

Factors Inhibiting the Effectiveness of Enforcement Article 106 Paragraph (1) of the Traffic Law No. 22 of 2009

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ABSTRACT

This study aims to the efforts of the police in tackling traffic violations Article 106 paragraph (1) of Law No. 22 of 2009 and what factors hinder the police in enforcing Article 106 paragraph (1) of Law No. 22 of 2009 is in the jurisdiction of the Satlantas Polres Gorontalo City. This research was carried out using empirical research methods that function to see the law in a real sense and examine how the law works in the community. The findings of this study are that the role of the Gorontalo City Police Satlantas Police in making efforts in tackling violations of Law No. 22 of 2009 Article 106 paragraph 1 consists of preventive and repressive efforts and the results are not maximal and comprehensive, because the target of education and socialization of knowledge of traffic rules, especially article 106 paragraph 1, is only aimed at several institutions, both schools and universities and in certain areas, but there is very little education and socialization is carried out to all elements and stakeholders who can play an active role in overcoming the number of violations traffic. The obstacles or factors faced by the police in enforcing Article 106 paragraph 1 are influenced by several factors including, law enforcement factors; the lack of police officers during operations or raids, community factors; lack of legal awareness and public knowledge about traffic rules and road transportation as well as the legal culture inherent in the community, then the factor of infrastructure; obstacles in the procurement of police posts and live traffic (cctv).

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1. Introduction

Traffic in society is the main factor supporting productivity in everyday life. However, there are also many problems or disturbances in traffic that can hinder and kill people's productivity, including traffic accidents, congestion and criminal acts related to vehicles.

¹Traffic is a condition that requires moving from one place to another or back and forth, back and forth, which involves travel on the road and so on that relates to one place to another.²

In 2009 Indonesia issued a regulation related to traffic regulation, namely Law No. 22 of 2009 concerning Traffic and road transportation. This law is an amendment to the existing regulations regarding road traffic and transportation, namely Law Number 14 of 1992 concerning road traffic and transportation. As explained in the explanation of Articles of Law No. 22 of 2009 that the formulation of this rule is a complement to the previous Law. By including breakthroughs that are visionary in order to anticipate the development of the global strategic environment to be able to compete in global competition and as a provision to face the demands of a new paradigm that crave better, transparent and accountable government services.³

Road traffic and transportation have a strategic role in supporting development and national integration as part of efforts to promote public welfare as mandated by the 1945 Constitution of the Republic of Indonesia. ⁴As part of the national transportation system, road traffic and transportation must develop its potential and its role in realizing security, welfare, traffic order and road transportation in the context of supporting economic development and the development of science and technology, regional autonomy, and accountability for state administration.⁵

One of the important points in this law is the regulation regarding the obligation to drive vehicles with full concentration. in article 106 paragraph (1) that " That a person who drives a motorized vehicle on the road is obliged to drive his vehicle fairly and with full concentration . "

Based on this, vehicle drivers are required to be able to drive vehicles fairly and with full

¹Nener D Windafasa DKK, "Analisis Perilaku Keselamatan Pengemudi (safety Driving)", Jurnal Media Kesehatan Masyarakat Indonesia., Vol. No 2(oktober 2011) hal 81

²Poerwardaminta, Dalam M Adrian. A, Penyelesaian kasus kecelakaan lalu lintas diluar sistem peradilan pidana dikota Palembang. Tesis, Program pasca sarjana Universitas Sriwijaya, Palembang. 2002, hal 26

³Elucidation of Law Number 22 Year 2009 concerning Road Traffic and Transportation Part 1

⁴Yusuf Affandi & Emmilia, "Penerapan Penegakan hukum atas kewajiban menunjukkan SIM saat penindakan oleh kepolisian lalu lintas", Jurnal Fakultas Sosial dan hukum Universitas Negeri Surabaya., Vol. No 9 (oktober 2017) Hal. 1

⁵ *Loc.It.* Explanation of the Law

concentration. if violated, the threat of the violation is regulated in Article 283 of Law Number 22 of 2009 which reads:

" Everyone who drives a motorized vehicle on the road unreasonably and carries out other activities or is influenced by a condition that results in impaired concentration while driving on the road as referred to in Article 106 paragraph (1) shall be punished with imprisonment for a maximum of 3 (three) months. or a maximum fine of Rp. 750,000.00 (seven hundred and fifty thousand rupiah) .

