

INTERNATIONAL JOURNAL OF LAW, TOURSIM, AND CULTURE

Published Law Department, Universitas Pendidikan Ganesha
Volume 1 Issue 3, November 2023 | P-ISSN: 2830-6546

IMPLEMENTATION OF ARTICLE 74 PARAGRAPH (1) OF TABANAN DISTRICT REGULATION NUMBER 16 OF 2017 CONCERNING THE IMPLEMENTATION OF TRAFFIC AND ROAD TRANSPORTATION ON VIOLATIONS OF THE USE OF THE ROAD SHOULDER BY VEHICLE DRIVERS

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Article Info

Received: August 22, 2023
Accepted: October 29, 2023
Published: November 3, 2023

Keywords:

Traffic, Parking, Soulder

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Abstract

This research aims to (1) determine the implementation of Article 74 Paragraph (1) of Tabanan Regency Regional Regulation Number 16 of 2017 concerning the Implementation of Road Traffic and Transportation regarding violations of road shoulder users by vehicle drivers (2) factors that influence the community tend to violate vehicle stopping and parking regulations in Tabanan Regency. The type of research used is empirical legal research which is a type of field research that focuses on primary data/basic data. The data processing technique in this research uses qualitative analysis originating from primary data in the form of field observations and secondary data originating from journals, articles and laws, ministerial regulations, and district level Regional Regulations. The results of this research show that (1) Regional Regulation Number 16 of 2017 concerning the Implementation of Road Traffic and Transportation has not been implemented optimally to date. This is due to the minimal number of police personnel in the traffic sector so that sanctions cannot be implemented. (2) Factors that cause people to tend to violate parking rules include people's minimal knowledge regarding traffic regulations and people's attitude of being indifferent to the rules that apply in their surroundings.

Introduction

Increasing social mobility in society is a crucial aspect, so the state has the responsibility to regulate it in accordance with the times. This is so that the rights of citizens in traffic and road

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transportation activities are maintained. Road traffic and transportation (LLAJ) is closely related to people's daily lives, where they interact with various types of vehicles for various purposes. It is therefore important for citizens that their rights to participate in traffic are guaranteed and protected by the state. As the highest entity in the structure of society, the state has an obligation to ensure that the rights of its citizens on the road are guaranteed and protected.

The role of law is striking in providing clear boundaries on what can be done and what cannot be done in society. The law functions as a social control tool that determines the standards of behavior expected of individuals in society. In addition, in its implementation, the law also provides appropriate sanctions in response to violations of the established boundaries. However, in reality, there are still many violations of legal boundaries that occur in everyday life.

Non-compliance with the law can vary from minor infractions to serious criminal acts. Although laws have been established to maintain order and justice in society, factors such as low legal awareness, unequal access to the law, or even a lack of effective law enforcement, can be a major cause of lawlessness. Therefore, it is important for the government and law enforcement agencies to continue to strengthen the legal system and increase people's understanding of the importance of obeying the law in order to create a more orderly, safe and just society.

One of the violations of public order that is often found is the act of stopping and parking carried out by private vehicle owners by using part of the road to not pay attention to the stopping and parking rules that have been listed in the Law and even formed in a regional regulation. Although there are many stopping and parking restrictions installed on each side of the road, the reality is that there are still many individuals who choose to park their vehicles carelessly. These illegal parking violations often occur in several areas of the community center.

Article 287 paragraph (3) of Law No. 22 Year 2009 stipulates that, "*Every person driving a Motorized Vehicle on the Road who violates the traffic movement rules as referred to in Article 106 paragraph (4) letter d or the procedure for stopping and Parking as referred to in Article 106 paragraph (4) letter e shall be punished with a maximum imprisonment of 1 (one) month or a maximum fine of Rp250,000.00 (two hundred fifty thousand rupiah).*"

In this context, individuals who violate public order in accordance with laws and regulations are entitled to receive sanctions that have been determined by the applicable law. Evolving legal

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principles are not only tied to current laws, but also include legal developments in society. In this context, individuals who contravene public order in accordance with laws and regulations and legal principles that live in the consciousness of society are also entitled to receive sanctions in accordance with the law and even sanctions from society itself.

