

Reconstruction of the Regulation of Procedures for Settlement of Traffic Violation Cases Based on the Values of Justice

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Abstract

Traffic law enforcement has a role so that traffic laws are obeyed by every road user. The purpose of this research is The problems in this research are: 1) to find and analyze how traffic law practices Completion Case Violation Traffic based on the perspective of justice values; 2). to find and analyze weaknesses in practice settlement case violation traffic currently; 3). to find the reconstruction of regulations on the procedure for resolving traffic violation cases based on the value of justice. The research method uses the constructivism paradigm, with a sociological legal approach method, and a descriptive research type. The types and sources of data use secondary materials in the form of primary legal materials, secondary legal materials, and tertiary legal materials. The data collection method uses literature, and qualitative analysis methods. The results of the study are: 1) Practice Completion Case Violation Traffic not based on the value of justice that in reality Law Number 22 of 2009 concerning Traffic and Road Transportation does not have the words objective and fair. Supreme Court Regulation Number 12 of 2016 concerning Procedures for Settling Traffic Violation Cases Article 7 Paragraph 1 "Judges are appointed to open trials and decide all cases without the presence of the offender"; 2) The weakness of the legal substance aspect is that Supreme Court Regulation Number 12 of 2016 concerning Procedures for Settling Traffic Violations has not explained in detail the mechanism for resolving resistance cases (trial process flow) against objections to decisions on deprivation of liberty for traffic violations and has not explained the mechanism for legal remedies for the determination of criminal fines for traffic violations. The weakness of the legal structure aspect is that sometimes in the implementation of the investigation process carried out by the police, it seems like it is just an arena for revenge on the pretext of a form of legal certainty rather than justice and legal benefits. The weakness of the legal culture aspect is that public knowledge of regulations is still very lacking. 3) The reconstruction of the values to be achieved in this study is that the regulation of procedures for resolving traffic violation cases that were previously unjust are now just. Reconstruction of regulatory norms for procedures for resolving traffic violation cases based on the value of justice in Law Number 22 of 2009 concerning Traffic and Road Transportation, namely by adding the letter j objectivity and k justice and legal certainty, and Supreme Court Regulation Number 12 of 2016 concerning Procedures for Resolving Traffic Violation Cases Article 7 Paragraph 1.

Keywords: Reconstruction; Regulation; Violation; Traffic

Introduction

Enforcement law Then cross field repressive covering action violations and investigations accident Then cross, there are tasks action violation law Then cross covering action in a way educative that is do action to violation Then cross in a way sympathetic with give reprimand or warning to violation Then cross, while action in a way legal can interpreted as action violation Then cross in a way the law that covers action with use traffic ticket. Law Number 22 of 2009 contains setup and implementation sanctions criminal set up more firm. For violations that are of a serious nature light, worn sanctions criminal confinement or a relative fine more light. However, against violation heavy and there is element intentional charged sanctions far -reaching crime more heavy. This is intended to be able to cause effect deterrent for perpetrator violation with No too burdensome society. The need for orderly Then cross must implanted since age early, because through education since early expected will can to form generation obedient young man will law, in particular obedient passed cross.¹

In addition to sanctions criminal, in Constitution Number 22 of 2009 also regulates about sanctions administrative charges imposed for company transport in the form of warning, freeze permission, revocation permission, granting cross field preventive measures which include activities arrangement Then cross, guard Then cross, escort Then cross and patrol Then cross, where in its implementation activities the is a system security Then the cross between one sub system with sub system others No can separated. Enforcement law Then cross field repressive covering action violations and investigations accident Then cross, there are tasks action violation law Then cross covering action in a way educative that is do action to violation Then cross in a way sympathetic with give reprimand or warning to violation Then cross, while action in a way legal can interpreted as action violation Then cross in a way the law that covers action with use ticket.

Constitution Number 22 of 2009 contains setup and implementation sanctions criminal set up more firm. For violations that are of a serious nature light, worn sanctions criminal confinement or a relative fine more light. However, against violation heavy and there are element intentional charged sanctions far -reaching crime more heavy. This is intended to be able to cause effect deterrent for perpetrator violation with No too burdensome society. In addition to sanctions criminal, in Constitution Number 22 of 2009 also regulates about sanctions administrative charges imposed for company transport in the form of warning, freeze permission, revocation permission, granting fines. Provisions about sanctions criminal and administrative also threatened to official or organizer road.

