



Promoting Responsible Vehicle Ownership to Prevent Underage Driving and Motorcycling: A Legal Solution for Indonesia

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Abstract

This study aims to address and ultimately find the solution to the phenomenon of underage driving and motorcycling in Indonesia. The continued rise of vehicle ownership has also increased the risks of traffic accidents, which are then exacerbated by the phenomenon of underage driving and motorcycling. Ultimately, this has raised the urgency to thoroughly analyze the causes behind this phenomenon and explore other legal angles to curb this problem and increase the safety of all road users. Through the normative legal research method with statutory approach, this study finds that there are normative inadequacies within the relevant legal framework to tackle the issue of underage driving and motorcycling. This study also proposes a strategy to help tackle this problem by focusing on holding vehicle owners more accountable with a structured penalty system directly to the owners of the vehicles, as they are enabling this dangerous behavior.

Keywords: underage driving, underage motorcycling, road safety

I. Introduction

The use of vehicles on the road is a significant part of public interest, as it directly impacts the mobility and safety of many people.¹ Indonesia as a country with rapidly growing economy, is more than likely to continue to see rising number of vehicles on the roads, consequently making road safety one of the biggest concerns.² Regulations regarding safety on the road is important in making sure that issues regarding road safety are properly addressed.³ One of the most important rules to guard the safety of road users that people have to follow is the minimum age of driving and motorcycling. This measure is made to ensure that drivers and motorcyclists have the necessary maturity and skills to navigate the roads safely. The law in Indonesia, like in many

¹ Daniel Albalade and Paula Bel-Piñana, "The Effects of Public Private Partnerships on Road Safety Outcomes," *Accident Analysis & Prevention* 128 (2019): 53–64, <https://doi.org/https://doi.org/10.1016/j.aap.2019.03.015>.

² Annisa Jusuf, Ignatius Pulung Nurprasetyo, and Arya Prihutama, "Macro Data Analysis of Traffic Accidents in Indonesia," *Journal of Engineering and Technological Sciences* 49, no. 1 (2017): 133–44, <https://doi.org/10.5614/j.eng.technol.sci.2017.49.1.8>.

³ K Goniewicz et al., "Road Accident Rates: Strategies and Programmes for Improving Road Traffic Safety," *European Journal of Trauma and Emergency Surgery* 42, no. 4 (2016): 433–38, <https://doi.org/10.1007/s00068-015-0544-6>.

countries, stipulates specific age requirements for different types of vehicles, aligning with the general principle that only individuals who have reached a certain level of cognitive and physical development are permitted to operate vehicles.

Despite the existence of these critical regulations, the prevalence of underage driving and motorcycling remains a significant challenge in Indonesia, which has led to many unfortunate and gruesome accidents.⁴ This issue is particularly acute in many areas where the enforcement of minimum age requirements for vehicle operation is less stringent. The allure of early independence and mobility often tempts younger individuals to drive or ride motorcycles before legally permitted, leading to a substantial number of underage drivers on the roads.⁵ This situation is exacerbated by different factors, including limited access to public transportation in some areas, the socio-economic need for mobility, and most importantly, a lack of awareness regarding the risks involved in underage driving and motorcycling.⁶ Furthermore, the prevalence of underage driving and motorcycling has been normalized in some areas, further diminishing the reliance on public transportation. This dangerous legal culture can still be prevalent, even when public transport options are available, which eventually maintains the cycle of underage driving and motorcycling, and undermines efforts to promote safer, legal alternatives for mobility.

Parents and guardians, who hold ownership or control over vehicles, often play a pivotal role as enablers of underage driving and motorcycling in general.⁷ Their lenient attitudes and sometimes inadvertent encouragement of such behavior can significantly exacerbate this issue. Worse, some schools are also allowing underage drivers and motorcyclists to use vehicles to travel to and from school, further exacerbating the problem. By allowing or even facilitating access to vehicles for their underage children, these adults not only put the young drivers at risk but also jeopardize the safety of other road users. This leniency stems from various factors, including a desire to provide children with mobility, a lack of awareness of the potential consequences, or even social pressure within communities where underage driving is common. Such practices undermine the legal and safety frameworks established to protect all road users. Addressing this problem remains a challenge not only in the socio-cultural sense, but also in the legal sense as the current situation creates a serious question regarding the adequacy of the existing legal frameworks in tackling this problem.

Analysis of the existing legal framework doesn't only consist of normative scrutiny, but also the enforcement strategies, that are also important in tackling the problem of underage driving. This is crucial because current measures seem inadequate in curbing the prevalence of underage driving and motorcycling, which not only poses a direct threat to the safety of young drivers but also endangers the broader public. Effective intervention requires not just stringent laws but also their consistent enforcement, ensuring that legal age requirements for driving and motorcycling are respected and adhered to. By re-examining and strengthening its legal and enforcement mechanisms, Indonesia can create a safer road environment and a more responsible driving culture, ultimately protecting its citizens and setting a precedent for road safety management.