However, in reality there are several regions that have not applied sanctions to the article for one reason or another, as is the case in Tabanan Regency. This was conveyed by IPDA Olandina De Jeaus, SH as Kanit Gakkum Tabanan Police . He explained that the Tabanan Resort Police with the assistance of the Tabanan Regency Transportation Office had only given warnings and socialization to vehicle owners who stopped or parked vehicles using part of the road without paying attention to the condition of the road around the area.

Some of the factors that contribute to the prevalence of illegal parking violations are the increase in the number of vehicles each year, inadequate parking space, and the lack of parking facilities available to accommodate users or visitors. As a result, there is often traffic congestion in the activity center area, especially during peak hours in the morning and evening, causing disruption to the mobility and safety of vehicle users in the activity center area. Therefore, efforts to improve and deal with this problem continue to be pursued by the local government to maintain better public order and traffic order. The lack of public awareness and the lack of sanctions have resulted in this problem still occurring in Tabanan City and even in rural areas. Tabanan District has not yet established sanctions for violations of stopping and parking vehicles on the shoulder of the road, because some parties assume that the existence of sanctions only complicates the community and business owners. Therefore, appeals are a good enough effort to minimize these violations.

Thus the research proposal entitled "Implementation of Article 74 Paragraph (1) of Tabanan Regency Regional Regulation Number 16 of 2017 concerning the Implementation of Road Traffic and Transportation Against Violations of the Use of Road Shoulders by Vehicle Drivers " the author focuses on Tabanan Regency Regional Regulation Number 16 of 2017 concerning the Implementation of Road Traffic and Transportation.

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Research Methods

The type of research used in this case is a type of empirical legal research where empirical legal research is a legal research method also known as sociological legal research is a type of field research that focuses on primary data. Primary data or basic data is data obtained directly from the community as the first source through field research, such as making observations, interviews, and distributing questionnaires. (Ahmad, 2022; 42).

The legal materials used in this research consist of primary legal materials, secondary legal materials and tertiary legal materials. Primary legal materials include legal products that have the power to bind and consist of laws and regulations related to the formulation of the problem and the title of the research discussed. Primary legal materials used include Law Number 22 of 2009 concerning Road Traffic and Transportation and Tabanan Regency Regional Regulation Number 16 of 2017 concerning the Implementation of Road Traffic and Transportation. Then secondary legal materials are legal materials that include literature studies and studies of archival documents, official government data, doctrines, law books, journals, and magazines that are published and related to research writing.

The secondary legal materials in this research include research results, research journals, law books, and legal papers contained in the mass media. Tertiary legal materials are legal materials that provide instructions and explanations that support primary legal materials and secondary legal materials. The legal materials used in this research include legal dictionaries and large Indonesian language dictionaries . The techniques used in data collection include document study techniques, observation or observation techniques interview techniques. The sampling technique used in collecting data for this study is a *non-probability sampling* technique where this technique is used because the researcher does not determine the number of samples used, and in the *non-probability sampling* technique the researcher uses a form of *Purposive Sampling*, namely the researcher who determines that the sample has met certain criteria and traits or characteristics that characterize the main object of research. The data obtained is then collected both in primary data and secondary data and then analyzed again using qualitative analysis.

Results and Discussion

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Implementation of Article 74 Paragraph (1) of Tabanan Regency Regional Regulation Number 16 of 2017 concerning the Implementation of Road Traffic and Transportation Against Violations of Road Shoulder Users by Vehicle Drivers Research that has been conducted at the Tabanan Resort Police and the Tabanan Regency Transportation Agency on the behavior of parking vehicles using the shoulder of the road, especially in Tabanan Regency, found the fact that Article 74 paragraph (1) of Tabanan Regency Regional Regulation Number 16 of 2017 concerning the Implementation of Road Traffic and Transportation is not implemented. Many people still park their vehicles carelessly without paying attention to the condition of the surrounding roads. As a result, the mobility of road use is not maximized. Whereas in the provisions of Article 74 Paragraph (1) it is emphasized that:

1. Every driver of a vehicle is prohibited from parking in the space section:
 - a. Every 6 (six) meters before and after the designated pedestrian crossing/ zebra crossing or bicycle crossing;
 - b. Along 25 (twenty-five) meters before and after a sharp bend with a radius of less than 500 (five hundred) meters;
 - c. Along 50 (fifty) meters before and after the bridge;
 - d. Along 100 (one hundred) meters before and after the level crossing;
 - e. Along 25 (twenty five) meters before and after the intersection; and
 - f. Along 6 (six) meters before and after a fire extinguisher / hydrant tap or similar water source.

