

Criminal Fines For Traffic Violations In The View Of Islamic Law

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ABSTRACT

It is known that traffic rules are made to protect the interests of road users, even though in reality there are still many road users who violate traffic rules. The government and DPR made regulations contained in Law No. 22 of 2009. This law is considered less than optimal because ordinary people often think that the police decide the amount of the violation fund which is called "deposit money" for criminal fines for past violations. cross. The purpose of this research is to review the application of criminal fines for traffic regulations based on Law No. 22 of 2009. This research is qualitative research using data collection methods, data presentation methods, and data analysis methods. The theory used in this research is Legal Theory which is detailed in depth. The results of the research show that the implementation of criminal fines for violators of traffic regulations is broken down into 4 sub-chapters, namely (1) Violations of Traffic Regulations, (2) Various Traffic Violations According to No. 22 of 2009, (3) Criminal Sanctions of Fines, and (4) Judge's Decision and Implementation of Criminal Sanctions of Fines to people who violate Traffic Regulations; and Obstacles that often occur in the implementation of criminal compensation penalties for violating traffic regulations and efforts to resolve them.

Keywords : police, fines, traffic regulations

1. Introduction

Issues of justice and law will always be related in social life. In interactions between humans, justice and law are of course inherent. This is certainly not easy if justice and law must be separated from social life. Justice and law are the foundation of society.¹ Therefore,

1 Ilir Qabrati, "The Concept Of Law and Justice", *Prizren Sociaql Science Journal*, No 4(3)(2020):78 <https://>

the task carried out by a court institution is a task that really requires thoroughness and maturity in forming legal considerations until making a decision.²

Recently, many criminal law issues have been in the spotlight both in theory and practice. Efforts to create a new National Criminal Code were also carried out, this was demonstrated by the enactment of Law Number 1 of 2023 concerning the National Criminal Code. This effort has the aim of reducing weaknesses and negligence in the Criminal Code that has been passed. Several provisions in the old Criminal Code have been proven to no longer be in accordance with the spirit and spirit of Pancasila and the 1945 Constitution, as well as the situation and conditions of society.³ Basically, criminal law has poor punishment, therefore this bad punishment system can be used if other efforts cannot be implemented anymore.⁴

In the realm of Islamic jurisprudence, *ulil amri* assumes the responsibility of crafting broad regulations, such as those pertaining to traffic and immigration, with the intention of overseeing human conduct and endeavors while averting disorder. The objective is to foster a secure and tranquil societal milieu, where inhabitants comprehend their rights and duties, and even extend beyond that by delivering communal advantages. Particularly in an age marked by a diminishing zeal for religious observance among the majority of adherents, rules are regarded as the sole mechanism capable of exerting control over them. Consequently, it is impermissible for anyone to transgress or defy the directives established by *Ulil Amri*, unless under emergency circumstances aligning with pressing interests. *Ulil Amri* is bestowed with the authority to mete out penalties to individuals contravening these regulations, aligning with the legal statutes instituted by the state to penalize offenders. Should the transgression satisfy the criteria for criminality, the individual mandated for punishment (*mukallaf*) must be accountable for their deeds. In Islamic legal parlance, this accountability is frequently denoted as *al-mas'uliyāh al-jināiyyāh*, signifying the individual's answerability for the outcomes or repercussions of their actions, where the individual acts based on their own volition and is cognizant of the intent and ramifications of their conduct.

Public knowledge about criminal law is considered to be still not high, and compliance with traffic regulations which is still enforced is a general assessment that comes from ordinary people. National culture can be seen from obedience in traffic, where this has become a common assumption.⁵ As a result of the large number of violators using the

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2 Ibid, 79

3 Taufik Siregar, "Kajian Yuridis terhadap Kelemahan KUHP dan Upaya Penyempurnaannya", *Jurnal Pendidikan Ilmu-Ilmu Sosial* 9 (2) (2017): 186-195 DOI: <https://doi.org/10.24114/jupiis.v9i2.8249>

