HARMONISING JUSTICE AND EFFICIENCY: CRAFTING THE FUTURE OF ELECTRONIC TRAFFIC LAW ENFORCEMENT SYSTEMS

HARMONIZANDO JUSTIÇA E EFICIÊNCIA: MOLDANDO O FUTURO DOS SISTEMAS ELETRÔNICOS DE FISCALIZAÇÃO DE TRÂNSITO

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ABSTRACT:

Objective: This research aims to evaluate legal policies, especially in the context of traffic law enforcement, using the Electronic Traffic Enforcement System (ETLE) in Indonesia.

Research problem: The focus of the research is on the aspect of economic efficiency in the evaluation of legal policies. Economic efficiency is understood as the maximization of well-being with a utilitarian perspective. However, the understanding of legal and economic efficiency has significant deficiencies. This research employs a normative legal approach with a conceptual analysis of legal economics. Implementing ETLE as a solution to traffic violations raises questions about its effectiveness, especially with regard to manipulation and abuse of the system by certain parties.

Methodology: This research proposes the development of ETLE reflecting economic efficiency while considering justice and legal protection for vehicle owners not directly involved in the violations.

Results: The results of the research indicate that ETLE has the potential for economic efficiency based on Pareto criteria, emphasizing transparency and accountability.

Conclusion: However, criticisms of the legal protection aspect for innocent vehicle owners must be addressed in order to build an economically efficient and fair ETLE system.

Keywords: electronic enforcement of traffic laws (ETLE); economic efficiency; utilitarianism; welfare; Pareto efficiency.

RESUMO:

Objetivo: Esta pesquisa tem como objetivo avaliar políticas legais, especialmente no contexto da fiscalização de leis de trânsito, utilizando o Sistema de Fiscalização Eletrônica de Trânsito (ETLE) na Indonésia.

Problema de pesquisa: O foco da pesquisa está no aspecto da eficiência econômica na avaliação de políticas legais. Eficiência econômica é compreendida como a maximização do bem-estar com uma perspectiva utilitarista. No entanto, a compreensão da eficiência legal e econômica apresenta significativas deficiências. Esta pesquisa emprega uma abordagem legal normativa com uma análise conceitual da economia legal. Implementar o ETLE como uma solução para violações de trânsito levanta questões sobre sua eficácia, especialmente no que diz respeito à manipulação e abuso do sistema por certas partes.

Metodologia: Esta pesquisa propõe o desenvolvimento do ETLE refletindo eficiência econômica ao mesmo tempo que considera justiça e proteção legal para proprietários de veículos não diretamente envolvidos nas violações.

Resultados: Os resultados da pesquisa indicam que o ETLE tem potencial para eficiência econômica com base em critérios de Pareto, enfatizando transparência e responsabilidade.

Conclusão: No entanto, críticas ao aspecto de proteção legal para proprietários de veículos inocentes devem ser abordadas para construir um sistema ETLE economicamente eficiente e justo.

Palavras-chave: fiscalização eletrônica de leis de trânsito (ETLE); eficiência econômica; utilitarismo; bem-estar social; eficiência de Pareto.

1 INTRODUCTION

Orderliness in the legal realm may indeed be a focal point when considering the law as a means of social engineering (Gorobets, 2020). Society inherently desires a structured and organised social framework based on values believed in and as formulated in legal regulations (Unger, 1977). Orderliness is a suitable starting point in pursuing various goals, including economic development and well-being. Communities naturally expect a life filled with order in all aspects of communal living, including traffic regulations. In the context of realising order, law enforcement is a crucial framework for assessing whether a policy or legal regulation can achieve its intended goals, which may be aimed at achieving social order or social welfare (Rappaport, 2015).

Traffic order can be interpreted as a manifestation of citizen protection or community protection (Keane & Raganella, 2023). This argument is based on the correlation between traffic violations and accident rates in driving in 2022 alone, with

accident figures that are particularly binding compared to the same period in the previous year. In January-September 2022, the number of traffic accidents increased by 24,323 cases compared to the same period in 2021, totalling 94,617 cases compared to 70,294 cases in 2021, spread across Indonesia. This 34.6% increase resulted in 19,054 fatalities. Referring to the opinion of the Sub-Directorate of Education and Training of the Traffic Directorate of the Indonesian National Police, the leading cause of traffic accidents lies in traffic order, such as using mobile phones while driving and compliance with traffic signs (including driving at high speeds) (Saptohutomo, 2022).