Then related to the sanctions given are also listed in article 74 paragraph (4):

"Every person or Business Entity who violates the parking provisions as referred to in paragraph (1) may be subject to sanctions in the form of padlocking, tire shredding and/or towing."

However, the regulation did not reach the people of Tabanan Regency evenly. This was found from the results of the researcher's interviews with 21 Tabanan residents, of the 21 people interviewed, only 5 people were aware of the regulation and came from teenagers with an age range of 17-24 years and all of the people interviewed had parked their vehicles in the Jalan Gajah Mada Tabanan area near the Tabanan Traditional Market Area. With the results of these interviews, there is a question as to why this condition of illegal parking on the shoulder of the road still occurs in the Tabanan Regency area and even seems to be more widespread today. To understand these causes. The author uses

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Lawrance M. Friedman's theory to analyze the effectiveness or success of law enforcement and the constraints on each element found in the field. The three elements of the legal system are:

1. *Legal Substancy*

The substance of the law concerns the rules and norms that apply with binding force and become guidelines for law enforcement officials. Rules or norms as *das sollen* are legal facts expressed by legal experts at the theoretical level (*law in the books*), namely the law in the form of ideals of how it should be. The substance of the law concerns the community's response to these rules and norms, how these rules/norms relate to the legal structure (hierarchy of legislation) and the interests of the lawmaking apparatus for these rules/norms. When viewed from Law Number 22 of 2009 concerning Road Traffic and Transportation as a reference for the formation of Tabanan Regency Regional Regulation Number 16 of 2017 concerning the Implementation of Road Traffic and Transportation. Article 287 paragraph (3) stipulates that:

"Every person driving a Motorized Vehicle on the Road who violates the traffic movement rules as referred to in Article 106 paragraph (4) letter d or the procedure for stopping and Parking as referred to in Article 106 paragraph (4) letter e shall be punished with a maximum imprisonment of 1 (one) month or a maximum fine of Rp250,000.00 (two hundred fifty thousand rupiah)."

The article can then be adapted to the regulations of each region which will be adjusted to the conditions of the region as well as the sanctions of bulldozing, towing, and tire inflation stipulated in the Tabanan District Regional Regulation. However, in reality these sanctions are not implemented in Tabanan Regency and are only replaced with reprimands for vehicle owners who park their vehicles on the shoulder of the road. This is not in accordance with the stipulated provisions. Until finally it cannot provide assertiveness for people who park their vehicles on the shoulder of the road.

2. *Legal structure*

The legal structure is a pattern that shows how the law is carried out according to its formal provisions. The focus of attention is on how law enforcers, law makers and legal processes run and are carried out, whether in accordance with or even deviating from the mechanisms and procedures that have been regulated by formal provisions. If it is focused on the implementation of article 74 paragraph 1 of Tabanan Regency Regional Regulation Number 16 of 2017 concerning

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the Implementation of Traffic and Road Transportation towards the community of road shoulder users for stopping and parking, the institutions related to the implementation are the Tabanan Regency Government as the institution that designs and establishes the regional regulation. Then the Tabanan Resort Police and the Tabanan Regency Transportation Agency to implement the procedures in the implementation of security, especially those contained in the Regional Regulation.

