

## **Legal Protection for Victims of Traffic Accidents Based on Justice (Case Study of Cirebon Police)**

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**Abstract.** *Traffic accidents not only cause material losses, but also psychological and social impacts on victims. Therefore, a legal protection mechanism is needed that is not only repressive, but also restorative, in order to guarantee the rights of victims fairly and proportionally. The research method used is empirical juridical, with a qualitative approach. Data were obtained through interviews with law enforcement officers at the Cirebon Police, accident victims, and a review of relevant legal documents. The results of the study indicate that although legal protection has been regulated in laws and regulations such as Law No. 22 of 2009 concerning Traffic and Road Transportation and the Criminal Procedure Code, its implementation still faces obstacles, including minimal legal assistance for victims, lack of public understanding of victims' legal rights, and limitations in the application of restorative justice. This study recommends the need to increase the role of the Cirebon Police in socializing victims' rights, strengthening coordination with legal aid institutions, and implementing a more optimal restorative justice approach so that victims' rights can be fulfilled comprehensively.*

**Keywords:** *Justice; Legal Protection; Traffic Accident Victims; Restorative Justice.*

### **1. Introduction**

In a state of law, law is the main pillar in moving the joints of social, national, and state life. One of the main characteristics of a state of law lies in its tendency to assess actions taken by society on the basis of legal regulations. This means that a state with the concept of a state of law always regulates every action and behavior of its people based on applicable laws.

This is done to create, maintain and defend peace in social life in accordance with what is mandated in Pancasila and the 1945 Constitution, namely that every citizen has the right to feel safe and free from all forms of crime.

Criminal law as a tool or means to solve problems in community life. The existence of criminal law can provide justice and appropriate solutions for the community. Because criminal law is a set of regulations that regulate actions, both ordering to do or do

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something, or prohibiting to do or do something that is regulated in the law with criminal sanctions for those who violate.<sup>1</sup> Meanwhile, the criminal law applicable in Indonesia can be divided into two types, criminal law known in the Criminal Code (KUHP) and Special Criminal Law regulated outside the Criminal Code.<sup>2</sup>

Criminal law does not only provide an understanding of acts prohibited by a legal rule, which prohibition is accompanied by a threat (sanction) in the form of a certain penalty for anyone who violates the prohibition, but also includes matters relating to the imposition of criminal penalties and how the penalty can be implemented. The prohibition is directed at an act, a condition or incident caused by a person's behavior or actions. The threat of criminal penalties or sanctions are directed at the perpetrator who commits a criminal act, usually referred to as "whoever", namely the perpetrator of the criminal act as a legal subject, namely the supporter of rights and obligations in the legal field.<sup>3</sup> So that criminal acts are one of the parts studied in criminal law.

So that all community activities must be based on the laws that apply in society. A regulation is said to be good if it can be applied legally, sociologically and philosophically, as well as regarding traffic regulations. Traffic is a vital facility, because it is directly related to transportation. Traffic is one of the means of community communication that plays a vital role in facilitating the development that we carry out. Because with the existence of this traffic, it facilitates access for the community to carry out their activities to fulfill their economy. The importance of transportation is reflected in the increasing need for transportation services for the mobility of people and goods from and to all corners of the country, even from and to abroad. In addition, transportation also plays a role as a supporter, driver, and driver for the growth of potential regions.<sup>4</sup>

Developments in the field of traffic can provide both positive and negative influences on people's lives. With the development of motorized vehicles circulating in society from year to year increasing, it has an impact on traffic safety.

Behind the benefits of traffic, there are also various problems related to the use of highways. The large number of highway users every day, it is impossible to escape from traffic problems. One of the problems in traffic is what is called a traffic accident. Traffic accidents are caused by many factors such as vehicle damage, pedestrians who are not careful, not obeying traffic signs, and the most common accidents are due to negligence by the driver.

Law and its function to regulate all aspects of national and state life can provide maximum contribution to the implementation if law enforcement officers and all levels of society submit to and obey legal norms. In the event of a traffic accident (lakalantas) must be separated between violations and crimes. Because to carry out prosecution before the law, the incident that occurs must be a crime, while in a traffic accident the crime that occurs is an unintentional crime or due to negligence or negligence.