Apparatus enforcer law in matter This is the role of the Traffic Police as prevention (*polite toezicht*) and as enforcement (*politie dwang*) in function politics. Besides That police Then cross also do function regulation (for example, settings) about obligation for vehicle motorized certain For complete with triangle safety) and function bestow specifically in matter licensing or commencement (for example, issuing a permit) Driving).² Violation Then cross No can left alone so just Because part big accident Then cross due to Because factor man user the path that is not obedient to regulation Then cross.³

Like We know implementation hearing the fine that has been walk impressed slow Because the amount case violation traffic that has amount Far more Lots from case others. With publication

¹Dwi Wahyono, Rizki Adi Pinandito, Lathifah Hanim, Implementation of Law Number 22 of 2009 concerning Traffic and Road Transportation (Study on Traffic Control in Central Java Region) , *Journal Legal Research*, 2022

² Soerjono Soekanto, 1989, *A Review Sociology of Law Against The problems Social*, Citra Aditya Bakti, Bandung, p. 58

³ Setiyanto, Gunarto, Sri Endah Wahyuningsih, Effectiveness Implementation E- Ticket Fines for Traffic Violators Based on Constitution Number 22 of 2009 Concerning Traffic and Road Transportation (Study at the Police Rembang), *Khaira Ummah Law Journal* Vol. 12. No. 4 December 2017: 742- 766

Regulation Supreme Court Number 12 of 2016 then change mechanism hearing ticket so that the settlement process can be completed more easy, fast and simple. From the results research conducted by the Research and Development Center the Supreme Court of the Republic of Indonesia at least five problems found main that is implementation ambiguous blank (slip), height burden administration, lack of utilization technology information, weakness coordination between institutions and perceptions bad about the existence of brokers. As for the points important from permanent the is offender No need present in trial.⁴ With The issuance of Perma Number 12 of 2016 is expected can improve and shorten the settlement process case violation traffic. But in reality matter the No as well as immediately can realized. This is caused by the emergence of problem new from new rules. Among them decision from the judge in court impressed No referring to the principle presumption not guilty. So there is dissatisfaction from people who feel his rights No fulfilled.

Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia states: that the Republic of Indonesia is a state of law, containing understanding that all order life nation, society and state is based on on law. Achmad Ali stated that law is a set rules or structured rules in a system, which determines what is allowed and what is not may done by humans as inhabitant public in life community, which originates from from public Alone and also from source others, which are recognized enactment by the authorities highest in public mentioned, as well as truly enforced by citizens society (as a overall) in his life, and if rules the violated will give authority for authority highest For to drop sanctions in nature external.

In order to realize enforcement effective, efficient and providing law certainty law in settlement violation Then cross, where The Supreme Court of the Republic of Indonesia made breakthrough law with publish Regulation Supreme Court of the Republic of Indonesia Number 12 of 2016 concerning Procedures for Settlement Traffic Violations. The issuance of the Perma in question as function arrange Supreme Court of the Republic of Indonesia for make regulation more further required for organization justice if there is things that have not been done set up in regulation legislation as stated in Article 79 of the Law Number 14 of 1985 concerning Supreme Court in conjunction with Law Number 3 of 2009 concerning Change Secondly, under the Law Number 14 of 1985 concerning Supreme Court, because existence expansion type violation Then cross in Constitution Number 22 of 2009 concerning Traffic and Road Transportation, the completion of which is No set up in Article 211 of Law Number 8 of 1981 concerning Criminal Procedure Law (KUHP). Article 4 of Perma Number 12 of 2016 concerning Procedures for Settlement Traffic Violations, except for the individual who filed resistance to decision about robbery independence can submit resistance on the day hearing reading decision as in Article 7 Paragraph 4 of the Regulations Supreme Court Number 12 of 2016 concerning Procedures for Settlement Traffic Violations.

Ex Head of Public Relations and Legal Bureau of the Supreme Court of the Republic of Indonesia, Ridwan Mansyur, Regulation Supreme Court Number 12 of 2016 concerning Procedures for Settlement Traffic Violations change mechanism hearing ticket so that the settlement process more easy, fast and simple (*speedy trial*). Important pointers offender No must present at the trial except for the individual who filed resistance to decision about robbery independence. The violators Enough pay punishment fine traffic ticket in a way cash or electronic account prosecutor's office through the designated bank (Bank Rakyat Indonesia). Then, the withdrawal goods proof through prosecutor as executor at the prosecutor's office local with show proof payment fine. However, Regulation Supreme Court Number 12 of 2016 concerning Procedures for Settlement Traffic Violations not yet explain in detail the mechanism settlement case resistance (the flow of the trial process) against object decision

⁴ Rosari, M, 2018 Regulations Supreme Court changes mechanism hearing traffic ticket - ANTARA News. Retrieved July 11, 2018, from <https://www.antaranews.com/berita/606700/peraturan-mahkamah-agung-Ubah-Mekanik-sidang-tilang> accessed October 3, 2024

about robbery independence on violation Then cross. Likewise, the Regulations Supreme Court Number 12 of 2016 Not yet explain mechanism effort law on determination criminal fine violation Then cross as referred to in Article 2 of the Regulation Supreme Court Number 12 of 2016 concerning Procedures for Settlement Traffic Violations. Besides That deemed by the judge to have occurred inefficiency if the offender Then cross No presented moment trial, because will more Good if the offender present in trial.

