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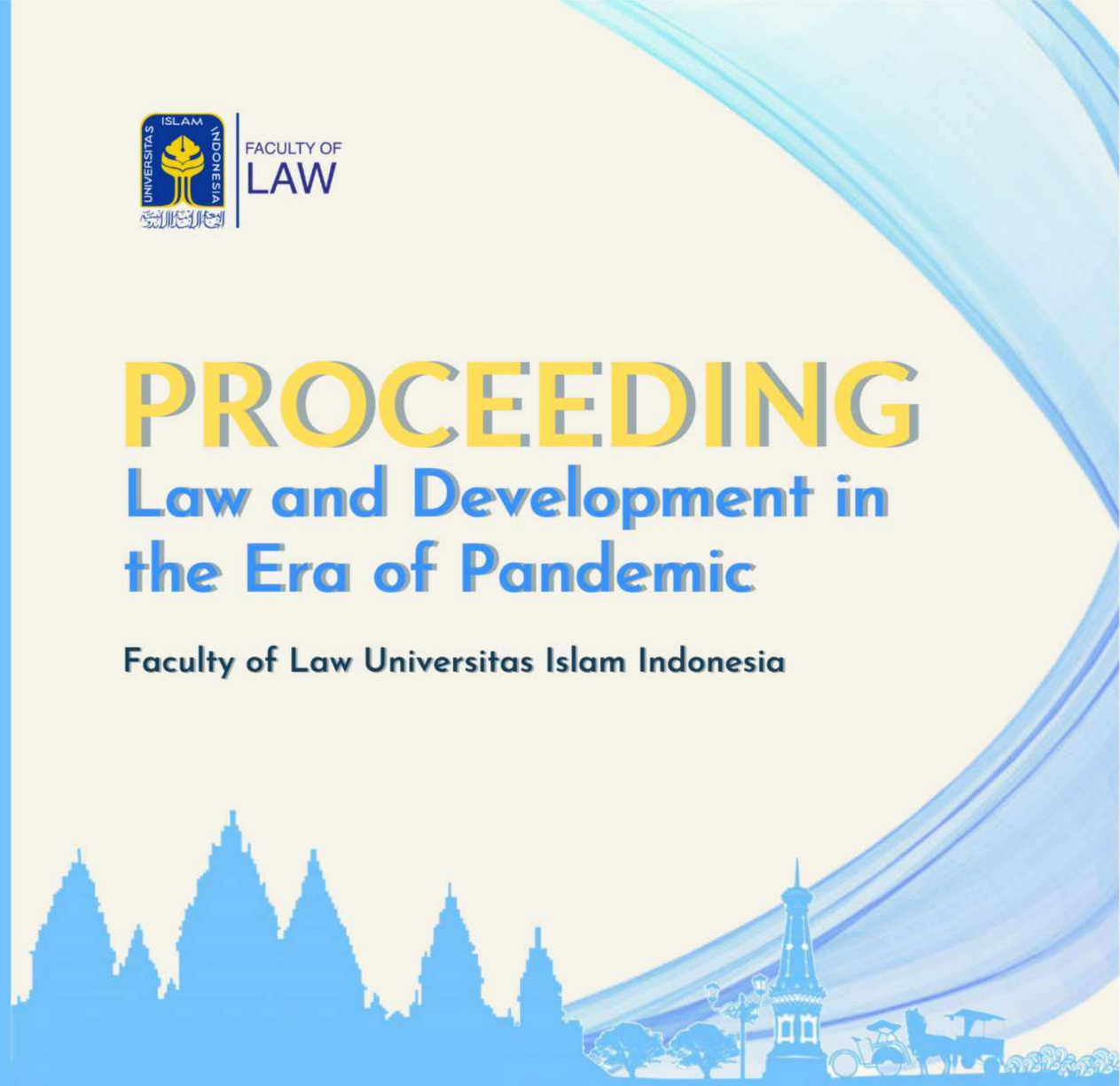
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Foreword

Assalamualaikum, wr., wb.,

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Wassalamualaikum wr. wb.

Editor in Chief,

Dodik Setiawan Nur Heriyanto, S.H., M.H., L.LM., Ph.D.