Traffic problems are one of the national scale problems that develop in line with the

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<sup>1</sup>Rahman Syamsuddin, 2014, *Knitting Law in Indonesia*, Mitra Wacana Media, Jakarta, p. 192

<sup>2</sup>Rodliyah, 2017, *Special Criminal Law, Elements and Criminal Sanctions*, First Edition, PT. Raja Grafindo Persada, Jakarta, p. 1

<sup>3</sup>Chairul Huda, 2006, *From No Crime Without Fault Towards No Criminal Responsibility Without Fault*, Kencana Prenada Media, Jakarta, p. 127

<sup>4</sup>CST Kansil, et al., *Traffic Discipline on Highways*, PT Rineka Cipta, Jakarta, 1995, page 4

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development of society. The problem faced today is the still high number of traffic accidents on the highway.<sup>5</sup> Meanwhile in Indonesia, every year around 9,000 lives are lost in vain due to traffic accidents on the highway. The data shows that twenty-five people die every day or one person dies on the highway every fifty-seven minutes.

In legal studies to declare someone guilty, it must consider the issue of criminal responsibility for someone who due to his negligence causes the death of another person. Criminal responsibility is related to a person's mistake, the mistake referred to here is a mistake caused by intention (intention/opzet/dolus) and negligence (negligence or schuld).<sup>6</sup>

In addition to the perpetrators in traffic crimes, victims are also legal subjects in seeking justice. Victimology can be formulated as a study that studies the problem of victims, which is a human problem as a social reality. In this context, the victim is meant to be the one who causes the victim in the form of an individual. While the consequences of causing victims are attitudes or actions towards parties directly involved in the occurrence of a crime.<sup>7</sup>

The victim should be seen as a party who feels the loss and must be protected by all his rights. That is what victimology will achieve. The hope that is to be achieved from the emergence of the science of victimology is that this science can provide greater attention to victims of a crime. Don't let the victim only be used as a means of evidence in court to impose sanctions on the perpetrator.

Legal protection for victims of traffic accidents needs to be reviewed legally, sociologically and philosophically. Because sometimes in the perspective of victimology it does not fulfill the sense of justice which is the rights of the victim. The rights of victims that are neglected can refer to the threat of human rights. Therefore, this is very important in raising the dignity of the victim. Legally, if we pay attention to Article 98 of the Criminal Procedure Code, the issue of compensation claims in the case of traffic accident victims receives legal protection in court completely.

Judging from the applicable legal rules, it provides legal protection for victims in cases of claims for compensation for traffic accident victims regarding the form of legal protection for traffic victims according to UU No. 22 of 2009 concerning Road Traffic and Transportation and procedures for obtaining the rights of traffic accident victims by obtaining legal protection, especially regarding their rights.

With the background outlined above, In the context of the Cirebon Police jurisdiction, various traffic accident cases that have occurred also show similar inequalities. Therefore, it is important to examine the extent to which legal protection for traffic accident victims has been carried out fairly, and how the justice approach—especially restorative justice—can be implemented effectively so that victims' rights can be truly fulfilled. So the author is interested in writing an individual working paper entitled "LEGAL PROTECTION FOR VICTIMS OF TRAFFIC ACCIDENTS BASED ON JUSTICE (CASE STUDY OF CIREBON POLICE OFFICE) "

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<sup>5</sup>Agio V. Sangki, Criminal Responsibility of Vehicle Drivers Causing Death in Traffic Accidents, Sam Ratulangi University, Law Journal, Lex Crimen, Vol. 1, January-March 2012, p. 34

<sup>6</sup>Leden Marpaung, Principles of Criminal Law Practice Theory, Sinar Grafika, Jakarta, 2005, p.

<sup>7</sup>Lilik Mulyadi. Selected Chapters on Criminal Law, Criminology and Victimology. Denpasar: Djambatan. 2003. p. 83

## 2. Research Methods

The type of research used is sociological juridical research. Sociological juridical is a approach based on binding norms or regulations, so that it is expected that from this approach it can be known how the law which is empirically a symptom of society can be studied as a causal variable that causes consequences in various aspects of social life. The type of sociological legal research uses primary data, where the primary data is obtained directly from the source so that it is still raw data.

