minor premise of the legal analysis. The materials are analysed qualitatively and prescriptively through legal syllogism, and the results are used to formulate a normative proposal (*ius constituendum*).

ANALYSIS AND DISCUSSION

Regulating the Sidewalk: The Normative Design of Perda 13/2021

1. Prohibition and the Designation of Vending Locations

Perda 13/2021 is a general public order regulation rather than a dedicated street vendor regulation. It defines street vendors as persons conducting trade or services in regional infrastructure or public facilities, “whether licensed by the regional government or not”, thereby acknowledging that lawful, licensed vending exists.²⁹ Article 11(1) provides: “*Setiap orang dilarang menggunakan prasarana dan/atau fasilitas umum untuk berjualan dan/atau menjalankan kegiatan selain untuk pemanfaatan sesuai dengan fungsinya*” (every person is prohibited from using infrastructure and/or public facilities for selling and/or conducting activities other than for their intended function). Article 11(2) lists the protected facilities: road bodies, sidewalks, drainage and irrigation channels, green belts, parks, urban forests, squares, the areas under bridges, and pedestrian overpasses. Article 11(3) and (4) provide that the Mayor *may* designate parts of roads, sidewalks, and other facilities, including on protocol roads, as vending locations, while Article 12 makes vendors using such locations responsible for order and cleanliness and delegates the procedure for designation to a Mayor Regulation.³⁰ Article 20 complements this regime by prohibiting the placement of goods for business and the peddling of goods on roads, at the edges of mass transport facilities, in green belts, parks, and other public places, except in places permitted by an official appointed by, or designated by, the Mayor.³¹

²⁶ Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 (India), Act No. 7 of 2014; Roeber and Skinner, “Street Vendors and Cities.”

²⁷ Magyarország Alaptörvénye [The Fundamental Law of Hungary] (2011), art. I(3); Zsuzsanna Kunos, “Punitive Populism in Practice: The Criminalisation of Homelessness in Hungary,” *European Journal of Homelessness* 19, no. 1 (2025): 121–45, https://www.feantsa.org/files/Observatory/Journals/Volume-19/EJH_19-1_A05.pdf.

²⁸ Sukria and Meilani, “Implementasi Peraturan Daerah Kota Pekanbaru Nomor 13 Tahun 2021”; Arimi, Rudiadi, and Fitriani, “Peran Satuan Polisi Pamong Praja Kota Pekanbaru.”

²⁹ Perda Kota Pekanbaru No. 13 Tahun 2021, art. 1(17).

³⁰ Perda Kota Pekanbaru No. 13 Tahun 2021, arts. 11–12.

³¹ Perda Kota Pekanbaru No. 13 Tahun 2021, art. 20.

The prohibition is consistent with Law Number 22 of 2009, which entitles pedestrians to sidewalks and other supporting facilities.³²

The critical issue lies in Article 11(3) and (4). The designation of vending locations is framed as a discretionary power (*dapat*) without criteria, procedure, or time frame. By contrast, Presidential Regulation Number 125 of 2012 and Minister of Home Affairs Regulation Number 41 of 2012 frame street vendor policy as a twin obligation of arrangement (*penataan*), which includes data collection, registration, the designation of locations, and relocation, and empowerment (*pemberdayaan*), which includes capacity building, facilitation of access to capital, and the provision of facilities.³³ Tellingly, the legal basis (*mengingat*) of Perda 13/2021 refers to Minister of Home Affairs Regulation Number 26 of 2020 on public order but to neither of these street vendor regulations.³⁴ When the designation of lawful vending space is optional while the prohibition is absolute, the regulation produces a structural asymmetry: vendors are told where they may not trade but are not assured of where they may. This asymmetry is precisely what perpetuates the cycle of eviction and re-occupation observed internationally.³⁵

2. The Administrative Sanction Regime and Ultimatum Remedium

Article 46(1) of Perda 13/2021 attaches administrative sanctions to violations of Articles 7 to 41, including Articles 11 and 20, in eight forms: verbal warnings, written warnings, temporary cessation of activities, permanent cessation of activities, temporary revocation of permits, permanent revocation of permits, administrative fines, and demolition. Article 46(2) grades the fines into minor (IDR 50,000–250,000), moderate (IDR 300,000–750,000), and serious violations (IDR 1,000,000–5,000,000), and Article 46(3) delegates the procedure and classification to a Mayor Regulation.³⁶ The list is graduated, which in principle reflects the AUPB principles of care (*kecermatan*) and non-abuse of authority (*tidak menyalahgunakan kewenangan*),³⁷ as well as the regulation's own principles of humanity, justice, balance, and openness.³⁸

The securing or confiscation of goods, however, is not among the sanctions in Article 46. The only related power is Article 44(5), which authorises Satpol PP, in carrying out enforcement, to secure evidence (*pengamanan alat bukti*); the broader power to seize evidence under Article 45(2) belongs to civil servant investigators (PPNS) and applies only to criminal investigations.³⁹ Yet the enforcement practice documented in Pekanbaru goes further: carts, tents, and tables are secured, returned only after the vendor signs a statement, and withheld upon repeated violation.⁴⁰ Securing evidence is a procedural measure to preserve proof, not a sanction. When goods are withheld to compel compliance or retained permanently, the

³² Undang-Undang Nomor 22 Tahun 2009 tentang Lalu Lintas dan Angkutan Jalan, art. 131(1).

³³ Perpres No. 125 Tahun 2012; Permendagri No. 41 Tahun 2012.