Law enforcement regarding traffic orders has traditionally been carried out through manual ticketing processes, relying on the performance or efficiency of law enforcement officials (traffic police), which has many limitations (Sukeksi, 2022). When assessing its implementation, several aspects can be used as references, such as legal material aspects, law enforcement, infrastructure, and society and legal culture, if the assessment is made through the lens of law enforcement factors expressed by Soerjono Soekanto(Soekanto, 1983). According to the assessment, some aspects can still be changed or improved, so it becomes a reasonable decision if such changes are made. A similar situation can be seen in the enforcement of traffic violation laws, traditionally done manually and now shifting towards digital law enforcement through Electronic Traffic Law Enforcement (ETLE) (Nababan et al., 2023).

ETLE implements information technology to enforce traffic violations, built within an electronic system framework to support security, order, and safety in traffic. Previously known as ETLE or electronic ticketing, which fundamentally differs from ETLE. In the ETL process, ticketing is still done conventionally with reports or ticket letters uploaded to the electronic/information system. In contrast, in ETLE, almost the entire process is done electronically, eliminating conventional ticketing (Roberto, 2023).

The regulations related to electronic traffic tickets can be found in Law Number 22 of 2009 concerning Traffic and Road Transportation and Government Regulation Number 80 of 2012 concerning Procedures for Motor Vehicle Inspections on the Road and Enforcement of Traffic Violations and Road Transportation. Article 272 of Law Number 22 of 2009 states that electronic equipment can support traffic and road transportation enforcement activities. ETLE is an extension of the use of electronic equipment in the context of enforcement activities in traffic and road transportation.

This is in line with the provisions of Article 23 of Government Regulation Number 80 of 2012, which regulates that enforcement of Traffic Violations and Road Transportation is based on the results of findings in the process of Motor Vehicle Inspections on the road, reports, and recordings from electronic equipment (B. Efendi et al., 2021).

ETLE and conventional tickets have fundamental differences, mainly when assessed from the implementation mechanism of ETLE. The ETLE implementation mechanism is very different from conventional tickets that have been applied so far. In general, the implementation mechanism of ETLE can be distinguished into seven stages: Collection of evidence from sensor technology; Validation of evidence; Validation of Resident Data; Printing of Evidence (photos); Delivery of Evidence and Traffic Tickets; Confirmation; and Resolution. The ETLE system imposes maximum fines for traffic violators. The rules regarding the amount of fines to be paid are regulated in Article 287, paragraph 1 of Law Number 22 of 2009 concerning Traffic and Road Transportation. The article states: every person who drives a Motor Vehicle on the Road that violates the rules or prohibitions stated by Traffic Signs as referred to in Article 106 paragraph (4) letter a or Road Markings as referred to in Article 106 paragraph (4) letter b shall be punished with imprisonment for a maximum of 2 (two) months or a fine of up to Rp500,000.00 (five hundred thousand rupiahs).

Based on Law Number 22 of 2009 concerning Traffic and Road Transportation, for violations in the form of adequate safety devices (not wearing a helmet), a fine of Rp250,000.00 will be imposed. Furthermore, for road marking violations, a fine of Rp500,000.00 and a threat of two months imprisonment will be imposed—drivers using a mobile phone while driving face three months imprisonment and a fine of Rp750,000.00. The Police emphasise that violators recorded by ETLE cameras will be fined according to the applicable law. This differs from conventional tickets, which must be settled through attending a ticket hearing or paying the fine at the State Prosecutor's Office and only incur a regular fine (Prihartini et al., 2023).

The National Police state that the introduction of national electronic tickets aims to improve driving discipline in society and minimise incidents of extortion during traffic violation enforcement. The implementation of ETLE is also done to ensure strict and transparent law enforcement in the field of traffic. This argument is based on using the ETLE camera system, which can detect license plates outside its area, allowing enforcement of violations to reach vehicles with out-of-area license plates. Thus, violators cannot provide further excuses or justifications. Moreover, evidence provided

through the ETLE system is irrefutable, making its implementation easier for law enforcement officials and the public (Gunawan, 2023).

Evaluating a legal policy can be done from various perspectives, one of which is the perspective of economic efficiency. Efficiency (economic) is understood as the maximisation of well-being from the ethical standpoint of utilitarianism (Posner, 1979). Utilitarianism is a belief that claims that an action should be evaluated based on the outcomes it produces (such a view is called consequentialism) and that actions considered good are those that can maximise social utility (Mill, 2017). In this context, the phrases 'social utility' and 'well-being' can be used interchangeably or complementarily (Famulski, 2017). If efficiency is defined as maximising well-being, efficient law (policy) should maximise well-being. Among the various legal solutions or policies, the one that most realises well-being should be considered the best law or policy to solve a problem. Although such a view or assessment may seem simple, understanding efficiency (law and economics) has significant shortcomings. Despite many efforts by moral philosophers over the centuries, utility criteria are still considered abstract and vague, implicating practical application issues of understanding efficiency (law and economics) (Hardin, 1992). Suppose lawmakers want to introduce legal regulations considering efficiency (law or economics). In that case, the lawmaker must consider the preferences of the entire society, and, more importantly, all members of that society must be able to determine those preferences.

