

Legal Study on Traffic Violations Committed by School Children at Bangko Police Traffic Unit

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ARTICLE INFO	ABSTRACT
<p>Keywords: Traffic violations, schoolchildren, law.</p>	<p>Traffic violations are committed not only on adults, even including the age of children also commit many traffic violations. Legal sanctions for violators will be imposed, both administrative criminal sanctions and imprisonment sanctions. Juridically, violators will be subject to imprisonment for a maximum of 1 (one) year and/or a maximum fine of IDR 2,000,000.00 (two million rupiah) in accordance with Article 229 paragraph (3) of Law Number 22 of 2009 concerning Road Traffic and Transportation. The law imposes imprisonment, confinement and fines for traffic violations in the Bangko police station. In addition, criminals and perpetrators of traffic violations can be sentenced to additional crimes in the form of revocation of driver's licenses or compensation for losses caused by criminal acts or traffic violations, but this enforcement is intended for traffic offenders who are adults. Meanwhile, criminal liability for perpetrators of traffic violations committed by school children in the jurisdiction of the Bangko Police Station, usually first looks at the elements, namely intentional or not or negligence that results in the occurrence of the violation, it will affect the legal action that will be taken by the Bangko Police Station for traffic violators. For criminal law liability for traffic violations committed by school children in the jurisdiction of Bangko Police Station, violators of the age category of school children are only given criminal sanctions in accordance with applicable legal provisions.</p>

INTRODUCTION

The issue of law enforcement is endlessly an interesting topic to discuss, especially the intended law enforcement is about violations. The violations to be discussed are traffic violations whose numbers always increase per year. If adult offenders are actually common in Indonesia, but what if the offender turns out to be a minor or said to be a teenager and still holds the status of a schoolboy? Of course this is a slightly worrying issue, how can a schoolchild commit a traffic violation. While we know that every traffic offender is usually identical to an offender who carries or drives a vehicle. If adults may be commonplace, then what if the offender is a child who is still in school by carrying or driving a vehicle. Why can a child get permission to carry a vehicle, when he still does not understand about the rules of traffic on the road. Meanwhile, to become a vehicle driver, there must be rules that are understood by someone so as not to violate the name of the rules, one of which is traffic rules. So when it comes to violators are children, how are the sanctions given to violators. Are the sanctions the same as those imposed on adult status violators? This is the background for the author to conduct research entitled Legal Study on Traffic Violations committed by school children in the Bangko Police Traffic Unit. So that later with this research will get answers about what is behind this research.

From the data obtained in the field that traffic violations committed by school children in the Bangko Police Jurisdiction, among others: do not have a driver's license, do not carry motor vehicle documents (STNK), do not wear helmets and motorized vehicles are not equipped with vehicle completeness attributes. This is certainly very important for the Police, especially Satlantas, to conduct education in the form of socialization to school children

to obey the rules that apply in traffic on the road. Non-compliance with applicable traffic rules will have a negative impact on both school children as drivers and other people who both use the same road facilities. Bad impacts are intended among others: the occurrence of traffic violations and sanctions, to the emergence of accidents that will cause casualties, so that with the socialization can minimize the number of traffic violations that will occur in the future. The formulation of the problem from this study is how to criminally responsible for traffic violations committed by school children in the Bangko Police Traffic Unit. The author hopes that with this research we can understand what is the problem related to traffic violations committed by school children at the Bangko Police Station.

METHOD

The type of research used is normative law research, according to Abdulkadir Muhammad, normative law research is legal research using normative case studies in the form of legal behavior products, for example reviewing laws. The subject of study is law which is conceptualized as norms or rules that apply in society and become a reference for everyone's behavior. So that normative legal research focuses on the inventory of positive law, legal principles and doctrines, legal findings in cases in concreto, legal systematics, levels of synchronization, comparative law and legal history (Muhammad, 2004).

RESULTS AND DISCUSSION

A. Traffic Violations

According to Wirjono Prodjodikoro, the definition of violation is "overtredingen" or violation is an act that violates something and is related to the law, meaning nothing other than unlawful acts (Prodjodikoro, 2003). Learn More Moeljatno (Moeljatno, 2008), suggesting that violations are unlawful acts, can only be known after there is a law that specifies so. So, violations are identical to the provisions of applicable laws and regulations. Violations will not exist if there are no rules prohibiting them.

