

## Legal Review Of Children Who Commit Traffic Violations

Eddy<sup>1</sup>, Yasmira Mandasari Saragih<sup>2</sup>, Tamaulina Br. Sembiring<sup>3</sup>, Eri Siswanto<sup>4</sup>

*Master of Law, Universitas Pembangunan Panca Budi*

e-mail: eddyjunnie@yahoo.com, yasmirahmandasari@gmail.com,

tamaulina@dosen.pancabudi.ac.id, Erisiswanto@yahoo.com

### ABSTRACT

Traffic violations involving children are increasingly found in everyday life. Children, who in this case are categorized as a person under the age of 18, are often involved in various forms of traffic violations, such as driving a motor vehicle without a driver's license, violating traffic signs, riding and driving at dangerous speeds. This phenomenon raises concerns, especially due to the high risk of accidents and the potential for casualties. In this paper, we will discuss criminal liability for children who commit traffic violations and legal sanctions for children who commit traffic violations. The method applied in this study is the normative juridical method, a deductive approach that uses theory as a starting point to answer research questions. This study will analyze articles in laws and regulations related to legal studies of children who commit traffic violations. Legal sanctions against children who commit traffic violations can be in the form of criminal or non-penal actions. Criminal sanctions are more educational in nature such as warnings, supervision, and coaching in special institutions. Meanwhile, non-penal actions such as guidance or counseling are prioritized so that children can understand mistakes and correct their behavior. The system aims to ensure that children are given the opportunity to change. The application of sanctions against children who commit traffic violations must pay attention to the balance between law enforcement, the best interests of the child, and prevention goals. Despite violations, an approach based on the protection of children's rights remains the basis for coaching efforts.

### **Keywords:**

Children, Violations and Traffic

## I. INTRODUCTION

### A. Background

An act that is seen as a criminal act is a reflection of the community's rejection of the act, and therefore the act is then condemned. Criminal liability can only be carried out against a person who commits a criminal act. The reprehensibility of the creator actually comes from the reproach that

exists in the criminal acts committed by the creator. Therefore, the scope of criminal liability has an important correlation with the criminal structure.<sup>1</sup>

In order for the perpetrator to be convicted, the criminal act committed must meet the elements that have been determined in the Law. A person will be held accountable for his actions if the act is unlawful and there is no justification or negation of unlawful nature for the crime he committed.<sup>2</sup>

The law prescribes what should be done and or what can be done as well as what is prohibited. The target of the law is not only people who clearly act against the law, but legal acts that may occur, and to the state's apparatus to act according to the law. Such a system of law work is a form of law enforcement. The development process can lead to progress in people's lives, besides that it can also result in changes in the social conditions of the community that have a negative social impact, especially regarding the problem of increasing criminal acts that are troubling the community.<sup>3</sup> One of the criminal acts in this case is a traffic violation committed by a child.

Traffic violations involving children are increasingly found in everyday life. Children, who in this case are categorized as a person under the age of 18, are often involved in various forms of traffic violations, such as driving a motor vehicle without a driver's license, violating traffic signs, riding and driving at dangerous speeds. This phenomenon raises concerns, especially due to the high risk of accidents and the potential for casualties. In this case, it is necessary to conduct an in-depth legal study to understand the criminal justice system in criminal liability for the involvement of children in traffic violation cases.

According to Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, children who commit criminal acts, including traffic violations, cannot be treated the same as adults. This law emphasizes restorative and rehabilitative approaches, not repressive in dealing with children who are in conflict with the law. Traffic rules are strict and aim to maintain order and public safety<sup>4</sup>.

In practice, children often do not fully understand the consequences of actions when violating traffic. Based on the theory of psychosocial development, children who have not reached adulthood tend to act impulsively and are not able to consider risks carefully. This explains why traffic violations by children often occur. Lack of awareness is an important factor in determining children's criminal liability. Therefore, a coaching approach is needed so that children can realize and correct mistakes without having to go through the judicial process.<sup>5</sup>

In addition, the legal system has provided space for lighter settlement through Diversion, namely the transfer of the settlement of children's cases from the criminal justice process to outside the court. This diversion is very relevant in traffic violations committed by children, where the main goal is to prevent children from criminal stigma. Diversion can involve guidance, rehabilitation, or training aimed at improving the child's behavior in terms of obeying traffic rules. However, the

---

<sup>1</sup> Yasmirah Mandasari Saragih and Muhammad Ridwan Lubis, *A Normative Study of the Crime of Defamation in Cyberspace*, YUSTISIA MERDEKA: Jurnal Imiah Hukum, Volume 5, Number 1, March 2019, p. 35.

