



The urgency and effectiveness of enforcement of settlement of traffic violations crimes with an electronic ticket system in the city of Banda Aceh

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Abstract

As a rule-of-law country, Indonesia accepts law as an ideology to create order, security, justice, and prosperity for its citizens. To emphasize the rule of law in the life of society, nation, and state, the law must be placed as the highest rule to regulate the life of the nation and state. Article 265 paragraph (1) of Law No. 22 of 2009 states that inspection of motorized vehicles on the road includes an examination of driving license, motorized vehicle registration certificate, motorized vehicle trial certificate, motorized vehicle registration number, or motorized vehicle trial mark, proof of passing the test for the vehicle required to be tested, the physicality of the Motorized Vehicle, its carrying capacity and/or the method of transporting goods; and/or, transportation operation permit. However, in the Instruction of the Chief of Police Number: ST/2264/X/HUM.3.4.5./2022 it is prohibited to issue manual ticketing issued on October 18, 2022. With this instruction the Chief of Police hopes to maximize the application of electronic ticketing or electronic traffic law enforcement (E-TLE) in the settlement of criminal acts of traffic violations. In this study, the authors found that these regulations needed to be reviewed because their implementation was ineffective and did not accommodate the mandate of Law No. 22 of 2009 concerning Traffic and Road Transportation. The approach method used in the preparation of this research is a Normative Juridical and Empirical Juridical approach. The purpose of this study is to explain what is the basis for considering the implementation of settlement of traffic violations with an electronic ticket system. This study also aims to understand the tendency of obstacles and problems encountered after the implementation of the settlement of traffic violations with an electronic ticket system. Based on the results of the research, the application of electronic traffic law enforcement (E-TLE) tickets has not been effectively implemented and there are also several problems in the field that they cannot accommodate the mandate of Law No. 22 of 2009 concerning Road Traffic and Transportation.

Keywords: elektronik ticket, traffic, criminal act.

Introduction

The State of Indonesia is a State based on the law (Reichstag), not based on mere power (machtsstaat) ^[1]. As a rule-of-law country, Indonesia accepts law as an ideology to create order, security, justice, and prosperity for its citizens. To uphold a rule of law in the life of society, nation, and state, the law must be placed as the rule of the game and the highest rule to regulate the life of the nation and state. In this sense of law as a role model in the life of the nation and state. Based on Article 2 of Law Number 2 of 2002 concerning the Indonesian National Police (POLRI), the functions of the Indonesian police are to maintain public order and security, law enforcement, protection, protection, and service to the community.

The police as law enforcers are required to play an active role in overseeing changes in people's behavior, from city residents to local communities. This supervision must be carried out about criminal acts or acts of violation of the law. One of the violations of the law by the community that must be monitored by the police is the crime of traffic violations.

In enforcing traffic violations, the National Police Chief takes several firm steps to optimize the performance of the Police agency. One of the efforts made is to implement the settlement of criminal acts of traffic violations with an electronic ticket system or electronic traffic law enforcement (E-TLE). In this effort, the National Police

Chief issued a circular letter Number: ST/2264/X/HUM.3.4.5./2022 concerning the prohibition of manual ticketing which was issued on 18 October 2022.

Regulations regarding electronic ticketing can be seen in Law Number 22 of 2009 concerning Road Traffic and Transportation and Government Regulation Number 80 of 2012 concerning Procedures for Inspecting Motorized Vehicles on the Road and Enforcement of Traffic and Road Transportation Violations. In Article 272 of Law Number 22 of 2009, it states that to support violation enforcement activities in the Road Traffic and Transportation sector, electronic equipment can be used. The results of using this electronic equipment can be used as evidence in court. What is meant by "electronic equipment" is an incident recorder to store information.

Then Article 23 of Government Regulation Number 80 of 2012, stipulates that the prosecution of Road Traffic and Transportation Violations is based on the results of findings in the process of inspecting motorized vehicles on the road; reporting; and/or recording of electronic equipment. The application of ETLE is a good thing and should be appreciated because the existence of technology that participates in controlling traffic violations will certainly facilitate the work of the police.

The increase in traffic violations is a new challenge for the Police to be able to apply sanctions that educate but still have a deterrent effect. In the City of Banda Aceh, there are

quite a lot of traffic violations. According to data from the BPS (Central Statistics Agency) for Banda Aceh City, in 2021 traffic violations touched 5,195 cases. However, this data was before the enactment of the settlement of criminal acts of traffic violations by E-Tilang. After the entry into force of the E-Ticket, traffic violations will touch 21,000 per month in October 2022. This means that every day there are around 700 traffic violations recorded with E-tickets.

