

The Policy of Local Government on Regulating the Traffic Control Zone in Medan

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Keywords : Policy, Traffic Control, Traffic Control Zone.

Abstract :The research is conducted to examine the regulation of Traffic Control Zone in Kota Medan through the regional regulation of Medan (Peraturan Walikota Medan) No.16 in 2011. The aim of Traffic Control Zone is to solve the traffic jam problem in Medan so that the safe and comfortable driving can be obtained. The type of the research is normative juridical with collecting the secondary data which are primary, secondary, and tertiary legal material obtained from library research. The data will be analysed qualitatively. The result of the research shows that Traffic Control Zones are established in a few particular areas. The obligations and prohibitions are determined in each area. The Transportation Office such as Satlantas and Satpol PP are appointed to supervise the regulation. This regional regulation is also contained with sanctions such as administrative sanction and fine for breaking the rule. Local government policy is establishing the Traffic Control Zone as the built and supervised area in order to form a good traffic zone for the sake of safety and comfort.

1 INTRODUCTION

The road system has an essential functions as it's considered as the veins of development in various aspects such as economy, social, culture, and national stability, and also as a mean of balance and distribution of growth. In a wider dimension, the road system has a big role in developing a particular area, as well as national, province, and district/city based on its road system function.

As one of the most populated city in Indonesia, with 2.983.868 population, Medan has become a city with a high rate of traffic jam. The increasing of citizen's intensity automatically increases the traffic users. The systematic and chronic traffic jam that keeps happening repetitively every single day is caused by the familiar reason which is the amount of vehicles is beyond the road facility. The road expanding has a limit and it isn't possible to provide the road traffic equal with the users. The number of vehicles are about 5.800.000 dominated with about 85,61% of motorcycles. With the dense population of vehicles itself in Medan City, among them is a personal car driven only by a person, especially on busy hours, traffic jam is inevitably. The chaotic moments can also happen because of unfinished road

construction, misusing of road as a parking area, unofficial bus stops, and trading area. In the other hand, the traffic jam has a significance correlation with the disobedient of traffic users. The problems of transportation and traffic jam are still a big issue that must be solved by the city government, particularly on the main roads.

In dealing with the occurred traffic jam, the government's policy is needed to create a swift, organized, and disciplined traffic for everyone, which is establishing the traffic control zone.

The traffic control zone is a good example of road traffic with the procedure for traffic users, the physically complete vehicle such as light, rear view mirrors, and official administration papers, and also helmet for motorcycle rider. This is the police's program that aims to educate the citizens how to behave as a traffic users well. The traffic control zone is a good example where the organized, safe, and swift traffic regulation and control is held, and expected to soon become a positive custom for society. Thus, people will follow the good example of traffic control zone in the road traffic.

Generally the establishing of Traffic Control Zone program is based on UU Number 22 of 2009

about Traffic and Vehicles. Traffic Control Zone is established on some particular areas chosen by the government itself with the decree from the Mayor with the aim is to create it as a Local Government's program budgeted from Regional Government Budget.

Traffic Control Zone program has been established in various areas especially big cities. The establishment of each area's traffic control zone is based on their own Local Government's decree. Thus, it is interesting to find out how the government of Medan's policy on regulating the Traffic Control Zone.

2 METHODOLOGY SECTION

In Kamus Besar Bahasa Indonesia (KBBI) or Dictionary of Bahasa Indonesia, policy is a string of concepts and principles that become a headline of a plan in establishin a particular work, leadership and government's demeanor. Woll (1966) views public policy as a government's activity in solving a case in society not only directly but also trough an institution that has an impact for the society. Policy in practice is referred into 2 (two), they are:

- a. Policy in terms of freedom, it exist in a particular subject (or equal with the subject). To get an acceptable alternative as the best based on the value of living together or on a particular country use a particular authority existed in that subject in dealing with the human problems related with the living together in that country. In the other word, policy is a particular freedom space in taking an acceptable alternative to solve the human problems in a living area or particular country or place.
- b. Policy in terms of escape, is to solve the human problems related to living together or particular country, as a result of freedom of choosing which is accepted as the best based on the value of living together or on a particular country. In the other words, the escape in solving human problems is intended as a result of freedom in choosing the best in a current place and time based on the value in a particular society or country.

The aim of policy is a satisfaction or serenity and also an interest from the determiner and a decision maker of policy related with the satisfaction or serenity and also interests from the object of policy, which is the citizens. Thus, the administration policy

of a country is intended to the citizens for their own good as administration policy is created for them. Policy is based on morality or law. Policy is always related with responsibility which means it is ideally can responsible in both morally or legally.