<sup>2</sup> Yasmirah Mandasari Saragih and Muhammad Ridwan Lubis, *A Normative Study of the Crime of Defamation in Cyberspace*, YUSTISIA MERDEKA: Jurnal Imiah Hukum, Volume 5, Number 1, March 2019, p. 36.

<sup>3</sup> Yasmirah Mandasari Saragih, *The Role of the Prosecutor's Office in the Eradication of Corruption in Indonesia after Law Number 20 of 2001 concerning the Eradication of Corruption*, Al'Adl Journal, Volume IX, Number 1, January-April 2017, p. 50.

<sup>4</sup> Santoso, 2018. *Legal Protection of Children in the Indonesian Legal System*. Malang: Universitas Brawijaya Press.

<sup>5</sup> Hidayat, 2021, *Development of the Juvenile Justice System in Indonesia*. Bandung: CV Mandar Maju.

effectiveness of Diversi in handling child traffic violation cases still needs to be questioned considering that traffic violations often involve risks for others.<sup>6</sup>

Law enforcement against traffic violations by children also involves various parties including parents, the police, and juvenile justice institutions. Parents have a great responsibility in supervising their children, especially in terms of the use of motor vehicles. The police as law enforcement must cooperate with institutions that care for children to ensure that the handling of children who violate traffic does not damage the child's future, but rather helps the child realize his or her mistakes.

Legal studies regarding children who commit traffic violations must consider the protection of children's rights. As stipulated in the Convention on the Rights of the Child, Law Number 22 of 2009 concerning Road Traffic and Transportation, and Law Number 35 of 2014 concerning Child Protection, every child has the right to be treated fairly and in accordance with the needs of the child's development. Legal handling that focuses on fostering and protecting children is an important foundation in the juvenile criminal justice system. It is very important that traffic violations by children are not only legal issues but also social and educational issues that involve many parties in handling them.

Thus, legal studies of children who commit traffic violations are very important to ensure that the legal approach used is in accordance with the principles of child protection. Even though traffic violations are criminal offenses, the handling of children must still prioritize the principles of restorative justice and rehabilitation. This will help children understand their mistakes while maintaining traffic order and safety on the highway.

## **B. Problem Formulation**

1. What is criminal liability for children who commit traffic violations?
2. What are the legal sanctions against children who commit traffic violations?
3. What is the role of the government and the community in enforcing traffic rules for children?

## **C. Research Methods**

The method applied in this study is the normative juridical method, a deductive approach that uses theory as a starting point to answer research questions.<sup>7</sup> This study will analyze articles in laws and regulations related to legal studies of children who commit traffic violations. In the context of normative research, a conceptual approach is used to understand concepts such as children's responsibility in traffic violations. These concepts are the basis for producing norms in the rule of law.

## **II. DISCUSSION**

### **A. Criminal Liability for Children Who Commit Traffic Violations**

The number of children committing traffic violations is increasing along with the increase in the number of motorized vehicles and the lack of parental supervision. This phenomenon raises

---

<sup>6</sup> Ahmad Wahyudi, 2019, *Diversion in Juvenile Court*. Bandung: CV Mandar Maju.

<sup>7</sup> Putro Sucy Rezky MZ and Tamalina Br. Sembiring, *Health Law Ethics and Dynamics of Health Professional Ethics Enforcement*, Journal of Legal Prism, Vol 8, No 1, Jan 2024, p. 31.

concerns considering that many children do not have a Driver's License (SIM) but already drive a motorized vehicle. In fact, based on Article 77 Paragraph (1) of Law No. 22 of 2009 concerning Road Traffic and Transportation, every motor vehicle driver is required to have a driver's license in accordance with the type of vehicle driven. However, there are still many minors who drive vehicles without an official license which increases the risk of accidents and other traffic violations.

Children who commit traffic violations are included in the category of children who are in conflict with the law as regulated in Law No. 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA). This law provides special legal protection for children who commit criminal acts, including traffic violations. In the SPPA Law, there is a principle that children involved in criminal acts should be treated differently from adults, with an emphasis on recovery and rehabilitation rather than repressive criminal punishments.<sup>8</sup>

Criminal liability of children in traffic violations emphasizes more on the restorative approach than on the retributive approach. The Diversion system is one of the mechanisms regulated in the SPPA Law to transfer the settlement of children's cases from the judicial system to outside the court. This diversion aims to provide opportunities for children to improve their behavior without having to undergo a formal legal process. In traffic violations,