Article 265 paragraph (1) of Law No. 22 of 2009 states that inspection of motorized vehicles on the road includes an examination of driving license, motorized vehicle registration certificate, motorized vehicle trial certificate, motorized vehicle registration number, or motorized vehicle trial mark, proof of passing the test for the vehicle required to be tested, the physicality of the Motorized Vehicle, its carrying capacity and/or the method of transporting goods; and/or, transportation operation permit. From the provisions above, we can understand that E-TLE is not effective in accommodating Article 265 of Law No. 22 of 2009 concerning Road Traffic and Transportation. So that the issuance of the telegram letter from the chief of police ST/2264/X/HUM.3.4.5./2022 needs to be studied more deeply to see the effectiveness of its enforcement. From these provisions, there are several categories of violations that are only effectively dealt with through manual fines. One example is a violation for vehicles that do not have number plates. Vehicles that do not have license plates cannot be ticketed using E-TLE because they do not have a vehicle identity basis. This is unfair to motorists who are disciplined in vehicle identity.

Based on the background that the author has described above, the author is interested in researching the urgency and effectiveness of enforcing the settlement of traffic violations with the electronic ticket system in the city of Banda Aceh.

Research Method

This research is normative empirical research and normative juridical. Empirical juridical research is field research that examines applicable legal provisions and what happens in society^[2]. This research is research that uses field research methods (field research) through interviews with respondents and informants. While Normative Juridical, namely a legal method that is carried out by examining library materials or secondary data and research on legal principles, legal systematics, legal synchronization, legal history, and legal comparisons^[3]. Library materials are basic materials that are classified as secondary data that exist in any state ready to be published, the form and content of which have been compiled by previous researchers and can be obtained without being bound by time and place.

Results and Discussion

The State of Indonesia is a state based on the law by placing law as the highest value of a nation. The rule of law comes from the German language, namely *rechtsstaat*, then entered the Indonesian library through the Dutch language *rechtsstaat*. In a formal sense, a rule of law is a state whose job is only to guard against violations of public order and interests, as stipulated in written law (law). Meanwhile, in a material sense, a rule of law is a country known as a welfare state whose job is to maintain security in the broadest sense of the word, namely social security and organizing general

welfare based on true and just legal principles so that the basic rights of citizens are truly fulfilled really protected.

In the book *Politica*, Aristotle argued that a good country is a country that is governed by a constitution and has legal sovereignty. There are three elements of constitutional government, namely^[4]:

1. Government is implemented in the public interest
2. Government is implemented according to law based on general provisions, not arbitrary laws that set aside conventions and constitutions
3. Constitutional government means government implemented at the will of the people, not in the form of coercion or pressure implemented by a despotic government.

The rule of law implies that the territory of the country has several characteristics, namely first, all instruments from the state, especially government equipment, in acting against citizens should not be arbitrary, but must pay attention to the applicable legal regulations, secondly, all people in the relationship the community must comply with applicable legal regulations^[5]. The implementation of a rule of law state results in the consequence that in adhering to the concept of a rule of law state, regardless of the form of law adopted by the state, the law must be the basis for every action of the authorities and its people, because the law has the highest position in a country. The rule of law principle prioritizes the norms represented in laws and regulations.

In the explanation above, it states that there is the rule of law in a rule of law state which places the law in the highest position to be obeyed by society so that every citizen gets legal protection and is treated equally when he violates the law, the term equality before the law in a rule of law where every citizen The state must be treated fairly by law enforcement officials and the government to create justice, benefits and legal certainty including by the judges themselves in deciding whether the accused is guilty or not by creating justice so that the decision to be handed down by the judge will fulfill the principles of expediency, justice, and legal certainty.

Regulations related to electronic traffic law enforcement (E-TLE) tickets can be seen in Law Number 22 of 2009 concerning Road Traffic and Transportation and Government Regulation Number 80 of 2012 concerning Procedures for Inspecting Motorized Vehicles on Roads and Enforcement of Traffic Violations Road Traffic and Transportation. Article 272 of Law Number 22 of 2009, states that to support violation enforcement activities in the Road Traffic and Transportation sector, electronic equipment can be used. The results of using this electronic equipment can be used as evidence in court. What is meant by "electronic equipment" is an incident recorder to store information.