## 3. Results and Discussion

### 3.1. How is Legal Protection for Victims of Traffic Accidents?

The term legal protection for victims in criminal acts, can only be found in the perspective of Victimology, namely a study or scientific knowledge that studies the problem of criminal sacrifice as a human problem is a social reality. The study of crime by connecting the victim factor then becomes a study or discipline itself and in its development the term victimology was introduced which in Indonesia is interpreted as victimology as a separate discipline besides criminology.<sup>8</sup>

Legal protection is the granting of rights to legal subjects based on laws and regulations. Legal protection is very important when a person and legal entity experience a problem. The following discussion is about legal protection for victims of traffic accidents. This discussion is important considering that traffic accidents often occur accompanied by victims ranging from minor injuries to death.<sup>9</sup>

Crime Victim An Introduction to Victimology that victimology studies victimization, the relationship between victims and offenders, the relationship between victims and the justice system, victims and the media, victims and the costs of crime, victims and social movements.<sup>10</sup>

Furthermore, the study of victimology, which is a study of the science that studies protection of victims, can be studied in 9 parts, namely:

1. Criminal/Penal Victimology
2. Political Victimology
3. Economic Victimology
4. Pamili Victimology
5. Medical Victimology
6. Government Victimology
7. Religious Victimology
8. Structural Victimology

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<sup>8</sup>Arif Gosita, (1987), Victimology and the Criminal Procedure Code which regulates compensation for victims, Akademika Presindo, Jakarta

<sup>9</sup>Angkasa, (2013), Legal Protection for Traffic Accident Victims from a Victimology Perspective, Jakarta

<sup>10</sup>Angkasa, (2013), Legal Protection for Traffic Accident Victims from a Victimology Perspective, Jakarta

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#### 9. Social and Ethnic Victimology.<sup>11</sup>

In the victimology approach, there are 3 developments in studying the problems of victims with all aspects. First, victimology studies only victims of crime. Second, victimology does not only study victims of crime, but also includes human trafficking. In this phase it is called General Victimology. The third phase of victimology develops again, namely studying the problems of abuse of victims of power, authority and human rights. Then this phase is called New Victimology.<sup>12</sup>

What is interesting about the development of Victimology is developing studies by focusing on victims of financial crimes related to criminal law.

According to MS Groenhvijen, criminal law is intended to protect people and therefore substantive justice in enforcing criminal law should be aimed at people whose rights have been violated, while suspects of violating criminal law must be treated fairly (procedurally).

Article 229 paragraph (5) of the traffic law explains that traffic accidents as referred to in paragraph (1) can be caused by negligence of road users, unroadworthiness of vehicles, and unroadworthiness of the environment. Victims of the road and/or environment.

Furthermore, Article 240 of the traffic law also explains the rights of victims of traffic accidents, including:

1. Have the right to receive assistance from the party responsible for the traffic accident;
2. Entitled to compensation for traffic accidents;
3. Entitled to compensation for traffic accidents provided by the insurance company.

In addition, Article 241 of the traffic law states that every accident victim has the right to receive first aid in the form of treatment at the nearest hospital.

For example, in December 2024, a traffic accident occurred on the Pantura Cirebon Route which killed a student named Abdul Fathur Alam when he turned a U-turn and was run over by a truck.<sup>13</sup> Initial handling by the police was more focused on securing traffic and examining the perpetrators, but there was no apparent special assistance to the victim's family, either legally or psychologically. The rights of the victims, such as obtaining information on case developments, appropriate compensation, and restitution as regulated in Law No. 31 of 2014 concerning Protection of Witnesses and Victims, were not actively pursued by law enforcement.

Although in some minor cases, the Cirebon City Police have tried to implement a restorative justice approach, this is still limited to cases that do not result in death or serious injury. In cases of fatal accidents, such as the example above, the approach that should prioritize the protection and recovery of victims is not implemented consistently. In fact, victims or their families often have to go through a separate civil process to claim compensation, which adds to the psychological and economic burden.<sup>14</sup>

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<sup>11</sup>Ediwarman, (2003), Legal Protection for Victims of Land Cases, Pustaka Pers, Medan,

<sup>12</sup>Ediwarman, (2003), Legal Protection for Victims of Land Cases, Pustaka Pers, Medan,

<sup>13</sup>"Fatal Accident on Pantura Route, Student Dies After Being Crushed by Truck," detik.com, accessed June 4, 2025.

