

## Effectiveness of Criminal Fines Implementation for Traffic Violators

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**Abstract.** *The purpose of this research is to find out and analyze the application of criminal law on fines for traffic violators. To find out and analyze the effectiveness of the implementation of criminal fines for traffic violators. The approach method used in compiling this research is normative legal research (normative legal research method). The research specification used in this study is analytical descriptive research. The data collection method used in this study is by using secondary data or literature study. Based on the results of the research that the application of criminal law fines for traffic violators is still too small/light for violators of traffic rules on the highway as stipulated in Law Number 22 of 2009 concerning Traffic and Road Transportation has not been able to eliminate traffic violations and accidents on the highway, therefore large fines must be applied Law Number 22 of 2009 concerning Traffic and Road Transportation to motorized vehicle drivers, both two-wheeled and four-wheeled, who are negligent in driving or piloting their vehicles. The effectiveness of the implementation of criminal fines for traffic violators has not been effective because so far the large inflation is a fundamental obstacle so that the value of the threat of criminal fines regulated in criminal legislation no longer has any meaning.*

**Keywords:** *Criminal; Effectiveness; Implementation.*

### 1. Introduction

The fatality rate of a traffic accident is measured from the consequences of the accident. The more victims who die from the accident, the higher the fatality rate of the traffic accident. This fatality rate is measured by certain coefficients. Similarly, in taking steps to reduce the number of accidents, the fatality rate of an

accident must also be reduced, of course by paying attention to and prioritizing safety factors in driving by complying with applicable regulations.<sup>1</sup>

Traffic and road transportation have an important role in supporting national development and integration as part of efforts to advance public welfare as mandated by the 1945 Constitution of the Republic of Indonesia. Literally, the term traffic can be interpreted as the movement (back and forth) of people or goods from one place to another using public road facilities.<sup>2</sup>According to Suwadjoko, traffic and transportation are two different things, but remain one unit. The definition of traffic is the activity of passing or moving vehicles, people, or animals on the streets. While what is meant by transportation is the activity of moving people and goods from one place (origin) to another place (destination) using means (vehicles). Traffic and transportation are two things that cannot be separated, because traffic is also caused by transportation activities.<sup>3</sup>In Article 1 number 2 of Law Number 22 of 2009 concerning Traffic and Road Transportation, it is explained that Traffic is the movement of Vehicles and people in Road Traffic Space, while transportation is the movement of people and/or goods from one place to another using vehicles in Road Traffic Space. The definition of transportation is regulated in Article 1 number 3 of Law Number 22 of 2009 concerning Traffic and Road Transportation.

Supporting the implementation of national development and integration to advance public welfare through traffic certainly requires the participation of the community, government and authorized parties. When talking about traffic, of course, it cannot be separated from several parties who participate and are involved in efforts to ensure security, order, and smooth traffic on the road. One of the parties involved in this is the police. The police as law enforcers on the highway must have the ability to understand what they are going to enforce. What the police do is actually not just enforcing the law, but more than that, what is more noble is fostering the nation's morals on the highway.<sup>4</sup>As law enforcement and public order officers, the police have many duties. Among them are conducting several patrols and traffic/vehicle operations as regulated in Law Number 22 of 2009 concerning Traffic and Road Transportation.<sup>5</sup>The existence of these police duties is in accordance with Article 14 paragraph (1) letter b of Law Number 2 of 2002 concerning the Republic of Indonesia National Police, which

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<sup>1</sup>Dadik Purnomo, Jawade Hafidz, The Role of the Rembang Police Traffic Unit in Reducing the Number of Traffic Accidents, *Jurnal Daulat Hukum* Vol. 1. No. 1 March 2018 ISSN: 2614-560X

<sup>2</sup>Abubakkar Iskandar, 1996, *Towards Orderly Traffic and Road Transportation*, Indonesian Department of Transportation, Jakarta, p. 11

<sup>3</sup>Suwadjoko P. Warpani, 2002, *Traffic and Road Transportation Management*, ITB Publisher, Bandung, p. 1

<sup>4</sup>Kunarto, 1996, *Reflecting on Criticism of the Police*, Cipta Manunggal, Jakarta, p. 128

<sup>5</sup>Suwarni, 2010, *Police Reform: A Study of Organizational Culture and Communication Patterns*, UII Press Yogyakarta, Yogyakarta, p. 178

states that one of the duties of the Republic of Indonesia National Police is to carry out all activities to ensure security, order and smooth traffic on the roads.

