

Juridical Study on Minors Riding Motorcycles for Junior High School Students

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ABSTRACT

This research aims to find out the factors behind minors or junior high school students riding motorbikes and to find out the legal arrangements for minors riding motorbikes. The research method used is the Normative research method. The method of collecting legal materials used is document study and literature study. The results of this study indicate that the factors that cause children to ride motorbikes to school are internal factors; (1) self-will (2) freedom (3) time and mileage efficiency (4) prestige (5) mass media. External factors; (1) family factors (2) school environment (3) peers (4) lack of public transportation. Then another result is to know the study of the regulations of minors riding motorbikes referring to Law Number 22 of 2009 concerning Road Traffic and Transportation. Therefore, the conclusion of this article is that there are many factors that cause junior high school children and also know the existence of regulatory restrictions on minors riding motorbikes referring to Law Number 22 of 2009 concerning Road Traffic and Transportation.

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I. INTRODUCTION

Motorcycles are an important part of people's lives because they encourage mobility or movement. The number of vehicles continues to increase from year to year. Safety is still a factor that is not considered by the community as users of traffic facilities and infrastructure.

Traffic violations have become a common thing for the community. The high number of cases of traffic violations should be a common concern, especially if the perpetrators of traffic violations are minors.

Underage motorcyclists are inappropriate because they are not yet fit to drive a motorcycle, let alone do not have a driver's license. There are many factors that influence traffic accidents, one of the more dominant factors is human error itself because the level of awareness and compliance of motorists with traffic regulations is still very low. At a certain age, especially among teenagers, a person's emotional level is very vulnerable to acting arrogantly on the streets so that they do not care about the surrounding road users and the level of concentration is reduced when driving a vehicle. A phenomenon that is rampant today in various regions is motorbikes driven by minors who have not reached the age of 17, even though the risks are greater because children are still in an unstable emotional state or up and down so that various violations are prone to occur. This event is one form of social deviation that occurs among adolescents, especially for junior high school students today. Nowadays, children or junior high school students are more free to ride motorcycles because many parents are not aware of the safety and security of driving. Weak control from society and parents is also a factor that causes children to commit social deviation.

Motorized vehicles such as motorcycles are indeed a basic necessity for us when we want to travel. As a state of law, Indonesia has laws that regulate every aspect of state life. In the traffic order, Indonesia has many regulations that generally regulate it in Law No. 22 of 2009 concerning Road Traffic and Transportation. This regulation strictly prohibits the use of motorized vehicles by children, but the reality illustrates that biologically and psychologically children who still cannot be directly involved in driving motorized vehicles on the streets are often found.²

In general, offenses committed by children are not based on evil motives (evil will/evil mind), but rather on deviations from social norms, against them societal experts provide understanding as "delinquent children" or with the term "Juvenile Delinquency". With this term, they can avoid being categorized as criminals.

In this study, two previous studies were used which were very useful as scientific references, namely:

a. Research I - Azri Zulfikar Lutfi (2016)

The first previous research taken from a thesis entitled "*THE FOMENA OF MOTORCYCLE RIDERS UNDER AGE (Study on the use of motorbikes among junior high school students)*". which describes the use of motorbikes by students who are under the age of 17 is an offense. This is stated in Article 281 of Law Number 22 of 2009 concerning Road Traffic and Transportation. This traffic violation is often committed by junior high school students. The behavior of underage motorcycle users is a form of Juvenile delinquency known as juvenile delinquency. In this study, researchers took samples in two schools, namely SMPN 1 Bambanglipuro and SMPN 2 Sanden in Bantul Regency, because researchers saw many students using motorbikes to go to school.

b. Research II - Vivi Eka Rista (2020)

The second previous research taken also from a thesis entitled "*REVIEW OF TRAFFIC VIOLATIONS BY CHILDREN UNDER AGE (Study in the Sampang Police Area)*". One of the consequences of the increasing number of motorized vehicles is that the number of minors driving motorized vehicles has become a habit that occurs everywhere. The problem raised is the factors that cause traffic violations by minors in the Sampang Police area and police efforts to overcome these problems. Some of the factors causing traffic violations by minors include family factors, school factors, and environmental factors. While the efforts made by police officers in overcoming the problem are by conducting traffic law counseling both to schools and Islamic boarding schools, collaborating with schools and Islamic boarding schools, taking repressive actions against traffic violators including minors and installing benner and billboards related to sanctions for traffic violators.