One of example case Then cross among others in Tulungagung, the form violations that occur in the Regency The city of Tulungagung covering violate markings and signs, no bring STNK letters and not yet have a driver's license, and so on. However, violations that occur in the Regency Tulungagung is dominated by drivers who do not have or No have a driver's license or STNK. Judge every to judge specifically case Then cross path, guided by Regulations issued oleg Supreme Court of the Republic of Indonesia Number 12 of 2016. The hope is that issuance regulation This for make it easier to somebody offender Then cross in look for justice. In the Regulation This Supreme Court is the violators No must come to court, will but the judge examines and judges only inspect files that have been accepted from officers in the field. sanctions imposed by the Judge at the Tulungagung District Court in handle violation Then cross in the form of sanctions fine just whereas sanctions criminal in the form of criminal confinement No Once imposed. Sanctions the fine imposed to offender the amount feels very small and light No in accordance with what is there in Article 281 of Law Number 22 of 2009 concerning LLAJ, namely the maximum amounting to Rp. 1,000,000, - (one million rupiah) and maximum imprisonment of 4 (four) months. In 2020 there are a number of ten thousand case entered the Tulungagung District Court has check and decide not enough more as many as 31,388 cases specifically offender Then cross results from the intermediary apparatus law in metilang and from ticketing the amount violation Then the most cross in the form of violation No bring or Not yet have a driving license as above, Law No. 22 of 2009 concerning LLAJ, Article 281 states that threat the crime confinement No more of 4 (four) months and a fine of Rp. 1,000,000, - (one million rupiah), will but in the verdict criminal the average fine the judge decides criminal a fine of Rp. 50,000 against someone who doesn't own or No bring a driving license and the largest Rp. 200,000 (two hundred thousand rupiah) and the cost case charged Rp. 1000, - (one thousand rupiah) with provision bring if convict No pay fine will undergo confinement replacement 3 (three) days.

At the Police Station North Penajam Paser, there are 4,516 perpetrators violation Then cross in the Regency area North Paser Penajam which was carried out action in the form of ticketing. In case This offender Then cross dominated by offenders who do not bring letter completeness in driving. Here number data table violation Then cross according to Traffic Unit of the Police North Penajam Paser begins from January 2018 to December 2018. Completion process case violation Then cross in accordance with Regulation Supreme Court Number 12 of 2016 concerning Procedures for Settlement Case Applicable Traffic Violations now, in essence regulation This published For simplify the payment process fine to offender Then cross in the form of ticketing through application electronic e- ticketing, but in matter implementation Regulation Supreme Court Number 12 of 2016 concerning Procedures for Settlement Case Traffic Violations still Not yet walk with maximum in the Regency area North Penajam Paser due to the lack of equalization internet network in the Penajam Paser Utara area. Officers Police as apparatus enforcer the law in the field especially the Traffic Police do not Can enter related data traffic ticket through e- ticket application, and vice versa for perpetrator violation Then cross No can to pay fine traffic ticket because of the process that must be through application electronic ticket. In case This Apparatus Police give A solution Where perpetrator violation Then cross asked for Number phone and will be given information related magnitude the fine that must be paid and after accept information related magnitude fine ticket, perpetrator violation Then cross can to pay fine traffic ticket through BRI Bank.

The background description above is interesting for researchers to take the title: " Reconstruction Regulation of Settlement Procedures Case Traffic Violations Based on Justice Values ”.

Research Methods

Writer in study This use paradigm constructivism, a paradigm that views that knowledge law That only deal with regulation legislation solely. Law as something that must be done applied, and more tend for No to question mark justice and its usefulness for society. Legal studies and their enforcement only range about what is right and what is not right, what is wrong and what is not wrong and more other forms nature prescriptive.

Types of research used in finish dissertation This is method study legal descriptive analysis, namely research conducted with method researching material library (secondary data) or study law library⁵, then described in the analysis and discussion. Approach research used in study This is study law sociological or normal called study legal sociological. In research this, law conceptualized as a symptom empirical that can have observed in life real.

Types of data used are primary and secondary data. For obtain primary data from researchers referring to data or facts and cases law obtained direct through field research including information from related respondents with object research and practice that can see as well as relate with object research. Secondary data This useful as runway theory for underlying analysis the main points existing problems in study This.

Discussion

1.Practice Completion Case Violation Traffic in Perspective Justice

In principle existence regulation Then cross aims to prevent violations Then traffic carried out by users road can pressed as minimal as possible maybe. In the event of inspection violation Then cross applicable provision law as set up in Articles 211 to 216 of the Criminal Procedure Code. Each violation in the field Then traffic and transportation inspected road according to the inspection report fast can be charged criminal fine based on determination court.