Within the growing body of literature regarding traffic and road safety, there's been an indication that younger drivers are more likely to be a part of accident, regardless of having a

⁴ Tri Tjahjono et al., "Identification Determinant Variables of the Injury Severity Crashes at Road-Railway Level Crossing in Indonesia," *Transportation Research Procedia* 37 (2019): 211-18, <https://doi.org/https://doi.org/10.1016/j.trpro.2018.12.185>.

⁵ Yuyun Umniyatun et al., "Motorcycle Risky Behaviours and Road Accidents among Adolescents in Jakarta Metropolitan Area, Indonesia," *International Journal of Injury Control and Safety Promotion* 28, no. 3 (2021): 339-46, <https://doi.org/10.1080/17457300.2021.1928229>.

⁶ Meiga Anggraeni, "Fenomena Pengendara Sepeda Motor Anak Di Bawah Umur Dan Upaya Penanggulangannya Di SMPN 2 Sanden Kabupaten Bantul," *Jurnal Pendidikan Sosiologi* 8, no. 5 (2019): 2-16.

⁷ Minh Hieu Nguyen, Dorina Pojani, and Duy Quy Nguyen-Phuoc, "What Leads Underage Teenagers to Ride Motorcycles without a Permit? Utility vs Parental Permissiveness," *Journal of Transport & Health* 29 (2023): 101569, <https://doi.org/https://doi.org/10.1016/j.jth.2023.101569>.

license or not, as indicated by an empirical study conducted by Romer et al. (2014).⁸ Figures showed that motor vehicle crashes are the leading source of mortality and morbidity in adolescents in the United States and most developed countries, and along with older drivers (ages 75 years+). However, the data in this research is comprised of a multitude of underlying factors, such as alcohol-induced impairment and drowsiness, among many others. A connection between other factors and youth is established in another study done by Hingson and White (2014), which underscores interesting link between night driving and underage drinking with underage driving.⁹ The study also argued that additional legal provisions could help prevent future accidents caused by drunk driving and underage driving.

Furthermore, a study carried out by Shaaban and Hassan (2017) indicated that underage driving is also associated with traffic violation which could endanger the underage drivers themselves, such as not wearing seatbelt.¹⁰ Qualitative data of this study also revealed that many of the underage drivers have been driving for more than two years, which indicates serious issue in legal culture as it displays the lack of law enforcement to tackle this issue. In Indonesia, the issue of underage utilization of vehicles is mainly dominated by underage motorcycling, as explained by a study conducted by Lutfi (2020).¹¹ The study particularly focused on the social aspects that lead to the prevalence of underage motorcycling, such as social conformity and parenting style, but didn't address the legal issues regarding this problem.

Based on the literature analysis above, the role of parents, guardians, and other relevant adults in underage driving and motorcycling remains a grey area that hasn't yet been properly analyzed within the legal context. This research aims to address this particular gap by mapping the legal framework that govern this issue, and propose a model of normative construction to hold adults responsible for their enabling behavior regarding this dangerous trend. The study provides a legal perspective on addressing underage driving by focusing on the role of adults who allow minors to operate vehicles. By exploring the gaps in current regulations and proposing accountability for vehicle owners, it offers a unique implication as it provides a pathway toward stronger enforcement and safer roads in Indonesia. To sharpen the analysis, this research utilizes the classical deterrence theory, to further strengthen the importance of punitive approach as way of promoting a more responsible vehicle ownership to tackle underage driving and motorcycling.

II. Research Problems

The research addresses three critical problems regarding underage driving and motorcycling in Indonesia. First, the urgency of enforcing the minimum age for driving and motorcycling is paramount, as the lack of strict enforcement endangers both public safety and the safety of underage individuals. Second, normative issues within the current regulations hinder effective prevention and resolution of underage driving incidents, as they fail to comprehensively address accountability and enforcement mechanisms. Lastly, the study explores sanctions for vehicle owners as a potential solution, considering that holding owners accountable for providing access to vehicles for underage individuals could serve as a deterrent and promote responsible vehicle ownership. These interconnected issues highlight the need for a stronger legal framework to reduce the prevalence of underage driving and enhance road safety.

⁸ Daniel Romer et al., "Adolescence, Attention Allocation, and Driving Safety," *Journal of Adolescent Health* 54, no. 5, Supplement (2014): S6-15, <https://doi.org/https://doi.org/10.1016/j.jadohealth.2013.10.202>.

⁹ Ralph Hingson and Aaron White, "New Research Findings since the 2007 Surgeon General's Call to Action to Prevent and Reduce Underage Drinking: A Review," *Journal of Studies on Alcohol and Drugs* 75, no. 1 (2014): 158-69, <https://doi.org/10.15288/jsad.2014.75.158>.

¹⁰ Khaled Shaaban and Hany M. Hassan, "Underage Driving and Seat-Belt Use of High School Teenagers in Qatar," *Journal of Transportation Safety and Security* 9 (2017): 115-29, <https://doi.org/10.1080/19439962.2016.1212445>.

