

Law Enforcement Against Road Traffic Violations Committed by Children

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Abstract. *The purpose of this research is to find out and analyze law enforcement against road traffic violations committed by children. To find out and analyze obstacles to law enforcement against road traffic violations committed by children and their solutions. To find out and analyze law enforcement against road traffic violations committed by children in the future. The method used by the researcher is empirical legal approach. The specifications in this study included descriptive. The sources and types of data in this study are primary data obtained through interviews. And secondary data was obtained from literature studies. Based on the results of the study, law enforcement against road traffic violations committed by children is carried out in several ways, including: reviewing the incident, resolving it through a diversion process, imposing a prison sentence as a last resort and imposing sanctions. Internal obstacles in the form of community understanding of diversion, thinking between victims and parties in conflict with the law to reach an agreement. External obstacles in the form of different understandings in handling children in conflict with the law among law enforcement officers. Efforts to overcome obstacles law enforcement against road traffic violations committed by children, namely: Internal efforts are to conduct socialization about diversion among the community, efforts to unite the thoughts of victims and children in conflict with the law to reach an agreement. External efforts are to build intensive communication with other law enforcement officers. Law enforcement against traffic violations committed by children in the future, law enforcers must resolve them based on the Child Protection Act and the Juvenile Justice Act. The law regulates the future responsibility of children properly, not only with criminal efforts. Traffic Case Settlement Process Outside the Court.*

Keywords : Children; Enforcement; Traffic; Violations.

1. References

Indonesia is a country based on law. This is stated in the 1945 Constitution of the Republic of Indonesia in Article 1 paragraph (3) which states "The State of Indonesia is a country based on law."¹With Indonesia as a country of law, all governmental powers are based on law, governmental powers have the aim of implementing public order. In developing countries like Indonesia, the government is still continuously implementing development in several sectors. This development should be supported by adequate infrastructure such as road construction infrastructure, apart from the road construction infrastructure, the government as the holder of state administrative power should pay attention to problems that may occur related to aspects of road construction related to traffic conditions. Therefore, Law Number 22 of 2009 concerning Traffic and Road Transportation was formed.

The importance of Traffic and Road Transportation in supporting national development and as a system that supports the creation of general welfare for all levels of society as mandated in the Preamble to the 1945 Constitution of the Republic of Indonesia.

The existence of transportation greatly helps the community in carrying out their activities, in the current era transportation has become a basic need because with a good transportation system it will support a better community economy. However, in the transportation system there are still some aspects of legal violations. For example, legal violations that often occur are drivers who do not wear helmets, violate traffic lights, do not use mirrors, do not have complete driving documents, go against the flow, violate traffic signs and others.

The rights of every child are something that must be upheld without the child asking for it. The child's rights in question are a will owned by the child which is equipped with power (*macht*) and which is given by the legal system/legal order to the child concerned.²In order to realize these children's rights, child protection efforts should be started as early as possible, so that later they can participate optimally in the development of the nation and state. Child protection in this case is called legal/juridical protection.³

Currently we are facing problems about children, not only in terms of numbers but also because the problems are increasingly complex. As time goes by, the deviation of behavior or unlawful acts committed by children are caused by several factors, including: the negative impact of rapid development, the flow of

¹A. Rosyid Al Atok, 2016, *The Legal State of Indonesia*, Technical Implementation Unit of the Pancasila Study Center, State University of Malang, page 15.

²Maulana Hassan Wadong, 2000, *Advocacy and Child Protection Law*, Gramedia Widiasarana Indonesia, Jakarta, page 29.

³Hamidah Abdurrachman et al., 2015, "Model of Law Enforcement for Children in Conflict with the Law in the Investigation Process", Faculty of Law Publishing Agency, Pancasakti University, Tegal, p. 168.

globalization in the field of communication and information, the advancement of science and technology and changes in the style and way of life of some parents, which have brought about social changes in the lives of people who have a great influence on the values and behavior of children.⁴ Behavior that does not comply with norms or deviations from norms can cause problems in the field of criminal law.

Based on the quote taken from the book by Eddy OS Hiariej, in his book, criminal law is stated as a legal regulation of a sovereign country, containing prohibited acts or ordered acts, accompanied by criminal sanctions for those who violate or do not comply, when and in what cases the criminal sanctions are imposed and how the implementation of the criminal sanctions is enforced by the state.⁵ Often, acts prohibited by a legal rule are violated by the community and often have become a habit, for example, driving a vehicle with less caution and even exceeding the maximum speed seems to be a normal thing in society, not only adults, in reality there are many drivers who are still minors/children so that traffic violations often cause traffic accidents⁵. This is due to the lack of legal awareness and supervision from parents so that children are allowed to drive vehicles before having a driving license.

