

Law Enforcement against Distance between Minimarkets in the Protection of Micro Businesses in Medan City Perspective of *Maslahah Mursalah*

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Abstract. *There are many minimarkets in Medan City that do not fulfill the provisions on minimarket distance. So that it is very impactful on micro businesses in Medan City. The purpose of this study is to determine the impact of law enforcement on minimarket distance on micro businesses in Medan City and to determine law enforcement related to minimarket distance in Medan City based on the perspective of Maslahah Mursalah. This type of research is empirical juridical, living case studies approach, conceptual, and statute approach. Data is collected through observation, interviews and document studies. Data is processed using qualitative methods with deductive thinking logic. The results show that the impact experienced by micro businesses with the presence of minimarkets makes micro businesses experience a decrease in turnover. With the mushrooming presence of minimarkets, the competitiveness of micro businesses increases in addition to competing with fellow micro businesses must also compete with minimarket businesses, what's more the distance between minimarket that are too close and even next to each other makes micro businesses experience a decrease in turnover in significance.*

Keywords: *Business; Distance; Maslahah Mursalah; Minimarket.*

1. Introduction

As a capital city of North Sumatra, Medan City is a large and strategically located city which is a promising place for a more decent life, because Medan City is a crossing and stopover from various regions because of its location as a traffic lane from various regions, so that Medan City is a strategic place to open a business so that many business people open business land, one of which is minimarket.

The development of minimarkets in Medan City is very rapidly characterized by an increase in the number of minimarkets from year to year whose existence we can find in every area of Medan City. The existence of minimarkets in Medan City

is very much, almost every sub-district has more than 5 minimarkets, for example on Jl. Williem Iskandar Medan City. The increasing number of minimarkets in Medan City is marked by the number we find both in the District and Regency of Medan City. The existence of minimarkets is increasingly mushrooming whose existence we can find in various areas of Medan City which is not even only in suburban areas with a dense population even to the countryside, the increase in minimarkets in Medan City can cause intense competition, so that it can cause the existence of small traders such as micro businesses to be increasingly crushed by the existence of minimarkets that have close proximity to other minimarkets.

The regulation on the location arrangement of minimarkets in Medan City is regulated in Article 6 paragraph (5) of Medan Mayor Regulation No. 20 Of 2011, which explains that minimarkets may be located on any road network, including the neighborhood road network system in neighborhood service areas (housing) within the city. In addition to the location arrangement, the Medan Mayor's Regulation also regulates the distance between minimarkets, which is a minimum of 500 M (five hundred meters) from existing minimarkets, and a minimum of 250 M (two hundred fifty meters) from traditional markets in Article 7 paragraph (3). However, the regulation was amended by the Mayor of Medan Regulation No. 47/2012 which states that Article 7 paragraph (3) has been removed. The removal of this regulation certainly has a major impact on micro businesses, as minimarkets are free to open their businesses anywhere without any consideration and protection for micro retailers.

In the world of work and business, Islam requires to be fair. Fairness in Islam is directed so that the rights of others, the rights of the social environment, the universe, and the rights of Allah and His Messenger apply as *stakeholders* of one's fair behavior.¹ . According to Gonsalves et al describe *stakeholders* as those who impact and/or are impacted by the impact of a program, policy, and/or development. According to Nugroho, *stakeholders* in development programs can be classified based on their roles, namely: first, *Policy creators*, namely *stakeholders* who act as decision makers and determinants of a policy. Second, *Coordinator* is a *stakeholder* whose role is to coordinate other *stakeholders* involved. Third, *Facilitator* is a *stakeholder* whose role is to facilitate and fulfill what the target group needs. Fourth, *Implementer* is a *stakeholder* who implements policies which include target groups. Fifth, *Accelerator* is a *stakeholder* whose role is to accelerate and contribute so that a program can run according to the target or even faster.² . All of these rights must be placed

¹ Hilman Taqiyudin, "Konsep Etika Muamalah Dalam Islam" *Jurnal Hukum Ekonomi Syariah*, Vol. 11 No. 1, (2019) p.91

² "Peran Dan Kordinasi Stakeholder Dalam Pengembangan Kawasan Minapolitan Di Kecamatan Nglegok, Kabupaten Blitar", *Jurnal Administrasi Publik (Jap)*, Vol. 3, No. 12, (2015), p.2071.

properly. Being fair is explained in the word of Allah Qur'an Surah al Ma'idah verse 8:

يَا أَيُّهَا الَّذِينَ آمَنُوا كُونُوا قَوَّامِينَ لِلَّهِ شُهَدَاءَ بِالْقِسْطِ وَلَا يَجْرِمَنَّكُمْ شَنَا نُ قَوْمٍ عَلَىٰ أَلَّا تَعْدِلُوا إِعْدِلُوا هُوَ أَقْرَبُ لِلتَّقْوَىٰ وَاتَّقُوا اللَّهَ إِنَّ اللَّهَ خَبِيرٌ بِمَا تَعْمَلُونَ ۝٨

Meaning: O you who believe, be ye upholders for the sake of Allah (and) witnesses (who act) justly. Do not let your hatred of a people encourage you to be unjust. Be just, for that is closer to piety. Fear Allah. Verily, Allah is thorough in what you do.