The definition of traffic according to Article 1 of Law Number 22 of 2009 concerning Road Traffic and Transportation is as the movement of vehicles and people in road traffic space, as infrastructure intended for the movement of vehicles, people, and/or goods in the form of roads with supporting facilities. (Indonesia & Nomor, 22 C.E.) Meanwhile, according to Poerwodarminto (Poerwadarminta, 1966) that traffic is the nexus between one place and another. According to Muhammad Ali, traffic is walking, back and forth, traveling on the road. Ramdlon Naning also elaborated on the notion of traffic, namely the movement of people moving with or without means of movement from one place to another.

Traffic violations in question according to Ramdlon Naning (Naning, 1983) is an act or action that is contrary to the provisions of traffic laws and regulations. The violations in question are violations as stipulated in Article 105 of Law Number 22 of 2009 concerning Behaving in an Orderly Manner and / or Preventing things that can hinder, endanger the security and safety of traffic and road transportation or that can cause road damage. The Criminal Code (KUHP) divides criminal acts into 2 parts, namely, crimes for crimes (*misdrijven*) and offenses (*overtredingen*). crimes in the Criminal Code are regulated in Book II on Crimes. While violations are regulated in Book III on Violations.

B. Anak Sekolah

The notion of a child according to the rules of law can be seen as follows:

- a. In article 1 paragraph (1) of Law Number 23 of 2002 Understanding Child Protection, what is meant by a child according to the law number is someone who is not yet 18 years old including children who are still in the womb. (Sholihah, 2018) Children's rights are part of human rights that must be guaranteed, protected, and fulfilled by parents, families, communities, governments and even the state. So that if a problem arises that the perpetrator or victim is a child, then the solution is not in a general way but in a special way. Because there are exceptions for children who are faced with legal cases.
- b. Children according to the Book of Shrimp – Civil Law Explained in Article 330 of the Civil Code, says immature people are those who have not reached the age of 21 years and have not previously married. So a child is any person who is not yet 21 years old and has not yet believed. If a child has been married before the age of 21 and then divorced or left dead by her husband before the age of 21, then she is still considered an adult not a child.
- c. According to Law No. 4 of 1979 concerning Child Welfare, a child is someone who has not reached the age of 21.

- d. According to Law Number 11 of 2012 concerning the Juvenile Criminal Justice System Explained in (Article 1 Paragraph (3)) a child is a child who is 12 (twelve) years old, but not yet 18 (eighteen) years old who is suspected of committing a criminal act.
- e. According to Article 1 point 5 of Law Number 39 of 1999 concerning Human Rights is as follows: "Child is any human being under the age of 18 (eighteen) years and unmarried, including children who are still in the womb if it is in their interest."
- f. According to the Juvenile Criminal Code in Article 45 of the Indonesian Civil Code, a child whose age has not reached 16 (sixteen) years.
- g. According to Law No.44 of 2008 on Pornography Article 1 number 4 "A child is someone who is not yet 18 (eighteen) years old."
- h. According to Law No. 3 of 1997 concerning Juvenile Court Article 1 number 1 "Child is a person who in the case of a Delinty Child has reached the age of 8 (eight) years but has not reached the age of 18 (eighteen) years and has never married."
- i. According to the Convention on the Rights of the Child, a child is any human being under the age of 18, unless under the basis applicable to the child it is determined that the age of majority is reached earlier.
- j. According to Law No.39 of 1999 on Human Rights Article 1 number 5 "Child is every human being under the age of 18 (eighteen) years and unmarried, including children who are still in the womb if it is in their interest."

While the definition of school children, the author gives more understanding to children aged 6-17 years who still hold the status of education both elementary, junior high and high school. However, in the case of traffic violations that the author is discussing, namely adolescent school level children, namely junior high and high school levels who commit traffic violations in the jurisdiction of the Bangko Police Station. According to Bisma Siregar, the written law has applied an age limit of 16 years or 18 years or a certain age which according to calculations at that age the child is no longer included or classified as a child but is an adult (Siregar, 1986). The age limit of children is very important to know, for example in child criminal cases, because the age limit as a benchmark used to find out someone who is suspected of committing a crime belongs to the category of children or not. So it is very important to disposition a case if the case goes into a criminal case involving a child. Treat criminals committed by gods.