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.⁶

Based on the problems above, the objectives of this research are as follows: to find out and analyze law enforcement against road traffic violations committed by children. To identify and analyze the obstacles to law enforcement against road traffic violations committed by children and their solutions. To identify and analyze law enforcement against road traffic violations committed by children in the future.

⁴Gatot Supramono, 2007, *Juvenile Court Procedure*, Djambatan, Jakarta, page 12.

⁵Eddy OS Hirariej, 2009, *Introduction to International Criminal Law*, Eriangga, Jakarta, page 4.

⁶Anton Susanto, 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)*, in *Journal of Sovereign Law* Volume 3 (1), Published Master of Law, Faculty of Law Unissula, p. 21 <http://jurnal.unissula.ac.id/index.php/RH/article/view/8402/3928>

2. Research methods

The approach method used by the author is an empirical legal approach, namely a study that attempts to identify the laws that exist in society with the aim of identifying other symptoms.⁷The type of research used by the author is descriptive research, namely research that accurately describes the characteristics of an individual, condition, symptom, or certain group or to determine the distribution of a symptom, or to determine whether or not there is a relationship between a symptom and other symptoms in society.⁸ The data analysis method was carried out using a qualitative method with deductive conclusions drawn.

3. Results and Discussion

3.1. Law Enforcement Against Road Traffic Violations Committed by Children

Traffic policies in Indonesia are regulated in Law Number 22 of 2009 concerning Traffic and Road Transportation, where the regulation is made to ensure security, order and welfare in society that needs to be determined regarding prohibited and required actions. While violations of these provisions are subject to criminal penalties. Frequent occurrences of traffic violations, both intentional and unintentional, may be caused by the sanctions imposed on the perpetrators of traffic violations being too light, so it is not surprising that there are more and more traffic violations. The legal consequences of traffic accidents are criminal sanctions for the perpetrator or cause of the incident and can also be accompanied by civil lawsuits for material losses incurred.⁹

The traffic system basically consists of 3 (three) basic components that must be known by every road user. These traffic components are: humans as users, vehicles; and roads, all of which interact with each other in the movement of vehicles that meet the requirements for being driven by drivers by following the traffic rules set out in the laws and regulations that govern them. As a traffic system itself, of course, synchronization is needed between the traffic components in it so that traffic can run according to actual expectations. The purpose of creating a system is to facilitate space for movement so that it is orderly and regular, not the opposite. Likewise, the purpose of forming a traffic system is so that each component that is included in traffic can have its own space so that it can realize safe, secure, fast, smooth, orderly and regular, comfortable and efficient traffic and road transportation, all of which are carried out in a traffic and road transportation management.¹⁰

⁷Amiruddin & Zainal Asikin, 2003, Introduction to Legal Research Methods, Mataram: Higher Education Book Division, Raja Grafindo, Jakarta, p. 19.

⁸Ibid., p. 25.

⁹Hamzah, Muhammad D. (2018). Law Enforcement in Traffic Accident Criminal Cases Causing Loss of Life. *Jurnal Daulat Hukum*, Vol.1, (No.1), pp.43–52. <http://dx.doi.org/10.30659/jdh.v1i1.2563>

¹⁰Bhakti Satriya Perdana Sugiyanto, Gunarto, 2018, The Role of the Rembang Police Traffic Unit in Overcoming the High Number of Accidents Due to Illegal Parking (Case Study in Rembang Regency), *Jurnal Daulat Hukum* Vol. 1. No. 1, Unissula

A good and fair legal settlement is always part of the consequences of an accident that occurs. In this settlement, it must be seen how the form of protection for children who are dealing with the law, especially in accidents that cause victims to be injured or even die, so that the rights and obligations of the parties are still fulfilled and protected as well as possible. What is more important is how children who are dealing with the law can still recover from the incident that happened to them and can continue their lives without being bound by deep trauma due to the traffic accident that happened to them.¹¹

Traffic violations can result in minor injuries or serious injuries or even death, this is a criminal act of negligence or negligence. Lately, the types of traffic violations that are usually committed by children are regarding the ownership of a driving license, vehicles that do not comply with the specified standards, not obeying road signs or markings, not equipping themselves with documents, and not wearing helmets, even the most common thing is that the child drives a vehicle at high speed and often does illegal racing on the highway, therefore it can cause traffic accidents, these accidents are not only detrimental in terms of material but can also cause fatalities.¹²

The juvenile criminal justice system includes all inspection and decision-making activities concerning the interests of children, namely all activities carried out by the police, prosecutors, judges and other officials, must be based on a principle, namely for the welfare of children and the interests of children.¹³ Thus, the juvenile criminal justice system includes all activities of examining and deciding juvenile cases, which are carried out from the investigation or inquiry by the police, prosecution by the prosecutor, trial in court by the judge and sentencing by the correctional institution, all of these series of activities are of course carried out using consideration of the interests of the child.¹⁴