4 Joko Sriwidodo, *Kajian Hukum Pidana Indonesia "Teori dan Praktek"*, (Yogyakarta:Kepel Press, 2019), 67-68

5 Rosalina Indah Putri, I Ketut Sukadana, Ni Made Sukaryati Karma, "Ketaatan Pengguna Jalan Dalam Tertib Berlalu Lintas Di Wilayah Hukum Polresta Denpasar", *Jurnal Konstruksi Hukum*, Vol 2(3) (2021):553-557 DOI:<https://doi.org/10.22225/jkh.2.3.3640.553-557>

road, the Government and the DPR created a traffic rule which aims to shape the behavior of road users so that they can be more orderly and avoid dangerous things. This rule has been stated in Law no. 22 of 2009 which contains Road Transport Traffic with the principle of reducing the number of traffic violators to a minimum.

The law aims to reduce violations that occur on the roads as much as possible. In reality, these violations still occur everywhere. The imposition of criminal sanctions, especially fines, on violators of traffic regulations has often been carried out by law enforcers, especially the police. In the Indonesian judicial system, the judge has the authority to impose criminal sanctions. Therefore, the actual authority to decide on criminal fines for violations of Traffic Regulations is the Judge. However, in Indonesia there is a term known as Deposit Money for the payment of criminal sanctions for fines for violations of traffic regulations.

In implementing criminal fines for violators of traffic regulations, there is often a confused perception among the public, as if the police are the ones who decide the amount of fines for violators of traffic regulations. This is because the execution of criminal fines for violations of traffic regulations often appears as if they were carried out by the Police based on the "Deposit Money" table for criminal fines for violations of traffic regulations. Therefore, it is encouraged to explain the implementation of criminal fines for violations of traffic regulations.

2. RESEARCH METHOD

The approach method used in this research is a sociological juridical approach. Sociological juridical legal research mainly examines primary data as well as collecting data from secondary data.

3. RESULT AND DISCUSSION

3.1. Violation of Traffic Regulations

Before discussing further about traffic cases, the author needs to state the definition of a violation as a behavior that can be known that there is a violation after a decision has been made.⁶ Violations based on the KBBI can be interpreted as acts of violation. Article 211 of the Criminal Procedure Code contains details regarding traffic violations that can occur in various situations. First of all, violations can arise from road use that threatens traffic safety or has the potential to damage road infrastructure. Furthermore, motorized vehicles that are driven without the ability to show documents such as a valid driving license, vehicle registration certificate (STNK), and vehicle test certificate are considered a traffic violation.

Apart from that, providing a motorized vehicle to an individual who does

6 Suyanto, *Pengantar Hukum Pidana*, (Yogyakarta: Deepublish, 2018), 30

not have a driving license (SIM) is also included in the category of traffic violation. Failure to comply with traffic rules regarding numbering, lighting, tools, equipment, vehicle loading, and coupling with other vehicles is also considered a violation that can be subject to sanctions. Furthermore, violations of traffic control officers, traffic control signs, and road markings that have been installed to maintain driving order are also included in Article 211 of the Criminal Procedure Code. In addition, operating a motorized vehicle without an officially issued vehicle registration plate and in accordance with a valid Vehicle Registration Certificate is also considered a violation of the law. Violations of permitted vehicle size and load regulations, as well as raising or lowering passengers and/or loading and unloading goods, also fall within the scope of Article 211 of the Criminal Procedure Code. Lastly, violations related to route permits and the types of motorized vehicles permitted to operate on designated routes are part of traffic violations regulated by Article 211 of the Criminal Procedure Code.

Law Number 22 of 2009 groups goods transport traffic violations into three categories, with each having a different level of seriousness.⁷ First, there are minor road traffic violations which are included in the very light offense category. This type of violation involves several aspects such as the use of inappropriate brake lights and taillights on vehicles other than motorized vehicles, violations of prohibitory signs and certain road markings. Apart from that, violations also include other aspects such as non-compliance with traffic signal control lights, violations of overtaking other vehicles, as well as violations related to prohibited parking or stopping places.