³⁴ Perda Kota Pekanbaru No. 13 Tahun 2021, preamble (*Mengingat*); Peraturan Menteri Dalam Negeri Nomor 26 Tahun 2020 tentang Penyelenggaraan Ketertiban Umum dan Ketenteraman Masyarakat serta Pelindungan Masyarakat (Berita Negara Republik Indonesia Tahun 2020 Nomor 548).

³⁵ Bromley, "Street Vending and Public Policy"; Roevers and Skinner, "Street Vendors and Cities."

³⁶ Perda Kota Pekanbaru No. 13 Tahun 2021, art. 46.

³⁷ Undang-Undang Nomor 30 Tahun 2014 tentang Administrasi Pemerintahan, arts. 9 and 10(1).

³⁸ Perda Kota Pekanbaru No. 13 Tahun 2021, art. 2.

³⁹ Perda Kota Pekanbaru No. 13 Tahun 2021, arts. 44(5) and 45(2).

⁴⁰ Arimi, Rudiadi, and Fitriani, "Peran Satuan Polisi Pamong Praja Kota Pekanbaru."

measure functions as a de facto sanction that Article 46 does not provide, and Article 44(5) supplies no procedure, receipt, or time limit for return. Because every governmental action must rest on statutory authority and the AUPB,⁴¹ such a practice is vulnerable to challenge as an unlawful factual action of government, which since Supreme Court Regulation Number 2 of 2019 falls within the jurisdiction of the Administrative Court.⁴²

The concept of *ultimum remedium* concerns the relationship between administrative and criminal sanctions. Law Number 23 of 2014 permits regional regulations to impose criminal sanctions of up to six months' imprisonment or a fine of up to IDR 50 million.⁴³ Perda 13/2021 uses this power sparingly: Article 47(1) penalises violations of Articles 7, 14, 16, 34, 40, and 41 with imprisonment of up to three months or a fine of up to IDR 25 million, classifies them as minor offences (*tindak pidana pelanggaran*), and Article 47(3) provides that criminal sanctions may be imposed only after administrative sanctions have been pursued.⁴⁴ The regulation thus codifies *ultimum remedium* expressly. Notably, Articles 11 and 20, the core vending provisions, are not criminalised, so vending in a prohibited place is in principle an administrative violation only. Vendors may nonetheless be drawn into the criminal regime through overlapping provisions, such as placing objects that obstruct roads or on road edges without the Mayor's permit (Article 7) or misusing or altering the function of green belts, parks, and public places (Article 14(c)).⁴⁵ This overlap creates uncertainty as to which regime applies to the same conduct. The more pressing problem in practice, however, is not the use of criminal law but the use of coercive administrative measures without verifiable proof that the earlier, less restrictive stages were completed.

3. Vertical Consistency and the Relationship with Perda 11/2001

Formally, Perda 13/2021 falls within the hierarchy of legislation under Article 7(1) of Law Number 12 of 2011 and regulates a matter within regional competence.⁴⁶ Satpol PP is the competent authority, since Law Number 23 of 2014 establishes it to enforce regional regulations and maintain public order and tranquility.⁴⁷ Substantively, however, vertical consistency must also be assessed against the regulations specifically governing street vendors.

This assessment must also account for Pekanbaru Regional Regulation Number 11 of 2001 on the Arrangement and Guidance of Street Vendors, which entrusts the Mayor with determining vendor business locations, requires a permit for their use, and gives priority to

⁴¹ UU No. 30 Tahun 2014, art. 9(1); Al'anam, Fitriyana, and Zainsyah, "Unlawful Acts of Governance."

⁴² Peraturan Mahkamah Agung Nomor 2 Tahun 2019 tentang Pedoman Penyelesaian Sengketa Tindakan Pemerintahan dan Kewenangan Mengadili Perbuatan Melanggar Hukum oleh Badan dan/atau Pejabat Pemerintahan (*Onrechtmatige Overheidsdaad*); A. Jerenimo and S. Mutmainah, "Implikasi Yuridis mengenai Kebijakan Perluasan Kompetensi PTUN dalam Pengujian Tindakan Faktual," *Semarang Law Review* 6, no. 1 (2025): 223–36, <https://doi.org/10.26623/slr.v6i1.11905>.

⁴³ Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah, sebagaimana telah beberapa kali diubah, art. 238(2).

⁴⁴ Perda Kota Pekanbaru No. 13 Tahun 2021, art. 47.

⁴⁵ Perda Kota Pekanbaru No. 13 Tahun 2021, arts. 7 and 14.

⁴⁶ Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-undangan, sebagaimana terakhir diubah dengan Undang-Undang Nomor 13 Tahun 2022, arts. 7(1) and 14.

⁴⁷ UU No. 23 Tahun 2014, art. 255(1); Peraturan Pemerintah Nomor 16 Tahun 2018 tentang Satuan Polisi Pamong Praja.

vendors already operating in public places.⁴⁸ Perda 13/2021 does not revoke it: its closing provision revokes only Regional Regulation Number 5 of 2002 on Public Order,⁴⁹ and the 2001 regulation is still listed as in force in public legal databases. Under the maxim *lex posterior generalis non derogat legi priori speciali*, Perda 11/2001 therefore continues to govern the designation of vending locations and vending permits as *lex specialis*, while Perda 13/2021 governs public order generally. This reading is supported by Article 1(17) of Perda 13/2021, which expressly recognises licensed vendors. It has two consequences. First, the discretionary formulation of Article 11(3) must be read together with the location and permit system of Perda 11/2001, so that enforcement against vendors holding a valid permit would be unlawful. Second, the coexistence of two regulations without an express coordinating provision undermines legal certainty, and neither instrument implements the empowerment framework of Presidential Regulation Number 125 of 2012 or provides for digital registration and data governance. Table 1 maps the key elements of the framework against higher-level norms.

