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## Traffic Violations Committed by Children According to Child Protection Laws

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### **Abstract:**

*Legal protection for children can be done as an effort to protect various freedoms and children's rights. In this regard, an event and procedure are needed in the judicial system that can accommodate the settlement of cases, one of which is by using a restorative justice approach. One form of the restorative justice mechanism is dialogue which in Indonesian society is called deliberation for consensus. In Indonesia there are still many minors who ride two-wheeled vehicles or four-wheeled vehicles without a license. This of course violates Law Number 22 Year 2009 concerning Road Traffic and Transportation. the legal consequence of a traffic accident which causes harm to others such as injuries and causes the death of a person is that there is a punishment for the maker or the cause of the accident and is accompanied by a civil suit for the material loss incurred.*

**Keywords:** Violation, traffic, children

### **1. Introduction**

The rapid development of progress and technology has an impact on the country to keep up with the development of modernization, this is influenced by the proliferation of means of transportation which causes more road users, this modernization development can have both positive and negative impacts. The positive impact is that it makes it easier for people to carry out their daily activities and can save time, while the negative impact caused by the rise of these means of transportation is traffic violations and speed exceeds the limit which causes traffic accidents and this is often done by drivers of both two-wheeled vehicles and four-wheeled vehicles.

The legal consequence of a traffic accident that causes harm to other people such as injuries and causes the death of a person is that there is a punishment for the maker or the cause of the accident and is accompanied by a civil suit for the material loss incurred.

Indonesia as a developing country in particular needs a variety of new thoughts in keeping up with the times so that it does not cause new turmoil and problems in today's society. With the readiness of the state in facing modernization developments, these negative impacts can be overcome.

In Indonesia there are still many minors who ride two-wheeled vehicles or four-wheeled vehicles without a license. This of course violates Law Number 22 Year 2009 concerning Road Traffic and Transportation. Children under 17 years of age can be categorized as adolescents. At that age, from a personal perspective, he experiences physical development and mental development. Emotional unstable, easily offended and sensitive to criticism, thus influencing him to act that is sometimes unusual, and outside the rules that apply in society. In general, underage children rarely drive motorized vehicles on the road, but in small alleys or small roads that are not monitored by the police, there are many underage motorbike flags who drive recklessly. Meanwhile, technically, the child's ability to handle the weight of the vehicle has not been balanced. In connection with this, Gatot Supramono said: "Because their souls are not yet stable, sometimes they want to be separated from the existing rules, are easy to accept influences from outside their environment and want to live in their own style. So do not be surprised if many teenagers who misbehave in public places such as drinking liquor on the side of the road, scribbling on walls or buildings, speeding on public roads, stealing, and so on".

Several factors are why minors are not allowed to carry motorized vehicles, first physically, vehicles are designed for adults, not for children. It is often seen that there are small children driving a motorbike, while their feet cannot reach the ground. There is also driving a car, the feet do not reach the brakes and end up propped up by a pillow. second, is the cognitive factor, the ability is limited so that it is less likely to analyze and organize strategies. Most parents think their children are capable of driving when they see their son walking straight. Even though the most important thing in driving is what if there is an incline or when you bump into another vehicle. Third, is the emotional factor, the level of emotion that is not balanced with cognitive abilities will cause children to tend to explode. The fourth is social factors, where the tendency to drive before adulthood usually encourages children to learn to break traffic rules.

## 2. Literature Review

### 2.1. Definition of Child Protection

Child protection is all activities to guarantee and protect children and their rights so that they can live, grow, develop and participate, optimally in accordance with human dignity, and receive protection from violence without discrimination. Law Number 23 of 2002 concerning Child Protection affirms that the responsibility of parents, family, community, government and state is a series of activities carried out continuously for the protection of children's rights. This action is intended to realize the best life for children who are expected to be the smart, brave, nationalism that is imbued with good morals and upholds the values of Pancasila, and has a strong desire to maintain the unity of the nation and state. Child protection measures need to be implemented as early as possible, starting from the fetus in the womb until the child is 18 years old. Starting from a complete, comprehensive and comprehensive conception of child protection.

### 2.2. Child Protection Principles

On 20 November 1987 the UN General Assembly has ratified the Convention on the Rights of the Child (KHA) which contains provisions relating to child issues. This includes the basic principles of children's rights which were later adopted into the Child Protection Law Article 2 of Law Number 23 of 2002. The four principles are non-discrimination, the best interests of the child, the right to life, survival and development and respect the child's opinion.