In the implementation of parking, the Tabanan Resort Police and the Tabanan Regency Transportation Agency have interrelated roles and communicate to achieve the same goal, namely improving the safety and comfort of road users. However, after conducting research in the field, it was found that the role of the Tabanan Resort Police and the Tabanan Regency Transportation Agency, especially in controlling parking on the shoulder of the road, did not run effectively in accordance with the provisions of Article 74 paragraph (4) of Tabanan Regency Regional Regulation Number 16 of 2017. According to one of the interviewees, IPDA Olan, the problems faced by the Tabanan Police and the Tabanan Transportation Agency in prosecuting people who violate parking regulations are due to the lack of police officers and members of the Transportation Agency assigned to traffic security which results in SOPs (Standard Operating Procedures) not running optimally. As a result, both institutions become more focused on other traffic problems that are considered more urgent than this problem and only give warnings to people who are caught parking their vehicles on the shoulder of the road which is a no parking area.

In addition to these problems, the lack of parking lots provided by the Tabanan Regency Government to accommodate the large number of vehicles, especially in the Tabanan City Park area, is also a crucial problem that has not been resolved properly until now, while the environmental conditions that have been filled with buildings in the area are the main reason for the provision of parking lots.

2. *Legal Culture*

When focusing on legal culture, the values and attitudes of the government and the community greatly influence the implementation of Regional Regulation Number 16 of 2017 concerning the Implementation of Road Traffic and Transportation. The success of a regulation lies in the behavior of the community towards the regulation. From the results of the research obtained

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by the author, there are still several obstacles that result in a lack of public awareness to obey the regulations of stopping and parking using part of the road. The obstacles found come from the nature and habits of the surrounding community who are quite individualistic and tend not to care about the surrounding environment. The human element is the dominant element to cause traffic violations. Lack of public awareness of traffic law awareness often affects the occurrence of traffic problems.

After identifying the elements that support the success of a law enforcement effort by looking at the obstacles that occur in each of its complementary elements, Article 74 paragraph (1) of Tabanan Regency Regional Regulation Number 16 of 2017 concerning the Implementation of Road Traffic and Transportation on the behavior of Tabanan people who use the road shoulder to stop and park is in fact not implemented due to several obstacles found.

Factors Causing People to Violate Stopping and Parking Rules in Tabanan Regency

After researchers conducted interviews in this study, several factors were found to be the cause of why people tend to violate stopping and parking regulations in Tabanan district, these factors are divided into 2 factors consisting of human factors and environmental factors. In terms of human factors, traffic violations occur because of the instantaneous behavior of modern society and want to always be facilitated, causing a decrease in public concern for the environment and for other individuals. In addition, people feel that nothing will happen if they break just one rule. As a result, this indifference eventually makes people negligent and then get used to breaking the rules that apply. According to Ms. IPDA Olandina De Jeaus, S.H, several factors are indicative of why people tend to violate stopping and parking regulations, especially in Tabanan Regency, including:

There are several factors that cause people to tend to violate vehicle stopping and parking regulations, especially in the Tabanan Regency area. These factors may be caused by several components including the legal structure and legal culture components. When viewed from the legal structure, the lack of traffic security members from both the Tabanan Resort Police Agency and the Tabanan Regency Transportation Agency causes the sanctioning of violations for vehicle owners who stop and park using the road shoulder cannot be implemented. Members on duty also tend to pay more attention to deviant behaviors of vehicle drivers that are considered more urgent, such as drivers who run red lights and drivers who do not use helmets when driving motorized vehicles. Even

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though the sanctions for vehicle drivers who park their vehicles in the parking prohibition area are listed in Article 287 paragraph (3) which stipulates that:

"Every person driving a Motorized Vehicle on the Road who violates the traffic movement rules as referred to in Article 106 paragraph (4) letter d or the procedure for stopping and Parking as referred to in Article 106 paragraph (4) letter e shall be punished with a maximum imprisonment of 1 (one) month or a maximum fine of Rp250,000.00 (two hundred fifty thousand rupiah)."

And also contained in Article 74 paragraph (4) which emphasizes that:

"Every person or Business Entity who violates the parking provisions as referred to in paragraph (1) may be subject to sanctions in the form of padlocking, tire shredding and/or towing."