In the end, evaluating the law through the lens of economic efficiency is similar to assessing the usefulness of the law. As mentioned earlier, the starting point of this assessment is that the law must provide or bring benefits as much as possible. The existing ETLE system indeed triggers some thoughts, especially regarding its efficiency, and in this study, the development of an ETLE system reflecting economic efficiency will be formulated.

2 RESEARCH METHODS

The research is conducted in the dimension of normative legal research with a conceptual approach that refers to the concept of economic legal analysis, particularly the analysis of economic legal efficiency. The conceptual approach is a type of approach in legal research that provides a perspective on the analysis of problem-

solving in legal research seen from the aspects of legal concepts that underlie it or even can be seen from the values contained in the norming of a regulation related to the concepts used. Most of this approach is used to understand concepts related to norming in legislation, whether they are in line with the spirit contained in the fundamental legal concepts (Agustino et al., 2023). This approach stems from views and doctrines that develop within legal science. This approach is necessary because understanding the views/doctrines that develop in legal science can be a foundation for building arguments when addressing legal issues. Views/doctrines will clarify ideas by providing legal meanings, concepts, and principles relevant to the issue (Martanto & Nasihuddin, 2023).

3 IMPLICATIONS OF ETLE IN THE CONVENTIONAL TICKETING SYSTEM

Certain traffic violations, commonly referred to as fines, are cases within the scope of criminal law regulated by Law Number 14 of 1992(Tampubolon, 2021). Criminal law governs actions prohibited by the law, resulting in the application of penalties for anyone who commits them and fulfils the elements mentioned in criminal law (Ashworth & Horder, 2013). Criminal law serves as a means to set limits on individuals from engaging in undesirable actions and educate those who have committed wrongdoings to become better and acceptable within an orderly society (Hart, 1958).

Traffic conditions in Indonesia, especially in major cities, need to be more orderly. Concerns about reckless behaviour can lead to road traffic accidents (Zulkarnain et al., 2022). In response to this, regulations regarding traffic and roadways were enacted. Together with the People's Consultative Assembly, the government passed a new traffic law, Law Number 22 of 2009, concerning Traffic and Road Transportation. This law provides more explicit roadway regulations to establish orderly and friendly traffic conditions for road users. Not only are a few aware of the rewards or sanctions for rule violators, but Certain officials often exploit this to settle matters by paying money. The following are some common cases on the road that should make us vigilant, more cautious, and less willing to compromise with certain officials. It has been widely disseminated that most traffic accidents are primarily due to undisciplined and irresponsible drivers(Sasambe, 2016).

The increase in traffic violations poses a new challenge for the Police to implement sanctions that educate while still having a deterrent effect (Abdullah & Windiyastuti, 2022). One way to curb violations is through administrative sanctions (fines) imposed by the Police. However, the current exemplary system is often manipulated by civilians and police personnel to compromise with each other without following proper procedures (Puspita Sari & Hendriana, 2019). It is no secret that bribery practices during traffic operations are expected. This is the underlying reason for the Indonesian National Police to implement a new system called Electronic Traffic Law Enforcement (ETLE), commonly known as ETLE by the public. This system is expected to reduce illegal collections (extortion) and bribery practices (Faadihilah & Wibowo, 2023).

Enforcement of law using the ETLE system violations that can be addressed include Violating traffic signs or road markings; Not wearing a seatbelt; Driving while operating a cellphone; Violating speed limit rules; Using fake license plates; Driving against the flow of traffic; Running a red light; Not wearing a helmet; Riding with more than three people; Not turning on headlights during daylight for motorcycles, all of which are criminal offences regulated in Chapter XX Criminal Provisions in the Traffic Law which are qualified as criminal violations as shown in the following table:

Table 1: Types of Traffic Violations in the ETLE Regime

No	Violation	Article Rules	Penalty
1.	Breaking through traffic lights	287 paragraph (1)	Two months imprisonment or a maximum fine of Rp500,000.00
2.	Using your phone while driving	283	Imprisonment of 3 months or a maximum fine of Rp750.000,00
3.	Not wearing a seat belt	106 Paragraph (6)	Imprisonment for a maximum of 1 month or a maximum fine of Rp250,000.00
4.	Not wearing an SNI helmet	106 Paragraph (8)	Imprisonment for a maximum of 1 month or a maximum fine of Rp250,000.00
5.	Violating traffic markings signs	287 paragraph (1)	Two months imprisonment or a maximum fine of Rp500,000.00

