THE IMPACT OF REGULATION MADE BY LOCAL GOVERNMENT IN HELPING THE POLICE OVERCOME THE MOTOR GANG ACTION IN INDONESIA

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ABSTRACT

Purpose: Indonesian police find difficulty in souring the motor gang actors because of inadequate legal foundation to suppress the juvenile delinquency leading to criminality. This research aims to find out what the role of local regulation is in helping the police overcome the motor gang action in Indonesia.

Method: This study was a qualitative research studying legal materials related to legal problem and regulation relevant to local regulation and motor gang in Indonesia. The data obtained was analyzed descriptively.

Results: To deal with the motor gang actions and to sour the members and to prevent them from repeating their action, the police should be supported by the Local Government through developing a Local Regulation specifically governing the motor gangs containing criminal sanction. The motor gang-specific Local Regulation with criminal sanction will solve the problem or the constraints, because some actions can be taken against to members of motor gangs that are difficult to condemn as not all deeds are governed in the criminal regulation in Indonesia. Thus, the existence of such Local Regulation will help the policy ensnaring the actor of motor gangs with criminal sanction when they do anything disturbing public safety and orderliness.

Conclusion: In overcoming the motor gang action and souring its member and preventing them from repeating their action. The police should be supported by the local Regional Government to issue Local Regulation containing criminal sanction. Several actions done by the members of motor gang cannot be condemned because not all deeds done are regulated in criminal regulation in Indonesia; thus, the presence Local Regulation will help the police sour the actors of motor gang with criminal sanction when they commit some actions harming the people’s security and order.

Keywords: impact, local regulation, motor gang, overcoming, Indonesia.

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O IMPACTO DA REGULAMENTAÇÃO FEITA PELO GOVERNO LOCAL PARA AJUDAR A POLÍCIA A SUPERAR A AÇÃO DOS GANGUES MOTORIZADOS NA INDONÉSIA

RESUMO

Objetivo: A polícia indonésia tem dificuldade em combater os actores de gangues motorizados devido a uma base legal inadequada para suprimir a delinquência juvenil que conduz à criminalidade. Esta investigação tem como objetivo descobrir qual o papel da regulamentação local para ajudar a polícia a superar a ação dos gangues motorizados na Indonésia.

Método: Este estudo foi uma investigação qualitativa que estudou materiais legais relacionados com problemas legais e regulamentação relevante para a regulamentação local e gangues motorizados na Indonésia. Os dados obtidos foram analisados de forma descritiva.

Resultados: Para lidar com as acções dos gangues motorizados e para azedar os membros e impedir-lhes de repetir as suas acções, a polícia deve ser apoiada pelo Governo local através da elaboração de um Regulamento Local que regule especificamente os gangues motorizados e que contenha sanções penais. O Regulamento Local específico para os gangues motorizados com sanções penais resolverá o problema ou os constrangimentos, porque algumas acções podem ser tomadas contra os membros dos gangues motorizados que são difíceis de condenar, uma vez que nem todos os actos são regidos pelo regulamento penal na Indonésia. Assim, a existência de um Regulamento Local deste tipo ajudará a política de responsabilização penal dos membros de gangues de automobilistas quando estes praticam actos que perturbam a segurança e a ordem públicas.

Conclusão: Para vencer a ação dos gangues motorizados e azedar os seus membros, impedindo-os de repetir a sua ação. A polícia deve ser apoiada pelo Governo Regional local para emitir regulamentos locais que contenham sanções penais. Várias acções praticadas pelos membros do gangue motorizado não podem ser condenadas porque nem todas as acções praticadas estão regulamentadas na legislação penal da Indonésia; assim, a existência de um Regulamento Local ajudará a polícia a sancionar criminalmente os membros do gangue motorizado quando estes cometem algumas acções que prejudicam a segurança e a ordem das pessoas.

Palavras-chave: impacto, regulamentação local, gangs motorizados, superação, Indonésia.

1 INTRODUCTION

Juvenile delinquency is a term usually used in academic literature to refer to the young people that commit crime, although the appropriate definitions can be varied according to local jurisdiction. Specific reason underlying this difference is unclear, but it can be the inadequate international standard agreed. A ‘young person’ in this case refers to an individual that legally can commit crime because he has passed through the minimum age of criminal accountability, but still below the criminal majority age (Young et al., 2017).
One of juvenile delinquencies harming the people’s life in Indonesia recently is the violence done rampantly by motor gangs. The motor gangs were established, on average, from a group of adolescents with a hobby of wild racing and actions challenging danger at night before dawn on the highway. Following the establishment of group, not only emotional relation but also impulse to show off strengthens as a community. They want to appear different and to be known widely.