Law enforcement on child issues is indeed considered very special. This is because the nature of children seen from the age of children does not have maturity either physically or mentally so that children cannot distinguish between good and right and tend to do everything spontaneously without thinking long. Special attention is needed especially for children who live in an environment where the environment produces a relationship full of violence and a tendency to not care or neglect what happens between children and the adults around them.¹⁵

¹¹Astuti, L. 2017. Legal Protection for Children in Conflict with the Law in Traffic Accidents. *Justitia Jurnal Hukum*, Vol.1,(No.1),pp.144–157. <https://doi.org/10.30651/justitia.v1i1.623>

¹²Dewi, Ida Ayu Putu Monika., Yuliantini, Ni Putu Rai., & Mangku, Dewa Gede Sudika. 2020. Law Enforcement Against Children in Traffic Violations Causing the Loss of Other People's Lives in Singaraja City. *Ganesha Law Review*, Vol.2, (No.2), pp.121– 131. <https://ejournal2.undiksha.ac.id/index.php/GLR/article/view/204>

¹³Sudarto. 2010. *Selected Chapters on Criminal Law*. Alumni, Bandung

¹⁴Kristian. 2017. *Integrated Criminal Justice System and Law Enforcement System in Indonesia*. Prenada Media Group, Jakarta

¹⁵Suyatno, B. 2016. *Children's Social Problems*. Prenada Media Group. Jakarta

Law enforcement against road traffic violations committed by children is carried out in several ways, including:

1. Reviewing events

Traffic violations resulting in death are dealt with by reviewing the incident in accordance with the provisions stipulated by law.

2. Finishing with diversion process

The diversion process must be a top priority when dealing with children who have legal problems.

3. Imposing a prison sentence as a last resort

Imprisonment should be a last resort for punishment, with a relatively short term.

4. Imposing action sanctions

Children aged between 8 and 12 years are only subject to disciplinary action.

3.2. Barriers to Law Enforcement Against Road Traffic Violations Committed by Children and Their Solutions

The law enforcement process, if traced, will lead to the creation of the law itself. Therefore, the formulation of the thoughts of the law makers which are poured into laws and regulations will determine how law enforcement is carried out.¹⁶Therefore, law enforcement against a regulation will affect whether the law can be implemented properly or not. The success of law enforcement regulated in the regulation will have an impact on changes or replacements to existing laws.

Traffic-related laws and regulations have not been implemented optimally. This is because there are still weaknesses in traffic regulations. According to the author, the weakness in traffic regulations is related to sanctions. The sanctions stipulated in the LLAJ Law can still be said to not be able to provide a deterrent effect.

Barriers to law enforcement against road traffic violations committed by children are:

1. Internal obstacles include community understanding of diversion, thinking between victims and parties in conflict with the law to reach an agreement.

2. External barriers include different understandings in dealing with children in conflict with the law among law enforcement officers.

Efforts to overcome obstacles law enforcement against road traffic violations committed by children, that is :

1. Internal efforts include conducting outreach on diversion among the community, efforts to unite the thinking of victims and children in conflict with the law to reach an agreement.

2. His external efforts are to build intensive communication with other law enforcement officers.

¹⁶Sudikno Mertokusumo, 1999, *Understanding Law: An Introduction*, Liberty, Yogyakarta: p. 80

3.3. Law Enforcement Against Road Traffic Violations Committed by Children in the Future

Law enforcement as a process is essentially the application of discretion concerning making decisions that are not strictly regulated by legal rules, but have elements of personal judgment. In relation to law enforcement, Barda Nawawi Arief is of the opinion that law enforcement is upholding the values of truth and justice. This means that law enforcers are trusted by the public to uphold the values of truth and justice contained in the law. Furthermore, Barda Nawawi Arief is also of the opinion that criminal law enforcement consists of two stages. First, criminal law enforcement in abstracto and second, criminal law enforcement in concreto. Criminal law enforcement in abstracto is the stage of making/formulating laws by the legislative body, which can be called the legislative stage. Criminal law enforcement in concreto consists of the stages of application/implementation and implementation of laws by law enforcement officers, which can be called the judicial stage and the execution stage.¹⁷

Traffic police are the implementing elements tasked with carrying out police duties that include guarding, regulating, escorting and patrolling. Public education and traffic engineering, registration and indication of drivers or motorists, investigation of traffic accidents and law enforcement.¹⁸This is also stated in the regulation of the Chief of Police No. 5 of 2012. The Traffic Corps of the Indonesian National Police, hereinafter referred to as the Traffic Corps of the Indonesian National Police, is an element that carries out the main tasks in the field of security, safety, order and smooth traffic flow which is under the Chief of Police and is tasked with fostering and carrying out traffic functions which include public education, law enforcement, traffic problem assessment, registration and identification of drivers and motor vehicles and highway patrols.¹⁹This shows that the traffic police have a very important role as law enforcers as seen in Law Number 2 of 2002 concerning the Republic of Indonesia National Police.