Being fair is close to piety, so in commerce, Islam forbids cheating. Islam requires its adherents to be fair and do good. In commerce, the most basic fairness requirement is in determining the quality and quantity of each measure and scale.³ Related to being fair in a trade there is also a hadith that explains not to harm others:

عَنْ ابْنِ عَبَّاسٍ قَالَ : قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ : لَا ضَرَرَ وَلَا ضِرَارَ

Meaning: Abdullah Bin Abbas reported that the Messenger of Allah (SAW) said: "It is not permissible to cause harm and that which causes harm" (Ibn Majah Bad Man Baan fi Haggihi Maa Yadurru fi Jaarihi no. 2341. Sahih Li Ghairih according to Shaykh Al-Arnauth)

Some previous researchers have discussed the existence of minimarkets that have an impact on small businesses down including research from Santi Pertiwi Hari Sandi and Mumun Maemunah, showing the existence of minimarkets has a huge impact on small businesses that cause a decrease in turnover, a decrease in income and a decrease in the number of customers⁴ , Second, Silfira Ayu Ningsih Pasaribu's research, the existence of minimarkets creates unstable competition, namely competition between minimarkets and retailers in terms of products, prices, promotions, and places are all superior to wholesale retailers and the importance for the government in the establishment of minimarkets must be reviewed and pay attention to the distance of minimarket retail⁵ . Third research Zulfi Chairi, Aflah, and Utary Maharany, in this researcher states that there is a regulatory vacuum that strictly regulates the establishment permit of minimarket franchises and irregular zoning and the one-door integrated service and

³ Hilman Taqiyudin, loc.it.

⁴ Santi Pertiwi Hari Sandi and Mumun Maemunah, "Dampak Keberadaan Minimarket Terhadap Warung Kecil Di Kabupaten Karawang", *Jurnal Buana Ilmu*, Vol.5 No.1. (2020).

⁵ Silfira Ayu Ningsih Pasaribu, "Persaingan Bisnis Antar Minimarket Dan Grosir Eceran Dalam Perspektif Bauran Pemasaran Islam", *Jurnal Manajemen, Bisnis Dan Akutansi*, Vol 3 No.1 (2024).

investment agency is an agency that gives permission can not issue IUTM (Modern Store Business License) because it is not the duties.⁶

The rapid development of minimarkets in residential areas, in addition to providing benefits for consumers in terms of ease of shopping aspects, also has a negative impact on the existence of micro businesses in the vicinity. The high competitiveness of minimarkets tends to result in a decrease in turnover and even kill micro businesses. Which results in minimarkets dominating and starting to shift the existence of micro businesses in this case can worsen the economic situation of the lower class.⁷ The existence of modern markets is a threat to the existence of micro businesses. If this situation is left unchecked, small business traders will lose their livelihoods. Traditional markets and small shops may sink along with the trend of world retail development dominated by modern markets that are currently rising in the midst of society, starting from the establishment on the edge of big roads to entering residential areas where the distance between each other is close.⁸ So that it creates competition in the field of modern retail business with small traders.

The development of modern markets in Medan City does not escape the role of the government in terms of granting establishment licenses, because the government has the right to regulate the existence of traditional markets and modern markets in the form of regulations. For this reason, the role of the government is very important in mediating the problems being experienced between small traders and large capital traders. Local regulations on trade issues are very important to make. Structuring and fostering traditional markets, shopping centers and modern stores in Medan City, unfortunately at this time the government seems half-hearted in regulating and controlling the rise of minimarket buildings, so it is not impossible to predict that small traders will be marginalized.⁹

The purpose of this study is to determine the impact of law enforcement on minimarket distance on micro businesses in Medan City and to determine law enforcement related to minimarket distance in Medan City based on the perspective of *Maslahah Mursalah*.

⁶ Zulf Chairi, Aflah, and Utary Maharany, "Aspek Hukum Keberadaan Waralaba Minimarket Terhadap Toko Tradisional Di Kota Medan", *Jurnal Ilmiah Penegakan Hukum*, No.2 (December 2019).