For find violation to Then the crossing that was done user the road, especially rider cars and motorbikes, enough easy. Start from motorcyclist walking oppose direction, no wearing a helmet, car break through light red, until transport general public who is bored as you please.⁶ Reflecting from condition Then traffic and transportation various roads such as that, of course just need rule For create regularity, order, and guarantee safety of each user road.

Rule the can made into as reference for solve problem around Then traffic and transportation road. Some time ago government emit Constitution about Then traffic and transportation new path. Constitution Number 22 of 2009 replaces Road Traffic and Transportation Law (LLAJ Law) Number 14 of 1992. Regulation new This more detailed and have sufficient consequences heavy for violators.⁷ The problem violation Then cross inside society very often happened, even though Already There is the rules that govern about Then existing cross in legislation Then cross. But still There is rider vehicle motorbikes that do violation Then cross road. Form violation the among others: violations road markings and signs, completeness letters, speed limits, load limits, and condition equipment vehicles and things that happen in traffic cross road raya. The number of violation traffic carried out by users the way, therefore That government has compile a regulation Then functional cross for arrange behavior in demand user road in

⁵ Ed iwarm an, 2010, *Mon o g r a f, M e t o d o l o g i S t u d y L a w*, M e d a n: P r o g r a m P o s t g r a d u a t e U n i v. M u h a m m a d m a d i y a h S u m a t e r a N o r t h, M e d a n, h l m. 2 4.

⁶ Marye Agung Kusmagi, *Safe Driving on the Highway, Achieve the Hope of Success*, Jakarta, 2010, p. 5

⁷ Ibid, p. 7

matter Then cross, then in Jakarta on May 12, 1992 it was ratified Law no. 14 of 1992 as amended with The new law namely No. 22 of 2009, and in the month of January 2010 government to validate Law No. 22 of 2009 concerning Road Traffic and Transportation by the President of the Republic of Indonesia. In principle existence regulation Then cross aims to prevent violations Then traffic carried out by users' road can pressed as minimal as possible. But in reality with existence the law that regulates about Then cross the Not yet can in a way maximum press violation Then the crossing that occurred.

Constitution Then traffic and transportation road has arranged various provision about accessories for user vehicle motorized in driving on the road, there are obligations and prohibitions in matter completeness use vehicle motorized inside Constitution Number 22 of 2009 concerning Then traffic and transportation road among other things obligations use a helmet for user vehicle two wheels, and obligations completeness for vehicle wheel four or more. Obligations use of helmets for user vehicle two wheels are meant for protect member the important body, namely head from rider or passenger from clash if happen an accident, liability This written in Article 57 paragraphs (1) to (4).

Driving that can bother safety passed cross regulated in Article 58, namely : Every Vehicle Motorized vehicles operated on the road forbidden install equipment that can bother safety passed cross.⁸ Vehicle Motorized vehicles are also required For install sign number vehicle motorized vehicle designated by the Republic of Indonesia National Police which functions For to mark legal ownership from vehicle motorized mentioned, such as regulated in Article 68 paragraph (1) which states: Every Vehicle Motorized vehicles operated on the road are required equipped with Certificate of Registration Number Vehicle Motorbikes and Number Plates Vehicle Motorized.⁹

For users vehicle Motorized vehicles are also required For have a permit Driving (SIM), namely letter indicating that rider has get permission For driving a vehicle certain, such as has regulated in Article 77 paragraph (1), namely: Every person who drives a vehicle Motorcycling on the road is mandatory have a permit Driving in accordance with type Vehicle Motorized driven.¹⁰

For riders vehicle No motorized forbidden with on purpose let his vehicle pulled by vehicle motorized with speed that can endanger safety, transport or interesting things that can to hinder or endanger user another way and use track road vehicle motorized If has provided track road special for vehicle No motorized, provisions This set up in Article 122 letter 122 letters a, b, and c, According to the provisions of the Criminal Procedure Code exist three inspection events inside finish case criminal, namely : Examination Procedure Regular, Inspection Event Brief and Examination Events Fast. The third event of the Examination the run based on form pattern the thing he received, so if type the matter he received is case normal so must also be completed with using the inspection event normal, if accepted That type case based on Article 203 of the Criminal Procedure Code, then the procedure used is an Examination Event Short. However If case That is the threatened matter with criminal prison or maximum imprisonment of three month and or fine as much as possible seven thousand five hundred rupiah and insults light as well as case violation Then cross the way, then case the must completed with the inspection event fast.¹¹

Inspection event fast set in the Criminal Procedure Code includes inspection events act criminal light and matter violation Then cross. Article 211 of the Criminal Procedure Code states that which is