6.	Piggyback more than one	292 jo 106 verse (9)	One month imprisonment or a maximum fine of Rp500,000.00

Sanctions for traffic violations are based on the principle that criminal sanctions can only be imposed by a criminal judge through a judicial process. This principle is concretised in the Traffic and Road Transportation Law, Article 267 (1), stating that "any violation in the field of Traffic and Road Transportation, examined through a fast examination procedure, may be subject to a fine based on the court's decision." The authority to impose criminal sanctions lies with the court, not the Police, transportation department, or even the prosecutor, despite being part of law enforcement institutions in the relevant law (Gazali, 2022).

The government understands this, and in the implementing regulations of the law above, there is a harmonisation of regulations in Government Regulation 80 of 2012 concerning the Procedure for Motor Vehicle Inspection on the Road and the Enforcement of Traffic and Road Transportation Violations. The trial process for traffic violations is outlined in Chapter III, specifically in Part Three, regarding the trial and payment of fines for violations, as stated in Articles 29 to 31 (Gazali, 2022).

Generally, traffic violation cases can be resolved through a traffic violation examination procedure in the authorised District Court. However, resolving traffic violation cases must often comply with applicable legal provisions. To create order in traffic, the government has introduced ETLE, a process that utilises IT technology, including payments (Takaliuang, 2014).

ETLE refers to an electronic system that monitors and enforces traffic laws, utilising supporting tools such as closed-circuit television (CCTV) (Nababan et al., 2023). To keep up with technological advancements, the Police must understand Information Technology (IT) and implement electronic fines, similar to practices in other countries. The ETLE system replaces the manual (conventional) ticketing system using ticket forms; violators are recorded through a police personnel-owned application. Once recorded, the violator receives a notification containing a code identical to a ticket and a code for acceptable payment through Bank Rakyat Indonesia). ETLE allows violators to deposit fines directly into the bank through their available facilities, such as e-banking, ATMs, or by visiting the teller in person. Subsequently, the violator must pay the maximum fine according to the violated article (Irfan B, 2023). If the violator

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has paid the fine through Bank BRI, the issuing officer will receive a notification on their mobile phone. The violator can retrieve seized documents or vehicles by presenting proof of payment from Bank BRI or collecting them at the specified location in the notification. The ETLE mechanism aims to increase public legal awareness regarding traffic violations and deterrence, expecting motor vehicle drivers to comply with road regulations (Singgamata, 2023).

The regulations regarding electronic traffic tickets can be found in Law Number 22 of 2009 concerning Traffic and Road Transportation and Government Regulation Number 80 of 2012 concerning Procedures for Motor Vehicle Inspection on the Road and Enforcement of Traffic Violations and Road Transportation. Article 272 of Law Number 22 of 2009 states that electronic equipment can be used to support the enforcement of violations in the Traffic and Road Transportation field. The results of using this electronic equipment can be used as evidence in court. The term "electronic equipment" refers to recording devices for storing information. Meanwhile, Article 23 of Government Regulation Number 80 of 2012 regulates that the enforcement of Traffic Violations and Road Transportation is based on findings in the process of Motor Vehicle Inspection on the road, reports, and recordings of electronic equipment (Suriadi et al., 2022; Rahmat & Pribadi, 2021).

The ETLE system imposes the maximum fine for traffic violators. Rules related to the amount of fines to be paid are regulated in Article 287, paragraph 1 of Law Number 22 of 2009 concerning Traffic and Road Transportation. The article states: anyone driving a Motor Vehicle on the Road that violates the rules or prohibitions stated by Traffic Signs as referred to in Article 106 paragraph (4) letter a or Road Markings as referred to in Article 106 paragraph (4) letter b is punished by imprisonment for a maximum of 2 (two) months or a fine of up to Rp500,000.00 (five hundred thousand rupiahs)."

According to Law Number 22 of 2009 concerning Traffic and Road Transportation, the violation of not wearing a helmet incurs a fine of Rp250,000.00. Furthermore, road marking violations incur a fine of Rp500,000.00 and a threat of two months imprisonment. There is a three-month imprisonment threat for drivers using mobile phones with a fine of Rp750,000.00. The Police have emphasised that violators captured by the ETLE camera will be fined a maximum amount according to the applicable law. This differs from conventional traffic tickets, which require attending a

ticket hearing or redeeming the ticket at the Public Prosecutor's Office, where only regular fines apply (Sudarsa & Danyathi, 2023).

