

## **Analysis of Traffic Criminal Case Settlement by Non-Penal from A Progressive Law Perspective (Research Study at Pati City Police)**

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**Abstract.** *Traffic crimes such as traffic accidents have been ignored against the legal provisions stipulated in the traffic and road transportation laws, in practice quite a lot of police choose not to continue the case process and prefer to resolve it through deliberation between the victim and the perpetrator. In the current legal situation, if we still apply the legal-positivism understanding which views the law as limited to regulations alone, what happens is that the law serves certain interests, not substantive justice and the people at large, so that the purpose of the law to realize justice is increasingly far from what is expected. The aim of this research is to identify and analyze (1) the instruments of criminal provisions in the scope of traffic crimes, (2) the mechanisms for implementing the settlement of traffic criminal cases through non-penal channels, (3) the problems for law enforcers in implementing the settlement of traffic criminal cases through non-penal channels. The approach method used in this study is sociological juridical. The specifications of this study are descriptive analytical. The data sources used are primary data and secondary data. Primary data is data obtained directly from the field or from the first source and has not been processed by other parties. While secondary data is obtained from library research consisting of primary legal materials, secondary legal materials and tertiary legal materials. Based on the results of the research and discussion, it can be concluded: (1) Based on Law Number 22 of 2009 for each specific road traffic violation, road traffic violations are classified into three types of violations, namely minor traffic violations; moderate traffic violations; and serious traffic violations. The division of classifications based on the type of violation is basically used as a benchmark for determining the amount of fines and imprisonment or imprisonment. (2) In the event that the parties are ready to meet, the police will explain the results of their findings related to the results of the crime scene investigation and statements from witnesses, after both parties understand and accept the results of the explanation, then based on their discretionary authority the police will give the parties the freedom to determine the settlement process for the case by means of deliberation or through the applicable legal process. (3) In terms of legal problems, there is no institution that supervises the results of the settlement of non-penal criminal cases with the concept of implementing restorative justice so that the perpetrators are negligent in carrying out their obligations.*

**Keywords:** *Non Penal; Progressive Law; Traffic.*

## 1. Introduction

Indonesia is a country of law, thus all aspects of the lives of its citizens, carrying out the duties and functions of its government must be carried out according to the law.<sup>1</sup>The rule of law has the consequence of placing the highest commander in the life of the nation and state is the law. It cannot be avoided because the law has strict sanctions in its enforcement.<sup>2</sup>The legal system in Indonesia continued to develop until independence, after independence the influence of the continental European system was apparent in the spirit of codification and unification although customary law was still recognized but the view that was more prominent in legal development was the optimization of the function of law. As a means of carrying out social engineering carried out through legislation, teachings that greatly influenced the mindset of society some time before were the historical school and theories of decisions that were considered irrelevant.

Law is not just to create order, more than that, law must provide a sense of justice for society. Law will not by itself produce justice, but to achieve justice, law must be enforced.<sup>3</sup>A legal enforcement system that has good values is concerned with the harmonization of values with rules and with real human behavior. In essence, the law has an interest in guaranteeing the social life of society, because law and society have an interrelation.

In the current system, all conflicts/problems are handled legally by a judicial body established by the state. The process begins when a report or complaint comes in, investigation, inquiry, indictment, judge makes an assessment, and finally sentences the responsible party. This shows that the court is the best place to handle problems and seek justice, so every criminal offense, no matter how far it is, will remain under the authority of law enforcement.<sup>4</sup>

It seems that the participation and support of the community is no longer important. Instead, everything seems to only concentrate on the punishment as a result of the court's decision without really understanding what it means. The end of the criminal law process is the certainty of discipline for those who commit crimes, this is the misery given by the state to someone who ignores the legal regulations, and is the end of the entire course of someone's responsibility for their mistakes.

In implementing a criminal regulation, of course, law enforcement is needed, according to Satjipto Rahardjo, law enforcement is defined as a process to realize desires into reality.

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<sup>1</sup>Rosita Syafa'at Anugrah Pradana, Dirga Achmad, Depreciation of Concurrent Meaning in Regional Government Law Regarding Island Regions, *Al-Adalah*, 8 (1), 2023, page 29

<sup>2</sup>Sumaryono and Sri Kusriyah, The Criminal Enforcement of the Fraud Mode of Multiple Money (Casestudy Decision No.61 / Pid.B / 2019 / PN.Blora). *Jurnal Daulat Hukum*: 3 (1), March 2020, page 237

<sup>3</sup>Anton Susanto, Ira Alia Maerani, and Maryanto. Legal Enforcement by the Police against Child of Criminal Doer of a Traffic Accident Who Caused Death (Case Study in Traffic Accident of Police Traffic Unit of Cirebon City Police Jurisdiction), *Jurnal Daulat Hukum*, 3 (1), March 2020, page 21

<sup>4</sup>Ilyas Sarbini et al. Restorative Justice as an Alternative to Settling Criminal Cases. *Journal of Legal Publication*, 9 (1), 2020. p. 31.

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These desires are none other than the thoughts of the legislative body formulated in laws and regulations. This law enforcement aims to provide legal certainty, justice and benefits for justice seekers and the community. Law enforcement of acts prohibited in criminal law should be summarized and formulated and implemented by officers in the Criminal Justice System.<sup>5</sup>

There are many aspects of criminal justice, including community efforts to combat public crimes through criminal law (penal) and non-criminal law (non-penal). Criminal justice can be implemented effectively if the systematics and mechanisms of criminal justice are implemented properly. Non-criminal legal efforts are used to suit the social culture of society and the deterrent effectiveness of its implementation. Barda Nawawi Arief argues that efforts to regulate or conquer crime (criminal politics) are certainly not limited to the use of penal tools (criminal law).<sup>6</sup> Efforts outside of criminalization in the form of social support and education in order to create social responsibility for the community, foster communal mental health through moral education, religion and others. This approach model can cover various sectors of social policy. The main objective of the approach with this method is to improve social conditions in certain economic sectors, but has an indirect deterrent effect on crime. G. Peter Hoefnagels argues that non-criminal efforts include social policy, Community Planning, and Children's Welfare, in addition to the application of administrative law and civil law.

In cases that often use a non-penal criminal case resolution system is in cases of traffic crimes that often occur anywhere and anytime in various regions in Indonesia. Traffic is one of the means of public communication that plays a very vital role in facilitating the development that we carry out. Traffic problems are one of the national scale problems that develop in line with the development of society.

Traffic is the movement of vehicles and people in the road traffic space. Traffic has a very strategic role in increasing community growth, as well as being a driver of national development. Safety, security, order, smoothness and effectiveness are state priorities in the process of organizing road traffic space. Today, with the increasing standard of living in society, it also affects the increase in people's purchasing power for vehicles. However, with the increasing purchasing power and number of vehicles today, it is still not balanced with public awareness of traffic culture.<sup>7</sup>

Crime in everyday life can happen anywhere, anytime, anyone can do and be involved either directly or indirectly. Without exception, crimes related to traffic, considering that traffic is the main supporting activity of everyday life. Very high community mobility, inadequate infrastructure, low public awareness of traffic safety are one of the factors causing the high number of accidents in Indonesia. This continues to receive attention from various parties to be minimized as much as possible.

