

The Handling of Traffic Accident Cases that Cause Minimum Injury

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Abstract.

The purpose of this research is to know and analyze of handling cases of traffic accidents that resulted in minor injuries. This study uses a normative approach, with descriptive research specifications. The data used in this study is secondary data obtained through literature study. The results of this study are the Handling of Traffic Accident Cases That Cause Minor Injury Victims, then the accident investigator mediates between the driver of the Honda Astrea motorcycle and the driver of the Spm Honda PCX motorcycle no. Pol., In this case the victim suffered minor injuries and material losses which are classified as Article 310 paragraph (2) of Act No. 22 of 2009 concerning Road Traffic and Transportation which should be handled by Article 230 of Act No. 22 of 2009 concerning Traffic and Road Transport. Road Transportation, the case must be processed in a criminal justice procedure in accordance with the laws and regulations, but in this case the accident investigator then allowed mediation. The obstacles faced by the traffic police include: lack of cooperation between the traffic police and other agencies related to traffic. In an effort to reduce traffic accidents that only involve damage to public facilities or that can cause fatalities, they often encounter difficulties in their business. This is related to the lack of cooperation between the police and other agencies. The solution is to increase legal awareness, traffic police also often hold legal counseling, including counseling to increase awareness in traffic. Granting a driving license is also one of the efforts to reduce the incidence of traffic accidents.

Keywords: Accident; Injury; Traffic; Victims.

1. Introduction

Traffic is a subsystem of the urban ecosystem, developing as part of the city because of the instinct and need of residents to move or use transportation to move people and or goods from one place to another. The instinct and desire of residents to travel or move goods of a general nature always causes problems and is also common in urban transportation. However, on the other hand, there are certain influences that cause disturbances to the peace of human life. The reality shows how many traffic accidents occur every day that result in human loss, human injury and material loss.¹

The state of Indonesia is a state of law, this is stated explicitly in Article 1 paragraph (3) of the 1945 Constitution. The idea of a state of law was built by developing the legal apparatus itself as a functional and just system and fostered by building a culture and legal awareness in social life. So that all community activities must be based on the laws that apply in society. So the law cannot appear or arise if there is only one person. There must be 2 or more individuals (society)

¹Polri, 2009, *Sosialisasi Undang-Undang No.22 Tahun 2009 Tentang Lalu Lintas dan Angkutan Jalan*, in <http://www.polri.go.id>.

so that the law is created. When the law is created and runs well, the law will create protection for the community which leads to the realization of justice.

As a country based on law in achieving the goals of national and state life, especially the achievement of community welfare in development as mandated by the Preamble to the 1945 Constitution of the Republic of Indonesia, the road traffic and transportation system has a strategic role as a means of facilitating the flow of goods and services transportation.²Road Traffic and Transportation (LLAJ) must develop its potential and role to realize security, welfare, traffic order and road transportation in order to support economic development and the development of science and technology, regional autonomy, and accountability for state administration.

There are so many problems related to law violations, ranging from mild to severe.³Minor violations that often occur in traffic problems are not wearing a helmet, running red lights, not having a driver's license or vehicle registration, not turning on the lights during the day, and riding a three-wheeler are considered to have become entrenched among the community and school children. Traffic violations like that are considered to have become a habit for road users, so that every time an orderly traffic operation is carried out on the highway by the authorities, there are not a few cases of traffic violations that are netted and not infrequently because these violations often cause traffic accidents.

Road Traffic and Transportation has a strategic role in supporting national development and integrity as part of efforts to improve people's welfare, but it is on this highway that traffic accidents often occur. The high number of traffic accidents, including human factors (human error), utility factors such as vehicle failure, road damage, excessive road loads, and other supporting facilities play a role in the occurrence of traffic accidents.⁴

The driver's carelessness often causes victims, whether the victim suffers serious injuries or the victim dies, and it often even takes the driver's life. Some traffic accidents that occur, can actually be avoided if the road users can behave in a disciplined, polite and respectful manner. That the use of the road is regulated in Act No. 22 of 2009 concerning Road Traffic and Transportation.

Traffic violations are actions that are contrary to traffic and or its implementing regulations, both which may or may not cause loss of life or property as well as traffic law and order.⁵With a regulation mentioned above and if people want to apply these rules in driving, it is likely to reduce the number of accidents that even often occur on the highway. A lot of carelessness results in a person's lack of caution which often causes accidents and with this carelessness has an impact on other people.