⁸Ibid

⁹Ibid p. 41

¹⁰Ibid p. 46

¹¹ Rusli Muhammad, Indonesian Court Institution and Decision Controversial, UII Pres, Yogyakarta, 2013, p. 63

checked according to the inspection report violation traffic is violation Then cross certain to regulation legislation Then cross.¹²

Resistance to decision outside presence defendant in the process of the case civil, resistance to decision verstek is called verset. Definition verset in civil proceedings almost same as the regulated resistance process in Article 214 paragraph (4). So if decision dropped outside presence defendant, defendant can submit resistance Only No to all decision can't get it submitted resistance. Resistance or the twilight action the past can done on a certain decision only. As it is in decision case act criminal light, against decision case violation Then cross halan also in principle No can submitted appeal efforts. This has also been confirmed in Article 67 that to decision court in a fast event No can appealed. This is regulated principles law. However, every general principles always There is exceptions. Likewise, in the inspection event violation Then cross, there is exception even though only limited to very certain things just.

About the decision that can be appealed in case of violation of procedure Then cross is " the decision " criminal robbery independence " was dropped in decision resistance if back to the defendant was sentenced outside presence in the form of robbery independence, then on decision the submit resistance, and matters checked return in accordance with the procedures regulated in Article 214 paragraph (7).¹³

Guided by to provisions of Article 38 paragraph (2) confiscation in very necessary and urgent circumstances., obligatory quick reported to Chairman Local District Court use to obtain approval from sound provision This reporting foreclosure This its nature imperative. This means, the seizure is not reported to Chairman the District Court may considered No valid. This is Can give opportunity for suspect for request change make a loss based on Articles 95 and 96. Therefore That Want to No Want to investigator must report foreclosure That to Chairman District Court. Moreover if it is confiscated in violation Then cross road vehicle motorized, in matter This must truly investigator make report special. Will but if it is confiscated in the form of a driving license and vehicle registration certificate letter vehicle other motorized, reporting foreclosure Enough done on the letter introduction delivery files case violation Then cross road. In case This investigator makes report foreclosure collective on a number of foreclosure in accordance with amount the matter submitted to court.

If you look at the violation event, then cross road everything is very simple. Check done without minutes and also without letter dakwan. Likewise, as it is about form verdict, no made in a way special or united with minutes of the meeting form decision in a short event. Not so case, form decision in the event of a violation Then cross road Enough simple No need paying attention to Article 197 paragraph (1) of the Criminal Procedure Code.

Security and order Then cross expected can achieved with he emphasized idea ethics passed cross and culture nation in driving, which is safety and order Then cross said (if refer to to General Provisions of the Law Number 22 of 2009 concerning Traffic and Road Transportation, Article 1 number 2) is interpreted as as security and order on motion vehicles and people in the Road Traffic Space. However, it does not can denied that matter This not yet achieved with perfect. Mostly the rider who is present in the middle hustle and bustle road raya of course Already skilled in driving, but No responsible answer. It's not strange thing If found the driver who broke through light Then cross or driving reckless reckless without notice driving ethics.⁴ These things reflected from burden case violation Then cross in court level first in 2020 that touches figure 2,913,698 cases.

¹² Journal Setio Agus Samapto, Settlement Case Criminal Offenses Outside the Court To Allegation Crimes under Article 359 of the Criminal Code in Traffic Cases, STMIK AMIKOM, Yogyakarta, 2009, p. 5

¹³ Ibid pp. 439-440

This number is enough numbers fantastic, though according to Report Annual Supreme Court in 2020, the number This has down by 49.66% (due to existence situation Covid-19 pandemic) from the amount in 2019 which is even reach figure 5,786,472 cases.¹⁴ Based on the data obtained from Report Annual The Supreme Court in 2020, can know that violation Then cross is burden the highest thing compared to burden other matters entered in 2020, where burden case Criminal Normal is at 134,344, Criminal Short totaling 454, Criminal Fast totaling 33,354, Pretrial a total of 1,670, Fisheries a total of 96, Corruption a total of 1,236, and Child Crime a total of 5,264 cases.¹⁵

Consequence logical from existence burden high matters on violation Then cross is the level is also high settlement from case violation Then cross That alone, then from that, the Criminal Procedure Code regulates that violation Then cross completed with a quick event. Likewise, inside Constitution Number 22 of 2019 concerning Traffic and Road Transportation which also arrange settlement violation Then cross with fast events. For support settlement case violation Then fast crossing, the Supreme Court in matter This compile and issue Regulation Supreme Court Number 12 of 2016 concerning Procedures for Settlement Traffic Matters.