The aim of formulating the public policy is to create the organized, serenity, peaceful and also prosperous society. It is in a same concept with walfare state which is embraced by most of the country around the globe. In running the public policy, there are three source of authority, they are attribution, delegation, and mandate. Attribution is a giving authority for the head of government from the legislators. The forming or constitution both by original legislators (*originaire wetgevers*) and presentative legislators (*gedelegeerde*) gives a full authority to the government formed in a place or the existed one. Delegation is a giving authority from and institution or local government to another head of institution or local government. After the authority is being given, the giver will no longer has an authority. The authority obtained form attribution or delegation can be mandated to lower institutions or personeel if the head of government who obtains the authority can't stand for it alone.

E. Utrecht, administratitive authority in legislative case includes:

1. Authority in forming the rules based on personal initiative especially in facing the an emergency problems which has no rules beforehand without depending on the central legislators.
2. The government is given a job to adjust the rules formed based on the reality happens in society.

The Regulation of Mayor is regulation appointed by the Mayor. The Regulation of Mayor is recognized and has a legal power as long as it is governed by the higher regulations or formed based on a regulations (Article 8 Section 2 UU No.12 of 2011 about Forming the Regulations of Constitutions). As a highest public policy in a district, Regulation of Mayor has to become a reference for the entire other public policy both the head local's decree and technical policy formed by the Regional Government Agency (SKPD).

The traffic Control Zone is an area built, educated, and established and also supervised to become an area reflecting and implementing of how a good traffic is. This area has been built completely with a facilitated road for the road traffic users; such as motorcycle riders, car drivers, pedestrians, priority vehicles and stops.

The aims of Traffic Control Zone are:

1. To create an organized, swift, and safe traffic zone.
2. To become a good example zone where the good traffic regulation occurs.
3. To increase the discipline and law enforcement of the traffic consistently.
4. To give a good guidance for society about the traffic control zone intensively in order to gain the disciplin of the traffic users

Among the aims of traffic control zone, it also has some functions as explained below:

- a. As a mean of development and socialization for law enforcement managing in traffic regulations to educate the entire traffic users.
- b. As a place where the rules are applied to be shown to the society that an organized, swift, and safe traffic zone can be applied.
- c. As a good example traffic zone showing how a safe and sound traffic regulation is.
- d. As a research program to those who do the observation about the development of traffic regulations or the quality of drivers.

3 RESEARCH METHOD

The approach problem used in this research is normative juridical. Normative juridical is a research conducted by doing the library research or secondary data as the source data to be analyzed, where the the analyzing of constitution and literaturature related with the research problem is conducted. The secondary data are three primary legal materials, they are; binding legal material from UUD NRI 1945, UUD No.2 of 2009 about Traffic and Vehicles, UU No. 12 of 2011 about Formulation of Legislation, Medan Mayor Regulation No.16 of 2011 about Medan Traffic Control Zone. Secondary legal material is a legal material that gives an explanation about primary legal material such as books, literature, articles, law dictionary related with the materials with the addition such as the collecting data activity from the internet and tertiary legal material as a supporting explanation.

The method of collecting data is conducted as a library research. The collected data will be analysed trough data selection, data classification and data systemation. The data are analysed qualitatively with the taking conclusion inductively.

4 RESULT AND DISSCUSION

The traffic control zone is established to reflect and implement the safe and good traffic regulation. This zone is facilitated well for the traffic users both drivers and pedestrians. The establishing and supervising the zone is done by the entire authority such as police and local government. Even the citizens are involved to obey the rules in the entire zones.

Generally, the establishing of Traffic Control Zone program is based on UU No.22 of 2009 about Traffic and Vehicles. While the establishment of traffic control zone in each districts are based on their local government. The Medan Mayor Regulation has been legalized; No.16 Year 2011 about Traffic Control Zone in Medan on April 14 2011. The regulation has become a constitution for Medan Traffic Control Zone.

The Mayor Regulation is based on Article 94 Section (2) in Constitution Of Republic Indonesia (UU) No.22 of 2009 about Traffic and Vehicles: The regulating activity as mentioned in Article 93 Section (3) b includes:

- a. Regulating policy for traffic users and traffic movements of the particular road system; and
- b. Providing information to society in regulating the established policy. Next in Article 95 Section (1) (d) regulated the Policy of traffic users and traffic movements as mentioned in Article 94 Section (2) (a) which is formed as an command, prohibition, warning or instruction regulated in local regulation for road city.

In establishing the country administrations, government has regulated some policies in various forms such as *beleidslijnen* (policy lines), *het beleid* (policy), *voorshtiften* (regulations), *richtijnen* (guidances), *regelingen* (clues), *circulaires* (circular letter), *resoluties* (resolutions), *aanschrijvingen* (instructions), *beleidnota's* (policy note), *reglemen ministriële* (ministry's regulation), *beschikkingen* (decree) dan *bekennmakingen* (announcements).

