

The Law Enforcement of Motor Vehicle Violations Under the Road Traffic and Transportation Act

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Abstract: *The purpose of this research is to examine and analyze the law enforcement of motor vehicle violations based on the law on traffic and road transportation. The approach method used in this paper is normative juridical. The specification of this writing is descriptive analytical. Traffic law enforcement has a role so that traffic laws are obeyed by every road user. Basically, activities can be grouped into two parts of preventive traffic law enforcement which include activities of traffic management, traffic guarding, traffic escorts and traffic patrols, wherein the implementation of these activities constitutes a traffic security system which includes: one sub-system with other sub-systems cannot be separated. Enforcement of repressive traffic laws includes prosecution of violations and investigation of traffic accidents.*

Keywords: *Enforcement; Traffic; Violation.*

1. Introduction

Indonesia is a state based on law, this statement is contained in the Explanation of the 1945 Constitution of the Republic of Indonesia which states that "The State of Indonesia is based on law (rechtstaat) not based on mere power (machtstaat)",¹as a rule of law country, Indonesia has a series of regulations or laws so that the interests of society can be protected.²The 4th paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia, which is the constitutional foundation of this country, states that one of the goals of the state is to create general welfare. So all efforts and development carried out by this

¹Anton Susanto, Ira Alia Maerani, and Maryanto, Legal Enforcement by the Police against Child of Criminal Doer of a Traffic Accident Who Caused Death (Case Study in Traffic Accident of Police Traffic Unit of Cirebon City Police Jurisdiction), Journal of Daulat Hukum Vol.3 No.1, (2020), p.21

²Asep Sunarsa, Attorney Role In Fighting Crimes Of Motorcycle Gang In Cirebon, Journal of Daulat Hukum Vol.1. No. 2 (2018), p.453

country must lead to this goal so as to create people's welfare.

Indonesia's National Development already has clear and directed directions and objectives, namely to achieve a state of Indonesian society that is just and prosperous equally both materially and spiritually. Indonesia is a country based on law (*rechtsstaat*)³namely the State of Indonesia based on law (*rechtsstaat*), and not based on mere power (*machtsstaat*). This sentence has the meaning that the Republic of Indonesia is a democratic rule of law, upholds human rights and guarantees that all citizens have the same status before law and government, and are obliged to uphold this law and government without exception. ⁴ Law enforcement in a rule-of-law state like Indonesia is important to be able to create justice in society in accordance with Indonesia's national development goals.⁵

Road traffic and transportation have a strategic role in supporting development and national integration as part of efforts to promote public welfare as mandated by the 1945 Constitution of the Republic of Indonesia.⁶Road transportation is organized with the aim of realizing road traffic and transportation in a safe, secure, fast, smooth, orderly and orderly manner, comfortable and efficient, capable of integrating other modes of transportation, reaching all corners of the land area, to support equity, drive and support national development by affordable by people's purchasing power.⁷

Some common traffic violation problems that often occur are in the form of violating red lights, many people drive traffic without documents or completeness of the vehicle and violations of traffic signs, not turning on the lights during the day, and three pillion is considered to have been done frequently. among the public, as well as violations of motorists who drive recklessly causing traffic accidents or disturbing fellow traffic road users.

Handling of any traffic violations is regulated in the Law of the Republic of Indonesia Number 22 of 2009 concerning Road Traffic and Transportation. Violations of criminal law rules can be given direct legal action from law enforcement officials and do not need to wait for reports or complaints from the aggrieved party. Law enforcement officers, in this case the Traffic Police

³Sri Praptini, Sri Kusriyah, and Aryani Witasari, Constitution and Constitutionalism of Indonesia, Journal of Sovereign Law: Vol.2 No. 1(2019), p.9

⁴CST Kansil, 1989. Introduction to Indonesian Law and Legal Studies, Jakarta: Balai Pustaka, p.346

⁵Ibid, p. 56.