Criminal Responsibility Towards Public Transportation Companies if Traffic Accidents Based on Law Number 22 Of 2009 Concerning Traffic and Road Transport

David

Student, Doctoral of Law, Borobudur University, Indonesia E-mail: *Corresponding Author. Phone: (+62) 81288150081, E-mail: mail.davidkhan@gmail.com

Abstract

The number of accidents caused by public transportation and no concrete responsibility for the entrepreneur / owner of public transportation, the absence of strict sanctions against the owner or entrepreneur of public transportation in the event of a traffic accident, and there is no legal protection for passengers or family of passengers who are victims of accidents traffic on public transport. In the event that a traffic crime is committed by a Public Transportation Company, in addition to the punishment imposed on the management as referred to in paragraph (1), a maximum fine of 3 (three) times the fines specified in each article in this Chapter shall also be imposed. In addition to fines, public transportation companies can be subject to additional penalties in the form of temporary suspension or revocation of the transportation operation permit for the vehicles used. However, the police cannot immediately revoke the license to operate public transport whose fleets have experienced traffic accidents. In this study, the author uses a type of empirical research, namely research conducted through field studies that examines (especially) primary data which is also complemented by materials in the form of legislation and research results, assessment results and other references. Sanctions against public transportation companies in the event of a traffic accident based on Law Number 22 of 2009 concerning Road Traffic and Transportation

Keywords**:** *Public Transportation Companies, and Traffic Accidents*

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1. INTRODUCTION

The current practice of implementing public transportation in Indonesia still does not meet the minimum service standards as stipulated in Law Number 22 of 2009 concerning Road Traffic and Transportation. In practice, there are still some public transportation and bus companies that are negligent in fulfilling the rights of passengers as consumers of public transport services, for example in terms of comfort and safety in using the available facilities and infrastructure.

The increasing number of private vehicles in Indonesia, especially in the North Jakarta Area, has resulted in more congestion of traffic in certain areas in the North Jakarta Region. Because to prosecute before the law, the incident that occurs must be a crime, while in traffic accidents the crime that occurs is an accidental crime or is due to an act of negligence or negligence.

The high rate of traffic accidents is due to the lack of public awareness in this case motorized vehicle drivers with various factors inherent in them, for example in terms of physical fitness, mental readiness when drivers are tired, the influence of alcohol, and illegal drugs. The condition of unpreparedness of the driver opens up a great opportunity for a serious accident besides endangering the safety of other road users. Carelessness, sleepiness, lack of skill, fatigue, not maintaining distance, driving too fast are examples of common driver mistakes.

Apart from some of the causes of traffic accidents described above, the occurrence of traffic accidents on the road is also influenced by the age of the drivers. Data analysis conducted by the directorate general of land transportation shows that drivers aged 16-30 years are the biggest cause of traffic accidents.[1]

However, in general, drivers of public transportation, such as public transport buses, only have the status of tenants or workers who are in financial condition unable to pay compensation. So, it is not uncommon for the fulfillment of his responsibility to pay compensation not commensurate with the losses that have been caused.

As was the case before. Examples of cases that were widely reported by the mass, print and electronic media. This case is a series of accidents experienced by the Karunia Bhakti bus heading for Garut-Jakarta in the Cisarua area, Puncak, Bogor, West Java. A deadly accident occurred on Friday, February 10, 2012. At that time, Lukman, the bus driver of Karunia Bhakti, drove his vehicle from Cianjur to Jakarta.[2] Because the brakes failed, Lukman was unable to control the vehicle. The bus crashed into several cars in front of it and a bus, Mother's Prayer, was coming from the opposite direction before entering the grounds of a villa some five meters deep.

[1] Indria, E., Tosepu, R. and Saptaputra, S.K., 'Faktor Penyebab Kecelakaan Lalu Lintas Di Kota Kendari Tahun 2019' (2019) Jurnal Kesehatan Masyarakat Celebes 1 18-23

[2] Yunan Helmy, 'Puluhan Orang Meninggal, Kecelakaan Darat Ini Tercatat Paling Tragis, Terbanyak di Kabupaten Malang' (Jatim Times, February 2018) https://jatimtimes.com/baca/166424/20180204/131759 puluhan-orang-meninggal-kecelakaan-darat-ini-tercatat-paling-tragis-terbanyak-di-kabupaten-malang accessed 16 November 2020.

2. PROBLEM FORMULATIONS

Based on the description above, the main problem in this paper is the application of criminal sanctions against public transportation companies in the event of a traffic accident based on Law Number 22 of 2009 concerning Road Traffic and Transportation.