C. Criminal Responsibility for Traffic Violations committed by children in the Bangko Police Area

Law Number 22 of 2009 concerning Traffic and Road Transport imposes the threat of imprisonment, imprisonment and fines for perpetrators of traffic violations in the Bangko Police Station area. In addition, criminals and perpetrators of traffic violations can be sentenced to additional crimes in the form of revocation of driver's licenses or compensation for losses caused by criminal acts or traffic violations, but this enforcement is intended for traffic offenders who are adults. Meanwhile, criminal liability for perpetrators of traffic violations committed by school children in the jurisdiction of the Bangko Police Station, usually first looks at the elements, namely intentional or not or negligence that results in the occurrence of the violation, it will affect the legal action that will be taken by the Bangko Police Station for traffic violators. For criminal law liability for traffic violations committed by school children in the jurisdiction of Bangko Police Station, violators of the age category of school children are only given criminal sanctions in accordance with applicable legal provisions.

In general, Article 234 paragraph (1) of the LLAJ Law also regulates the obligations and responsibilities of drivers, owners of motor vehicles, and/or transportation companies that drivers, owners of motor vehicles, and/or public transportation companies are responsible for losses suffered by passengers and/or owners of goods and/or third parties due to driver negligence. The provisions of Article 234 paragraph (1) no longer apply according to Article 234 paragraph (3) that: (1) There are force majeure circumstances that cannot be avoided or beyond the ability of the driver; (2) Caused by the victim's own or third party's behavior and/or; (3) Due to the movement of people and/or animals despite precautions.

In addition, if a traffic violation causes an accident, Article 236 of the UULAJ more clearly regulates compensation for the party who caused the traffic accident which explains that:

1. The party that causes a traffic accident as referred to in Article 229 must compensate for losses the amount of which is determined based on a court decision.
2. The obligation to compensate for losses as referred to in paragraph (1) in traffic accidents as referred to in Article 229 paragraph (2) can be carried out outside the court if there is an amicable agreement between the parties involved.

CONCLUSION

Criminal law accountability for traffic violations in the Bangko Police Station area is carried out with the threat of imprisonment, imprisonment and fines for violators. Legal sanctions for violators will be imposed, both administrative criminal sanctions and imprisonment sanctions. Juridically, violators will be subject to imprisonment for a maximum of 1 (one) year and/or a maximum fine of IDR 2,000,000.00 (two million rupiah) in accordance with Article 229 paragraph (3) of Law Number 22 of 2009 concerning Traffic and road transportation. In addition, criminal offenders and perpetrators of traffic violations may be sentenced to additional crimes in the form of revocation of a driver's license or compensation resulting from criminal acts or traffic violations. However, this enforcement is intended for traffic violators who are adults. While criminal liability for perpetrators of traffic violations committed by school children in the jurisdiction of the Bangko Police Station, usually first looks at the elements, namely intentional or not or negligence that results in the occurrence of the violation, committed by school children in the jurisdiction of the Bangko Police Station, violators of the age category of school children are only given criminal fines in accordance with applicable legal provisions.

REFERENCES

- Indonesia, R., & Nomor, U.-U. (22 C.E.). Tahun 2009 Tentang Lalu Lintas dan Angkutan Jalan. *Indonesia: Dewan.*
- Moeljatno, A.-A. H. P. (2008). *Penerbit Rineka Cipta.* Jakarta.
- Muhammad, A. (2004). *Hukum dan penelitian hukum.* Bandung: Citra aditya bakti.
- Naning, R. (1983). Menggairahkan kesadaran hukum masyarakat dan disiplin penegak hukum dalam lalu lintas. *Bina Ilmu, Surabaya.*
- Poerwadarminta, W. J. S. (1966). Kamus umum bahasa Indonesia. *(No Title).*
- Prodjodikoro, W. (2003). Asas-asas Hukum Pidana. *Bandung: Refika Aditama.*
- Sholihah, H. (2018). Perbandingan Hak-Hak Anak Menurut Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak Dan Hukum Islam. *Al-Afkar, Journal For Islamic Studies*, 88-112.
- Siregar, B. (1986). *Telaah tentang perlindungan hukum terhadap anak-anak dan wanita.* Pusat Studi Kriminologi, Fakultas Hukum, Universitas Islam Indonesia.