

Analysis and Existence of Electric Scooters as Vehicles in Indonesia: An Overview of Normative Law

Sunny Ummul Firdaus, Maria Madalina, Adhimas Fauzan, and Avira Marchell

Faculty of Law, Sebelas Maret University, Indonesia

*Corresponding author. Email: mariamadalina@staff.uns.ac.id,

ABSTRACT

Current vehicle developments do not only focus on developing efficient vehicles, but also focus on creating environmentally friendly vehicles which are then known as green vehicles. One example of a green vehicle is the electronic scooter or electric scooter which has started to appear in Indonesia. Along with its emergence, the position of electric scooters as vehicles raises questions in the minds of various parties, namely whether electric scooters are included in the category of motorized vehicles or non-motorized vehicles, because this will have implications for determining the rights and obligations of users. This paper will discuss further the position and rights and obligations of scooters by using normative legal methods as well as statutory and conceptual approaches. The results of the analysis show that based on extensive and sociological interpretations the position of the electric scooter is as a non-motorized vehicle. This is due to the fact that although electric power is used more often, in certain circumstances, such as running out of batteries and road or weather conditions, electric scooters require human power.

Keywords: *Electric Scooter, position, Rights and obligations*

1. INTRODUCTION

Nowadays, it turns out that vehicle development does not only focus on developing efficient vehicles, but also focuses on creating environmentally friendly vehicles. This is done because of the problem of global warming which causes the world to be faced with the process of increasing the average temperature of the atmosphere, sea and land of the earth, which has the potential to cause massive damage to the environment. In order to reduce this natural damage, environmentally friendly vehicles have emerged, such as solar system cars, electric bicycles (electronic bikes), electric cars, electric bicycles, and so on. This environmentally friendly vehicle, also known as a green vehicle.

One of the innovations in technology which is a green vehicle is the electric scooter or electric scooter. This electric scooter is a vehicle whose power source comes from electricity stored in the battery, so this vehicle does not need to use fuel, even though it uses an engine. When the electricity in the electric scooter

battery runs out, the electric scooter can be used like an ordinary scooter whose power source is human power.

The unclear legal position of the electric scooter has juridical consequences with the unclear legal consequences of using the electric scooter. The legal consequences in question are the rights and obligations for the electric scooter rider, whether the rights and obligations for the electric scooter rider are subject to motorized vehicles or non-motorized vehicles. For example, regarding the use of helmets, age limits, and so on.

Based on the description above, the identification of the problems that arise in this study are: what is the legal position of electric scooters as vehicles in Indonesia? What are the legal consequences of electric scooters as vehicles in Indonesia?

2. METHOD

This legal research is normative legal research. Normative legal research is research that puts the law as a building norm system, which consists of principles, norms, rules of legislation, court decisions, agreements and doctrines. This normative research was conducted by reviewing and analyzing the laws and regulations or other legal materials related to the position of the electric scooter as a vehicle in Indonesia. This study uses a statutory approach and a conceptual approach.

The approach to legislation is carried out by examining all laws and regulations and other regulations related to the legal issues handled, so that in relation to this research it can be seen that the ratio legis, ontological basis and philosophical basis of regulation relating to the legality of electric scooters as vehicles in Indonesia. The laws and regulations analyzed in this study are the laws and regulations relating to the legality of electric scooters as vehicles, such as: Law Number 38 of 2004 concerning Roads; Law Number 22 of 2009 concerning Road Traffic and Transportation; Government Regulation Number 55 of 2012 concerning Vehicles; Presidential Regulation Number 55 of 2019 concerning the Acceleration of the Battery Electric Vehicle Program; Regulation of the Governor of the Special Capital Region of Jakarta Number 128 of 2019 concerning the Provision of Bicycle Lanes

3. DISSCUSSION AND OVERVIEW

3.1 *Legal Position Of Electric Scooter As A Vehicle In Indonesia*

This mandate to play a role in realizing security, safety, order and smooth traffic of course also applies to electric scooters as an alternative to new vehicles that can be used on the road. The implementation of this mandate must be accompanied by law enforcement steps against electric scooter users so that legal norms as guidelines for behavior and legal relations function, so that in the end the legal wishes of the LLAJ Law are carried out. The problem that arises then is how the government wants to enforce regulations on electric scooters if the position of electric scooters is not clear from the start. Not surprisingly, some time ago the government, one of which was the provincial government of the Special Capital Region of Jakarta (DKI Jakarta) chose to ban the use of electric scooters on the roads.