What is meant by "Full Concentration" in article 106 paragraph 1 means that a person who drives a motor vehicle is careful, and does not feel any disturbance from the pain of illness, is not sleepy, feels lethargic, does not use or operate a cellphone while driving, no longer watching TV or recordings shown on vehicles, and not drinking alcoholic beverages or drugs that affect the driver's capacity.

Article 106 paragraph (1) of this regulation was issued because of the large number of traffic accidents caused by the use of mobile phones while driving, as well as users who consume alcoholic beverages. According to a study by the Governors Highway Safety Association (GHSA) of the United States, using cellphones, drinking alcoholic beverages while driving is one of the causes of road accidents.⁶

Driving a vehicle properly and with full concentration is of course the duty of every driver as the purpose of the establishment of Law number 22 of 2009 is to prevent, protect, and save Indonesian citizens from various kinds or forms of accidents that might cause us injury or even cause death.

Awaloedin explained that traffic violations are the behavior or actions of each individual that is contrary to the rules of the traffic law as contained in Article 32, Article 33 of Law Number 14 of 1992 or other statutory arrangements.⁷

The provisions for traffic violations put forward by Awaloedin mean that they are still using the old statutory reference, namely Law Number 14 of 1992 which has been replaced by Law Number 22 of 2009, however this matter able to serve as a valuable encouragement in the discussion related to the definition of traffic violations.⁸

Traffic violations are unavoidable and occur throughout Indonesia. The same thing happened in Gorontalo. The following is data on violations of Article 106 paragraph 1 of

⁶From <https://Dishub.Samarindakota.Go.Id> On December 3, 2020

⁷Bambang Poernomo, Dalam Asas-asas hukum pidana, Ghalia Indonesia, Jakarta, 2002 hal 40

⁸Danang, SB, Budaya tertib lalu lintas, Jakarta : Sarana Bangun Pustaka. 2011. Hal 21

Law No. 22 of 2009, which occurred in Gorontalo City

**Number of Offenses Driving without Full Concentration
at the Gorontalo City Police Traffic Unit**

No	Year	Number of Violations
1.	2018	41
2.	2019	47
3.	2020	63
4.	2021	79

Source: Data of Satlantas Polres Gorontalo City 2021

The table above shows that driving violations without full concentration have increased over the last 4 years. As the results of interviews conducted by researchers in the section on ticketing issues of the Gorontalo city traffic unit, it is true that for the past few years there are still many people or drivers, both two-wheeled and four-wheeled, that it is still difficult to understand the driving rules so that there are still many accidents that occur in the city of Gorontalo. .

The table above shows the overall violations contained in Article 106 paragraph (1), such as violations of operating a cellphone while driving, being drunk while driving a vehicle, and being sleepy while driving a vehicle. Based on this background, the author is interested in writing an article with the title "Factors inhibiting the effectiveness of enforcement of Article 106 paragraph (1) of Law Number 22 Year 2009 regarding the obligation to drive vehicles fairly and with full concentration" a case study at the Satlantas Polres Gorontalo City.

2. Method

This study uses empirical research. Empirical research is research with field data as the main data source, such as the results of interviews and observations ⁹. Empirical research is used to analyze the law in a real sense and examine how the law works in society.