Table 1: Mapping of the Street Vendor Framework in Perda 13/2021 against Higher-Level Norms

No	Normative element	Legal basis	Identified gap	Proposed digital instrument	Instrument to amend
1	Prohibition of trading in public facilities	Perda 13/2021 arts. 11(1)–(2), 20, 46; UU 22/2009 art. 131(1)	Absolute prohibition with no guaranteed alternative space	Open geospatial map of prohibited and permitted zones	Perwako implementing art. 11(3)
2	Designation of vending locations	Perda 13/2021 arts. 11(3)–(4), 12(2); Perda 11/2001; Perpres 125/2012	Discretionary (“may”); procedure delegated to a Perwako; overlaps with Perda 11/2001	Electronic location allocation linked to registration data	Perda 13/2021 (amend art. 11(3))
3	Registration of vendors	Perpres 125/2012; Permendagri 41/2012; Perpres 39/2019	Not operationalised; national PKL rules not cited in the Perda’s legal basis	Electronic vendor registry integrated with SPBE and Satu Data	Perwako on vendor registration
4	Graduated administrative sanctions	Perda 13/2021 arts. 44(5), 46, 47; UU 30/2014 arts. 9–10	Securing of goods only as “securing evidence”, without procedure or return period	Electronic warning letters and enforcement records	Perda 13/2021 (new article on securing of goods)
5	Objection and review	UU 30/2014 arts. 75–78; Perma 2/2019	No accessible objection channel for vendors	Electronic objection channel with time limits	Perwako; Satpol PP SOP
6	Empowerment	Perpres 125/2012; Permendagri 41/2012	Weakly integrated with enforcement	QRIS, digital marketplaces, digital literacy	Perwako on empowerment

Source: Analysed from the primary legal materials.

⁴⁸ Peraturan Daerah Kota Pekanbaru Nomor 11 Tahun 2001 tentang Penataan dan Pembinaan Pedagang Kaki Lima, arts. 2, 4, and 10.

⁴⁹ Perda Kota Pekanbaru No. 13 Tahun 2021, art. 48.

Enforcement, Proportionality, and Human Rights

1. Factors Affecting Enforcement

Soekanto identifies five factors that determine the effectiveness of law enforcement: the law itself, law enforcement officers, facilities, the community, and legal culture.⁵⁰ Applied to Perda 13/2021, the *legal factor* is the structural asymmetry between an absolute prohibition and a merely discretionary designation of vending locations. The *officer factor* concerns Satpol PP's limited personnel,⁵¹ which confines enforcement to periodic patrols and episodic operations,⁵² a pattern also reported in Temanggung, where staff shortages, the absence of designated locations, and weak inter-agency coordination left enforcement ineffective.⁵³ The *facilities factor* concerns the shortage of suitable relocation sites; studies from other Indonesian cities show that vendors return to prohibited locations when relocation sites are inaccessible or commercially unviable.⁵⁴ The *community factor* concerns low vendor awareness of the rules,⁵⁵ together with economic pressure that makes strategic public locations the most rational choice for subsistence.⁵⁶ As to *legal culture*, studies from Bandung and Bogotá observe a gap in trust between authorities and vendors and a tendency to treat enforcement as clearance;⁵⁷ whether the same pattern holds in Pekanbaru requires empirical confirmation, but the documented reliance on the securing of goods suggests a comparable orientation.⁵⁸

2. Testing Enforcement against the Proportionality Principle

Proportionality is a structured test for evaluating limitations of rights. It asks whether a measure (i) pursues a legitimate aim, (ii) is suitable for achieving that aim, (iii) is necessary, in that no less restrictive measure would be equally effective, and (iv) is proportionate in the strict sense, balancing the public benefit against the harm to the right affected.⁵⁹ In Indonesia, the textual anchor for this test is Article 28J(2) of the 1945 Constitution, which permits limitations based on "just requirements". Scholarship has argued that the provision can be read as a

⁵⁰ Soerjono Soekanto, *Faktor-Faktor yang Mempengaruhi Penegakan Hukum* (Jakarta: RajaGrafindo Persada, 2008).

⁵¹ Sukria and Meilani, "Implementasi Peraturan Daerah Kota Pekanbaru Nomor 13 Tahun 2021."

⁵² Arimi, Rudiadi, and Fitriani, "Peran Satuan Polisi Pamong Praja Kota Pekanbaru."

⁵³ Fariza Tama, Dewi, and Syafingi, "Law Enforcement of Street Vendors."

⁵⁴ Kristia Liendika Arruan Minanga Demas and Ajeng Nugrahaning Dewanti, "Analisis Faktor-Faktor yang Berpengaruh dalam Pemilihan Lokasi Relokasi Pedagang Kaki Lima di Kawasan Pasar Pagi, Kota Samarinda," *Ruang* 7, no. 2 (2021): 96–104, <https://doi.org/10.14710/ruang.7.2.96-104>; Kardanardi and Syahdani, "Challenging the Philosophical Axis Enactment"; Eko Handoyo and Nur Ranika Widyaningrum, "Relocation as Empowerment: Response, Welfare, and Life Quality of Street Vendors after Relocation," *Komunitas* 7, no. 1 (2015): 30–42, <https://doi.org/10.15294/komunitas.v7i1.3428>.