Traffic crimes are one of the acts of violation of the laws governing traffic. Violations committed can result in traffic accidents. Acts that originate from violations can result in

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<sup>5</sup>Teguh Sulistia and Aria Zurnetti, *Criminal Law: New Horizons Post-Reformation*, PT Raja Grafindo Persada: Jakarta, 2012, page 198

<sup>6</sup>IS Susanto, *Criminology*, Genda Publishing, Yogyakarta, 2011

<sup>7</sup>Gilang Kresnanda Annas, *Law Enforcement Efforts in Child Accident Cases that Caused the Victim to Die*, Caraka Justitia Law Journal, 3 (2), November 2023, page 82

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harm to others or oneself. The Criminal Code does not specifically regulate traffic crimes, but traffic crimes are regulated in Law Number 22 of 2009 concerning Traffic and Road Transportation, matters concerning traffic crimes are as many as 44 articles, which are regulated in Chapter XX. Criminal provisions start from Article 273 to Article 317 of the UULAJ.

Procedures for resolving criminal cases in the traffic and road transportation law can be seen in Chapter XX on criminal provisions. Based on these provisions, it means that all traffic accident cases that meet the elements of a crime based on the provisions of the LLAJ Law must be subject to legal proceedings in accordance with the criminal justice system which includes: investigation process, prosecution process, examination process, and settlement process and case submission.

In practice, there are a number of cases of traffic accidents that are not resolved based on criminal provisions, namely through the courts, but are resolved peacefully by the parties involved. Such as the type of traffic crime in the form of traffic accidents that result in minor injuries, which are resolved by agreement by the parties or through non-penal channels to reconcile between the perpetrator and the victim, the agreement taken is considered a process of resolving the case and can end the dispute or problem that occurs between the perpetrator and the victim.

The problem with traffic crimes, in general, is an act or criminal act in which there is no element of intent, as is the element of intent found in other criminal acts. Although there is no element of intent, but the element of error in the form of negligence on the part of the perpetrator can be used as a basis for imposing a criminal sentence, based on this consideration, the settlement of traffic crime cases outside the court or non-penal policies can be used as an alternative in resolving traffic accident cases, law enforcement by the police is closely related to the application of discretion in this case the scope of traffic is in the Traffic Police unit, namely related to decisions that are not strictly regulated by legal rules, but in cases that occur (concrete) police officers have their own personal assessment elements, so that the application of discretion is between law and morals (ethics in the narrow sense), law enforcement must be able to be adjusted to the relationship between the values contained in the legal rules in accordance with attitudes and actions as a series of final stage value descriptions, with the aim of creating, maintaining and preserving peace in social interactions, therefore, law enforcement is not merely the implementation of laws and regulations, although in reality it tends to be like that.

Based on the perspective of police science<sup>8</sup>, the police study social problems and their handling, these social problems arise and manifest in the social life of society, namely in groups, institutions, and communities that are considered to be able to disrupt, harm or damage life, in relation to the resolution of traffic crime cases, then the law enforcement carried out is expected not to have an impact on the emergence of new social problems, but can create social order, security and peace, so it is necessary to explore the legal rules that exist in society, as a basis for resolving legal problems that occur in society.

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<sup>8</sup>Puri Rahardi, Police Law, Independence, Professionalism, and Police Reform, Yogyakarta: Lasbang Media, 2015, page 46

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One of these legal principles is that in resolving legal cases, it is done through deliberation with the aim of reaching an agreement, which at this time the concept in the process of resolving criminal law problems is through criminal resolution through non-penal channels which are in line with the development of the theory of the purpose of punishment, while the purpose of punishment is not merely to punish the perpetrator by depriving him of his freedom through imprisonment, as stated by Barda Nawawi Arief.<sup>9</sup>that in relation to criminal sanctions, the type of deprivation of liberty in the form of imprisonment is a type of punishment that is often applied to perpetrators of criminal acts by judges in practice, related to the development of the purpose of punishment which is no longer focused on efforts to cause suffering, but rather towards improvements as an effort towards something more humane, therefore imprisonment has given rise to much criticism from many groups related to the problem of effectiveness and the negative impacts caused by the application of imprisonment.

In the process of resolving traffic crime cases legally by applying applicable legal provisions, in resolving this case it is often done outside the court by means of peace between the parties, the application of peace in criminal law means the resolution of criminal cases committed outside of criminal procedures, namely by implementing peace between the two parties as in the settlement of civil cases, this peace institution is not legally formally recognized in criminal law regulations, so that its implementation is considered wild and illegal due to the absence of a basis in positive criminal law.

In the settlement of cases carried out peacefully regarding traffic accidents, for example those that result in death, serious injuries, and minor injuries as well as those that result in losses in the form of material losses, this is legally considered to be in conflict with the provisions of criminal law and criminal procedure law, in the Criminal Procedure Code.

The Criminal Procedure Code regulates criminal procedures. In fact, the Criminal Procedure Code does not recognize peace in the case resolution mechanism, so that even though peace has been made between the two parties, namely the victim and the perpetrator, the legal process continues until there is a judge's decision that has permanent legal force.

However, in certain conditions, traffic crimes such as traffic accidents have occurred where the legal provisions stipulated in the Traffic and Road Transportation Law (LLAJ Law) have been ignored. In practice, many police have chosen not to continue the case process and prefer to resolve it through consultation between the victim and the perpetrator.

In the current legal situation, if we still apply the legal-positivism understanding which views law as limited to regulations alone, what will happen is that the law serves certain interests, not substantive justice and the people at large, so that the purpose of the law to realize justice is increasingly far from what is expected.<sup>10</sup>The application of law in Indonesia needs to use a legal concept that upholds substantive justice, so that the achievement of the objectives of the law in realizing justice and the welfare of the people is achieved.

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<sup>9</sup>Barda Nawawi Arief, Problems of Law Enforcement and Criminal Law Policy in Combating Crime, Media Group, Jakarta, 2010. page 207

<sup>10</sup>Wildan Nafis & Noor Rahmad, Progressive Law and Its Relevance to Legal Reasoning in Indonesia, El Ahli: Journal of Islamic Family Law, 1 (2), December 2020, page 4



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Progressive law that has a concept for humans and society, not for its own interests, is an alternative that should be used for law enforcement.

Based on the description above, the author conducted a study with the title "Analysis of Non-Penal Settlement of Traffic Crime Cases in a Progressive Law Perspective (Research Study at the Pati City Police)".

## **2. Research Methods**

In the research conducted, the writing uses a Sociological Juridical approach, namely research that uses an approach method to problems by looking at the norms or laws that apply as positive provisions, the following are theories that are relevant to this paper by linking its implementation to the facts in the field.