⁷ Latifa Suhada Nisa, Siska Fitriyanti and Dewi Siska, "Pengaruh Minimarket Waralaba Terhadap Warung Tradisional Di Kalimantan Selatan", *Jurnal Kebijakan Pembangunan*, Vol. 16 No. 2 (2021). pp. 182

⁸ Abd. Kadir Arno, Nur Ariani Aqidah, "Zonasi Minimarket Di Kota Palopo Utara Perlindungan Pasar Tradisional Dan Warung Kecil", *Jurnal Of Islamic Economic Law*, Vol. 3 No. 2 (2018). pp. 200

⁹ Geniusmaniat Laia, Mayono Suko Marbinoto and Bintang Marcopolo Purba, "Kajian Peraturan Penataan Ruang Terhadap Berkembangnya Minimarket Dan Dampaknya Terhadap Toko Tradisional Eceran (Studi Kasus Kecamatan Medan Denai)", *Jurnal Sains Dan Teknologi*, Vol.16 No.2 (2022). pp. 181

2. Research Methods

This research uses a qualitative method in which researchers must come to the field and observe and engage intensively until they find in detail what is desired and with deductive thinking logic. This type of research is empirical juridical research using *living case studies*, *conceptual*, and *statutory approaches*. *Living case studies* (case approach) is used to check legal events or facts related to minimarket distance in Medan City. *Conceptual* approach is used to examine the concept of law enforcement of minimarket distance in review of *Maslahah Mursalah*. *Statutory approach* is used to examine the laws and regulations related to minimarket distance. Data were collected through observation, interview and document study. Observations were made by directly observing the distance of minimarkets in Medan City. Interviews were conducted face-to-face with the One-Stop Investment and Integrated Services Office. Document study is obtained through laws and regulations, books, journals, websites and other documents related to this research.

3. Results and Discussion

3.1 The Position of *Maslahah Mursalah* in Islamic Law

Maslahah Mursalah is one of the methods of determining the law that is very effective in responding, responding, and providing solutions, as was done by the Prophet Muhammad, companions, *tabi'in*, and scholars. Although some scholars do not accept this method of *istimbath*, basically the majority of scholars can accept this method with very strict conditions. Therefore, *Maslahah Mursalah* is a sharia law that is based on *ijtihad*, without relying directly on the Qur'an and Sunnah, however, both laws that are directly based on the Qur'an and Sunnah or indirectly, all aim to realize *maslahah* and some *maslahah* change and develop due to changes or developments in times and places. As stated in an ushul fiqh rule which reads:

تغير الاحكام بتغير الازمنة والامكنة

Meaning: the rulings change due to changes in times, places and circumstances.

الحكم يدور مع علته وجودا وعدمًا

This means that the validity of the ruling depends on the presence or absence of the illat (cause), and the ruling comes into effect with the illat (cause).¹⁰

The scholars from the madzhab of Imam Malik and Imam Ahmad bin Hambal set various conditions that must be met in the application of *Maslahah Mursalah* as one of the legal arguments. First, the form of *maslahah* must be in harmony with the objectives of sharia, which is not contrary to the basic principles of

¹⁰ Hendri Hermawan Adinugraha, Mashudi, "Al-Mursalah Dalam Penentuan Hukum Islam", *Jurnal Ilmiah Ekonomi Islam*. Vol.4 No.1. (2018) p.2

sharia, does not break the provisions of the *qath'i* text. The meaning of the above meaning is not the benefit of *qhaib* (foreign) or there is no evidence that specifically strengthens it. Second, the rational benefit, namely the benefit that logically there is a form of benefit to the determination of the law, such as documentation or recording in various muamalah transactions such as minimizing civil disputes or false testimony. Third, the *maslahah* that becomes a reference for determining the law must have a universal scope of law, not the interests of groups or individuals.¹¹

In the validity of *mashlahah Mursalah* has created differences of opinion for the scholars. According to the majority of scholars that the validity of *mashlahah Mursalah* is not absolute, this is in accordance with what is explained by Ibn Hajib that it is Al-Mukhtar (chosen). However, according to Al-Amidi, *mashlahah Mursalah* is the truth that is agreed upon by the scholars, and according to Malik bin Anas, this has been chosen by Al Juwaini that *mashlahah Mursalah* is an absolute proof. The validity of *mashlahah Mursalah* is so strong, even though there are differences by the Mazhab Imams in it. However, the majority of scholars still make *mashlahah* murslah as one of the strong proofs to provide legal solutions if there is no evidence that explains certain legal cases.

The argumentation of the Mujtahid Imams on the position of *Maslahah Mursalah* as a source of Islamic law

1. Imam Ash-Syatibi: It is known that Islamic law is prescribed or legislated to realize the absolute benefit of creatures. That every stipulation of Islamic law is definitely intended for the benefit of mankind, the potential to be able to reveal the benefit is also given by Allah SWT who establishes the Islamic law to humans. That is why in the Quran Islam is a holy religion, namely teachings that are in line with human nature and the truth can be detected by human nature.
2. Imam Ibn Al-Qayyim: Indeed, the principle and basis of Islamic law is the benefit of the servant in this world and the hereafter, Islamic law has both justice and wisdom, any benefit that goes from justice to injustice, from mercy to the opposite, from *maslahah* to mafsadat, and from wisdom to nothing, does not belong to Islamic law. Even if it is included in it through takwil. Therefore, the main point of Islamic law is to realize the benefit, because the role of maslahat in Islamic law is very dominant and decisive, therefore Ibn Qayyim emphasized that how great the position of the rules of Islamic law is in relation to efforts to form and existence and relevance of Islamic law.
3. Al-Amidi: In Al-Hikam, he says that the fuqoha of the shafiyah and hanafiyah view *mashlahah Mursalah* as evidence, he states that this is the correct opinion, this opinion quoted from Imam Malik views it as evidence, but