The regulation of policy in principal is a product of the country aims to "*naar buiten gebracht schriftelijk beleid*", means showing the written policy. The function of regulation of policy is as a part of operational in running the government tasks, thus it can't be changed or diverged the law. The regulation is considered as the shadows of constitutions. Thus, the regulation is also called as

psudeo-wetgeving (pseudo-legislation) atau *spigelsrecht* (law shadow).

Practically, the discretionary authority of state administration which created the regulation of policy consists 2 aspects; first, freedom of interpretation of the scope of authority formulated in the basic rules of authority. This aspect is well known as a freedom of interpreting objectively. Second, the freedom to decide on its own in the manner in which and when the powers of state administrations are exercised. This second aspect is known as subjective freedom of judgment.

Management and Traffic Engineering is a series of businesses and activities including planning, procurement, installation, arrangement and maintenance of road equipment facilities in order to realize, support and maintain security, safety, order and smooth traffic (Article 1 number 29 Law No.22 Year 2009). Management and Traffic Engineering is implemented to optimize the use of road system and traffic movement in order to guarantee the safe, organized, and swift traffic and road transport (Article 93 Section (1) UU No. 22 of 2009). The Mayor is responsible for the implementation of Management and Traffic Engineering as referred to in paragraph (1) and paragraph (2) for city road after receiving recommendation from related institutions. (Article 96 section (6) of UU No.22 of 2009). This provision grants the authority of attribution to the Mayor of Medan as the responsible person in the implementation of Management and Traffic Engineering in Medan City. In general, the authority must be formal in order to be implemented. Authority is an authority or legitimacy for executors in implementing a politically determined policy.

The background of the legalisation of Medan Mayor Regulation No. 16 of 2011 on the Medan Traffic Control Zone is in order to optimize the efficiency and effectiveness of the use of space traffic and control the movement of traffic and road transport which need to be managed. In the Medan Mayor Regulation, the government stipulates 7 (seven) road segments in Medan City to become Medan Traffic Control Zone (Article 1). The 7 road segments include:

1. Jl. Suprpto from the bridge to Jl. Imam Bonjol
2. Jl. Sudirman from intersection of Jl. Imam Bonjol to intersection of Jl. S.Parman
3. Jl. Pangeran Diponegoro from intersection of Jl. Sudirman to Jl. Kejaksaan
4. Jl. Imam Bonjol from intersection of Jl. Kapt Maulana Lubis to intersection of Jl. Sudirman

5. Jl. Kaptan Maulana Lubis and Jl. Raden Saleh from intersection of Jl. Pengadilan intersection in Jl. Balai Kota
6. Jl. Balai Kota from intersection of Jl. Pulau Penang to intersection of Jl. Putri Hijau
7. Jl. Putri Hijau from intersection of Jl. Guru Patimpus to Jl. Merak Jingga

These 7 segments are appointed as pilot project in the program which will be expanded after the significant development.

Basically, Traffic Control Zone is the road areas arranged such a way in order to create an organized traffic. Besides improving and organized traffic for the users, Traffic Control Zone has to be clean from any chaos of the traffic. For instance, the road is sterile from sidewalks parking, pedicab, and road market. Thus, the Mayor Regulation consists liability, prohibition, supervision and action.

The liability for everyone can be found in Article 2 and Article 3 of Medan Mayor Regulation of No.16 of 2011, they are:

Article 2: the drivers and passengers of the vehicles who pass the Traffic Control Zone mentioned in Article 1 have to obey:

- a. Using a seatbelt for four-wheel or more vehicles.
- b. Using the national standard (SNI) helmet for two-wheel vehicles.

Article 3: The Transportation Office must install the traffic signs where pedicabs are forbidden to pass the road segments in the Traffic Control Zone as cited in Article 1.

The prohibitions cited in Article 4 of Mayor Regulation No.16 of 2011, are:

- (1) Pedicabs are forbidden to pass the Traffic Control Zone as cited in Article 1
- (2) It is forbidden to peddle on the sidewalks of Traffic Control zone as cited in Article 1.

Not only obligation and restriction in Traffic Control Zone have to set but also the good facilities for the traffic users, for instance a complete traffic signs, an organized road markings, proper sidewalks for pedestrians, overpass, and also ideal zebra cross. Traffic Control Zone also has to provide an ideal locations for bus stops. Physical facility is an essential aspects in implementating the policy. Implementator may have enough staff who understand their jobs and

authority, but without supporting facility, policy implementing is such an impossible.