The innovation of using ETLE in traffic law enforcement is present alongside conventional methods used by the Police in addressing traffic order violations. However, the presence of ETLE only partially eliminates conventional methods because conventional ticketing methods are still necessary for direct control of traffic violations and are applied to specific types of violations. Conceptually, the ETLE implementation mechanism is at least outlined in four stages. It begins with a camera that automatically records and captures traffic violations, then sends the evidence to the Regional Traffic Management Center at the Police. Identification is then carried out on the vehicle data driven by the violator using the Electronic Registration and identification system. Confirmation letters are then sent to the owner's address to confirm the violation (Apriliana, 2019). Once confirmed, electronic tickets are issued with a virtual account payment method for each verified violation for law enforcement. Based on this, electronic tickets (E-Tickets) are given in the final stage of the ETLE implementation mechanism as evidence of violations for electronic enforcement of traffic violations that have occurred. The general mechanism in the implementation of ETLE is illustrated in the following chart.

Chart 1: ETLE Mechanism
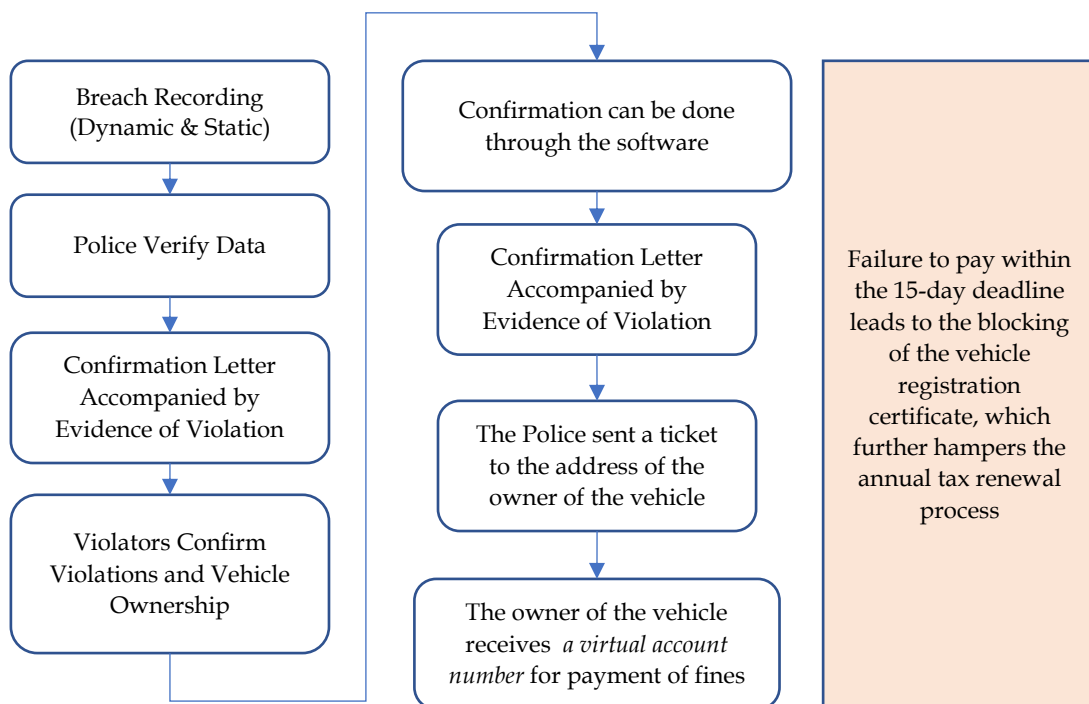
Implementing the ETLE system requires particular infrastructure and trained resources, considering that traffic violations are recorded using CCTV equipped with special sensors. Especially at some CCTV observation points, facial recognition sensors are also installed. Remember, processing data/recordings requires electronic devices (computers) and an integrated information network. In such an understanding, there is a need to allocate financial and human resources, especially in the transitional phase (Sahadina, 2023). However, there is no guarantee of achieving all goals, as stated at the beginning of the discussion.

ETLE is claimed to be a solution to meet the community's needs for official, fast, easy, safe, and convenient payment of traffic violation fines on the spot. The service is faster than conventional fines, and its advantages are practical and quick. The implementation of the ETLE system aims to facilitate speed and convenience, as well as openness in the enforcement of the ticketing process or as a substitute for on-site ticketing processes, especially in the police force, which is part of the Chief of Police's program to move towards a professional, modern, and trustworthy position (E. R. Efendi, 2022).