⁶Kadek Oka Suparta and Ira Alia Maerani, The Law Enforcement in Pressing Traffic Accident which Resulting Death, Jurnal Daulat Hukum, Vol.3 No.4, (2020), p.406

⁷Eka Budiyantri, The Impact of the Presence of Cheap Cars in Indonesia, Brief Info: Economy and Public Policy, Center for Assessment, Data and Information Processing (P3DI) Secretariat General of the DPR RI, Vol. V, No. 18 (2013), p.15

(Polantas)⁸act as a deterrent and follower for traffic violations that occur.

The author's research objective is to examine and analyze the role of the Police traffic unit in enforcing the law on motor vehicle violations based on the Road Traffic and Transportation Act..

2. Research Methods

To conduct an assessment in this writing the author uses a normative juridical method, with an emphasis on literature studies.⁹The specifications in this study are descriptive analysis. Secondary research materials originating from laws and regulations relating to the writing carried out. The data collection used in this writing is document study which is a data collection tool that is carried out through written data using "content analysis".

3. Results and Discussion

3.1. Definition of Law Enforcement

Law enforcement is the center of all legal "life activities" starting from legal planning, law formation, law enforcement and legal evaluation. Law enforcement is essentially an interaction between various human behaviors that represent different interests within a mutually agreed framework of rules.¹⁰ Conceptually, the essence of law enforcement lies in the activity of harmonizing the relationship of values that are described in solid principles and attitudes as a final stage of the elaboration of values, to create, maintain and maintain social peace.¹¹

Jimly Asshiddiqie stated that Law Enforcement is the process of carrying out efforts to uphold or function legal norms in a real way as guidelines for behavior in traffic or legal relations in the life of society and the state. Law enforcement is aimed at increasing order and legal certainty in society. This is done, among other things, by regulating the functions, duties and authorities of institutions tasked with enforcing the law according to the proportions of their respective scopes, and

⁸Miftah Anshori, Investigations of Corruption in Police Resort of Pati, Journal of Daulat Hukum, Volume 1. No. 2 (2018). p. 473

⁹Rony Hanitijo Soemitro. 1990, Legal and Jurimetric Research Methodology, Ghalia Indonesia, Jakarta, p. 34

¹⁰Zudan Arif Fakrulloh, Law Enforcement as an Opportunity to Create Justice. Postgraduate UI, Jurisprudence, Vol. 2, No. 1 (2005), p.22.

¹¹Soerjono Soekanto, 2019. Factors Affecting Law Enforcement. Depok. Publisher Raja Grafindo Persada, p.5.

based on a good system of cooperation and supporting the goals to be achieved.¹²

Law enforcement efforts must have three elements to pay attention to, namely legal certainty (Rechtssicherheit), expediency (Zweckmassigkeit), and justice (Gerechtigkeit). First, legal certainty is a protection against arbitrary action, which means that someone will be able to get something that is expected and there is no arbitrariness. The community expects legal certainty so that people know about their rights and obligations according to law. Second, the community expects benefits in implementing or enforcing the law. Law is for humans, so the implementation of law or law enforcement must provide benefits or uses for society and not cause unrest in society.¹³

3.2. The Role of the Police Traffic Unit in Enforcing the Law on Motor Vehicle Violations Based on the Road Traffic and Transportation Law

The main function of the police is to enforce the law and serve the public interest. So it can be said that the duty of the police is to prevent crime and provide protection to the community.¹⁴ In accordance with the main duties of the Police as stated in Act No. 2 of 2002 concerning the Indonesian National Police Article 13, namely maintaining security and public order; enforce the law; and provide protection and service to the community, and the duties of the National Police in Article 14 paragraph (1) letters a and b, namely carrying out arrangements, guarding and patrolling community and government activities according to needs; organize all activities and ensure security, order, and smooth traffic on the road; then the National Police is deemed obligated to carry out patrols to tackle or take action against violators of traffic rules.