Adolescents declining the demand of school, work and family are found in the street gangs to get an opportunity of winning power, prestige, women’s praise, and masculine identity (Parker & Bindl, 2017). The gang activities have occurred widely in many countries, one of which is UK, in which some youths nominate themselves to be ‘members of gang’ and groups existing there in accordance with the criminological definition of gang as the youth group surviving for a long time and street-oriented with identity involving participation in illegal activities. In London there is a group that can be represented as a peer association created by itself and having adopted common name and other membership sign recognizing themselves (and being recognized by others) as the “members” of gang and involved or having been involved in criminal activity pattern, either individually or collectively (Storrod & Densley, 2017).

Motor gang is defined as “delinquent gang” growing and developing widely in big cities, and responsible for many crimes, from theft, destruction of others’ property, to deliberate violation of and resistance against adult’s authority, conventional morality, and violence or terror against neighborhood. Generally, these adolescents are very aggressive, like to fight against anyone without clear reason, aiming merely to measure their own group’s power and to cause trouble in the neighborhood (Yamil Anwar Adang, 2010).

The motor gang-related criminal phenomenon in Indonesia has been a crime belonging to trending topic; the crime committed by motor gangs makes Indonesians very restless. The crime committed includes not only doing light violation such as traffic sign violation but also the destruction of public facilities, fighting against fellow motor gangs, mistreatment that takes life tolls, bullying, and even murder. Motor gang actions occur not only in big cities like Medan, Jambi, Bekasi, Bandung, Yogyakarta or Makasar but also in small towns like Garut, Tasikmalaya, etc. Nevertheless, the motor gang crime is difficult to overcome by the Indonesian Police due to the inadequate legal foundation to suppress the juvenile delinquency leading to criminality.
Adolescents, particularly male adolescents, prefer establishing a group called “Motor Gang”, by which they feel popular and respected by others, because many people assume that the motor gang is a group of brutal cruel uneducated youngsters with a hobby of hurting others. However, the adolescents who have ever joined motor gang instead like the people’s assumption, because the worse the people’s assumption on motor gang, the more pleasant will be the adolescents affiliated with the gangs.

The characteristic of urbanization throughout world is, among others, the appearance of youth gangs, the youngster group frequently determined by geographical area, ethnic or ideological identity; the latest report shows an increase in the number of groups with extremist view. The explanatory model for the appearance of youngster gangs include such factors as economic migration, lost big family network, reduced supervision over children, globalization, and exposure to inaccessible lifestyle ‘ideal’ represented in modern media.

Data of Jambi Police shows that 187 motor gang actors have been arrested along 2022, 109 of them are children, and 87 are adult. Out of hundreds motor gang actors secured today, 37 cases have risen to investigation stage and some of them have been sentenced by the court (Bilal Ramadhan, 2023). Then, the motor gang action and the quarrel between students occurring in Bandar Lampung also make the people restless, because during the quarrel, some students were found bringing sharp weapons with them like knife, machete, and sword. About 12 quarrel and motor gang action cases have been reported since January to September 2022 in Bandar Lampung. Hundred students were reported to be brought to the Police Office after they were caught while quarrel and engaged in motor gang action. In addition to both cities, the Metropolitan Resort Police of Bekasi Kota reported that there are 35 motor gangs, the majority members of which are students distributed in Bekasi Kota region, exactly in 11 out of 12 sub districts existing in Bekasi (Joy Andre, 2022).