¹¹ Muhajirin and May Dedu, "Mashlahah Mursalah and its Implementation in Muamalah Agreements", *Journal of Islamic Law and Islamic Social Pranata*, Vol.09 No.1 (2021) p.177

Asahab Imam Malik rejects it, if the quotation from Imam Malik is correct, it seems that he does not accept all *maslahah*, but only accepts *mashlahah Mursalah* which is *daruriyyah, qat'iyyah and kulliyyah*.¹²

In terms of the existence of *maslahah* according to Shara', the *ushul fiqhi* experts divide it into three types, namely:

1. *Al Maslahah Al-Mu'tabarah*: This group of *maslahah* is *maslahah* which is in line with the general purposes of shara' and guides the commands and prohibitions of shara'. This *maslahah* has three levels, namely¹³ :
2. *Al-Maslahah Al-Dharuriyyah*: Namely the benefits associated with the basic needs of mankind in this world and the hereafter. There are five such benefits, namely preserving religion, preserving the soul, preserving the mind, preserving offspring, and preserving property.
3. *Al Maslahah Al-Hajiyah*: The benefit of perfecting the previous basic benefit in the form of relief to maintain and maintain basic human needs. For example, it is allowed to buy and sell shares (orders), cooperation in agriculture (*muzara'ah*) and others.
4. *Maslahah Al-Tahsiniyyah*, namely, the benefit whose nature is complementary, in the form of flexibility that can complement the previous benefit. For example, it is recommended to eat nutritious food, dress nicely, and various types of ways to remove impurities from the human body¹⁴ .
5. *Al Maslahah al Mulqah*: *Maslahah al Mulqah* is a benefit that cannot be used or rejected by Shara' as a reason for determining a law. The reason why it is not used is because there is another *maslahah* that is stronger.
6. *Al Maslahah al Mursalah*: *Maslahah Mursalah* is a benefit for which there is no decisiveness to use it or reject it. Hence, this *maslahah* is also called absolute because it is not limited by arguments of recognition or arguments of nullification. Examples of this benefit are the provision of prisons, printing currency, collecting the Quran and others. ¹⁵

In an effort to find a solution so that all actions of Muslims can be placed in the order of religious law, *mashlahah Mursalah* can be used as an alternative as a basis for *ijtihad*. To eliminate (reduce) or eliminate fears of slipping into an arbitrary and lustful attitude, then in *ijtihad* using *mashlahah Mursalah* it should

¹² Hirmayadi Saputra, Lalu Yoga Vandita, Supriyadi, "Studi Analisis Kedudukan *Maslahah Mursalah* Sebagai Salah Satu Sumber Hukum Islam", *Jurnal Keuangan Dan Perbankan Syariah*, Vol. 2 No. 2 (2023).

¹³ State Islamic College (Stain) Parepare, "Pemikiran Imam Syafi'i Tentang Kedudukan *Maslahah Mursalah* Sebagai Sumber Hukum", *Jurnal Hukum Diktum*, Vol.11 No. 1. (2013). pp. 95

¹⁴ Muksana Pasaribu, "Maslahat Dan Perkembangannya Sebagai Dasar Penetapan Hukum Islam", *Journal Justitia*, Vol. 1 No. 4 (2014).p.355

¹⁵ Sekolah Tinggi Agama Islam Negeri (Stain) Parepare. Op.,cit.p.96

be done together.¹⁶ A more concrete measure of the benefit can be deduced, and the requirements of the benefit are:

1. Something that is considered *maslahat* must be a real *maslahat*, which will actually bring benefits or reject misfortune, not in the form of mere conjecture by only considering the existence of benefits without seeing the negative consequences caused.
2. *Maslahah Mursalah* is a real and general *maslahah*, in the sense that it can be accepted by common sense that it really brings benefits to humans and avoids harm from humans as a whole.
3. Something that is considered *maslahat* should be a public interest, not a private interest that is assessed by common sense as a true *maslahah* has actually been in line with the intent and purpose of the conditions in setting every law, namely realizing the benefit of mankind.
4. Something that is considered *maslahat* is not contrary to the provisions that are firm in the Qur'an and Sunnah of the Prophet, or contrary to *Ijma*.¹⁷

3.2 Distance Between Minimarkets in Medan City

Medan City is the center of government of North Sumatra Province therefore making Medan City the center of various public facilities such as education, religion, health, and offices and Medan City is also a crossing and stopover from various regions because it is located as a traffic lane from various regions, Medan is known as a densely populated city so that where the basic needs of the community can shop in the markets (taxes) of Medan City or the nearest store.¹⁸ Medan City is a strategic place to open a business so that many entrepreneurs open business land, one of which is a minimarket. The existence of modern stores such as minimarkets is now increasingly widespread and mushrooming in Medan City, even many have stood in the District and Regency. The rapidly growing minimarket whose existence we can find in every area of Medan City, whose development has reached the outskirts of the city and even rural areas.