Then, there are moderate road traffic violations which include violations with a medium level of seriousness. This involves aspects such as incomplete documents, such as proof of passing the test, STNK, STCK, TNKB, and TNCK. Apart from that, the violation is also related to the failure to show a driving license (SIM). Finally, the types of serious road traffic violations are divided into three categories. First, violations related to transporting people/goods that are not in accordance with their function. Second, violations related to technical requirements and roadworthiness, such as lights and other components for motorized vehicles. Third, violations related to road class rules based on traffic signs. This grouping is used as a reference to determine the amount of fines imposed for each type of goods transport traffic violation.

3.2. Criminal Sanctions Fines

Fines are the longest type of punishment in the world besides the death penalty. This fine sanction is usually mentioned in the Torah and Al-Quran as well as

7 Satrio Nur Hadi, Tahura Malagano, "Analisis Penerapan Undang-Undang Nomor 22 Tahun 2009 Tentang Lalu Lintas Dan Angkutan Jalan Dalam Mewujudkan Kesadaran Hukum Berlalu Lintas (Penelitian Di Polres Pesawaran)", Jurnal Kepastian Hukum dan Keadilan, Vol 2(1) (2020): 22-25 <https://jurnal.um-palembang.ac.id/KHDK/article/download/3045/2189>

in the western world. For example, up to now in Scotland, the “Fiscal Procurator” is known as a prosecutor, namely: collecting money (fines) from convicted violators as a source of income.⁸ The fine sanction is also known in customary law, this appears to be a payment to the ruler/kingdom to pay for losses to the victim for the action committed.⁹

It is mandated in the Criminal Code that if the criminal sanction cannot be paid, the fine can be changed to another punishment, namely a minimum sentence of one day or a maximum of six months. When passing a decision, a judge can determine how long the punishment will be for the perpetrator or violator with the following conditions: 1). If the fine exceeds 50 cents or less it counts as one day and if the fine exceeds 50 cents, each 50 cents is determined to be a maximum of one day, this is the same as the remaining no more than 50 cents.

3.3. Dealing with Traffic Violators in Islamic Law.

There is no reason for a Muslim to violate the country’s traffic regulations, as such actions can pose a major risk to himself and other road users. These rules are not set by the state without reason, but rather as an effort to realize mutual benefits for Muslims and prevent losses that could befall them. Therefore, everyone is obliged to comply with these regulations.¹⁰ The competent authorities have the right to impose punishments on violators, with the hope that these penalties will deter violators and other people from repeating the same mistakes. Sometimes, Allah SWT enforces order through the government, and the results are sometimes more effective than direct enforcement through the Koran. This is caused by some people’s lack of fear regarding violations of the rules of the Koran and Sunnah, while they are more worried about the various kinds of punishments that can be imposed by the government. This is none other than their lack of faith in Allah and the Last Day, or some even have no faith at all in most creatures. Furthermore, in Islamic law, there is also the concept of *maslahah murrasa* as a legal method that considers general benefits and unlimited and unbounded interests. In other words, *maslahah murrasa* is an interest that is considered freely, but is still bound to basic sharia principles. Because, sharia itself has the aim of providing benefits to society

8 McGarrol, Sarah & Deacon, Kirsty & Henderson, Gillian. Children aged 12 to 15 years years involved in offending and referred to the Children’s Reporter and Procurator Fiscal in Scotland. A research report by the Scottish Children’s Reporter Administration for the Scottish Government. (2022). https://www.researchgate.net/publication/362469629_Children_aged_12_to_15_years_years_involved_in_offending_and_referred_to_the_Children’s_Reporter_and_Procurator_Fiscal_in_Scotland_A_research_report_by_the_Scottish_Children’s_Reporter_Administration_/citation/download

9 Ibid.

10 T. Muhajir, Sumardi Efendi, Syaibatul Hamdi, “Pelanggaran Lalu Lintas Menurut Hukum Positif Dan Hukum Islam Di Kota Meulaboh Kabupaten Aceh Barat”, *Al Ushuliy: Jurnal Mahasiswa Syariah dan Hukum*, Vol 2(2)(2023):131-146 DOI: <http://dx.doi.org/10.31958/alushuliy.v2i2.10539>

in general and functions as a means of providing benefits and preventing loss or damage.¹¹