Adolescents are on the stage of searching for sensation and new experience, and for that reason they have a willingness to take risk. They tend to try challenging novelties that generate creativity and different perspective from others in general. This search for sensation can lead to negative behavior when they can find only the challenges that break the society’s norm, actualize themselves in dishonorable attitude, and often perform aggressive or high-risk behavior such as wild racing on the street.
Based on data obtained from the police regarding the use of sharp weapons, it was found that more students and university students engage with crime using sharp weapons in Indonesia over years; 4.4% of total actors were students and university students in 2019, this figure increased to 6.7% in 2020, 9.2% in 2021, and 18% in 2022. (Pusiknas Bareshkrim Polri, 2022)

The criminal case of motor gang members, as a social phenomenon in Indonesia, needs an in-depth study to underlie the government to make policy to prevent and to overcome the crimes committed by motor gangs. The experiences found in such countries as United States of America, Canada, Australia, and New Zeland reveal that motorcyclist groups initially only disturbing public order change easily into Outlaws Motor Gang constituting criminal organization in prostitution business, human trafficking, illegal weapon trading, smuggling, narcotics and illicit drugs, and other severe crimes.

The elaboration above represents the importance of theoretical and practical legal analysis on the importance of local regulation in eradicating motor gangs in Indonesia. Particularly, this research aims to find out the effectiveness of local regulations in eradicating the violation and the crimes committed by motor gangs in Indonesia, and how the local regulations made can help the law enforcers implement law enforcement over the motor gangs in Indonesia.

2 THEORITICAL REFERENCE

2.1 LOCAL GOVERNMENT

In Indonesia Decentralization is an approach to the development process in which the central government gives local governments power and authority to accelerate development and increase participation in the global economy. Decentralization is considered a solution to the limitations of the central government in managing the economy, meeting the basic needs of the community, equitable growth, and participatory development. Decentralization also provides an opportunity for local governments to realize responsive and accountable governments. (Wijayanto et al., 2023) Local governments play a greater role in development because they now have the authority and responsibility to carry out community development in their jurisdiction. Local governments that already have broad authority in regional management in the regional autonomy system are expected to produce public policies in the form of development programs. (Pahrudin & Darminto, 2021)
2.2 MOTOR GANG

As a definition, there is a difference between motorcycle gangs and motorcycle user groups (motorcycle clubs) that must be understood by the wider community. The difference lies on a motorcycle club constituting a group that carries certain brands or specifications with formal organizational tools to become its members and this motorcycle club’s activities are far from negative things. This is in contrast to other motorcycle gangs that do negative activities such as stealing, brawling, persecution and even murder. As a definition, motorcycle gangs have a simpler meaning than motorcycle clubs, because motorcycle gangs are a group of motorcycle lovers regardless the types of motorcycle they ride.

Most of these gangs depart from a group of people who do things together in search of new experiences to stimulate their souls. From neutral and fun games, over time their actions become increasingly wild and uncontrollable, beyond the control of adults. Then their actions turn into acts of violence and crime. Within the gang, a language emerges with special words and terms that only gang members can understand. Then, a pressure comes from the whole group on all members of the group so that each individual wants to respect and obey all orders specified. (Kartono, 2017)

Gradually clashes will occur within the gang over certain social roles. One or more leaders emerge spontaneously, through conflicts and power struggles with peers or by doing dangerous things. This leadership position is largely determined by the individual's qualities, i.e. by some of his skills and advantages compared to other members of group.

To show its existence, the gang then determines its own area of operation. Deliberately, there is a lot of bickering and fighting between gangs in order to compete for social position within the gang. Many mass fights and altercations are expected to foster esprit de corps, adherence and awareness requiring each member to be inseparable from the gang, accompanied by absolute loyalty and obedience. (Kusumah, 1981)

3 RESEARCH METHODOLOGY

This study is a qualitative research or also called natural research, with a type of research emphasizing mainly the process and the meaning not tested or measured appropriately with descriptive data. This research describes the events heard, perceived, and made in narrative or descriptive statements. The type of current research is natural or has actual setting taken from the phenomenon occurring in the field, emphasizing on its
quality. A qualitative research, according to Anslem Strauss (2013), is a type of research, the findings of which are obtained through statistic procedure or other calculation forms.

4 RESULT AND DISCUSSION
4.1 LEGAL ARRANGEMENT ON MOTOR GANGS INVOLVING ADOLESCENTS IN INDONESIA

To stop violence and criminal action committed by the members of motor gangs, the firmness of security apparatuses is required. The deviant behavior is manifested into, among others (Yamil Anwar Adang, 2010):

1) Speeding on the street disturbing the traffic safety and endangering one’s and others’ lives;
2) Reckless, delinquent, sloppy behavior disrupting the surrounding tranquility. This behavior stems from an excess of primitive and uncontrollable energy and pleasure by terrorizing the neighborhood;
3) Quarrel between gangs and between groups taking life tolls;
4) Vandalism over many facilities;
5) Holding party while drinking and doing free sex disturbing the neighborhood;
6) Narcotic addiction closely related to crimes; and
7) Radical and extremist action, by means of violence, kidnapping, and murder committed by adolescents.