Police performance has been running as it should according to the laws and regulations that govern it. Many police achievements have been recorded, documented and reported, but they have not been able to overcome the negative image that has developed. Often the police institution experiences image degradation caused by one or two things of its own people.<sup>6</sup>

The police's job is to foster public security and order or in other words, supervise the public so as not to disrupt traffic. In this case, especially the Traffic Unit (Satlantas) as part of the Indonesian Citizens' Police (POLRI) members have an important role in handling traffic accidents, both preventive and repressive. Preventive action is a preventive action, while repressive action is a preventive action for post-traffic accident handling efforts through an investigation process carried out by investigators.<sup>7</sup>

Traffic violations are the cause of most traffic accidents. This is mainly due to human factors of road users who do not follow traffic rules. However, it can also find causes other than human factors such as: Tire damage, brake failure, dents. Similar to the problem of congestion, data shows that traffic congestion is caused by road users or violations by users. In addition to traffic violations, other factors that cause congestion are the number of vehicles passing through a particular road, road conditions, and inadequate road infrastructure.

The purpose of this study is as follows to determine and analyze the application of criminal law fines for traffic violators. To determine and analyze the effectiveness of the implementation of criminal fines for traffic violators.

## **2. Research methods**

The approach method used in compiling this thesis is normative legal research (normative legal research method). The normative legal research method is a library legal research conducted by examining library materials or secondary data alone.<sup>8</sup>The research specification used in this research is analytical descriptive research, namely describing the applicable laws and regulations in relation to legal theories and the practice of implementing positive law concerning the problems that have been formulated.<sup>9</sup>This research uses a qualitative analysis method,

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<sup>6</sup>Riyanto, Umar Ma'ruf and Sri Kusriyah, Implementation Of Police Role In Countermeasures Of Traffic Criminal Acts Of Traffic Violations In Efforts To Establish Police Images As Community Guidelines, *Jurnal Daulat Hukum* Volume 3 Issue 2, June 2020 ISSN: 2614-560X

<sup>7</sup>Preliyanto 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, *Jurnal Daulat Hukum* Volume 3 Issue 2, Unissula, p. 260

<sup>8</sup>Bambang Sunggono, 2003, *Legal Research Methodology*, Raja Grafindo Persada, Jakarta, pp. 27-28.

<sup>9</sup>Soerjono Soekanto, 2010, *Introduction to Legal Research*, UI Press, Jakarta, p. 53.

which is carried out by tracing laws and regulations and library materials which are then written descriptively.

### **3. Results and Discussion**

#### **3.1. Implementation of Criminal Law Fines for Traffic Violators**

According to Rini Mirhatika, Nurhafifah in her journal defines criminal fines as one type of criminal offense in Indonesia. The definition of criminal fines is a punishment to pay for someone who has violated the established regulations to restore the balance of law or atone for mistakes with a certain amount of money.<sup>10</sup>

Criminal fines are aligned with criminal threats for minor crimes. Traffic violations or fines are actions of a person that are contrary to the provisions of traffic laws and regulations, as regulated in the regulation on national road traffic and transportation regulated in the Law of the Republic of Indonesia Number 22 of 2009 concerning Traffic and Transportation which states: everyone who uses the road is required to:

- a. Behave in an orderly manner and/or
- b. Prevent things that can hinder, endanger the safety of traffic and road transportation, or can cause road damage.

It is also stated in Article 1 paragraph (32) of the Republic of Indonesia Law Number 22 of 2009 concerning Traffic and Road Transportation (hereinafter written as UULAJ) that: "Traffic and road transportation order is a traffic condition that occurs regularly in accordance with the rights and obligations of every road user" which means that traffic order is the right of every person that must not be violated by others. The purpose of implementing regulations governing traffic is to realize safe, secure, orderly, smooth and integrated traffic and road transportation services with other modes of transportation to encourage the national economy, advance public welfare, strengthen national unity and integrity, and be able to uphold the dignity of the nation.