Then, regarding the scope of the application of *maslahah murlah*, it is divided into three parts as follows:

First, *Al-maslahah al-daruriyah* (main goal), Involves essential interests in life, such as maintaining religion, protecting the soul, mind, offspring and property. In the context of traffic violations, for example, if people violate traffic rules and cause death to violators, this will threaten the existence of human life and result in useless deaths. Second, *Al-maslahah al-hajjiyah* (secondary goal), Involves essential interests below the level of *maslahah daruriyah*, but is still needed in life in order to avoid difficulties and limitations that can cause damage. In the context of traffic violations, for example, if people violate traffic rules and an accident occurs which causes disability, either temporary or permanent for the violator, this goal is not achieved. Third, *Al-maslahah al-tahsiniah* (tertiary goal), Involves complementary interests which if not fulfilled will not cause difficulties in life, because they are not really needed and only function as a complement or decoration of life. In the context of traffic violations, for example, violations that result in accidents only result in injuries to the violator

This principle shows that Islamic law is about justice and blessings as a whole, with wisdom in all matters. Therefore, every public interest that goes beyond the limits of justice, turns to injustice, from mercy to the opposite, from benefit to harm, even from wisdom to stupidity, are all not included in the *Shari'ah* even though they can be accommodated by various postulates. Thus, the use of public interests is recognized as a source of Islamic legal jurisprudence and accepted as an alternative method in responding to developments in Islamic law.

In everyday life, the application of benefits (*maslahah murlah*) has often been carried out by friends and previous ulama as an alternative in overcoming various societal problems which are not explained in detail in the texts. From the explanation above, it can be understood that traffic violators in positive law and Islamic law are categorized as legal violations (*sadd al-dhari'ah*), because they can cause harm to themselves and others, and have the potential to receive punishment. Thus, it can be considered a violation of law or *jarimah* and can be subject to sanctions according to the level of the violation committed. Rules related to traffic and vehicles apply to all levels of society regardless of social status, be they poor or rich, officials or citizens, police or civilians, and so on. Everything can be regulated through the decision of the leader or *ulil amri* as the holder of government power.

11 Efendi, S. STAIN TDM Students' *Legal Awareness Level of Aceh Jinayah Qanun*. In PROCEEDINGS: Dirundeng International Conference on Islamic Studies (2022). (pp. 1-21). <https://doi.org/10.47498/dicis.v2i1.1347>

3.4. Judge's Decision and Implementation of Criminal Sanctions Fines for Violations of Traffic Regulations

The main task of a judge in a case is to “adjudicate” (Rechtspiekendefunctie) if there is a dispute or legal case or differences in needs between fellow citizens, whether in the form of individuals or authorities or administrative departments, as regulated in Law No. 14 of 1970 in conjunction with Law no. 4 of 2004 in conjunction with Law No. 48 of 2009. A judge is chosen fairly and objectively according to the law, truth and justice, so that the examination of a case must be carried out in a hearing that is open to the public.¹² Judges are obliged to create legal considerations used in deciding cases to avoid the subjectivity of a judge. In Article 27 of Law no. 14 of 1970 has determined that a judge has the obligation to seek, follow and understand the legal norms that exist in society based on the values of Pancasila, good and correct law and “according to the low of civilized ratio”. Every case that goes to court and has been processed results in a decision from the judge. The judge who issues the decision is obliged to issue the provisions that have been decided in accordance with the provisions of Article 2 of Law no. 4 of 2004, concerning Judicial Power. In this case, the court decision not only includes the reasons and basis for the decision, but also includes certain articles from the relevant laws and regulations or sources of unwritten rights that are used as the basis for the trial. Every decision in a court is signed by the person who presided over the trial, the judge who gave the decision, and the clerk who conducted the trial. The confirmation of the summary of the deliberation meeting and the minutes of the trial examination are signed by the chairman of the panel of judges and the court clerk.