## **3. Results and Discussion**

### **3.1. Instruments of Criminal Provisions in the Scope of Traffic Crimes**

One of the legal policies, in the preparation of a Draft Law (hereinafter referred to as the Bill), is the determination of criminal sanctions, both the determination of the death penalty, imprisonment, detention, and fines, including additional penalties. In determining criminal sanctions, in addition to understanding the criminalization and decriminalization of certain acts, research and thinking are required on the issue of criminal policy.<sup>11</sup>

In relation to determining the punishment for an act that is criminalized, Sudarto reminded that: (1) the use of criminal law must pay attention to the objectives of national development, namely to create a just and prosperous society that is materially and spiritually equal based on Pancasila; in relation to that, the (use) of criminal law aims to combat crime and also to enforce the countermeasures themselves, for the sake of the welfare and protection of society; (2) Acts that are attempted to be prevented or dealt with by criminal law must be "desired acts", namely acts that cause losses (material and/or spiritual) to members of society; (3) the use of criminal law must also take into account the principle of "costs and benefits" (cost and benefit principle); (4) The use of criminal law must also pay attention to the capacity or ability of the work force of law enforcement agencies, namely that there must be no excess of the workload (overbelasting).<sup>12</sup>

In general, lawmakers always say that one of the efforts to overcome crime is by using criminal law and its sanctions in the form of criminal penalties. However, what kind of goal people want to achieve with a penalty, until now there has been no consensus among scholars. In the practice of criminal law in Indonesia, it can be seen that people's thoughts about criminal law and punishment today are still more or less influenced by thoughts from several centuries ago (retributive), although now it has begun to change in accordance with the development of the times, new science, especially criminology, and the existence of updates in the criminal system in various countries.

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<sup>11</sup>Suhariyono AR, Formulation of Criminal Sanctions in the Formation of Legislation, Perspective, XVII (1), January 2012, page 20

<sup>12</sup>Sudarto, Law and Criminal Law, Bandung: Alumni. 1983, pp. 35-41

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Basically, the punishment is intended as a suffering or misery for the perpetrator of the crime for his mistake. The existence of this suffering in the form of punishment has resulted in criminal law getting its own place among other laws, which according to scholars, criminal law is seen as ultimum remedium or as the last resort that must be used to improve human behavior.<sup>13</sup> Van Bemmelen stated that criminal law has its own place compared to other laws because the state is given the power to cause suffering intentionally.<sup>14</sup> It is natural for people to want criminal law in its drafting (lawmaking) and implementation to be accompanied by strict restrictions, in a rational and proportional sense.

Based on the review of several literatures, it can be seen that the term criminal act is essentially a term derived from the translation of the word strafbaarfeit or delict in Dutch. Strafbaarfeit is a behavior (handeling) that is threatened with criminal penalties, which is against the law, which is related to mistakes and which is carried out by people who are able to take responsibility.<sup>15</sup>

The term criminal act is used as a translation of the term strafbaarfeit or **delict**. Strafbaarfeit consists of three words, namely straf, baar, and feit, literally, the word straf means criminal, baar means can or can and feit is an act. In relation to the term strafbaarfeit as a whole, it turns out that straf is also translated as the word law. It is common for law to be a translation of the word recht, as if the meaning of straf is the same as recht. For the word baar, there are two terms used, namely may and can, while the word feit uses four terms, namely, act, event, violation, and deed.<sup>16</sup>

The basics for distinguishing criminal acts are as follows:

- a. A distinction is made between crimes (misdemeanors) and violations (overtredingen) according to the criminal code system contained in Book II which regulates crimes and violations (overtredingen) which are regulated in Book III;
- b. A distinction is made between formal and material criminal penalties based on how they are formulated;
- c. A distinction is made between crimes committed intentionally (doleus delict) and crimes committed unintentionally (culpose delicten) based on the form of the problem;
- d. There is a distinction between active/positive criminal acts (delicta omissionis) and negative criminal acts (delicta omissionis) based on the type of act;

Traffic and Road Transportation which is further explained in Government Regulation Number 41 of 1993 concerning Road Transportation. The regulation of Law Number 22 of 2009 concerning Traffic and Road Transportation was made because of the following objectives:

- a. The realization of safe, secure, orderly, smooth and integrated traffic and road transportation services with other modes of transportation to encourage the national economy, advance public welfare, strengthen national unity and integrity, and be able to uphold the dignity of the nation;

<sup>13</sup>PAF Lamintang, Basics...Op.Cit. 2014, pp. 16-17

<sup>14</sup>JM van Bemmelen, Criminal Law I, Jakarta, Bina Cipta, 1984, page 13

<sup>15</sup>Roeslan Saleh, Criminal Acts ... Op.Cit, 2011, p. 61.

<sup>16</sup>Adami Chazawi, Lessons ....Op.Cit, 2011, page 69.

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- b. The realization of traffic ethics and national culture; and
- c. Realizing law enforcement and legal certainty for the community.

Conceptually, there are seven groups in the regulatory structure regarding traffic and road transportation regulated in Law No. 22 of 2009 concerning Traffic and Road Transportation, namely (1) regulations regarding Roads and Traffic; (2) regulations regarding vehicles; (3) regulations regarding drivers; (4) regulations regarding the transportation industry; (5) road user charges; (6) Sanctions for violators of traffic regulations; (7) Traffic standards.

Any act that is contrary to Law No. 22 of 2009 concerning Traffic and Road Transportation is a criminal act, therefore, like other legal norms, any form of violation committed will certainly have legal consequences in the form of sanctions that will be given to violators of the law. The sanctions given can be in the form of administrative sanctions and criminal sanctions in the form of imprisonment, detention, and fines.

Based on Law Number 22 of 2009 for each specific road traffic violation, road traffic violations are classified into three types of violations, namely minor traffic violations; moderate traffic violations; and serious traffic violations. The division of classifications based on the type of violation is basically used as a benchmark for determining the amount of fines and imprisonment or imprisonment of a maximum of 6 (six) months for each type of traffic violation. The following are the criminal provisions of Law Number 22 of 2009 which are differentiated according to the type of violation:<sup>17</sup>

#### 1. Minor traffic violations

a) Article 275 Paragraph 1 states that anyone who commits an act that results in disruption to the function of traffic signs, road markings, traffic signal devices, pedestrian facilities and road user safety devices as referred to in Article 28 paragraph (2) shall be punished with imprisonment for a maximum of 1 (one) month or a maximum fine of IDR 250,000.00 (two hundred and fifty thousand rupiah).

b) Article 276 states that anyone who drives a Public Motor Vehicle on a route that does not stop at a Terminal as referred to in Article 36 shall be punished with imprisonment for a maximum of 1 (one) month or a maximum fine of IDR 250,000.00 (two hundred and fifty thousand rupiah).

c) Article 278 states that anyone who drives a motor vehicle with four or more wheels on a road that is not equipped with equipment in the form of a spare tire, safety triangle, jack, wheel opener and first aid equipment for accidents as referred to in Article 57 paragraph (3) shall be punished with imprisonment for a maximum of 1 (one) month or a maximum fine of IDR 250,000.00 (two hundred and fifty thousand rupiah).

### **3.2. Mechanisms for Implementing the Settlement of Traffic Crime Cases Through Non-Penal Routes**

Criminal policy can be interpreted narrowly and broadly. In the narrow sense, it is the entirety of the principles and methods that form the basis of the reaction to violations of the law in the form of criminal sanctions. Criminal policy in the broad sense is the entirety of the functions of the law enforcement apparatus, including the working methods of the

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<sup>17</sup>Law Number 22 of 2009 concerning Traffic and Road Transportation



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courts and the police. In the broadest sense, it is the entirety of the policies carried out through legislation and official bodies that aim to enforce norms in society if violations occur.