Public order in obeying traffic rules will contribute to the development of development. The existence of Law Number 22 of 2009 concerning Traffic and Road Transportation (hereinafter referred to as the Law on Traffic and Road Transportation) as a replacement for Law Number 14 of 1992 concerning Traffic and Road Transportation. In the provisions of the Law above, it is stipulated that there are sanctions for traffic violators. This condition is in line with the increasing ownership of motorized vehicles by the community. Everyone is free to be able to

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<sup>10</sup>Rini Mihartika and Nurhafifah, 2017, "Implementation of Criminal Fines in Lieu of Imprisonment in Corruption Crimes (A Study in the Jurisdiction of the Banda Aceh Corruption Court)," Student Scientific Journal in Criminal Law 1, no. 1, pp. 142–50, <http://www.jim.unsyiah.ac.id/pidana/article/view/5816>.

have a vehicle according to their economic ability, so it is not surprising for people who have a better economy to be able to have more than one vehicle.<sup>11</sup>

Traffic and Road Transportation have a strategic role in supporting national development and integrity as part of efforts to improve public welfare, but 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, damaged roads, excessive road loads, and other supporting facilities play a role in the occurrence of traffic accidents.<sup>12</sup>

Lack of public understanding in understanding the importance of obeying traffic rules and reducing the chances of Violators. Bribery in the assessment effort is not immediately carried out by the police, however, the desire for every matter to be resolved instantly, the public chooses to bribe the police rather than follow the fine rules that have been set.

Law enforcement officers in handling traffic violations are the police. The traffic police have a role as a deterrent and also as an enforcer. It also has a regulatory function such as regulating the obligation for motorized vehicles to pay more attention to vehicle documents and safety equipment for safe riding. We can see the provisions in this traffic violation in the provisions of the Criminal Procedure Code. In which the Criminal Procedure Code has three ways of examining criminal cases, namely: Regular Examination Procedure, Brief Examination Procedure and Fast Examination Procedure.<sup>13</sup> These three examinations are certainly carried out according to the form of the case. This traffic violation is included in the type of minor criminal offense which does not cause someone to die or be seriously injured and the examination method is the Quick Examination Procedure. Which in the settlement of this minor traffic violation is only subject to a fine.

Traffic accidents due to increased traffic flow are generally caused by negligence by drivers who act carelessly. In addition, the state of the facilities is inadequate 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 provisions in force in the regulations that have been agreed upon together, which can harm the good name of the institution and tarnish the good relationship between the Police and the community.

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<sup>11</sup>Megawati, Ni Luh Intan Ayu, AA Ngurah Wirasila and I Made Walesa Putra. 2015, "Effectiveness of Implementation of Criminal Fines in Safety Riding Violators Reviewed in Law Number 22 of 2009 Concerning Traffic and Road Transportation (Case Study in Polres Buleleng)" Kertha Wicara: Journal of Legal Science 4, no.3, pp. 1-5."

<sup>12</sup>Iman Faturrahman, and Bambang Tri Bawono, 2021, Application of Restorative Justice to Solution of Traffic Accidents, in the Journal of Legal Sovereignty 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>

<sup>13</sup>Alvian Solar, 2012, "The Nature and Procedure of Examining Minor Crimes," Lex Crimen 1, no. 1, pp. 49–59, <https://ejournal.unsrat.ac.id/index.php/lexcrimen/article/view/347/272>.

The application of criminal law fines for traffic violators is still too small/light for violators of traffic rules on the highway as stipulated in Law Number 22 of 2009 concerning Traffic and Road Transportation has not been able to eliminate the occurrence of traffic violations and accidents on the highway, therefore large fines must be applied Law Number 22 of 2009 concerning Traffic and Road Transportation to motorized vehicle drivers, both two-wheeled and four-wheeled, who are negligent in driving or piloting their vehicles.

### **3.2. Effectiveness of Criminal Fines Implementation for Traffic Violators**

The effectiveness of the application and enforcement of the law, closely related to the problem of public legal awareness plays a very important role. A society that wants to see the creation of order will try to be orderly so that a pattern of peaceful and safe relationships is created in society. Public legal awareness does not grow by itself, although in every member of society there is a tendency to live an orderly life.<sup>14</sup> For this reason, public legal awareness needs to be fostered and developed through effective and intensive coaching patterns.

So the effectiveness of punishment is interpreted as the level of achievement of the desired goal with punishment. A punishment is said to be effective if the desired goal with punishment is achieved.

The effectiveness of criminal fines is not in accordance with the purpose of punishment. Criminal fines are an alternative to the penalty of revocation of liberty.<sup>15</sup>Based on the description, basically the convict must pay the fine and a certain deadline is set for the payment. If the fine is not paid, then it can be returned from the convict's income or wealth. If the convict is unable to do so, then he must be ready to be in prison. The convict gets the opportunity from the judge to pay off his fine in installments.<sup>16</sup>

Associated with the purpose of this punishment, then the criminal fine should also be felt as a suffering nature for those who are sentenced. In reality, whether the realization of the criminal fine objectively and subjectively can be felt by the perpetrator as something that is in accordance with the purpose of the punishment.