Both articles legally stipulate sanctions for violators. Whereas regulations are formed in order to create security in the surrounding environment and to avoid harmful things that can occur around the community. Then, in terms of legal culture components in the form of values and attitudes of the people who are the object of a regulation. Some of the attitudes that people have, especially in Tabanan Regency, include:

1. Some people do not know the traffic rules, especially related to Article 74 of Tabanan District Regulation No. 16/2017 which relates to the rules of stopping and parking using the road shoulder.
2. People tend to obey the rules when officers are patrolling only. It is a habit of the community that a driver will not commit a traffic violation if the police officer is regulating the flow of traffic or is guarding the post at several intersection points.
3. "Rules are made to be broken" is a sentence that is often heard, for some reason some people actually apply this sentence. Especially for teenagers who want to feel freedom in themselves.
4. Indifference to existing regulations. Some people know the rules that apply but they remain indifferent to these rules.
5. "Peace on the road" action when ticketed. People tend to take peaceful steps on the road when exposed to raids carried out by the police so that the vehicle's papers are not detained until the trial stage.

Then from the results of the interview with Mr. Khasan Angsori as the Head of the Traffic and Transportation Division at the Tabanan Regency Transportation Agency explained that the factors of traffic violations can also be viewed from the factor of the condition of the surrounding environment,

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because the environment can be said to be a container, especially for the implementation of parking vehicles in areas of dense community activities. When viewed from environmental factors. The limitation of parking lots at crucial points in Tabanan Regency coupled with the increase in the number of vehicles that occur in Tabanan Regency causes parking lots that have been prepared by the government to not be able to accommodate a large number of vehicles.

In general, parking behavior using the shoulder of the road does cause many problems, ranging from congestion due to reduced space on the highway which ultimately reduces the optimality of the highway to traffic accidents. Therefore, people should build a caring attitude towards themselves and others, especially when they are on the road. Because building a caring attitude towards the safety of yourself and others on the road is a simple but very important step to create a safer driving environment. Always remember that road safety is a shared responsibility. Therefore, building awareness and mutual respect are the ethics that need to be instilled when traveling in traffic.

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Conclusion and Recommendations

Based on the results of the research and discussion, the following conclusions can be drawn:

1. Article 74 paragraph (1) of Tabanan Regency Regional Regulation No. 16 of 2017 concerning the implementation of Road Traffic and Transportation is in fact not optimally implemented. This is due to the minimal number of members of the Police and the Transportation Agency in charge of securing traffic so that the application of sanctions to violators is not implemented. The lack of socialization to the public about the laws and regulations governing the implementation of traffic causes people to not know how to properly manage traffic, one of which is when using the road shoulder to stop and park.
2. The factors that cause people to tend to violate the rules of stopping and parking vehicles using the roadside include the lack of assertiveness of law enforcement agencies in imposing sanctions on violations of stopping and parking vehicles, the public is not aware of the existence of government regulations and policies related to the procedures for stopping and parking vehicles on the roadside, then some other people know the rules but they are indifferent to the rules, to the behavior of people who are in a hurry and always want to be facilitated.

The suggestions that the author can convey in relation to the thesis Implementation of Article 74 paragraph (1) of Tabanan Regency Regional Regulation Number 16 of 2017 concerning the Implementation of LLAJ Towards the Community of Road Shoulder Users to Stop and Park include:

1. For the Community, the Community as the object of law implementation is expected to be able to pay more attention to existing regulations wherever we are, applicable rules that must be obeyed not only traffic rules but other rules that have been set by the government. With efforts to increase public self-awareness of existing rules, it is hoped that it will be able to foster a sense of discipline and maintain mutual security and comfort between one individual and another in the surrounding environment, especially when passing traffic so that a safe driving atmosphere can be created and not harm other motorists.
2. For the Community, the community as the object of law implementation is expected to be able to pay more attention to existing regulations wherever we are, applicable rules that must be obeyed not only traffic rules but other rules that have been set by the government. With efforts to increase public self-awareness of existing rules, it is hoped that it will be able to foster a sense of discipline

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and maintain mutual security and comfort between one individual and another in the surrounding environment, especially when passing traffic so that a safe driving atmosphere can be created and not harm other motorists.

3. Law enforcers are expected to strive for the application of sanctions against people who violate parking rules using the shoulder of the road in accordance with applicable regulations. Because in the absence of the application of sanctions for people who violate, this violation will continue and can reduce road mobility which is basically used as a means of moving people from one place to another.

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