¹¹ Azri Zulfikar Lutfi, "The Phenomenon of Underage Motorbike Riders in Junior High School Students: A Critical Review of Juvenile Delinquency," *Journal of Indonesian Social Sciences and Humanities* 10, no. 2 (2020): 121-34, <https://doi.org/10.14203/jissh.v10i2.181>.

III. Research Methods

This research utilizes the legal normative method, by mapping and dissecting the norms within the existing positive laws.¹² Normative legal research, in its purest form, typically involves the identification and analysis of substance that is embedded within relevant legal norms from primary legal sources.¹³ Data used in this research are secondary data in the form of primary Indonesian legal sources, namely Law No. 22 of 2009 on Road Traffic and Transportation and Law No. 11 of 2012 on Juvenile Justice System. These two primary legal instruments are particularly pertinent to the research as they provide the foundational legal frameworks in their respective areas. Law No. 22 of 2009 establishes the regulatory provisions governing road traffic and transportation in Indonesia, covering a broad range of issues from vehicle safety standards to the legal responsibilities of road users. On the other hand, Law No. 11 of 2012 on the Juvenile Justice System serves as the core legislation governing legal proceedings and protections specific to minors involved in criminal activities, ensuring compliance with both national law and international standards on children's rights. These data are analyzed using descriptive qualitative technique of data analysis, to provide a robust normative analysis on the existing norms and structures around traffic violations, along with underage driving and motorcycling in Indonesia.

IV. Result And Discussion

1. Urgency of Enforcing Minimum Age of Driving and Motorcycling

Motorcycles have become an integral part of the lives of many Indonesians. This is mainly because of the potential of increased mobility offered by motorcycle, combined with its relatively lower price compared to four-wheelers. Indonesians are utilizing motorcycles for various daily needs, including transportation, and work-related mobility needs. However, the number of vehicles continues to increase each year, due to its relationship with GRDP, where the number of vehicles affect GRDP and vice versa.¹⁴ While the relationship between the rising number of vehicles on the road with traffic safety is not often clear, it has been found that at least empirically, the rising number of vehicles can significantly increase the number of traffic accidents along with casualties, despite the effort to improve traffic safety overall.¹⁵ Therefore, there must be concrete efforts to ensure that traffic safety remains the top priority among people who use many types of vehicles for transportation and for other purposes.

Worryingly, a lot of Indonesians often overlook traffic safety, with varying perceptions of safety, including the negative ones where some understand the need to take safety precautions but nonetheless choose not to do it because they can't really be bothered.¹⁶ However, it's important to note that this worrying behavior isn't the result of the lack of understanding of safety. Empirical evidence has shown that perceptions of traffic safety among many people has included many aspects of safety precautions, as opposed to only relying on internal factors such as focus and carefulness.¹⁷ Traffic violations have become a common thing for the community. The high number of cases of traffic violations can be seen in data provided by Indonesian Police Force (Polri), showing the number of traffic violations from January to September of 2022

¹² Hari Sutra Disemadi, "Lenses of Legal Research: A Descriptive Essay on Legal Research Methodologies," *Journal of Judicial Review* 24, no. 2 (2022): 289-304, <https://doi.org/10.37253/jjr.v24i2.7280>.

¹³ David Tan, "Metode Penelitian Hukum: Mengupas Dan Mengulas Metodologi Dalam Menyelenggarakan Penelitian Hukum," *NUSANTARA: Jurnal Ilmu Pengetahuan Sosial* 8, no. 5 (2021): 2463-78, <https://core.ac.uk/download/pdf/490668614.pdf>.

¹⁴ Priyambodo Priyambodo, "Analisis Korelasi Jumlah Kendaraan Dan Pengaruhnya Terhadap PDRB Di Provinsi Jawa Timur," *Warta Penelitian Perhubungan* 30, no. 1 (2018): 59-65, <https://doi.org/10.25104/warlit.v30i1.634>.

¹⁵ Milanko Damjanović et al., "Impact of Number of Vehicles on Traffic Safety: Multiphase Modeling," *Facta Universitatis, Series: Mechanical Engineering* 20, no. 1 (2022): 177-97, <https://doi.org/10.22190/FUME220215012D>.

¹⁶ Ing Kurnia Salihat and L. Meily Kurniawidjaja, "Persepsi Risiko Berkendara Dan Perilaku Penggunaan Sabuk Keselamatan Di Kampus Universitas Indonesia, Depok," *Kesmas: National Public Health Journal* 4, no. 6 (2010): 275-80, <https://doi.org/10.21109/kesmas.v4i6.167>.