Legal rules provide justice and legal certainty for the public, without exception for those suspected of committing a crime. Even when someone is declared a suspect, articles 50 to 68 of the Criminal Procedure Code protect the suspect's rights. This shows that, as a legal state, Indonesia protects its citizens even if they are suspected of committing a crime (Suarda et al., 2021).

Despite being a suspect, the individual's rights are still protected, demonstrating that Indonesia, as a legal state, safeguards its citizens even when they are suspected of committing a crime. However, considering the issues in law enforcement against traffic violations (conventional fines), the implementation of ETLE can be seen as a breakthrough to enhance accountability and transparency in law enforcement, which is known to be susceptible to corrupt practices (Wicaksono & Dwilaksana, 2020).

The presence of the ETLE system can also be interpreted as a systemic disruption to the previous conventional ticketing system that relied on police officers for enforcement. The implementation of ETLE does not mean the immediate elimination of conventional fines but an effort to improve law enforcement performance in achieving traffic order. ETLE complements conventional methods of controlling traffic directly. Its application is expected to provide faster and more effective services,

making it easier to resolve traffic violations, as reflected in the convenience of paying fines at banks without the need for conventional tickets.

Law enforcement against traffic violators conventionally takes place through traffic violation hearings, only known as ticket hearings. The ticket itself is an abbreviation for evidence of violation. The hearing process for this case is conducted through a fast-track procedure, which does not require the offender to attend the hearing. This kind of law enforcement provides ease and protection for offenders involved in traffic-related crimes. Offenders who admit guilt can skip the hearing and await the judge's decision regarding the penalty. The protection aspect comes into play when it turns out that the traffic violator did not commit an offence. In such cases, the violator can attend the ticket hearing and explain to the judge that they are not guilty.

One aspect that needs to be criticised in developing the ETLE system is the legal protection aspect for violators, as shown in chart 1. The vehicle owner does not have the opportunity for defence if it turns out that they are not guilty or if the owner is not using the registered vehicle, but the owner is still responsible for the traffic violation sanctions that occur. The expressed aspect needs to be manifested, ensuring legal certainty and seems compromised with the efficiency improvement of law enforcement, especially in the context of implementing sanctions through ETLE imposed with maximum fine penalties. According to the writer, this does not reflect the values of justice and protection for the traffic violator.

4 ECONOMIC EFFICIENCY IN ASSESSING AND BUILDING ETLE SYSTEMS

ETLE, as a form of complementary effort, is projected to replace the existing ticketing system, bringing implications for an efficiency enhancement, particularly in law enforcement. Law, both in a general sense and law enforcement specifically, can be evaluated through various criteria or perspectives, mainly through the lens of economic efficiency as outlined by Jerzy Stelmach, Bartosz Brożek, and Wojciech Załuski (2007). They distinguish four ways to define economic efficiency in the legal analysis context. These four ways are welfare maximisation, Pareto efficiency, Kaldor-Hicks efficiency, and marginal analysis. An essential addition to this framework is the improvement of Kaldor-Hick's efficiency, proposed by Richard O. Zerbe (2001;Famulski, 2017).

Legal economic analysis applies tools from microeconomic theory to analyse legal rules and institutions. Richard A. Posner (2011) introduced legal economic analysis in the late 1970s, sparking intense controversy. The controversy is both general and specific doctrinally. Posner has claimed broadly that common law is and should be efficient. This last claim has triggered extensive controversy about evaluating legal rules. Despite the controversies raised by legal economic analysts (economic efficiency analysis), many practitioners and critics believe that legal economic analysis offers a comprehensive legal theory. Traditionally understood, a comprehensive legal theory has several components (Michaels, 2008;L. Kornhauser, 2022).

The components that determine a comprehensive legal theory can be assessed as the primary reference for determining the feasibility of a theory for use as an analytical reference. First, a comprehensive legal theory begins with characterising the nature of law. This component distinguishes law from other normative systems such as morality, religion, and social conventions like etiquette, coercion, and politics. Second, part of a comprehensive legal theory characterises the legal foundation. Ronald Dworkin (1986) frames the legal foundation as a truth condition to be a legal proposition. In this perspective, there is much debate about the concept of law, especially regarding the role played by morality in that truth condition (L. Kornhauser, 2022).