1) Research similarities with previous research

The first research with this study has similarities in discussing Law No.22 of 2009 concerning Road Traffic and Transportation as a reference in the application of violations for children or underage junior high school students on the road who ride motorbikes. The second research with this study has similarities in discussing the various factors that cause minor traffic violations, especially riding motorbikes, such as family, school and environmental factors.

2) Research differences with previous research

The difference between the first research and this research is the subject matter. The first study discusses Article 281 of Law No.22 of 2009 concerning Road Traffic and Transportation. While this research is more about Article 77. Then, the difference in the second research with this research is that it lies in the environmental factors of the sampang community while this research is general for students or minors in junior high schools in Indonesia.

II. RESEARCH PROBLEMS

To be more systematic, we will formulate the main problems that will be discussed in this article, including:

1. What is the background that causes minors to ride motorbikes for junior high school students?
2. How is the regulation of minors riding motorbikes based on Law No.22 of 2009 concerning Road Traffic and Transportation?

III. RESEARCH METHODS

This article is written and analyzed using research methods. This method was chosen because the normative legal research method can be interpreted as legal research at the level of norms, rules, principles, theories, philosophies, and legal rules in order to find solutions or answers to problems in the form of legal vacuum, norm conflicts, or norm ambiguity. Thus, normative legal research methods are characterized as literature research, which is different from empirical (non-doctrinal) research methods characterized by field study.³ The method used in this research is a legal research method with a legislative approach and a historical

approach. Data collection is carried out through literature research, where the literature research stage will be carried out to find secondary data. Secondary data is data obtained from indirect sources of information, such as literature studies from literature, books and articles from the internet related to the topic of problems in a study.⁴

Approach by examining legal principles, namely research on the relationship between legal principles and doctrines with positive law, as well as laws that live in society Legal history approach, is a study that focuses on a history of past law, then current developments and anticipation of the future.⁵ The source of legal material is using Primary Legal materials: Legal principles and rules. The embodiment of legal principles and rules can be: Basic Regulations, State Conventions, Legislation, Unwritten Law, Court Decisions.

IV. RESULT AND DISCUSSION

1. Background on the causes of minors riding motorcycles against junior high school students.

Motorcycles are the most popular mode of transportation. The motorcycle population in Indonesia has increased significantly from year to year. According to BPS data, in 2019 the number of motorcycles in Indonesia was 126,588,509 vehicles (Central Bureau of Statistics, 2020). This number has increased by 5.12% from the previous year's number. Public interest in using motorbikes cannot be separated from the ease of ownership of this vehicle. The relatively low price and lower operational costs compared to cars make this vehicle widely found on the streets.

However, the safety level of this mode is very low. In fact, it is said that motorcycles are the most dangerous mode of transportation. According to WHO, the risk of fatality in a motorcycle collision is almost 20 times that of a car. In Indonesia alone, accidents involving motorcycles occupy the highest proportion, reaching 74% (World Health Organization, 2018). Riding a motorcycle requires reliable skills, both technically and psychologically. Riding a motorcycle is more demanding on perceptual skills and vehicle control than driving a car. Unlike drivers who are protected by houses, protection for motorcyclists is limited to helmets and the equipment they wear, such as jackets and shoes. Thus, in the event of a collision, the protection is not as good as that of a driver. In addition, motorcyclists tend to ride aggressively, driving at high speeds or zig zagging. This affects the safety level of motorcyclists.