In Presidential Regulation No. 112 Of 2007 related to the Arrangement of Shopping Centers and Modern Stores in Article 3 paragraph (1), it is stated that "the location of the establishment of shopping centers and modern stores must refer to the spatial plan of the Regency / City, and the detailed spatial plan of the Regency / City, including the Zoning Regulations."¹⁹ The arrangement of minimarket locations in Medan City is regulated in No. 20/2011 Article 6 paragraph (5) "Minimarkets may be located on any road network system,

¹⁶ Amir Syarifuddin, *Usul Fiqh* jilid 2, Jakarta: Kencana 2008, p.387

¹⁷ Satria Effendi, *Usul Fiqh*, Jakarta: Prenada Media, 2005, p. 153

¹⁸ Zulfi Chairi, Aflah, and Utary Maharany, "Aspek Hukum Keberadaan Waralaba Minimarket Terhadap Toko Tradisional Di Kota Medan", *Jurnal Ilmiah Penegakan Hukum*, Vol.6 No.2 (2019). pp. 118

¹⁹ Article 3 paragraph 1 of presidential regulation no 112 of 2007.

including neighborhood road network system in neighborhood service areas (housing) within the city.²⁰

The distance between minimarkets and small stalls has an impact on small stalls. Small stalls that are far from the minimarket do not have much effect on their income. Meanwhile, stalls that are close to minimarkets have a significant effect on their income.²¹ Minimarkets in Medan City not only have a close distance to small shops, but even between minimarkets have a close distance.

The distance between minimarkets in Medan City is irregular, having a variety of distances between minimarkets with one another such as having a distance that is quite far, quite close, and even some are next door or facing each other. Minimarkets in Medan City are so easy to find in each region, there are several areas that have 5 or even more, one of which is in the Williem Iskandar street area of Medan City which has more than 5 minimarkets. Below is an example of a minimarket image in the city of Medan that has a fairly close distance to the existing minimarket.



Figure 1. Minimarket Jl. Bhayangkara no.429



Figure 2. Minimarket Minimarket Jl.Williem Iskandar Komp. Mutiara Residence Blok R no.43

²⁰ Article 6 paragraph 5 of Perwal Kota Medan no 20 of 2011.

²¹ Chrisanto Sante et al, "Dampak Sosial Minimarket Terhadap Warung Kecil Di Desa Liwutung Kecamatan Pasan Kabupaten Minahasa Tenggara", *Jurnal Ilmiah Society*, Vol.3 No.2 (2023) p.2.



Figure 3. Minimarket Jl. Selamat Ketaren MMTC Logistics Complex No. 1-2

3.3 Impact of Minimarket Distance on Micro Businesses in Medan City

The existence of minimarkets does not necessarily bring change or goodness to all small businesses or other businesses that are middle to lower. The existence of the minimarket can have a fairly negative impact on the middle to lower traders who also offer goods such as in minimarket outlets. Minimarkets also make innovations to shopping features, namely selling electronic pulses, train tickets, gas and also gallon mineral water that remains in stock. So that it makes public interest very high in doing shopping activities at this outlet, for reasons of comfort, convenience and many features and promos offered.²² Some factors that invite public interest in shopping at minimarkets include, namely: easily accessible location, attractive merchandise display, availability of parking lots, diverse selection of goods, clean place, easy buying and selling transactions and clear and long opening hours.²³

The existence of modern stores such as minimarkets in North Sumatra, especially in Medan City, is one of the shopping centers that people are interested in. Because the existence of minimarkets makes it easier for consumers to get the goods needed especially with a digital payment system in today's millennial era, and in minimarkets have a selling price that is not much different from the selling prices of other small shops and also have a fairly complete product compared to small shops / stalls, which makes people more interested in shopping at minimarkets compared to traditional shops / stalls.