Third, a comprehensive legal theory can be used to identify the nature and reasons for an action regulated by law. This aspect of legal theory is often included under the second part that identifies the legal foundation. However, to expose economic legal theory, distinguishing these two questions provides ease in understanding and assessing a legal theory as a comprehensive theory. The fourth of the comprehensive legal theories identifies the value of legality. The fifth and final comprehensive legal theories articulate a normative adjudication theory of how judges should decide cases. When legal economic analysis is framed with the components of the comprehensiveness of the theory, it needs to be clarified that legal economic analysis is indeed a comprehensive legal theory. Early debates combine adjudication theory with legality values; subsequent debates mainly relate to private law theory rather than law in general (L. A. Kornhauser, 2021).

Economic analysis of law is not a singular practice but a comprehensive and continuous practice conducted with shared methodological approaches (Stamelos,

2023). Economic analysis of law (typically) needs to establish its position within the framework of general legal theory. Instead, it can answer specific questions about the causes, consequences, or social values of specific legal rules or a set of legal rules. On the other hand, economic analysis (typically) of law can depict how a law or policy issued by a particular institution portrays or manifests the utilitarian values of the law (L. Kornhauser, 2022; Sugianto et al., 2020).

Nevertheless, economic analysis of law, or at least its strand, implicitly offers distinctive answers, often radical, especially regarding questions posed through other legal theories. Richard O. Zerbe (2001) presents intriguing propositions regarding understanding economic efficiency in the context of economic analysis of law. Zerbe aims to propose a 'definition of efficiency applicable in practice, sound theoretical, and ethical'. Zerbe's concept of efficiency is based on the Kaldor-Hicks understanding of efficiency, with some adjustments made to incorporate values considered missing by Zerbe from Kaldor-Hicks efficiency.

In response to numerous criticisms of normative economic standards, Zerbe aims to propose actions that will provide better information about public preferences. To achieve this goal, Zerbe (2001) presents seven axioms for a new measure: Based on the Kaldor-Hicks efficiency sense; Aimed at providing information to decision-makers, not determining the exact decision; Psychological findings considered based on subjective losses and gains and as changes from the status quo position; Three conditions on information are set: the action does not require information that will never be available; a decision with better information is preferred to a decision with less information; utility, being immeasurable, is considered as unavailable information; Three conditions on change costs are set: transaction costs must be included in the measurement, and costs of enforcing rules must be ignored from the perspective of the efficiency of the new rule. Also, the hypothetical distributional change costs needed for a compensation test are not considered; Two assumptions about values must be made: the measure must include the value or anything one is willing to pay for; the value seemingly missing from the actual cost-benefit analysis is included as transaction costs; income distribution, compensation facts (or absence), and awards to others defined as economic goods; and Existing rights patterns must be understood as influencing economic efficiency (Famulski, 2017).

Referring to the propositions given in making definite statements about the relationship between economic efficiency and justice, the issue seems more

complicated when one realises many problems with defining these concepts separately, as described earlier. It should be noted that efficiency and justice are not the only concepts discussed in these considerations. It must be understood that the efficiency analysis must be done by placing the perspective as it should be; for example, when discussing welfare maximisation, the issue of justice is placed in a broader moral context (Famulski, 2017).

Jerzy Stelmach, Bartosz Brożek, and Wojciech Załuski criticise the idea that economic efficiency should be the sole goal of the law. They argue that following a specific efficiency concept can violate certain legal and ethical principles. For example, welfare maximisation may justify the forced transfer of goods. This allocation would maximise welfare but contradict the legal principle of freedom of contract. Ronald Dworkin makes similar arguments. Ronald Dworkin envisions a benevolent tyrant who would forcibly transfer goods among his people to maximise their wealth, but this would simultaneously violate their rights and freedoms. Furthermore, violating contracts may be better than fulfilling them based on maximising social utility, leading to a violation of the principle of pacta sunt servanda. The same reason would justify immoral preferences while intuitively expecting the law to prohibit and punish such behaviour.

Richard A. Posner presents contrasting opinions. Instead of maximising welfare, Posner prefers to maximise wealth. Wealth is understood as the value of all goods expressed in monetary terms. The value of a good is assessed by the willingness to pay. An efficient situation occurs when a good is allocated to the person willing to pay the highest amount. Posner believes that this measure reflects a better moral intuition and that conventional virtues (honesty) can be derived from the principle of wealth maximisation. The basis of this argument is identical to the efficiency criteria of Kaldor-Hicks (efficiency in the Kaldor-Hicks sense is also efficient according to the principle of wealth maximisation). In Posner's view, it is maximising wealth benefits by encouraging production, unlike utilitarianism, which encourages consumption in its perspective. Furthermore, wealth maximisation should increase utility more than utilitarianism can do directly. Willingness to pay is a better measure than utility because it is expressed in monetary terms, whereas there is no satisfying unit for utility (Famulski, 2017).