²Pietersz, 2010. *Karakteristik Surat Tilang dalam Penindakan Pelanggaran Lalu Lintas dan Angkutan Jalan*. Jurnal Sasi Vol. 16 No. 3, July – September 2010.

³Wirjono Prodjodikoro, (2003), *Asas-Asas Hukum Pidana di Indonesia*, Refika Aditama, Bandung, p. 20.

⁴Iman Faturrahman, and Bambang Tri Bawono, 2021, *Application of Restorative Justice to Solution of Traffic Accidents*, dalam *Jurnal Daulat Hukum* Volume 4 (1), Published Master Of Law, Faculty of Law Unissula, p. 28, <http://jurnal.unissula.ac.id/index.php/RH/article/view/13881/5377>

⁵Markas Besar Kepolisian Negara Republik Indonesia Akademi Kepolisian, (2009), *Fungsi Teknis Lalu Lintas*, Kompetensi Utama, Semarang, p. 6.

Accidents are events experienced by humans that result in material losses and loss of life. This can happen to humans anywhere and anytime. Traffic accidents are one of the accidents caused by driving a motor vehicle on the highway. These accidents often occur due to unfit roads and the increasing number of motorized vehicles on the road in line with the increase in population. In addition, public transportation infrastructure is not supported so that services to the community must be improved to minimize the incidence of accidents.⁶

Accidents are largely determined by the driver factor. The driver has a big role in the occurrence of traffic accidents. Drivers who do not anticipate or are unable to predict the dangers can cause traffic accidents. Traffic accidents that have occurred so far are caused by negligence, negligence, carelessness experienced by the driver.⁷

Highway infrastructure with the public transportation sector is one of the parts of transportation that receives the most influence from an increase in living standards, because the main function of the highway is as an infrastructure that can serve the movement of traffic, both people and goods safely, comfortably and quickly.⁸

2. Research Methods

This study uses a normative approach, with descriptive research specifications. The data used in this study is secondary data obtained through literature study.

3. Result and Discussion

3.1. Handling of Traffic Accident Cases Resulting in Minor Injury

Act No. 22 of 2009 concerning Road Traffic and Transportation (“LLAJ Law”) regulates specifically, in detail and firmly on how to traffic on the highway and also regulates traffic accidents. Traffic accidents can happen when the motor vehicle driver is negligent. Traffic accidents can happen to anyone who drives a motorized vehicle who is not careful and does not obey existing traffic signs or the factors that exist within the driver.

According to Article 1 number 24, traffic accidents are; "an incident on the road that is unexpected and unintentional involving a vehicle with or without other road users resulting in human casualties and/or property loss."

The regulation regarding the weight of the crime in Act No. 22 of 2009 concerning Road Transport Traffic can be seen in Article 273-Article 317 for each violation of criminal provisions, the weight of the crime and the types of crimes are determined in various ways, meaning that for the type of crime one weight is

⁶Tri Tjahjono and Indarayati Subagio, (2011), *Analaisis Keselamatan Lalu Lintas Jalan*, Lubuk Agung, Bandung, p. 1

⁷Preliyanto Puji Utomo, Umar Ma’ruf, and Bambang Tri Bawono, 2020, *Application Of Act No. 22 Of 2009 As A Traffic Accidents Countermeasures Management In The Blora Police Law Area*, dalam *Jurnal Daulat Hukum* Volume 3 (2), Published Master Of Law, Faculty of Law Unissula, p. 259 <http://jurnal.unissula.ac.id/index.php/RH/article/view/9373/4140>

⁸Bambang Susantono, (2013), *Transportasi Dan Investasi*, Kompas Media Nusantara, Jakarta, p. 8

different from other types of crime. Act No. 22 of 2009 concerning Road Traffic and Transportation in Article 310 states that: (1) Everyone who drives a Motorized Vehicle due to negligence causes a Traffic Accident with damage to the Vehicle and/or goods as referred to in Article 229 paragraph (2), shall be sentenced to a maximum imprisonment of 6 (six) months and/or a maximum fine of IDR 1,000,000.00 (one million rupiah); (2) Any person who drives a Motorized Vehicle which due to his/her negligence causes a Traffic Accident with minor injuries and damage to the Vehicle and/or goods as referred to in Article 229 paragraph (3), shall be sentenced to a maximum imprisonment of 1 (one) year and/or or a maximum fine of IDR2,000,000.00 (two million rupiah); (3) Everyone who drives a Motorized Vehicle due to his/her negligence causes a Traffic Accident with serious injuries as referred to in Article 229 paragraph (4), shall be sentenced to a maximum imprisonment of 5 (five) years and/or a maximum fine of IDR 10,000,000.00 (ten million rupiah); (4) In the event of an accident as referred to in paragraph (3) which results in the death of another person,

Article 310 paragraph (2) states... "Everyone who drives a motorized vehicle due to negligence causes a traffic accident with minor injuries..." while what is meant by minor injuries are injuries that cause the victim to suffer from illness that does not require hospitalization or other than those classified as seriously injured.