3. ANALYSIS

One of the causes of the high level of traffic accidents itself is the lack of public awareness when driving, for example not paying attention to and obeying existing traffic regulations, not having mental readiness while driving or driving in a state of fatigue, being under the influence of alcohol, or illegal drugs. The condition of the driver's unpreparedness when driving allows accidents that can endanger the safety of other road users. Carelessness, sleepiness, lack of skill, not keeping your distance, going too fast are examples of common driver mistakes. In addition to the causes of traffic accidents above, it can also be caused by improperness of the vehicle, such as failed brakes and so on.

Talking about corporate criminal responsibility, it cannot be separated from criminal acts. Even though the definition of a criminal act does not include accountability, a criminal act only shows the prohibition of an act. The view above is in line with the opinion expressed by Moelyatno, which clearly distinguishes "can be convicted of an act" and "can convict people" and in line with in that he separated the meaning of "criminal act" and "criminal responsibility" (criminal responsibility or criminal liability).3

Since these are separated, the definition of a criminal act does not include criminal liability. This view is called the dualistic view of criminal acts. This view is a deviation from the monistic view put forward by Simons, who formulated human actions (positive or negative; do or not do or allow; threatened with punishment; against the law; done by mistake; by people who can afford responsible.

In the development of criminal law, the position of a corporation as a criminal act that can be accounted for consists of several forms, namely:[4]

1. Corporate management as a maker and administrator who is criminally responsible;
2. The corporation as a criminal act maker and the corporate manager is criminally responsible;
3. The corporation as a criminal act maker and also as the criminal responsibility;
4. It is the management of the corporation as the criminal act maker and the corporate manager who is criminally responsible.

Article 169 of the Criminal Code regulates the participation of a person in committing a crime. Meanwhile, Article 398 of the Criminal Code and Article 399 of the Criminal Code which regulates crimes related to bankruptcy are borne by the management or management of a corporation or commissioner of a limited liability company, Indonesian partner airlines or Indonesian corporations. The basis for consideration of corporate punishment according to the Criminal Law Assessment Team of the National Legal Studies Agency, in the report on the

[3] Herman, 'Application of Liability Principle in the National Criminal Law' (2017) 66 JL Pol'y & Globalization 15
[4] Sutan Remy Sjahdeini, *Corporate Criminal Liability*, (2006). 34

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results of the 1980/1981 Legal Studies, is that if the management is convicted it is not enough to carry out repressive actions against crimes committed by or with a corporation because the offense is sufficient the amount or loss caused to society or its rivals is very significant.

As was the case before. Examples of cases that were widely reported by the mass, print and electronic media. This case is a series of accidents experienced by the Karunia Bhakti bus heading for Garut-Jakarta in the Cisarua area, Puncak, Bogor, West Java. A deadly accident occurred on Friday, February 10, 2012. At that time, Lukman, the bus driver of Karunia Bhakti, drove his vehicle from Cianjur to Jakarta. Because the brakes failed, Lukman was unable to control the vehicle. The bus crashed into several cars in front of it and a bus, Mother's Prayer, was coming from the opposite direction before entering the grounds of a villa some five meters deep.

Before the accident, the driver and the conductor actually knew that there was a problem with the brakes, but instead of stopping to be repaired first, the bus continued to run until a deadly accident occurred which resulted in 14 lives. As for the PO itself, the police cannot immediately revoke the route permit, but the police only have the authority to revoke the driver's license. The authority to revoke the company's operational license lies with the Ministry of Transportation. The Karunia Bakti bus heading for Garut-Jakarta via Cianjur-Bogor did not operate after an accident in Cisarua, Bogor, West Java which left 14 people dead. The Karunia Bakti bus, which has a characteristic green color, is parked in a row.

4. CONCLUSION

In the event that a traffic crime is committed by a Public Transportation Company, in addition to the punishment imposed on the management as referred to in paragraph (1), a maximum fine of 3 (three) times the fines specified in each article in this Chapter shall also be imposed. In addition to fines, public transportation companies can be subject to additional penalties in the form of temporary suspension or revocation of the transportation operation permit for the vehicles used. However, the police cannot immediately revoke the license to operate public transport whose fleets have experienced traffic accidents. Because the authority to revoke the company's operational permit lies with the Ministry of Transportation.

The author argues that bus accidents that often occur in Indonesia prove that criminal liability is directed more to the driver, not to the bus owner. This proves that there are still gaps left by the police in implementing sanctions for bus accidents. It is necessary as soon as possible the Government together with the House of Representatives to draft laws and regulations governing criminal liability to bus owners or operators.

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