The chosen roads as Traffic Control Zone will get more attention from the Regional Transportation Development Board (BPTD) that consists of several elements, such as Transportation Office, Police, Satpol PP, and several related agencies. This is in line with the statement of Article 5 of Medan Mayor's Regulation No.16 of 2011 which regulates supervision issues as follows: The implementation of supervision and control over compliance with the provisions of this Mayor Regulation shall be submitted to the Transportation Office of Medan City, Satlantas Polresta Medan, Satpol PP Medan and related agencies of Medan City Government. The surveillance of this area will be intensified not only for traffic offenders but also to those who create a chaotic zones. The City Government also curb street vendors (PKL) who hung in the area that has been established as Traffic Control Zone.

Violations and / or non-compliance with the provisions of this Mayor Regulation shall be dealt with in accordance with the prevailing laws and regulations. (Article 6 of Medan Mayor Regulation No.16 of 2011). Under the provisions of Article 314 UU No.22 of 2009 on Traffic and Vehicles that in addition to imprisonment, imprisonment or fines, the perpetrator of a offenders may be subject to additional criminal sanctions in the form of revocation of Driver's License or Reparation of Losses resulting from a criminal act of traffic.

One of the most important attempts to make the law effective is to set sanctions. Sanctions are actually a stimulus to do or not do. Sometimes sanctions are formulated as an agreement or rejection of certain patterns of behavior in society. Thus, there are negative sanctions and positive sanctions. Narrowly, negative sanctions mean a punishment whereas positive sanctions are rewarded. In reality it is not too easy to establish that certain laws will be effective if they are accompanied by sanctions. However, the main factor that needs to be taken into account to determine whether the sanctions play a role in the effectiveness of the law is a characteristic problem of sanctions itself. How sanctions is whether the sanctions are in the form of severe sanctions or light-weight only. Head of Transportation Office of Medan City, Renward Parapat mentioned that based on the results of coordination in traffic forum meetings, fines against traffic violations within the area of traffic order is given to a maximum fine so that the riders are really obedient to traffic rules.

It is closely related to the perception of citizens in taking the risk, especially if it violates a rule

accompanied by a negative sanction. If a citizen is brave to bear the risk, although it would be suspected that the negative sanctions are very limited consequences. The problem is closely related to the duration of the implementation of such negative sanctions. If the sanction is immediately imposed then there is a possibility that the consequences will be far more effective than if the implementation is postponed. Slowness in applying negative sanctions to certain behaviors is one of the factors that cause sanctions to be ineffective. This means that the citizens of the community do not believe it anymore, so that the authority of law and its enforcement will decline. According to Kasatlantas Polresta Medan mentioned that specifically in Traffic Control Zone area, those who are against will get direct violation of acts and tickets and then have to deal with the court.

The terms of law enforcement in concrete is the enactment of positive law in practice as it ought to be obeyed. Therefore giving justice in a case means deciding the case by applying the law and determining the law in concreto in maintaining and ensuring the observance of the legal material by using procedural means established by formal law. In carrying out the law there will be many challenges and obstacles that will continue to evolve with different traits and shapes as the times passed. This is what will demand the law and law enforcement officers as its implementation to be able to enforce the law by trying to overcome and look for solutions to problems arising from the execution of these laws in order to keep the law applied. Therefore Soerjono Soekanto said law enforcement is not merely the implementation of legislation, although in reality in Indonesia the tendency is so, so the meaning of law enforcement is so popular. Law enforcement in Indonesia means law enforcement has to contain values in accordance with Pancasila and the 1945 Constitution of the Republic of Indonesia.

Factors affecting law enforcement according Soerjono Soekanto will be explained as follows:

- a. The legal factor itself;
- b. Law enforcement factors, for instance the parties that make up and apply the law;
- c. Factor of means or facilities that support law enforcement
- d. The community factor is the environment where the law are legalized and applied.
- e. Cultural factors such as work, creativity and sense that is based on human initiative in the social life.

These factors have a neutral meaning, so the positive or negative impact lies in the content of these factors.

5 CONCLUSION

The policy of Medan City Government as the exercise of the authority granted by Article 96 Section (6) of UU no. 22 of 2009 on Traffic and Vehicles which is issuing the Medan Mayor Regulation No. 16 of 2011 about Traffic Control Zone in Medan. The Medan Mayor Regulation of Medan contains road section which is chosen as Traffic Control Zone in Medan City. The obligation for road users, prohibition, supervision of the implementation and control is submitted to Medan Transportation Office, Satlantas Polresta Medan, and Satpol PP Medan City. This Mayor Regulation also contains sanctions for non-compliance with the provisions of this Mayor Regulation in accordance with legalized legislation.

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