<sup>14</sup>Siti Nariyah, Implementation of Penal Mediation in Settling Traffic Accident Cases at the Cirebon City Police, Thesis, Faculty of Sharia and Law, UIN Walisongo, 2023, pp. 55–56.



From the case study and findings in the Cirebon Police area, it can be concluded that legal protection for victims of traffic accidents is still normative and has not been implemented substantially. The focus of law enforcement officers is more directed at taking action against the perpetrators, while victims often do not receive legal assistance, adequate information, or guarantees of loss recovery. Therefore, policy reform and strengthening of the role of institutions such as LPSK are needed as well as serious implementation of the restorative justice approach, especially for cases that have major social and psychological impacts.

### **3.2. What are the Weaknesses of Legal Protection for Victims of Traffic Accidents?**

Legal protection for victims of traffic accidents in Indonesia still faces various weaknesses, both normatively, structurally, and culturally. In general, the criminal justice system is still oriented towards the perpetrator (suspect/defendant), so that victims often do not receive proper attention in the legal process, especially in terms of restoration of rights and compensation for losses.

One of the real weaknesses is seen in traffic accident cases in the jurisdiction of the Cirebon Police, such as the incident in December 2024, when a student named Abdul Fathur Alam was killed after being run over by a truck on the Pantura Route.<sup>15</sup> In this case, not only the victim lost his life, but also the victim's family who did not receive adequate legal assistance or guarantees of recovery. The lack of legal protection like this shows the weak implementation of victims' rights in the criminal justice system.

In terms of legal substance, Law Number 22 of 2009 does regulate criminal penalties for accident perpetrators, but aspects of victim recovery—such as restitution and rehabilitation—have not been implemented properly. Victims also often experience obstacles in accessing legal mechanisms due to lack of legal knowledge, high costs, and the weak role of the Witness and Victim Protection Agency (LPSK) in traffic cases that are considered light in criminal terms, even though they have severe social impacts.

### **3.3. How Legal Protection for Victims of Traffic Accidents is Based on Justice**

Justice-based legal protection prioritizes an approach that is not only formalistic, but also substantial and restorative, namely by paying attention to the rights and recovery of victims as a whole. In this context, restorative justice is an approach that is starting to be applied in handling traffic accident cases, especially if the victim and perpetrator agree to resolve the case peacefully outside the litigation path.

Cirebon City Police, for example, has implemented penal mediation in several traffic accident cases, especially those that do not involve an element of intent and involve close social relationships.<sup>16</sup> In a case involving a pedestrian victim, a mediation process was carried out between the victim's family and the perpetrator, involving local community leaders. The goal was not just to stop the legal process, but to restore the moral, social, and material losses experienced by the victim and his family.

Although this approach shows positive potential in ensuring justice, its implementation is not yet evenly distributed and often depends on the initiative of the apparatus and social

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<sup>15</sup>"Fatal Accident on Pantura Route, Student Dies After Being Crushed by Truck," *detik.com*, accessed June 4, 2025.

<sup>16</sup>Siti Nariyah, *Implementation of Penal Mediation in Settling Traffic Accident Cases at the Cirebon City Police*, Thesis, Faculty of Sharia and Law, UIN Walisongo, 2023, pp. 54–57.

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conditions in the field. Therefore, to ensure legal protection based on justice, there needs to be a systematic integration between the legal, institutional, and cultural approaches, so that traffic accident victims truly receive dignified and fair recovery, not just a legal formality.

#### 4. Conclusion

Based on the research results, it can be concluded that legal protection for traffic accident victims in the Cirebon Police area has not been implemented optimally. Although normatively it has been regulated in various laws and regulations such as Law No. 22 of 2009 and the Criminal Procedure Code, its implementation in the field still faces various obstacles. Among them are the lack of legal assistance for victims, the lack of public awareness of the legal rights of victims, and limitations in the application of the restorative justice approach. This has an impact on the failure to fulfill the rights of victims fairly and comprehensively, both in terms of material recovery and psychological and social recovery.

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**Regulation:**

The 1945 Constitution of the Republic of Indonesia

Criminal Code (KUHP)

Law Number 8 of 1981 concerning the Criminal Procedure Code