¹⁷ Renni Anggraini, Alvisyahri Alvisyahri, and Sugiarto Sugiarto, "Persepsi Keselamatan Berkendara Pengguna Sepeda Motor Di Kota Banda Aceh Terhadap Pelanggaran Lalu Lintas Dan Kelengkapan Atribut," *Jurnal Teknik Sipil* 28, no. 3 (2022): 329-36, <https://doi.org/10.5614/jts.2021.28.3.10>.

reaching up to 2.711.260 cases.¹⁸ As the number of vehicles continue to rise, this number is expected to also continue to rise, as highlighted previously. Even more concerning, traffic accident is the third leading cause of death in Indonesia, making this a serious threat to the lives of many people.¹⁹

Data shows that motorcycle riders are the biggest part of the high number of traffic violation in Indonesia.²⁰ This is mainly due to the fact that motorcycle is the most dominant transportation vehicle in Indonesia, with over 85% of its total number of vehicles on the road; a higher percentage than some of the biggest markets in the world, namely China and India.²¹ Indonesia is also world's third largest market for motorcycles, and the biggest one among ASEAN members, and is expected to grow even bigger as its economy continues to develop.²² However, this doesn't mean that four-wheelers in Indonesia aren't behind a lot of traffic violations. A police operation in to monitor traffic violations in 2023 even recorded almost 2,000 instances committed by four-wheel vehicles within the first day of operation alone, with the most common violation being the failure to use safety belts.²³ This number is also expected to continue to increase as the number of four-wheelers in Indonesia continues to grow in parallel with the country's economic development.

There are many factors that can affect the number of traffic violation in Indonesia. Traffic violations triggered by human factors are the highest when compared to other factors. Some of the reasons underlying violations by human factors include the desire to save time and money, absence of mind, rushing, wanting to arrive quickly at the destination, and the tendency to forget or not pay attention. Examples of violations committed due to human factors include: violation of the number of passengers, not wearing a helmet, inability to show STNK and/or SIM, and red light running.²⁴ Another violation that is also common is underage driving, which can also be put into the inability to show SIM. These behaviors indicate a prevalent underestimation of the risks associated with such violations, emphasizing a gap between understanding traffic laws and the actual practices on the road.

Underage persons aren't allowed to drive a vehicle because they are not yet fit to do so, and also doesn't meet the minimum age of acquiring a driver's license. There are many factors that influence traffic accidents, one of the more dominant factors is human error, because the level of awareness and compliance of motorists with traffic regulations is still very low. Emotional stability is also one of the factors that can endanger both underage driver or motorcyclists, and the people they share the road with.²⁵ At a certain age, especially among teenagers, a person's emotional level is very vulnerable to acting rashly on the road, as it's been found that they often ignore safety under the impression that their skills in driving is enough to keep them and other road users safe.²⁶ One of the most important things to note about this problem is that underage utilization of vehicles is associated with other traffic violations, such as breaking speed limit, not

¹⁸ Pusiknas Polri, "Pelanggar Lalu Lintas Tak Lagi Ditindak Secara Manual | Pusiknas Bareskrim Polri," Pusat Informasi Kriminal Nasional (Pusiknas) Kepolisian Republik Indonesia, October 2022.

¹⁹ Adenantha Dewa, "Managing Motorcycle Safety and Youth Riders in Rapidly Growing Indonesian Communities," *Economic and Business Horizon* 2, no. 2 (August 2023): 1-11.

²⁰ Erlina F. Santika, "Polri: Pengendara Sepeda Motor Paling Banyak Langgar Lalu Lintas," *databoks*, August 2023.

²¹ Sahil Kukreja, "India on Sixth in List of Countries with Highest Two-Wheeler Usage: Check Full List - Times of India," *The Times of India*, September 2023.

²² Hailey, "Indonesia Motorcycle Market - The Driving Factors And Development Trend," TYCORUN battery swap cabinet, December 2023.

²³ Nabilah Muhamad, "Hari Pertama Operasi Patuh 2023 Saring 15 Ribu Pelanggar, Ini 3 Pelanggaran Terbanyak," *databoks*, July 2023.

²⁴ Indra Dwi Pangestu, Herry Tarmidjie Noor, and Gunawan Gunawan, "Faktor Utama Penyebab Pelanggaran Lalu Lintas Oleh Pengendara Sepeda Motor," *JUSTITIA Jurnal Ilmu Hukum Dan Humaniora* 6, no. 2 (August 2023): 648-58, <https://doi.org/10.31604/justitia.v6i2.648-658>.

²⁵ Anggraeni, "Fenomena Pengendara Sepeda Motor Anak Di Bawah Umur Dan Upaya Penanggulangannya Di SMPN 2 Sanden Kabupaten Bantul."

²⁶ Ida Musofiana and Rizki Adi Pinandito, "INCREASING CHILDREN'S CONSCIOUSNESS IN MOTORCYCLING OF MOTORCYCLE ON RAILWAY (Study in Demak Regency)," *Jurnal Pembaharuan Hukum* 4, no. 3 (2017): 353-58, <https://doi.org/10.26532/jph.v4i3.2331>.

wearing proper safety requirement like helmet, and even consuming alcohol before driving or riding.²⁷

However, there is a noteworthy case of Denmark, a developed country that has tried lowering the age of licensing from 18 to 17. While a study noted a drop in crashes involving underage unlicensed drivers in the year that the Danish government decided to lower the licensing age (from 35 to 15 crashes), the number rose again in the following year and the year after that (25 and 35 crashes respectively).²⁸ This aligns with Legal Realism, which suggests that laws do not operate in isolation but are shaped by social behaviors, enforcement practices, and real-world conditions. In Denmark's case, the initial drop in unlicensed crashes may have reflected short-term compliance, but the rebound suggests that deep-rooted risk-taking behaviors and weak enforcement mechanisms undermined the long-term effectiveness of the legal change.