When viewed from this scope, basically crime prevention can be broadly divided into two, namely through the penal or criminal law route and through the non-penal or non-criminal law route. The non-penal route includes prevention without punishment, and the influence of public views on crime and punishment through mass media. The penal route is through the application of criminal law which people generally refer to as repressive measures (handling or prevention). In addition to having a repressive meaning, the penal route has a preventive meaning in a broad sense. On the one hand, punishment is intended to improve the attitude or behavior of the convict so that in the future he will not repeat his actions, and on the other hand, punishment is also intended to prevent others from possibly committing similar acts (general prevention). Therefore, this latter view is considered forward-looking.

In general, the forward-looking paradigm is considered more ideal in the context of implementing the idea of punishment, compared to the first paradigm which is still considered backward-looking. The preventive or developmental view that exists today is considered more modern so that it greatly influences the policy of determining punishment in various countries in the world, including Indonesia. As can be understood that efforts in overcoming crime through non-penal channels are more of a preventive measure for the occurrence of crime, so the main target is to address the conducive factors that cause crime. These conducive factors include, among others, centering on social or economic problems or conditions which can directly or indirectly cause crime.

According to experts, the terminology of non-penal policies includes:

- 1) Barda Nawawi Arief defines non-penal policy as "crime prevention efforts carried out by using means outside criminal law."<sup>18</sup>
- 2) According to Sudarto, non-penal policies are "rational efforts to control or overcome crimes that should be carried out in the form of prevention before the crime occurs".<sup>19</sup>
- 3) Muladi explained that "non-penal efforts are more directed towards preventive efforts and actualizing the values of piety towards God Almighty."<sup>20</sup>

Non-penal policies have several goals and benefits, including (1) crime prevention, where the main goal of non-penal policies is to prevent criminal acts or crimes. By implementing non-penal efforts such as education, improving the social environment, improving community welfare, and others, it is hoped that it can reduce the factors that cause crime; (2) overcoming the root of the problem, where non-penal policies seek to overcome the root of the problem that causes crime. This approach not only addresses the symptoms or impacts of crime, but also addresses triggering factors such as poverty, low education, social conflict, and so on; (3) building legal awareness, where one of the benefits of non-penal policies is building legal awareness in society. Through efforts such as legal counseling, anti-crime campaigns, and education for the community, it is hoped that it can increase

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<sup>18</sup>Barda Nawawi Arief, Op.Cit, 2020, p. 67.

<sup>19</sup>Sudarto, Law and ...Op.Cit, 2018, page 112

<sup>20</sup>Muladi, Non-profit Efforts ....Op.Cit, 3 (2), 2019, page 27.

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understanding and obedience to the law and create a good legal culture; (4) creating a conducive environment, where by implementing non-penal policies, it is hoped that it can create a conducive environment for society to live safely and orderly. A good environment, such as a harmonious social environment, fair law enforcement, and the availability of employment, can reduce the potential for crime; and (5) involve community participation where non-penal policies involve active participation from the community in efforts to prevent and overcome crime. This can increase a sense of ownership and shared responsibility in maintaining security and order in the community.<sup>21</sup>

Overall, non-penal policies aim to create better social conditions and prevent crime preventively, so as to reduce the burden on the criminal justice system and improve public security and welfare. Non-penal policies have an important role in supporting the existing criminal justice system. Although non-penal policies are outside the scope of the criminal justice system, efforts to prevent crime through non-penal policies can have a positive impact on the performance of the criminal justice system.

From the description above, basically the most strategic non-penal efforts are all efforts to make society a healthy social and living environment, both material and immaterial from criminogenic factors. Thus, society with all its potential must be used as a crime prevention factor or an "anti-criminogenic" factor which is an integral part of the overall policy of determining the penalty. In several countries in Europe, for example, the determination of the death penalty is completely prohibited because it is considered to violate human rights and the determination of imprisonment there is no longer as popular as in developing countries.

The Netherlands has developed regulations and also consistent implementation of out-of-court settlement (*afdoening buiten proces*). There, the role of the Public Prosecutor, in terms of out-of-court settlement, is given a place by its law, to be able to impose fines on perpetrators of criminal acts in individual cases. There are two methods of diversion in the criminal justice process in the Netherlands, namely non-prosecution and transactions (*bargaining*) in out-of-court settlement.

In practice under the supremacy of Dutch criminal law, transactions can be considered as a form of diversion in which the perpetrator voluntarily pays a sum of money to the state, fulfilling one or more financial requirements set by the public prosecutor in order to avoid further criminal prosecution and trial. This transaction has been known since 1838 in financial cases. In 1983, payment or determination in a financial case was merely a suspension for minor violations which in principle were only punished with a fine. Article 74 PC stipulates that transactions can be made for criminal offenses that are threatened with less than 6 years, with the following conditions: (1) Payment of a sum of money to the state, provided that the amount of money is not less than 5 (five) Guilders and not more than the maximum fine determined by law; (2) Denial of objects that have been confiscated or are in confiscation; (3) Handing over objects due to confiscation or payment to the state for the assessed value; (4) Full payment to the state of a sum of money or transfer of objects confiscated from the accused, in part or in whole, estimated gains obtained (by using) or

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<sup>21</sup>Barda Nawawi Arief, *Problems of Law Enforcement and Criminal Law Policy in Combating Crime*, Jakarta: Kencana, 2017, p. 77.

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derived from the crime, including costs saved; (5) All or part of the loss due to damage caused by the crime.

In the Netherlands, this transaction is almost the same as a plea-bargaining system, and almost 90% of all crimes are brought under the scope of transactions. More than 35% of all crimes are settled based on transactions by the prosecutor. To minimize the risk, calculation and uniformity of the implementation of transactions, guidelines have been issued for common crimes that are often transacted, for example, petty theft, the transaction is between 45-350 Euros; bicycle theft, the transaction is 113-340 Euros. Crimes that are often transacted are public drunkenness and shoplifting. The police can also carry out transactions, but the amount is different from the prosecutor, namely a maximum of 350 Euros, while the prosecutor's maximum transaction is 450,000 Euros.<sup>22</sup>

Based on the above transactions, the Board of Prosecutor General issues national implementation guidelines. These implementation guidelines are based on public interest, for example (1) in addition to sanctions, punishments that are considered better or will be more effective, for example, disciplinary, administrative, and also civil actions; (2) prosecution would be disproportionate, unfair, or ineffective in relation to the type of crime that does not cause harm and is not worthy of punishment; (3) prosecution would be disproportionate, unfair, or ineffective in relation to the perpetrator of the crime, for example, his age, health, prospects for recovery, or first offender; (4) prosecution would be contrary to the interests of the state, such as for reasons of security, peace and order, or if new regulations are introduced; (5) prosecution would be contrary to the interests of the victim, for example, compensation has been paid.<sup>23</sup>

In Indonesia, Article 82 of the Criminal Code also adopts extrajudicial settlement. Article 82 paragraph 1 of the Criminal Code reads "The authority to prosecute violations that are threatened with a fine alone is revoked, if the maximum fine and costs incurred if the prosecution has been started are voluntarily paid, by the authority of the official appointed for that by general regulations, and within the time determined by him". Furthermore, paragraph 2 stipulates: "If in addition to the fine, confiscation is determined, then the goods subject to confiscation must also be handed over, or the price must be paid according to the official's estimate as referred to in paragraph 1".