These violations have their own regulation and sentence in Indonesia, the minor violation usually made by motor gangs includes traffic violation, such as speed violation and wild racing, that is regulated in Article 115 of Republic of Indonesia’s Law Number 22 of 2002 about Traffic and Road Transportation (Indonesian: Undang-Undang Republik Indonesia Nomor 22 Tahun 2009 Tentang Lalu Lintas dan Angkutan Jalan, thereafter called UULJ), breaking through traffic marking or sign (Article 106 of UULJ), not bringing riding documents and requirements (Article 77 of UULJ). Traffic law enforcement can be classified into two: firstly, the enforcement of traffic law preventively includes the activities of traffic regulation, traffic guarding, traffic escort, and traffic patrol; in its implementation the activities are a traffic security system with sub systems inseparable from each other.
Secondly, the enforcement of traffic law repressively includes the prosecution of violation and investigation of traffic accident. The prosecution of law violation includes the following tasks: educative prosecution, i.e. to prosecute the traffic violation sympathetically by reprimanding or warning the one doing traffic violation legally involving the prosecution by means of traffic ticket.

Wirjono Prodjodikoro states that the violation is defined as “overtredingen” meaning a deed breaking something related to the law, or unlawful deed (Prodjodikoro, 2003). Meanwhile, Bambang Poernomo defines violation as “Politis-on recht” and crime as crimineel-on recht. Politis-on recht is a deed that does not obey the prohibition or the imperative specified by the ruler of state. Meanwhile, crimineel-on recht is an unlawful deed (Bambang Poernomo, 2002).

In addition to traffic violation, motor gangs in Indonesia also commit villainy belonging to crime such as beating and destruction as regulated in Article 170 of Penal Code (Indonesian: Kitab Undang-Undang Hukum Pidana, thereafter called KUHP), convoy (Articles 510 and 511 of KUHP), extortion and threat (Article 368 of KUHP), light mistreatment (Article 352 of KUHP), severe mistreatment regulated in Articles 354 and 355 of KUHP, and murder regulated in Article 338 of KUHP.

Another type of crime not regulated in KUHP and often committed by the members of motor gangs is bringing sharp weapon without permit. The ownership of sharp weapon without permit in Indonesia is regulated in Emergency Law (Indonesian: Undang-Undang Darurat, thereafter called Drt) No. 12 of 1951. Such regulation is intended to be a preventive attempt to prevent and to reduce sharp weapon in a misdeed. The Emergency Law (Indonesian: Undang-Undang Darurat) No. 12 of 1951 about Sharp Weapon, in addition to regulating gun and explosion material also regulates the sharp weapon. The Emergency Law (Indonesian: Undang-Undang Darurat) No. 12 of 1951 about Sharp Weapon mentions that an individual who brings sharp weapon can be categorized into a crime if it is not used as allocated.

The Emergency Law (Indonesian: Undang-Undang Darurat) No. 12 of 1951 also mentions the sharp weapon use for farming or household chores or livelihood purpose not in contradiction with the law that may be used for daily needs. For example, a farmer bringing hoe to cultivate farmland and a housewife using knife to sell food to earn living are allowed, because the weapons are used to help their work as farmer, housewife, or knife craftsman and similarly, the ancient heirloom is an exception. Sharp weapon in
Indonesia is something considered as common by the people, but bringing sharp weapon is not always an action justified by the law.

The members of motor gang are majority adolescents, what are done by the motor gangs in Indonesia belong to juvenile delinquency. Juvenile delinquency is broadly defined as the adolescents’ deed in contradiction with the conventions of written law as mentioned in Penal Code (Indonesian: *Kitab Undang-Undang Hukum Pidana* or KUHP) or in the legislations beyond KUHP. It can be antisocial deed that generate restlessness in society but does not belong to the criminal *delict* or special crime (Sutedjo, 2013).