The problem of traffic accidents that cause human victims to die or be injured is directly related to articles 359 and 360 of the Criminal Code and Article 310 of Act No. 22 of 2009 concerning Road Traffic and Transportation. Act No. 22 of 2009 concerning Road Traffic and Transportation specifically regulates traffic procedures but often drivers ignore these traffic rules, causing traffic accidents, for example because the driver does not obey traffic signs or road markings, does not have a driving license, the vehicle does not meet roadworthiness requirements or the driver is unable to drive the vehicle properly.

The National Police has issued a Circular Letter of the Chief of Police Number: SE/8/VII/2018 dated 27 July 2018 concerning the Application of Restorative Justice in the Settlement of Criminal Cases. In the circular letter Number: SE/8/VII/2018 The application of restorative justice in the settlement of criminal cases, there are several basic references in the settlement, namely:⁹

- Act No. 8 of 1981 concerning the Criminal Procedure Code
- Act No. 2 of 2002 concerning the National Police of the Republic of Indonesia
- Act No. 25 of 2009 concerning Public Services
- Act No. 11 of 2012 concerning the Juvenile Justice System
- Act No. 30 of 2014 concerning Government Administration
- Regulation of the Head of the State Police of the Republic of Indonesia Number 14 of 2012 concerning Management of Criminal Investigations.

According to Sudikno Mertokusumo, the law serves as the protection of human interests. In order for human interests to be protected, the law must be implemented. The implementation of the law can take place normally, peacefully, but it can also occur due to violations of the law. In this case the law that has been violated must be enforced. It is through law enforcement that the law becomes a reality. In enforcing the law, there are three elements that must always be

⁹ Circular Letter of the Chief of Police Number: SE/8/VII/2018 Date: July 27, 2018

considered, namely legal certainty (*Rechtssicherheit*), expediency (*Zweckmassigkeit*) and justice (*Gerechtigkeit*).¹⁰

Traffic crime cases are generally not intentional, here there is only an element of negligence. However, even so, the perpetrator is still considered responsible for the occurrence of the forbidden case, even though he did not intend to commit an act that turned out to be a crime.

For drivers who are involved in traffic accidents, solving the collision problem cannot be done haphazardly. If you are involved in an accident while driving, negotiating how to resolve the collision problem goes a long way, there's nothing wrong with asking the authorities for help to resolve the problem. Usually the police will ask for information from the driver involved in the accident and witnesses who are at the scene to determine the appropriate legal action.¹¹

Handling Traffic Accident Cases Resulting in Minor Injury Victims of the accident then conducted mediation between the driver of the Honda Astrea motorcycle and the driver of the Spm Honda PCX motorcycle vehicle No. Pol., in this case the victim suffered minor injuries and material losses which are classified as Article 310 paragraph (2) of Act No. 22 of 2009 concerning Road Traffic and Transportation which should be handled by Article 230 of Act No. 22 of 2009 concerning Traffic and Road Transportation, the case must be processed in a criminal justice procedure in accordance with the laws and regulations, but in this case the accident investigator then allowed mediation.

The reason used by traffic accident investigators in resolving cases is that the traffic accident is not a deliberate crime. The existence of good faith from the suspect and the victim of a traffic accident to settle cases outside the court, the number of cases handled by investigators so as to prioritize cases that are considered light, the investigator's authority to take other actions according to the responsible law, the investigator's authority can act according to his own judgement, investigators in cases deemed not detrimental to the public interest, the crime is a traffic accident with material loss.