Presidential Regulation No. 112/2007 Article 4 paragraph (1) states that every modern store must take into account the socio-economic conditions of the surrounding community and the distance between modern stores and existing

²² Ok. Laksemana Lufti, "Dampak Keberadaan Indomaret Terhadap Kondisi Sosial Ekonomi Pedagang Pasar Tradisional Di Kelurahan Terjun Kecamatan Medan Marelan", *Jurnal Welfare State*, Vol.2 No.1 (2013). p.7

²³ Ma Clarissa dewi, "penataan minimarket berdasarkan peraturan perundang-undangan terkait", *Jurnal Mozaik*, Vol.14 No 19 (2022) p.27

traditional markets.²⁴ Article 3 paragraph (9) of MOT 53/2008 mentions the obligations for minimarkets, namely the establishment of minimarkets, both stand-alone and integrated with shopping centers or other buildings, must pay attention to: population density, new settlement developments, regional accessibility (traffic flow), infrastructure support/availability and the difference between traditional markets and stalls/shops in the surrounding area that are smaller than the minimarket.²⁵

In the research of Muhammad Nuh and Ismail Hasang discussing the influence of minimarkets on the development of micro businesses in Pare Pare City, in his research it is explained that the existence of minimarkets affects micro businesses where the existence of minimarkets can threaten micro businesses if not properly regulated by the government.²⁶ In Chiruddin Siregar's research, he mentions several factors that attract people to shop in retail businesses, especially in Medan City, namely: first, shopping motivation (Shopping Motives), second, clean and comfortable shopping environment (Store atmosphere), third, the usefulness / benefit value of the products offered (Utilitarian value) and fourth, the value of satisfaction with the product (Hedonic value)²⁷ .

In previous studies discussing the existence of minimarkets related to the impact on traditional businesses which stated the existence of minimarkets that impose higher prices for the products they sell, it is used as an opportunity to compete by traditional retailers in Medan city. Provides insignificant results on the initiative to take service strategies in traditional retail, product differentiation strategies, store operating hours strategies, and store condition/interior improvement strategies in traditional retail.²⁸

The above statement regarding the impact on traditional retailers related to the existence of minimarkets also causes some impact on micro businesses with the existence of mushrooming minimarkets. Even some researchers who examined the impact of minimarkets on small businesses such as traditional markets and even micro-enterprises stated that there were several impacts on the existence of minimarkets, especially minimarket licensing that did not have strict distance arrangements. The presence of minimarkets mushrooming in Medan City also disturbs small traders and wholesale businesses.

²⁴ Article 4 Paragraph 1 of Presidential Regulation No. 112 Of 2007.

²⁵ Article 3 paragraph 9 of the regulation of the minister of trade no 53 of 2008.

²⁶ Muhammad Nuh and Ismail Hasang, "Pengaruh Minimarket Terhadap Perkembangan Usaha Mikro Di Kota Pare Pare", *Jurnal Of Management Dan Business*, Vol.2, No 2 (2019) p.277

²⁷ Achhiruddin Siregar, "Ketertarikan Masyarakat Terhadap Bisnis Ritel Di Kota Medan", *Jurnal Ilmiah Manajemen Dan Bisnis*, Vol. 17 No. 02, (2016).p.11

²⁸ Ema Yohana Sihombing and Paidi Hidayat, "Analisis Dampak Kehadiran Ritel Modern Terhadap Ritel Tradisional Di Kota Medan", *Jurnal Ekonomi Dan Keuangan*, Vol. 1, No.4, (2013) pp.82-83.

Based on interviews that have been conducted with five micro-business owners, it is true that there is an impact on micro-businesses with the presence of minimarkets. One of the impacts experienced is a decrease in turnover. Micro businesses expect certainty for the distance in each minimarket, so that it does not occur close together as it is now, which is not only the separator between markets but even next to each other between minimarkets. Small business shops or micro businesses really hope that the government prioritizes small traders so that they can develop more and increase turnover by enforcing regulations for minimarkets that are now too many. Although minimarkets are good for the community/consumers, for micro businesses the presence of mushrooming minimarkets makes a bad impact on micro businesses²⁹.

The proliferation of minimarkets in Medan City is feared to threaten and cripple small business traders such as micro businesses. What's more, the location arrangement stipulated in Article 6 paragraph (5) of the Medan City Regulatory Regulation No. 20/2011 states that minimarkets may be located on any road network, including the neighborhood road network system in the neighborhood service area (housing) within the city³⁰. And the distance regulation between minimarkets in Article 7 paragraph (3) of Perwal Medan City No. 20 Of 2011 has been abolished³¹. Therefore, the Medan City government is expected to think about the fate of small traders who may lose their livelihoods due to being crushed by large companies.

3.4 Minimarket Spacing in Medan City

Local governments in accordance with their authority shall regulate the development, structuring and guidance of equal and equitable people's markets, shopping centers, supermarkets, and wholesalers to create business certainty and link balanced cooperation between suppliers and retailers while still paying attention to cooperatives and micro, small and medium enterprises.³²

Article 3 of the Presidential Regulation of the Republic of Indonesia No. 112/2007 concerning the Distance Determination of Modern Stores states that the location of the establishment of shopping centers and modern stores must refer to the district/city spatial plan, and the district/city detailed spatial plan, including zoning regulations. The regulation also regulates the limitations of the sales floor area of modern stores, namely: Minimarket, less than 400 m² (four hundred square meters), supermarket, 400 m² (four hundred square meters) up to 5,000 m² (five hundred square meters), hypermarket, above 5,000 m² (five thousand

²⁹ Interview Results to Five Micro Business Actors in Medan City, December 28-29, 2023.