In some countries such as America and England, people who commit crimes that cause other people to die on the road are still classified as acts that cause death (homicide), even the threat of punishment is increased if driving while drunk or sleepy, or under the influence of drugs can kill other people on the road. In several states in the United States there are regulations: "automobile homicide state" a legal rule that applies in states regarding criminal homicide committed by drivers. In this regulation, the insurance company will not replace the damage to the car,

¹⁷Arief, Barda N. 2005. *Several Aspects of Criminal Law Enforcement and Development*. Citra Aditya Bakti. Bandung

¹⁸Wintoro, Nurhadi 2018 *The Role of Traffic Police in Improving Traffic Order and Smoothness*. <http://repository.unissula.ac.id/11786> accessed on December 7, 2024 at 19.25

¹⁹Regulation of the Chief of Police Number 5 of 2012 Concerning Registration and Identification of Motor Vehicles

if it is proven that the driver was drunk, sleepy or under the influence of drugs. The court can revoke the driver's license for life. The court often states that everyone who drives a vehicle must understand the risks that will be faced on the road. Therefore, legal responsibility has been given to the driver, and the driver cannot be freed from the clutches of the law for any reason, when causing other people to die on the road. Decisions like this often come from various courts, so that they become a jurisprudence. As a result, there are almost never any vehicle drivers who are freed by the court when causing other people to die on the road.

The imposition of punishment or sanctions and the legal process that takes place in cases of violations of the law by children are indeed different from cases of violations of the law by adults, because the basic idea of the imposition of punishment by the State is that every citizen is a responsible creature and is able to be held accountable for all his actions. While children are recognized as individuals who are not yet fully responsible for their actions. Therefore, in the legal process and the imposition of punishment, (as something that is ultimately almost unavoidable in cases of violations of the law), children must receive special treatment that distinguishes them from adults. Children are not to be punished, but must be given guidance and coaching, so that they can grow and develop as normal children who are healthy and completely intelligent. Children are a gift from Almighty God as a candidate for the next generation of the nation who are still in physical and mental development. Sometimes children experience difficult situations that make them commit acts that violate the law. In Law No. 11 of 2012 concerning the Juvenile Criminal Justice System. The criminal procedure law for juvenile justice is regulated in Chapter III starting from Article 16 to Article 62, meaning that there are 47 Articles that regulate the criminal procedure law for juveniles. As a form of guaranteeing the protection of children's rights, investigators, public prosecutors and judges are required to provide special protection for children who are being investigated for criminal acts committed, in this case traffic violations in emergency situations, as well as special protection and this is implemented through the imposition of sanctions without aggravation (Article 17).

Law enforcement against traffic violations committed by children in the future, law enforcers must resolve them based on the Child Protection Act and the Juvenile Justice Act. The law regulates the future responsibility of children properly, not only with criminal efforts. Traffic Case Settlement Process Outside the Court.

4. Conclusion

Based on the discussion above, it can be concluded that several things to answer the problems in this study are law enforcement against road traffic violations committed by children, carried out in several ways, including: reviewing the incident, resolving it through a diversion process, imposing a prison sentence as a last alternative and imposing sanctions. Internal obstacles in the form of

community understanding of diversion, thinking between victims and parties in conflict with the law to reach an agreement. External obstacles in the form of different understandings in handling children in conflict with the law among law enforcement officers. Efforts to overcome obstacles law enforcement against road traffic violations committed by children, namely: Internal efforts are to conduct socialization about diversion among the community, efforts to unite the thoughts of victims and children in conflict with the law to reach an agreement. External efforts are to build intensive communication with other law enforcement officers. Law enforcement against traffic violations committed by children in the future, law enforcers must resolve them based on the Child Protection Act and the Juvenile Justice Act. The law regulates the future responsibility of children properly, not only with criminal efforts. Traffic Case Settlement Process Outside the Court.

Based on the conclusions of the research results above, there are several suggestions that can be input, including the police should enforce penalties in the form of fines for violations committed by minors, both traffic violations and health protocols firmly. Parents should always supervise their children's activities and strictly prohibit their children who do not have a driver's license from driving motorized vehicles. This strictness from parents greatly influences children's behavior in everyday life. For the community, it is necessary to increase traffic awareness in order to create an orderly environment.

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