Based on the results of an interview with a judge at the Jepara District Court, the judge's assessment in considering a decision or imposing a criminal fine in a traffic case involves several assessment factors starting from the condition or status of the violator. If the violator is a student, the judge will give special considerations, which may result in the imposition of lighter sanctions. The second factor to pay attention to is the type of violation committed, such as the absence or negligence of carrying a driving license (SIM), absence of a vehicle registration certificate (STNK), or incomplete motor vehicle equipment. Judges also consider several aspects that cause traffic violations, including intentional violations, such as breaking a one-way street or breaking a traffic light. Unintentional violations, for example not having a driving license (SIM) and modifications to motorized vehicles.

By considering these factors, the judge will carry out a holistic assessment to decide on the appropriate decision and fine criminal sanctions in traffic cases.

12 Muhammad Novriandi, Fransisca Romana Harjiyatni, Samun Ismaya, “Problematika Status Ganda Hakim Sebagai Pegawai Negeri Sipil Dan Pejabat Negara Terhadap Pelaksanaan Tugas Hakim”, *Kajian Hasil Penelitian Hukum* Vol 6(2) (2022): 13 DOI: <http://dx.doi.org/10.37159/jmih.v6i2.2104.g1460>

Referring to the research data above, it appears that the judge is considering a decision, so the judge looks at the condition of the offender, looks at the type of traffic violation and aspects that resulted in the violation occurring. In considering the judge's decision on other cases, traffic is not based on formal juridical grounds but also looks at sociological factors in a society, meaning that public awareness of the importance and orderliness of obeying traffic regulations is still lacking, due to the socialization of the latest Law on Road Traffic and Transport. namely regarding: Law no. 22 of 2009. These forms can be categorized as traffic violations, including: violations of traffic signs, violations of ownership of a driving license, violations of the carrying capacity of motor vehicles, violations of motor vehicle equipment and violations of documents on number of vehicles.¹³

The implementation of criminal fines in traffic cases is the actualization of fines for traffic violations that fall into the category of a violation, not the end of a crime, so a fine or imprisonment for a certain time will be required. It is clear what is meant by transportation, so if we find the transfer of people or goods without using a vehicle, it is not considered transportation. Meanwhile, the definition of a goods transport car is a motorized vehicle other than private cars, 2-wheeled motorbikes, buses and special vehicles. Goods vehicles are motorized vehicles intended for lifting and carrying goods, as regulated in Government Regulation (PP) No. 43 of 1993 concerning Road Infrastructure and Traffic. Meanwhile, according to Articles 1-3 of Law no. 22 of 2009, transportation is the activity of moving goods and/or people from one place to another by using motorized vehicles on traffic roads.

Based on the provisions of Law No. 22 of 2009, the judge will only impose a prison sentence on the defendant who is brought to trial based on sufficient evidence and legal facts revealed at trial, taking into account mitigating and aggravating factors for the defendant. Fines are imposed as a second alternative in traffic crimes by considering sufficient evidence and legal facts revealed at trial, taking into account mitigating and aggravating factors for the defendant. Imprisonment and/or fines are imposed as a third alternative in traffic crimes. In this case the judge will choose which alternative punishment will be imposed on the defendant who is brought to trial by considering sufficient evidence and legal facts revealed at trial, taking into account the following factors. mitigating and aggravating factors for the defendant. In such cases, the judge can choose to impose a prison sentence and a fine at the same time for the defendant who is brought to trial or the judge will impose a prison sentence only or can also choose a fine only, all of which must still consider sufficient evidence and legal facts revealed at trial and mitigating or aggravating factors for the defendant.