Among minors, there are several factors that influence the rampant use of motorcycles. These factors are categorized into two, namely internal factors and external factors. Internal factors include personal needs, the lower cost of motorcycles compared to cars, increased efficiency, and the endorsement from parents or family members who allow their children to use motorcycles. Then, external factors that cause the rise of underage motorcyclists are peer influence, living environment, and lifestyle.²⁹ Continued rise of the total population and the number of younger demographics in Indonesia will only exacerbate this concerning trend of underage driving and motorcycling. Furthermore, it's been found that underage motorcyclists are more easily influenced by negative behaviors done by adult drivers and motorcyclists, particularly in violations related to safety precautions, such as the failure to wear helmet and the intent to avoid law enforcement officers while not wearing helmet.³⁰

Ultimately, the main reasons behind underage driving and motorcycling is the existence of opportunities, hobbies, desires and the rising trend of this concerning behavior among peers.³¹ Parenting also plays a crucial role in allowing this concerning trend to happen, particularly the flawed understanding of democratic parenting, where parents allow their underage children to drive or ride a motorcycle in respect of their children's freedom.³² It's also not uncommon that parents enable this behavior by first introducing and teaching adolescents to learn to use vehicles despite being underage.³³ Therefore, the role of parents must be adequately addressed within the legal sphere, particularly within the context of law enforcement for the safety of all road users. Stricter monitoring from parents, specifically, has been found to be able to curb the number of underage motorcycling.³⁴ This potential needs to be utilized by the legal system to ensure that parents or guardians play an active role in tackling this problem, while also enhancing road safety for everyone.

²⁷ Arunwan Tongklao, Somchit Jaruratanasirikul, and Hucha Sriplung, "Risky Behaviors and Helmet Use among Young Adolescent Motorcyclists in Southern Thailand," *Traffic Injury Prevention* 17, no. 1 (January 2016): 80–85, <https://doi.org/10.1080/15389588.2015.1045062>.

²⁸ M Møller and K H Janstrup, "Crash Involvement among Unlicensed 17 Year Old Drivers before and after Licensing at 17 Was Allowed," *Accident Analysis & Prevention* 156 (2021): 1–18, <https://doi.org/https://doi.org/10.1016/j.aap.2021.106109>.

²⁹ Dewi Asri Nurlia, Siti Komariah, and Bagja Waluya, "Faktor-Faktor Penyebab Maraknya Pengendara Motor Di Bawah Umur Di Desa Rancamanyar Kecamatan Baleendah Kabupaten Bandung," *SOSIETAS* 7, no. 2 (2018): 381–85, <https://doi.org/10.17509/sosietas.v7i2.10354>.

³⁰ Lutfi, "The Phenomenon of Underage Motorbike Riders in Junior High School Students: A Critical Review of Juvenile Delinquency."

³¹ Sherli Aulia Marwantika and Asna Istya Marwantika, "Peran Pengawasan Orang Tua Terhadap Pengendara Motor Di Bawah Umur," *ASANKA: Journal of Social Science And Education* 1, no. 2 (September 2020): 76–91, <https://doi.org/10.21154/asanka.v1i2.2200>.

³² Lutfi, "The Phenomenon of Underage Motorbike Riders in Junior High School Students: A Critical Review of Juvenile Delinquency."

³³ Zohreh Ferdosian, Mohammad Ali Morowatisharifabad, and Hassan Rezaeipandari, "Unlicensed Motorcycling of High School Adolescents in Dehaghan County (Isfahan Province of Iran)," *Accident Analysis & Prevention* 75 (2015): 211–16, <https://doi.org/https://doi.org/10.1016/j.aap.2014.12.002>.

³⁴ Tsu-Hung Yeh and Hsin-Li Chang, "Age and Contributing Factors to Unlicensed Teen Motorcycling," *Safety Science* 47, no. 1 (2009): 125–30, <https://doi.org/https://doi.org/10.1016/j.ssci.2008.02.002>.

Classical deterrence theory posits that individuals are less likely to engage in illegal activities if the consequences of being caught are certain, severe, and swift.³⁵ The rampant nature of this problem in Indonesia suggests that there's a lack of deterrence from the legal perspective, further questioning the adequacy of the legal system in tackling this problem. A key point of this perspective is the role of parents and guardians, that hasn't been properly addressed. From this perspective, parents and guardians as vehicle owners do not weigh the risk of breaking the law and facing consequences for it, for the sake of avoiding their responsibilities of teaching adolescents that they shouldn't break the law by driving or motorcycling before meeting the legal age, which significantly puts their own lives in danger and risks harming the safety of other road users. Furthermore, unlike restorative justice, punitive approach tends to focus more on the legal procedures. While there's an argument that this can lead to the legal system overriding the basic principles of justice,³⁶ the application of punitive approach here does not impose the same risk as it focuses on future prevention through deterrence, taken into consideration after analyzing the flaws within the current legal framework, which has not been historically known to deliver harsh punishments considering the prevalence of this issue in Indonesia.