The first principle of non-discrimination means that all children are entitled to justice for their rights without being limited by differences in ethnicity, skin color, religion, social status, and so on. Discriminatory treatment, for example, discriminates against ethnicity, religion, race, class, sex, ethnicity, culture and language, legal status of children, birth order of children, and physical and / or mental conditions. Treatment of injustice includes acts of partiality between one child and another or abuse of children. The problems that arise in the aspect of law enforcement, which are sometimes inconsistent and discriminatory against children, are still suspected to be occurring today. Inconsistency and discrimination occur among children who are generally in the lower class, who do not have parents, and who do not have access to legal counsel.

The second principle is the best interests of the child, that in all actions involving children carried out by the government, society, legislative bodies, and the judiciary, the best interests of the child must be the main consideration. The third principle is the right to life, survival and development. This principle explains the assurance of child survival. This means that all the potential that will endanger children must be minimized in every home, school and community environment. Home and school must be a place that is friendly to children so that they are comfortable studying, playing, making use of their spare time and so on.

The fourth principle is respect for children's opinions. The principle of respect for children's opinions is respect for children's rights to participate and express their opinions in decision makers, especially when it comes to matters that will affect their lives. This is intended to give freedom to children in order to develop their creativity and intellect (reasoning power) according to the child's age level. Article 2 of Law Number 23 Year 2002 concerning Child Protection also emphasizes that such development must still be under the guidance of its parents.

### 2.3. Traffic Violations

The meaning of traffic according to Article 1 of Law Number 22 Year 2009 concerning road traffic and transportation as the movement of vehicles and people in the road traffic space, as infrastructure designated for moving vehicles, people and / or goods in the form of roads with supporting facilities. The definition of violation means an act that violates something and is related to the law, which means nothing other than an act against the law.

Traffic is the movement of vehicles, people and animals on the road. In carrying out activities in traffic, a regulation is needed that can be used as a guideline for the community in traffic, so that traffic violations do not occur. However, even though various regulations have been made, still traffic violations often occur, not even a few that cause traffic accidents.

Therefore, if a person has violated a regulation that has been made by the government, for example in the case of traffic violations, then he will be recognized as a penalty in accordance with what he did. Traffic violation is an act that is contrary to traffic and / or the implementing regulations, which may or may not cause loss of life or property. Traffic violations are not regulated in the Criminal Code, but some are related to offenses mentioned in the Criminal Code, for example in their negligence which causes people to be amused (Article 359), because their negligence causes other people to be seriously injured (Article 360), because their negligence causes buildings, railroad trams, telegrams, telephones, and electricity were destroyed or damaged (Article 409).

According to RamlanNaning, a traffic violation is an act or action of a person that is contrary to the provisions of the road traffic law. The violation referred to is as stated in Article 326 of Law Number 22 Year 2009 concerning Road Traffic and Transportation, if the provision is violated, it is classified as a violation.

From the definition of traffic violations, that the elements of violations are as follows:

- There are actions that are against the law
- Has legal consequences so you have to be accountable for the act.

Several forms of traffic violations as well as the criminal provisions in Law Number 22 of 2009 concerning Road Traffic and Transportation:

- Every motorized flag carrier who does not have a SIM shall be punished with imprisonment of up to 4 months or a maximum fine of Rp. 1,000,000 (Article 261)

- Every motorized flag owner who has a SIM but cannot show it during the raid shall be punished with a maximum imprisonment of 1 year or a maximum fine of Rp. 250,000 (Article 228 paragraph 2)
- Every flag of a motorized vehicle that is not equipped with a vehicle number shall be punished with a maximum imprisonment of 2 months or a maximum fine of Rp. 500,000 (Article 282).
- Any motorbike flaggers that are not equipped with vehicle eligibility such as mirrors, headlights, brake lights, horns, speed gauges, and exhausts. Shall be punished with a maximum imprisonment of 1 month or a maximum fine of Rp. 250,000 (Article 285 paragraph 1).
- Every car flag owner that is not equipped with spare tires, safety triangles, jacks, wheel openers, and first aid kits in an accident shall be punished with imprisonment of up to 1 month or a maximum fine of Rp. 250,000 (Article 278)
- Every motorbike flagrant who is not equipped with vehicle eligibilities such as mirrors, headlights, reverse lights, brake lights, horns, speed gauges, windshields, bumper will be punished with imprisonment of up to 2 months or a maximum fine of Rp. 500,000 (Article 285 paragraph 2).
- Any flag who violates traffic signs will be punished with imprisonment of 2 months or a maximum fine of Rp. 500,000 (Article 287 paragraph 1).
- Any flag that violates the speed limit rule, the highest or the lowest, will be punished with imprisonment of 2 months or a maximum fine of Rp. 500,000 (Article 287 paragraph 5).
- Every flagship who does not have a motorized vehicle certificate shall be punished with imprisonment of up to 2 months or a maximum fine of Rp. 500,000 (Article 288 paragraph 1).
- Every driver or passenger who sits beside the driver of the car not wearing a seat belt will be punished with a maximum imprisonment of 1 month or a maximum fine of Rp. 250,000 (Article 289)
- Every flag or motorbike passenger who does not wear a national standard helmet will be punished with a maximum imprisonment of 1 month or a maximum fine of Rp. 250,000 (Article 291)
- Every motorcyclist who turns or reverses without giving a light signal shall be punished with a maximum imprisonment of 1 month or a maximum fine of Rp. 250,000 (Article 294).