Regulation The Supreme Court expected can bring organization justice specifically in settlement case violation Then cross implemented with principle simple, fast and low cost light to open wide access for public seeker justice, and for optimize organization justice related case Then cross. The spirit that is embodied through Regulation Supreme Court Number 12 of 2016 concerning Procedures for Settlement Traffic Matters above Of course is very good thing, considering burden case Then cross - trial through institution justice in all Indonesia is very big the amount. However, in fact, the solution case Then cross-based on the Regulations Supreme Court Number 12 of 2016 concerning Procedures for Settlement the Traffic Matter No escape from problem.

Things that cause problem in Regulation Supreme Court Number 12 of 2016 concerning Procedures for Settlement Traffic Matters Arise with existence provision in Article 7 paragraph (1), which is through The regulations in this article state that that 'The appointed judge open trial and decide all case [violation Then cross] without presence ' violators.' Different with regulation settlement case violation Then listed cross in the Criminal Code it is implied that the accused (violator) in matter This can pointing somebody with letter For representing him at the trial, but If defendant or his representative No present at trial, examination case can be continued.⁸ Likewise, in the provisions contained in the Law Number 22 of 2009 concerning Traffic and Road Transportation, violators who do not can present can entrust fine (with amount maximum) to a bank appointed by the Government.

If after decided by the Judge in the examination process fast known that fine more small rather than the fine money that is deposited, then remaining fine money they must notified to offender for taken. The ¹⁶completion process case violation Then cross based on the rules that are set through Regulation Supreme Court Number 12 of 2016 concerning Procedures for Settlement Traffic Matters in matter This create a breakthrough new, where offender No need attend trial on case violation them and enough see online or also in person straight to the board announcements made at the District Court (via information on the board announcement This later will know matter related with the Judge's decision, and from information on the board announcement mentioned, one of them is amount the fine that must be paid by the offender).

¹⁴ Supreme Court of the Republic of Indonesia, 2020. Report Annual Supreme Court of the Republic of Indonesia 2020: Optimization Modern Sustainable Justice, Jakarta: pp. 129-130.

¹⁵ Ibid., p. 130.

¹⁶ Indonesia., Law No. 22 of 2009 concerning Road Traffic and Transportation, LN 2009, TLN No. 5025, Article 267 paragraph (1) and paragraph (2).

In essence, the Regulation Supreme Court Number 12 of 2016 concerning Procedures for Settlement The Traffic Law also regulates that case violation Then cross - court decision can done without presence which offender is at a glance, can interpreted that provision This means offender can attend or No attend hearing case Then cross However, the provisions the annulled in a way by itself through provisions in Article 7 paragraph (1) of the Regulations Supreme Court Number 12 of 2016, and regulations the Enough cause bias. Provisions Article 7 paragraph (1) bring implications that in essence, all decision on settlement case Then cross will disconnected without presence the accused / violator, or in other words, namely disconnected in a way default.

Speak about draft justice especially If associated with Pancasila and interest Indonesian nation (concept) Pancasila justice), then justice embodied as arrangement law in nature to protect nation, namely the one that protects man in a way passive with prevent action arbitrarily (abuse of power), and in an arbitrary manner active with create condition humane society and enables social processes in progress in a way reasonable, so in a way fair to each human being can to obtain wide opportunities For develop potential his humanity in a way intact. Justice is a very crucial thing If We talk about about law. In its history, through theory Natural Law theory put forward by Socrates to Francois Geny, justice still become crown in law. Moreover, remember idea from Natural Law theory which is oriented towards the search for justice then no amazed If of course justice is a thing that are not Can abandoned If speak about law.

Practice Completion Case Violation Traffic Not yet based on mark justice that in fact with the issuance of Perma Number 12 of 2016 does not as well as immediately can improve and shorten the settlement process case violation traffic. This is caused by the emergence of problem new from new rules. Among them decision from the judge in court impressed No referring to the principle presumption not guilty. So there is dissatisfaction from people who feel his rights No fulfilled. Considering decision settlement case Then cross usually in the form of decision fine and not robbery independence, so that so far This Writer The same very No find mechanism objections that can be filed by the violator (mechanism) object only can submitted to decision case violation Then crossing the penalty in the form of robbery independence), or in other words, the offender whose punishment is in the form of sanctions criminal fine No can do a effort law.

2. Weakness Regulation of Settlement Procedures Case Current Traffic Violations

a. Weaknesses of Aspects Legal Substance

Weakness aspect substance law that is Regulation Supreme Court Number 12 of 2016 concerning Procedures for Settlement Traffic Violations not yet explain in detail the mechanism settlement case resistance (the flow of the trial process) against object decision about robbery independence on violation Then cross. Likewise, the Regulations Supreme Court Number 12 of 2016 Not yet explain mechanism effort law on determination criminal fine violation Then cross as referred to in Article 2 of the Regulation Supreme Court Number 12 of 2016 concerning Procedures for Settlement Traffic Violations. Besides That, deemed by the judge to have occurred inefficiency if the offender Then cross No presented moment trial, because will more Good if the offender present in trial.