When connected with the development of the objectives and forms of criminal and punishment above, then with the restorative justice approach it will be more appropriate if applied in terms of restoring balance (evenwicht, harmonie) between the world of the physical and the world of the supernatural, between all human groups and also individuals, between fellowship and peers in the life of the traditional Indonesian mind which is cosmic in nature. This idea, one of which has been developed through the formation of the Law on the Juvenile Criminal Justice System, which was approved last week by the Plenary Meeting of the DPR-RI.

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<sup>22</sup>Peter JP Tak, Essay on Dutch Criminal Policy, Enfield Publishing 7 Distribution Company, 2002, p 22

<sup>23</sup>Ibid, page 21

### 3.3. Problems for Law Enforcers in the Implementation of Settlement of Traffic Crime Cases Through Non-Penal Routes

Fundamentally, peace between the parties involved in traffic crimes such as traffic accidents has a very high philosophical value of justice, even exceeding the value of justice created by the judge in his decision, so there is no need for the case to be brought to the court.

The law enforcement process is based on three pillars, namely legal certainty, justice and benefit, if there is a conflict between legal certainty and justice and benefit, then the aspect of justice and benefit is prioritized, therefore with the existence of peace between the parties in a traffic crime case, in this case justice and benefit have been achieved, so that legal certainty can be set aside, if in a traffic crime case a settlement has been reached amicably (peace) then the case no longer needs to be continued to the court hearing, this is based on the consideration that the criminalization process is the ultimum remedium which is the ultimate weapon in resolving criminal cases, if other mechanisms are still possible (for example deliberation and consensus) then the mechanism in question can be implemented to resolve it first because the settlement provides benefits for both parties, referring to Gustav Radbruch's opinion that the law enforcement process is based on three pillars, namely legal certainty (*rechtssicherheit*), justice (*gerechtigkeit*) and benefit (*zweckmässigkeit*)<sup>24</sup>, if the aspect of legal certainty is prioritized, it will sacrifice the aspect of justice, and vice versa, however, if the aspect of benefits is chosen, then the aspect of legal certainty and the aspect of justice are immediately included in it, this is in line with Satjipto Rahardjo's Progressive Legal Theory which states that the law is for humans, not for themselves, if a problem occurs with the law, then it is the law that is defeated, not humans, this is in line with police discretion as referred to in Article 18 paragraph (1) of Law Number 2 of 2002 concerning the Republic of Indonesia National Police.

Criminal law problems in Indonesia are increasingly developing along with the rapid growth of society. These various problems require appropriate solutions to restore conditions as before the crime occurred. However, the understanding of society in Indonesia identifies the resolution of legal problems with its law enforcement officers, namely the Police. The police are part of the criminal justice system. The resolution of criminal cases is carried out through the justice system regulated in the Criminal Procedure Code, namely the first thing to do is to make a police report. Through this police report, the victim hopes for justice where the perpetrator will be sentenced. However, the end of the justice system often does not necessarily guarantee a sense of justice in society. The severity of the verdict imposed by the judge on the defendant has not created balance and restored the social situation in society.

Law enforcement is very closely related to society, as stated in the theory put forward by Carl von Savigny, according to which "Das recht wird nicht gemacht, es ist und wird mit dem volke" (the law is not made but grows and develops with society).<sup>25</sup> However, it turns out that modern law used by the Indonesian nation was not developed from within

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<sup>24</sup>Nuraida Fitrihabib, et al. Legal Certainty, Benefit and Justice in Criminalizing Crimes Related to the Origin of Marriage, *al-Jinayah: Journal of Islamic Criminal Law*, 7 (2) December 2021, p. 485

<sup>25</sup>Darji Darmodiharjo and Shidarta, *Main Principles of Legal Philosophy: What and How Indonesian Legal Philosophy Is*, Gramedia Pustaka Utama, Jakarta, 2008, p. 124

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Indonesian society, but rather was implanted from outside. Modern law is a social, economic and cultural product of the West, especially Europe. So actually the story of the history of the birth of modern law is a story about European social history.<sup>26</sup>

Modern law has a liberal type. In the liberal type, not only substantive law is important, but also procedures. Procedures become important and have their own meaning, because they are needed to maintain and secure individual freedom. Thinking about law which then gave birth to positivism, cannot be separated from the presence of a modern state. This positivism has been embedded in the minds of most legal scholars in Indonesia. As a result, it greatly influences the thinking patterns of law enforcers in handling criminal cases including criminal cases in the field of traffic, namely that they must be in accordance with existing positive law.

According to Satjipto Rahardjo, resolving cases through the judicial system that culminates in a court verdict is a law enforcement towards the slow lane. This is because law enforcement is through a long distance, through various levels starting from the police, prosecutors, district courts, high courts and even to the Supreme Court. In the end, it has an impact on the accumulation of cases that are not small in number in court.<sup>27</sup>

Criminal law is ultimum remedium which means a last resort taken when there is no other way to resolve a case. However, in its development, criminal law is actually used as the first resort in resolving a problem between one person and another. There is even a case that is actually included in the civil realm that is forced to become a criminal case. This shift in the function of criminal law shows that society has gradually abandoned the culture of law. Whereas in a society there are still alternative non-penal solutions that function more effectively in resolving a problem.

Problematically, the implementation of traffic criminal case resolution through non-penal channels is manifested in the discretionary authority of a traffic police investigator, where the action is taken with the need for courage with good legal reasoning or cognitive thinking as a reflection of the quality of a traffic investigator in responding to traffic criminalization. Article 18 of Law Number 2 of 2002 concerning the Republic of Indonesia National Police explains that:

- 1) In the public interest, officials of the Republic of Indonesia National Police in carrying out their duties and authorities may act according to their own judgment.
- 2) Implementation of the provisions as referred to in paragraph (1) may only be carried out in circumstances that are absolutely necessary by taking into account statutory regulations and the Code of Professional Ethics of the Republic of Indonesia National Police.

The sentence in Article 18 which reads "acting according to one's own judgment" refers to the concept of discretion or "Freies Ermessen". In English, discretion means, "the quality of being discreet, or careful about what one does and says", from this sentence it means the quality of being wise, or careful about what is done and said. So, the core of the meaning of the word discretion that has been explained above is that it must be done with great care. In the language of Law No. 2 of 2002, discretion is formulated as "in very necessary circumstances". The official explanation of the law reads, "what is meant by 'acting

<sup>26</sup>Satjipto Rahardjo, *Progressive Law ... Op.Cit.*, 2009, page 138

<sup>27</sup>Satjipto Rahardjo, *Other Sides of Law in Indonesia*, Kompas, Jakarta, 2003, p. 170



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according to one's own judgment' is an action that can be taken by members of the Indonesian National Police who in acting must consider the benefits and risks of their actions and are truly in the public interest.<sup>28</sup>

Discretion is the freedom to choose various steps of action (Causes of action or inaction). Discretion requires an adequate level of intelligence in making decisions. In this case, improving human resources (HR) for law enforcement plays an important role than the decisions taken, or in this case, the Laws and Regulations (to improve the human resources is more important than its product), considering the importance of the Police must dare to get out of the traditional law enforcement path that is only based on laws and regulations, because the law is not just a sterile vacuum from non-legal concepts. It must be seen from a social perspective, the real behavior that can be accepted by the humans in it.