3.2. Obstacles in Handling Traffic Accident Cases Resulting in Minor Injury

Crime prevention and control must be carried out with an integral approach, there is a balance between penal and non-penal means. From the point of view of criminal politics, the most strategic policy is through non-penal means, because it is more preventive in nature and because the penal policy has weaknesses, namely being more repressive/not preventive, offender-oriented/not victim-oriented, and must be supported by high-cost infrastructure.¹²

Traffic in Indonesia is regulated in laws and regulations, namely Act No. 22 of 2009 concerning Road Traffic and Transportation, where these regulations are made to ensure security, order and welfare in society which need to be determined regarding prohibited and required actions. Meanwhile, the violation of these provisions is punishable by criminal sanctions. The frequent occurrence of traffic

¹⁰ Sudikno Mertokusumo. (1996), *Mengenal Hukum*. Liberty Yogyakarta. p. 140

¹¹ <https://www.qoala.app/id/blog/gaya-hidup/otomotif/cara-menyelesaikan-masalah-tabrakan/>

¹² Barda Nawawi Arier, (2010), *Masalah Penegakan Hukum dan Kebijakan Hukum Pidana Dalam Penanggulangan Kejahatan*, Media Group, Jakarta, p. 78

violations, both intentional and unintentional, may be due to the fact that the sanctions imposed on the perpetrators of traffic violations are too light, so it is not surprising that more and more traffic violations are occurring.¹³

The traffic system basically consists of 3 (three) basic components that every road user must know. The traffic components are: humans as users, vehicles; and roads that all interact with each other in the movement of vehicles that meet the requirements of the driver's ability to be driven by the driver by following the traffic rules established by the laws and regulations governing them. As a traffic system itself, of course, synchronization is needed between traffic components in it so that traffic can run according to actual expectations.¹⁴

The occurrence of traffic accidents due to increased traffic flow is generally caused by negligence by drivers who act recklessly. In addition, the state of the facilities are not adequate and there is no full awareness of the community in traffic. Not to mention the traffic police officers who are far from the supervision of their superiors who commit disciplinary violations such as violations that do not follow the orders of their superiors in accordance with the applicable provisions in the mutually agreed regulations, which can harm the good name of the institution and pollute the good relations between the Police and the community.

One of the rules of law is legal settlement by means of deliberation to reach consensus, which is currently conceptualized in solving criminal law problems using the restorative of justice method in resolving criminal cases. The application of the concepts of resolving criminal cases using the restorative of justice method is in line with the development of the theory of the purpose of punishment, where the purpose of punishment is not merely to punish the perpetrator by depriving him of his freedom through imprisonment, as stated by Barda Nawawi Arief:

With regard to criminal sanctions, the type of criminal deprivation of liberty in the form of imprisonment is a type of crime that is often imposed on perpetrators of criminal acts by judges. Along the way, in connection with the development of the purpose of sentencing which is no longer only focused on efforts to suffer, but has led to efforts to improve it towards a more humane direction, imprisonment has caused a lot of criticism from many parties, especially the problem of effectiveness and the negative impact it with the application of the prison sentence.¹⁵

Efforts to handle traffic accidents carried out as public officials who carry out duties and are responsible for handling traffic accidents include seeking & collecting as much evidence as possible to be analyzed & evaluated according to the "triangular evidence" theory in order to provide direction for further investigations.¹⁶

The obstacles faced by the traffic police include: lack of cooperation between the traffic police and other agencies related to traffic. In an effort to reduce traffic

¹³Muhammad Dani Hamzah, 2018, *Penegakan Hukum Pada Kasus Tindak Pidana Kecelakaan Lalu Lintas Yang Menyebabkan Hilangnya Nyawa Orang*, *Jurnal Daulat Hukum* Vol. 1. No. 1, Unissula

¹⁴Bhakti Satriya Perdana Sugiyanto, Gunarto, 2018, *Peran Satlantas Polres Rembang Dalam Menanggulangi Tingginya Kecelakaan Akibat Parkir Liar (Studi Kasus di Kabupaten Rembang)*, *Jurnal Daulat Hukum* Vol. 1. No. 1, Unissula

¹⁵Barda Nawawi Arier, Op.cit, p. 207.

¹⁶Dadik Purnomo, Jawade Hafidz, 2018, *Peran Sat Lantas Polres Rembang Dalam Menekan Angka Kecelakaan Lalu Lintas*, *Jurnal Daulat Hukum* Vol. 1. No. 1, Unissula

accidents that only involve damage to public facilities or that can cause fatalities, they often encounter difficulties in their business. This is related to the lack of cooperation between the police and other agencies. The solution is to increase legal awareness, traffic police also often hold legal counseling, including counseling to increase awareness in traffic. Granting a driving license is also one of the efforts to reduce the incidence of traffic accidents.

4. Conclusion

Granting a driving license is also one of the efforts to reduce the incidence of traffic accidents. In an effort to reduce traffic accidents that only involve damage to public facilities or that can cause fatalities, they often encounter difficulties in their business. This is related to the lack of cooperation between the police and other agencies. The solution is to increase legal awareness, traffic police also often hold legal counseling, including counseling to increase awareness in traffic.

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