b. Weaknesses of Aspects Legal Structure

Weakness aspect structure law that is sometimes in implementation of the investigation process carried out police the impressed only just event For reply feud solely with pretext as form certainty law than justice as well as benefit law, in matter This so Discretion Police is means that can used by investigators in give a form of justice as well as benefit will the law that society desires to the deadlock faced by investigators in to overcome a crime or handle a form act criminal, because No forever with he

did investigation, prosecution to the point court the can ensure that a problem the can finished with without the emergence other problems behind it.

c. Weaknesses of Aspects Legal Culture

Weakness from aspect culture law is knowledge public to regulation Still very much not much society that does not care to regulations, things This is inhibitor apparatus enforcer law in operate his duties, without role law enforcement community law will difficult for create condition effective law, here required balance between apparatus enforcer law, statutes, and its society. Law enforcement agencies law must operate his job with good and appropriate with their respective roles are regulated in regulation legislation.

3.Reconstruction Regulation of Settlement Procedures Case Traffic Violations Based on Justice Values

a.Review with Foreign Countries Regulations on Settlement Procedures Case Traffic Violation

1) United States of America

Constitution traffic and parking enforced with good in part big jurisdiction in the United States. For example, drivers must truly stop at the light red and steady so until light changed become green. Drivers must also obey speed limits, etc. Regardless from That all, every state and city Still install sign traffic and parking. So check applicable laws in the area to be visited. Also, note that Americans drive on the other side. right the road, which is the opposite from a number of place like England and Australia as well as Indonesia.

If in 2009, 67 percent Motorcyclists always using a helmet as attribute protector, in 2010 the figure That reduce So However Uniquely, this GHSA data also reveals that the accident victim rider the victim's motorbike in 2010 turned out to be down around 2 percent when compared to with 2009 though decline accident motorcycles in 2010 were concentrated in the months beginning years. While the victim then increases around 3 percent in the quarter third 2010 compared with the same quarter in 2009.

That's why The United States Parliament also came down hands and ask party officer institution Then cross for more concentrate with to voice helmet mandatory for rider two wheels. To the American Motorcyclist Association (AMA) members US parliament says want to institution Then cross concentrate on prevention accident motorbikes, as well as give education in driving for the riders.

However, no stop until there, member American parliamentarian Jim Sensenbrenner and his colleagues planning for introduce The resolution they give May 2 name which aims for reduce level accident Motorcyclist. Resolution That urge authorized party for more focus on prevention accident motorcycle as step First in safety motorcycle.

If approved, the resolution This give authority for the National Highway Traffic Safety Administration (NHTSA) to apply rule must be wearing a helmet without need lobbying state government.

Driving fines car while use mobile phones in the United States different depending on the state. The average state in the United States wearing fine of USD100 or reached Rp1.4 million. It's just that there are also those who wear a fine of USD25 or around Rp. 355,500 like in Alabama but There are also those whose fines are very large like in Alaska with a fine of USD10,000 or reaching Rp. 142 million.

2) English

Police English will apply 200 Pounds Fine or equivalent to Rp. 3.8 million for driver the car that was caught use mobile phone moment driving. In addition to the fine, driver car will get 6 point penalty on License Driving (SIM) that they have.

According to results research from Kumho found fact if almost half from rider cars in the country No understand The method For replace a tire when it is flat. From the study the find if One from three rider car aged 18-25 years rather No Once inspect condition of the vehicle's tires before used. The most worrying and very ticklish from results the study conducted by Kumho is 20 % of drivers in england even No know The same very method for open hood car they Alone.

3) Malaysia

Punishment Then cross malaysia arranged for prevent violation and pushing compliance to regulations that maintain welfare all user road. Have clear knowledge about punishment and stay get information about how and where to solve it No only can prevent discomfort more carry on but also provides contribution positive to system Then cross in a way overall.

Frequent checkpoints and diligent patrols by the Royal Malaysian Police underscore the state's commitment to responsible driving answer. No strange thing for find PDRM barriers aimed at For inspect compliance to regulation Then cross.

On the other hand, with help technology sophisticated, JPJ supervises aspect technical transportation road highway. responsibility answer they including ensure eligibility vehicles and credibility qualification driver, so that support PDRM's efforts in to uphold compliance on the road raya. For avoid complexity calling Then across Malaysia, it is better driver know reason main fine. Understand the ins and outs beluk matter This fine vehicle can help you negotiate Malaysian streets with believe yourself. Well that's it violation light like traffic ticket parking that has been expired or violation Serious like driving carelessly, get information is defense your best against punishment that is not unexpected.