The quality of human resources in the Police is a determining factor in the running of a Criminal Justice System, therefore increasing professionalism, integrity and discipline is an important effort that must be carried out continuously.<sup>29</sup>In addition, it is necessary for every police force, including the Traffic Police, to act proportionally and have independence, wisdom and good legal behavior, so that legal certainty, justice and legal benefits as a legal system or basic values of legal ideals can be realized in this beloved country.

Discretionary authority is a power or authority that is carried out based on law on the basis of consideration and belief and emphasizes moral considerations rather than legal considerations. Discretion is not carried out apart from legal provisions but discretion is still carried out within the legal framework. Therefore, police practices for the public interest can be seen as an effort to protect so that it can take place.

Even though the police acted as if it were not based on the applicable positive law, if examined more deeply, this action is actually an action that can uphold the purpose of the law itself, namely the protection of every citizen based on justice, welfare and the benefits of the law itself to make its people happy.

In terms of legal problems according to research sources<sup>30</sup>that there is no institution that supervises the results of the settlement of criminal cases through non-penal channels with the concept of implementing restorative justice so that the perpetrators are negligent in carrying out their obligations. It is often found in the field that the party obliged to provide compensation to the victim does not fulfill its responsibilities, on the other hand there is no supervision in the implementation of the peace agreement obtained in the settlement of cases based on restorative justice is not supervised, so that in this case the victim feels disadvantaged.

Settlement of traffic crime cases with a restorative justice approach has not been regulated in Law Number 22 of 2009 concerning Traffic and Road Transportation. In substance, the law governing the settlement of traffic accident cases in Law Number 22 of 2009 concerning

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<sup>28</sup>Satjipto Rahardjo, *Sociology of Law*, Genta Publishing, Yogyakarta, 2010, page 103

<sup>29</sup>Marwan Effendy, *Discretion, Legal Discovery, Corporations and Tax Amnesty in Law Enforcement*, Reference, Jakarta, 2012, page 21

<sup>30</sup>Interview Results with AKP Riki Fahmi as Head of Traffic Unit of Pati Police, Conducted on April 28, 2025

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Traffic and Road Transportation explicitly states that every traffic accident must be resolved through a criminal justice process in accordance with the provisions of the law.<sup>31</sup>

The current legal substance still has a negative influence on the implementation of restorative justice in resolving traffic criminal cases through non-penal channels. This is because the provisions of Article 230 in conjunction with Article 235 of Law Number 22 of 2009 concerning Traffic and Road Transportation, explicitly stipulate that the settlement of traffic accident cases is resolved and processed according to the provisions of laws and regulations. Furthermore, according to the provisions of Article 235 of Law Number 22 of 2009 concerning Traffic and Road Transportation, the restoration of the victim's rights does not drop the criminal prosecution.

Handling of traffic crimes has been widely regulated in the Law. The settlement of traffic crimes through restorative justice for serious traffic accidents does not yet have a legal umbrella in the legal product in the form of laws in the hierarchy of Indonesian laws and regulations. Handling of traffic accidents in realizing genuine recovery (restorative) that protects human rights is not explicitly regulated in full by the Law.<sup>32</sup> The condition of positive law in the criminal field in Indonesia like this certainly cannot be ignored or wait until there is a change in the law that allows the implementation of restorative justice. This means that in practice it is impossible to rely on the existence of positive law first which provides a legitimate basis for the application of the concept of restorative justice in the practice of overcoming crime in Indonesia, especially when changes to criminal procedure law or criminal law in general are not a legislative priority. Ignoring the concept of restorative justice in the Indonesian criminal justice system means ignoring the victims and their families and members of society who are affected by the crime.

The lack of regulation of the application of restorative justice in the criminal law system in Indonesia has become an obstacle for the traffic police, especially in implementing the concept of restorative justice in resolving criminal cases in a non-penal manner in the scope of traffic. Where, discretionary actions carried out by law enforcers, often give rise to negative assumptions or stigmas from the community, especially victims towards law enforcement officers in the application of the concept of restorative justice, because not a few victims have negative prejudices against investigators/assistant investigators who want to resolve criminal cases that befell them through peaceful means with the perpetrators, many victims assume that investigators defend and are paid by the perpetrators.<sup>33</sup>

This condition is a dilemma for law enforcement officers, on the one hand they must respond to the wishes of the parties to resolve cases non-penally by using the restorative justice method, on the other hand they are faced with legal uncertainty in making discretionary policies to resolve cases outside the court through restorative justice. Even if there are any, the regulations that are the legal basis for the implementation of restorative justice only apply within the police in the form of a circular from the Chief of Police or police regulations, while the provisions of Article 18 of the Police Law which are the basis for the

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<sup>31</sup>Neni Vesna Madjid & Tegar Ariwibawa, Resolving Serious Traffic Accident Cases Using a Restorative Approach, *UNES Journal of Swara Justisia*, 8 (1), April 2024, p. 243

<sup>32</sup>Interview Results with AKP Riki Fahmi as Head of Traffic Unit of Pati Police, Conducted on April 28, 2025

<sup>33</sup>Interview Results with AKP Riki Fahmi as Head of Traffic Unit of Pati Police, Conducted on April 28, 2025

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implementation of discretionary authority are still very multi-interpretable in their implementation.<sup>34</sup>

Although it has not been specifically regulated in the law, the implementation of restorative justice in resolving traffic accident cases is a legal reality that is a legal demand that comes from society as a form of legal development that lives in society. It can even be said that it has long existed and developed in society. The police as law enforcement officers must respond to legal developments that live in society. The response of police investigators as law enforcers in resolving criminal traffic accident cases is to accommodate the wishes of the community to resolve cases that are ongoing outside the courts with a restorative justice approach. This is done to realize social order and regularity in society.

Efforts to resolve traffic criminal cases through non-penal channels with their relevance to the decision of discretionary actions from the Police to realize the alternative resolution are a reflection of the progressive legal aspect and also the embodiment of the utilitarian paradigm. Utilitarianism is a school of law that places utility as the main objective of law. The utility referred to in this school of thought is happiness. This theory views whether a law is good or bad or fair depending on whether the law provides happiness to humans or not. Based on the theory of utilitarianism, the Restorative Justice approach that has been strengthened by the laws that regulate it will provide benefits if implemented properly. Legal rules that are applied properly will bring and realize the objectives of the law properly.

Jeremy Bentham as its founder devoted much of his work to the most severe criticisms of the whole conception of natural law. Bentham was dissatisfied with the vagueness and indeterminacy of theories of natural law, whereas Utilitarianism exhibits one of those periodic movements from the abstract to the concrete, from the idealistic to the materialistic, from the a priori to the experiential.