⁵⁵ Sukria and Meilani, "Implementasi Peraturan Daerah Kota Pekanbaru Nomor 13 Tahun 2021"; Juniawan Hanif Nugraha, "Upaya Penegakan Hukum melalui Penguatan Kesadaran Hukum PKL dalam Rangka Menciptakan Tertib Penataan PKL," *Jurnal Hukum dan Pembangunan Ekonomi* 10, no. 2 (2022): 338–51, <https://doi.org/10.20961/hpe.v10i2.62849>.

⁵⁶ Marliati, "Factors Influencing on Entrepreneurial Behavior"; Indrayani and Harkaneri, "Pengembangan dan Pemberdayaan Sektor Informal."

⁵⁷ Kurniadi and Ibrahim, "Street Vendor Governance"; Vargas Falla and Valencia, "Beyond State Regulation of Informality."

⁵⁸ Arimi, Rudiadi, and Fitriani, "Peran Satuan Polisi Pamong Praja Kota Pekanbaru."

⁵⁹ Aharon Barak, *Proportionality: Constitutional Rights and Their Limitations* (Cambridge: Cambridge University Press, 2012), <https://doi.org/10.1017/CBO9781139035293>; Robert Alexy, *A Theory of Constitutional Rights*, trans. Julian Rivers (Oxford: Oxford University Press, 2002).

proportionality clause,⁶⁰ but recent studies show that the Constitutional Court has applied balancing only sporadically and has not developed a consistent, multi-step proportionality test.⁶¹ This makes the administrative level more, not less, important. Under Law Number 30 of 2014, proportionality operates through the AUPB, particularly the principles of care, non-abuse of authority, and public interest,⁶² and factual enforcement actions can be reviewed by the Administrative Court.⁶³

Applied to the enforcement of Perda 13/2021, the first two limbs are generally satisfied: maintaining pedestrian access and public order is a legitimate aim, and removing vendors from sidewalks is suitable for that aim. The difficulty lies in the third and fourth limbs. Necessity requires the authority to show that less restrictive measures, such as warnings, mediation, or relocation offers, were attempted before coercive measures. The documented procedure in Pekanbaru does include verbal notices and up to three warning letters,⁶⁴ but there is no publicly verifiable record that each stage was completed before goods were secured. Strict proportionality requires weighing the public benefit against the impact on the vendor's livelihood. Where goods, which constitute most of a vendor's working capital, are withheld, the harm to the right to work may be disproportionate, particularly when no lawful alternative location has been designated.⁶⁵ The proportionality deficit is therefore less a matter of the regulation's text than of the absence of guaranteed alternatives and verifiable documentation.

3. The Human Rights Dimension

Indonesia has ratified the International Covenant on Economic, Social and Cultural Rights, which recognises the right to work and the right to an adequate standard of living.⁶⁶ The Committee on Economic, Social and Cultural Rights, in General Comment No. 7, sets procedural safeguards for evictions, including genuine consultation, adequate and reasonable notice, the presence of officials, and access to legal remedies.⁶⁷ Although formulated for housing, these safeguards offer guidance by analogy for the removal of vendors from their places of livelihood. More specifically, ILO Recommendation No. 204 on the Transition from the Informal to the Formal Economy calls on states to adopt integrated policy frameworks that include local development strategies with "regulated access for use of public space".⁶⁸ The Recommendation reframes vendor regulation from a question of clearance to one of regulated access. Indonesian

⁶⁰ Giri Ahmad Taufik, "Proportionality Test in the 1945 Constitution: Limiting Hizbut Tahrir Freedom of Assembly," *Constitutional Review* 4, no. 1 (2018): 45–79, <https://doi.org/10.31078/consrev413>.

⁶¹ Riyadi et al., "Ungerminated Seed"; Taqwa, "Tracing the Proportionality."

⁶² UU No. 30 Tahun 2014, art. 10(1).

⁶³ Perma No. 2 Tahun 2019; A. Putrijanti, L. T. Leonard, and K. W. Utama, "Model Fungsi Pengawasan oleh Pengadilan Tata Usaha Negara sebagai Upaya Menuju Tata Kelola Pemerintahan yang Baik," *Mimbar Hukum* 29, no. 2 (2017): 263–75, <https://doi.org/10.22146/jmh.22627>.

⁶⁴ Arimi, Rudiadi, and Fitriani, "Peran Satuan Polisi Pamong Praja Kota Pekanbaru."

⁶⁵ Roever and Skinner, "Street Vendors and Cities."

⁶⁶ Undang-Undang Nomor 11 Tahun 2005 tentang Pengesahan *International Covenant on Economic, Social and Cultural Rights*.

⁶⁷ Committee on Economic, Social and Cultural Rights, *General Comment No. 7: The Right to Adequate Housing (Art. 11.1): Forced Evictions*, UN Doc. E/1998/22, annex IV (1997).

⁶⁸ International Labour Organization, *Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204)*, paras. 10 and 11(o).

scholarship similarly emphasises human rights safeguards before, during, and after evictions,⁶⁹ and the state's obligation to protect and guide vendors rather than merely remove them.⁷⁰

Comparative Lessons from India and Hungary

1. India: Statutory Recognition of the Right to Vend

India's Street Vendors Act of 2014 offers a useful comparator because it converts many of the safeguards discussed above into binding statutory procedure. Town Vending Committees must survey vendors at least once every five years, and no vendor may be evicted or relocated before the survey is completed and certificates of vending are issued.⁷¹ At least 40 per cent of committee members must be elected vendor representatives, one-third of whom must be women.⁷² Relocation or eviction requires thirty days' notice; where goods are seized, a list must be prepared and a signed copy given to the vendor, and goods must be released on the same day if perishable and within two working days otherwise.⁷³ Disputes are resolved by committees chaired by a judicial officer, and vendors acting within the terms of their certificates are protected from harassment.⁷⁴