The confirmation regarding the application of electronic tickets for the settlement of criminal acts of traffic violations was strengthened by a circular letter from the Chief of Police Number ST/2264/X/HUM.3.4.5./2022 concerning the prohibition of manual ticketing. Optimizing electronic ticketing is expected to provide justice for the community so that it can achieve the goals of the law itself. To maximize the law to realize justice, then one of the most important elements to make it happen is law enforcement itself.

Law enforcement is an attempt to realize the ideas of justice, legal certainty, and social benefits into reality. Law

enforcement is essentially a process of embodiment of ideas. Law enforcement is the process of carrying out efforts to uphold or function real legal norms as a guide in the legal relations of social and state life. Law enforcement is an attempt to realize legal ideas and concepts that people expect to become reality. Law enforcement is a process that involves many things.

Law enforcement in the narrow sense, namely in terms of the subject, is interpreted as an effort by the legal apparatus to guarantee and ensure that a rule of law runs as it should. Certainty in the upholding of law is when law enforcers are permitted to use coercive force.

According to Satjipto Rahardjo, the definition of law enforcement is an attempt to make legal ideas come true. Realizing legal ideas such as justice which is the core of law enforcement. For Satjipto, Law Enforcement is not the work of applying laws to concrete events but is a human activity with all its characteristics to realize the expectations desired by law ^[6]. Upholding the law, in essence, we are talking about upholding ideas and concepts whose memorandums are abstract. In another formulation, law enforcement is an attempt to make these ideas a reality ^[7]. In essence, what is meant by law enforcement is the harmony of the relationship between the values that are spelled out which are steady to realize the maintenance and maintenance of social peace.

Law enforcement is an effort to deal with crime rationally, fulfill a sense of justice and be efficient in the context of tackling crime against various means as a reaction that can be given to perpetrators of crime, in the form of criminal and non-criminal law facilities, which can be integrated.

Law enforcement functions as a protection of human interests, so that human interests are protected, the law must be implemented. Law enforcement can take place normally, and peacefully, but it can also occur due to violations. In this case, the law that has been violated must be enforced. Through law enforcement, the law becomes a reality. Law enforcement is one of the most important aspects of the rule of law, because with law enforcement the objectives of the law, namely justice, certainty, legal certainty, and benefits will be felt by the community ^[8].

Empirically, the application of electronic ticketing or electronic traffic law enforcement (E-TLE) has not been effective in areas where there are not many motorists. However, E-tickets will be more effective in big city areas. The application of E-tickets creates new legal implications so that it becomes a separate problem that must be resolved by the police. Because the enforcement of traffic violations is not only at intersections that have traffic lights but also on roads that do not have traffic lights. So police officers must also document traffic violations that cannot be monitored with CCTV.

Law enforcement should be aimed at increasing order and legal certainty in society. This is done, among others, by regulating the functions, duties, and authorities of the institutions in charge of enforcing the law according to the proportion of their respective scopes, and based on a good system of cooperation and supporting the goals to be achieved. Law enforcement can be carried out optimally by using criminal law facilities or penal efforts held by law enforcement officials such as the police, prosecutors, judiciary (courts), and correctional institutions ^[9].

Electronic ticketing or electronic traffic law enforcement (E-TLE) is considered not to have been effectively

implemented for all types of traffic violations. Because several types of violations are said to only be ticketed manually, not through CCTV surveillance cameras. In article 265 paragraph (1) of Law No. 22 of 2009 it states that inspection of motorized vehicles on the road includes inspection of:

Driver's License, Motor Vehicle Registration Certificate, Motor Vehicle Test Certificate, Motor Vehicle Registration Number, or Motor Vehicle Test Certificate;

1. Proof of passing the test for vehicles that are required to be tested;
2. Physical Motorized Vehicles;
3. Transport capacity and/or method of transporting goods; and/or
4. Permit for the operation of transportation.

From the provisions above, we can understand that E-TLE is not effective in accommodating Article 265 of Law No. 22 of 2009 concerning Road Traffic and Transportation. So that the issuance of the telegram letter from the chief of police ST/2264/X/HUM.3.4.5./2022 needs to be studied more deeply to see the effectiveness of its enforcement.

In law enforcement, one important component to consider is the effectiveness of the law. According to Hans Kelsen, when talking about legal effectiveness, it also talks about legal validity. Legal validity means that legal norms are binding, that people must act by what is required by legal norms, and that people must obey and apply legal norms. Legal effectiveness means that people act according to legal norms as they have to do and that these norms are implemented and complied with ^[10].