³⁰ Article 6 paragraph (5) of Medan Mayor Regulation No. 20 Of 2011.

³¹ Article 1 paragraph (3) of the Regulation of the Mayor of Medan.

³² Khairil Anuar, "Perlindungan Hukum Bagi Pelaku Usaha Umkm Terhadap Keberadaan Toko Modern", *Jurnal National Conference On Science And Religion*, Vol.1 No.1 (2022).p.1079

square meters), department store, above 400 m² (four hundred square meters), wholesaler, above 5,000 m² (five thousand square meters). The sales system and types of merchandise of modern stores are mentioned, Minimarkets, supermarkets and hypermarkets sell retail consumer goods mainly food products and other household products, department stores sell retail consumer goods mainly clothing products and equipment with the arrangement of goods based on gender and / or age level of consumers, and wholesalers sell wholesale consumer goods.³³

Article 4 paragraph (1) of Presidential Regulation No. 112 of 2007 regulates the establishment of shopping centers and modern stores, namely first, taking into account the socio-economic conditions of the community, the existence of traditional markets, small and medium enterprises in the region concerned. Second, pay attention to the distance between hypermarkets and traditional markets that have existed before. Third, 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 shopping centers and/or modern stores, and fourth, provide facilities that ensure shopping centers and modern stores are clean, healthy, safe, orderly and comfortable public spaces.³⁴

Regulation of the Mayor of Medan amending the Regulation of the Mayor of Medan Number 20 Of 2011 on the arrangement and guidance of traditional markets, shopping centers and modern stores. Article 23 C paragraph (1) letter j prohibits the establishment of modern stores:

1. Every organizer and/or business actor of traditional markets, modern stores and shopping centers is prohibited.
2. Minimarkets are less than 100 meters from houses of worship, educational institutions and government offices.
3. Supermarkets, department stores and hypermarkets, wholesalers/wholesalers are less than 500 meters from houses of worship, educational institutions and government offices.
4. The provisions as referred to in paragraph (1) letter i, letter j, and law k are exempted for building construction permits that are in accordance with their designation.³⁵

Regulations related to the zoning of minimarkets that can be located on each network and also the absence of distance settings applied to minimarkets, related to Article 23C paragraph (1) letter j related to the prohibition of minimarkets, there are also several minimarkets that violate the rules that stand in areas that are not permitted, for example in front of MAN 2 Medan Model, the

³³ Article 3 of Presidential Regulation No. 112 Of 2007.

³⁴ Article 4 paragraph (1) of Presidential Regulation of the Republic of Indonesia Number 112 Of 2007.

³⁵ Article 23C paragraph (1) of Medan Mayor Regulation Number 23 Of 2012

minimarket is not only located in the area of educational institutions but also stands in the area of houses of worship that do not meet the predetermined distance, and there are still several minimarkets that stand in areas prohibited in Article 23C paragraph (1) in the Medan Mayor Regulation No. 20/2011.

Regarding the regulation of minimarket distance in Medan City, the data that I obtained from the results of an interview conducted with Mr. Iqbal at the One-Stop Investment and Integrated Services Office, stated that there is no regulation of distance between minimarkets. Minimarket licensing is now done with an online system carried out on the OSS.go.id system. Registration carried out through OSS has no special requirements or special provisions that must be prepared because the OSS system is a system that makes it easier for business people to manage their business licenses. In the interviews conducted, it was stated that the OSS system has four risks, first low risk, low winah, medium high and high risk. Low and medium low risks are automatically issued without any conditions, while the conditions that are fulfilled are self-declaration in the OSS system and minimarkets including low and medium low risks are automatically issued. Anyone can open a minimarket business, and it can be opened at any location. In the licensing process there are no distance arrangements between minimarkets with each other or in OSS. It only regulates the construction area. In a licensing system that does not regulate the distance system, there are no sanctions or protection given to micro businesses³⁶.

OSS is an integrated electronic business licensing system or online single submission. Currently, all business licenses in various business sectors must be processed and issued through OSS. OSS is a public service created to reform the bureaucracy in the field of licensing services.³⁷ In the OSS system, RBA is regulated in Government Regulation No. 5 of 2021 and Government Regulation in Lieu of Law No. 2 of 2022 on job creation. In the OSS system, there is no distance setting in minimarket construction licensing.

The distance regulation of minimarkets in Medan City was previously regulated in Article 7 paragraph (3) of Medan Mayor Regulation No. 20 Of 2011, minimarkets are at least 500 M (five hundred meters) away from existing minimarkets.³⁸ However, the regulation was abolished in the second amendment, namely Medan Mayor Regulation No. 47/2012.