2. Hungary and the European Union: Codified Proportionality and Digital Safeguards

Hungary offers a contrasting comparator. Article I(3) of its Fundamental Law codifies the necessity-proportionality test developed by the Constitutional Court: a fundamental right may be restricted only to allow the effective use of another fundamental right or to protect a constitutional value, "to the extent absolutely necessary, proportionate to the objective pursued and with full respect for the essential content of that fundamental right".⁷⁵ The use of public space for trade is regulated by municipal decrees, which local governments adopt on the basis of their constitutional decree-making power and their statutory tasks under the Local Government Act; Budapest's districts regulate the public spaces they own.⁷⁶ Decrees from a Budapest district and from a smaller town follow the same pattern. Both require a public space use permit (*közterület-használati hozzájárulás*) for trading activities, such as occasional sales, sales in front of shops, kiosks, or mobile vending. Both require an unauthorised user to cease the use and restore the space, failing which the municipality restores it at the user's cost after eight days, and both permit immediate removal without prior notice only where there is danger to life, significant damage to property, or serious harm to public order. Szigetszentmiklós

⁶⁹ Mochamad Felani Budi Hartanto, Dian Andi Nur Aziz, and Agus Suntoro, "Characteristics of Eviction Practice in Indonesia: The Importance of Human Rights Intervention Before, During and After Evictions," *Jurnal HAM* 14, no. 2 (2023): 169–84, <https://doi.org/10.30641/ham.2023.14.169-184>.

⁷⁰ M. Soleh Pulungan, "Perlindungan Hukum dan Pembinaan Pedagang Kaki Lima di Balikpapan," *Matra Pembaruan: Jurnal Inovasi Kebijakan* 1, no. 1 (2017): 11–21, <https://doi.org/10.21787/mp.1.1.2017.11-21>; Lailasari Ekaningsih, "Legal and Social Protection for Street Vendors on Menteri Soepeno Street, Semarang City Post-Relocation," *Unnes Law Journal* 1, no. 2 (2012): 123–30, <https://doi.org/10.15294/ulj.v1i2.37190>.

⁷¹ Street Vendors Act, 2014 (India), ss. 3(1), 3(3), and 4.

⁷² Street Vendors Act, 2014 (India), s. 22(2)(d).

⁷³ Street Vendors Act, 2014 (India), ss. 18(3) and 19.

⁷⁴ Street Vendors Act, 2014 (India), ss. 20 and 27.

⁷⁵ Fundamental Law of Hungary, art. I(3); Zoltán Sente, "The Interpretive Practice of the Hungarian Constitutional Court: A Critical View," *German Law Journal* 14, no. 8 (2013): 1591–1614, <https://doi.org/10.1017/S2071832200002418>.

⁷⁶ Fundamental Law of Hungary, art. 32; 2011. évi CLXXXIX. törvény Magyarország helyi önkormányzatairól [Act CLXXXIX of 2011 on the Local Governments of Hungary], ss. 13(1) and 23(5).

additionally charges a double usage fee, while Budapest District XV leaves fines to its separate decree on the basic rules of community coexistence.⁷⁷ Municipal public space inspectors operate under Act LXIII of 1999, which authorises them to record images and sound of their measures and requires the recordings to be deleted after thirty days.⁷⁸ In contrast to Perda 13/2021, the Hungarian model is permit-first, relies on economic rather than confiscatory sanctions, reserves immediate removal for defined emergencies, and documents enforcement under a statutory retention limit.

Hungary's treatment of homelessness shows both the strength and the limits of proportionality review in public space. In Decision 38/2012 (XI. 14.) AB, the Constitutional Court annulled a minor offence of habitual residence in public space; the prohibition was subsequently entrenched in the Fundamental Law, now Article XXII(3), which states that "using a public space as a habitual dwelling shall be prohibited", and re-enacted as a minor offence.⁷⁹ In Decision 19/2019 (VI. 18.) AB, the Court upheld the offence but laid down a constitutional requirement: a sanction may be applied only if placement in the social support system was verifiably available at the time of the conduct, since compliance can be expected only if the state fulfils its own duty to provide services.⁸⁰ The analogy for street vending is direct: coercive measures against vendors should be conditional on the verifiable availability of a lawful alternative location. Empirical research nevertheless shows that the Hungarian offence has been enforced rarely and episodically, often in step with political cycles, which critics describe as punitive populism.⁸¹ Hungary therefore confirms that proportionality must be operationalised in administrative practice rather than merely proclaimed in constitutional text.

European Union law binding on Hungary also provides a benchmark for digital safeguards. The General Data Protection Regulation requires a data protection impact assessment for high-risk processing, expressly including systematic monitoring of publicly accessible areas on a large scale,⁸² and the Artificial Intelligence Act prohibits, subject to narrow exceptions, the use of real-time remote biometric identification systems in publicly accessible spaces for law enforcement purposes.⁸³ Indonesia's Law Number 27 of 2022 contains a

⁷⁷ Budapest Főváros XV. kerület Rákospalota, Pestújhely, Újpalota Önkormányzata, 35/2013. (IX. 30.) önkormányzati rendelet a közterületek használatáról és rendjéről [Decree 35/2013 of the Local Government of Budapest District XV on the Use and Order of Public Spaces], <https://njt.jog.gov.hu/jogszabaly/2013-35-SP-5Y264.1>, ss. 5, 14; Szigetszentmiklós Város Önkormányzata, 29/2017. (XI. 30.) önkormányzati rendelet a közterületek használati rendjéről [Decree 29/2017 of the Local Government of Szigetszentmiklós on the Use of Public Spaces], ss. 4, 24, and 25; Act CLXXXIX of 2011 (Hungary), s. 8(2).