4.2 DIVERSION OBLIGATION OVER CRIMINAL SENTENCING AGAINST THE MINOR ACTORS OF MOTOR GANG CRIME IN INDONESIA

There are two categories of children behavior that should face the law: firstly, offence status and secondly, juvenile delinquency. Status offence is defined as the children’s mischief if done by adult not considered as crime, such as skipping school or running away from home, while juvenile delinquency is the children’s mischief if done by adult is considered as crime or law breaking (M. Nasir Djamil, 2015)

To the law breaking belonging to crime category committed by adolescent or minor members of motor gangs, diversion should be done obligatorily. Diversion derives from English “diversion”. Diversion means idea or thought, with appropriate consideration, to avoid stigma against children. Therefore, in each stage of juvenile justice system, the law enforcers of juvenile criminal justice system (police, attorney, court, or penitentiary rehabilitation) are authorized to divert the justice process to the following forms of activities: delegating the rehabilitation task to the parent or guardian; warning, fine imposition or restitution; rehabilitation by social department or social institution or counseling.

The management of children mischief facing conflict with the law is regulated in the amendment to the Law No.3 of 1997 about Child Court with the revision in the change terminology formulation from status offence to juvenile delinquency in the Law Number 11 of 2012 about Juvenile justice system. The evaluation on the objective of children criminal justice in the Law Number 3 of 1997 about child court by considering the criminology aspect (the limit of criminal responsibility), the objective of criminal law in penal system (criminal verdict), and limitation as well as negative effect of criminal justice system can be input to the revision of criminal law by means of sentence in
applying the objective of retributive justice system to restorative direction in accordance with the Law Number 11 of 2012 about juvenile criminal justice system with restorative justice principle.

The alternative (non-formal) way to resolve the children criminal case prudently in dealing with or solving the problem of children offenders is through Diversion, stopping or not continuing the judicial process and returning them to the society in the form of social services. Diversion can be implemented at all examination levels intended to minimize the negative effect on the children’s engagement in the judicial process.

National provisions governing the diversion are contained in the Law Number 11 of 2012 about Juvenile Criminal Justice System (Indonesian: Undang-undang No. 11 Tahun 2012 Tentang Sistem Peradilan Pidana Anak, thereafter called UU SPP Anak) in Articles 6-15. Article 1 number 7 of UU SPP Anak defines diversion as the transfer of children case settlement from criminal justice process to the process out of criminal justice. Therefore, not all cases of children in conflict with law should be resolved using formal judicial system but there can be an alternative non-formal way or the process out of criminal justice system to resolve the cases for the sake of children protection and welfare and to avoid them from stigma due to criminal justice process. The objective of diversion has been regulated in Article 6 of UU SPP Anak, as follows: Diversion aims to achieve reconciliation between the victim and the child; to resolve the child case out of justice process; to avoid the child from freedom deprivation; to encourage the people to participate; and to implant the feeling of responsibility to the child.

Article 7 clause (1) of UU SPP Anak mentions that the diversion in the child criminal justice system is implemented at child case investigation, prosecution, and examination stages in the District Court. The crimes for which the diversion should be attempted obligatorily are the ones threatened with under 7 (seven)-year imprisonment sentence and not repeated crime. The limitation to the crimes threatened with under-7 (seven)-year imprisonment sentence is important, recalling that the imprisonment more than 7 (seven) year is imposed to the severe crime. The explanation of Article 7 clause (2) letter a of UU SPP Anak states that “the provision of imprisonment sentence under 7 (seven) years refers to the Criminal Law”. Furthermore the clause (2) letter b states that “The repetition of crime in this provision is the crime committed by children, either similar or dissimilar crime, belongs to the crime that can be resolved through diversion. Thus, the child commits the crime for the first time.
The Provision of Article 8 of *UU SPP Anak* mentions that diversion is conducted by means of discussion involving the parties: children and their parents or guardians, victims and their parents/guardian, penitentiary advisor, and Professional Worker, and community. Juvenile justice system should use Balanced Approach that can meet the people’s need, to the (juvenile) actors that following the restorative process expectedly can integrate better into the society than before; and community protection value because the restorative justice system is responsible for protecting the people from juvenile crime in peaceful way (peacefully resolved) (Muladi, 2013).