The existence of traffic police is important in tackling traffic violations, to deal with these violations, the police make preventive efforts in preventing motorists when traffic is on the highway, be it giving traffic signals, setting road markings and arranging good traffic signs. so that road users when driving can comply with the instructions set by the traffic police.¹⁵

Act No. 22 of 2009 concerning Road Traffic and Transportation was stipulated in the DPR RI plenary meeting on May 26 2009 which was later ratified by the President of the Republic of Indonesia on June 22 2009. This law is broader in

¹²Hasaziduhu Moho, Law Enforcement in Indonesia according to the Aspects of Legal Certainty, Justice and Benefit. Warta Journal, Edition: 59, (2019), p.4

¹³Abdul Halim, Legal Theories of Positivism and the Development of Criticisms. Asy-syirah Journal, Vol.42 No.2 (2009), p.395.

¹⁴Mahmud Mulyadi, 2009. Police in the Criminal Justice System, USU press, Medan, p.40

¹⁵Marliany, Andi Rasyid Pananrang, Syamsul Bahri. The Role of Traffic Units (SATLANTAS) in Expectations to Prevent Traffic Violations in the Police Area of Barru Regency. Journal of State Administration Paradigm, Vol. 3 No.1 (2020).p.4

scope than Act No. 14 1992 because it is a significant development in terms of the number of clauses it regulates, which previously consisted of 16 chapters and 74 articles, to 22 chapters and 326 articles.

Unlike the previous law, Act No. 22 of 2009 sees that road traffic and transportation have a strategic role in supporting national development and integration as part of efforts to promote general welfare. Furthermore, in the body it is explained that the goal to be achieved by this Law is the realization of Road Traffic and Transportation services that are safe, secure, orderly, smooth, and integrated with other modes of transportation to boost the national economy, advance public welfare, strengthen the unity and integrity of the nation, and being able to uphold national dignity, the realization of traffic ethics and national culture, and the realization of law enforcement and legal certainty for the community.

Law enforcement is an attempt to realize the ideas and legal concepts expected by the people to become reality. Law enforcement is a process that involves many things.¹⁶ Meanwhile Sanyota said law enforcement was aimed at increasing order and legal certainty in society. This is done, among others, by regulating the functions, duties and authorities of institutions in charge of enforcing the law according to the proportions of their respective scopes, and based on a good system of cooperation and supporting the goals to be achieved.¹⁷

The Law Enforcement activity program is not oriented towards finding fault with road users but is more oriented towards protecting, protecting and servicing the violating road users themselves (Dealing with violations of helmets, seat belts and motorized vehicle equipment), other road users (Dealing with violations of driving licenses, speed, signs, markings and others) as well as the interests of disclosing criminal cases (Action for violations of STNK, frame numbers, engine numbers and others).

Activity programs in the form of law enforcement are carried out not only during Police Operations but are also carried out at vulnerable locations and hours according to the results of analysis and evaluation carried out by the traffic analysis section within the Police in an effort to maintain security, safety, order and smooth traffic.

Traffic law enforcement in the repressive field includes prosecution of violations and investigation of traffic accidents, while the tasks of prosecution of violations of traffic law include prosecution in an educative manner, namely taking action against traffic violations in a sympathetic manner by giving reprimands or

¹⁶Dellyana Shant. 1988, Concept of Law Enforcement. Yogyakarta, Liberty, p.32

¹⁷sanyoto. Law Enforcement in Indonesia, Journal of Legal Dynamics, Vol. 8 No. 3 (2008), p.33

warnings to traffic violators, while enforcement is purely juridical can be interpreted as legal action against traffic violations which includes prosecution using fines, namely specifically against 28 certain types of violations as stated in the ticket form and prosecution using Minutes of Short/Sumir/Tipiring as well as prosecutions carried out using Ordinary Minutes, p. is used against violations that have a very high value.¹⁸ While the investigation of traffic accidents includes the handling of the traffic accident scene (TPTKP and TKP processing) as well as the traffic accident investigation process.¹⁹

The process of enforcing traffic law, as has been stated, is both preventive traffic law enforcement and repressive traffic law enforcement, where the implementation includes the prosecution of traffic violations and the investigation of traffic accidents.