However, today the phenomenon of underage motorcyclists is increasingly common in our environment. High school and even junior high school students are increasingly found riding motorcycles. Some studies even show that children have learned to ride motorcycles since they were in junior high school. Broadly speaking, there are two factors that cause minors to ride motorcycles, namely internal and external factors. Internal factors include parental permission, distance from home to school, and time efficiency. External factors are environmental factors, namely a liberating environment, the influence of friends, and lifestyle. Of these various factors, parental permission is suspected to be the main factor causing minors to ride motorcycles.⁷ Motorcycle riding violations in minors are caused by several factors:

1. Family.

According to Devi Rahmawati, a social observer from the University of Indonesia, there has been a shift in parenting or "collapse in parenting", which is not only happening in Indonesia but also in the world, when parents reduce their level of discipline. If in other countries junk food is given as a reward to children when they excel or for other reasons, in Indonesia this reward is in the form of giving gadgets and motorized vehicles including motorbikes. So children are actually given rewards that actually endanger the child himself. It is certainly not wise to give motorcycles to minors. The minimum age of 17 as a requirement for SIM ownership is because children are considered psychologically and cognitively mature, so they can be responsible for their actions and decisions. This is important, because when driving, decision-making does not only concern personal safety, but also other road users. In addition, at that age children are also considered emotionally stable. With highway conditions, road users are required not to be easily ignited by their emotions. Many parents who do not understand these risks, finally allow their children to drive a motorized vehicle. The cultural shift in parenting must be realized and slowly changed, because the family is the child's first institution. The role of parents in educating and giving attention in the right way, as well as adequate knowledge about traffic order and driving safety is also very necessary, so that children have sufficient knowledge about their rights and obligations in driving.

2. School.

As a means of education and knowledge for children, schools play an important role, especially in instilling discipline in children. There are several schools that allow students to bring motorized vehicles to school, thus encouraging minors to drive, and the lack of guidance and socialization from related institutions in terms of driving knowledge. The role of the government and related agencies is very important. This role can be in the form of implementing prohibitions and sanctions for schools that allow students to bring or drive motorized vehicles, and accompanied by the fulfillment of facilities by the government and related parties in the form of vehicles or school buses for students. Increase cooperation between schools, parents, and related parties

in terms of socialization, especially from the police in terms of driving knowledge and regulations of the Road Traffic and Transportation Law.

3. Environment.

Driving less carefully and even exceeding the maximum speed seems to be an immature behavior in society. There are many drivers who do this, especially minors, so that traffic violations often lead to traffic accidents. The role of the government and related agencies is absolutely necessary in fostering public awareness, improving discipline and safety in driving, which can be in the form of socialization facilitated by the local government in collaboration with the police and other related agencies. These efforts are expected to create order and discipline in driving.

4. Self.

Children or teenagers also play a role in driving violations. Social and lifestyle factors can influence minors who are not yet emotionally stable. For this reason, the correct role and attention of parents and family is very important in directing children to the correct understanding of the use of transportation modes. Generally, parents facilitate the use of motorized vehicles for their children, especially as a means of transportation to school with safety considerations, considering that public transportation modes are still prone to crime, but this is not balanced with awareness and discipline by facilitating minors. Fulfillment of vehicle facilities or school buses that can pick up and drop off students is also needed so as to provide comfort and safety, especially for students and their parents.⁸

One way to reduce the risk level of motorcyclists is to set an age limit for motorcyclists. Law No. 22/2009 on Road Traffic and Transportation (Government of the Republic of Indonesia, 2009) states that the minimum age for a driver's license C is 17 years old. This age limit is related to the maturity of an individual's psychological development, namely self-control and decision-making abilities, as well as the need for traffic education.

As of 2016, the number of motorcycles in Indonesia has reached 85 million vehicles. However, the large use of motorcycles in Indonesia has not been matched by driving safety awareness. Safety is still a factor that is less considered by the community as users of traffic facilities and infrastructure. In 2015 motorcycles accounted for 56% of the total 9002 motor vehicle accidents that occurred in Indonesia. The number of motorcycle accidents based on data from the Korlantas Polri in the third trimester period of 2015 was 28,544 cases.