On the basis of the importance of the existence of electric vehicles today, in future legal development, regulations must be established that regulate the legal position of electric vehicles, such as the classification of electric vehicles, the rights and obligations of electric vehicles, and so on. This is done, so that electric vehicles get a clear position in the laws and regulations in Indonesia. According to Philippe Nonet and Philip Selznick, the legal development related to electric vehicles is a form of good legal development, namely responsive legal development. According to Philippe Nonet and Philip Selznick, responsive legal development, namely:

“Responsive legal products can be seen that the manufacturing process is participatory, in the sense of absorbing the participation of social groups and individuals in society, absorbing aspirations related to developments that occur in society, and absorbing community aspirations on a large scale so as to crystallize various competing desires of the community. Responsive legal products also limit the space for the government to make interpretations that are too much determined by its own vision and political power. So it is a legal product that reflects a sense of justice and fulfills people's expectations, while in a law product with a conservative character, the opposite happens (the author's thickening).

Lawrence W. Friedman argues that the effectiveness of law enforcement depends on the legal system which includes three components or sub-systems, namely the legal structure (structure of law), legal substance (substance of the law) and legal culture (legal culture). In simple terms, Friedmann's theory is indeed difficult to refute the truth. However, it is not realized that Friedman's theory is actually based on his sociological perspective (sociological jurisprudence). What he wants to describe with the theory of the three sub- systems of structure, substance, and legal culture is none other than that the basis of all aspects of the legal system is legal culture

A. Legal Structure

The structure of a system is its skeleton or framework; it is the permanent shape, the institutional body of the system, the though rigid nones that keep the process flowing within bounds The structure of a legal system consists of elements of this kind: the number and size of courts; their jurisdiction (that is, what kind of cases they hear, and how and why); and modes of appeal from one court to another. Structure also means how the legislature is organized, how

many members.., what a president can (legally) do or not do, what procedures the police department follows, and so on. Structure, in a way, is a kind of cross section of the legal system? A kind of still photograph, which freezes the action.”

Based on this understanding in brief, it can be said that the legal structure is related to institutions or law enforcement including their performance (implementation of law).

B. Legal Substance

Substance means the rules, norms, and behavior patterns of people in a system whose actual emphasis is on living law, not just laws in the book." The substance or content of the law as a reference in law enforcement has an important role as a guide or guide for law enforcers in carrying out their authority, this means that the weakness of the law will result in ineffective law enforcement so that the objectives to be achieved are not fulfilled.

C. Legal Culture

Legal culture is defined as a system of beliefs, values, ideas and assumptions. Legal culture refers, then, to general cultural habits, ways of doing opinions and thinking towards the social power of law and in a certain way, in other words, whether the climate of social thought and social forces inevitably determines how the law is used, avoided, or abused.

The use of extensive interpretation methods in answering the legal problems of the position of electric bicycles needs to be done, because if explored further, basically the confusion of the position of electric scooters in the context of the vehicle category is related to the position of the driving force of the electric scooter. Therefore, to clarify the position of electric scooter propulsion, the words driven by in the definition of motorized vehicles and non-motorized vehicles need to be taken to the extreme to be driven primarily by mechanical equipment in the form of machines or human and/or animal power. Based on this broad interpretation of being driven by being primarily driven by this, then the next thing that needs to be done is simply to determine whether electric scooters are driven primarily by human power or electric power.

Electric scooters were created with the intention that humans do not need to be tired to drive their own scooters, so that almost all the time electric scooters are operated with battery energy which makes it easy

for users. Users may not even want to use their electric scooters to travel if they know the battery is empty from the start. The thing to note, this condition should not necessarily forget the consideration that the electric scooter can be operated in a manual procedure, for example when the user experiences a condition of running out of battery in the middle of a trip or if the battery is still charged but the user gets down and pushes the electric scooter on a steep surface, not flat, or wet, as recommended by one electric scooter rental company, Grab. The condition of the electric scooter that can still be operated even without the help of electricity indicates that the main power used is actually still human power. Here are some concrete facts regarding the use of electric scooters in society:

a. Electric bicycle lane speed

Currently, in particular, electric scooters that are often used by the general public are rental scooters called GrabWheels provided by the Grab company with a maximum speed of 15 kilometers per hour (km/hour).

b. The position of the selected road lane

It can be seen from the official website, Grab recommends that the use of electric scooters remains on the side of the road or even on the sidewalk. The selection of the side lane or in the language of the law called the left lane of the road is in accordance with the provisions of Article 108 of the LLAJ Law which indeed only allows the left lane to be passed by motorized vehicles with lower speeds or non-motorized vehicles, except for certain reasons.

c. Equipment for electric scooter users.

Electric scooter users are usually only equipped with bicycle helmets. Other than that, there are no other special equipment required for electric scooter users. Based on the things above, it can be concluded that the use of electric scooters is certainly not the same as the use of other motorized vehicles in various aspects, so it can be said that the placement of a more appropriate category for electric scooters is in the position of non-motorized vehicles.

3.2 Legal Consequences Of Electric Scooters As Vehicles In Indonesia

As a consequence of the legal position of the electric scooter as a non-motorized vehicle, there are certain things that should be considered by its users in

accordance with the provisions of the applicable laws and regulations. Meanwhile, based on the LLAJ Law, non-motorized vehicle users can only use motorized vehicle roads if a special road lane for non-motorized vehicles has been provided. This special road lane is needed not only as a form of facility, but also to avoid overlapping between non-motorized vehicle users and motorized vehicle drivers and pedestrians (pedestrians), so it must be seen as an urgency to require the use of special lanes for non-motorized vehicles so as not to endanger them. safety for yourself or others.