#### *2.4. Factors That Cause Traffic Violations Committed by Children*

Traffic violations committed by children also mean talking about children's delinquency. Child delinquency is taken from the term juvenile delinquency which comes from juvenile which means young children, young people, the characteristics of youth, the characteristics of adolescence, while delinquency means wrong doing, neglected / ignored, which is then expanded to mean to be evil, anti-social, criminals, rule breakers, usurpers, intruders, terrorists, irreparable and others.

The child's delinquency is inseparable from the factors that encourage the child to commit a delinquency or in this case the form of traffic violation. The background of a child committing delinquency is certainly not the same as the background of an adult committing a crime. The causes of delinquency in children can be influenced by various factors. The factors that motivate children to commit traffic violations can be influenced by encouragement from within the child or from outside the child.

##### 2.4.1. Intrinsic Motivation

###### 2.4.1.1. Intelligence Factor

In the case of traffic violations committed by children, one of the influencing factors is the child's intelligence factor. A child who has low intelligence and lack of social insight, they easily do negative things which are the influence of what is done by those around them, in this case traffic violations. Intelligence factor is one of the supporting factors for children to commit delinquency.

Children's intelligence regarding lack of traffic insight and an undisciplined attitude in traffic is one of the backgrounds of a child committing traffic violations. In general, everyone knows about the rules for traffic procedures, but not a few motorized vehicle riders, especially motorbike riders, ignore traffic regulations so that there are many traffic violations that can even lead to traffic accidents.

One of the reasons for traffic vehicle drivers not to comply with traffic rules is because the distance traveled by the driver is not too far so that the driver sometimes does not wear driving equipment such as wearing a helmet, driving overload and even through traffic lights. This is also influenced by the expression in society "if there are no police, drivers do not need to obey traffic rules", so this has become a habit that occurs in society not only for children but also for adults who become examples of behavior for children.

###### 2.4.1.2. Age Factor

The age factor is one of the important factors in the occurrence of a crime or child delinquency. Where in this case the child's age is considered unable to control their emotions or the emotions of children who are still unstable, the maturity of thinking is not enough so that they are not able to make decisions quickly, and a low sense of responsibility. This can cause the child to commit an offense, in this case a traffic violation.

#### 2.4.1.3. Gender Factor

The existence of sex differences, also results in differences, not only in terms of quantity of delinquency, but also in terms of quality. Often seen and read in various media, both print and electronic media, that many crimes are committed by boys, such as theft, robbery, assault, murder, rape and so on. Meanwhile, many violations are committed by girls, such as violations of public order, violations of decency and so on.

### 2.4.2. Extrinsic Motivation

#### 2.4.2.1. Family Factors

The family is the closest social environment to raise, mature and in it the children get their first and foremost education. Therefore, the family has an important role in the development of children. The role of the family is very important in the occurrence of traffic violations by children under the public. The reason is that if parents do not allow their underage children to ride a motorbike, the chance of traffic violations will not occur, it can be concluded that school children have the potential to commit traffic violations cannot be separated from the support of parents / family, this can be seen when the parents knowing that his child is able to drive a motorized vehicle at his current age but does not provide strict supervision for his child to drive a motorized vehicle. From this it can be seen that children who are underage still really need understanding and supervision from the family because with the supervision from the family, the child will be more focused, besides that the family has a big role in the child's development, because if the parents do not support it. and facilitate, so the child is unlikely to carry the vehicle and commit offenses due to lack of knowledge of traffic.

#### 2.4.2.2. Education and School Factors

Schools are media or intermediaries for the development of children's souls, or in other words, schools are responsible for children's education, both scientific education and behavior (character) education. School is the second place for children's education after the family / home environment. Schools as educational institutions should meet the needs of all children in order to produce progress and healthy mental development for these children.