The purpose of the law is to achieve peace by realizing certainty and justice in society. Legal certainty requires the formulation of generally accepted legal principles, which also means that these rules must be strictly enforced or implemented. This causes that the law must be known with certainty by members of the community because the law consists of rules that are set for current events and the future and these rules apply in general. Thus, apart from the duties of certainty and justice, there is also an element of utility in law. The meaning is that every member of the community knows with certainty what things can be done and what is prohibited to do, besides that the community members are not harmed by their interests within proper limits ^[11].

The effectiveness of law in action or legal reality can be known if someone states that a rule of law succeeds or fails to achieve its goals, then it is usually known whether its influence succeeds in regulating certain attitudes or behaviors so that they are by their goals or not. Legal effectiveness means that legal effectiveness will be highlighted from the goal to be achieved, namely legal effectiveness. One effort that is usually done so that people comply with the rule of law is to include sanctions. These sanctions can be in the form of negative sanctions or positive sanctions, the purpose of which is to create stimulation so that humans do not take disgraceful actions or take commendable actions.

Several factors affect the effectiveness of the law, one of which is the legal factor itself. The law functions for justice, certainty, and expediency. In the practice of administering law in the field, there are times when there is a conflict between legal certainty and justice. Legal certainty is concrete, and tangible, while justice is abstract so when a judge decides a case by applying the law alone, there are

times when the value of justice is not achieved. So when looking at a problem regarding the law at least justice is a top priority. Because the law is not solely seen from the point of view of written law, there are still many rules that live in a society that can regulate people's lives.

Referring to the provisions regarding electronic traffic law enforcement (E-TLE) arrangements, there are several categories of violations that are not effectively prosecuted by electronic ticketing and are only effectively prosecuted by manual ticketing. One example is a violation for vehicles that do not have number plates. Vehicles that do not have license plates cannot be ticketed using E-TLE because they do not have a vehicle identity basis. This is unfair to law-abiding and orderly vehicle identity drivers. Thus the purpose of law enforcement itself cannot be felt by the community and even creates injustice in its application.

Conclusion

The State of Indonesia is a country based on law by placing law as the highest value. Legal arrangements regarding criminal acts of traffic violations should be able to provide order in society. With the implementation of electronic ticketing or electronic traffic law enforcement (E-TLE), it is hoped that it can provide legal justice for all people. However, in reality, the embodiment of justice from legal arrangements regarding E-TLE cannot provide order in society. So that it needs to be reviewed in a fundamental and detailed manner related to legal arrangements regarding criminal acts of traffic violations so that they can provide legal certainty and legal justice for the people of Indonesia.

Reference

1. Satjipto Rahardjo, Ilmu Hukum, Bandung: Alumi, 1994, 14.
2. Suharsimi Arikunto, Prosedur Penelitian Suatu Pendekatan Praktek, Rineka Cipta, Jakarta, 2012, 26.
3. Ridwan HR, Hukum Administrasi Negara, Rajawali Pers, Jakarta: 2013, 2.
4. M Ali Taher Parasong, Mencegah Runtuhnya Negara Hukum, Grafindo Books Media, Jakarta, 2014, 26.
5. Satjipto Raharjo, Penegakan Hukum Suatu Tinjauan Sosiologis, Yogyakarta, Penerbit: Genta Publishing, 2009, 12.
6. Yeni Widowaty, Penegakan Hukum Dalam Kasus Tindak Pidana Korupsi Pada Pelaksanaan Pemilukada, Yogyakarta: Prosiding, 2015, 291.
7. Gerry Putra Ginting, Penegakan Hukum Oleh Polri Terhadap Tindak Pidana Pencurian Kendaraan Bermotor Dengan Kekerasan Di Kabupaten Sleman, Yogyakarta: E-Journal Universitas Atma Jaya, 2015, 12.
8. Sanyoto, Penegakan Hukum Di Indonesia, Jurnal Dinamika Hukum Fakultas Hukum Universitas Jenderal Soedirman, Volume 8, Nomor 3, Purwokerto, 2012.
9. Zainab Ompu Jainah, 2011, Membangun Budaya Hukum Masyarakat Penegak Hukum Dalam Pemberantasan Tindak Pidana Narkotika (Studi Tentang Lahirnya badan Narkotika Nasional), Jurnal Keadilan Progresif Universitas Bandar Lampung, Volume 2, Nomor 2, Lampung, 2011.
10. Sabian Usman, Dasar-Dasar Sosiologi, Yogyakarta: Pustaka Belajar, 2009, 12.

11. Soerjono Soekanto, Beberapa Permasalahan Hukum Dalam Kerangka Pembangunan di Indonesia, Jakarta: Universitas Indonesia, 1976, 40.