⁹Sunggono Bambang, Metode Penelitian Hukum, Jakarta : PT Praja Grafindo Persada, 2003,hal 43

3. Analyst and Discussion

3.1 Factors Inhibiting the Effectiveness of Enforcement Article 106 Paragraph (1) of Law Number 22 Year 2009 Regarding the Obligation to Drive Vehicles Reasonably and Concentrated

Law enforcement is a process in an effort to enforce or function legal norms in real terms as guidelines for behavior in traffic or legal relationships in social and state life. ¹⁰In this regard, the police, namely the Gorontalo City Police Traffic Unit, are in accordance with their role in enforcing the rules in the event of a traffic and road transportation violation. As the duties and responsibilities of the Indonesian police, namely maintaining security and public order, enforcing the law, and providing protection, protection, and services to the community.¹¹

In enforcing the rules of Article 106 paragraph (1), the Satlantas Polres Gorontalo City did it with various efforts. The efforts of the Gorontalo City Police Satlantas in tackling the problem of traffic violations, namely the obligation to drive properly and concentration are considered not optimal, because the violation data obtained from the Gorontalo City Police Traffic Unit describes the number of driving violations in a reasonable and concentrated manner from 2018 to 2015. 2021 has always experienced a fairly high increase.

As the results of the researcher's interview with Mr. Bambang Indrajid as a member of the Baur Tilang Polantas Gorontalo city ¹²said that in carrying out the duties of the Satlantas line of the Gorontalo City Police, two methods are used in tackling traffic violations, these methods include preventive methods and repressive methods."

a. Preventive Method

In order to overcome the occurrence of traffic violations, especially violations of motorists who drive their vehicles unreasonably and with concentration, the Gorontalo City Police Satlantas make preventive efforts by conducting routine patrols every day or it is called *hunting* and traffic operations.

¹⁰Dian Ekawaty Ismail, DKK, Penegakan Hukum Kecelakaan Lalu Lintas Akibat Jalan Rusak, Jurnal Fakultas Hukum Universitas Negeri Gorontalo, Vol. 3 No. 2 (Oktober 2020). Hal 1

¹¹Lisnawaty W. Badu DKK., Menakar Peran kepolisian dalam mencegah Tindak Pidana Pencabulan Terhadap anak di bawah umur (Reduce The Role of Policy in preventing criminal function of children under the age", Fakultas Hukum Universitas Negeri Gorontalo, 2019. [Http://Ejurnal.Ung.Ac.Id/Index.Php/II/Article/Viewfile/5799/1926](http://ejournal.ung.ac.id/index.php/II/Article/Viewfile/5799/1926), Accessed On Thursday 7 July 2022

¹²Brigadier Bambang Indrajid, Results of Interviews with Members of the Traffic Police Traffic Unit of Gorontalo City, On 17 February 2022

In addition to the prevention efforts above, the Satlantas Polres Gorontalo City also has several programs that are educational as part of preventive efforts to overcome the problem of violating the obligation to drive unnaturally and concentrate in the city of Gorontalo. These programs include:

- a) Socialization Goes to campus
- b) Socialization Goes to school
- c) Socialization for Communities both motorbikes and cars
- d) Traffic order area

This was also confirmed by the statement of Mr. Fryidam ¹³as the Chief Police Brigadier in the Traffic Section of the Gorontalo City Police Traffic Unit saying that:

"The problem of traffic violations will not be resolved if the police only take action, for that the ranks of the Gorontalo City Police Satlantas provide education about traffic by holding several programs that can increase public knowledge about traffic as a preventive measure before violations and accidents occur"

Thus, based on the results of interviews conducted by researchers with the Gorontalo City Police Satlantas Police, it can be concluded that the preventive efforts carried out by the police with various programs, both education and socialization, are not optimal and also greatly affect the number of traffic violations, namely Article 106 paragraph (1) of Law Number 22 of 2009. Because the police's efforts in educating and also socializing traffic rules and road transportation to the public will create a legal compliance and obedience by the community in driving. In addition, the Gorontalo City Police Satlantas Police in educating and also socializing should be thorough in all jurisdictions of the Gorontalo City Police Satlantas, considering the legal area or locus delicti of the Gorontalo City Police Traffic Unit is so wide.