Therefore, the government must improve the enforcement of the relevant laws by analyzing the root cause of the problem. A huge factor in this, as highlighted previously, is the role of parents or other adults who have ownership over the vehicles. Government must ensure that these adults don't give up the control of their vehicles and caution them against giving permission to underage persons to drive or ride their motorcycles, particularly on public roads, where the safety of everyone is at risk, including the underage persons driving or motorcycling themselves. Other than the enforcement of relevant laws and regulations, the government also must look at those existing laws and regulations to identify possible normative issues that have made the issue of underage driving and motorcycling a serious and ongoing trend in Indonesia.

2. Normative Issues within Current Regulation

Indonesia governs the utilization of cars and motorcycles under the term 'motor vehicle', which is defined by Article 1 number 8 of Law No. 22 of 2009 on Road Traffic and Transportation (Road Traffic and Transportation Law) as any Vehicle that is driven by mechanical equipment in the form of an engine other than Vehicles running on rails. Additionally, driver is defined by Article 1 number 23 as a person who drives a Motor Vehicle on the Road who has a Driver's License. Based on these provisions alone, underage persons can't be considered as 'driver' as it's not possible for them to acquire a driving license (SIM). The prohibition of driving and motorcycling without a driving license is governed by Article 77 paragraph (1) which states that every person who drives a Motor Vehicle on the Road must have a Driver's License in accordance with the type of Motor Vehicle driven. Furthermore, the age requirement to acquire a driver's license (SIM) is governed by Article 81 paragraph (2), which governs that the age requirement as referred to in paragraph (1) is determined at the lowest as follows: a. age 17 (seventeen) years for Driver's License A, Driver's License C, and Driver's License D; b. age 20 (twenty) years for Driver's License B I; and age 21 (twenty-one) years for Driver's License B II.

The issue of underage utilization of vehicles is mostly dominated by motorcyclists, which according to a data from Pusiknas Polri, accounts for more than half of traffic violations from January to May of 2023.³⁷ Furthermore, underage drivers and motorcyclists are also breaking the provision in Article 106 paragraph (5) letter b which governs that at the time of inspection of Motor Vehicles on the Road, every person who drives a Motor Vehicle must show: Driving License. Additionally, any other forms of traffic violations committed by underage drivers or motorcyclists can't be tracked, because it's not recorded in a driving license's records. Article 89

³⁵ Juste Abramovaite et al., "Classical Deterrence Theory Revisited: An Empirical Analysis of Police Force Areas in England and Wales," *European Journal of Criminology* 20, no. 5 (January 2022): 1663–80, <https://doi.org/10.1177/14773708211072415>.

³⁶ Anak Agung Ngurah Adhi Wibisana et al., "Legal Reform On The Concept Of Restorative Justice In The Criminal Justice System," *Jurnal Pembaharuan Hukum* 11, no. 2 (May 2024): 264–81, <https://doi.org/10.26532/jph.v11i2.32082>.

³⁷ Santika, "Polri: Pengendara Sepeda Motor Paling Banyak Langgar Lalu Lintas."

paragraph (1) governs that The National Police of the Republic of Indonesia has the authority to give a mark or data of violation to the Driver's License belonging to a Driver who commits a traffic crime offense. Additionally, this provision is followed by the authority to suspend the authority to temporarily suspend or temporarily revoke a driver's license before it is decided by the court, as governed by paragraph (2) of the same article.

The main provision against underage driving and motorcycling is governed by Article 281 which states that every person who drives a Motor Vehicle on the Road without a Driver's License as referred to in Article 77 paragraph (1) shall be punished with a maximum imprisonment of 4 (four) months or a maximum fine of Rp1,000,000.00 (one million rupiah). Similar provision also exists in Article 288 paragraph (2), with lighter sanctions and only applies for the failure of showing driver's license. However, according to Article 7 paragraph (2) letter a of Law No. 11 of 2012 on Juvenile Justice System (Juvenile Justice System Law), diversion can be applied for a crime with a maximum imprisonment of less than 7 (seven) years. This can be a legal loophole that enables the concerning trend of underage driving and motorcycling. Additionally, Article 7 paragraph (2) letter b of the Juvenile Justice System Law also adds that the crime must not be a repeat offense. Going back to the lack of record regarding this due to the fact that underage persons don't have a driving license, the police force has no way of proving that the same underage person has been caught driving or motorcycling previously. This makes diversion the obvious choice to make by law enforcement authorities, which is also supported by Article 5 paragraph (3) of the Juvenile Justice System Law.