The justice intended here is not the one meaning sentencing according to the actor’s action but the one called restorative justice. Restorative justice is a process of involving how to jointly deal with the consequence of a crime and its implication in the future. The restorative justice approach is a justice process implemented fully and achieved by the people. Restorative justice process or discussion-based justice focuses primarily on the victims’ need and security. The primary objective of restorative justice is to repair the victim’s loss, the actor’s recognition of the loss resulting from the crime he has committed, conciliation or reconciliation between victim, actor, and community, reintegration of the actor, and, the safety of community can be managed through peaceful conflict resolution (peacefully resolved) (Muladi, 2013).

4.3 LOCAL GOVERNMENT POLICY IN DEALING WITH MOTOR GANGS IN INDONESIA

The government regulation, as the means of overcoming motor gang crimes, has been implemented in Australia and Europe; Australia uses strong law enforcement and regime to disclose the criminal group with organized crimes. The most visible target of this action is to hinder or to imprison the actors of prohibited motor gangs (OMCG), recalling their superiority in the landscape of organized crimes in Australia. Many Australian states and territories have adopted as series of laws criminalizing OMCG and its member association. These laws have been introduced along with the police’s special operation focusing on disturbing the operation of OMCG through high-intensity and low-tolerance enforcement activities.

The result shows that the introduction of work limitation is followed with the gradual reduction of the danger of organized crimes by the members of OMCG (3% to 4% per month). Despite the little reduction, it supports a view that the regulatory act is a
promising strategy to reduce the organized crime. Meanwhile, the regulatory approach, stemming from civil and administrative laws, is used more widely to fight against the organized crime in Europe. This approach focuses on reducing the opportunity of organized crime by blocking the groups and the actors from possible legal economic element. It usually involves the limitation of license publication, permit, contract, subsidy or grant, and declination of real estate and other assets. The measures can be very important to disconnect the offender from fund flow, physical and technical infrastructure and mechanism to hide illicit income that facilitates the organized crime (Dowling & Morgan, 2022).

The role of government in Indonesia is classified into three: the role as regulator, as facilitator, and as motivator. As the regulator, the government serves to prepare the direction to balance the organizers of development (the publication of regulations in the frame of development effectiveness and administrative order). As a regulator, the government provides basic reference that is later construed by the community as the instrument of arranging each empowerment activity in the community. The community empowerment, viewed from economic aspect, will be associated with the policy supporting its business development.

As a facilitator, the government serves to create conducive condition for the implementation of development to bridge a variety of public interests in optimizing the local development. As a facilitator, the government operates in facilitation field through training, education, and skill improvement, and funding and capitalization division through giving capital aid to the empowered people. In relation to the role of a motivator, theoretically it is said that every individual including government tends not to stand alone in implementing the social role. The government here belongs to social circle, the place in which an individual gets and implements his social role. The role, of course, relates to many parties related to the role implemented depending on the how big the role given is. For example, the local government is, of course, inseparable from other institutions such as police and likewise other communities in overcoming the cases of destruction, mugging, and motor gang group.

Indonesia is a country with diverse elements, ranging from ethnicity, religion, race, class, and culture. Maintaining this diversity is challenging to avoid causing friction that can cause division. A multicultural society already carries the risk of conflict between different groups based on ethnicity and other factors of difference.
government is needed to care for and keep the community from falling into conflict. That role can sometimes lead to the formulation of regulations. This role can be done by encouraging the community to maintain harmony independently. (Istiawan et al., 2023)

To prevent this, state law and local law must be in a determinant degree that requires each other to complement because one cannot be forced to replace or merge the two into one. Because of that, a harmonious blend of the two must always be carried out within the limits that allow for that choice in such a context is to provide space that respects local regulations (local laws) as long as they are still functional in managing the order of their citizens. (Polontoh & Liauw, 2023)

Republic of Indonesia as a unitary state adheres to the decentralization principle in organizing the regional government, by giving the region the opportunity and the discretion to organize the economy. The implementation of decentralization in Indonesia leading to the autonomy is implemented and developed in two basic values: unitary and territorial decentralization values (Hari Sabarno, 2008).

The concept of regional autonomy organized in Indonesia allows for the delegation of authority from the (Central) Government to Regional or Local Government. Local Government consists of the Head of Region and other local apparatuses. The agreed task of local government, based on theoretical and normative studies is, among others to maintain tranquility, order, and protection for its people. The Law Number 32 of 2004, particularly in Article 1 item number (5), confirms that local autonomy is right, authority, and obligation of the autonomous region to organize and to administer itself the governmental affairs and local public interest in accordance with legislation.