In the case of imposing a fine, if the convict cannot fulfill it, then in measuring the effectiveness of the application of other sanctions as a substitute for the fine based on the criminal law system in Indonesia, there must be a balance between the fine and the substitute punishment. In the case of the convict being unable to pay the specified fine, according to the provisions in the current Criminal Code, imprisonment is the substitute sanction.

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<sup>14</sup>Soerjono Soekanto, 1982, *Legal Awareness and Legal Compliance*, Rajawali, Jakarta

<sup>15</sup>Andi Hamzah, 2010, *Indonesian Criminal Procedure Law*, Sinar Grafika, Jakarta, p. 68.

<sup>16</sup>Jupri, Yoslan Koni and Roy Marten Moonti. 2020, "Electronic-Based Traffic Case Resolution in an Effort to Reduce Case Backlog and Illegal Levies". *Allshlah Jurnal Ilmiah Hukum* 23, no. 2, pp. 167-185.

There are some new developments that have not been accommodated by traffic regulations. For example, various alarms that should be more. Although some rules have been accommodated through Regional Regulations (Perda). Many provisions are left behind because of the development of society, in addition to many customary laws, becoming unenforceable. For example, the need to maintain night lighting for motorized or motorized vehicles, almost does not apply to goods and pedicab bicycles. Repression against them is almost never carried out, or if it does, it causes uncomfortable reactions for the officers themselves.<sup>17</sup>

This also happens to traffic violations. Traffic order is one of the manifestations of national discipline which is a reflection of the nation's culture, therefore every human being must participate in realizing it. To avoid traffic violations, it is expected that the community can know and implement and obey the traffic regulations on the highway. Traffic is walking, going back and forth, traveling on the road and the movement of humans with or without a means of propulsion from one place to another.<sup>18</sup>

A driving license is proof of identification and registration given to a person by the Indonesian National Police who has met various requirements such as being mentally and physically healthy, administrative requirements, being able to drive a motorized vehicle, and understanding traffic regulations. Furthermore, the meaning of a Driving License according to the official Polri website is a means of coercion used by the Police in enforcing regulations.

In overcoming traffic violations, the police must be ready to take a role in the midst of society. The services provided by the police will not run well if there is no cooperation between other parties, especially the parties directly concerned, because without cooperation, order and security in society will be impossible to achieve smoothly. As the function of the police is one of the functions of government in the field of maintaining power and order in society. The problem that we often face on the highway is traffic problems.

The settlement of traffic violation cases is generally examined and decided by a judge without the presence of the defendant (verdict), but there are also those that are decided with the presence of the defendant (non-verdict). This is because in traffic ticket cases, people usually use the culture of consigning the trial.

The effectiveness of implementing criminal fines for traffic violators has not been effective because so far the high inflation rate has been a fundamental obstacle

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<sup>17</sup>Anton Susanto<sup>1</sup>, Ira Alia Maerani and Maryanto, 2020, 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 Sovereign Law* Volume 3 Issue 1, ISSN: 2614-560X

<sup>18</sup>Iwan Zainul Fuad, 2013, Legal Awareness of Small Business Owners in the Packaged Food Sector in Semarang City Regarding Halal Product Certification Regulations, *Diponegoro Journal*, Volume 12, Number 3.

so that the value of the threat of criminal fines regulated in criminal legislation no longer has any meaning.

#### 4. Conclusion

Based on the descriptions of the chapters above, it can be concluded to answer the problems contained in this study, namely: the application of criminal law fines for traffic violators is still too small/light for violators of traffic rules on the highway as stipulated in Law Number 22 of 2009 concerning Traffic and Road Transportation has not been able to eliminate traffic violations and accidents on the highway, therefore large fines must be applied Law Number 22 of 2009 concerning Traffic and Road Transportation to motorized vehicle drivers, both two-wheeled and four-wheeled, who are negligent in driving or steering their vehicles. The effectiveness of the implementation of criminal fines for traffic violators has not been effective because so far the large inflation is a fundamental obstacle so that the value of the threat of criminal fines regulated in criminal legislation no longer has any meaning.

Based on the conclusions from the research results above, there are several things that can be input, including that the police should work together with agencies related to traffic and road transportation to always coordinate to control traffic signs that are no longer functioning, damaged and even missing, so that there is no longer any reason for road users not to know about them.

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