Repressive measures are actions taken by law enforcement officials after a crime or violation has occurred. Along with prevention of traffic violations by motorized vehicles that are preventive in nature, it is necessary to carry out repressive enforcement efforts. The roles in the repressive field carried out are:²⁰

1) Prosecution by giving a warning

This has been regulated in Article 265 paragraph 3 of Act No. 22 of 2009 concerning Traffic and Road Rules, namely: to carry out an action in the form of inspecting a motorized vehicle, the police officer of the Republic of Indonesia has the authority to take other actions in the form of stopping a motorized vehicle, requesting information from the driver and take other actions according to the law in a responsible manner. Enforcement of warnings is only given to violators who are not too fatal, such as school children who drive underage who commit violations.²¹

2) Prosecution by issuing a ticket

This relates to Article 265 paragraph 1 point a of Act No. 22 of 2009 concerning Road Traffic and Transportation which reads: inspection of motorized vehicles on roads that have includes: examination of a driver's license, motorized vehicle registration certificate, motorized vehicle trial certificate, motorized vehicle registration certificate, or motorized vehicle

¹⁸Bogi Sabhara Putra, Muhammad Noor, Lutfi Wahyudi. Study of Police Performance of the Paser Police Traffic Unit in Overcoming Traffic Problems in Paser District. *Journal of Government Science*, Vol.6 No.4 (2018), p.2123

¹⁹Hajr's book. 2011, *Enforcement of Traffic Violations*. Pusdik Then Serpong Lemdiklat Polri, p.21.

²⁰Erwin Putubasai, *Performance Analysis of the Traffic Unit in Improving Traffic Order in the City of Bandar Lampung*. *Journal of Social and Political Sciences*, Vol. 02 No. 01 (2019). p. 21

²¹Article 265 paragraph 3 of Law Number 22 of 2009 concerning Traffic and Road Rules

trial certificate. Any motorcyclist caught violating traffic will be fined. We can see this if there is an operation carried out by the traffic police, be it regarding vehicle equipment, documents or markings or signs. Such as the use of exhaust horns that are loud or not in accordance with the standards of the motorbike. What has been regulated in Article 265 paragraph 1 point c is in the form of physical inspection of motorized vehicles.²²

The empirical reality in the field of imposing sanctions on perpetrators of traffic violations in general still adheres to improving the perpetrators of traffic violations so that it gives an illustration that traffic violations only stop for a moment and will reappear in the social environment. As of April 1 2017, the form of traffic control carried out by the Traffic Unit of the Indonesian National Police began to apply e-tickets for road users who violate traffic rules. Polri officially implements the e-Tilang system throughout Indonesia. National Police Chief Gen. Tito Karnavian said online ticketing (eTilang) would facilitate public services and improve the quality of law enforcement regarding traffic violations.

The existence of an E-ticket system makes it easier for people to pay fines through banks. However, not all people can follow the Etilang procedures provided by the police. Especially for ordinary people who do not know or understand about technology. The E-ticket application is integrated with courts and prosecutors. The judge will give the verdict, and the prosecutor will execute the verdict, usually within a week to two weeks.

E-tickets have the advantage of being faster than conventional ticketing. The advantage is that this system is very practical and fast. The application of an electronic ticket system (E-ticket) is to facilitate speed and convenience, transparency in the implementation of the ticket process or as a substitute for the ticket process on the spot. Particularly in the police, which is one of the National Police Chief's programs to become a professional, modern and trustworthy police force. The E-ticket application program is considered capable of answering what has been reported in electronic media and social media about the deviant behavior of members of the National Police in carrying out illegal levies (Pungli) against traffic violators.

4. Conclusion

Traffic law enforcement in the repressive field includes prosecution of violations and investigation of traffic accidents, while the tasks of prosecution of violations of traffic law include prosecution in an educative manner, namely taking action against traffic violations in a sympathetic manner by giving reprimands or warnings to traffic violators, while enforcement is purely juridical can be

²²Article 265 paragraph 1 Law Number 22 of 2009 Concerning Road Traffic and Transportation

interpreted as legal action against traffic violations which includes action by using a ticket, namely specifically for 28 types of certain violations as stated in the ticket form. As of April 1 2017, the form of traffic control carried out by the Traffic Unit of the Indonesian National Police began to apply e-tickets for road users who violate traffic rules.

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