Diversion is the transfer of the settlement of children's cases from the criminal justice process to outside the judicial system. The purpose of Diversion is to prevent children from experiencing trauma due to the judicial process and provide opportunities for children to correct their mistakes. In the case of traffic violations, Diversion can be carried out by involving the child in coaching under the supervision of parents or social institutions.<sup>9</sup>

However, not all traffic violations by children can be resolved through Diversion. In some more serious cases such as violations that result in serious accidents or death, children may be subject to criminal sanctions in accordance with the provisions of the applicable law. However, criminal sanctions imposed on children must consider the age and maturity level of the child. The SPPA Law provides guidelines that the punishment given must be in accordance with the purpose of rehabilitating the child and not solely to punish.

In addition to Diversion, Law No. 35 of 2014 concerning Child Protection also regulates children's rights. This law emphasizes that children must be protected from all forms of violence and inhuman treatment, including in the legal process. Therefore, law enforcement officials, including traffic police, are expected to apply a child-friendly approach when handling cases of traffic violations committed by minors.<sup>10</sup>

In the application of criminal liability for children who commit traffic violations, it lies in the unpreparedness of parents and the community in providing adequate supervision and education. Many parents let their children drive motorized vehicles without a driver's license and without supervision. This is a factor causing the high number of cases of traffic violations by children. Therefore, the role

---

<sup>8</sup> Mustofa Adi and Safitri, 2019, *The Juvenile Criminal Justice System in Indonesia*. Journal of Law and Justice, 7 (2), p. pp. 102-118.

<sup>9</sup> Darmawan, 2018, *Criminal Liability of Children in Traffic Violation Cases*. Journal of Criminal Law, 8 (3), p. 88-95.

<sup>10</sup> Haryanto and Kusuma, 2021, *Traffic Education among Adolescents*. Journal of Education and Law, 9 (4), p. 67-75.

of the family in providing traffic education is very important to prevent children from being involved in breaking the law.

Criminal liability for children who commit traffic violations must be based on the principle of child protection and recovery. The Diversion system and the restorative approach regulated in the SPPA Law are important mechanisms in ensuring that children are not trapped in criminal acts. However, efforts to reduce traffic violations by children depend not only on law enforcement, but also on the active role of families, schools, and communities in providing adequate education and supervision.

The role of parents in supervising and educating children is also very important in preventing traffic violations. Parents have the responsibility to ensure that children do not drive a motor vehicle before having a driver's license, as well as to comply with applicable traffic regulations. In addition, schools and the community also need to play an active role in providing education about traffic safety to children.

## **B. Legal Sanctions Against Children Who Commit Traffic Violations**

Traffic violations committed by children are a serious concern in the Indonesian legal system, especially considering the increasing number of traffic accidents involving children as drivers. Based on Law No. 22 of 2009 concerning Road Traffic and Transportation, every motorist is required to have a Driver's License (SIM) which can legally only be owned by individuals aged 17 years and above. However, many children under this age were found to be violating traffic rules, such as driving without a driver's license, without a helmet, and exceeding the speed limit. This raises questions about how the justice system imposes sanctions on children who violate the law.

The sanctions imposed on children who commit traffic violations cannot be equated with the sanctions that apply to adults. This refers to Law No. 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA) which prioritizes the principle of child protection and puts rehabilitation above punishment. The main purpose of the SPPA Law is to ensure that legal proceedings against children do not damage the future but instead provide opportunities for improvement. Based on the law, children who commit traffic violations will be directed to undergo the Diversion process before being faced with criminal sanctions.<sup>11</sup>

Diversion, which is the transfer of case settlement from the criminal justice process to outside the court, is an important instrument in handling cases of traffic violations by children. In practice, Diversi prioritizes mediation efforts between the perpetrator's child and the victim, as well as strengthening the role of parents and the community in child development. For example, a child who commits a traffic violation may be required to attend a traffic education program or undergo parental supervision without having to face jail.<sup>12</sup>

However, if the violation committed causes material loss or even loss of life, more serious sanctions can be imposed. In situations like this, even though children are still treated specifically under the SPPA Law, the court can impose criminal sanctions in the form of imprisonment or other

---

<sup>11</sup> Nugraha and Rahardjo, 2020, *Diversion in the Juvenile Criminal Justice System: An Empirical Study in Indonesia*. Journal of Legal Studies, 5 (1), p. 45-62.

<sup>12</sup> Wahyudi, 2018, *Challenges in the Implementation of Diversion in Children's Cases*. Bandung: CV Mandar Maju.

heavier actions, such as coaching in rehabilitation institutions. However, the sanction still considers the principle of the best interests of the child as stipulated in Law Number 35 of 2014 concerning Child Protection.