The basic principles of Jeremy Bentham's teachings are as follows:

- 1) The purpose of law is that law can provide a guarantee of happiness to new individuals and many people. Bentham's principle of utility states "the greatest happiness of the greatest number" (the greatest happiness for the greatest number of people).
- 2) The principle must be applied quantitatively, because the quality of pleasure is always the same.
- 3) To realize individual and social happiness, legislation must achieve four goals:
  - a. *To provide subsistence*(to provide a living);
  - b. *To Provide Abundance*(to provide abundant food sustenance);
  - c. *To provide security*(to provide protection);
  - d. *To attain equity*(to achieve equality).

Bentham's teachings are known as individual Utilitarianism, which states that the good or bad of an act will be measured by whether the act brings happiness or not. Bentham tried to apply it in the legal field, namely legislation where good or bad is also determined by this measure. So that laws that provide happiness to the largest part of society will be considered good laws. Therefore, it is hoped that lawmakers must form laws that are fair to

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<sup>34</sup>Interview Results with AKP Riki Fahmi as Head of Traffic Unit of Pati Police, Conducted on April 28, 2025

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all citizens individually. "Furthermore, Bentham argued that the existence of the state and law is solely a tool to achieve the true benefits, namely the happiness of the majority of the people."<sup>35</sup>

Traffic police are a representation of the presence of the state and the implementation of non-penal settlement of traffic crimes with police discretion and optimization of the legal legitimacy of the concept of restorative justice as it is as an effort to optimize the Police representing the representation of the legal state apparatus to strive for all principles that can be used to realize effective law enforcement and provide justice and happiness for the majority of the people, thus the theory of reasoning on the theory of utilitarianism and the essence of a progressive law in being implemented in the scope of the work of the Traffic Police in implementing law enforcement that is fair to all parties involved in the case.

#### 4. Conclusion

1. Keadilan Restoratif adalah upaya penyelesaian perkara pidana yang berorientasi pada pemulihan hubungan antara korban dan pelaku dan keluarganya masing-masing serta masyarakat yang prosesnya dilaksanakan menurut peraturan perundang-undangan baik ditingkat penyelidikan atau penyidikan, tingkat penuntutan dan ditingkat peradilan umum. Institusi dan aparat penegakan hukum disetiap tingkatan proses penyelesaian perkara pidana memfasilitasi, memproses dan membuat berita acara untuk memastikan bahwa penyelesaian perkara pidana berdasarkan keadilan restoratif ini akan memberikan manfaat sesuai prinsip dan tujuan penerapan dalam memulihkan hubungan antara korban, pelaku dan masyarakat dimana dapat mengurangi beban negara dan yang terutama adalah upaya untuk memberikan perlindungan terhadap korban tindak pidana. 2. Kendala-kendala yang dihadapi penyidik dalam melakukan penyelesaian perkara tindak pidana penipuan di Polres Salatiga dengan menggunakan pendekatan keadilan restoratif adalah: Kepolisian sangat sulit untuk mendamaikan pelaku dan korban, karena pihak korban meminta perkaranya ditingkatkan ketahap proses yang lebih lanjut. Adanya faktor faktor dari pihak lain yang memprovokasi pelapor untuk kepentingan pribadi sehingga membuat upaya keadilan restoratif ini menjadi sangat sulit ditempuh serta korban ingin memberikan efek jera terhadap pelaku karena perbuatan yang telah dilakukan. 3. Proses penyelesaian perkara pidana di Indonesia biasanya dapat diselesaikan dengan cara litigasi atau peradilan. Akan tetapi, muncul gagasan penyelesaian perkara pidana menggunakan cara non-litigasi atau bisa juga disebut dengan keadilan restoratif (restorative justice). Keadilan restoratif atau restorative justice mengandung pengertian yaitu suatu pemulihan hubungan dan penebusan kesalahan yang ingin dilakukan oleh pelaku terhadap korban menggunakan cara diluar pengadilan dengan tujuan agar permasalahan tersebut dapat diselesaikan dengan baik dan tercapainya kesepakatan antara para pihak. Dengan cara dilihat dari sisi pelaku, korban maupun kasusnya.

#### 5. References

##### Journals:

Adami Chazawi, *Pelajaran Hukum Pidana Bagian I*, Jakarta: Rajawali Pers, 2011

---

<sup>35</sup>Lilik Rasyidi and Ira Thania Rasyidi. Basics of ...Op.Cit, 2004, page 64

Master of Law, UNISSULA

- Ade Borami Ju dan Eko Nurisman, Cyberbullying: Pertanggungjawaban Pidana Anak Atas Hilangnya Nyawa Seseorang ditinjau Berdasarkan Keadilan Restoratif, *Sasana*, 8 (1), 2022
- Adelia Winda Irani, Pertanggungjawaban Hukum terhadap Korban Kecelakaan Lalu Lintas Akibat Kelalaian Pengemudi, *Lex Suprema*, 4 (2), 2022
- Agus Safrio, Penerapan Aspek Pidana oleh Kepolisian Lalu Lintas dalam Lingkup Penegakan Hukum (Studi Penelitian di Polres Purbalingga), Magister Hukum Unissula, *Tesis*, 2024
- Anton Susanto, Ira Alia Maerani, and Maryanto. Legal Enforcement by the Police against Child of Criminal Doer of a Traffic Accident Who Caused Death (Case Study in Traffic Accident of Police Traffic Unit of Cirebon City Police Jurisdiction), *Jurnal Daulat Hukum*, 3 (1), March 2020
- Bebby Suryani, Integral Penal Policy Approach and Non Penal Policy In Prevention Child Crime, *Doktrina: Journal of Law*, 1 (2) Oktober 2018
- Dedi Nofarizal, dkk. Penyelesaian Hukum Keadilan Restoratif Terhadap Pelaku Penganiayaan, *Collegium Studiosum Journal*, 7 (2), Desember 2020
- Edi Raharjono, Using Traffic Accident Analysis for Law Enforcement in Cases of Accident Family of Artists Vanessa Angel. *Sivis Pacem*, 1 (1), Februari 2023
- Emima Alistar (Hîrlav), The Relation Between Law and Morality, *Dimitrie Cantemir Christian University: Research Association For Interdisciplinary Studies*, May 2019
- Endri & Marisa Elsera, Makna Keteraturan Berlalu Lintas (Studi Budaya Berlalu Lintas Masyarakat Tanjungpinang dalam Perspektif Sosiologi Hukum), *Jurnal Selat*, 4 (1) Oktober 2016
- Femmy Silaswaty Faried, Hadi Mahmud, dan Suparwi, Mainstreaming Restorative Justice in Termination of Prosecution in Indonesia, *Journal of Human Rights, Culture and Legal System*, 2 (1), 2022
- Gilang Kresnanda Annas, Upaya Penegakan Hukum Terhadap Perkara Kecelakaan Anak yang Menyebabkan Korbannya Meninggal Dunia, *Jurnal Hukum Caraka Justitia*, 3 (2), November 2023
- Hasanuddin Muhammad et al., Problematika Kebijakan Penindakan Pelanggaran Lalu Lintas pada Anak di Masa Pandemi Covid-19, *As-Siyasi : Journal of Constitutional Law*, 2 (1), 2022
- Hambali Yusuf, Saifullah Basri, Model Penyelesaian Alternatif Perkara Pidana dalam Hukum Islam dan Relevansinya dengan Pembaharuan Hukum Pidana Indonesia, *Legality*, 26 (1), Maret-Agustus 2018
- Harpani Matnuh, Law as a Tool of Social Engineering, *1st International Conference on Social Sciences Education Multicultural*, 147, 2018
- Hwian Christianto, Norma Persatuan Sebagai Batasan Perbuatan Pidana Penyebaran Ujaran Kebencian Melalui Internet, *Veritas et Justitia*, 6 (1), 2020
- Ikhwan Listiyanto et al., Kewenangan Polri Dalam Mengurangi Kecelakaan Lalu Lintas Di Jalan Tol, *Jurnal Usm Law Review*, 4 (1), 2021