Bart Schultz (2017) attempts to mention these conditions, including property rights, the right to accurate information, the right to welfare, the right to autonomy, and freedom. In Schulz's view, morality precedes efficient trade and, therefore, any maximisation, while in Posner's view, moral rules are derived from the wealth

maximisation principle. It can be observed that questions about the relationship between efficiency and justice concerning morality cannot be avoided. This connection is not only due to justice being a moral issue but also, somewhat surprisingly, because assuming a specific efficiency turns out to be morally relevant (Famulski, 2017).

Economic efficiency in legal assessments can be used as a basis for views that give rise to a form of law policy or even a legal system when done with the right approach. As explained, economic efficiency analysis can be done by separating typical views and legal (moral) views in different contexts, as reflected in the use of the ETLE system in law enforcement against traffic violations, especially in terms of justice and legal protection for vehicle owners. The assessment of the economic efficiency of the ETLE system places it in a position as a policy or law aimed at maximising wealth with the view that sanctions are a "commodity" that the general public is willing to pay when they violate traffic rules. Maximising wealth through policy or law in the ETLE system can be evaluated by maximising acceptable imposition with the maximum penalty. On the other hand, through conventional tickets carried out with a fast judicial system, only minimum fines are imposed on violators. Through conventional tickets, no fines are imposed on vehicle owners.

Efficiency assessment in the context of the ETLE system can be explained more explicitly through the Pareto efficiency approach. Efficiency in Pareto criteria is achieved by redirecting existing resources to parties deemed capable of maximising the benefits from those resources. In the context of sanctions and the law enforcement relationship with the community, the mentioned resources can refer to the fines paid by traffic violators. At this point, law enforcement can use these resources for broader interests or benefits. The utilisation of fine money is a separate issue when the assessment solely focuses on building an economically efficient ETLE system.

Law enforcement, or in the context of the ETLE system, the Indonesian National Police, is assessed to have the capacity to utilise resources for more outstanding interests or benefits based on several considerations. First, the Police are an authorised institution to enforce traffic violation laws as regulated by Law No. 22 of 2009; second; the Police are responsible for managing the ETLE facilities; third, the potential improvement of police services, especially in law enforcement against traffic violations.

The ETLE system in the broader context of efficiency can be described in several aspects, namely transparency and accountability. The use of the ETLE system

in enforcing traffic violation laws has more reliable accountability, mainly because all aspects of its implementation are electronically documented and can be justified based on electronic evidence, minimising the potential for unauthorised changes. The easy external monitoring of the entire law enforcement process demonstrates transparency.

The development of the ETLE system in the context of economic efficiency lies in utilising resources collected from traffic violators. It is true that the ETLE system, based on Pareto efficiency criteria, has met the economic efficiency criteria. However, as discussed in the economic and legal analysis discourse, there are conflicts with morality or law in a broader context. In this context, criticism is directed at the legal protection aspect for vehicle owners or the registered vehicle license plate owners who are not the perpetrators of traffic violations. Especially in the ETLE service, every violator who commits the same violation will receive the same punishment and fine without discrimination. This is because it is regulated in a system determined by the authorised party. There is no negotiation between the violator and the Police, even if the violator is a high-ranking official; in the ETLE system, the violation will be automatically recorded, and the violator will receive a ticket.

Building an ETLE system from the economic efficiency perspective cannot be done by limiting resource collection alone but must be followed by increasing transparency and accountability in resource use. Especially the use of resources, which must ultimately be felt again by society at large. Primarily, this use must establish a better and more efficient framework or system for law enforcement for traffic violations.

5 CONCLUSION

Implementing Electronic Traffic Law Enforcement (ETLE) in law enforcement against traffic violations in Indonesia is a digitalisation effort of the ticketing process with a projection towards improving its efficiency and effectiveness. Furthermore, it is projected to enhance the legal awareness of the community to always comply with and obey traffic regulations. The development of the ETLE system from an economic efficiency perspective can be understood by maximising revenue from one party, which in this case is the imposition of maximum fines on all traffic violators. The discourse of legal economic analysis, in a narrower sense, that is, economic efficiency, always

conflicts with the legal theory doctrine in a broader context, as indicated by the blur of legal protection for vehicle owners. If the vehicle is used for a traffic violation, the owner is the one who must take responsibility and pay the fine for the violation that occurred. However, the vehicle's owner is not the one committing the violation. In the end, building the ETLE system in economic analysis cannot stop at how to enforce the law against traffic violations, but how the diverted resources are utilised must also be considered a unity in the ETLE system.

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