The high number of traffic accident cases should be a common concern, especially if the perpetrators of traffic violations are minors. Referring to Law No. 22 Year 2009 on Road Traffic and Transportation (RRT Law), the definition of a driver based on Article 1 point 23 of the RRT Law is a person who drives a motor vehicle on the road who has a Driver's License (SIM). Meanwhile, the mandatory requirement for drivers based on Article 77 paragraph (1) of the RRT Law is to have a driver's license in accordance with the type of motor vehicle being driven. It is known that a minimum age of 17 years is the age requirement for obtaining a driver's license, which is in the form of SIM A, SIM C, and SIM D in accordance with the provisions of Article 81 paragraph (2) letter a of the RRT Law. Article 81 Paragraph 1 of the Traffic and Transportation Law also states that a person can obtain a driver's license if he/she meets the age, administrative, health, and examination requirements. A phenomenon that is currently rampant in various regions in Indonesia is motorcycles driven by minors who have not reached the age of 17, even though the risks are greater because children are still in an unstable emotional condition so that various violations are prone to occur. Based on data from Polda Metro Jaya, violations by child drivers in Jakarta in 2015 amounted to 18713 violators, this number increased by 92.32% compared to 2014 which only reached 9730 violators.⁹

Article 81 paragraph 2 letter (a) explains that a person aged 17 years who has a driving license is entitled to drive a motor vehicle, but in reality there are not a few motorcyclists found on the highway riding under the age of 17 years. With a child rider on the road, it is certain that the child does not yet have a driver's license. In Law No. 11/2012 on the Juvenile Criminal Justice System, the procedural law of juvenile criminal justice is regulated in Chapter III starting from Article 16 to Article 62, meaning that there are 47 articles that regulate juvenile criminal procedure.

Where in these provisions contains a form of guaranteeing the protection of children's rights, Investigators, Public Prosecutors, and Judges are obliged to provide special protection for children examined for criminal acts committed in this case traffic violations in emergency situations and special protection and implemented through the imposition of sanctions without aggravation (Article 17). In Article 21 paragraph 1 letter (a) of Law Number 11 of 2012 Concerning the Juvenile Justice System.

In Article 21 paragraph 1 letter (a) of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, if the criminal offense in this case is a traffic violation committed by a child who is not yet 12 (twelve) years old, the Investigator, Community Counselor, and Professional Social Worker make a decision to:

- a. Surrender him/her back to parents/guardians; or
- b. Include them in education, coaching, and mentoring programs at government agencies or social welfare institutions at government agencies or social welfare institutions at agencies handling social welfare, both at the central and regional levels, for a maximum of 6 (six) months.

In the regulation regarding the age requirement to have a driver's license in Article 81 paragraph (2) of the Road Traffic and Transportation Law, it is stated that the minimum age of a child to have a driver's license is at least 17 years old. However, in reality there are still many minors riding motorcycles.

V. CONCLUSION

However, today the phenomenon of underage motorcyclists is increasingly common in our neighborhood. High school and even junior high school students are increasingly found riding motorcycles. Some studies even show that children have learned to ride motorcycles since they were in junior high school. Broadly speaking, there are two factors that cause minors to ride motorcycles, namely internal and external factors. Internal causal factors are parental permission, distance from home to school, and time efficiency. External factors are environmental factors, namely a liberating environment, the influence of friends, and lifestyle as well as personal factors. Of these various factors, parental permission is suspected to be the main factor causing minors to ride motorcycles.

One way to reduce the risk level of motorcyclists is to set an age limit for motorcyclists. Law No. 22/2009 on Road Traffic and Transportation (Government of the Republic of Indonesia, 2009) states that the minimum age for a driver's license C is 17 years old. This age limit is related to the maturity of an individual's psychological development, namely self-control and decision-making abilities, as well as the need for traffic education.

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