b. Repressive Method

In addition to using preventive methods, the ranks of the Gorontalo City Police Satlantas also apply repressive methods. In essence, this method is a last resort that is taken when the educational actions contained in the preventive method cannot overcome traffic problems. Repressive methods are usually accompanied by forced application efforts. Repressive measures are taken against every type of traffic violation or in the form of a traffic accident case violation. Traffic law enforcement as a form of repressive method

¹³Bripka Fryidam Interview Results with Members of Traffic Unit, Traffic Division of Gorontalo City Police, On February 20, 2022

activity is carried out against every road user who violates road traffic and transportation, especially in violations and accidents of violators of article 106 paragraph 1 of Law number 22 of 2009 related to the obligation to drive properly and with full concentration.

An example of a repressive method is a ticket on the spot, if the driver of the vehicle uses and operates the telephone at the time of the flag (said Pak Bambang, as a member of the ticketing agency, Sat then Polres Gorontalo City).

Therefore, according to researchers, the efforts made by the Gorontalo City Police Satlantas Police are less than optimal in tackling traffic violations. Law Number 22 of 2009 Article 106 paragraph 1, this is clearly illustrated in the number of violation cases handled by the Traffic Police. Gorontalo City Police in the last (4) four years, namely in 2018 there were 41 violations, then increased to 47 violations in 2019, then experienced a very large spike in the next 2 years, namely in 2020 as many as 63 cases, and in 2021 as many as 71 cases of similar violations. Thus, efforts to prevent violations of Article 106 paragraph 1 of Law No. 22 of 2009 against vehicle drivers in the city of Gorontalo are basically good, but not comprehensive or comprehensive because they involve many elements or stakeholders, both academics and community organizations to be equally involved in an activity driven by the Gorontalo City Police Satlantas Polres , so as to maximize efforts in tackling traffic violations carried out by the police.

From the various efforts made by the Gorontalo City Police Traffic Unit related to the enforcement of violators of Article 106 paragraph 1 of Law No. 22 of 2009, the researcher uses Soerjono Soekanto's opinion ¹⁴as a benchmark for whether or not a law is effective which is determined by five factors, especially for determine whether or not the enforcement of Article 106 paragraph 1 of Law Number 22 Year 2009 regarding the obligation to drive a vehicle is reasonable and with full concentration. the following factors are:

1. The legal factor itself (Law)

Globally, it can be stated that efficient legal regulation is a legal regulation that takes place juridically, sociologically, philosophically. A legal guideline applies juridically, as stated by Hans Kelsen in that the law is not really resolved depending on a higher level standard (rules) .

Legislation as one of the sources of formal law is formed with the aim of organizing people's lives so that there is no legal imbalance with authority or power

¹⁴Soerjono Soekanto, Faktor-Faktor Yang mempengaruhi Penegakan Hukum cetakan Kelima, Jakarta: Raja Grafindo Persada, 2004. Hal 42

which makes the law coercive and provides sanctions.

Then a legal regulation applies philosophically if the legal regulation is in accordance with the ideals of the law as the highest positive value in law Indonesian State . The ideal of law as a positive value that most needs to be considered is a prosperous and fair audience based on Pancasila and the 1945 Constitution.

2. Law enforcement factors

Namely , more specifically the associations that form and implement h o kum. Law enforcement as one of the factors that determine the law enforcement process is not only the party who applies the law but also the parties who make the law . Parties who are directly involved in the law enforcement process, especially the police, prosecutors , legal judges , legal advisors, and wardens, who play an important role in determining the implementation of legal ratification efforts in the public sphere.

