

ABSTRACT

Lalu Hedwin Hanggara dissertation: entitled "**REFORMULATION OF THE DISCRETIONARY AUTHORITY OF THE INDONESIAN POLICE IN ENFORCING CRIMINAL LAW IN THE FIELD OF ROAD TRAFFIC**" This dissertation is under the guidance of Prof. Dr. Faisal Santiago, S.H., M.M., as the Promoter, and Dr. Ahmad Redi, S.H., M.H., as Ko. Promoter.

The discretionary authority of the police in enforcing criminal law In the field of road traffic, aims to maximize the police function both in preventing and prosecuting in the field of traffic. However, on the other hand, the existence of discretionary institutions as a free authority, has the potential to give birth to abuse of authority and violate human rights. This study intends to determine the extent to which police discretionary authority can fulfil the purpose of its existence. This research is a normative or doctrinal legal research, by examining primary, secondary, and tertiary legal materials.

This research uses a statutory approach, conceptual approach and comparative approach. The theory used is the theory of the state of Indonesian law introduced by Jimly Asshiddiqi, by combining the theory of rechtstaat and rule of law. In this theory, it is understood that one of the important principles in law enforcement is the principle of legality and due process of law. In addition, the theory used is the theory of law enforcement.

The research concluded that: First, the nature of police discretionary authority in enforcing criminal law in the field of road traffic is to fulfill 2 (two) objectives, namely proving on the one hand and protecting human rights, especially the right to move; Second, the discretionary authority of the police in enforcing criminal law in the field of road traffic currently formulated as taking other actions according to the law that are responsible is not fully effective. This is because the police in practice in the field will experience difficulties in operationalizing discretionary authority in enforcing criminal law in the field of road traffic. Another reason is the ineffective use of discretionary authority which should be an institution that realizes traffic infrastructure which is an instrument to support and at the same time encourage the fulfillment of the right to move as one of the fundamental human rights. Third, it is necessary to reformulate the discretionary authority of the police in enforcing criminal law in the field of road traffic, which includes reformulation of the discretion itself, and reformulation of restrictions covering the principles of the use of discretionary authority and institutional reformulation that supervises the use of discretionary authority.

Keywords: Discretion, Traffic Offenses, Police and Reformulation.