³⁶ Interview with Mr. Muhammad Iqbal Lidi Siregar, Head of the Trade Sector Licensing Team, February 13, 2024 at the One-Stop Integrated Service and Investment Office.

³⁷ Elias Martin Silalahi, "Keberlanjutan Inovasi Online Single Submission (OSS) Yang Dikelola Dinas Penanaman Modal Dan Pelayanan Terpadu Satu Pintu (DPMPSTPO Kota Medan)", *Jurnal Ilmu Politik Dan Pemerintahan*, Vol.11, No. 3. p.4

³⁸ Article 7 paragraph (3) of Medan Mayor Regulation Number 20 Of 2011.

3.5 Law Enforcement of Minimarket Distance in Micro Business Protection in Medan City from the Perspective of Maslahah-Miursalah

The importance of legal assertiveness in regulating the arrangement of modern markets in protecting retail businesses, micro, shops, grocery and others, because the presence of minimarkets in Medan City has been rapidly growing whose existence has almost filled the Medan City area, it can threaten micro retail businesses. Because the increasingly widespread minimarket causes micro retail businesses to be eliminated. It is expected that the government pays attention to regulations in the field of marketing as stated above, so that the existence of modern markets such as minimarkets does not pose a threat to the existence of micro retail businesses.

Article 5 paragraph (4) of Presidential Regulation No. 112 of 2007 states that minimarkets may be located on any neighborhood road network in neighborhood service areas (housing) within cities/urban areas³⁹. However, Trade Regulation No 53 of 2008 mentioned in Article 3 paragraph (9) concerning guidelines for structuring and fostering traditional markets, shopping centers and modern stores mentions the obligations for minimarkets, namely the establishment of minimarkets both stand-alone and integrated with shopping centers or other buildings must pay attention to: first, population density, second, the development of new settlements, third, regional accessibility (traffic flow), fourth, support/availability of infrastructure, fifth, the existence of traditional markets and stalls/shops in the surrounding area that are smaller than the minimarket⁴⁰.

However, Trade Regulation No. 53/2008 does not regulate the consequences or sanctions if the above obligations are violated. The implementation of modern store supervision is left to the Regent/Mayor⁴¹. The provision of distance regulation in Medan City is regulated in Article 7 paragraph (3) No 20 Of 2011, before the deletion of the article.

The establishment of minimarkets adjacent to small businesses such as micro-businesses causes harm. This contradicts the theory of *Maslahah Mursalah*. Because the presence of these minimarkets has more negative effects than the aspects of *maslahahnya*. In the conditions faced now, such as the presence of minimarkets that cause negative properties for micro businesses. With regard to this, *Maslahah Mursalah* is one of the alternatives in determining a law. To eliminate (reduce) or eliminate concerns about the elimination of micro businesses with the presence of minimarkets, then in *ijtihad* using *Maslahah Mursalah* it should be done together.

³⁹ Article 5 paragraph (4) of Presidential Regulation No. 112 Of 2007

⁴⁰ Article 3 paragraph (9) of Trade Regulation No. 53/2008

⁴¹ Zulfi chairi et al. Op.cit., p.122

Currently OSS is a licensing system for business actors that is carried out with an online system, with this system it should make it easier for permit managers to manage business licensing. Registered business actors who register will make it easier for OSS institutions to manage distance and supervise business actors, especially for modern businesses such as minimarkets. So that if in the licensing location there is already a modern business, the license manager can refuse a business license for business actors, and also make it easier for authorized institutions to conduct supervision. So that there are no modern businesses such as minimarkets that are built adjacent to existing minimarkets.

4. Conclusion

The presence of minimarkets in Medan City, even in close proximity to other minimarkets, has increased the competitiveness of micro businesses. One of the impacts experienced by micro enterprises with the presence of minimarkets is a decrease in turnover. The distance regulation in Medan City was previously regulated in the Medan Mayor Regulation in Article 7 paragraph (3) No. 20/2011. However, the regulation has been abolished in the second amendment in Medan Mayor Regulation No. 47/2012. So that minimarkets can be located on any road network as mentioned in the Regulation No 112 Of 2007 in Article 5 paragraph (4), minimarkets may be located on any neighborhood road network in neighborhood service areas (housing) within cities/urban areas. Regarding the above problems related to the impact experienced by micro-businesses and distance arrangements between minimarkets that are not followed up so that they experience unbalanced perceptions. Then *Maslahah Mursalah* can be made an alternative as a basis for *ijtihad*. It is expected for the government to protect micro businesses from the mushrooming existence of minimarkets from unbalanced competition, by issuing regulations regarding minimarket licensing related to the distance between minimarkets and providing sanctions supervision to minimarkets that violate minimarket licensing.

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