Master of Law, UNISSULA

Ilyas Sarbini dkk. Keadilan restoratif Sebagai Alternatif Penyelesaian Perkara Pidana. *Jurnal Publikasi Hukum*, 9 (1), 2020

Indi Nuroini, Efektivitas Penerapan Restorative Justice dalam Kasus Pidana di Indonesia, *Jurnal Cahaya Mandalika*, 5 (1), 2024

Irvan, dkk. Penyelesaian Kasus Kecelakaan Lalu Lintas Yang Menimbulkan Luka Berat Berdasarkan Keadilan Restoratif, *Unes Journal of Swara Justisia*, 8 (3) Oktober 2024

I. Tajudin, Nella Sumika Putri. Penyelesaian Tindak Pidana Lalu Lintas Melalui Pendekatan Restoratif Jusce sebagai Dasar Penghentian Penyidikan dan Perwujudan Asas Keadilan dalam Penjatuhan Putusan, *Padjajaran: Jurnal Ilmu Hukum*, 2 (1), 2015

#### **Books:**

Adami Chazawi, *Pelajaran Hukum Pidana (Stelsel pidana, Tindak Pidana, teori-teori Pemidanaan & Batas Berlakunya Hukum Pidana)*, Jakarta: PT. Raja Grafindo Persada, 2002

Barda Nawawi Arief, *Masalah Penegakan Hukum dan Kebijakan Hukum Pidana Dalam Penanggulangan Kejahatan*, Media Group, Jakarta, 2010

\_\_\_\_\_, *Masalah Penegakan Hukum dan Kebijakan Hukum Pidana dalam Penanggulangan Kejahatan*, Jakarta: Kencana, 2017

\_\_\_\_\_, *Kebijakan Hukum Pidana*, Jakarta: Prenada Media, 2020

Bisri Ilham, *Sistem Hukum Indonesia*. Jakarta: Grafindo Persada, 1998

Christine S.T. Kansil. *Disiplin Berlalu Lintas di Jalan Raya*, Penerbit Rineka Cipta. Jakarta. 2009

C.S.T. Kansil, *Disiplin Berlalu Lintas di Jalan Raya*, Penerbit Rineka Cipta. Jakarta. 2009

\_\_\_\_\_, *Pokok-Pokok Hukum Pidana*, Jakarta: Pradnya Paramita, 2014

Darji Darmodiharjo dan Shidarta, *Pokok-Pokok Filsafat Hukum: Apa dan Bagaimana Filsafat Hukum Indonesia*, Gramedia Pustaka Utama, Jakarta, 2008

Darji Darmodihardjo dalam Hyronimus Rhiti. *Filsafat Hukum ; Edisi lengkap (Dari Klasik sampai Postmoderenisme)*, Yogyakarta : Universitas Atma Jaya Yogyakarta, 2011

Elfina Lebrine Sahetapy, Suhartati, *Penerapan Diversi: Konsep Dan Problematika*, Revka Prima Media Surabaya, 2018

Friedman. *Teori dan Filsafat Hukum ; Idealisme Filosofis dan Problema Keadilan*, diterjemahkan dari buku aslinya Legal Theory oleh Muhamad Arifin, Disunting oleh Achmad Nasir Budiman dan Suleman Saqib, Jakarta : Rajawali, 1990

G.P. Hoefnagels, *The Other Side of Criminology*, Kluwer-Deventer, Holland, 1973

I.S. Susanto, *Kriminologi*, Genda Publishing, Yogyakarta, 2011

J.M van Bemmelen, *Hukum Pidana I*, Jakarta, Bina Cipta, 1984

Kanter dan S.R. Sianturi, *Asas-Asas Hukum Pidana di Indonesia dan Penerapannya*, Jakarta: Storia Grafika, 2001

Lili Rasjidi dan Ira Thania Rasjidi, *Dasar-dasar Filsafat dan Teori Hukum*, Bandung: Citra Aditya Bakti, 2007

Master of Law, UNISSULA

Marwan Effendy, *Diskresi, Penemuan Hukum, Korporasi dan Tax Amnesty Dalam Penegakan Hukum*, Referensi, Jakarta, 2012

Moeljatno, *Asas-Asas Hukum Pidana*, PT Rineka Cipta, Jakarta, 2008

Mohammad Ali dan Mohammad Asrori. *Psikologi Remaja Perkembangan Peserta Didik*. Jakarta: PT Bumi Aksara., 2009

Mohammad Daud Ali, *Asas-Asas Hukum Islam (hukum Islam II):Pengantar Ilmu Hukum dan Tata Hukum Islam di Indonesia*. CV Raja Wali, Jakarta. 1991

M.Sholehuddin, *Sistem Sanksi Dalam Hukum Pidana*, PT RajaGrafindo Persada, Jakarta, 2003

Muh. Erwin. *Filsafat Hukum ; Refleksi Kritis Terhadap Hukum*, Jakarta : Rajawali Press, 2011

Muhammad Syahrur, *Limitasi Hukum Pidana Islam*, Wali Songo Press, 2008

Naning, Ramdlon, *Menggairahkan Kesadaran Hukum dan Disiplin Penegak Hukum dalam Lalu Lintas*, Mandar Maju, Bandung, 2000

P.A.F. Lamintang, *Dasar-Dasar Hukum Pidana Indonesia*, Bandung: Sinar Baru, 2014

Pipin Syarifin, *Hukum Pidana di Indonesia*, Bandung: Pustaka Setia, 2000

Peter Beilharz, *Teori-Teori Sosial, Observasi Kritis terhadap Para Filosof Terkemuka*, Yogyakarta: Pustaka Pelajar, 2005

Peter J.P. Tak, *Essay on Dutch Criminal Policy*, Enfield Publishing 7 Distribution Company, 2002

Puri Rahardi, *Hukum Kepolisian, Kemandirian, Profesionalisme, dan Reformasi Polri*, Yogyakarta: Lasbang Media, 2015

### **Regulation:**

The 1945 Constitution of the Republic of Indonesia.

Criminal Code.

Criminal Procedure Code.

Law Number 2 of 2002 concerning the Republic of Indonesia Police

Law Number 22 of 2009 concerning Traffic and Road Transportation