⁷⁸ 1999. évi LXIII. törvény a közterület-felügyeletről [Act LXIII of 1999 on Public Space Supervision], s. 7; Budapest Főváros XIII. Kerületi Közterület-felügyelet, "Adatkezelési tájékoztató testkamerákhoz" [Privacy Notice on Body Cameras] (2024), <https://budapest13.hu/wp-content/uploads/2024/11/ADATKEZELESI-TAJEKOZTATO-testkamerakhoz-2024-11-1.0.pdf>.

⁷⁹ Constitutional Court of Hungary, Decision 38/2012 (XI. 14.) AB; Fundamental Law of Hungary, art. XXII(3); Kunos, "Punitive Populism in Practice."

⁸⁰ Constitutional Court of Hungary, Decision 19/2019 (VI. 18.) AB, https://media.alkotmanybirosag.hu/sites/3/2019/12/19_2019_eng_final.pdf, operative part, point 1, and reasoning, para. 96.

⁸¹ Kunos, "Punitive Populism in Practice."

⁸² Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the Protection of Natural Persons with Regard to the Processing of Personal Data (General Data Protection Regulation), OJ L 119, 4 May 2016, art. 35(3)(c).

⁸³ Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act), OJ L, 2024/1689, 12 July 2024, art. 5(1)(h).

comparable impact assessment duty but no equivalent prohibition on biometric surveillance in public space.⁸⁴ Table 2 compares the three frameworks.

Table 2: Functional Comparison of Street Vendor Regulation in Indonesia, India, and Hungary

Regulatory function	Indonesia (Perpres 125/2012; Perda 13/2021, Pekanbaru)	India (Street Vendors Act 2014)	Hungary (Fundamental Law; local decrees; EU law)
Recognition of vending	Defined, including licensed vendors (art. 1(17)); framed mainly as a public order matter	Express recognition of vending as a livelihood	Lawful with a municipal public space use permit (local decrees)
Registration or permit	Required nationally; not operationalised in Perda 13/2021	Survey every five years; certificate of vending	Public space use permit under local decree
Designation of zones	Discretionary for the Mayor (art. 11(3)–(4)); procedure by Perwako (art. 12(2))	Vending zones planned through Town Vending Committees	Set by local government decree
Vendor participation	No formal mechanism	At least 40% vendor representatives; one-third women	No vendor consultation mechanism in the decrees reviewed
Response to unlawful vending	Graduated sanctions (art. 46); no statutory notice period	Thirty days' notice before relocation or eviction	Order to cease and restore; municipal restoration at user's cost after eight days
Seizure or removal of goods	Only "securing evidence" (art. 44(5)); no receipt or return period	Itemised list, signed copy, release within fixed time limits	Removal at user's cost; immediate only for danger or public order
Documentation of enforcement	Not regulated	List of seized goods	Recording of measures; deletion after 30 days (Act LXIII of 1999, s. 7)
Proportionality and review	Art. 28J(2) UUD 1945; no structured test; AUPB and PTUN	Dedicated grievance committee chaired by a judicial officer	Codified test (Fundamental Law art. I(3)); sanction conditional on available alternatives (Decision 19/2019)
Digital safeguards	UU PDP art. 34 (impact assessment)	Not addressed in the Act	GDPR art. 35; AI Act art. 5(1)(h)

Source: *Analysed from the primary legal materials.*

Four lessons follow. First, registration should precede enforcement: a vendor who has not been registered and offered a lawful place cannot reasonably be subjected to coercive measures. Second, the seizure of goods must be proceduralised through itemised documentation and fixed time limits for return, which directly addresses the gap in Articles 44(5) and 46 of Perda 13/2021. Third, participation matters: Indian practice and comparative literature show that vendor representation improves negotiation and compliance.⁸⁵ Fourth, Hungary shows that coercive measures can be made conditional on the verifiable availability of an alternative, that sanctions can be economic rather than confiscatory, and that enforcement recording and its limits can be codified, while also showing that constitutional proportionality guarantees mean little without administrative mechanisms to give them effect.⁸⁶ India's experience also carries a warning. Its smart city programme has been criticised for displacing

⁸⁴ Undang-Undang Nomor 27 Tahun 2022 tentang Pelindungan Data Pribadi, art. 34.

⁸⁵ Roevers and Skinner, "Street Vendors and Cities"; Kurniadi and Ibrahim, "Street Vendor Governance."

⁸⁶ Decision 19/2019 (VI. 18.) AB; Kunos, "Punitive Populism in Practice."

informal vendors despite the statutory protections,⁸⁷ which shows that legal safeguards must be built into digital systems themselves rather than left to sit beside them.

Proportionality by Design: A Digital Street Vendor Governance Model

The deficits identified above share a common feature: they arise from the absence of reliable information and verifiable procedure. This is where digital governance becomes legally relevant. Indonesia's electronic government framework requires integrated, efficient, and accountable services,⁸⁸ the One Data Indonesia policy requires government data to be standardised and interoperable,⁸⁹ and Pekanbaru has adopted a smart city masterplan.⁹⁰ Implementation, however, has been constrained by limited socialisation and low digital literacy,⁹¹ studies of comparable services show that a sound legal foundation does not guarantee effective use,⁹² and scholars note the absence of a dedicated legal framework for smart cities and for artificial intelligence in electronic administration.⁹³ A digital street vendor governance model must therefore be designed as a legal instrument, embedded in a revision of Perda 13/2021 and its implementing Mayor Regulation, rather than as a technological add-on. Figure 1 sets out the proposed model.