13 Elsanía Natasya Susilo , Penegakan Hukum Terhadap Pengguna GPS Saat Mengendarai Kendaraan, *Jurnal Hukum*, Vol. 13(2) (2020): 15

Based on observations made by researchers from September 2014 to January 2015, at the trial by implementing Law no. 22 of 2009, fines imposed by District Court Judges on perpetrators of traffic violations are in the form of criminal fines with the provisions that if the fine imposed is not paid by the perpetrator of the violation, it will be replaced by imprisonment. The amount of the fine imposed by the judge in January 2015 can be concluded as follows:

Violations of SIM provisions, as regulated in Article 288 paragraph (2) of Law Number 22 of 2009, provide fines that vary according to the type of vehicle. For 2-wheeled vehicles or 3-wheeled motorbikes, the fine is IDR 15,000 with a subsidiary option of 3 days in prison. For 4-wheeled vehicles, the fine is up to IDR 50,000 or a subsidy of 8 days in prison. Meanwhile, for 6-wheeled vehicles (trucks and buses), the fine is IDR 70,000 with a subsidy of 10 days in prison, and large vehicles (trontoons and tlelers) are subject to a fine of IDR 100,000 or a subsidy of 12 days in prison. Violations of STNK provisions, as regulated in Article 288 paragraph (1), also impose different fines. Two-wheeled vehicles or three-wheeled motorbikes are subject to a fine of IDR 15,000 with a subsidy of 3 days in prison. For 4-wheeled vehicles, a fine of IDR 50,000 or a subsidy of 8 days in prison. Violations on 6-wheeled vehicles (trucks and buses) are subject to a fine of IDR 70,000 with a subsidy of 10 days in prison, and large vehicles (tronton and tleler) are subject to a fine of IDR 100,000 or a subsidy of 12 days in prison.

Violation of equipment provisions, as regulated in Article 285 paragraphs (1) and (2), carries fines in different proportions. For motorbikes, the fine is IDR 15,000 with a subsidy of 3 days in prison. For 4-wheeled vehicles or cars, the fine is up to IDR 50,000 or a subsidy of 8 days in prison. Six-wheeled vehicles (trucks and buses) are subject to a fine of IDR 70,000 with a subsidy of 10 days in prison, while large vehicles (trontoons and tlelers) are subject to a fine of IDR 110,000 or a subsidy of 13 days in prison. Violations of the use of seat belts, in accordance with Article 289, carry varying fines. For 4-wheeled vehicles or cars, the fine is IDR 100,000 with a subsidy of 12 days in prison. Six-wheeled vehicles (trucks and buses) are subject to a fine of IDR 150,000 with a subsidy of 14 days in prison, and large vehicles (tronton/ tleler) are subject to a fine of IDR 170,000 with a subsidy of 17 days of imprisonment.

Violation of signs, in accordance with Article 287 paragraph (1), carries various fines. For motorbikes, the fine is IDR 15,000 with a subsidy of 3 days in prison. For cars, the fine is up to IDR 50,000 or a subsidy of 8 days in prison. Trucks and buses are subject to a fine of Rp. 70,000 with a subsidy of 10 days in prison, and trontons and articulated trucks are subject to a fine of Rp. 100,000 or a subsidy of 12 days in prison. Violations of overloading or passengers, based on Article 292 and Article 307, impose fines that vary according to the type of vehicle. For motorbikes, the fine is IDR 15,000 with a subsidy of 3 days in prison. Cars are subject to a fine of IDR

20,000 with a subsidy of 4 days in prison. Trucks and buses are subject to a fine of IDR 25,000 with a subsidy of 4 days in prison, while trontons and articulated trucks are subject to a fine of IDR 175,000 with a subsidy of 20 days in prison..

4. Conclusion

Implementation of Judge's Decisions regarding criminal fines in traffic cases by conducting research at the Jepara District Court. Every time a traffic case is resolved for motorized vehicles, the Jepara District Court decides the case based on the Criminal Procedure Code and Law no. 22 of 2009. When conducting traffic case examinations, they will utilize fast examinations, namely using a single judge and not requiring an official report. A person who violates or has the status of a defendant can represent him in the trial although the examination can also be carried out without the presence of the defendant or his representative. The defendant is given the opportunity to file a complaint within 7 days after the decision is legally published to the defendant. In this simple examination, the examination is carried out based on the presence of an official report and a letter of indictment. This is also the same as the form of decision which is not specifically designed or combined with the minutes in the same way as the form of decision.

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