Referring to the mandate of Article 12 of the Law Number 23 of 2014 about Local Government, it can be said that the obligatorily governmental affairs related to primary services as intended in Article 11 clause (2) including Education, Health, Public Work, and Spatial Layout; Tranquility, Public Order, and community and social protection. The development of local regulation should comply with some stages: planning, drafting, discussion, stipulation, ratification, and enactment. The Law Number 12 of 2011, particularly in Article 15 clause (1), mentions that the content material concerning criminal sanction can be contained only in the Law, Provincial Local Regulation, and Regency or City Local Regulation. Although the local regulation possibly contains the provision of criminal sanction, the regulation about criminal sanction is the conditional regulation, meaning that the regulation of criminal sanction likely contains the limitation
of the imposition of sanction to at most 6 (six) month-imprisonment and maximum fine of 50 (fifty) million rupiah. It is as governed in the Article 15 clause (2) of Law Number 12 of 2011.

The provision is derivatively found as well in the Minister of Domestic Affairs’ Regulation Number 80 of 2015 as having been amended with the Minister of Domestic Affairs’ Regulation Number 120 of 2018 about the Development of Local Legal Products, and even the Article 5 of the Minister of Domestic Affairs’ Regulation constructs 3 (three) types of possible sanction as governed in the local regulation, the types of imprisonment sanction with maximum limit of 6 (six) months, fine sanction at most 50 (fifty) million, and administrative as well as rehabilitative sanctions. The product of local regulation is under the authority of Local (Regional) Government (Indonesian: Pemerintah Daerah, thereafter called Pemda) and Local Legislative Council (Indonesian: Dewan Perwakilan Rakyat Daerah, thereafter called DPRD). Particularly, since the implementation of Regional Autonomy through the Law Number 5 of 1974 about the Principles of Regional Government, the Law Number 22 of 1999 about Local Government jo the Law Number 32 of 2004, jo the Law Number 23 of 2014 chooses the form of sanction that meets the people’s feeling of justice.

Some examples of regulation, made the local government with varied sanctions that can be used to overcome motor gangs, can be found in Indonesia. One of cases handled by the police is klithih incidence in Yogyakarta in April 2022. Klithih is a criminal phenomenon sourced from juvenile delinquency in Yogyakarta. The phenomenon attracts the people’s much attention. A group of adolescents riding motorcycle in company often ends up in motor gangs. They quarrel with each other using sharp weapons such as sword, machete, and etc. The modus of klithih actors is revenge and the wish to show off their group’s identity. Klithih is also due to the competition for an area for a certain group.

The Resort Police of Yogyakarta City (Polresta Yogyakarta) worked quickly to respond to the street crimes occurring in the Zero-kilometer point region, Yogyakarta city at night. The video of motor gangs waving sharp weapons at other motorcycle riders was viral in social media. The apparatuses were investigating the case of street crimes, the perpetrator of which intentionally attempted to stab the victim and to swing the sharp weapon at the motorcycle. Until today, the police had not received yet the report from the citizen admitting to be the victim of klithih action (Setiawan, 2023). The Government of
Yogyakarta City officially enacted children curfew to prevent the case of street crime or ‘klithih’ usually committed by children and adolescents, through the Mayor’s Regulation Number 49 of 2022. Under-18 year age children are prohibited from leaving from home at 10.00 p.m. – 04.00 a.m. Western Indonesian Time every day but in certain condition. This curfew is enacted through the Mayor of Yogyakarta’s Regulation Number 49 of 2022 About Children Curfew (Indonesia, 2022). The Article 8 of the Mayor of Yogyakarta’s Regulation Number 49 of 2022 states that in the case of Children have been reprimanded orally, the written warning will be given. Then, the building program in rehabilitation center designated will be given to the children found out of home and not complying with the curfew following the written warning, as mentioned in Article 6 clause (3) letter c.