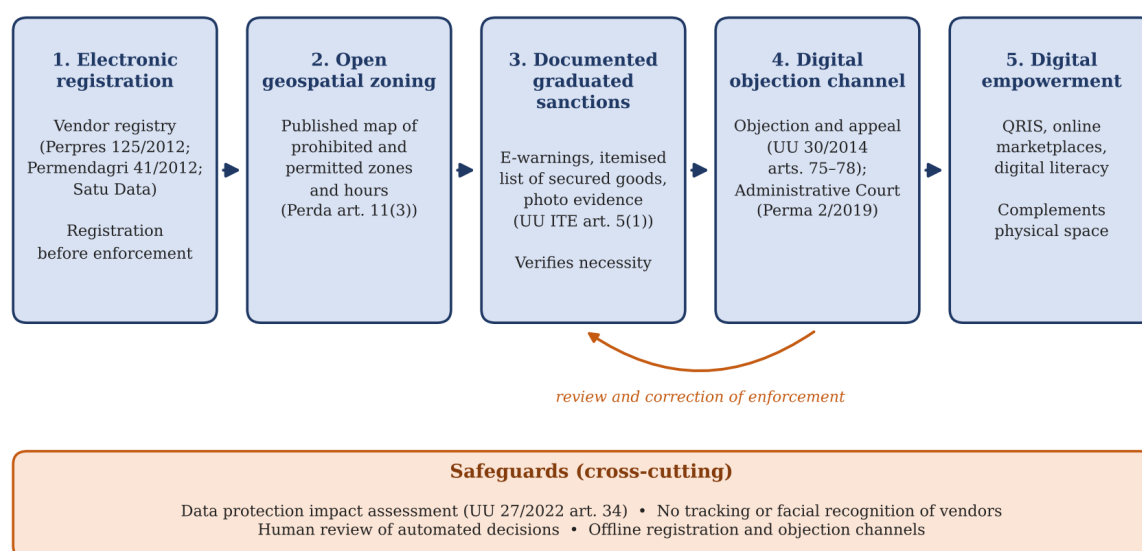


Figure 1: Proportionality by Design: A Digital Street Vendor Governance Model

Source: Author's analysis.

⁸⁷ Prasad, Alizadeh, and Dowling, "Smart City Planning."

⁸⁸ Perpres No. 95 Tahun 2018.

⁸⁹ Peraturan Presiden Nomor 39 Tahun 2019 tentang Satu Data Indonesia.

⁹⁰ Perwako Pekanbaru No. 56 Tahun 2019.

⁹¹ Nadya Khairunnisa, Zaili Rusli, and Febri Yuliani, "Implementasi Kebijakan Smart City Madani melalui Mal Pelayanan Publik di Kota Pekanbaru," *Jurnal Niara* 17, no. 2 (2024): 562-85, <https://journal.unilak.ac.id/index.php/niara/article/view/22986>.

⁹² R. M. Hafizh Swardana Suryo Bintoro and Umi Khaera Pati, "Jogja Smart Service: Utilization under Presidential Regulation No. 95/2018 in SPBE Principles," *Media of Law and Sharia* 6, no. 2 (2025), <https://doi.org/10.18196/mls.v6i2.342>.

⁹³ L. Sudirman, K. J. P. Manurung, and H. S. Disemadi, "Transforming Indonesian Law: Paving the Way for Smart City Development," *Amnesti: Jurnal Hukum* 6, no. 1 (2024): 1-24, <https://doi.org/10.37729/amnesti.v6i1.3418>; Wibisono, Kusumaningtyas, and Miharja, "E-Government and Artificial Intelligence."

First, electronic vendor registration. The registration obligations under Presidential Regulation Number 125 of 2012 and Minister of Home Affairs Regulation Number 41 of 2012 can be fulfilled through an electronic registry integrated with the city's electronic government system and with One Data Indonesia standards.⁹⁴ Following the Indian model, registration should precede enforcement, and registered vendors should not be subject to coercive measures until they have been offered a lawful location.⁹⁵

Second, open geospatial zoning. The Mayor's power to designate vending locations under Article 11(3) and (4) should be converted into an obligation exercised through a published digital map showing prohibited zones, permitted zones, and permitted hours. Publication gives effect to the principles of legal certainty and openness,⁹⁶ enables vendors to know the rules in advance, and addresses the low awareness identified in Pekanbaru.⁹⁷ Zoning should reflect urban scale and vendors' own spatial practices.⁹⁸

Third, electronically documented graduated sanctions. Each stage of enforcement, namely verbal notice, written warnings, temporary cessation, and any securing of goods, should be recorded electronically with the date, location, officer identity, an itemised list of goods, and photographic evidence, and communicated to the vendor through an electronic notice. Electronic information and documents constitute valid legal evidence under Article 5(1) of the Electronic Information and Transactions Law.⁹⁹ Such records make the necessity limb of the proportionality test verifiable and strengthen Satpol PP accountability.¹⁰⁰ Hungarian law offers a model: public space inspectors may record their measures, but recordings must be deleted after thirty days.¹⁰¹

Fourth, a digital objection channel. Documentation alone protects the authority; vendors also need access to remedies. Law Number 30 of 2014 provides administrative objection and appeal procedures with fixed time limits,¹⁰² and factual enforcement actions may be challenged before the Administrative Court.¹⁰³ An electronic objection channel linked to each enforcement record would allow vendors to contest a measure, request the return of goods, or report misconduct, thereby completing the proportionality loop.