3. Infrastructure factor

Without certain infrastructure, it is impossible for law enforcement to run smoothly . This infrastructure includes more or less educated and skilled human resources , good organization, adequate equipment, sufficient finance and so on . If these things are not met, it cannot be understood that the legal requirements achieve their goals

4. Community factors

main factors of society that determine law enforcement are : awareness community law . The more people 's sensitivity , the better the implementation of the law. Conversely, the lower the level of awareness of public legitimacy, the more difficult it will be to implement good law enforcement . In general Legitimate public awareness 90includes :

- a. Insights related to law
- b. Inspiration of legal function
- c. Obedience to the law

5. Cultural factors

Knowledge of the law creates awareness that leads to legal compliance to create a good legal culture, and vice versa. Legal culture is a chronic problem in law enforcement efforts, whether it attacks the community or law enforcement.

Based on the five factors above, the researcher concludes that there are three

factors that hinder the enforcement of Article 106 paragraph (1) of Law No. 22 of 2009 regarding the obligation to drive properly and with full concentration, consisting of:

- The first factor is law enforcement

To create an effective enforcement of Article 106 paragraph 1 of Law Number 22 of 2009, it cannot be separated from the attitude and preparedness carried out by the Gorontalo City Police Traffic Sauna as the authority and responsibility in enforcing laws and regulations relating to traffic and traffic. road transport. The reality in the field is the obstacles faced by police officers in law enforcement against traffic violations, especially motorists who drive their vehicles unnaturally and concentration is the condition and the imbalance in the number of personnel on duty in the field with the number of violators who are lame makes law enforcement ineffective considering the consideration of the risks posed in law enforcement. Which in the end led to the omission or tolerance of motorists who violated the traffic regulations article 106 paragraph 1 of the traffic law number 22 of 2009.

This was confirmed by Bripda Bambang Indrajid ¹⁵, "according to him, during raids or hunting, there are usually a large number of violators of traffic and road transportation regulations, and they are not commensurate with the police officers in the field. Sometimes in the conditions and situations at that time, the Gorontalo City Traffic Police gave discretion in the form of tolerance for vehicle drivers whose mistakes were small, such as forgetting to wear seat belts for car drivers. This tolerance is given with a note that after that, the traffic police officer is given an appeal again to be able to wear the seat belt again for car drivers.

According to the author, based on the results of interviews with researchers, which plays a role in the factor of law enforcement for traffic violators committed by unreasonable vehicle drivers and concentration in driving their vehicles, this law enforcement factor is an important thing considering that law enforcement officers, namely traffic police, can be a factor. support in enforcing these rules.

- The two factors of society

The community has a role in law enforcement. In this case, the awareness possessed by each community certainly has differences, awareness of the law owned by the community can affect the effectiveness of law enforcement itself. Based on the data owned by researchers regarding how much knowledge of vehicle drivers about traffic rules Article 106 paragraph 1, it is very low. Everyone who drives tends not to prioritize

¹⁵Brigadier Bambang Indrajid, Results of Interviews with Members of the Traffic Police Traffic Unit of Gorontalo City, On 17 February 2022

safety, both for himself and for the safety of other vehicle drivers or other road users. In fact, every vehicle driver who descends and engages in activities on the road poses a risk, so he must have the ability to drive by fulfilling certain competencies, first of all, he must drive his vehicle properly and with full concentration in driving his vehicle.

It is different from the facts on the ground, as stated by Mr. Bripka Frydam, "¹⁶that the public, in this case, vehicle drivers, does not understand the obligations that must be fulfilled by each vehicle driver. In this case, most people do not know the clear rules of Article 106 paragraph 1, so that when the police want to enforce these rules with the driver, checks arise, often bringing family members like the military and police to be able to resolve the violations committed by the driver. .