In the case of traffic violations, the school should also provide restrictions for students regarding the prohibition of using motorized vehicles for students who have not obtained a driving license. Many of them are still under the age of 17 as one of the conditions for obtaining a driving license in accordance with the Law on Traffic and Road Transportation. The reason why children use motorized vehicles is because of their need to go to school, where the distance is quite far and parents do not have time to take or pick up children, besides that the costs incurred are also more efficient when using private vehicles compared to using public vehicles. The lack of concern from the school regarding the use of motorized vehicles to their students which encourages these children to use motorized vehicles to go to school. The school should also pay attention to this matter to give advice to every student not to drive a motorized vehicle if it does not comply with the existing traffic regulations, by making rules that prohibit students from driving motorized vehicles to school. This regulation can also be supported by providing a special vehicle for students that functions to escort and pick up students to school. In this way, children will understand the importance of obeying the prevailing traffic regulations.

#### 2.4.2.3. Child Intercourse Factors

The influence of the environment on children has a big impact, especially in the cultural context or the culture of the environment. A child can commit delinquency / violation due to one of the factors that is not good environment or environment that has a negative influence on the child. The impact of negative behavior puts pressure on the child and forces the formation of bad behavior to a child, in which case the child commits a traffic violation.

Some children drive motorized vehicles because they see their friends also driving motorized vehicles. In addition, children also dare to violate traffic because they often see other drivers also violating, not only other children but also adults who are role models for children.

#### 2.4.2.4. Handling of Traffic Violations Committed by Children

Regarding traffic violations as regulated in Law Number 22 of 2009 concerning Road Traffic and Transportation Article 1 that Road Traffic and Transportation is a unitary system consisting of traffic, road transportation, road traffic and transportation networks, infrastructure. traffic and street transportation, vehicles, drivers, road users and their management.

Traffic violations still often occur, ironically violations are predominantly committed by students in uniform, their lack of knowledge of traffic regulations makes them frequent violations and also their age is not sufficient to have a driving license, which is one of the requirements for completing driving.

In an effort to tackle the behavior of school children who are not obedient and sometimes commit traffic violations because they are not old enough to have a driving license, the police, in this case the traffic police, must take the following measures:

### 2.4.3. Preventive Measures

Preventive prevention of crimes is carried out to prevent the occurrence or occurrence of crimes for the first time. Preventing crime is better than trying to educate criminals to be better again, as the motto in criminology is that efforts to correct criminals need to be considered and directed so that repeat crimes do not occur. It stands to reason those

preventive efforts are prioritized because preventive efforts can be carried out by anyone without special expertise and economics.

The efforts made by police officers in overcoming traffic violations committed by minors are as follows:

- Conduct socialization of traffic order education in schools
- Participate in carrying out school activities, namely the police officer who is the inspector of ceremonies in schools
- Cultivate students to become school security patrols
- Increase knowledge of orderly traffic and race quiz about traffic
- Law enforcement, enforcing control over students who have not met the driving requirements in collaboration with the education office and the school.

#### 2.4.4. Repressive Efforts

A repressive measure is a conceptual crime prevention effort taken after a crime has occurred. Countermeasures with repressive measures are intended to take action against the perpetrators of crimes in accordance with their actions and repair them again so that they are aware that the actions they have committed are illegal and detrimental to the community so that they will not repeat them and other people will also not commit considering the very heavy sanctions they will bear.

If there are still many traffic violations committed by minors in an effort to prevent traffic violations, in this case the police must make repressive efforts to take action against school children who commit violations so that there is a deterrent effect that is felt by them. a child who commits an offense and does not repeat the act again, namely the police apparatus commits:

- A ticket is proof of violation. The function of the ticket itself is an invitation to a child who has committed a traffic violation to attend a trial in court, as well as evidence of confiscation of goods confiscated by the police against the offending child.
- The confiscation was carried out because the schoolchildren did not have a driver's license seeing that their age was not sufficient to have a driver's license.
- Reprimands are made to children who violate traffic but promise not to commit violations again by making a written statement that they will not violate again.

As for the role of police officers in traffic violations committed by minors, namely:

- Carry out routine control activities in the form of operations in schools
- Put up traffic advisory banners
- Spread out brochures about traffic.

What forms of efforts and roles are taken by police officers in overcoming the problem of traffic violations committed by minors is the police apparatus' way of minimizing the occurrence of traffic violations because based on the facts, most traffic accidents are caused by traffic violations.

### **3. Conclusion**

- The factors that cause children to commit traffic violations are influenced by motivation. Motivation is divided into two, namely intrinsic motivation, namely children's behavior that is influenced by intelligence factors and age factors, and extrinsic motivation, namely children's behavior that is influenced by family environmental factors, educational and school factors, and children's social factors.
- Police countermeasures include preventive efforts as a continuation of the initial prevention in the form of guarding at every traffic post and carrying out routine operations and repressive efforts in the form of law enforcement efforts in the form of warnings and sanctions in the form of tickets for children who commit traffic violations cross.

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