Fifth, digital empowerment. Empowerment obligations can be operationalised through cashless payment, particularly the Quick Response Code Indonesian Standard (QRIS), access to online marketplaces, and digital literacy training. QRIS reached 57 million users and 39.3

⁹⁴ Perpres No. 125 Tahun 2012; Permendagri No. 41 Tahun 2012; Perpres No. 39 Tahun 2019.

⁹⁵ Street Vendors Act, 2014 (India), s. 3(3).

⁹⁶ UU No. 30 Tahun 2014, art. 10(1).

⁹⁷ Sukria and Meilani, "Implementasi Peraturan Daerah Kota Pekanbaru Nomor 13 Tahun 2021."

⁹⁸ Maoyuan Wang, Lujia Yang, and Chuanjie Li, "Comparative Analysis of Economic Governance Models for Street Vendors across Urban Scales: A Case Study of Suzhou, Jiaxing, and Taicang," *SHS Web of Conferences* 192 (2024): 01006, <https://doi.org/10.1051/shsconf/202419201006>; Vargas Falla and Valencia, "Beyond State Regulation of Informality."

⁹⁹ Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik, sebagaimana terakhir diubah dengan Undang-Undang Nomor 1 Tahun 2024, art. 5(1).

¹⁰⁰ Ario et al., "Akuntabilitas Hukum."

¹⁰¹ Act LXIII of 1999 (Hungary), s. 7.

¹⁰² UU No. 30 Tahun 2014, arts. 75–78.

¹⁰³ Perma No. 2 Tahun 2019.

million merchants by the first half of 2025,¹⁰⁴ and studies show that vendors adopt QRIS mainly because of ease of transaction and customer demand, while non-adopters are deterred by limited technical knowledge and security concerns.¹⁰⁵ International studies, however, caution that digital payment adoption among vendors often depends on social networks and literate relatives and does not by itself overcome underlying inequalities.¹⁰⁶ Digital empowerment must therefore complement, not replace, the provision of physical vending space.¹⁰⁷

The digitalisation of vendor governance also creates new legal risks that the model must address. *First*, surveillance: if the model relies on CCTV, geolocation, or facial recognition, it risks intensifying the control of a vulnerable group, as critical studies of smart city policing have shown.¹⁰⁸ Monitoring technologies should therefore be limited to documenting enforcement acts, not to tracking vendors. *Second*, data protection: a vendor registry and enforcement records involve large-scale processing, the matching of datasets, and potentially automated decisions with legal effects, all of which are high-risk processing activities for which Law Number 27 of 2022 requires a data protection impact assessment.¹⁰⁹ Following the EU approach, the regulation should also expressly exclude real-time biometric identification of vendors.¹¹⁰ *Third*, automated decision-making and exclusion: any algorithmic allocation of locations or risk scoring of vendors must remain subject to human review, and registration and objection channels must remain available offline for vendors with limited digital skills. Designed with these safeguards, digital instruments do not replace the proportionality principle but make it operational and verifiable, transforming street vendor regulation from episodic clearance into a transparent, rights-based governance process.¹¹¹

CONCLUSION

This article concludes that the Indonesian framework for street vending, as exemplified by Perda 13/2021 in Pekanbaru, is formally valid but prohibition-centred: it imposes an absolute prohibition on trading in public facilities, leaves the designation of vending locations to discretion, does not operationalise national empowerment obligations, and allows the securing of goods only as a general evidentiary power without procedure or time limits for return, even though vending itself is not a criminal offence. As a result, the necessity and strict proportionality of enforcement cannot be verified, placing it in tension with the right to work, the AUPB, and international standards on regulated access to public space. Comparison with India and Hungary shows that registration before enforcement, proceduralised seizure, vendor participation, and making coercion conditional on a verifiable alternative can close these gaps.

¹⁰⁴ “BI Sebut Pengguna QRIS Tembus 57 Juta Orang per Semester I 2025,” *Kontan*, August 26, 2025, <https://keuangan.kontan.co.id/news/bi-sebut-pengguna-qr-is-tembus-57-juta-orang-per-semester-i-2025>.

¹⁰⁵ D. P. I. Armani and T. Sendjaja, “Analisis Keputusan Adopsi Teknologi QRIS pada Pedagang Kaki Lima: Perspektif Pengguna dan Non-Pengguna,” *Jurnal Manajemen dan Teknologi Informasi* 15, no. 2 (2025): 115–24, <https://doi.org/10.59819/jmti.v15i2.5382>.

¹⁰⁶ Mir and Wani, “Street Vendors Using Smartphones”; Ramesh, Haldar, and Kamat, “Bridging the Digital Divide.”

¹⁰⁷ Roever and Skinner, “Street Vendors and Cities.”

¹⁰⁸ O’Malley and Smith, “‘Smart’ Crime Prevention?”; Kitchin, “The Real-Time City?”

¹⁰⁹ UU No. 27 Tahun 2022, art. 34.

¹¹⁰ AI Act, art. 5(1)(h).

¹¹¹ Wardhana, Widiastuti, and Hakiki, “The Complexity of Fulfilling the Constitutional Rights”; Wibisono, Kusumaningtyas, and Miharja, “E-Government and Artificial Intelligence.”

The article therefore proposes *proportionality by design*, a digital governance model that makes each stage of enforcement documented, reviewable, and contestable, subject to data protection, anti-surveillance, and inclusion safeguards. Local governments should amend their public order regulations and implementing rules accordingly. Because many Indonesian and Global South cities combine prohibition-centred regulation with emerging smart city programmes, the model is relevant well beyond Pekanbaru; future research should test it empirically.

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