According to the researcher, based on an analysis of the factors that hinder the enforcement of Article 106 paragraph 1 of Law No. 22 of 2009 regarding driving properly and with full concentration in the city of Gorontalo. That the legal awareness of the community is a supporting factor for the effective enforcement of the rules regarding the obligation to drive vehicles fairly and with full concentration. Conversely, when public awareness of the law is low, it can hinder the effectiveness of law enforcement itself.

Departing from these various factors that hinder the effectiveness of the enforcement of Article 106 paragraph 1 of Law No. 22 of 2009, the steps that must be taken are the proactive presence of the government and the Satlantas Police of the Gorontalo City Police to continue to socialize on a large scale the existence of Article 106 paragraph 1 Law No. 22 of 2009 concerning the obligation to drive properly and with full concentration, so that these efforts can provide awareness for vehicle drivers or other road users, so that the mandate contained in Article 106 paragraph 1 can be implemented properly and effectively in drive.

- The Three Factors of Infrastructure

Supporting facilities or facilities are very important in the enforcement of legal products. In traffic, one of the most important supporting means to enforce traffic rules is the traffic police post and live traffic (cctv). The traffic police post and live traffic (cctv) can be a place for monitoring traffic by the police to control the safety and order of drivers in traffic.

The following is the result of the researcher's interview with Mr. Brigadier Bambang Indrajid as a member of the Baur ticket for the Gorontalo City Police Satlantas, saying that so far the traffic police have always made breakthroughs in reducing the number of

¹⁶Bripka Frydam Interview Results with Members of Traffic Unit, Traffic Division of Gorontalo City Police, On February 20, 2022

traffic violations and road transportation, one of the police breakthroughs is the creation of ETLE or electronic traffic law enforcement, it is hoped that the creation of this etle will help the police in reducing the number of violations and can directly monitor violations carried out by the vehicle drivers themselves."

Thus, according to the researcher, with the very large area of the Gorontalo City Police Satlantas, police posts and live traffic (cctv) greatly affect the effectiveness of law enforcement by the police. However, according to the results of observations or field research conducted by researchers, the police posts and live traffic (traffic cctv) available in the Gorontalo City Police Satlantas area cannot be said to be sufficient. There are only 4 police posts in the Gorontalo City Police area, namely the cadet post, the city park post, the Koba Barat post, and the port post, while the live traffic for the city of Gorontalo is 5, the live traffic at the border of the city and district, the live traffic on Jl. Jend Sudirman, Jl palma, Jl. HB Yassin, Jl. Pandjaitan.¹⁷Police posts and live traffic, which are only available at some points, are not commensurate with the very broad jurisdiction of the Gorontalo City Police Satlantas. So this is one factor in the ineffectiveness of law enforcement that needs attention.

4. Conclusion

Referring to the discussion, as described by the researcher in the previous sheets, the researcher can conclude as follows:

That the role of the Gorontalo City Police Satlantas in making efforts in overcoming violations of Law number 22 of 2009 Article 106 paragraph 1 is not yet maximal and comprehensive, because the target of education and socialization of knowledge of traffic rules, especially Article 106 paragraph 1 is only aimed at some institutions, both schools and universities and in certain areas, but very little education or socialization is carried out to all elements and stakeholders who can play an active role in tackling the number of traffic violations, as well as disseminate evenly throughout the region or the police locus delicti. Gorontalo City Police Traffic Unit, considering the legal area of the Gorontalo City Police Traffic Unit is that it is so wide that it can provide the value of compliance and legal obedience to the community, especially to active drivers.

The obstacles or factors faced by the police in enforcing Article 106 paragraph 1 are influenced by several factors including, law enforcement factors; the lack of police officers during operations or raids, community factors; lack of legal awareness and public knowledge about traffic rules and road transportation as well as the legal culture inherent in the community, then the factor of infrastructure; obstacles in the procurement of police

¹⁷Brigadier Bambang Indrajid, Results of Interviews with Members of the Traffic Police Traffic Unit of Gorontalo City, On 17 February 2022

posts and live traffic (cctv).

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