In general, the highway as a public space and transportation infrastructure is expected to meet the needs of its users, both for motorized vehicle users and non-motorized vehicle users. However, when faced with traffic patterns in Indonesia which are generally in the form of using mixed traffic rates. One of the problems is related to the widespread use of electric scooters in Indonesia as an alternative mode of transportation to avoid traffic jams. However, the high number of uses of electric scooters from time to time has in fact not been matched by the certainty of the route of use, so that this ambiguity often results in the prohibition of the use of electric scooters in several regions or regions in Indonesia.

In this case, the DKI Jakarta province as one of the regions with the highest level of use of electric scooters in Indonesia issued a regulation in the form of Governor Regulation Number 128 of 2019 concerning the Provision of Bicycle Lanes, the designation of which is not excluded on scooters, as Article 2 paragraph (2) of this regulation reads as the following: "In addition to bicycles and electric bicycles as referred to in paragraph (1), bicycle lanes can be crossed: otopets; scooter; hoverboards; and/or unicycle"

Therefore, the provision of a special lane for electric scooter users in Indonesia can be seen as a right for electric scooter users themselves, as well as an obligation not to use other routes other than the special lane. In addition to providing special lanes as a form of fulfillment of rights, in fact there are a number of obligations that need to be understood and obeyed by electric scooter users in Indonesia so that in their operation they do not endanger themselves or others. In this case, the obligations in traffic are basically divided into 2 (two) things:

1. General Obligations for Non-Motorized Vehicle Drivers

In fact, the rules of obligation for non-motorized vehicle drivers are regulated in the LLAJ Law, in which the nature of normalizing obligations in general is classified as a form of "recommendation" because sanctions are not included if these provisions are violated or not adhered to.

2. Special Obligations for Electric Scooter Users in Their Existence as Non-Motorized Vehicles

As mentioned above, the provision of a special lane for electric scooter users does not actually eliminate the element of coercion for users not to use other routes other than the special lane, so that the nature of the norm is classified as an obligation that is accompanied by sanctions if it is not complied with.

In fact, the Ministry of Transportation in the plan to formulate rules for the use of Personal Mobility Devices will group several transportation devices, including scooters, otopeds, unicycles, and hoverboards which will later contain several additional rules, such as provisions for the age limit of users and the obligation to wear helmets. This rule is important to be implemented in order to avoid accidents and damage to public facilities which are likely to involve electric scooter users in the future.

a. Electric Scooter User Age Limits

The mandatory age limit for operating electric scooters is actually applied in several countries, such as in Germany and the Netherlands. The existence of an age limit provision in operating an electric scooter is seen as important as according to the age factor, it is one of the factors that cannot be separated from the emergence of the risk of accidents,

b. Obligation to Wear Helmet

The mandatory wearing of helmets by electric scooter users, according to Y.W. Kim in a study entitled *The New Recreational Transportation on the Street* said that safety gear equipment has the potential to prevent or reduce the severity of injuries suffered by powered transporter users. This is because the self-balancing nature of electric scooters, hoverboards, or segways is very high against the risk of falling.

Of course, in its implementation in Indonesia, the helmet referred to in this case is a helmet labeled with SNI which is intended for bicycle users as a rider's safety device. Helmets are indeed not the main means of

saving electric scooter users from possible injuries, but helmets also do not mean that they do not have a strong influence on safety.

4. CLOSING

The position of electric scooters is included in the category of non-motorized vehicles. The classification of electric scooters in non-motorized vehicles is based on an extensive interpretation that the operation is driven primarily by human power, because if the battery runs out and in certain weather or road conditions that are not possible, the use of electric scooters will still return to the manual procedure, namely by setting your feet on the ground. This classification is also supported by a sociological interpretation that shows the facts of the use of scooters in the field, namely related to speed, use of lanes, and equipment that tend to be in accordance with the facts of the use of non-motorized vehicles.

The consequences of the legal status of electric scooters as non-motorized vehicles give rise to rights and obligations for its users in operating electric scooters in Indonesia. The provision of segregated pathways by the state can be seen as a right for electric scooter users to a safe, standard-compliant route. safety in the operation of electric scooters, and in accordance with the purpose of road operations. With regard to obligations, it is also imperative for electric scooter users not to use other routes other than the special lane so that in its operation it does not endanger the safety of themselves or others. In addition, in the use of personal mobility devices, which actually group several transportation devices, including electric scooters, it is also imperative to add provisions for obligations, such as the user's age limit and the obligation to wear helmets in order to avoid accidents and damage to public facilities which are likely to involve electric scooter users. at a later time.

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