The Regent of Purwakarta’s Regulation Number 46 of 2014 about Quarrel Prevention and Overcoming and the Use of Motor Vehicles for the Students in Purwakarta Regency, in Article 15 clause (2), mentions that every students riding motor vehicle are prohibited from either engaging in the motor gang activities or being affiliated with the motor gangs. Then, Article 14 clause (3) states that Educational Unit or School is prohibited from admitting the students dismissed by other educational unit due to their engagement or affiliation in motor gangs, with the sanction of reprimand/warning or suspension and administrative fine at most IDR 5,000,000 (five million rupiah) or being dismissed from the school.

Vehicle noise can be categorized into a crime in certain region. For example, what is regulated in Bandung in the Local Regulation of Bandung City Number 3 of 2005 about the Organization of Orderliness, Cleanliness, and Beauty as recently amended with the Local Regulation of Bandung City Number 11 of 2005. The regulation mentions that every offender can be threatened with at most 3 (three)-month imprisonment sentence or fine maximally IDR 50,000,000 (fifty million rupiah). Similarly, the Local Regulation of Garut Regency Number 12 of 2015 about Orderliness, Cleanliness, and Beauty that has been amended with the Local Regulation of Garut Regency Number 18 of 2017 about the Amendment to the Regulation Number 12 of 2015 about Orderliness, Cleanliness, and Beauty contains the criminal sanction with at most 3 (three)-month imprisonment sentence or fine maximally IDR 50,000,000 (fifty million rupiah).

The development of Local Regulation in which the criminal sanction is stipulated, in a democratic constitutional state, is actually a deterrent factor for the members of
society to understand better that the violation of Local Regulation can be sentenced. The criminal sanction mentioned in the Local Regulation is the light one. The regulation of sentence as mentioned in the local regulation will help the Republic of Indonesia’s police overcome the danger of crimes committed by motor gangs to sour the members of motor gangs that have broken the regulation. The limited regulation in Indonesia cannot ensnare the members of motor gangs that make noise and disturb the peace of society because the deeds do not belong to the crime as regulated in KUHP and belong to ordinary traffic violation, and it will not sour the members of motor gangs and make them repeat their deed. There has been no Local Regulation governing the motor gangs in Tasikmalaya City. Consequently, the police cannot take any action to overcome the motor gangs due to the inadequate legal foundation to suppress the juvenile delinquency leading to criminality. For example, the noisy exhaust always used by the motor gangs when it is secured, no deterrent effect can be exerted. It is because the traffic law only mentions the assignment of traffic ticket. The Police recommended the Tasikmalaya local government to develop a Local Regulation governing in detail the motor gangs by applying criminal sanction, to provide the officers with the legal foundation to take action and to give deterrent effect on the motor gangs.

The problem of crimes committed by the motor gang group should be regulated specifically in a Local Regulation that, of course, should refer to the higher legislations. The Local Regulation should contain the provision concerning the management of juvenile criminal problem including four elements: preventive, repressive, curative, and coordinative. The provision of sanction should be made more firmly, not only over the actors but also over other members of gang groups that provoked the crime.

The Local Regulation developed by Local Government or DPRD that includes the threat of imprisonment sentence or fine is the policy of criminalization. The criminalization process, according to Barda Nawawi Arief, should consider some aspects (Arief, 1986):

1) The implementation of criminal law should use the objective of National Development, to achieve just and prosperous society materially and spiritually based on Pancasila.
2) The deeds attempted to be prevented and overcome using criminal law should be the unexpected deed, the one generating (material and or spiritual) loss over the members of society;
3) The use of criminal law also should take into account the principle of cost and benefit and social cost;
4) The use of criminal law should consider capacity and work ability of law enforcement institutions, *overbelasting* (task overload) should be avoided.

5 CONCLUSION

To deal with the motor gang actions and to sour the members and to prevent them from repeating their action, the police should be supported by the Local Government through developing a Local Regulation specifically governing the motor gangs containing criminal sanction. The motor gang-specific Local Regulation with criminal sanction will solve the problem or the constraints, because some actions can be taken against to members of motor gangs that are difficult to condemn as not all deeds are governed in the criminal regulation in Indonesia. Thus, the existence of such Local Regulation will help the policy ensnaring the actor of motor gangs with criminal sanction when they do anything disturbing public safety and orderliness.

In the future the regions vulnerable to motor gang actions should develop Local Regulation that regulates specifically the motor gangs and the imposition of criminal sanction against the offender. The existence of such Local Regulation is intended to exert deterrent effect on the motor gang actors, usually still adolescent.
REFERENCES


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