In the implementation of the law and its application related to sanctions against children who violate traffic rules, there is legal awareness of the community, including parents. Often parents give permission or even facilitate children to drive vehicles even though they have not met the legal requirements. As a result, many traffic violations occur which ultimately bring children into legal proceedings.<sup>13</sup>

Law enforcement officials are also faced with handling children in traffic violation cases. In some cases, law enforcement is caught in a dilemma between enforcing the law firmly and safeguarding children's rights. Therefore, an approach is needed from the police and the prosecutor's office in handling cases of children who violate traffic rules.

Legal sanctions against children who violate traffic rules are more oriented towards coaching and rehabilitation than prison sentences. Diversion mechanisms and restorative approaches are expected to prevent children from having destructive experiences in the criminal justice system. However, it is important to involve families and communities in this process to increase awareness and shared responsibility in preventing children from committing traffic violations.

### III. CONCLUSION

1. Criminal liability for children who commit traffic violations must consider the age and development aspects of the child, in accordance with the principles of protecting children's rights in the criminal justice system. The justice system used for children is different from adults, as stipulated in Law No. 11 of 2012 concerning the Children's Criminal Justice System. In this case, law enforcement must continue to uphold the principles of rehabilitation, rehabilitation, and coaching compared to imprisonment so that children are not trapped in criminal acts in the future.
2. Legal sanctions against children who commit traffic violations can be in the form of criminal or non-penal actions. Criminal sanctions are more educational in nature such as warnings, supervision, and coaching in special institutions. Meanwhile, non-penal actions such as guidance or counseling are prioritized so that children can understand mistakes and correct their behavior. The system aims to ensure that children are given the opportunity to change. The application of sanctions against children who commit traffic violations must pay attention to the balance between law enforcement, the best interests of the child, and prevention goals. Despite violations, an approach based on the protection of children's rights remains the basis for coaching efforts.

### BIBLIOGRAPHY

Ahmad Wahyudi, 2019, *Diversion in Juvenile Court*. Bandung: CV Mandar Maju.

---

<sup>13</sup> Haryadi, 2020, *The Role of Parents in Preventing Traffic Violations by Children*, Journal of Family Law, 3 (1), p. 22-35.





- Darmawan, 2018, *Criminal Liability of Children in Traffic Violation Cases*. Journal of Criminal Law, 8 (3), p. 88-95.
- Haryadi, 2020, *The Role of Parents in Preventing Traffic Violations by Children*, Journal of Family Law, 3 (1), p. 22-35.
- Haryanto and Kusuma, 2021, *Traffic Education among Adolescents*. Journal of Education and Law, 9 (4), p. 67-75.
- Hidayat, 2021, *Development of the Juvenile Justice System in Indonesia*. Bandung: CV Mandar Maju.
- Mustofa Adi and Safitri, 2019, *The Juvenile Criminal Justice System in Indonesia*. Journal of Law and Justice, 7 (2), p. pp. 102-118.
- Nugraha and Rahardjo, 2020, *Diversion in the Juvenile Criminal Justice System: An Empirical Study in Indonesia*. Journal of Legal Studies, 5 (1), p. 45-62.
- Putro Sucy Rezky MZ and Tamalina Br. Sembiring, *Health Law Ethics and Dynamics of Health Professional Ethics Enforcement*, Journal of Legal Prism, Vol 8, No 1, Jan 2024, p. 31.
- Santoso, 2018. *Legal Protection of Children in the Indonesian Legal System*. Malang: Universitas Brawijaya Press.
- Law Number 22 of 2009 concerning Road Traffic and Transportation.
- Law Number 11 of 2012 concerning the Juvenile Criminal Justice System.
- Law Number 35 of 2014 concerning Child Protection
- Wahyudi, 2018, *Challenges in the Implementation of Diversion in Children's Cases*. Bandung: CV Mandar Maju.
- Yasmirah Mandasari Saragih and Muhammad Ridwan Lubis, *A Normative Study of the Crime of Defamation in Cyberspace*, YUSTISIA MERDEKA: Jurnal Imiah Hukum, Volume 5, Number 1, March 2019, p. 35.
- Yasmirah Mandasari Saragih, *The Role of the Prosecutor's Office in the Eradication of Corruption in Indonesia after Law Number 20 of 2001 concerning the Eradication of Corruption*, Al'Adl Journal, Volume IX, Number 1, January-April 2017, p. 50.