Awareness of violation Then cross main and its punishment can in a way significant reduce risk caught fines and points loss moment driving in Malaysia. Always know regulation this is very important for safety and compliance law on the road. One of the most common violations on the road Malaysia highway is speed up. To overcome problem This, Malaysia employs System Enforcement Automatic (AES), tool monitoring sophisticated designed for catch picture vehicle driving over the speed limit. Fines for speeding Can reach RM300, plus with points loss, which will increase along with level exceeding the speed limit.

Compared to Indonesia, Malaysia and Singapore are the biggest wearing fine for driver caught use mobile phone. If in Singapore the fine is reach dozens million rupiah, in Malaysia those who are caught will fined of 2,000 Ringgit or reaching Rp. 6.7 million.

b.Reconstruction of Regulatory Values of Settlement Procedures Case Traffic Violations Based on Justice Values

Reconstruction desired value achieved in study This that regulation of procedures settlement case violation Then the former cross Not yet fair now fair.

c.Reconstruction of Regulatory Norms of Settlement Procedures Case Traffic Violations Based on Justice Values

Regulation Supreme Court Number 12 of 2016 Not yet explain mechanism effort law on determination criminal fine violation Then cross as referred to in Article 2 of the Regulation Supreme Court Number 12 of 2016 concerning Procedures for Settlement Traffic Violations. Besides That, deemed by the judge to have occurred inefficiency if the offender Then cross No presented moment trial, because will more Good if the offender present in trial.

Based on information above, then served summary reconstruction on the table under This:

Table 5.1. Reconstruction Regulation Settlement Procedures Case Traffic Violations Based on Justice Values

No.	Construction	Weakness	Reconstruction
1	<p>Constitution Number 22 of 2009 concerning Traffic and Road Transportation Article 2</p> <p>Traffic and Road Transportation is organized with notice:</p> <ul style="list-style-type: none"> a. principle transparent b. principle accountable c. principle sustainable d. principle participatory e. principle beneficial f. principle efficient and effective g. principle balanced h. principle integrated i. principle independent 	Not yet objective, fair	<p>Reconstruction Constitution Number 22 of 2009 concerning Traffic and Road Transportation, namely with add to letter j objectivity and k justice so that sounds;</p> <p>Article 2</p> <p>Traffic and Road Transportation is organized with notice:</p> <ul style="list-style-type: none"> a. principle transparent b. principle accountable c. principle sustainable d. principle participatory e. principle beneficial f. principle efficient and effective g. principle balanced h. principle integrated i. principle independent j. principle objectivity k. principle fair
2	<p>Regulation Supreme Court Number 12 of 2016 Concerning Procedures for Settlement Case Traffic Violation Article 7 Verse 1</p> <p>Judge appointed open trial and decide all case without presence offender</p>	In general substance Still Not yet fair	<p>Reconstruction Regulation Supreme Court Number 12 of 2016 Concerning Procedures for Settlement Case Traffic Violations with change Article 7 Paragraph 1 so that reads :</p> <p>Article 7 Verse 1</p> <p>Judge appointed open trial and decide all case with present offender moreover before, but if offender absent present then the judge can to cut off all case the without presence offender based on mark justice</p>

Closing

1. Conclusion

Practice Completion Case Violation Traffic Not yet based on mark justice that in fact Constitution Number 22 of 2009 concerning Traffic and Road Transportation has not yet been There are objective and fair words. Regulations Supreme Court Number 12 of 2016 Concerning Procedures for Settlement Case Traffic Violations Article 7 Paragraph 1 "Judges are appointed open trial and decide all case without presence "violation". Weakness regulation of procedures settlement case violation Then cross moment This consists of from weakness aspect substance law, weakness aspect structure law and weaknesses aspect culture law. Weaknesses aspect substance law that is Regulation Supreme Court Number 12 of 2016 concerning Procedures for Settlement Traffic Violations not yet explain in detail the mechanism settlement case resistance (the flow of the trial process) against object decision about robbery independence on violation Then cross as well as Not yet explain mechanism effort law on determination criminal fine violation Then cross. Weakness aspect structure law that is sometimes in implementation of the investigation process carried out police the impressed only just event for reply feud solely with pretext as form certainty law than justice as well as benefit law. Weaknesses aspect culture law knowledge public to regulation Still very much less, thing This is inhibitor apparatus enforcer law in operate his duties, without role Police community will difficult for create condition effective law. Reconstruction regulation of procedures settlement case violation Then cross - based mark justice consists of from reconstruction of norms and reconstruction value. Reconstruction desired value achieved in study This that regulation of procedures settlement case violation Then the former cross Not yet fair now justice. Reconstruction of regulatory norms and procedures settlement case violation Then cross - based mark justice in law Number 22 of 2009 concerning Traffic and Road Transportation, namely with add to letter j objectivity and k fairness and certainty laws and regulations Supreme Court Number 12 of 2016 Concerning Procedures for Settlement Case Traffic Violations Article 7 Paragraph 1.

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