Other important documents needed for driving and motorcycling legally are Motor Vehicle Owner Book and Motor Vehicle Number Certificate, regulated by Article 65 paragraph (2) of the Road Traffic and Transportation Law. Additionally, Article 106 also adds Motor Vehicle Number Certificate (STNK) as one of the documents that a driver or motorcyclist must be able to show during paragraph (5) letter b when an inspection is conducted. However, this can be easily obtained by an underage driver or motorcyclists as long as their parents or whoever owns the vehicle allows them to. Unlike driving license (SIM), STNK doesn't have to be a match with the one who's currently using the vehicle, rendering the provision ineffective in dealing with underage drivers and motorcyclists.

However, it's important to note that most of the instances where traffic violations are caught and dealt with by the traffic police force, legal enforcement of the relevant framework is rather questionable. Although, there have been cases where parents have been cited by the traffic police force for traffic violations that their children have committed, which was a practice supported by the local government.³⁸ Unfortunately, there are no robust and concrete regulations that specifically govern this to ensure consistency throughout all areas in Indonesia. Considering the diverse nature of Indonesia's socio-economic and cultural background, having a comprehensive legal framework that could specifically govern this mechanism would be crucial in tackling the issue of underage driving and motorcycling.

Ultimately, these normative inadequacies contribute to the rising instances of underage driving and motorcycling, underlining a systemic gap in the enforcement and deterrent mechanisms of Indonesia's road traffic and transportation regulations. The legal framework, while structured to address motor vehicle operation by establishing clear requirements for licensing, falls short in effectively mitigating underage operation of such vehicles. The data indicating a significant proportion of traffic violations committed by underage drivers underscores a crucial oversight in both surveillance and sanctioning capacities. The provision for diversion in cases involving underage offenders, intended as a rehabilitative measure, inadvertently presents a loophole that may encourage repeat offenses due to the absence of a tracking mechanism for violations by unlicensed, underage individuals. This oversight not only challenges the efficacy of current laws in safeguarding public road safety but also highlights the pressing need for a comprehensive approach that encompasses stricter enforcement, enhanced

³⁸ Rangga Rahadiansyah, "Biarkan Anak Bawa Motor Ke Sekolah, Orang Tua Yang Ditilang Dan Didenda Rp 4,9 Juta," *detikOto*, March 2021.

accountability measures, and targeted educational campaigns to address and curtail this growing concern.

3. Sanctions for Vehicles Owners as A Possible Solution

Acknowledging the intricate relationship between vehicle ownership and road safety, the regulatory landscape in Indonesia faces a pivotal challenge: mitigating the risk posed by underage drivers and motorcyclists. This challenge prompts a reevaluation of current strategies and the exploration of novel approaches to safeguarding public roadways. As identified before, the current legal framework regarding traffic safety is inadequate in dealing with this problem, as it contains legal loopholes that can be abused by underage persons along with their adult enablers. Urgency also comes from the fact that the number of vehicles in Indonesia is expected to continue to rise along with the growth of its economy,³⁹ which in turn will increase the risks of accidents. This problem needs to be taken seriously within the sphere of Indonesia's legal politics, as recognizing it would give ways to possible new solutions to tackle a problem, while replacing old regulations that are no longer effective or has faced many problems in enforcement.⁴⁰ The emphasis on the accountability of vehicle owners emerges as a critical focal point in strategizing normative construction to deal with this issue. It necessitates a nuanced understanding of the legal and ethical responsibilities that accompany vehicle ownership, particularly in preventing access to motor vehicles by those not legally eligible to drive.

Underage driving has become a common concern in Indonesia, and the responsibility of owners of the vehicles used by underage persons is often ignored.⁴¹ As the nation grapples with the consequences of underage driving, the focus must shift towards reinforcing the legal framework to deter such behavior. This raises the urgency for a proactive stance from vehicle owners, to be more responsible in not just utilizing their vehicles, but also in allowing other people utilize their vehicles. Ultimately, this approach can foster a better collective responsibility towards enhancing road safety and legal culture towards responsible driving nationwide. This approach is taken to reduce the risk of accidents caused by inexperienced or immature drivers who have never gone through formal driving or motorcycling test to acquire a license. By putting more emphasis on the responsibility of vehicle owners, Indonesia can aim to ensure road safety and minimize traffic accidents, thereby protecting not only the drivers and motorcyclists but also pedestrians and other road users who also have the right to safety.

From the perspective of classical deterrence theory, the framework of deterrence relies on the "three Cs", consisting of certainty, severity, and celerity (swiftness of punishment).⁴² This creates a framework where individuals weigh the potential benefits of behaviors that are deemed illegal against the expected costs. Legal reforms must be made in accordance to this approach, particularly on the side of parents and guardians as vehicle owners, to ensure that underage driving and motorcycling do not become a persisting issue within Indonesian society. These legal reforms must be able to deter parents and guardians as vehicle owners from enabling underage driving and motorcycling, which can significantly risk the safety of adolescents and other road users.

This paper proposes a number of legal reforms that can tackle this problem. First, it's important to introduce a model of strikeout for violations for each vehicle, by utilizing Motor Vehicle Number Certificate (STNK), by using the similar model already enforced on Driver's

³⁹ Dyah Candra Kirana and Prasetyo Ari Bowo, "Determinant of Car Demand in Java Island," *Economics Development Analysis Journal* 8, no. 1 (2019): 1-8, <https://doi.org/10.15294/edaj.v8i1.24947>.

⁴⁰ Bambang Santoso, Hartiwiningsih Hartiwiningsih, and Muhammad Rustamaji, "THE WESTERN LEGAL SYSTEM IN INDONESIAN CRIMINAL PROCEDURAL LAW REFORM: A GLOBALIZATION AND LEGAL POLITICS PERSPECTIVE," *Jurnal Pembaharuan Hukum* 11, no. 2 (May 2024): 247-63, <https://doi.org/10.26532/jph.v11i2.30488>.

⁴¹ Yanto Risdianto and Lathifah Hanim, "Accountability for Motorized Vehicle Owners Used By Children in Traffic Accidents (Case Study on Supreme Court Decision Number 1029 K / Pid.Sus / 2015)," *Jurnal Daulat Hukum* 3, no. 1 (2020): 253-60, <https://doi.org/10.30659/jdh.v3i1.8730>.

⁴² Abramovaite et al., "Classical Deterrence Theory Revisited: An Empirical Analysis of Police Force Areas in England and Wales."

License (SIM). This model is governed by Article 89 paragraph (1) of the Road Traffic and Transportation Law, which states that The National Police of the Republic of Indonesia has the authority to give a mark or data of violation to the Driver's License belonging to a Driver who commits a traffic crime offense. To expand this normative model, the proposed model will be using Article 260 paragraph (1) letter d, which governs that in the case of prosecution of violations and investigation of criminal acts, Investigators of the Indonesian National Police other than those provided for in the Criminal Procedure Code and the Law on the Indonesian National Police, in the field of Road Traffic and Transportation are authorized. The normative expansion based on this legal norm provided by the Road Traffic and Transportation Law can be used as a legal basis for The National Police of the Republic of Indonesia to help curb the number of underage drivers and motorcyclists, by punishing the adults who own the vehicles, which as extensively highlighted before, can also be considered the enablers of this dangerous act.

Furthermore, this paper also proposes specific sanctions with a focus on the cumulative impact of violations committed by drivers of a vehicle, irrespective of their age. This model introduces a tiered system of penalties that escalate in severity in alignment with the accumulation of offenses. The cornerstone of this approach lies in the premise that repeated violations signify a pattern of disregard for road safety and legal mandates, warranting progressively stringent consequences. At the initial stages, minor penalties may serve as a cautionary measure, but as the number of violations increases, more severe sanctions, such as the suspension of driving privileges and court summons, become applicable. In cases where this escalation reaches its zenith, the ultimate penalty imposed could be the revocation of the Motor Vehicle Number Certificate. This tiered sanction model aims to instill a culture of responsibility and compliance among vehicle owners and drivers alike, ensuring that the privilege of vehicle operation is contingent upon adherence to road safety regulations. Through this mechanism, the proposed sanctions seek to address not just individual acts of non-compliance, but the accumulation of risky behaviors that collectively compromise public road safety. Additionally, the continued enforcement, refinement, and inspection of this model need to be properly analyzed as vehicle numbers increase, to curb the number of traffic violations, and perhaps consequently, the number of traffic accidents.

V. Conclusion

It has been highlighted that there is a dire need to improve the enforcement of laws and regulations related to traffic safety, as Indonesia still has a relatively high number of traffic violations. Underage driving and motorcycling significantly contribute to this issue, posing a serious risk to road safety, especially as vehicle ownership continues to rise in parallel with Indonesia's economic growth. Analysis of the relevant legal norms within the existing positive laws has shown that Indonesia has normative loopholes that can be exploited by underage drivers and motorcyclists, as well as by vehicle owners who enable this behavior. The lack of enforcement mechanisms and weak deterrence further exacerbate this problem, making it clear that legal reforms are necessary to prevent underage driving from continuing unchecked.

To address this, this study proposes a model of enhanced accountability through a normative expansion that utilizes the Motor Vehicle Number Certificate (STNK) to implement a strikeout system for vehicle-related violations, similar to the current practice for Driver's Licenses (SIM). This approach ensures that repeated violations—regardless of who is operating the vehicle—lead to escalating penalties for the vehicle owner, discouraging them from allowing underage individuals to drive. Additionally, a tiered system of sanctions is recommended, where violations accumulate over time and can result in severe penalties, including the potential revocation of the STNK. These proposed legal reforms align with classical deterrence theory, aiming to strengthen legal consequences to promote responsible vehicle ownership and reduce the risks posed by underage drivers. While this study focuses on the legal framework, future research should explore the socioeconomic and cultural factors that contribute to underage driving and assess the effectiveness of these proposed legal changes once implemented.

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